

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

En Banc

SMARTMATIC CORPORATION
SMARTMATIC INC.,

TIM and PHILIPPINES,

Petitioners,

-versus-

G.R. No. 270564

COMMISSION ON ELECTIONS
EN BANC, ELISEO MIJARES RIO,
JR., AUGUSTO CADELIÑA
LAGMAN, FRANKLIN FAYLOGA
YSAAC, and LEONARDO
OLIVERO ODOÑO,

Respondents.

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**MOTION FOR LEAVE TO FILE
AND ADMIT THE ATTACHED
COUNTER-MANIFESTATION
WITH MOTION TO DISMISS**

RESPONDENT **COMMISSION ON ELECTIONS (COMELEC)**, through the Office of the Solicitor General (OSG), with leave of court, simultaneously herein prayed for, to this Honorable Court, respectfully states:

1. On 15 January 2024, the OSG received Smartmatic's *Manifestation with Reiterative Motion* dated January 10, 202[4], wherein it apprised the Honorable Court of the recent proceedings before the COMELEC Special Bids and Awards Committee (SBAC).

1.1. Particularly, Smartmatic informed the Honorable Court that on 08 January 2024, during the opening of bids for the procurement of the Lease of Full

Automation System with Transparency Audit/Count (FASTrAC) for the 2025 National and Local Elections (NLE), the SBAC Secretariat refused to accept the bid submission of Smartmatic JV.¹ As a result, Smartmatic JV was excluded from participating in the said procurement proceedings and submitting “a bid that would possibly be the most advantageous to the government.”²

1.2. Smartmatic then alleged that its exclusion from the procurement proceedings may have resulted in the questionable integrity of the competitive bidding process, “as irregularities in the bidding documents would have otherwise been spotted and raised by a bidder.”³

2. To dispel any erroneous notion of irregularities in the procurement process in the Lease of FASTrAC for the 2025 NLE, the COMELEC wishes to apprise the Honorable Court of the timeline and the details of what transpired before its SBAC.

2.1. On 14 December 2023, the SBAC, thru its Secretariat, received the bid proposal from the lone bidder, Joint Venture – Miru Systems Co. Ltd., Integrated Computer Systems, St. Timothy Construction Corporation, and Centerpoint Solution Technologies, Inc. (Miru JV).

2.2. Applying the non-discretionary “pass/fail” criteria, in compliance with Republic Act (R.A.) No. 9184 and its Implementing Rules and Regulations (IRR), Miru JV was declared ineligible on several grounds.⁴ Consequently, a failure of competitive bidding was declared by the SBAC and a mandatory review of the project was conducted.⁵

¹ A joint venture comprised of SMMT-TIM 2016, Inc. Smartmatic Holdings, Inc. and Jarltech International, Inc.

² *Manifestation with Reiterative Motion* dated January 10, 202[4], p. 3, ¶ 5.

³ *Id.*, p. 3, ¶ 6.

⁴ A certified true copy of SBAC-AES Resolution No. 1 (1st Bidding) dated 14 December 2023 is attached as **Annex “1”** hereof.

⁵ *Id.*, p. 2; pursuant to Section 35.2 of the 2016 Revised IRR of R.A. No. 9184.

2.3. Thereafter, an *Invitation to Bid* was published anew on 15 December 2023 and a *Pre-Bid Conference* was held on 22 December 2023.

2.4. To ensure transparency of the procurement process, notices were likewise sent to Observers, such as the Commission on Audit (COA), the Parish Pastoral Council for Responsible Voting (PPCRV), the National Citizens' Movement For Free Elections (NAMFREL), Comelec Advisory Council, Democracy Watch, and other concerned officer and departments on 29 December 2023.

2.5. On 08 January 2024, the *Opening of Bids* was conducted by the SBAC, which was also streamed online on Facebook and on YouTube, during which Miru JV was the lone bidder.

