



February 28, 2023

DECISION

TERMINATION ORDER 02-28-2023

This pertains to Lots 3, 4, 5, 11, 12, 14, 15, and 17 of the Supply and Delivery of Eighteen (18) Lots Drugs and Medicines under ITB No. PB18-05-072COR.

The Purchase Contract for the aforementioned Lots was executed by the parties, Global Pharma Enterprise and Philippine Amusement and Gaming Corporation (PAGCOR) on October 9, 2018. The Notice to Proceed (NTP) was issued on October 10, 2018 and was acknowledged by Global Pharma Enterprise on the same date. Thus, based on the provisions of the Purchase Contract, Global Pharma Enterprise shall complete the supply and delivery of drugs and medicines within fifteen (15) calendar days from the receipt of the Notice to Proceed (NTP).

Items under Lots 4, 5, 11, 12, 14 and 15 were delivered and accepted by the end-user on January 30, 2019. However, the Auxiliary Services Department (ASD), now Health Services and Wellness Department (HSWD), did not accept the replacement products for Lots 3 and 17 due to non-compliance with the technical specifications provided.

In a Verified Report dated February 18, 2020, which was submitted to then Procurement Department (PD) on February 20, 2020, the end-user, then ASD, stated that they would like to seek partial termination of the contract with Global Pharma Enterprise for Lots 3 and 17 of the Supply and Delivery of Eighteen (18) Lots Drugs and Medicines under Termination of Contract for convenience, since the suggested medicine replacement for Lots 3 and 17 were not acceptable due to non-compliance with the required technical specifications that were provided.

In a meeting held on November 9, 2022, the Bids and Awards Committee (BAC) 2 took note of the documents from the end-user, HSWD, and resolved to recommend to the Board of Directors as the Head of the Procuring Entity (HoPE), the partial termination of the Purchase Contract for Lots 3 and 17 pursuant to Section III (Grounds for Termination of Contracts) of Annex I of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (R.A.) 9184, which states that:

****III. GROUNDS FOR TERMINATION OF CONTRACT***

xxx xxx xxx

B. Termination for Convenience The Procuring Entity may terminate the Contract, in whole or in part, at any time for its convenience. The Head of the Procuring Entity may terminate a contract for the convenience of the Government if he has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies."

In addition, payment shall no longer be made for the delivered items under Lots 4, 5, 11, 12, 14 and 15, as concurred by Global Pharma Enterprise, in its letter dated November 22, 2022.


On January 26, 2023, the Board of Directors approved the recommendation to proceed with the process of partially terminating the Purchase Contract with Global Pharma Enterprise for Lots 3 and 17 of the Supply and Delivery of Eighteen (18) Lots Drugs and Medicines under ITB No. PB18-05-072COR.

On January 30, 2023, PAGCOR issued a Notice of Partial Termination of Contract to Global Pharma Enterprise, which receipt was acknowledged on February 16, 2023, giving them the opportunity to explain why the contract should not be terminated, through the submission of a Verified Position Paper within seven (7) calendar days from the receipt of the said notice.

In a meeting held on February 27, 2023, the BAC 2 noted that no Verified Position Paper was filed by Global Pharma Enterprise within the prescribed period of seven (7) calendar days from receipt of the Notice of Partial Termination. Foregoing considered, the BAC 2 resolved to proceed, as approved by the Board of Directors, with the Partial Termination of the Contract.

Consequently, we are issuing the Decision for the Partial Termination of Contract for Convenience for Lots 3 and 17 of the Supply and Delivery of Eighteen (18) Lots Drugs and Medicines under ITB No. PB18-05-072COR.

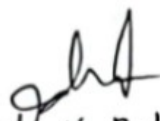
SO ORDERED.


VICTOR PAUL E. MALLILLIN
Special Assistant to the President and
Chief Operating Officer

MJC/mrh

cc: AVP, HSWD

Conforme:


Eduardo V. Butial

Printed Name and Signature
03/21/23

Date