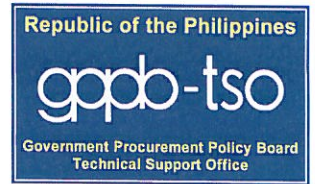




Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 060-2017

21 December 2017

MR. EMERITO MAGDANGAL

Deputy Head, Account Management Office

MULTI-FOLD LINKS, INC.

10F Platinum 2000 Annapolis St., Greenhills,

San Juan, Metro Manila Philippines 1502

Re: Pre-Bid Conference -

Dear Mr. Magdangal:

This refers to your electronic mail inquiring whether the conduct of pre-bid conference by a Procuring Entity (PE), which did not allow bidders who did not purchase the bidding documents to ask questions, is proper and legal or can make its procurement activity null and void from the beginning.

It is represented that in one pre-bid conference that you have attended, the Bids and Awards Committee (BAC) Chairman announced that prospective bidders who did not purchase the bidding documents or paid the non-refundable fee for the bidding documents cannot ask any question, citing Section 22.3 of the 2009 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Government Procurement Reform Act. You assert that such provision has already been superseded by the 2016 revised IRR. Hence, this query.

At the outset, we would like to clarify that the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) render policy and non-policy opinions, respectively, on issues purely pertaining to the interpretation and application of procurement laws, rules and regulations. We have no authority to dictate to the procuring entity how to decide or resolve issues relative to its procurement activities. Moreover, we adhere to the position that we cannot, nor any other agency, authority, or official, except courts of competent jurisdiction, 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. In this regard, we shall limit our discussion on the interpretation of relevant procurement rules and regulations pertinent to the issues presented.

Indeed, under Section 22.3 of the 2016 IRR of RA 9184, the "Pre-Bid Conference is open to prospective bidders". This is in contrast to the same Section under the 2009 IRR of RA 9184 where it provides that "at the option of the Procuring Entity, only those who have purchased the Bidding Documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications." With the removal of this option in the 2016 IRR of RA 9184, all prospective bidders are now given the opportunity to attend the pre-bid conference and raise questions or clarifications regardless whether they purchased the bidding documents or not.

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.)

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Executive Director *VMM*

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