2.6. This time, based on the non-discretionary "pass/fail" criteria under R.A. No. 9184 and its IRR,⁶ Miru JV was declared to be eligible to bid. In addition, it was confirmed as the bidder that submitted the Single Calculated Bid (SCB).⁷

2.7. Thus, Miru JV was required to submit necessary business and financial documents for post-qualification evaluation.

3. Accordingly, the Technical Working Group (TWG) was directed to conduct a post-qualification evaluation of Miru JV from 09 to 31 January 2024, in accordance with R.A. No. 9184, its IRR, and the SBAC's timeline of procurement activities.

3.1. The post-qualification proceedings "shall verify, validate and ascertain all statements made and documents submitted by the said bidder using a non-discretionary criterion as stated in the Bidding Documents."⁸

⁶ A certified true copy of SBAC-AERS Resolution No. 1 (2nd Bidding) dated 8 January 2024 is attached as **Annex "2"** hereof.

⁷ *Id.*

⁸ SBAC-AERS Resolution No. 1 (2nd Bidding), p. 2, *citing* IRR of R.A. No. 9184, Section 34.3.

3.2. The schedule for the Systems Demonstration or End-to-End Testing of Automated Counting Machines (ACMs) and its peripherals is on 23, 24, and 29 January 2024.⁹

4. It bears stressing that the *Notice of Award*¹⁰ will only be issued after Miru JV submits the required documents and passes the post-qualification evaluation by the SBAC. Then, the contract signing, issuance of the *Notice to Proceed*, and the *Delivery* or contract implementation should timely ensue.

5. Verily, the observance of these procurement activities within the set timeline is crucial in preparing for a myriad of other election activities, which would all lead to the casting of the ballot during the 2025 NLE.

6. Furthermore, COMELEC submits that Smartmatic's *Petition* and the applications for a temporary restraining order (TRO) and/or writ of preliminary injunction (WPI), and status *quo ante* order are dismissible on the following ground:

SMARTMATIC'S PETITION AND APPLICATIONS FOR A TRO AND/OR WPI, AND STATUS QUO ANTE ORDER ARE ALREADY MOOT AND ACADEMIC. THE PETITION MUST BE DISMISSED CONSIDERING THE PETITION CEASES TO PRESENT A JUSTICIABLE CONTROVERSY AND THE ACTS SOUGHT TO BE ENJOINED HAVE ALREADY BEEN CONSUMMATED.

7. To recall, the COMELEC *En Banc's Resolution* dated 20 November 2023 "disqualified and disallowed [Smartmatic] from participating in any public bidding process for elections."¹¹

⁹ A copy of the Memorandum dated 24 January 2024, *sans* the photos, is attached as **Annex "3"** hereof.

¹⁰ Based on the timeline of Procurement Activities, the SBAC is mandated to issue the pertinent *Notice of Award* on 09 February 2024.

¹¹ Annex "A" of the *Petition*, hereinafter "*Assailed Resolution*."

8. Thus, Smartmatic's prayed for the following reliefs in its *Petition*, viz:

[...]

2. Pending consideration of the Petition, **ISSUE a TEMPORARY RESTRAINING ORDER and/or WRIT OF PRELIMINARY INJUNCTION**, effective from the date of its issuance until such time as the decision in this case attains finality, enjoining Public Respondent Commission on Elections (*En Banc*) and anyone acting for or under its authority, direction, control, or instruction, and any other entity, including the Special Bids and Awards Committee (SBAC) for the 2025 AES, from performing any act in connection with or pursuant to the Resolution dated 29 November 2023, in any form or manner, including, but not limited to:

a. Prohibiting or disallowing Smartmatic from participating in the opening of bids on 12 December 2023;

b. Preventing the examination of Smartmatic's eligibility and bidding documents;

c. Failing and/or disqualifying Smartmatic as a potential bidder in the 2025 AES bid even prior examination of Smartmatic's eligibility and bidding documents;

d. Prohibiting or disallowing Smartmatic from participating in the bidding process for the 2025 AES; and

e. Such other act in connection with, or pursuant to, the Resolution dated 29 November 2023.

