

NPM No. 139-2015

27 November 2015

MR. LEXTER L. MAYMAY

Officer-in-Charge, Statistics & Information Systems Management

ENVIRONMENTAL MANAGEMENT BUREAU (EMB)

5th Floor #29 Hizon Building Quezon Avenue,
Quezon City

Re: Procurement of Internet Service Provider (ISP)

Dear Mr. Maymay:

This refers to your electronic mail seeking guidance on the requirements for the renewal of contract for Internet Services.

As represented, the EMB bids out its internet services requirements every year. The contract for the current year will expire on 31 December 2015, and you have already drafted an assessment report and recommended to the Bids and Awards Committee (BAC) the renewal of the services of the current Internet Service Provider (ISP). However, the BAC decided to procure anew its internet services through public bidding instead of renewing the contract with its current ISP. It is in this context that you are seeking guidance on the requirements for renewal of contract for ISP.

The Implementing Rules and Rules (IRR) of Republic Act (RA) No. 9184 does not provide for a specific procedure in the renewal of contracts. However, the Government Procurement Policy Board (GPPB) has issued the Guidelines on Procurement of Water, Electricity, Telecommunications, and Internet Service Providers (Guidelines), which prescribes the appropriate method under RA 9184 that applies to the procurement of the aforementioned services and provides additional guidelines to ensure that contractual arrangements with the service providers continue to be favorable to the interest of the government.

Section 3.3.1 of the Guidelines provides guidance for the procurement of ISP by government agencies with the existing ISPs, thereby allowing the renewal of the services of the existing ISP upon favorable result of the assessment or cost-benefit analysis conducted by the agency. It can then be gleaned from the Guidelines that it recognizes the fact that changing ISPs entails interruption of internet access and thereby allowing renewal of the procurement contract.

Nevertheless, the procuring entity is not proscribed from bidding out its ISP, as Section 10 of RA 9184 and its IRR identifies that Competitive Bidding shall be the default mode of procurement. Competitive Bidding, aims to protect the public interest by giving the public the best possible advantages thru open competition.

Based on the foregoing, the procuring entity is in the best position to determine whether it will simply renew its existing ISP, as sanctioned by the Guidelines, or procure the same anew

through Competitive Bidding. In deciding the procurement modality to be adopted, the procuring shall uphold the governing principles on Government Procurement as well as promote economy and efficiency, while obtaining the most advantageous terms for the government.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V

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