

THIRD DIVISION

[G.R. No. 223768, February 22, 2017]

**OFFICE OF THE DEPUTY OMBUDSMAN FOR THE MILITARY AND
OTHER LAW ENFORCEMENT OFFICES, PETITIONER, VS. P/S
SUPT. LUIS L. SALIGUMBA, RESPONDENT.**

D E C I S I O N

VELASCO JR., J.:

For resolution is the Petition for Review on Certiorari under Rule 45 of the Rules of Court filed by petitioner Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices against respondent P/S Supt. Luis L. Saligumba, assailing the December 23, 2014 Decision^[1] and March 21, 2016 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 130930.

The facts, as narrated by the CA, follow:

The Annual Procurement Plan for the CY 2008 of the PNP, under the Capability Enhancement Program Funds, included the procurement of 75 police rubber boats (PRBs) and 18 spare engines or outboard motors (OBMs), to be used by the PNP Maritime Group (MG). As the end-user of the PRBs and spare OBMs, the MG created a Technical Working Group (TWG) 'tasked to determine the best suited watercraft for maritime law enforcement and maritime security mandates' of the MG.

x x x x

The MG-TWG thereafter revised on 20 October 2008 its recommended specifications as follows:

<u>Item</u>	<u>Specifications</u>
Measurement:	
Length	4.5- 5.5 meters
Breadth	1.7-2.5 meters
Inside Length	3.2- 5.2 meters
Inside Breadth	0.7- 1.5 meters
Capacity	10 Persons minimum
Engine	Single OBM Min 60-HP/4 stroke EFI
Speed	20 knots

Respondent Angelo H. Sunglao, then Director of the MG, signed and

approved MG-TWG Resolution No. 2008-01 dated 27 May 2008 and its revised form dated 20 October 2008.

Revised Resolution No. 2008-01 was submitted to the PNP Uniform and Equipment Standardization Board (UESB). x x x [In] its Resolution No. 2008-34 dated 7 November 2008, the UESB adopted *in toto* the PRB standard specifications recommended by the MG-TWG.

UESB Resolution No. 2008-34 was endorsed to the National Police Commission (NAPOLCOM) for final approval. x x x [The] NAPOLCOM issued Resolution No. 2009-223 dated 16 April 2009 providing for the standard specifications for PRBs, to wit:

<u>Item</u>	<u>Specifications</u>
Measurement:	
Overall Length	4.5 to 5.9 meters
Overall Breadth	1.7 to 2.7 meters
Inside Length	3.2 to 5.2 meters
Inside Breadth	0.7- 1.6 meters
Capacity	12 persons maximum
Engine	Single OBM, 40 horsepower (min) 4-stroke EFI or <i>BETTER</i>
Speed	20 knots (minimum)

The NAPOLCOM reduced the engine requirement to 40 horsepower (HP) minimum to enable proponents to comply therewith, 'for the UESB proposal of 60HP minimum engine requirement for the outboard motor (OBM) appears too high to the common engine specifications.' The minimum capacity of 10 persons in the UESB proposal was changed to 12 persons 'for the reason that reference to a minimum capacity may not limit the number of passengers of the boat.'

x x x x

On 9 September 2009, the PNP National Headquarters Bids and Awards Committee (NHQ BAC) conducted the opening of bids for '1 lot for 75 units of PRBs and 18 units of 40HP spare engines.' x x x

Three proponents participated in the bidding, namely: 1) Joint Venture of EnviroAire and Stoneworks Specialist International Corporation; 2) Joint Venture of ACMI Office Systems and Qinhuando Yaohuan RPF; and 3) Joint Venture of FABMIK Construction and Equipment Co. and Geneve S.A. Phils., Inc. Only the Joint Venture of EnviroAire and Stoneworks Specialist International Corporation passed the eligibility check and its bid was found to be within the approved budget for the contract, hence, the said venture was set for post-qualification.

Pending result of the post-qualification, typhoons *Ondoy* and *Pepeng* struck the country. Citing as reason the emergency situation brought by the typhoons, the NHQ BAC, in its Resolution No. 2009-61 dated 19

October 2009, recommended to the PNP Chief the discontinuance of the bidding process for the PRBs and spare OBMs and the resort to negotiated procurement x x x.

x x x x

Pursuant to the approved NHQ BAC Resolution No. 2009-61, a Negotiation Committee was created x x x [to undertake] negotiation for the procurement of 75 PRBs and 18 spare OBMs on 21 October 2009 with invited suppliers, namely, EnviroAire, Inc. ('EnviroAire'), Geneve SA Philippines ('Geneve'), Bay Industrial Philippines Corp. ('Bay Industrial'), and ACMI.