3. **ISSUE a Writ of Certiorari ANNULING, REVERSING and SETTING ASIDE** the *Resolution* dated 29 November 2023 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.¹²

¹² *Petition*, pp. 65-66, Prayer.

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9. Thereafter, in its *Manifestation and Supplement* to the Petition for Certiorari,¹³ Smartmatic belatedly prayed for the issuance of a status *quo ante* order, which it deemed “necessary so as not to render the Petition moot.”¹⁴

10. However, at this point, Smartmatic’s reliefs are already moot and academic, insofar as it seeks the nullification of the *Assailed Resolution* and considering the acts sought to be enjoined have already been consummated.

11. In *Department of Health v. Pascua*,¹⁵ the Honorable Court considered the case moot by virtue of supervening events. Thus:

In *Prof David v. Pres. Macapagal-Arroyo* (David),¹⁶ the Court defined a moot and academic case in this wise:

A moot and academic case is one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical use or value. Generally, courts decline jurisdiction over such case or dismiss it on ground of mootness.

Although the Court recognized in *David* that there are instances wherein the Court can decide the merit of moot and academic cases, none of the exceptions are present in the instant petitions.

The cases before the Court cease to present a justiciable controversy by virtue of the DOH’s issuance of the Notices to Proceed Phase I and II of the Project in favor of respondent JDLC. As a consequence of the award of the Project in favor of respondent JDLC, the latter already commenced the modernization of

¹³ Manifestation and Supplement to the Petition for Certiorari dated 6 December 2023 (with Application for the Issuance of a Status Quo Ante Order) dated 18 December 2023.

¹⁴ *Id.*, p. 5, ¶12.

¹⁵ G.R. No. 212894, 04 March 2020.

¹⁶ G.R. No. 171396, 03 May 2006.

the subject hospital. Any decision regarding the legality of the act of respondent judge in issuing the subject TRO and writ of preliminary injunction and his subsequent issuance of a decision awarding the Project to respondent JDLC would be of no practical use or value because of the above-mentioned supervening events. Hence, the petitions should be dismissed for being moot.¹⁷

12. To reiterate, the act sought to be enjoined in the present case, *i.e.*, prohibiting or disallowing Smartmatic from participating in the bidding process for the 2025 Automated Election System (AES), have already been consummated, as shown by the following circumstances:

12.1. As mentioned, in the morning of 08 January 2024, Smartmatic's bid submission was not received by the SBAC Secretariat in compliance with the directive in the *Assailed Resolution, disqualifying and disallowing* it from participating in the bidding process.

12.2. On the same day, the SBAC proceeded with the opening of bids, wherein Miru JV was the lone bidder. After evaluation, Miru JV was declared to be the bidder that submitted the Single Calculated Bid (SCB).

12.3. The SBAC is already in the process of conducting the post-qualification proceeding. At this stage, the SBAC can no longer accept additional bids, either from Smartmatic or any other bidder.

13. Essentially, the prohibition and disqualification of Smartmatic are already completed acts. Therefore, the *Petition* ceases to present a justiciable controversy by virtue of the supervening events in the bidding process. As a result, there is no substantial relief that Smartmatic would be entitled to despite any resolution in its favor or which would be negated by the dismissal of the *Petition*.

¹⁷ Emphasis supplied.

14. Relatedly, in *Primo Co, Sr. v. The Philippine Canine Club, Inc.*,¹⁸ the Honorable Court emphasized that consummated acts can no longer be restrained by injunction. Thus:

It is a well-established rule that consummated acts can no longer be restrained by injunction. **When the acts sought to be prevented by injunction or prohibition have already been performed or completed prior to the filing of the injunction suit, nothing more can be enjoined or restrained; a writ of injunction then becomes moot and academic,** and the court, by mere issuance of the writ, can no longer stop or undo the act. To do so would violate the sole purpose of a prohibitive injunction, that is, to preserve the *status quo*.

