

BAC-C RESOLUTION NO. BC-2018-043

TERMINATION OF PROCUREMENT

**Consulting Services for the Development and Activation of Brand Concept,
Positioning and Identity of Clark**

WHEREAS, on April 11, 2018, the Bids and Awards Committee for Consulting Services (BAC-C) issued BAC-C Resolution No. BC-2018-009 which resolved, among others, the recommendation to procure the above mentioned consulting services under Section 53.9 on Small Value Procurement of the Revised Implementing Rules and Regulations (IRR) of RA 9184 and delegation of the procurement to the Investment Promotion and Marketing Department (IPMD);

WHEREAS, the Consulting Services has an Approved Budget of the Contract (ABC) of Pesos: One Million and 00/00 (Php1,000,000), inclusive of all applicable taxes and fees;

WHEREAS, on April 13, 2018, the Request for Quotation (RFQ) was posted in the PhilGEPs website, BCDA website and in a conspicuous place in the premises of BCDA. The deadline of submission was set on 9:00 AM of April 16, 2018;

WHEREAS, on April 16, 2018; in response to the RFQ, several companies submitted their proposals and delivered their oral presentations to the IPMD;

WHEREAS, on April 16, 2018, Ogilvy & Mathers Philippines, Inc. (OMPI) expressed its intent to donate their services to BCDA in exchange for a "Tax Credit";

WHEREAS, in a memo dated April 17, 2018, IPMD requested for the legal review of the Legal Services Department (LSD) of BCDA on the termination of the procurement and acceptance of the donation in exchange for a "Tax Credit";

WHEREAS, LSD issued its legal review dated April 19, 2018, stating that although the present situation is not among those contemplated in Section 41 of the IRR of RA 9184, the procuring entity can terminate the procurement process any time before award of the contract provided it is most advantageous to the government.

The review also cited the second paragraph of Article I of Annex "H" of the IRR of RA 9184, which provides that, "In all instances, the Procuring Entity shall ensure that the most advantageous prices for the government is obtained." LSD opined that considering that the consultant is willing to donate its services to BCDA for free, the same can be considered a price most advantageous to government.

With regard the donation, LSD opined that BCDA can accept donations from the private sector as it is one of the powers of BCDA in its charter.

The legal review did not touch on the matter of tax credit, which the prospective donor requires.

WHEREAS, in a memo dated May 22, 2018, the Officer-in-Charge of the IPMD recommended to the BAC-C the termination of the procurement process on the ground that a company is willing to donate its services to produce the same outputs and deliver the same goals and objectives;

WHEREAS, the BAC-C instructed the IPMD to do a complete staff work to determine if BCDA can accept the donation in exchange for a tax credit, in order to ensure that the required services can and will be performed by the prospective donor and to confirm that there is really no more need to continue with the procurement process;

WHEREAS, the IPMD launched the new Clark brand on November 26, 2018;

WHEREAS, on December 17, 2018, the OIC of IPMD issued another memo to BAC-C requesting for the approval to terminate the procurement;

WHEREAS, BAC-C was also provided a draft Memorandum of Agreement (MOA) for the donation of the services. According to IPMD, the draft MOA was approved by the LSD and by the Office of the Government Corporate Counsel (OGCC).

WHEREAS, the draft MOA states that, OMPI has offered to render its services to BCDA for free. BCDA has no obligation whatsoever to issue a tax credit.

NOW, THEREFORE, we, the members of the Bids and Awards Committee for Consulting Services, hereby RESOLVE, as it is hereby RESOLVED to:

1. RECOMMEND the termination of the procurement and not award the contract of Consulting Services for the Development and Activation of Brand Concept, Positioning and Identity of Clark based on the ground that the award of the contract will not redound to the benefit of the Government in consideration of the offer of donation to BCDA by Ogilvy & Mather Philippines, Inc. for the same services, and on the ground that the procurement for the said services has become moot in view of the launching of a new Clark brand in November;
2. DIRECT the IPMD to issue Notices of Termination of Procurement to the bidders of the consulting services.

Done in Taguig City this 18th day of December 2018.

BIDS AND AWARDS COMMITTEE FOR CONSULTING SERVICES


JOSHUA M. BINGCANG
Chairperson

Joanna
JOANNA EILEEN M. CAPONES
Vice-Chairperson

on leave
GUALBERTO J. OYZON, JR.
Member

on official business
JOCELYN L. CANIONES
Member

Virgil M. Alvarez
VIRGIL M. ALVAREZ
Member

Approved by:

Aileen An. R. Zosa
AILEEN ANUNCIACION R. ZOSA
Executive Vice President

provided that there will be NO legal complications arising from the termination.

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