

NPM No. 01-2017

10 February 2017

MR. PETER TIU LAVIÑA

Administrator

NATIONAL IRRIGATION ADMINISTRATION (NIA)

National Government Center
EDSA, Diliman, Quezon City
Salcedo Village, Makati City

Re: Repackaging of Infrastructure Project into Three Lots

Dear Administrator Laviña:

This refers to your letter¹ requesting for guidance on whether an infrastructure project covered by a single Special Allotment Release Order (SARO) can be subdivided into three (3) contract packages.

As represented, NIA conducted public bidding for the construction of siphons for the Agno River Irrigation System Extension Project (ARISEP) in three (3) municipalities of Pangasinan. However, a failure of bidding was declared after all bidders were declared ineligible or post-disqualified. Upon conduct of mandatory review for the project, the NIA - Project Management Office (PMO) determined that it would be more advantageous to subdivide the project into three (3) simultaneous packages since the construction period would be shortened and more local contractors would be able to participate in the bidding. However, the funding for the ARISEP is covered by a single SARO, and it is in this regard that our opinion is sought.

At the outset, please be informed that the Government Procurement Policy Board (GPPB) and its Technical Support Office (GPPB-TSO) do not have the authority to determine on how a Procuring Entity can proceed with the procurement of its projects. The responsibility of determining the applicable work program and schedule is subject to the wisdom of the Procuring Entity. Moreover, we do not have the authority to interpret the provisions and restrictions on SAROs issued with regard to a particular project since budgeting rules are within the jurisdiction of Department of Budget and Management (DBM). In this regard, we limit our discussion on the interpretation of relevant procurement rules and regulations pertinent to the issues presented.

Procurement By Lot in Infrastructure Projects

In accomplishing a given infrastructure project, the Procuring Entity has the prerogative as to the best possible way it may proceed. This includes the discretion on whether to procure and award a project in whole to a single contractor, or to subdivide the project into multiple phases, or into smaller packages or lots, resulting in the award of smaller contracts to different

¹ As indorsed by the Department of Budget and Management (DBM).

contractors. In other words, the Procuring Entity has the discretion on how to complete the project in the most efficient manner.

In this regard, please be informed that the procurement of infrastructure projects by package or by lot is a recognized mechanism under existing procurement rules.² Under Section 21.1(b) of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184, the contents of the Invitation to Bid (IB)/Request for Expression of Interest (REI) shall include *the name of the project, identification and number of lots or items specific to the bidding, as well as the basis of evaluation of the project, lots, or items, where applicable.* Moreover, the 5th Edition of the Philippine Bidding Documents (PBD) for Infrastructure Projects provides the information needed on how Procuring Entities can proceed with the procurement of an infrastructure project by lots.

IB Clause 1.2 requires Procuring Entities to inform prospective bidders whether the project will be procured through lots, and if so, the corresponding Approved Budget for the Contract (ABC) for each lot.

Accordingly, the Bid Data Sheet (BDS) provision for Clause 27.3 of the Instruction to Bidders (ITB) of the PBD for Infrastructure Projects directs the Procuring Entity to indicate whether the bidding opportunity is only for a single lot, or multiple lots. In case of multiple lots, the bidders are given the opportunity to submit a proposal on any or all lots, and the evaluation and contract award shall be undertaken on a per lot basis. The lots indicated shall not be divided further into sub-lots for the purpose of the bidding, evaluation, and contract award.

In view of the foregoing, the Procuring Entity has the discretion on whether to allow the division of the procurement activity into lots or per item in the conduct of competitive bidding.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,
(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director V

Copy furnished:

DIRECTOR LORENZO C. DRAPETE
Budget and Management Bureau - C
Department of Budget and Management (DBM)

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² NPM No. 43-2014, dated 10 October 2014.