[...]

In the present case, the act sought to be restrained by the petitioners has already been partly accomplished. The actual suspension and expulsion of Co, Cruz, Alegado and Jester from PCCI rendered their prayer for injunctive relief moot. Evidently, it is no longer possible to grant the relief they were seeking – *that is, to stop PCCI from implementing their suspension and expulsion* – as the same has already been consummated. The status quo can no longer be restored.¹⁹

15. Here, at the risk of being repetitive, the act sought to be enjoined, *i.e.*, prohibiting or disallowing Smartmatic from participating in the bidding process for the 2025 Automated Election System (AES), has become *fait accompli*. Consequently, nothing more could be enjoined or prohibited because the COMELEC has implemented the *Assailed Resolution* when the opening of bids proceeded on 08 January 2024, without receiving Smartmatic's bid. Therefore, the actual prevention and prohibition of Smartmatic from submitting its bid has rendered its applications for injunctive relief moot.

¹⁸ G.R. No. 190112, 22 April 2015.

¹⁹ Emphasis supplied.

16. From the foregoing, Smartmatic's allegations against the integrity of the competitive bidding are nothing but baseless supposition and conjecture. On the contrary, the COMELEC SBAC has adhered to the pertinent procurement laws in the conduct of its procurement activities to ensure transparency and safeguard the electoral integrity. Finally, due to supervening events, the instant *Petition*, and the corollary application for injunctive relief, must be dismissed on the ground of mootness.

PRAYER

WHEREFORE, premises considered, respondent COMELEC respectfully prays that:

- (i) the instant *Counter-Manifestation and Motion* be **ADMITTED and NOTED**; and
- (ii) the instant *Petition for Certiorari*, with applications for TRO, WPI, and *status quo ante order* be **DISMISSED** on the ground of mootness.

Other just and equitable reliefs under the premises are likewise prayed for.

Makati City for Manila City, 26 January 2024.

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MANNER OF SERVICE

The foregoing *Motion for Leave to file and Admit the Attached Counter-Manifestation and Motion* is being served by registered mail due to lack of personnel, which makes personal service impracticable.



MARY ROSE T. BELEY-ARNESTO

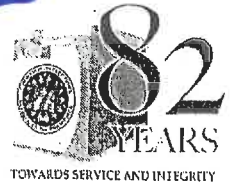
Associate Solicitor



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS

Intramuros, Manila

ANNEX 1



*Special Bids and Awards Committee – Automated Elections System
for the 2025 National & Local Elections
(SBAC-AES for 2025 NLE)*

SBAC-AES Resolution No. 1

**Lease of Full Automation System with Transparency Audit/Count
(FASTrAC) for the 2025 National and Local Elections**
(SBAC Ref No. 01-2023-FASTrAC)

WHEREAS, on 14 December 2023, the SBAC-AES thru its Secretariat, received the Bid Proposal of the JOINT VENTURE – MIRU SYSTEMS CO. LTD., INTEGRATED COMPUTER SYSTEMS, ST. TIMOTHY CONSTRUCTION CORPORATION, AND CENTERPOINT SOLUTIONS TECHNOLOGIES, INC. (“MIRU-ICS-STCC-CPSTI Joint Venture, for brevity). The details are as follows:

Date & Time of Submission	Venue of Submission
14 December 2023, 8:21 AM	SBAC Secretariat Office, Procurement Management Department, Commission on Elections, 305-A 3/F Annex Building, Far East Managers and Investors Incorporated (FEMII) Building, A. Soriano Avenue, Intramuros, Manila

WHEREAS, MIRU-ICS-STCC-CPSTI Joint Venture was the lone bidder;

WHEREAS, on even date, the SBAC-AES conducted Opening of Bids;

