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COMMISSION ON **A**UDIT

Republic of the Philippines  
**INTER AGENCY ANTI GRAFT COORDINATING COUNCIL**  
**(IAAGCC)**



OFFICE OF THE **O**MBUDSMAN

## REQUEST FOR INVESTIGATION OF UNCONSCIONABLE PRICES

12 December 2012

Honorable **CONCHITA CARPIO MORALES**

Honorable **MARIA GRACIA M. PULIDO TAN**

Honorable **JUANITO G. ESPINO Jr.**

Honorable **HEIDI LLOCE MENDOZA**

Your Honors:

In connection with the 18 April 2012 **MEMORANDUM OF AGREEMENT (MOA)** on **COMMISSION ON AUDIT (COA)** and **OMBUDSMAN (OMB)** Joint Investigations, therein reiterating the COA+OMB membership in the **INTER AGENCY ANTI GRAFT COORDINATING COUNCIL (IAAGCC)** and identifying the Top 10 priority cases, it is timely to note that questionable procurements and payments by the **COMMISSION ON ELECTIONS (Comelec)** are in the said Top 10 list of priority cases.<sup>1</sup> Also timely is the recent promulgation on 29 October 2012 of COA Circular No 2012-003 or the guidelines for implementing the constitutional command for prevention and disallowance of “**Irregular, Unnecessary, Excessive, Extravagant, or Unconscionable**” (IUEEU) expenditures or uses of government funds and properties.<sup>2</sup> After publication in a newspaper of general circulation (Philippine Star page B-9) on 22 November 2012, COA Circular No 2012-003 took effect on 7 December 2012.

Among many others, COA Circular No 2012-003 Annex “D” defines “excessive” as “overpricing of purchases in excess of the current and prevailing market price by a 10% variance” and “payment for repair of government equipment at a cost exceeding 30% of the current market price” while Annex “F” Paragraph “6” defines “**unconscionable**” as “overpricing in significant amounts exceeding 100% of the current and prevailing market value.” The unconscionable “100%” may seem rare but the sad reality is that in the Comelec some of the recent overpricing are shockingly higher than **one thousand percent (1,000%)**.

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<sup>1</sup> [1] QUEDAN & RURAL CREDIT GUARANTEE CORPORATION (QUEDANCOR) swine program; [2] DEPARTMENT OF AGRICULTURE fertilizer procurements; [3] NATIONAL AGRI BUSINESS CORPORATION (NABCOR) fund transfers; [4] PHILIPPINE NAVY rubber boats; [5] METROPOLITAN WATERWORKS & SEWERAGE SYSTEM (MWSS) grant of allowances to its officials and employees; [6] Malampaya fund use; [7] PHILIPPINE NATIONAL POLICE (PNP) purchases and repairs of helicopters, rubber boats, outboard motors, coastal crafts, armored vehicles, and others; [8] GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) transactions; [9] ARMED FORCES OF THE PHILIPPINES (AFP) RETIREMENT & SEPARATION BENEFIT SYSTEM (RSBS); [10] COMELEC payments for election paraphernalia; and others.

<sup>2</sup> Constitution, Article IX-D, Section 2, subsection 2

Please see in pages 3 to 6 of this Letter the INVITATIONS TO BID for the deployments of AUTOMATED ELECTION SYSTEM (AES) equipment and paraphernalia, appearing in the Comelec website. At this juncture, it is relevant to compare the expenditures for deployment prices for the historical 10 May 2010 elections in contrast with the forthcoming 13 May 2013 elections:

DEPLOYMENT EXPENDITURES		
10 MAY 2010 ELECTIONS	13 MAY 2013 ELECTIONS	
<p style="text-align: center;">499,180,000.00 WITHOUT BIDDING PAID TO SMARTMATIC FOR DEPLOYMENT OF BALLOTS &amp; PARAPHERNALIA</p> <p style="text-align: center;">+</p> <p style="text-align: center;">519,000,000.00 WITHOUT BIDDING PAID TO SMARTMATIC FOR DEPLOYMENT OF PRECINCT COUNT OPTICAL SCAN (PCOS)</p> <p style="text-align: center;">=</p>	483,012,818.88	Region CAR
		Region 01
		Region 02
	482,666,041.13	Region 03
		Region NCR
		Region 04
	571,621,850.34	Region 05
		Region 06
		Region 07
	748,221,824.18	Region 08
		Region 09
		Region 10
Region 11		
Region 12		
	Region CARAGA	
	Region ARMM	
1,018,180,000.00 BILLION PESOS	2,285,522,534.53	BILLION PESOS

Smartmatic TIM Corporation had no track record, no experience whatsoever, in deployment services. Strangely, for the 10 May 2010 elections, Comelec did not conduct any bidding for the deployment of ballots and PCOS machines. Instead, Comelec paid a total of **1.01818 Billion Pesos** to Smartmatic TIM Corporation for engaging third parties for deployment services.

Undeniably, that payment in billions is within the scope of COA Circular No 2012-003 Annex "B" paragraph "1.2" which considers as "illegal" payments for contract awards under an alternative mode of procurement for items that should have undergone complete public bidding process, eventually resulting to overpricing.<sup>3</sup>

Ever since the "illegal" payment of **1.01818 Billion Pesos** for the 10 May 2010 elections, there was no moderation of the greed, for, instead of reduction, the costing for deployments for the 13 May 2013 elections even rose up much higher by more than one hundred twenty four percent (**124%**) to **2.28552253453 Billion Pesos**, therefore within the scope of COA Circular No 2012-003 Annex "F" paragraph "6" which considers as "**unconscionable**" the overpricing in significant amounts exceeding **100%** of the current and prevailing market value.