During the negotiation, the Committee required that: 'a) the delivery of the PRBs and Spare Engines for the PRBs should be made within two weeks from receipt of the notice to proceed or earlier; b) the items offered must conform to the NAPOLCOM approved technical specifications; and c) the price must be the same with the price submitted during the public bidding held on September 9, 2009, or lower. According to the Negotiation Committee, however, 'none of the suppliers could deliver the entire 75 units PRB and 18 units Spare Engines for PRBs within a period of two weeks, [the suppliers] claiming that their respective principals do not have sufficient stocks of rubber boats consistent with the specifications of the PNP' and they could only deliver within two weeks the following:

<u>Supplier</u>	<u>Item</u>	<u>Quantity</u>
EnviroAire	PRB	24
	OBM	93
Geneve	PRB	41
Bay Industrial	PRB	10

To address the situation where none of the invited suppliers could solely deliver the 75 PRBs and 18 spare OBMs within two weeks from notice to proceed, the NHQ BAC issued Resolution No. 2009-76 dated 24 November 2009 recommending the revision of the PNP Annual Procurement Plan for CY 2008 with respect to the procurement of PRBs to reflect separate purchase of OBMs from PRBs, to wit:

<u>Items</u>	<u>ABC/Unit</u>	<u>Total ABC</u>
75 unit PRBs	P1,199,000.00	P89,925,000.00
93 units OBMs	P500,000.00	P46,500,000.00

x x x x

On 18 December 2009, the NHQ BAC Negotiation Committee issued Resolution No. 2009-13 recommending the award of contracts and purchase orders to the following suppliers:

<u>Supplier</u>	<u>Units</u>	<u>Amount</u>

EnviroAire	24 PRBs without engine	P27,960,000.00
	93 60HP OBMs	P44,175,000.00
Geneve	41 PRBs without engine	P47,765,000.00
Bay Industrial	10 PRBs without engine	P11,650,000.00
Total		P131,550,000.00

The recommendation was adopted by the NHQ BAC in its Resolution No. 2009-93 dated 18 December 2009, which resolution was approved by respondent Verzosa as PNP Chief. The PNP, represented by respondent Ticman, entered into four separate supply contracts all dated 18 December 2009 with the following suppliers:

- a) EnviroAire represented by respondent Harold Ong for the supply of 93 units of OBM Mercury 60 Horse Power with a total contract price of P44,175,000.00;
- b) EnviroAire represented by respondent Harold Ong for the supply of 10 units of PRB with a total contract price of P11,650,000.00;
- c) Geneve represented by respondent Senen Arabaca for the supply of 41 units of PRB with a total contract price of P47,765,000.00; and
- d) Bay Industrial represented by respondent Alex Tayao for the supply of 10 units of PRB with a total contract price of P11,650,000.00.

All supply contracts were approved by respondent Verzosa as PNP Chief

x x x x

PRBs delivered by Geneve

Geneve delivered 41 units of PRB to the PNP on 29 December 2009. It, however, partially delivered PRB accessories on 29 March 2010, and the rest on 6 April 2010.

The PNP Directorate for Comptrollership (DC) which conducted an inspection on 19 January 2010 of the delivered items from Geneve stated in its Inspection Report prepared on even date that the PRBs were found to be in good order/condition and in accordance/conforming to the approved NAPOLCOM specifications. The Inspection Report was signed by Avensuel G. Dy.

Also on 19 January 2010, the PNP Directorate for Research and

Development (DRD) conducted an ocular inspection of the units delivered and issued Weapons Transportation and Communication Division (WTCD) Report No. T2010-02-A dated 21 January 2010 x x x which indicated that the delivered items conformed to the NAPOLCOM-approved specifications for PRBs x x x. The WTCD Report was recommended for approval by respondent Joel Crisostomo L. Garcia, which recommendation was concurred in by respondent Luis L. Saligumba, and approved by respondent Belarmino, Jr. as Director of the DRD.

In its Resolution No. 2010-09 dated 15 February 2010, the Inspection and Acceptance Committee (IAC) composed of respondents George Q. Piano as Chairman, Luis L. Saligumba, Job Nolan D. Antonio, and Edgar B. Paatan, as members, accepted the 41 units of PRB delivered by Geneve.

Disbursement Voucher (DV) No. O(M)-281209-029 dated 16 February 2010 was issued in the amount of P45,206,160.72 representing the payment of the 41 units of PRB delivered by Geneve. [The corresponding check] was received on 19 April 2010 by Geneve, represented by respondent Senen Arabaca as General Manager.

PRBs delivered by EnviroAire

EnviroAire delivered 24 units of PRB to the PNP x x x. The PNP DC inspected the units on 27 January 2010 and its Inspection Report Form stated that the rubber boats were found to be in good order/condition and in accordance/conforming to the approved NAPOLCOM specifications. The Inspection Report was signed by PO3 Avensuel G. Dy as Property Inspector.

The PNP DRD conducted an ocular inspection of the 24 units also on 27 January 2010 and issued WTCD Report No. T2010-04 dated 3 February 2010. The Report indicated that the delivered items conformed to the NAPOLCOM-approved specifications for PRBs. **The WTCD Report x x x was recommended for approval by respondent Garcia, concurred in by respondent Saligumba,** and approved by respondent Belarmino, Jr.

The IAC composed of respondents Piano as Chairman, Saligumba, Antonio, and Paatan, as members, accepted the 24 units of PRB delivered by EnviroAire by Resolution No. 2010-10 dated 15 February 2010.

DV No. O(M)-160210-036 dated 16 February 2010 covered the payment of P27,960,000.00 to EnviroAire for the 24 units of PRB. x x x A check for P27,960,000.00 dated 3 March 2010 was received on even date by respondent Harold Ong as representative and Vice President of EnviroAire.

PRBs delivered by Bav Industrial

Bay Industrial delivered ten units of PRB to the PNP x x x. The Inspection Report issued by the PNP DC stated that the goods were in good