WHEREAS, after preliminary examination of the Bid Proposal submitted and applying the non-discretionary “pass/fail” criterion as stated in the Instructions to Bidders and the Bid Data Sheet, in full compliance with the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Technical Working Group recommended to the SBAC-AES that MIRU-ICS-STCC-CPSTI Joint Venture be declared INELIGIBLE on the following grounds:

- (a) Lack of English translation of supporting documents which is in a foreign language in the Statement of Single Largest Completed Contract (SLCC) as required by Section 23.2 of the Revised IRR of RA No. 9184; and

- (b) Incomplete Undertaking to Enter into a Joint Venture. The submitted Undertaking to Enter into Joint Venture Agreement specified “jointly” only instead of “jointly and severally liability” as required under Section 23.4.1.1 (e) of the Revised IRR of RA

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No. 9184 and as prescribed by the attached Annex F in the Bidding Documents for the project. This requirement was reiterated in GPPB NPM No. 066-2009 dated 29 December 2009, xxx "Finally, it bears stressing that the participating entities entering into a JVA, are to be treated as a single bidder and, will be held jointly and severally responsible or liable for the obligations of said JV". xxx

WHEREAS, after due deliberation on the findings and recommendation of the TWG, the SBAC hereby rules to affirm the said findings that the Bid Proposal of *MIRU-ICS-STCC-CPSTI Joint Venture* failed to comply with the requirements of aforesaid provisions of the Revised IRR of RA No. 9184;

WHEREAS, considering that the lone bidder is declared INELIGIBLE, this SBAC-AES hereby **RESOLVES**:

1. To **DECLARE 1st FAILURE OF COMPETITIVE BIDDING** for the above-mentioned project;
2. To **INFORM the HEAD OF THE PROCURING ENTITY of the DECLARATION of FAILURE OF BIDDING** for the above-mentioned project pursuant to Section 35(a) of the Revised IRR of RA No. 9184; and
3. To **IMMEDIATELY CONDUCT** a mandatory review for the above-mentioned project.


The SBAC-AES Secretariat is hereby directed to furnish copies of this Resolution to all concerned offices.

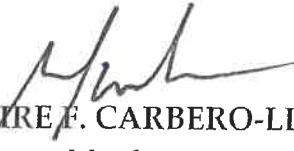
SO ORDERED.
14 December 2023.


ALLEN FRANCIS B. ABAYA
Chairperson


JOHN REX C. LAUDIANGCO
Vice-Chairperson


DIVINA E. BLAS PEREZ
Member


JOVENCIO G. BALANQUIT
Member


ABIGAIL CLAIRE F. CARBERO-LLACUNA
Member

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ANNEX 2



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS

Intramuros, Manila

*Special Bids and Awards Committee – Automated Elections System
for the 2025 National & Local Elections
(SBAC-AES for 2025 NLE)*



SBAC-AES Resolution No. 1

Lease of Full Automation System with Transparency Audit/Count (FASTrAC) for the 2025 National and Local Elections – 2nd Bidding
(SBAC Ref No. 01-2023-FASTrAC)

WHEREAS, on January 8, 2024, the SBAC-AES thru its Secretariat, received the Bid Proposal of the JOINT VENTURE – MIRU SYSTEMS CO. LTD., INTEGRATED COMPUTER SYSTEMS, ST. TIMOTHY CONSTRUCTION CORPORATION, AND CENTERPOINT SOLUTIONS TECHNOLOGIES, INC. (“MIRU-ICS-STCC-CPSTI Joint Venture, for brevity). The details are as follows:

Date & Time of Submission	Venue of Submission
January 8, 2024, 8:49 AM	SBAC Secretariat Office, Procurement Management Department, Commission on Elections, 305-A 3/F Annex Building, Far East Managers and Investors Incorporated (FEMII) Building, A. Soriano Avenue, Intramuros, Manila

WHEREAS, MIRU-ICS-STCC-CPSTI Joint Venture was the lone bidder;

WHEREAS, on even date, the SBAC-AES conducted the Opening of Bids;

