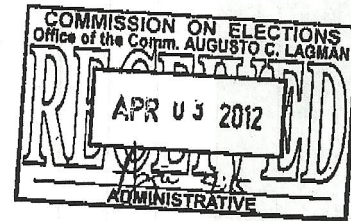


Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

28 March 2012

HONORABLE AUGUSTO C. LAGMAN
 Commissioner, Member of COMELEC 2013 Steering Committee
 COMMISSION ON ELECTIONS (COMELEC)
 Intramuros, Manila



Re: Purchase of Goods for the Automated Election System (AES) Under an Expired Option to Purchase and Institutional Development of a Canvassing and Consolidation System (CCS)

Dear Commissioner Lagman:

We refer to your letters dated 8 February 2012 and 1 March 2012, elaborating on the issues faced by COMELEC as regards the preparations for the 2013 elections.

We understand from your letters that the COMELEC has already developed its own CCS by contracting the assistance of certain DOST employees, and completed the same last December 2011. However, COMELEC decided to set aside the proposed voting machine development component of the project because it is contemplating on entering into a contract with Smartmatic-TIM, the winning bidder for the 2010 Automated Elections System (AES), for the purchase of goods pursuant to an Option to Purchase (OTP) contained in the "Contract for the Provision of an Automated Election System for the May 10, 2010 Synchronized National and Local Elections" (Contract).

The OTP was valid until 31 December 2010 but as early as 18 December 2010, Smartmatic-TIM unilaterally offered to extend the OTP until 31 March 2011. COMELEC took no action on the offer; hence, on 1 April 2011, Smartmatic-TIM offered, *motu proprio*, a Revised and Extended OTP proposed to be effective until 31 December 2011, with a ten percent (10%) price increase on the items eligible for purchase per Annex "L" of the Contract. The offer of 1 April 2011 not having been accepted, Smartmatic-TIM made another offer dated 23 September 2011 increasing by twenty percent (20%) the price of the eligible items, but maintaining the proposed extension until 31 December 2011. As in the previous offers, COMELEC did not accept the last offer made by Smartmatic-TIM.

Culled from the letter-requests sent us, we are requested to provide opinion on the following issues:

A. On COMELEC's Purchase of Goods for the AES under an expired OTP: 4

