

# BIDS AND AWARDS COMMITTEE

BAC Secretariat Office: G/F Higher Education Development Center (HEDC) Bldg.,  
CP Garcia Avenue, UP Diliman, Quezon City  
Website: <http://www.ched.gov.ph> email: [chedbac@ched.gov.ph](mailto:chedbac@ched.gov.ph)

## MINUTES OF THE RE-NEGOTIATION

Procurement of Service Provider for the Analysis, Design, Development, Deployment, And Pilot Rollout of Human Resource Information System (HRIS) with the following Sub-Systems: Attendance Monitoring and Payroll System (AMPS); Personnel Management Information System (PMIS); And Equipment and Supplies Inventory System (ESIS)  
ABC: Php9,450,000.00

BAC Room, 2/F, HEDC Bldg.,  
C.P. Garcia Avenue,  
Diliman, Quezon City  
January 23, 2019; 1:00 P.M.



PRESENT	ATTENDANCE	DESIGNATION/OFFICE
<b>BAC</b>		
ATTY. CINDERELLA FILIPINA BENITEZ-JARO		- Chairperson/Presiding Officer
DIR. LUISA S. VALENCIA		-Member
ATTY. MICHELLE DIANA MANIWANG-BASA		- Member
MS. CRISTINA D. MAGALLANES		- Provisional Member/End-user
<b>TWG-OGS</b>		
MS. APOLONIA R. VIVO		- Head
MS. EVA M. PASIGPASIGAN		- Member
MS. DIANA C. AGUILAR		-Member, TWG-OGS
MS. SHIELA F. JALBUENA		-Member, TWG-OGS
MR. GREGORIO T. ATIENZA		-Member, TWG-OGS
<b>SECRETARIAT</b>		
MR. NELSON E. ESPINA		-Head
MR. ARTEMIO S. CAPELLAN, JR.		-Member
MS. BEATRIZ D. PASCUAL		-Member
MS. YVET R. MADLANGSAKAY		-Member
MS. DINA L. ABRENICA		-Member
MS. DESIREE P. VERDEFLORES		-Member
<b>BIDDER/REPRESENTATIVE</b>		
MR. CESAR A. BAUZA		- ASIAGATE NETWORK, INC.
MS. LADY LAPUT		- ASIAGATE NETWORK, INC.
MS. NERISSA DIANO		- ASIAGATE NETWORK, INC.
<b>END-USER</b>		
MR. CEDRIC B. PALMA		- MIS-KMD
<b>NOT PRESENT</b>		
ATTY. LILY FREIDA M. MILLA		- Vice- Chair, BAC (on official travel)
DIR. NELSON G. CAINGHOG		-Member, BAC (on official travel)
ATTY. SEPTON A. DE LA CRUZ		-Member, BAC (on official travel)
MS. EVELYN V. MOJICA		-Consultant (on official business)

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## 1. CALL TO ORDER

There being a quorum, the re-negotiation was called to order at 1:40 PM with the BAC Chair, Atty. Cinderella Filipina S. Benitez-Jaro, presiding. The Chair mentioned that initial negotiation was conducted through a videoconference on December 28, 2018. The re-negotiation was conducted in view of other issues that still need to be agreed upon between CHED and Asiagate.

Agenda	CHED	Asiagate
<b>No. 1: On the issue of payment schedule</b>	CHED, on its part, will abide with the original payment schedule as stated in the Bidding Documents which is 10 percent upon mobilization amounting to Php 945,000.00 and 90 percent upon completion of the project which is equivalent to Php8,505,000.00, for a total amount of Php 9,450,000.00.	Asiagate stated that through their letter dated January 2, 2019, Asiagate is amenable to the original payment schedule as stated in the TOR of the Bidding Documents, i.e. 10 percent upon mobilization and 90 percent upon completion of the project.
<b>No. 2 On the issue of the ownership and use of the system and its output by the Client</b>	CHED seek clarification on the issue of viewing only during the implementation of the project.	Asiagate clarified that legal ownership of the system and output remains with Asiagate until the release of 90 percent project completion. After approval of the output, document can already be printed and CHED specifically HRDD, can already utilize the system and including the output, being part of the methodology, which is the testing acceptance activity.  Only after the Technology Transfer activity and after complete delivery of the deliverables (documents, systems, output) that Asiagate will bill CHED for the payment of 90%.
<b>No. 3 on the issue of the Net Financial Contracting Capacity.</b>	The BAC, after review by the TWG-OGS of the NFCC of the Consultant, stated the compliance of Asiagate with NFCC requirement.	Asiagate through their letter dated January 2, 2019 have stated their NFCC amounting to Php74,432,718.58.
<b>No. 4 on the issue of Warranty</b>	TWG-OGS clarifies if the warranty is only six (6) months after receipt of NTP.	The Consultant as they have earlier stated that the warranty is one (1) year after the project delivery and completion.
<b>No. 5. On issue of the requirement for the release of the 10% mobilization fund.</b>	CHED clarifies the requirements for the release of mobilization fund.	The Consultant clarified that they will request for the release of mobilization fund after the submission first of the inception report, in addition with their compliance with the usual

  
  