WHEREAS, after preliminary examination of eligibility documents using a non-discretionary “pass/fail” criterion as stated in the Instructions to Bidders and the Bid Data Sheet, in full compliance with the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, the Special Bids and Awards Committee – Automated Elections System (SBAC-AES) hereby DECLARES MIRU-ICS-STCC-CPSTI Joint Venture ELIGIBLE to BID for the project, Lease of Full Automation System with Transparency Audit/Count (FASTrAC) for the 2025 National and Local Elections – 2nd Bidding under SBAC Ref No. 01-2023-FASTrAC;

WHEREAS, after the Opening of Financial Component of MIRU-ICS-STCC-CPSTI Joint Venture, the SBAC-AES proceeded with the bid evaluation in accordance with Section 32.2.1 and declared MIRU-ICS-STCC-CPSTI Joint Venture, as the bidder which submitted the Single Calculated Bid (SCB) with details as follows:

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Description	Qty	Financial Bid (₱) (VAT Exempt)
Lease of Full Automation System with Transparency Audit/Count (FASTrAC)	1 lot	<u>17,988,878,226.55</u>
<i>Lot is composed of the following:</i>		
(a) Election Management System Goods & Services		420,299,898.11
(b) Automated Counting Machine Goods & Services		15,274,403,128.10
(c) For Consolidation & Canvassing System Goods & Services		198,689,440.00
(d) Ballot Printing Services & Goods		1,606,685,781.64
(e) Ballot Box – Goods & Services		488,799,978.70

Accordingly, the **Technical Working Group (TWG)** is hereby **DIRECTED** to subject the bidder with the **SCB** for said procurement project to Post-Qualification Evaluation under **Rule X of the Revised Implementing Rules and Regulations of R. A. No. 9184** in order to determine whether or not the bidder concerned complies with and is responsive to all the requirements and conditions as specified in the Bidding Documents for this Procurement Project¹. Said post qualification process must be completed in not more than twelve (12) calendar days from receipt hereof, subject to an extension of said period upon the approval of the Head of the Procuring Entity, but in no case to exceed the aggregate period of forty-five (45) calendar days².

The post-qualification proceedings shall verify, validate and ascertain all statements made and documents submitted by the said bidder using a non-discretionary criterion as stated in the Bidding Documents³. These criteria shall consider, but shall not be limited to, the following:

- (a) **Legal Requirements.** To verify, validate and ascertain licenses, certificates, permits and agreements submitted by the bidder, and the fact that it is not "blacklisted";
- (b) **Technical Requirements.** To determine compliance of the goods offered with the requirements specified in the Bidding Documents, including, where applicable:
 - (i) Verification and/or inspection and testing of the goods/product, aftersales and/or maintenance capabilities, in applicable cases, as well as checking the following:
 - a) Delay in the partial delivery of goods amounting to ten percent (10%) of the contract price in its ongoing government and private contracts;

¹Section 34.1, R-IRR.

²Section 34.8., R-IRR.

³Section 34.1, ibid


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JAN 16 2024

- b) If any of these contracts shows the bidder's failure to deliver or perform any or all of the goods or services within the period(s) specified in the contract or within any extension thereof granted by the Procuring Entity pursuant to a request made by the supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price; or
 - c) Unsatisfactory performance of the supplier's obligations as per contract terms and conditions at the time of inspection.
- (ii) Ascertainment of the sufficiency of the bid security as to type, amount, form and wording, and validity period.⁴
 - (iii) If the BAC verifies any of these deficiencies to be due to the bidder's fault or negligence, the BAC shall disqualify the bidder from the award.

