



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 143-2014

11 December 2014

MS. ARLENE CAHOY-AGOSTO

Chairman, Bids and Awards Committee (BAC)

DEPARTMENT OF SCIENCE AND TECHNOLOGY

Philippine Science High School – Central Visayas Campus (PSHS-CVisC)

Talaytay, Argao, Cebu

Re: Publication of Supplemental/Bid Bulletins

Dear Ms. Cahoy-Agosto:

This refers to your letter seeking clarification whether non-compliance with the requirement of posting of Supplemental/Bid Bulletins in the PhilGEPS website and procuring entity's website would warrant a declaration of failure of bidding.

It is represented that PSHS-CVisC through its BAC conducted public bidding for the completion of Academic Building III (Laboratory Building) and rehabilitation of Dormitory Building for Boys. However, the Supplemental/Bid Bulletins for the schedule of BAC activities were not posted in PhilGEPS and in PSHS-CVisC website. It was further noted that the contents of the Bid Bulletins were merely changes in schedules of the BAC activities as follows:

1. Issuance of the notice to shortlisted bidders.
2. Issuance of Bidding documents to shortlisted bidders
3. Pre-Bid conference
4. Submission and Opening of Bids
5. Bid Evaluation and Negotiation of Winner Bidder
6. Post-Qualification and BAC recommendation of awards

From the attached documents, it appears that the BAC failed to post the Bid Bulletins as the BAC was under the impression that only those changes that would entail the violation of the principles of transparency and competitiveness need to be posted, *i.e.* change in bidding procedure, change in ABC, change in technical requirements, and the like. It is in this context that our guidance is sought.

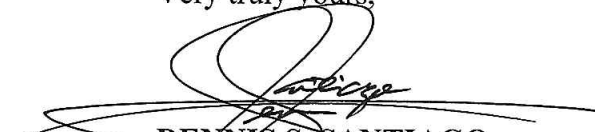
While non-posting of Supplemental/Bid Bulletins in the PhilGEPS and procuring entity's website is not a ground for a declaration of failure of bidding under Section 35 of RA 9184 and its revised IRR, Section 41 provides a Reservation Clause where the head of the procuring entity (HOPE) reserves the right to reject any and all bids, **declare failure of bidding**, or not award the contract in certain situations including **failure of the BAC to follow the prescribed bidding procedures**.

Section 22.5.3 provides that any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS and the website of the procuring entity concerned, if available. It does not qualify what type of Supplemental/Bid Bulletin should be posted. Thus, the procuring entity is mandated to post all Supplemental/Bid Bulletin in the PhilGEPS website, and in the procuring entity's website, if available. As a mandatory requirement, the posting requirement cannot be set aside.

The failure of the BAC to comply with this procedural requirement amounts to a failure to follow the prescribed bidding procedures that may warrant declaration of failure of bidding by the HOPE pursuant to Section 41(b) of the IRR of RA 9184,¹ and imposition of proper and applicable administrative sanctions against the erring officials for their failure to comply with existing procurement law, rules, and regulations, after due notice and hearing.²

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

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¹ NPM 121-2013 dated 26 December 2013.

² NPM 162-2012 dated 21 December 2012.