<sup>3</sup> COA Circular No 2012-003 Annex "B" paragraph "1.2" citing Director Fredric Villanueva versus COA – GR No 151987 – 18 March 2005 and Venancio Nava versus Rodolfo Palattao – GR No 160211 – 28 August 2006



## Special Bids and Awards Committee

### Invitation to Bid

#### Deployment of AUTOMATED ELECTION SYSTEM (AES) Equipment and Paraphernalia (National Capital Region, Regions IV and V)

Reference N<sup>o</sup> SBAC 009A – 2012

Date: 29 November 2012

The COMMISSION ON ELECTIONS (COMELEC), through its SPECIAL BIDS AND AWARDS COMMITTEE (SBAC), invites interested bidders to apply for eligibility and to bid for the hereunder one (1) Lot with the APPROVED BUDGET FOR THE CONTRACT (ABC) of FOUR HUNDRED EIGHTY TWO MILLION SIX HUNDRED SIXTY SIX THOUSAND FORTY ONE PESOS AND 13/100 PESOS (PHP **482,666,041.13**), inclusive of all taxes, such as, but not limited to, VALUE ADDED TAX (VAT), income tax, local taxes, and other fiscal levies intended for the DEPLOYMENT OF AUTOMATED ELECTION SYSTEM (AES) EQUIPMENT AND PARAPHERNALIA (National Capital Region, Regions IV and V) (Reference N<sup>o</sup> SBAC 009A – 2012) for the May 13, 2013 National and Local Elections. Bids received in excess of the ABC shall be automatically rejected at bid opening. Bidders should have completed, within SEVEN (7) years from the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II - INSTRUCTIONS TO BIDDERS (ITB). Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the IMPLEMENTING RULES AND REGULATIONS (IRR) of Republic Act (RA) N<sup>o</sup> 9184, otherwise known as the Government Procurement Reform Act. Bidding is restricted to Filipino citizens, sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to RA 5183 and subject to Commonwealth Act N<sup>o</sup> 138. Interested bidders may obtain further information from SBAC Secretariat Office, COMELEC, and inspect the Bidding Documents at the address given below during 8:00 AM to 5:00 PM, Monday to Friday. A complete set of Bidding Documents may be purchased by interested Bidders on November 29, 2012 (before the deadline of the submission of bids), weekdays only from 8:00 AM to 5:00 PM from the address below and upon payment of a nonrefundable fee for the Bidding Documents in the amount of Fifty Thousand Pesos (PHP 50,000.00). It may also be downloaded free of charge from the website of the PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM (PhilGEPS) and the website of the Procuring Entity at "[www.comelec.gov.ph](http://www.comelec.gov.ph)", provided that Bidders who wish to submit their bids shall pay the nonrefundable fee not later than the date of submission of bids.

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[www.comelec.gov.ph](http://www.comelec.gov.ph)

The COMELEC will hold a Pre-Bid Conference on December 7, 2012 at 10:00 AM at the Project Management Office Ground Floor, Palacio del Gobernador Building, General Luna corner Postigo Streets, Intramuros, Manila, which shall be open only to all interested parties who have purchased the Bidding Documents. Submission of Bids shall be on **January 04, 2013** on or before 09:00 AM at the SBAC Secretariat Office, 7th Floor Palacio del Gobernador Building, General Luna corner Postigo Streets, Intramuros, Manila. Opening of Bids shall be on the same day January 04, 2013 at 10:00 AM at the Bureau of the Treasury Convention Hall, 3rd Floor, Palacio del Gobernador Building, General Luna corner Postigo Streets, Intramuros, Manila. Bids will be opened in the presence of the Bidders' representatives who choose to attend at the address above. All Bids must be accompanied by a bid security in any of the acceptable forms and in the amount stated in ITB Clause 18. Late bids shall not be accepted.



## Special Bids and Awards Committee

### Invitation to Bid

#### Deployment of AUTOMATED ELECTION SYSTEM (AES) Equipment and Paraphernalia (Cordillera Administrative Region (CAR), Regions I, II and III)

Reference N<sup>o</sup> SBAC 009B – 2012

Date: 29 November 2012

The COMMISSION ON ELECTIONS (COMELEC), through its SPECIAL BIDS AND AWARDS COMMITTEE (SBAC), invites interested bidders to apply for eligibility and to bid for the hereunder one (1) Lot with the APPROVED BUDGET FOR THE CONTRACT (ABC) of FOUR HUNDRED EIGHTY THREE MILLION TWELVE THOUSAND EIGHT HUNDRED EIGHTEEN PESOS AND 88/100 PESOS (PHP **483,012,818.88**), inclusive of all taxes, such as, but not limited to, VALUE ADDED TAX (VAT), income tax, local taxes, and other fiscal levies intended for the DEPLOYMENT OF AUTOMATED ELECTION SYSTEM (AES) EQUIPMENT AND PARAPHERNALIA (CORDILLERA ADMINISTRATIVE REGION [CAR], Regions I, II and III) (Reference N<sup>o</sup> SBAC 009B – 2012) for the May 13, 2013 National and Local Elections. Bids received in excess of the ABC shall be automatically rejected at bid opening. Bidders should have completed, within SEVEN (7) years from the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II - INSTRUCTIONS TO BIDDERS (ITB). Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the IMPLEMENTING RULES AND REGULATIONS (IRR) of Republic Act (RA) N<sup>o</sup> 9184, otherwise known as the Government Procurement Reform Act. Bidding is restricted to Filipino citizens, sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to RA 5183 and subject to Commonwealth Act N<sup>o</sup> 138. Interested bidders may obtain further information from SBAC Secretariat Office, COMELEC, and inspect the Bidding Documents at the address given below during 8:00 AM to 5:00 PM, Monday to Friday. A complete set of Bidding Documents may be purchased by interested Bidders on November 29, 2012 (before the deadline of the submission of bids), weekdays only from 8:00 AM to 5:00 PM from the address below and upon payment of a nonrefundable fee for the Bidding Documents in the amount of Fifty Thousand Pesos (PHP 50,000.00). It may also be downloaded free of charge from the website of the PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM (PhilGEPS) and the website of the Procuring Entity at "[www.comelec.gov.ph](http://www.comelec.gov.ph)", provided that Bidders who wish to submit their bids shall pay the nonrefundable fee not later than the date of submission of bids.

