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NPM No.52-2009

14 October 2009

LEILA B. BONIFACIO

Chairperson, Bids and Awards Committee

NATIONAL ELECTRIFICATION ADMINISTRATION

NIA Road, Government Center, Diliman,
Quezon City, Philippines

Re: Adjustment of Technical Specifications and ABC; Honoraria

Dear Ms. Bonifacio:

We respond to your letter dated 07 October 2009, which we received on even date, seeking clarification on the following issues:

- 1) Whether the Bids and Awards Committee (BAC) of the National Electrification Administration (NEA) can adjust the technical specifications and approved budget for the contract (but within the approved COB) prior to rebidding one (1) lot, which failed, out of the five (5) lots bid out for NEA's procurement of IT Equipment, Software and Accessories; and
- 2) Whether the BAC of NEA can claim honoraria for the procurement of vehicles in two (2) lots which were conducted through public bidding and negotiated procurement, respectively.

Anent the first issue, we respond in the affirmative. Section 35 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 provides for the steps to be undertaken when a failure of bidding has occurred, viz:

35.2. In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates.

35.3. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the ABC, subject to the required approvals, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of this IRR. (Emphasis ours.)

Thus, it is clear that the BAC can make adjustments in the specifications and cost estimates, as well as in the ABC, after every failure of bidding, provided, that the same is based on findings arrived at after a prior mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates, is undertaken; and provided, further, that the required approvals are secured.

As to your second query, we opine that honoraria can only be given for "successfully completed procurement projects" which have undergone competitive bidding. This phrase was clarified in DBM Budget Circular No. 2004-5A dated October 7, 2005, to wit:

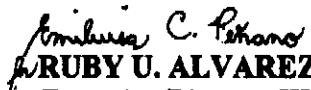
5.1 The chairs and members of the Bids and Awards Committee (BAC) and the Technical Working Group (TWG) may be paid honoraria only for successfully completed procurement projects. In accordance with Section 7 of the Implementing Rules and Regulations Part A (IRR-A) of RA No. 9184, a procurement project refers to the entire project identified, described, detailed, scheduled and budgeted for in the Project Procurement Management Plan prepared by the agency.

A procurement project shall be considered successfully completed once the contract has been awarded to the winning bidder. (Emphasis ours.)

Further, the same circular likewise limits the payment of honoraria to procurement that involves competitive bidding, and for this purpose, has identified the activities wherein the same is present. A copy of this Budget Circular, as amended by BC No. 2007-3, may be downloaded from our website: www.gppb.gov.ph.

We trust that this sufficiently addresses your queries. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III



GPPB-TSO FILE COPY

Republic of the Philippines
National Electrification Administration

Quezon City

Enrico,

Pls. handle. Sign in
my behalf.
10/12/09

October 7, 2009

ATTY. RUBY U. ALVAREZ

Executive Director III

Government Procurement Policy Board (GPPB)

Unit 2506 Raffles Corporate Center

F. Ortigas, Jr. Road, Pasig City

DATE: 10/7/09 BY: [Signature]

Dear Exec. Dir. Alvarez :

The National Electrification Administration (NEA), through its Bids and Awards Committee (BAC), undertook a competitive bidding for the procurement of IT Equipment, Software and Accessories. Out of the five (5) lots comprising said project, there was a failure of bidding for one (1) lot.

We were informed that with the effectivity of the revised Implementing Rules and Regulations of R.A. No. 9184, we have to conduct the re-bidding adopting the said revised IRR.

May we inquire if we could make some adjustments with the technical specifications and approved budget for the contract (but within the approved COB) in our rebidding.

On another project, we sought the approval of the Office of the President for the procurement of six (6) vehicles but only five (5) were approved. However, as recommended, the technical specifications were different according to the recipients of the vehicles, thus, we conducted the procurement in two (2) lots. Lot 1 was completed through open bidding while Lot 2 was through negotiated procurement.

At present, we are awaiting the Office of the President's (OP) approval to our request for reconsideration to procure the sixth vehicle. Once we have received the favorable response from the OP, we will immediately conduct the procurement of this last vehicle.

May we also solicit your comments on the provision of honorarium with regard to this procurement project.

Thank you for your continued support and assistance.

Warm regards.

Very truly yours,


LEILA B. BONIFACIO

Chairperson

Bids and Awards Committee (BAC)

for In-House and Local Procurement