

NPM No. 43-2007

13 August 2007

MR. MARCIAL P. LICHAUCO, JR.


President and General Manager

911 ALARM, INC.

2nd Flr. DPC Place Building

2322 Don Chino Roces Avenue

1231 Makati City



Re: Effect of Filing a Motion for Reconsideration

Dear Mr. Lichauco:

We refer to your letter dated 5 October 2006 requesting for clarification on Section 30.3¹ of the Implementing Rules and Regulations Part A of Republic Act No. 9184. In particular you wish to know the following:

- “1. What happens if the BAC does not decide on the motion for reconsideration?”
2. If the BAC makes a decision on the motion for reconsideration, is it mandatory for the BAC to inform the public of its decision?”

Section 30.3 of the IRR-A expressly provides that if a failed bidder signifies his intent to file a motion for reconsideration, the Bids and Awards Committee (BAC) shall hold the second bid envelope (Financial Proposal) of the said failed bidder unopened and duly sealed

¹ Section 30.3 of the IRR-A provides:

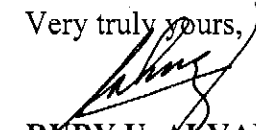
“30.3 A bidder determined as ‘failed’ has three (3) calendar days upon written notice or, if present at the time of bid opening, upon verbal notification, within which to file a request for a reconsideration with the BAC; Provided, however, That the request for reconsideration shall not be granted if it is established that the finding of failure is due to the fault of the bidder concerned: Provided, further, That the BAC shall decide on the request for reconsideration within seven (7) calendar days from receipt thereof. **If a failed bidder signifies his intent to file a motion for reconsideration, in the case of a bidder who fails in the first bid envelopes, the BAC shall hold the second bid envelope of the said failed bidder unopened and duly sealed until such time that the motion for reconsideration has been resolved.**” (Emphasis supplied)

until such time that the motion for reconsideration has been resolved. Consequently, unless the motion for reconsideration is resolved, the BAC cannot determine the Lowest Calculated Bid/Highest Rated Bid and no award could be made².

If the motion for reconsideration is granted, it is mandatory for the BAC to publicly open the second bid envelope of the bidder and, thus, must notify the bidder and the other interested parties, such as but not limited to the other eligible bidders and the observers, of the date and time for the opening of the second bid envelope (Sections 30.1 and 30.2, IRR-A). On the other hand, if the motion for reconsideration is denied, it is mandatory for the BAC to notify the bidder who submitted the motion for reconsideration. This is to give the bidder an opportunity to file a protest of the resolution of the BAC denying its motion for reconsideration (Section 55.1, IRR-A).

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III

² Section 57, IRR-A in relation with Section 55.1, IRR-A.