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## Special Bids and Awards Committee

### Invitation to Bid

#### Deployment of AUTOMATED ELECTION SYSTEM (AES) Equipment and Paraphernalia (Regions VI, VII and VIII)

Reference N<sup>o</sup> SBAC 009C – 2012

Date: 29 November 2012

The COMMISSION ON ELECTIONS (COMELEC), through its SPECIAL BIDS AND AWARDS COMMITTEE (SBAC), invites interested bidders to apply for eligibility and to bid for the hereunder one (1) Lot with the APPROVED BUDGET FOR THE CONTRACT (ABC) of FIVE HUNDRED SEVENTY ONE MILLION SIX HUNDRED TWENTY ONE THOUSAND EIGHT HUNDRED FIFTY PESOS AND 34/100 PESOS (PHP **571,621,850.34**), inclusive of all taxes, such as, but not limited to, VALUE ADDED TAX (VAT), income tax, local taxes, and other fiscal levies intended for the DEPLOYMENT OF AUTOMATED ELECTION SYSTEM (AES) EQUIPMENT AND PARAPHERNALIA (Regions VI, VII and VIII)(Reference N<sup>o</sup> SBAC 009C – 2012) for the May 13, 2013 National and Local Elections. Bids received in excess of the ABC shall be automatically rejected at bid opening. Bidders should have completed, within SEVEN (7) years from the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II - INSTRUCTIONS TO BIDDERS (ITB). Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the IMPLEMENTING RULES AND REGULATIONS (IRR) of Republic Act (RA) N<sup>o</sup> 9184, otherwise known as the Government Procurement Reform Act. Bidding is restricted to Filipino citizens, sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to RA 5183 and subject to Commonwealth Act N<sup>o</sup> 138. Interested bidders may obtain further information from SBAC Secretariat Office, COMELEC, and inspect the Bidding Documents at the address given below during 8:00 AM to 5:00 PM, Monday to Friday. A complete set of Bidding Documents may be purchased by interested Bidders on November 29, 2012 (before the deadline of the submission of bids), weekdays only from 8:00 AM to 5:00 PM from the address below and upon payment of a nonrefundable fee for the Bidding Documents in the amount of Fifty Thousand Pesos (PHP 50,000.00). It may also be downloaded free of charge from the website of the PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM (PhilGEPS) and the website of the Procuring Entity at "[www.comelec.gov.ph](http://www.comelec.gov.ph)", provided that Bidders who wish to submit their bids shall pay the nonrefundable fee not later than the date of submission of bids.

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## Special Bids and Awards Committee

### Invitation to Bid

Deployment of AUTOMATED ELECTION SYSTEM (AES) Equipment and Paraphernalia  
(Regions IX, X, XI, XII, CARAGA and ARMM)

Reference N<sup>o</sup> SBAC 009D – 2012

Date: 29 November 2012

The COMMISSION ON ELECTIONS (COMELEC), through its SPECIAL BIDS AND AWARDS COMMITTEE (SBAC), invites interested bidders to apply for eligibility and to bid for the hereunder one (1) Lot with the APPROVED BUDGET FOR THE CONTRACT (ABC) of SEVEN HUNDRED FORTY EIGHT MILLION TWO HUNDRED TWENTY ONE THOUSAND EIGHT HUNDRED TWENTY FOUR PESOS AND 18/100 PESOS (PHP **748,221,824.18**), inclusive of all taxes, such as, but not limited to, VALUE ADDED TAX (VAT), income tax, local taxes, and other fiscal levies intended for the DEPLOYMENT OF AUTOMATED ELECTION SYSTEM (AES) EQUIPMENT AND PARAPHERNALIA (Regions IX, X, XI, XII, CARAGA and ARMM) (Reference N<sup>o</sup> SBAC 009D – 2012) for the May 13, 2013 National and Local Elections. Bids received in excess of the ABC shall be automatically rejected at bid opening. Bidders should have completed, within SEVEN (7) years from the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II - INSTRUCTIONS TO BIDDERS (ITB). Bidding will be conducted through open competitive bidding procedures using a non-discretionary "pass/fail" criterion as specified in the IMPLEMENTING RULES AND REGULATIONS (IRR) of Republic Act (RA) N<sup>o</sup> 9184, otherwise known as the Government Procurement Reform Act. Bidding is restricted to Filipino citizens, sole proprietorships, partnerships, or organizations with at least sixty percent (60%) interest or outstanding capital stock belonging to citizens of the Philippines, and to citizens or organizations of a country the laws or regulations of which grant similar rights or privileges to Filipino citizens, pursuant to RA 5183 and subject to Commonwealth Act N<sup>o</sup> 138. Interested bidders may obtain further information from SBAC Secretariat Office, COMELEC, and inspect the Bidding Documents at the address given below during 8:00 AM to 5:00 PM, Monday to Friday. A complete set of Bidding Documents may be purchased by interested Bidders on November 29, 2012 (before the deadline of the submission of bids), weekdays only from 8:00 AM to 5:00 PM from the address below and upon payment of a nonrefundable fee for the Bidding Documents in the amount of Fifty Thousand Pesos (PHP 50,000.00). It may also be downloaded free of charge from the website of the PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM (PhilGEPS) and the website of the Procuring Entity at "[www.comelec.gov.ph](http://www.comelec.gov.ph)", provided that Bidders who wish to submit their bids shall pay the nonrefundable fee not later than the date of submission of bids.