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		government requirements for release of payment.	
<b>No. 6 On contract effectivity date</b>	CHED stated that contract effectivity is after the receipt of NTP.		
<b>Other concerns raised by Asiagate.</b>			
<b>GCC</b>	<b>SCC</b>	<b>Proposed by Asiagate</b>	<b>CHED</b>
<p><b>6. Consultants and Affiliates Not to Engage in Certain Activities</b></p> <p>6.2 The Consultant shall not engage, and shall cause their Personnel as well as their Sub-consultants and their Personnel not to engage, either directly or indirectly, in any of the following activities:</p> <p>(b) after the termination of this Contract, such other activities as may be specified in the <b>SCC</b></p>	<p>6.2 (b) For a period of two years after the expiration of this Contract, the Consultant shall not engage, and shall cause its Personnel as well as their Sub-consultants and its Personnel not to engage, in the activity of a purchaser (directly or indirectly) of the assets on which they advised the Procuring Entity under this Contract nor in the activity of an adviser (directly or indirectly) of potential purchasers of such assets. The Consultant also agree that their affiliates shall be disqualified for the same period of time from engaging in the said activities.</p>	<p>For a period of two years after the expiration of this Contract, the Consultant is prohibited from engaging, directly or indirectly, as purchaser and/or adviser to potential purchasers of the CHED HRIS;</p>	<p>CHED will consult with the LLS of CHED for this proposal by Asiagate during the drafting of the contract.</p>
<p><b>10. Modification</b></p> <p>Unless otherwise specified in the <b>SCC</b>, no modification of the terms and conditions of this Contract, including any modification of the scope of the Services shall be allowed. Pursuant to <b>GCC</b> Clause hereof, however, each Party shall give due consideration to any proposal for modification made by the other Party.</p>		<p><b>10. Modification</b></p> <p>The terms and conditions of this Contract, including the scope of the Service may be modified during contract implementation as between Parties; provided, however, that each party shall give due consideration to any proposal for modification made by the other Party. Such modifications shall become effective upon the execution of a written agreement between the Parties.</p>	<p>CHED considered the Asiagate proposal as mere suggestions, and will stick with the provision of the bidding documents.</p>
<p><b>22. Effectivity of Contract</b></p> <p>The contract effectivity date shall be the date of</p>		<p>The effectiveness conditions are the following:</p> <ul style="list-style-type: none"> <li>Approval of contract by both parties</li> </ul>	<p>CHED clarified that contract effectivity is</p>

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<p>contract signing, provided that the effectiveness of the conditions, if any, listed in the <u>SCC</u> have been met.</p>		<ul style="list-style-type: none"> <li>• Receipt of Consultant of advance payment</li> <li>• Upon receipt of NTP</li> </ul>	<p>upon signing of the contract and upon receipt of NTP.</p>
<p><b>24. Expiration of Contract</b> Unless sooner terminated pursuant to <b>GCC</b> Clauses hereof, this Contract shall terminate at the end of such time period after the effectivity date as shall be specified in the <u>SCC</u>.</p>	<p><b>24. Expiration of Contract</b> The time period shall be <i>[six (6) months]</i> or such other time period as the parties may agree in writing.</p>	<p>Upon acceptance of all project deliverables</p>	<p>CHED will stick with the GCC and SC of the bidding documents, and period of six (6) months is the contract effectivity.</p>
<p><b>34 Dispute Settlement</b>  34.2 Any and all disputes arising from the implementation of this Contract shall be submitted to arbitration in accordance with the rules of procedure specified in the <u>SCC</u></p>	<p>34.2 <i>If Funding Source is GoP:</i> Any and all disputes arising from the implementation of this contract shall be submitted to arbitration in the Philippines according to the provisions of Republic Acts 876 and 9285, as required in Section 59 of the IRR of RA 9184.</p>	<p>34.2 Arbitration in Makati</p>	<p>34.2 CHED stated that arbitration is in Quezon City since this is the address of the Client.</p>

<p><b>35. Documents Prepared by the Consultant and Software Developed to be the Property of the Procuring Entity</b></p> <p>35.2 All computer programs developed by the Consultant under this Contract shall be the sole and exclusive property of the Procuring Entity; provided, however, that the Consultant may use such programs for its own use with prior written approval of the Procuring Entity. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements. In such cases, the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.</p>		<p><i>Asiagate stated that this provision as non-negotiable.</i></p> <p>35.2 The Consultant shall retain the full ownership and copyright of the core system administration module. The module is utilized by Asiagate across its various projects and has been developed prior to any service rendered for the CHED.</p>	<p>CHED agreed with proposal of Asiagate. CHED will retain ownership of the exact copy of CHED HRIS program but the core system administration is owned by Asiagate.</p>
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There being no other matter to discuss, the *re-negotiation* was adjourned at 2:50 P.M.


PREPARED BY:

  
**ARTEMIO S. CAPELLAN, JR.**  
Member, BAC Secretariat

APPROVED BY:

  
**ATTY. CINDERELLA FILIPINA BENITEZ-JARO**  
Chairperson/ Presiding Officer

REVIEWED BY:

  
**NELSON E. ESPINA**  
Head, BAC Secretariat

  
**DIR. LUISA S. VALENCIA**  
Member

  
**ATTY. MICHELLE DIANA MANIWANG-BASA**  
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