

Comelec not fully paid to Smartmatic

The Commission on Elections (Comelec) still owes Smartmatic- Total Information Management Corporation (TIM) some Php 300 million (\$6.87 million). The election management body has not fully paid the firm because the post- election evaluation is not yet complete. The Comelec could withhold the balance of payment if the post- election audit proves that Smartmatic- TIM had been remiss in its responsibility to the poll body. Holding on of the full payment is allowed under the Memorandum of Agreement (MOA) between Smartmatic-TIM and the poll body. Article 4 of the contract states that the amount shall be paid based on the delivery of “the agreed critical milestones” identified in the contract. The MOA further stated that the last 10 percent of the amount will be paid only upon meeting of the “Election Day Services and Completion Report and Final Acceptance in lieu of Retention of Warranty Security, within 30 days from receipt of Final Report.” International Federation for Electoral System (IFES) has been tasked to do the post- election evaluation by the Comelec. The evaluation started on September and IFES is expected to submit its reports before the end of this month.

The Comelec should comply with the Supreme Court (SC) to release the full contract and its annexes to interested parties which would allow an independent assessment if Smartmatic is in compliance with the terms of the contract. It is mandated by the constitution the rights to information and access to public information.

Comelec's new regulation to barangay multiple termers

On October 23, the Comelec issued Resolution No. 9077 by virtue of Section 43 Republic Act No. 7160 which authorizes the Law Department to institute a Petition for Disqualification against any candidate in the forthcoming October 25, 2010 Barangay Elections who is considered a “multiple termers” based on the list submitted by the Department of Interior and Local Government (DILG) and recommended to suspend the proclamation of the said candidates. However, on November 15, the Comelec issued Resolution No. 9100 amending the previous resolution by withdrawing the authority of the Law Department under Section 1 of Resolution No. 9077 to institute petitions for disqualification for the “multiple termers” and allowing the proclamation of winning candidates even if they are included in the list submitted by the DILG. The Comelec explained that the list was made without giving the persons the opportunity to explain why they should not be included in the list and the omission amounts to a denial of the right to due process of the persons named.

It should not have been the responsibility of the DILG to monitor and provide the list of multiple termers since the Comelec has been constitutionally mandated to solely administer election related activities. It must be the Comelec's responsibility to keep such records. These two resolutions have been passed to remedy the failure of doing this task. However, it is agreeable to give persons in the said list the right of due process whether they have fully served the three term limit rule or if there is an interruption of the continuity of their service not because of voluntary renunciation but by “operation of law” because voluntary renunciation of office for any length of time does not interrupt the continuity of service. On the other hand, “operation of law” can be exemplified in the case where a term of service is interrupted upon the assumption in the event of vacancy of the next higher position because of the retirement or death of the person to be replaced. Other instance of involuntary renunciation of service or that there was a break or term served is when a person was removed from his office due to the case filed against him and he was returned to his post because he won the said case.

NAMFREL Participates in Civil Society Organizations National Consultation for ADB's Country Partnership Strategy

Through the Asian Development Banks' (ADB) invitation, NAMFREL participated in a workshop on governance and public sector management conducted on November 17, 2010 at the University of the Philippines. ADB officers discussed an overview of the banks programs on law and the judiciary, fiscal policy & public expenditure management, decentralization & local governance and narrated ADBs good practices in civil society organizations (CSO) engagement. The workshop was capped by a discussion of experiences of various CSOs related to efforts on anti corruption, procurement, and social accountability initiatives. Other consultations in the next days will focus on the social as well as the infrastructure and environment related sectors.

The consultations are part of ADBs preparations for a new country partnership strategy (CPS) for the Philippines for 2011-2016. The CPS intends to identify the strategic approach in the Philippines that is consistent and coordinated with both the Medium Term Philippine Development Plan 2011-2016 and the ADBs strategic priorities.

As part of its country strategy formulation mission, ADB is conducting a series of consultation meetings and workshops with government agencies, private sector and civil society organizations. Through these consultations, ADB aims to strengthen stakeholders' ownership of and support to the CPS process and implementation, and promote better stakeholders' understanding of ADB's programs and operations.

[Source: Philippine Star, Manila Bulletin, Comelec data, NAMFREL data]