

REPUBLIC OF THE PHILIPPINES  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
**Technical Support Office**

*Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City*  
*Telefax Nos. (02) 900-6741 to 44*

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**NPM No. 145-2004**

November 11, 2004

**ARCH. JOSELITO P. LEGASPI**  
Operations Manager  
JPL Construction  
No. 4 General Tinio St.,  
Morning Breeze, Kalookan City

**Re: Request for Clarification on Government's Policy on Transparency in Public Bidding.**

Dear Architect Legaspi:

This refers to your letter, dated 07 September 2004, addressed to the Chairperson of the Government Procurement Policy Board, requesting for clarification on the interpretation of Government Procurement Reform Act (R.A. 9184). This office's comment is sought in light of the denial by the Bids and Awards Committee of the Bangko Sentral ng Pilipinas (BSP-BAC) of your request for a copy of a detailed evaluation and comparison of bids in the concluded Re-Bid for the Rehabilitation and Upgrading of the PICC.

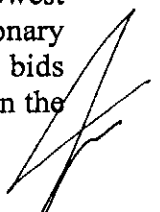
The specific issue for resolution is as follows:

*Whether or not JPL Construction is entitled to a copy of the detailed evaluation and comparison of bids as requested.*

**Bid evaluation is non-discretionary in character**

The issue on hand, inevitably, requires of us a brief discussion of the prescribed procedures on bid evaluation.

Pursuant to Section 32.4.1 of the Implementing Rules and Regulations – Part A (IRR-A) of Republic Act No. 9184 (R.A. 9184), the procuring entity, in evaluating the Bids to get the Lowest calculated bid, shall undertake (a) the detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and (b) the ranking of the total bid prices as so calculated from the lowest to highest – the bid with the lowest price being identified as the Lowest Calculated Bid. For this purpose, the Bids and awards Committee shall use a non-discretionary criteria. No merit or point system is employed in determining the Lowest Calculated Bid. The bids are required to be complete and those that do not address or provide all of the required items in the



Bidding Documents shall be considered non-responsive and, thus, automatically disqualified.<sup>1</sup> No discretion is involved in this system of evaluation.

Significantly, except where minor arithmetical corrections are to be done to consider computational errors, omissions and discounts, there is nothing more for the BAC to do than to determine whether the documentary requirements have been submitted or, as regards the financial component of the bids, to ascertain their completeness as to the items required.

### **Detailed Evaluation of Bids refers to a system; not a document**

The Detailed Evaluation of Bids prescribed in Section 32.4 of IRR-A refers to a system or a process by which the Lowest Calculated Bid for the procurement is determined among the bids rated "passed" in the preliminary examination of bids. As earlier discussed, the same is done with the use of a non-discretionary criteria and merely involves the determination of the completeness of the bids as to the required items in the bidding documents. This procedure is tailed by the preparation of a document referred to in the rules as the "Abstract of Bids" (as evaluated)<sup>2</sup> with which the minutes or proceedings of the bidding are attached. There is no other document required by the law and rules concerning the detailed evaluation and comparison of the bids.

### **Request has no statutory basis**

The supposed right to be furnished of a copy of the detailed evaluation and comparison of bids is without basis in the statutes. Neither R.A. 9184 nor its Implementing Rules and Regulations Part A (IRR-A) provides the basis for the supposed right of bidders to be furnished with a copy of the detailed evaluation and comparison of bids. On the contrary, Section 32.5 of IRR-A sufficiently addresses the transparency requirement of the process insofar as the bid evaluation stage of the bidding is concerned. The provision states, to wit:

32.5. After all bids have been received, opened, examined, evaluated and ranked, the BAC shall prepare the corresponding Abstract of Bids. All members of the BAC shall sign the Abstract of Bids and attach thereto all the bids with their corresponding Bid Securities and the minutes or proceedings of the bidding. The Abstract of Bids shall contain the following:

- a) Name of the contract and its location, if applicable;
- b) Time, date and place of bid opening; and
- c) Names of bidders and their corresponding calculated bid prices arranged from lowest to highest, the amount of Bid Security and the name of the issuing entity.

Hence, a copy of the detailed evaluation and comparison of bids, if any, cannot be demanded by a bidder as a matter of right. The Abstract of Bids and the minutes or proceedings of the bidding, inasmuch as they are required to be subscribed in by the bidders, are contemplated by the rules to be publicly available. Incidentally, there is no similar sanction or prescription by law or the rules in the case of detailed evaluation and comparison of bids.

<sup>1</sup> See Section 32.4.1, IRR-A

<sup>2</sup> As distinguished from the Abstract of Bids as read. The Abstract of Bids as read (after the preliminary examination of bids) and the Abstract of Bids as evaluated (after the detailed evaluation of bids) are both available to the public, together with the minutes of the proceedings, upon written request and payment of a specified fee to recover cost of materials.

## **Transparency in public bidding**

Moving on to the policy of transparency in public bidding, it is but fit to state that the transparency requirement in procurement procedures does not demand nor imply an absolutely unrestricted and gaping procedure that is exposed to potential abuse or is open to opportunities for unfair competition. While the principle of transparency in public procurement allows participation of the public in monitoring activities involving public expenditure, it does not necessarily throw the whole process open to detailed public disclosure at any time especially when release of information would prejudice competition between suppliers in future biddings or the legitimate commercial interest of particular enterprises. The procurement rules are pregnant of measures to protect not only public interest but to keep unfettered inviolable private interests.

We trust that this clarifies matters.

Very truly yours,



**JOSE MARTIN C. SYQUIA**  
Executive Director III

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September 13, 2004

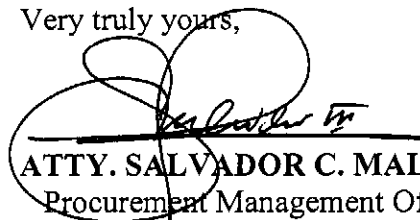
**ARCH. JOSELITO P. LEGASPI**  
Operations Manager  
JPL Construction  
Poblacion, Peñaranda, Nueva Ecija  
No. 4 General Tinio Street, Kalookan City

Dear Architect Legaspi:

This refers to your letter dated September 7, 2004, which we received on even date, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board for appropriate resolution should referral thereto becomes necessary.

Very truly yours,

  
**ATTY. SALVADOR C. MALANA III**  
Procurement Management Officer V