



Republic of the Philippines
Department of Environment and Natural Resources
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929-66-20 • 929-66-33 to 35 • 929-70-41 to 43

**BIDS AND AWARDS COMMITTEE FOR
FOREIGN-ASSISTED PROJECTS (BAC-FAPs)**

*RESOLUTION APPROVING THE CANCELLATION OF CONTRACT AWARD
TO HYTECH INTEGRATED PRODUCTS, INC AND DECLARING THE
PROCUREMENT FOR THE SUPPLY AND DELIVERY OF VARIOUS IT
EQUIPMENT (IFB No. ICRMP-G-NCB-2-2008) UNDER ICRMP AS FAILURE*

BAC-FAPS RESOLUTION NO. 2009-64

WHEREAS, on January 30, 2009, the ADB issued its NOL on the award of contract to the winning bidder, i.e., HIPI for the Supply and Delivery of Various IT Equipment (IFB No. ICRMP-G-NCB-2-2008) under ICRMP;

WHEREAS, on May 7, 2009, the Notice of Award (NOA) to HIPI was approved by the DENR Secretary;

WHEREAS, on May 12, 2009, the NOA was issued to HIPI. It was advised to post the required Performance Security (i.e., in the form of cash, certified check, cashier's check, manager's check, bank draft, irrevocable letter of credit or bank guarantee) in an equivalent amount of not less than 10% of the contract cost;

WHEREAS, on May 29, 2009, HIPI requested for an extension of submission for the required Performance Security due to the Bank's inability to release immediately the requested Irrevocable Standby Letter of Credit (LC);

WHEREAS, on June 29, 2009, HIPI submitted to DENR the letter of Metro Bank dated June 26, 2009 informing the DENR that HIPI has a pending LC application since May 21, 2009;

WHEREAS, on July 16, 2009, HIPI submitted their Performance Security in the form of Irrevocable Standby Letter of Credit (LC) amounting to PhP653,608.40. Though the LC is one of the allowable forms of Performance Security of ADB, but the amount submitted only represents 50% of the total amount required (i.e., 10% of the contract cost or PhP1,307,216.80). The said Performance Security was rejected and returned to HIPI and instructed them to resubmit its Performance Security based on the required amount;

WHEREAS, on August 14, 2009, HIPI informally informed the DENR that a Performance Security in the form of Manager's Check (Check No. 2850016811) amounting to PhP1,307,216.80 issued by Metro Bank was already secured by HIPI. However, up to this point in time, HIPI has not handed it over to DENR;

WHEREAS, on August 17, 2009, the DENR issued a demand letter to HIPI instructing them to submit the required Performance Security within seven (7) days upon receipt of the demand letter. The letter further states that failure to do so will compel DENR to impose appropriate penalties and sanctions to them. Until now, no response from the HIPI is received;

WHEREAS, on September 1-9, 2009, during the ADB Mission for ICRMP, due to the failure of the winning supplier (i.e., HIPI) to post the required Performance Security in the correct amount, DENR recommended for the possible cancellation of the contract award with HIPI for the Supply and Delivery of Various IT Equipment;

WHEREAS, Section 41 of the Instructions to Bidders (ITB) of the Bidding Documents stated that, failure of the successful bidder to comply with the requirement of posting the Performance Security shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security;

WHEREAS, Section 40 of the Implementing Rules and Regulations (IRR) of RA 9184 stated that, in the case of failure, refusal or inability of the winning bidder to post the required Performance Security, the bid security shall be forfeited and the appropriate sanctions shall be imposed. Also, the BAC shall disqualify the said bidder and shall declare the bidding a failure and conduct a re-bidding with re-advertisement/posting;

WHEREAS, Appendix C of the IRR of RA 9184, provides the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants;

NOW, THEREFORE, THAT THE BAC-FAPS HEREBY RESOLVES AS IT IS HEREBY RESOLVED, that on the basis of the information provided above, agreed for the cancellation of contract award with Hytech Integrated Products, Inc. for the Supply and Delivery of Various IT Equipment (IFB No. ICRMP-G-NCB-2-2008) under ICRMP;

RESOLVED FURTHER, that the bidding for the Supply and Delivery of Various IT Equipment (IFB No. ICRMP-G-NCB-2-2008) be declared as failure;

RESOLVED FURTHER, that FPU is directed to submit to ADB for concurrence the proposed cancellation of contract and declaration of failure of bidding; and re-bidding of the said procurement package;


RESOLVED FURTHER, that blacklisting of HIPI is hereby recommended to the DENR Secretary and the same be reported to the Government Procurement Policy Board (GPPB);

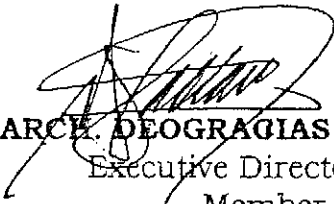
RESOLVED FINALLY, that the bid security of HIPI is hereby forfeited and a penalty of one (1) year suspension from participation to DENR bidding is hereby imposed against it;

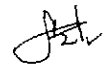
IN WITNESS WHEREOF, we have hereunto affixed our signatures this _____ day of NOV 03 2009, 2009 at the DENR Main Office, Visayas Ave., Diliman, Quezon City.


DEMETRIO L. IGNACIO, JR.
Undersecretary, Policy and Planning
Chairperson


ATTY. ANALIZA R. TEH
Assistant Secretary, FASPO
Vice-Chairperson


MA. CAROLINA M. ESQUELA
Head Executive Assistant
Member


ARCH. DEOGRAGIAS J. TABLAN, JR.
Executive Director, PRRC
Member


DR. LUCENA U. MERCADO
Project Coordinator, ICRMP
Member (end-user)