

NPM No. 115-2015

3 November 2015

MR. MARK WILMER BENCILA
LGU SUYO, ILOCOS SUR
Municipal Hall, Suyo, Ilocos Sur

Re: Availability and Sale of Bidding Documents

Dear Mr. Bencila:

This refers to your electronic mail seeking clarification on the availability and sale of bidding documents.

As represented, on 7 May 2015, an Invitation to Bid was posted at the Philippine Government Electronic Procurement System (PhilGEPS). The Bidding Documents were made available to prospective bidders from 7 May 2015 to 27 May 2015. However, in the duration of the seven (7)-day posting period at PhilGEPS, no bidder has logged in to the system to download the Bidding Documents. It is in this context that the following issues were raised:

1. Whether it is required that a prospective bidder is logged in to the PhilGEPS to be able to purchase the Bidding Documents; and
2. Whether a bidder could still purchase the Bidding Documents even though the seven (7)-day posting at PhilGEPS has lapsed.

Availability and Sale of Bidding Documents

We wish to clarify that a prospective bidder is not required to log into the PhilGEPS to purchase the Bidding Documents. Under Sections 17.4¹ and 17.5² of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the bidding documents are available from any of the following:

1. Procuring Entity's office at the address specified in the Bidding Documents;
2. Procuring Entity's website; and

¹ Section 17.4. Bidders may be asked to pay for the Bidding Documents to recover the cost of its preparation and development. The BAC shall issue the Bidding Documents upon payment of the corresponding cost thereof to the collecting/disbursing officer of the procuring entity concerned.

² Section 17.5. The procuring entity shall also post the Bidding Documents at its website and at the PhilGEPS website from the time that the Invitation to Bid/Request for Expression of Interest is advertised. Prospective bidders may download the Bidding Documents from any of the said websites; Provided that, bidders shall pay the fee for the Bidding Documents upon submission of their Bids.

3. PhilGEPS website.

As a rule, the BAC may require payment for the Bidding Documents to recover the cost of its preparation and development. In this regard, the BAC shall issue the Bidding Documents upon payment of the corresponding cost to the collecting/disbursing officer of the procuring entity concerned. If the prospective bidder downloaded the Bidding Documents from any of the above-mentioned websites, the bidders shall pay the fee for the Bidding Documents upon submission of their Bids.

Purchase of Bidding Documents after the 7-day PhilGEPS posting

Please note that the PhilGEPS posting and availability of bidding documents are two (2) different requirements, which involve different periods.

For transparency purposes, under Section 22.2.1(b) of the IRR of RA 9184, the Invitation to Bid/Request for Expression of Interest shall be posted continuously in the PhilGEPS website for seven (7) calendar days starting on the date of advertisement.

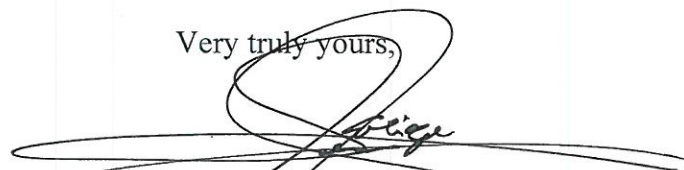
On the other hand, to provide prospective bidders ample time to examine the Bidding Documents and to prepare their respective bids, Section 17.3 of the IRR of RA 9184 requires the BAC to make the Bidding Documents available for the following period:

- a) For the procurement of *goods and infrastructure projects*, **from the time the Invitation to Bid is first advertised/posted until the deadline for the submission and receipt of bids.**
- b) For the procurement of *consulting services*, eligibility documents shall be made available from the time the Request for Expression of Interest is first advertised/posted until the deadline for the eligibility check, and the Bidding Documents, **from the determination of the short list until the deadline for the submission and receipt of bids.**

Accordingly, despite the lapse of the seven (7)-day PhilGEPS posting, a bidder could still purchase the Bidding Documents until the deadline for the submission and receipt of bids.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V