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Also relevant for purpose of comparison is the procurement of deployment services for the 25 October 2010 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS. The APPROVED BUDGET FOR THE CONTRACT (ABC) for forwarding and deployment services was only **230 Million Pesos**. Since there is no need to cluster precincts for barangay elections, the total number of precincts was approximately five times larger than the 82,000 precincts for the 10 May 2010 national elections. The total number of precincts was 352,980 for the 25 October 2010 elections.

Rounding off for comparison purposes, for the 10 May 2010 national elections:

$$1,018,180,000 \text{ PESOS} \div 82,000 \text{ PRECINCTS} = \mathbf{12,416.83 \text{ PESOS PER PRECINCT}}$$

For the 25 October 2010 barangay elections, the Chairman of the BIDS AND AWARDS COMMITTEE (BAC) was then Comelec Law Department Director Ferdinand Rafanan, a man who has a proven reputation of refusing bribes. Under a leadership that frowns against bribes, the average cost of deployment per precinct was:

$$230,000,000 \text{ PESOS} \div 352,980 \text{ PRECINCTS} = \mathbf{651.59 \text{ PESOS PER PRECINCT}}$$

Incidentally, as “reward” for Director Rafanan’s honesty, he is now “floating” in a perfunctory ceremonial position where he cannot be vigilant against Comelec crooks. Be that as it may, for the forthcoming 13 May 2013 elections, with a much higher budget of **2.28552253453 Billion Pesos** for the same number of 82,000 precinct clusters, the average cost of deployment per precinct cluster is:

$$2,285,522,534.53 \text{ PESOS} \div 82,000 \text{ PRECINCTS} = \mathbf{27,872.23 \text{ PESOS PER PRECINCT}}$$

In terms of percentage, from an average cost of 12,416.83 pesos per precinct for the 10 May 2010 election deployments, the cost went up skyrocketing by **124.47%** to an average cost of 27,872.23 pesos per precinct for the 13 May 2013 election deployments. For the record, 27,872.23 pesos per precinct is the most expensive average deployment cost ever in Comelec history. The 124.47% increase is therefore within the scope of COA Circular No 2012-003 Annex “F” paragraph “6” which considers as “**unconscionable**” the overpricing in significant amounts exceeding **100%** of the current and prevailing market value. Also for comparison, it may be interesting to see the budget of another government agency for similar services. Please click on the link below which leads to the website of the **PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM (PhilGEPS)**:

<http://www.philgeps.gov.ph/GEPSVS/Tender/SplashBidNoticeAbstractUI.aspx?menuIndex=3&refID=1954542&DirectFrom=OpenOpp&Type=agency&BusCatID=0>

The screenshot shows the PhilGEPS website interface. At the top, there is a navigation bar with links for Home, PhilGEPS Focus, Opportunities, Catalogue, About PhilGEPS, and Links. Below this, there are tabs for 'Open Opportunities' and 'Recent Award'. The main content area displays the following information:

Reference Number	1954542
Procuring Entity	SUPREME COURT OF THE PHILIPPINES
Title:	Procurement of Freight Forwarding Services for the Supreme Court for One (1) Year
Area of Delivery	
Solicitation Number	2012-9-18-15-ITB
Trade Agreement	Implementing Rules and Regulations
Classification	Public Bidding
Category	Goods
Approved Budget for the Contract	PHP 1,200,000.00

That PhilGEPS webpage is a Supreme Court invitation to bid for “Procurement of Freight Forwarding Services for the Supreme Court for One (1) Year” with an APPROVED BUDGET FOR THE CONTRACT (ABC) in the sum of only **1.2 Million Pesos**. Repeating for emphasis, an office as high as the Supreme Court needs a budget of only **1.2 Million Pesos** for one year, while Comelec insists on a budget that is enormously larger by more than 1,000% or **2.285522534 Billion Pesos** to be exact, for similar services that is operational for only a few weeks before 13 May 2013 and a few days thereafter (in comparison with the “one year” of the Supreme Court).

## WAREHOUSE LEASE OVERPRICE

Likewise, serious irregularities and illegalities taint the procurement of warehouse lease for storing the Smartmatic PRECINCT COUNT OPTICAL SCAN (PCOS) machines. As background, on 02 April 2008, the COA, thru its Supervising Auditor *Ernesto S. Gregorio* (State Auditor V), issued AUDIT OBSERVATION MEMORANDUM (AOM) No 2008-012-101, therein noting with obvious disapproval the enormously huge rent expenses for the warehouse of the Comelec costing a total of **P90.567 million pesos** over a period of five (5) years from 2003 to 2008. In a nutshell, according to the COA AOM No 2008-012-101, for the price of **P90.567 million pesos**, it is better to **buy** and **own** rather than **rent** a warehouse.