Verily, the above-named bidder with the SCB is hereby **DIRECTED TO SUBMIT** to the SBAC-AES Secretariat within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice from the SBAC-AES declaring it as Single Calculated Bid (SCB), the following requirements:

1. Copy of the following valid and current Eligibility & Financial Documents listed in PhilGEPS Certificate of Registration (Platinum Membership), as follows:
 - a. Registration Certificate issued by Security and Exchange Commission (SEC) or Department of Trade and Industry (DTI);
 - b. Mayor's Permit;
 - c. Tax Clearance; and
 - d. Latest Audited Financial Statement
2. Latest Income and Business Tax Returns filed and paid through the BIR Electronic Filing and Payment System (EFPS);

Pursuant to Revenue Regulations 3-2005, Tax Returns refers to:

- a. Latest Income Tax Return (ITR),

For participants already with an Annual ITR, latest ITR shall refer to the ITR for the preceding Tax Year be it on a calendar or fiscal year. For new establishments which, therefore, have no annual ITR yet, it shall refer to the most recent quarter's ITR.

- b. Latest Business Tax Return

Refers to the Value Added Tax (VAT) or Percentage tax returns covering the previous six (6) months. For those with less than six (6)

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months of operations, this refers to the monthly business tax returns filed to date.

Note: Please also refer to BIR Revenue Memorandum Circular No. 5-2023 dated 03 January 2023

For Foreign Bidders:

Equivalent document in their jurisdiction would suffice consistent with Section 23.2 of the 2016 IRR of RA No. 9184. Please refer to Notes to Foreign Bidders stated in Section VIII – Checklist of Technical and Financial Documents.

3. Copy of Notice of Award, Notice to Proceed, Purchase Order, Contract or any other document evidencing the Ongoing Contracts as listed per submitted **Annex "A" with Summary List of Bidder's Clients with Contact Person and Contact Details (email & landline/cellphone number)**;
4. Contact details of bidder's client (contact person, email & landline/cellphone number) as listed in Annex "B" - Statement of Single Largest Completed Contract (SLCC);
5. **FOR COMPONENT 1 - SYSTEMS**
 - a. For ACM using Paper-Based Ballot
 - (i) Submit samples of 8-bit grayscale image ballots
 - (ii) Valid documentary proof that the sample ballot uses a 8-bit grayscale image
 - (iii) The compliance to the ballot's 8-bit grayscale image requirement shall be subject to verification by the DOST.
 - b. Systems Demonstration to validate compliance with the minimum requirements indicated in the Technical Specifications as indicated in Annex TOR, except requirements stated as for customization requirements, during Systems Evaluation. See Annex N – Procedure on Post-Qualification Evaluation.

All equipment/materials listed in Annex TOR – N for the systems demonstration must be provided by the bidder.

Also refer to Annex TOR – B for the Testing Required for Post-Qualification

- c. The bidder shall demonstrate the transmission of precincts from the proposed ACM to the proposed based-CCS

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- d. The bidder shall demonstrate accessibility functionality of its ACM during Systems Evaluation
- e. The demonstration of ACM operability for 14 hours with the external battery shall be executed at a separate time from the end-to-end test, within the post-qualification schedule.

6. **FOR COMPONENT 2 – BALLOT PRINTING SERVICES**

- a. Presentation of the following:
 - (i) Project Management Plan as indicated in the Annex TOR
- b. Actual sample of the ballots which shall be used in the testing of the ACM as indicated in Annex TOR.

- c. On-site demo version of the proposed equipment; OR

Presentation of similar installation of the equipment from a previous contract of the bidder; and

Demo Version of the offered software application as indicated in Annex TOR

The demo system shall be able to show availability and working functionality of all of the minimum systems specifications as required by COMELEC.

7. **COMPONENT 3 – BALLOT BOXES**

- a. Prototype of the ballot box (10 pcs) being offered subject to testing as indicated in Annex O; and
- b. Manufacturer's Certificate that the ballot box being offered is made of plastic material with following specifications:
 - Low density
 - Low moisture absorption
 - High heat resistance

8. **COMPONENT 4 – TRAINING**

- Presentation of Training Plan

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Failure to submit the above requirements on time or a finding against the veracity of such shall be ground for the forfeiture of the bid security and disqualification of the bidder for award.⁵

Furthermore, please be informed that this is not a Notice of Award.

