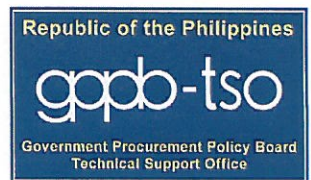




Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 004-2017

21 March 2017

ATTY. EDWARD JOSEPH C. CUANSING
Secretary to the Mayor
OFFICE OF THE CITY MAYOR
Bacolod City

Re: Earliest Possible Time for Procurement Activities

Dear Atty. Cuansing,

This refers to your letter seeking clarification on the periods for procurement activities undertaken by the City of Bacolod, subject of review by the incumbent local administration, particularly the Bids and Awards Committee (BAC).

In your letter, it was disclosed that the City of Bacolod has been receiving several claims for payments from contractors/suppliers for procurement conducted by the previous administration, which is being reviewed by the present local administration. It was further disclosed that based on your observation, the periods for procurement activities are not in accordance with RA 9184 and its revised Implementing Rules and Regulations (IRR), such that the pre-bid conference was held less than seven (7) days from the posting of the invitation to bid in the PhilGEPS website and the total procurement period is less than twenty (20) calendar days. Hence, this query.

At the outset, please be advised that the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) have no jurisdiction to rule over actual controversies with regard to the conduct of the bidding or the validity of the ensuing contract for the project since we have no quasi-judicial functions or investigatory powers under the law. Moreover, we adhere to the position that we cannot, nor any other agency, authority, or official, encroach upon or interfere with the exercise of the functions of the Head of the Procuring Entity and the Bids and Awards Committee, since these duties and responsibilities fall solely within the ambit of their authority and discretion.

Thus, the resolutions of the BAC and the decision of the HOPE in the exercise of their respective duties, functions and responsibilities under the procurement law and associated rules shall be recognized including their corresponding effects. In this regard, this Opinion shall limit the discussion on the relevant procurement law, rules and regulations pertinent to the issues presented.

Pre-bid Conference

We had the opportunity to explain in an earlier opinion¹ that under the revised implementing rules, the pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids, or in case a longer period for the preparation of bids is necessary, the pre-bid conference shall be held at least thirty (30) calendar days before the deadline for the submission and receipt of bids. The identified timeline between the pre-bid conference and the day of the opening of bids must be complied with to allow the prospective bidders to study and review the requirement of the Procuring Entity, and for them to be able to submit a responsive bid.

Additionally, for contracts to be bid with an approved budget for the contract (ABC) of One Million Pesos (PhP1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions, and specifications stipulated in the Bidding Documents.² Thus, for contracts to be bid with an approved budget of less than One Million Pesos (PhP 1,000,000.00), pre-bid conferences may be conducted at the discretion of the BAC.³

Earliest Possible Time

Annex "C" of the revised IRR of RA 9184 (2009) provides for the Period of Action on Procurement Activities, specifically the latest allowable time and the earliest possible time for each stage of the procurement process.

Based on the table for the earliest possible time in Annex "C", and considering the details of the Project *vis-a-vis* the relevant provisions of the IRR, the earliest possible time to complete an entire procurement process from the advertisement/posting of Invitation to Bid (IB) or Request for Expression of Interest up to Issuance of Notice to Proceed is twenty-eight (28) calendar days for goods and infrastructure project, and thirty-four (34) calendar days for consulting services. This is based on the premise that the pre-bid conference is conducted on the day after the last day of posting of the IB, which must be "posted continuously in the PhilGEPS website, the website of the procuring entity concerned, if available, for seven (7) calendar days starting on the date of advertisement".⁴

The rules allow Procuring Entities to adopt a shorter period provided for under the IRR relative to its procurement activity. However, in setting the timelines, the Procuring Entity should take into consideration the details of the project, the relevant provision of the revised IRR of RA 9184, and should ensure that competition, fairness, and transparency are well observed in its procurement process.

Summary

In sum, a pre-bid conference must be conducted at least 12 calendar days before the deadline for submission and opening of bids, but it is not mandatory for projects with ABCs below PhP 1,000,000.00. Additionally, the rules allow procuring entities to adopt the shortest possible period to complete its procurement activities, however, Procuring Entities are nonetheless bound to abide by the relevant provisions and timelines embodied in the revised IRR of RA 9184. A

¹ NPM No. 046-2015 dated October 9, 2015



² Section 22.1, IRR of RA 9184.

³ * * *

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours.)
(sgd.)

~~DENNIS S. SANTIAGO~~

~~Executive Director~~ 


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