Instead of moderating the greed, Comelec swept under the rug the COA observation by bloating the price to **P112 million pesos rent** that is useful for a period of only **one (1) year**, in stark contrast to **P90.567 million pesos** for **3 buildings** for **5 years** in AOM No 2008-012-101.

<http://www.comelec.gov.ph/?r=mediareleases/InvitationtoBid/2012Bid/WarehouseConfig063012>

Suprisingly, after opening the bids on 23 July 2012, the Comelec BIDS & AWARDS COMMITTEE (BAC) declared a failure of bidding due to non-participation of Smartmatic TIM Consortium which was insisting on a bigger budget.

	<b>Comelec declares failure of bidding for poll machine storage</b> 23 July 2012
<p><a href="http://www.bworldonline.com/content.php?section=Nation&amp;title=Comelec-declares-bidding-failure-for-poll-machine-storage&amp;id=55635">http://www.bworldonline.com/content.php?section=Nation&amp;title=Comelec-declares-bidding-failure-for-poll-machine-storage&amp;id=55635</a></p>	
<p>FAILURE OF bidding has been declared for the storage services for automated poll machines that will be used next year, with one firm having failed to meet requirements and another backing out due to insufficient funds. "We regret to inform you that there was a failure in the bidding process because the lone bidder was declared ineligible," said Helen G. Aguila-Flores, chairperson of the Commission on Elections (Comelec) Special Bids and Awards Committee (SBAC), in an interview yesterday. At yesterday's opening of bids, the SBAC declared that the only bidder -- the joint venture of RV Marzan International Forwarders, Inc. and Bodega Site IT Solutions, Inc. -- failed to submit technical and financial documents. RV Marzan provides storage and transport services while Bodega Site is engaged in the buying and selling of software, computers and gadgets. A representative of the joint venture said the decision will not be appealed. Meanwhile, Venezuelan poll solution provider Smartmatic International Corp. and its local partner Total Information Management Corp. (Smartmatic-TIM) yesterday submitted to the SBAC a letter of regret before the opening of bids. Addressed to Ms. Flores, the letter stated that the budget of P112 million "is simply not sufficient" to cover requirements for the lease of a warehouse to store over 80,000 precinct count optical scan (PCOS) machines. "The investment that needs to be undertaken to meet those new requirements cannot be recouped [within] a year, which is the length of the contract," the letter read. Smartmatic-TIM stated that the additional requirements included by the Comelec such as a bigger space, racking system, reach trucks and security guards -- "made the project no longer feasible from a business standpoint." It also found the requirements on insurance to be "particularly excessive" considering, among others, that "many insurance companies consider the PCOS to be of higher risk, therefore increasing the premium to be paid." It also noted that "the value of goods to be insured are not stated in the terms of reference." Since it was Smartmatic-TIM that sold the PCOS machines to Comelec, "we fail to understand how the other bidders would have the knowledge on which any serious quote on insurance would have to be based on," the letter pointed out. Smartmatic-TIM was the technology provider during the 2010 general elections. The poll body has yet to assess its next move. Asked on the Comelec's options, Ms. Flores said they will "do a mandatory review why we failed." "We will go over our requirements to see if they were very strict. We shall then decide whether to go on to another bidding," she explained. During the pre-bid conference on June 9, four companies formally expressed interest in providing the storage facilities for the PCOS machines. Only Bodega Site, however, submitted the bid documents.</p>	
<p style="text-align: center;"><b>Aubrey E. Barrameda</b></p>	





## Comelec declares failure of bids for PCOS warehouse

Van C. Suarez | Tuesday 24 July 2012

<http://tribune.net.ph/index.php/nation/item/1958-comelec-declares-failure-of-bid-for-pcos-warehouse>

The Comelec Special Bids and Awards Committee (SBAC) yesterday declared a failure of bidding for the P112-million one-year warehouse lease contract to house 82,000 units of precinct count optical scan (PCOS) machines. At the opening of the sealed bids attended by the Comelec advisory committee and representatives from the Commission on Audit, the Ombudsman, the National Movement for Free Elections, the information technology sector and the media, the joint venture of Bodega Site IT Solutions Inc. and R.V. Marzan International Forwarders Inc. submitted the lone bid. Smartmatic-TIM and two other prospective bidders opted not to participate. SBAC chairman Helen Flores noted that the joint venture failed in the technical and financial requirements of the bidding and was therefore declared as ineligible. For its part, Smartmatic said in its July 23 letter to SBAC that they could not participate in the bidding process under the current bid framework as the project was no longer feasible from a business point of view considering the limited budget allocated vis-à-vis the Comelec's "numerous requirements" as compared to 2010. Among the specific requirements sought by Comelec for the warehouse were a lot area of at least 30,000 square meters (sq.m.) and a floor area of at least 25,000 sq.m.), a 20-foot ceiling clearance; plus continuous water and power supply, security personnel barracks, CCTVs, a canteen and a fire-alarm system. Smartmatic-TIM also took exception to the "excessive" insurance requirement set by the poll body. Flores said the next step for the SBAC was to conduct a "mandatory review why the bidding failed and determine if requirements set (were) very strict or standards very high, and then we will decide whether to conduct another bidding." Asked if negotiated contracts were also being considered, Flores said "we will discuss that and check the time line because as you all know the contract with Smartmatic for the free lease of its Cabuyao warehouse will expire this August."



