

# **GUIDELINES ON THE USE OF BID SECURING DECLARATION**

## **1. SCOPE AND APPLICATION**

These Guidelines shall govern the use of Bid Securing Declaration as an additional form of bid security under the Implementing Rules and Regulations (IRR) of Republic Act No. 9184, otherwise known as “The Government Procurement reform Act”.

These guidelines shall apply to all branches, constitutional commissions and offices, agencies, departments, bureaus, offices, and instrumentalities of the Government, including government-owned and/or controlled -corporations (“GOCCs”), government financial institutions (“GFIs”), state universities and colleges (“SUCs”), and local government units (“LGUs”).

## **2. GUIDING PRINCIPLES**

In order to enhance competition and bidders’ participation, reduce transactional costs, and promote economy in procurement activities of the government, the use of a Bid Securing Declaration shall be an alternative to the existing forms of bid security under the IRR.

The bidder shall have the option to use a Bid Securing Declaration or any other bid security in the form and amount enumerated under Section 27.2 of the IRR.

## **3. DEFINITION**

3.1. Bid Securing Declaration is an undertaking by a prospective bidder, committing to pay the corresponding fine and be suspended for a period of time from being qualified to participate in any government procurement activity in the event it violates any of the conditions stated therein.

3.2. The Bid Securing Declaration shall comply with the standard format attached hereto as Annex “A” and shall be submitted to the procuring entity in the manner prescribed under Sections 25 and 27 of the IRR.

## **4. PERIOD OF EFFECTIVITY**

4.1. The Bid Securing Declaration shall be valid for a reasonable period determined by the Head of the Procuring Entity concerned and indicated in the bidding documents, which in no case shall exceed one hundred twenty (120) calendar days from the date of the opening of bids, unless duly extended by the bidder upon the request of the Head of the Procuring Entity.

4.2. The Bid Securing Declaration shall automatically expire in the following instances:

- a) Upon expiration of the bid validity period, or any extension thereof pursuant to Section 28.2 of the IRR;
- b) When all bidders are declared ineligible or post-disqualified and, upon receipt of the notice therefor, either failed to timely file a request for reconsideration or filed a waiver to avail of said right;
- c) When the bidder declared as the Lowest Calculated and Responsive Bidder/Highest Rated and Responsive Bidder, has furnished the performance security and signed the contract.

## **5. GROUNDS FOR ENFORCEMENT OF BID SECURING DECLARATION**

The Bid Securing Declaration shall be enforced when the bidder commits any of the following:

- a) Withdraws its bid during the period of bid validity required in the bidding documents; or
- b) Fails or refuses to accept the award and enter into contract or perform any and all acts necessary to the execution of the contract, in accordance with the bidding documents, after having been duly notified of the acceptance of its Bid during the period of bid validity.

## **6. PENALTIES**

Commission of any of the acts mentioned in Section 5 of these Guidelines shall merit the following sanctions:

- a) Penalty of automatic blacklisting for two (2) years in all government procurement activities; and
- b) Payment of fine equivalent to the amount subject to the following rules:
  - (i) In case of multiple bidders, the difference between the evaluated bid prices of the bidder with the Lowest Calculated/Highest Rated Bid and the bidder with the next Lowest Calculated/Highest Rated Bid, and so on. However, as regards the bidder with the highest calculated/lowest rated bid, the amount shall be based on the difference between the evaluated bid price and the Approved Budget for the Contract.
  - (ii) In case of a single bidder, the difference between the evaluated bid price and the Approved Budget for the Contract.

## **7. BLACKLISTING PROCEDURE**

Notwithstanding the provisions of the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants, the following provisions shall govern the blacklisting for purposes of this Guidelines:

- 7.1. The procuring entity shall immediately issue the blacklisting order upon determination of the grounds for enforcement of the Bid Securing Declaration provided in Section 5 hereof.
- 7.2. Only in cases where the notice of award is not in conformity with the Bidding Documents may the blacklisted bidder file a motion for reconsideration with the Head of the Procuring Entity within three (3) calendar days from receipt of the blacklisting order.
- 7.3. The blacklisted bidder shall only be delisted upon the expiration of the period of penalty and payment of the fine.

## **8. EFFECTIVITY**

These Guidelines shall take effect immediately after publication in the Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of these guidelines.

**REPUBLIC OF THE PHILIPPINES )**  
**CITY OF \_\_\_\_\_ ) S.S.**  
**X-----X**

**BID-SECURING DECLARATION**

**Invitation to Bid/Request for Expression of Interest No.<sup>1</sup>: [Insert reference number]**

To: [Insert name and address of the Procuring Entity]

I/We<sup>2</sup>, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Bid Security, which may be in the form of a Bid-Securing Declaration.
2. I/We accept that: (a) I/we will be automatically disqualified from bidding for any contract with any procuring entity for a period of two (2) years upon receipt of your Blacklisting Order; and, (b) I/we will pay the applicable fine provided under Section 6 of the Guidelines on the Use of Bid Securing Declaration<sup>3</sup>, if I/we have committed any of the following actions:
  - (i) Withdrawn my/our Bid during the period of bid validity required in the Bidding Documents; or
  - (ii) Fail or refuse to accept the award and enter into contract or perform any and all acts necessary to the execution of the Contract, in accordance with the Bidding Documents after having been notified of your acceptance of our Bid during the period of bid validity.
3. I/We understand that this Bid-Securing Declaration shall cease to be valid on the following circumstances:
  - (a) Upon expiration of the bid validity period, or any extension thereof pursuant to your request;
  - (b) I am/we are declared ineligible or post-disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration or (ii) I/we filed a waiver to avail of said right;
  - (c) I am/we are declared as the bidder with the Lowest Calculated and Responsive Bid/Highest Rated and Responsive Bid<sup>4</sup>, and I/we have furnished the performance security and signed the Contract.

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<sup>1</sup> Select one and delete the other.

<sup>2</sup> Select one and delete the other. Adopt same instruction for similar terms throughout the document.

<sup>3</sup> Issued by the GPPB through GPPB Resolution 03-2012 on 27 January 2012.

<sup>4</sup> Select one and delete the other.

**IN WITNESS WHEREOF**, I/We have hereunto set my/our hand/s this \_\_\_\_ day of [month] [year] at [place of execution].

**[Insert NAME OF BIDDER'S  
AUTHORIZED REPRESENTATIVE]  
[Insert signatory's legal capacity]  
Affiant**

**SUBSCRIBED AND SWORN** to before me this \_\_ day of [month] [year] at [place of execution], Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her [insert type of government identification card used], with his/her photograph and signature appearing thereon, with no. \_\_\_\_\_ and his/her Community Tax Certificate No. \_\_\_\_\_ issued on \_\_\_\_\_ at \_\_\_\_\_.

Witness my hand and seal this \_\_\_\_ day of [month] [year].

**NAME OF NOTARY PUBLIC**

Serial No. of Commission \_\_\_\_\_

Notary Public for \_\_\_\_\_ until \_\_\_\_\_

Roll of Attorneys No. \_\_\_\_\_

PTR No. \_\_, [date issued], [place issued]

IBP No. \_\_, [date issued], [place issued]

Doc. No. \_\_\_\_  
Page No. \_\_\_\_  
Book No. \_\_\_\_  
Series of \_\_\_\_.