

NPM No. 127-2016

6 December 2016



Re: Alternative Methods of Procurement

Dear [REDACTED]:

This refers to your electronic mail (e-mail) inquiring whether the item left in your bidding with an Approved Budget for the Contract (ABC) of Fifteen Thousand Pesos (P15,000) may be procured through an alternative modality even if there has been no second failure of bidding yet for reason of practicality.

Section 35 of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) provides that for every failure of bidding, the Bids and Awards Committee (BAC) must conduct a mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates. 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 the IRR.

Based on the results of the review, the BAC may decide to resort to any other appropriate alternative method of procurement, with due consideration to the promotion of economy and efficiency in the procurement at hand. Verily, there are various alternative methods of procurement, even under the Negotiated Procurement alone, which may be resorted to by the procuring entity, aside from the Two-Failed Biddings (Section 53.1 of the IRR) modality. Thus, the procuring entity may use whichever is most suitable given the surrounding circumstances and existing conditions of the project.

In your case, the remaining items that were not successfully procured through competitive bidding may be procured through another competitive bidding or through other alternative modalities, such as Shopping (Section 52) or Small Value Procurement (Section 53.9), which are used particularly for small procurements or those procurement falling within the prescribed threshold, as long as all the conditions and procedures prescribed therefor are complied with.

Nonetheless, we reiterate that it is the procuring entity that has the sole authority and is in the best position to determine the appropriate method of procurement for a specific project based on its identified needs and requirements and the attendant circumstances. It

bears stressing, however, that Section 10 of RA 9184 and its revised IRR mandates that all procurement shall be done through Competitive Bidding, except for highly exceptional cases where alternative methods of procurement provided in Sections 49 to 53 of RA 9184 and its IRR may be resorted to.

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 V

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