## Failed bidding for new PCOS warehouse

BY **REYNALDO SANTOS Jr**

24 July 2012

<http://www.rappler.com/nation/politics/elections-2013/9147-comelec-fails-to-bid-out-contract-for-new-pcos-warehouse>

MANILA, Philippines - The Commission on Elections (Comelec) Special Bids and Awards Committee (SBAC) has failed to bid out the contract to lease a new warehouse for the storage of election machines. SBAC chairman Helen Flores said on Monday, July 23, that its lone bidder, the joint venture of RV Marzan Forwarders Inc. and Bodega Site IT Solutions Inc., failed to meet the financial and technical requirements of the bidding. "This committee declares the joint venture ineligible. And since the said joint venture is the lone prospective bidder in this bidding, we regret to declare failure of bidding," she said. Comelec has announced on June that it will bid out a leasing contract worth P112-M to obtain a new "warehouse with configuration facilities" where the precinct count optical scan (PCOS) machines will be stored. The contract for the free use of the warehouse in Cabuyao, Laguna, where the election machines are currently stored, will expire on August 31. The joint venture became the lone bidder after Smartmatic and two other companies backed out of the bidding. In a letter submitted to SBAC, Smartmatic said the requirements stated in the contract are "no longer feasible from a business standpoint" given Comelec's "numerous requirements." The SBAC requires bidders to provide a warehouse that has at least 20 feet ceiling clearance, wide entrances with steel doors, concrete fences, generator sets, 32 CCTV cameras, and other requirements. "We regret to inform you that upon careful consideration of our management, we have decided that we cannot participate in the bidding process under the current bid framework," Smartmatic said in its letter. Comelec Commissioner Rene Sarmiento said in a phone interview that they still have to receive a report from SBAC on why the bidding failed. The committee will recommend to the en banc whether to conduct another bidding or call for a negotiated bidding

Surrendering to the Smartmatic demand for a bigger budget, the Comelec SBAC, on 15 August 2012, issued Bid Bulletin No 1, ignoring COA AOM No 2008-012-101, and bloating up the lease budget to **P400 million pesos!**

<http://www.comelec.gov.ph/?r=mediareleases/InvitationtoBid/2012Bid/SBACBidBulLeaseofWarehouse>



## Special Bids and Awards Committee

### BID BULLETIN No 1 Lease of Warehouse with Configuration Facilities Reference No SBAC-01A-2012 Date: 15 August 2012

This Bid Bulletin No 1 is being issued to clarify, modify and amend items/specifications in the Bidding Documents (Reference No SBAC 01A – 2012) in response to the clarificatory queries from the prospective bidders in the First Competitive Public Bidding (Reference No SBAC 001 – 2012) in this Procurement Project and to confirm key issues addressed during the Pre-Bid Conference held on August 14, 2012 at the PROJECT MANAGEMENT OFFICE (PMO) Hall, COMMISSION ON ELECTIONS (COMELEC), Ground Floor, Palacio del Gobernador Building, Intramuros, Manila.

The public is hereby informed that the APPROVED BUDGET FOR THE CONTRACT (ABC) for this Procurement Project is increased in the amount of **FOUR HUNDRED MILLION PESOS** (Php **400,000,000.00**) for the period starting OCTOBER 1, 2012 up to DECEMBER 31, 2015, which amount having been made available per the August 14, 2012 Certificate of Availability of Funds (CAF) issued by the COMELEC Finance Services Department to be charged against the allocation for Maintenance and Other Operating Expenses of the FY 2013 Preparatory National and Local Elections Appropriations.

Please keep in mind that the 400 Million Pesos is just a lease and not a purchase. Simple mathematics can easily show the gross disadvantage to the government. The lease period from 1 October 2012 to 31 December 2015 sums up to 1,187 days.

$$400 \text{ MILLION PESOS} \div 1187 \text{ DAYS} = 333,984.00 \text{ PESOS PER DAY}$$

Please compare the price with market realities. Popular professional basketball teams often practice in prestigious venues such as the Smart Araneta Coliseum, seen in the picture at the left. For a practice game where no tickets are sold, the rental price is approximately 10,000 pesos per hour. If the basketball team were to practice for, say, 24 hours, the rental shall be:



$$10,000 \text{ pesos} \times 24 \text{ hours} = 240,000 \text{ pesos}$$

In short, renting a prestigious venue such as the Smart Araneta Coliseum at 240,000 pesos per day is still much cheaper than the 333,984 pesos per day that Comelec is willing to pay for some obscure warehouse. Beyond any shadow of doubt, under COA Circular No 2012-003 Annex F paragraph 6, rental payment of 333,984 pesos per day is unconscionable.

## BALLOT PACKAGING OVERPRICE

An official ballot packaging is simply a wrapping and a box to protect the official ballots while in transit from Comelec to the precincts nationwide. It is similar to the packaging of common goods from a factory to the groceries.

The packaging task is so simple that a few pictures can describe the entire process. After printing of official ballots, Comelec workers place the official ballots inside transparent plastic bags. Next, a vacuum packaging machine pumps out air from each plastic bag containing ballots. Next, Comelec workers place the plastic bag containing ballots inside plastic black boxes. Next, at the end of the simple process, third-party cargo service providers will pick up the packages for deployment.





For the 10 May 2010 elections, Comelec did not conduct any public bidding for procurement of official ballot packaging. Comelec simply took the exceptional mode of direct negotiation and paid **P175M** to **Noah Paper** care of a certain **David Hwang** for not more than 82,000 packages corresponding to the 82,000 precinct clusters. Dividing the **P175M** payment by 82,000 packages reveals a unit price of at least 2,134.15 pesos per package. Please compare that price with market realities. For example: when buying frozen chicken from a grocery, the approximate price of each frozen chicken, including its vacuum plastic packaging, ranges from only 200 pesos to a high of 300 pesos per package. In contrast, the 2,134.15 pesos per packaging is simply a plastic bag minus air (vacuum) plus a box, with no frozen chicken inside. Since P175M is excessive, why then is Comelec pushing up the budget to as high as 291,580,444.82 pesos?

