

NPM No. 50-2007

14 August 2007

DR. JOSE V. REVELO, M.D.

Chairman, Bids and Awards Committee

CORAZON LOCSIN MONTELIBANO MEMORIAL REGIONAL HOSPITAL

Bacolod City, Negros Occidental

Re: Notice of Post-Disqualification

Dear Dr. Revelo:

We refer to your letter dated 8 February 2007 requesting for an opinion on the following:

- (a) Whether the failure of the Bids and Awards Committee (BAC) to send a written notice of post-disqualification to a supplier who was present during the post-qualification constitutes a violation of Republic Act No. 9184 (R.A. 9184)? If it is, what is the penalty for said violation?
- (b) What is the difference between a verbal and written notification in relation to Section 34.4 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R. A. 9184)?

Section 34.4 of the IRR-A of R. A. 9184 provides that if the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid fails the criteria for post-qualification, it should immediately notify the said bidder in writing of its post-disqualification and the grounds for it. The post-disqualified bidder shall have three (3) calendar days from receipt of said notice to request for a reconsideration of the BAC's decision. The BAC shall evaluate the request for reconsideration using the same non-discretionary criteria, and shall issue its final determination of the said request within seven (7) calendar days from receipt thereof.

The clear language of the afore-mentioned provision mandates that notification of post-disqualification should be made in writing. Thus, verbal notification of a bidder's post-disqualification does not sufficiently comply with the requirement of the law.


A public officer may be held administratively liable for failure to comply with the provisions of R.A. 9184 and its IRR-A. In addition, considering that such failure to notify in writing impedes the BAC from post-qualifying the bidder with the second Lowest Calculated Bid/Highest Rated Bid and from consequently awarding the contract to the post-qualified bidder (Section 34.4, IRR-A), a public officer may also be held liable for delaying the post evaluation of

bids and the awarding of contracts beyond the prescribed periods of action provided in the IRR-A, if without justifiable cause (Section 65.1.2, IRR-A).

From the foregoing, the difference between a verbal and written notification in relation to Section 34.4 of the IRR-A of R.A. 9184 is that, as opposed to the latter, the former does not discharge the BAC of its duty to notify in writing the post-disqualified bidder and thereafter proceed with the post-qualification of the next bidder with the Lowest Calculated Bid/Highest Rated Bid.

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

Very truly yours,



RUBY U. ALVAREZ
Executive Director III