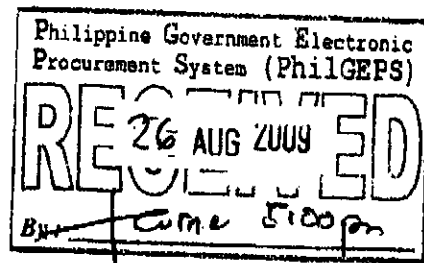


E
ite
ite
(6)

NPM No. 47-2009

26 August 2009

MS. SALOME B. BULAWAN
Project Engineer
APEX BUILDERS
Asiawealth tower 1 Condominium Corporation
Unit 1203, 1836 Leveriza St., Pasay City



Re: IAEB Posting

Dear Ms. Bulawan:

We respond to your letter dated 18 August 2009 which was indorsed to us by Dir. Rosa Clemente of the PhilGEPS, in memorandum of even date, seeking guidance on the propriety of pushing thru with the bidding activities if the IAEB has been cancelled; and, in the event that the IAEB posting has been resumed, whether the same schedule of activities can still be followed. As represented, you are raising this query in relation to the bidding being conducted by the ICM-PNBAC for the Supply and Delivery of Labor and Materials for the Repair/Rehabilitation of HSNISF Building Right Wing, Fort Bonifacio, Taguig, City.

At the outset, we wish to inform you that the Government Procurement Policy Board ("GPPB") and its Technical Support Office ("TSO") only render policy and non-policy opinions respectively, on issues purely relating to the interpretation and application of our procurement laws, rules and regulations. It has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding since it has no quasi-judicial functions¹ under the law. Thus, it cannot dictate to the BAC how to conduct its bidding and the related activities pertinent thereto.

Further, we adhere to the view that the functions of the BAC cannot be interfered with by any government agency since these solely fall within their authority as sanctioned by law, but with the concomitant responsibility that they perform such functions with judiciousness, adhering to the principles of transparency, accountability, competition, equity, efficiency, and economy in the procurement process that it carries out for the procuring entity.

¹ *Quasi-judicial is defined as the term applied to the actions or discretions of public administrative officers or bodies required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature. (See Agpalo, Philippine Administrative Law, 1999 Ed., p. 216 citing Lupangco v. CA, 160 SCRA 848, series of 1988)*

In view of the foregoing, we cannot dictate on the PNBAC how they should post or advertise their agency's procurement opportunities. It bears stressing, however, that, pursuant to Section 21.2 of the Implementing Rules and Regulations Part A of Republic Act No. 9184 and the pertinent provisions of the Generic Procurement Manuals: Manual of Procedures for the Procurement of Goods and Services (Vol. 2), posting of the IAEB at the PhilGEPS, the website of the procuring entity, if any, and in conspicuous place in the premises, must be done continuously for a period of seven (7) calendar days starting on date of advertisement, if applicable.

Lastly, whether or not the procuring entity decides to use either a modified or the same schedule for the conduct of the bidding, after a re-advertisement or posting is undertaken, is a decision which is entirely within the BAC's jurisdiction, provided, that, the minimum allowable period for the conduct of bidding is complied with, and the same does not result in limiting competition.

We trust that this sufficiently addresses your concern.

Very truly yours,

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

Copy furnished: Dir. Rosa Maria M. Clemente
PhilGEPS



PHILIPPINE GOVERNMENT ELECTRONIC

*Enrico,
Pls. handle. Sign in my
behalf. 8/21/09*

August 18, 2009

MEMORANDUM

FOR : ATTY. RUBY U. ALVAREZ,
EXECUTIVE DIRECTOR III, GPPB-TSO

FROM : THE DIRECTOR III, PHILGEPS

SUBJECT : LETTER OF APEX BUILDERS

8/18/09 JW

May I respectfully refer the attached letter of Apex Builders regarding the posting of the Invitation to Apply for Eligibility and to Bid (IAEB) of the Philippine Navy for the "Supply and Delivery of Labor Materials for the Repair/Rehabilitation of HNSIF Building Right Wing, Fort Bonifacio, Taguig City" especially on their query whether the agency can lawfully push thru with the bidding activities even if the IAEB for the project was cancelled and if the posting was reactivated whether the same schedule of activities can still be followed.