<http://www.comelec.gov.ph/?r=mediareleases/InvitationtoBid/2012Bid/ITBOfficialBallotPackaging>



## Special Bids and Awards Committee

### Supply and Delivery of Official Ballot Packaging for use in the May 13, 2013 National and Local Elections Reference No SBAC 007-2012 Date: 30 October 2012

The COMMISSION ON ELECTIONS (COMELEC), through its SPECIAL BIDS AND AWARDS COMMITTEE (SBAC), invites interested bidders to bid for the hereunder one (1) Lot with the APPROVED BUDGET FOR THE CONTRACT (ABC) of TWO HUNDRED NINETY ONE MILLION FIVE HUNDRED EIGHTY THOUSAND FOUR HUNDRED FORTY-FOUR PESOS AND 82/100 (PhP **291,580,444.82**), inclusive of all taxes, such as, but not limited to, VALUE ADDED TAX (VAT), income tax, local taxes, and other fiscal levies, intended for supply and delivery of official ballot packaging. Bids received in excess of the ABC shall be automatically rejected. Bidders should have completed, within SEVEN (7) years prior to the date of submission and receipt of bids, a contract similar to the Project. The description of an eligible bidder is contained in the Bidding Documents, particularly, in Section II, INSTRUCTIONS TO BIDDERS (ITB).

Please watch this video from Tina Panganiban Perez of GMA News:

<http://www.gmanews.tv/story/189813/now-its-overpriced-comelec-contract-for-ballot-packaging>

For the 2010 elections, 175 Million Pesos is excessive.

For the 2013 elections, 292 Million Pesos is unconscionable.

Please read these news reports:

 <p>THE GO-TO SITE FOR FILIPINOS EVERYWHERE</p>	<h2>4 firms vie for P291-M ballot packaging contract for 2013 polls</h2> <p>November 9, 2012 2:13pm</p> <p><a href="#">Share</a> 29 <a href="#">Tweet</a> 16 <a href="#">Email</a> 0 <a href="#">ShareThis</a> 84 <a href="#">+1</a> 0</p>
<p>Four prospective bidders attended Friday's opening of the pre-bid conference for ballot packaging for the 2013 elections. The bidders for the ballot packaging service are Noah's Paper Mills, Integrated Packaging Corp., Negros PH Logistics Corp. in a joint venture with Bookman Marketing, and Myron Mae Marketing.</p> <p>The service involved sealing ballots in clear, airtight plastic bags and placing them in boxes. Helen Flores-Aguila, head of the Commission on Elections' Special Bid and Awards Committee (Comelec-SBAC), said the bidders' warehouses—a requirement for qualification— should be within Metro Manila and near the National Printing Office (NPO), which is tasked to handle the procurement for the ballot printing.</p> <p>The bidding will open on November 21. The approved budget contract is P291.58 million. Noah Paper's Mill was the winning bidder for the ballot packaging in the 2010 Barangay and Sangguniang Kabataan elections.</p> <p>The Comelec reportedly paid more than the price of the contract, which was supposed to be around P70 to P80 million. The deal was allegedly secured for P175 million, excluding labor costs, said lawyer <b>Melchor Magdamo</b> of then-chairman Jose Melo's office. <b>Magdamo</b> was the whistle-blower on the P690-million ballot secrecy folder contract that was later canceled.</p> <p>Noah representative David Hwang refused to talk to reporters.</p> <p>Aguila said the ballot packaging would ensure integrity of the ballots during shipments. "As we all know, we are an archipelago. We deploy the official ballots on the farthest islands. Sometimes we ship these ballots through boats, small boats, sometimes through the islets. We need ballot packaging to ensure the integrity of the ballots," Aguila said.</p> <p>Meanwhile, the bidding for the lease and warehouse of configuration facilities (P400 million) and the transmission services (P405.4 million) both failed. Smartmatic-Technology Information Management, the supplier of the Precinct Optical Scan (PCOS) machines, participated in both bidding. Transmission modems, with an approved budget of P154.6 million, was awarded to Smartmatic, who won the bid at the lowest price. But SBAC's Aguila said the Comelec "hold in abeyance" the awarding since it remains to be seen if they would still need additional modems.</p> <p>The bidding of CF cards with a P46.6 million budget is still under post-qualification evaluation after the first bidding failed. Meanwhile, the supply of thermal papers was awarded to Consolidated Paper Products while the batteries to JV FUMACO Inc. and LCTSI. JV SPH Int. Corp and Advance Paper Corp., and Optimal System Distribution Inc. won the bids for marking pens and toners, respectively. The bidding for the National Support Center and deployment would start next week. — <b>Marc Jayson Cayabyab/KBK, GMA News</b></p>	



<http://www.philstar.com/opinion/2012-12-03/879175/whistleblower-exposes-another-comelec-overprice>

