

NPM No. 14-2008

8 August 2008

NANCY E. SANTOS*Head, Bids and Awards Committee Secretariat***SOCIAL SECURITY SYSTEM**

East Ave., Diliman, Quezon City

Re : Post Qualification Period

Dear Ms. Santos:

We respond to your letter dated 5 March 2008 seeking guidance on the proper application of Section 34 of Republic Act 9184 (R.A 9184) and its Implementing Rules and Regulation Part A (IRR-A). After due consideration of the matters raised in your letter, the main issue to be resolved is whether the Bids and Awards Committee (BAC) can still proceed with its recommendation, to award the contract to the bidder with the lowest calculated and responsive bid, even if the three (3) month procurement period within which to complete the procurement process had already lapsed.

We wish to inform you that the Government Procurement Policy Board (GPPB), in its PM No. 04-2007 stated that Section 38.1¹ of the IRR-A of R.A. 9184, which requires the procuring entities to complete the procurement process within three (3) months, is mandatory. However, relating Section 38.1 to Section 65.1.2² of the IRR-

¹Period of Action on Procurement Activities

The procurement process from the opening of bids up to the award of contract shall not exceed three (3) months, or a shorter period to be determined by the procuring entity concerned. All members of the BAC shall be on a "jury duty" type of assignment until the Notice of Award is issued by the head of the procuring entity in order to complete the entire procurement process at the earliest possible time.

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The maximum periods and earliest possible time for action on specific procurement activities are provided for in Annex "C" of this IRR-A. In case the deadline for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, the deadline shall be the next working day.

A, the GPPB is of the opinion that the procuring entity may still award the contract even beyond the said three-month period, provided that the failure was due to justifiable causes, and provided further, that the bid security of the bidder remains valid.

Corollary thereto, we would like to stress that the determination of whether the delay is due to justifiable causes or not rests entirely with the procuring entity. Thus, under Section 65.1.2 of the IRR-A, any delay, if unjustified, may be a ground for the institution of an administrative sanction against the BAC or the head of the procuring entity (HOPE).

Finally, we would like to advise you that under Section 34.1 of IRR-A, the prescribed period for conducting post qualification shall be seven (7) calendar days from the determination of the bidder having the Lowest Calculated Bid/Highest Rated Bid. It is only under exceptional cases, as determined by the Procuring Entity, may the HOPE extend the post qualification period, but in no case shall the aggregate period exceed thirty (30) calendar days.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


for **RUBY U. ALVAREZ**
Executive Director III

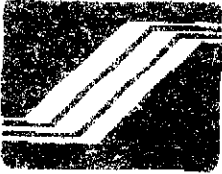
² Offenses and Penalties

65.1. Without prejudice to the provisions of R.A. 3019 and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

xxx xxx xxx

2. Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in this IRR-A.

xxx xxx xxx

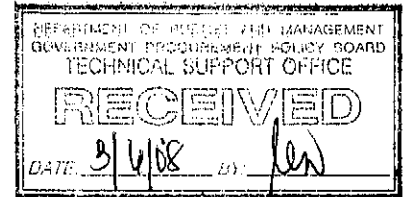


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BIDS AND AWARDS COMMITTEE (BAC)

Very short reply, pls. Ency. Pls. handle. Sign in my behalf. 3/11/08

05 March 2008

Government Procurement Policy Board
 Technical Support Office, 2506 Raffles Corporate Center
 F. Ortigas Jr. Avenue, Ortigas Center,
 Pasig City



ATTENTION : **ATTY. RUBY U. ALVAREZ**
 Executive Director

Dear Atty. Alvarez:

Our SSS BAC in its meeting dated 29 February 2008 resolved to respectfully seek your guidance on the proper application of Section 34 - Objective and Process of Post-Qualification of the Implementing Rules and Regulations (IRR) of Republic Act 9184.

Our queries are:

30 days

- 1) The subject provision states that the post-qualification period may be extended by the head of the procuring entity, but in no case shall the aggregate period exceed thirty (30) calendar days. Does this refer to the lowest calculated bid only?
- 2) If the lowest calculated bid fails the criteria for post-qualification, will another 90-day period apply separately to the 2nd lowest calculated bid? 3rd lowest calculated bid, etc.?
- 3) If the procurement period exceeds the allowable three-month procurement process because there were three (3) bids that underwent the post-qualification process, can we still proceed with the recommendation for the award to the third lowest calculated and responsive bid, given that it extended the validity of its bidder's bond?

Thank you for giving preferential attention to this request.

Very truly yours,

[Signature]
NANCY E. SANTOS - 922-1070
 Head, BAC Secretariat

Noted:

[Signature]
MIGUEL E. ROCA, JR.
 SVP & BAC Chairman

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