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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
MANILA

JUN 17 2008

DEPARTMENT ORDER)

No. _____)

Series of 2007 35 06-18-08

**SUBJECT: GUIDELINES IN THE IMPLEMENTATION
OF THE 3-STRIKE POLICY IN
PROCUREMENT OF CIVIL WORKS AND
CONSULTANCY SERVICES CONTRACTS
BY THE DEPARTMENT**

Section 69.1 Rule XXIII (Administrative Sanctions) of the Implementing Rules and Regulations, Part A (IRR-A) of R.A. 9184 states that *"the head of the procuring entity, subject to the authority delegated to the BAC, if any, shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the public bidding process, and for the third offense, disqualification from further-participating in the public bidding being undertaken by the procuring entity concerned, where applicable, for the following violations"*, among others, Section 69.1.9 which states, *"All other acts that tend to defeat the purpose of competitive bidding, such as an eligible contractor not buying bid documents, and contractors habitually withdrawing from bidding or submitting letters of non-participation for at least three (3) times within a year, except for valid reason."*

In order to carry out the above provision and to promote professionalism and accountability, a 3-Strike Policy in the procurement of civil works and consultancy services contracts is hereby prescribed in the Department, subject to the following guidelines:

A. VIOLATIONS - any of the following acts committed by a bidder, (an eligible/prequalified/shortlisted contractor/consultant) shall be considered an act that tends to defeat the purpose of public bidding such as, but not limited to the following:

1. A bidder not buying bid documents without a valid cause, as determined by the Bids and Awards Committee (BAC) concerned.
2. A bidder withdrawing from bidding or submitting a letter of non-participation before the deadline for submission of bids without a valid cause, as determined by the BAC concerned.
3. A bidder submitting late bid without a valid cause, as determined by the BAC concerned.
4. A bidder submitting insufficient/defective documents such as insufficient bid securities, and other deficiencies.
5. Other acts that may be determined by the concerned BAC provided that these were indicated or discussed in the Instructions to Bidders, Bid Bulletins, Notices, Minutes of Pre-Bid Conference or other similar instruments.

B. RESPONSIBILITIES AND AUTHORITIES

1. All procuring entities (central, regional and district offices) shall strictly comply with the prescribed guidelines in the submission of procurement reports.
2. The concerned BAC shall conduct their respective monitoring of bidder participation for all their procurement and maintain a tally of violations

mentioned in this Order. The tally of violations shall include information furnished them by the POCW.

3. Erring bidders shall be immediately informed in writing of their violations by the concerned BAC and shall be given five (5) calendar days from receipt of notification within which to respond. The concerned BAC shall act on the case and recommend appropriate action through a resolution within seven (7) calendar days from receipt of response from the erring contractor.
4. The Procurement Office for Civil Works (POCW) shall
 - a. send erring bidders letters from the concerned Central Office BAC directing them to explain in writing reason(s) for their violations monitored by the POCW as indicated in the submitted procurement reports, copy furnished the BAC of the concerned Procuring Entity for their appropriate action; and
 - b. monitor the action taken by concerned BACs on violations in their areas of responsibility and report status of the same to officials concerned for appropriate administrative action.
5. The Central Office BAC concerned shall deal with violations occurring in more than one procuring entity.
6. Due process shall be observed in all cases in accordance with the *"Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants"* as approved by the Government Procurement Policy Board (GPPB).
7. The concerned BAC or authorized body shall recommend administrative sanctions, through a resolution, if warranted, in accordance with IRR-A of R.A. 9184, to be approved by the Secretary, who then shall issue the corresponding Department Order.

C. ADMINISTRATIVE SANCTION

Violation of any of the foregoing shall subject the responsible official/employee for violation of reasonable office rules and regulations and shall suffer the penalty prescribed in Section 52, C(3) of Civil Service Resolution No. 991936 dated August 31, 1999 otherwise known as the Uniform Rules on Administrative Cases in the Civil Service;

- 1st offense – Reprimand
- 2nd offense – Suspension for 1-30 days
- 3rd offense – Dismissal

This Order shall take effect fifteen (15) days after its publication in a national newspaper or in the Official Gazette.

For strict compliance.

HERMOGENES E. EBDANE, JR.
Secretary



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