Overpriced and rigged contracts at the Commission on Election just won't stop. A whistleblower formerly connected with the poll body is exposing the overpriced budget of P292 million for ballot packaging for the election in May 2013. Lawyer **Melchor Magdamo** says the price is three to four times more than what the Comelec should allot. The work, he says, entails only the simple wrapping and boxing of ballots before delivery to the 82,000 polling centers nationwide, which will be covered by another contract. **Magdamo** says the price of P1,000 per bunch, for a total of P82 million, already would be too generous. The Comelec technical specifications are only for black propylene plastic bags with its logo, polyethylene plastic strips marked with the precinct numbers, plastic straps, corner boards, security stickers, and rivets. A more realistic price for each for the materials would be P500 apiece, for a total of P41 million. Add to this another generous P30 to P40 million for labor, **Magdamo** says, and the contract should cost P70 million to P80 million. At the Comelec, however, a syndicate of nine or so suppliers controls the contract bids and awards. Comelec chairmen and commissioners come and go, but the suppliers stay. Some are siblings feigning to be competitors; others own and control various "competing" bidders. **Magdamo** had exposed a similar ballot packaging scam in the 2010 barangay and youth council elections. Working at the time for Comelec chairman Jose Melo, **Magdamo** decried the P175 million, just for the materials alone and excluding labor, for the 76,000 polling centers. He said then that the cost should have been around P70 million. The contract went on then as **Magdamo** was distracted by another exposé, that time involving ballot secrecy folders for P700 million, plus delivery of P100 million. The folders, five per precinct, supposedly were to cover what voters were marking on the ballots as they sat side by side on classroom chairs. Each folder, made of cardboard, was quoted at more than P350 apiece, when an ordinary one could be bought in bookstores for only P12. The supplier back then, OTC Paper Co., did not even make a bid, but only submitted an unsolicited proposal, which the Comelec readily accepted. On the pretext of rushing the project, the poll agency did not subject the proposal to a Swiss challenge, or semblance of a public bidding. **Magdamo's** exposé caused public uproar, and the Comelec cancelled the project. But the election body also rescinded the lawyer's appointment as adviser to the chairman. **Magdamo** recounts that the P175-million contract for ballot packaging in 2010 went to Noah's Paper Mills. A television news report mentioned Noah's as again the leading bidder for the P292-million ballot packaging for May 2013. Three other suppliers reportedly signed up to bid: Integrated Packaging Corp., Negros PH Logistics Corp. in joint venture with Bookman Marketing, and Myron Mae Marketing. **Magdamo** has written Sen. Alan Peter Cayetano, co-chairman of the Joint Congressional Oversight Committee on the Automated Elections, about the overpriced Comelec budget. No response has yet been made public by Cayetano's office. Other Comelec watchers say that the ballot packaging, more so the ballot printing, could go to waste. This is because the automated balloting for 2013 has been put in jeopardy. Smartmatic Corp., the Venezuelan firm that contracted the balloting for both the 2010 and 2013 elections, has lost its software license. Dominion Election Systems of Canada, the owner-developer of the source code that runs the balloting machines, has rescinded Smartmatic's license after a falling off in recent elections in Mongolia and Puerto Rico. Smartmatic has assured the Comelec that the 82,000 precinct count optical scanners that it supplied would work. The Comelec had leased the PCOS machines for P7.2 billion in 2010 and purchased them for another P1.8 billion for 2013. Info-tech experts and academics doubt if PCOS machines accurately can read and tally votes without the all-important source code. The critics are banded under the AES (Automated Election System) Watch and the Center for People Empowerment in Governance (CenPEG). Their leaders warn that the Philippine government could be the laughing stock of the world should unlicensed Smartmatic provide the automated election system. This is because it could turn out to be one of the biggest software piracy acts of the decade.

Election Season is Plunder Season in the Comelec. Now is the best time for the COA+Ombudsman, being key members of the **INTER AGENCY ANTI GRAFT COORDINATING COUNCIL (IAAGCC)**, to investigate these Top 10 unconscionable expenditures:

<b>PROCUREMENTS</b>	<b>AMOUNT (OVERPRICINGS)</b>	<b>ISSUES</b>
DEPLOYMENTS FOR 13 MAY 2013 ELECTIONS	2,285,522,534.53	NEW SCAM
MEGA PACIFIC e-SOLUTION MEGA PACIFIC CONSORTIUM	1,048,830,000.00	SUPREME COURT GR Nº 159139 Final Decision 13 January 2004
DEPLOYMENTS FOR 10 MAY 2010 ELECTIONS	1,018,180,000.00	NO BIDDING DIRECT AWARD TO SMARTMATIC DESPITE NO EXPERIENCE
BALLOT SECRECY FOLDERS	689,970,000.00	ORIGINALLY 3.80 Pesos Per Folder DECIMAL POINT JUMP TO 380.00 Pesos Per Folder 1,000% INCREASE
VOTER REGISTRATION RECORD PAGEHOLDERS	529,862,814.00	9.93 Pesos Per Piece 53,359,800 Pieces
WAREHOUSE LEASE 15 August 2012	400,000,000.00	NEW SCAM
BALLOT PLASTIC PACKAGE FOR 13 MAY 2013 ELECTIONS	291,580,444.82	NEW SCAM
BALLOT PLASTIC PACKAGE FOR 10 MAY 2010 ELECTIONS	175,000,000.00	NO BIDDING DIRECT AWARD TO NOAH PAPER
WAREHOUSE 1 YEAR LEASE INVITATION TO BID 30 June 2012	112,000,000.00	FAILURE OF BIDDING BECAUSE SMARTMATIC REFUSE TO PARTICIPATE SMARTMATIC INSISTS BUDGET IS TOO SMALL
MEGA PACIFIC <b>INC.</b> BECAME MEGA PACIFIC <b>INK</b>	97,700,000.00	NO BIDDING DIRECT PURCHASE FROM CO-OWNER OF MEGA PACIFIC <b>INC.</b> FOR <b>INK</b> FOR VOTER IDENTIFICATION CARD

Gladly waiting for a reply at the email address written below and sincerely yours

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