SO ORDERED.

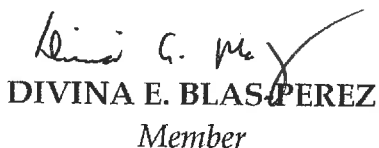
January 8, 2024.



ALLEN FRANCIS B. ABAYA
Chairperson



JOHN REX C. LAUDIANGCO
Vice-Chairperson



DIVINA E. BLAS PEREZ
Member



JOVENCIO G. BALANQUIT
Member



ABIGAIL CLAIRE F. CARBERO-LLACUNA
Member

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⁵Section 34.2 - ibid



REPUBLIC OF THE PHILIPPINES
COMMISSION ON ELECTIONS
 Intramuros, Manila



Special Bids & Awards Committee – Automated Election System

For the 2025 National & Local Elections

(SBAC – AES for 2025 NLE)

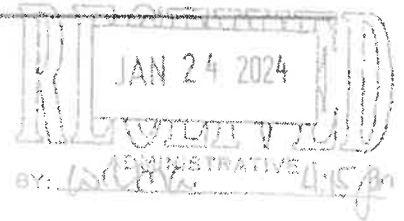
COMMISSION ON ELECTIONS
 OFFICE OF THE CHAIRMAN

MEMORANDUM

FOR : DIR. ESTER L. VILLAFLOR-ROXAS
 Head Executive Assistant
 Office of the Chairman
 PMO Head

SUBJECT : UPDATES ON THE PROCUREMENT OF LEASE OF FULL
 AUTOMATION SYSTEM WITH TRANSPARENCY
 AUDIT/COUNT (FASTRAC) FOR THE 2025 NATIONAL
 AND LOCAL ELECTIONS

DATE : 24 January 2024




Relative to the procurement of *Lease of Full Automation System with Transparency Audit/Count (FASTRAC) for the 2025 National and Local Elections - 2nd Bidding (SBAC Ref No. 01-2023 FASTRAC)*, may this Committee respectfully informs you of the updates on the procurement of the said project:

PROCUREMENT ACTIVITIES	TIMELINE	STATUS
Pre-Bid Conference	December 22, 2023	Done
Opening of Bids	January 8, 2024	Done
Post-qualification of the Bidder with the Single Calculated Bid - Joint Venture - Miru Systems Co. Ltd., Integrated Computer Systems, St. Timothy Construction Corporation and Centerpoint Solutions Technologies, Inc.	January 9, 2024 - On-going	On-going post-qualification of documents; Systems Demonstration or End-to-End Testing of Automated Counting Machines (ACMs) and its peripherals (scheduled on January 23, 24 and 29, 2024)

Attached are photos taken during the Systems Demonstration/End-to End Testing.

For your information.

Thank you very much.


ALLEN FRANCIS B. ABAYA
 Chairperson
 SBAC-AES for 2025 NLE

Cc:
 Chairman George Erwin M. Garcia

VERIFIED DECLARATION

I, **MARY ROSE T. BELEY-ARNESTO**, hereby declare that the document hereto submitted electronically in accordance with Efficient Use of Paper Rule is complete and true copy of the document filed with the Supreme Court.


MARY ROSE T. BELEY-ARNESTO
Associate Solicitor

SUBSCRIBED AND SWORN TO before me on this 26th day of January 2024, affiant exhibiting her competent evidence of identity, to wit: Office ID No. 2016-01009


ROWENA F. MUTIA
State Solicitor



Republic of the Philippines
OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legaspi Village, Makati City



2016-01009
ID Number



Mary Rose T. Beley-Arnesto
Signature

BELEY-ARNESTO, MARY ROSE T.
ASSOCIATE SOLICITOR III

M. I. Guevarra
MENARDO I. GUEVARRA
Solicitor General