



7 November 2016

DECLARATION OF FAILURE OF BIDDING

WHEREAS, the PSHS System is an attached agency of the Department of Science and Technology (DOST), and as an attached agency, the PSHS System has a lateral relationship with the Department for purposes of policy and program coordination, which is accomplished by having the Secretary represented in the governing board as chair (Ref. Book IV, Chapter 7, Section 3a, E.O. 292).

WHEREAS, the DOST Secretary is the ex-officio chairman of the PSHS System (Section 8, R.A. 9036).

WHEREAS, Section 5(t) of R.A. 9184 refers to the Head of Procuring Entity (HOPE) as "...*(i) the head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions or offices, and branches of government; (ii) the governing board or its duly authorized official, for GOCCs, GFIs and SUCs; or (iii) the local chief executive, for LGUs: Provided, however, That in an agency, department, or office where the procurement is decentralized, the head of each decentralized unit shall be considered as the Head of the Procuring Entity, subject to the limitations and authority delegated by the head of the agency, department, or office.*"

WHEREAS, Section 41 (Reservation Clause) of R.A. 9184 stipulates that "the Head of the Procuring Entity reserves the right to reject any and all bids, declare a failure of bidding, or not award the contract in the following situations:

- a) *If there is prima facie evidence of collusion between appropriate public officers or employees of the procuring entity, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition;*
- b) *If the BAC is found to have failed in following the prescribed bidding procedures; or*
- c) *For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP, as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible, as determined by the Head of the Procuring Entity; (ii) if the project is no longer necessary as determined by the Head of the Procuring Entity; and (iii) if the*

source of funds for the project has been withheld or reduced through no fault of the procuring entity."

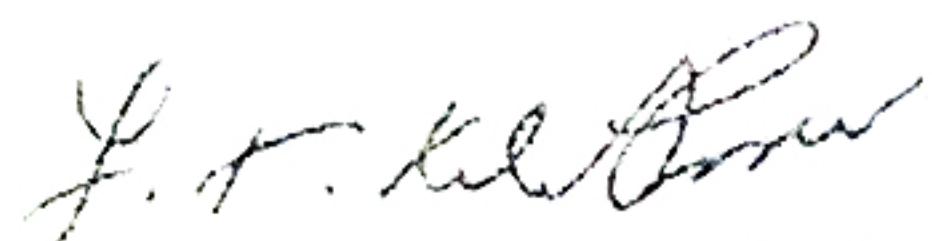
WHEREAS, the PSHS System Executive committee in its meeting on October 26, 2016 at the Limketkai Luxe Hotel Cagayan de Oro resolved to recommend for approval of the Board of Trustees for the Declaration of Failure of Bidding of the following projects listed in Execom Resolution No. 2016-10-82.

WHEREAS, to facilitate the re-bidding process and in consideration of the limited time remaining to obligate the funds before the year-end, the PSHS System Executive Committee is requesting the DOST Secretary in his capacity as Chairman of the Board of Trustees, to Declare Failure of Bidding of the following projects listed in Execom Resolution No. 2016-10-82, pursuant to Section 41b of R.A.9184.

NOW, THEREFORE, I, FORTUNATO T. DE LA PEÑA, Secretary of the DOST and Chairman of the Board of Trustees of the PSHS System, and by the power vested in me in E.O. 292 and R.A. 9036, do hereby RESOLVED, to declare a FAILURE OF BIDDING of all projects listed in Execom Resolution No. 2016-10-82.

RESOLVED FURTHER, the Bids and Award Committees (BAC) of the projects concerned, are hereby directed to immediately commence the rebidding process pursuant to rules of procedures under R.A. 9184.

RESOLVED FINALLY, to post this Resolution at the websites and other conspicuous places at the premises of PSHS Campuses concerned, and at PhilGEPS.


SECRETARY FORTUNATO T. DE LA PEÑA
Department of Science and Technology