See attached copy of the letter of response of the undersigned to the Apex Builders regarding the details of posting of the above IAEB.

Thank you.

Rosa M. Clemente
ROSA MARIA M. CLEMENTE

Bid Notice Abstract

Invitation to Apply for Eligibility and to Bid

Reference Number: 934020
 Procuring Entity: PHILIPPINE NAVY
 Title: Supply and Delivery of Labor and Materials for the Repair/Rehab of HNISF Building Right Wing
 Area of Delivery: Metro Manila

Solicitation Number:	ICM-PNBAC-106-09	Status	Cancelled
Trade Agreement:	Implementing Rules and Regulations	Associated Components	1
Procurement Mode:	Public Bidding	Bid Supplements	0
Classification:	Goods	Document Request List	1
Category:	General Repair and Maintenance Services	Date Published	17/07/2009
Approved Budget for the Contract:	PHP 3,395,000.00	Last Updated / Time	17/07/2009 15:40 PM
Expiry Period:	120 Day/s	Closing Date / Time	17/07/2009 15:40 PM
Client Agency:			
Contact Person:	Adriano Munar Chairman, Philippine Navy Bids and Awards Committee Fort Andres Bonifacio Taguig Metro Manila Philippines 63-02-8127431 Ext.634 avmj78@yahoo.com		

Description

ICM-PNBAC-106-09 Supply and Delivery of Labor and Materials for the Repair/Rehab of HNISF Building Right Wing
 ABC-P 3,395,000.00

Letter Submission of Letter of Intent on July 24, 2009

Eligibility Check on July 27, 2009 9:00 A.M.

Pre-bid Conference on August 3, 2009 9:00 A.M.

Opening of Bids on August 17, 2009 9:00 A.M.

Prebid Conference

Date	Time	Venue
08/08/2009	9:00:00 AM	Office of the PN Bids and Awards Committee Naval Station Jose Francisco, Fort Bonifacio, Taguig City

Remarks
 (gld)

115 9474 TL

Adriano Munar

Home > Recent Award > Justice Abstract

Invitation to Apply for Eligibility and to Bid

Reference Number: 934020
Issuing Entity: PHILIPPINE NAVY
Title: Supply and Delivery of Labor and Materials for the Repair/Rehab of HNISF Building Right Wing
Area of Delivery: Metro Manila

Printable Version

Publication Number:	ICM-PNBAC-106-09	Status:	Active
Contract Agreement:	Implementing Rules and Regulations	Associated Components:	Order
Procurement Method:	Public Bidding	Bid Supplements:	0
Classification:	Goods	Document Request List:	0
Category #:	General Repair and Maintenance Services	Date Published:	17/07/2009
Approved Budget for the Contract:	PHP 3,395,000.00	Last Updated / Time:	17/07/2009 12:00 AM
Contract Period:	120 Day/s	Closing Date / Time:	17/08/2009 1:00 AM
Contact Agency:			
Reference Person:	Adriano Munar Chairman, Philippine Navy Bids and Awards Committee Fort Andres Bonifacio Taguig Metro Manila Philippines 63-02-8127431 Ext.634 avmj78@yahoo.com		

Contract Description: ICM-PNBAC-106-09 Supply and Delivery of Labor and Materials for the Repair/Rehab of HNISF Building Right Wing ABC-P 3,395,000

- Submission of Letter of Intent on July 24, 2009
- Agency Check on July 27, 2009 9:00 A.M.
- Prebid Conference on August 3, 2009 9:00 A.M.
- Opening of bids on August 17, 2009 9:00 A.M
- Award Conference

Date	Time	Venue
16/08/2009	9:00 AM	Office of the PN Bids and Awards Committee Naval Station Jose Francisco, Fort Bonifacio, Taguig City

Prepared by: Adriano Munar
Date Created: 16/07/2009

Back

Page No. XII
 Series of 200:

PHILIPPINE NAVY
 BIDS AND AWARDS COMMITTEE
 FORT ANDRES BONIFACIO
 TAGUIG CITY