



RESOLUTION NO.18-2012

ADDITIONAL USE OF PROCEEDS FROM THE SALE OF BIDDING DOCUMENTS

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement;

WHEREAS, Section 15 of RA 9184 and its IRR require the Department of Budget and Management (DBM) to promulgate the necessary guidelines on grant of honoraria to BAC, BAC Secretariat, and TWG members;

WHEREAS, Section 17.4 of the IRR of RA 9184 provides that Bidders may be asked to pay for the Bidding Documents to recover the cost of its preparation and development;

WHEREAS, DBM issued Budget Circular (BC) No. 2004-5, dated 23 March 2004, which provides for the Guidelines on the Grant of Honoraria to Government Personnel Involved in Government Procurement;

WHEREAS, BC No. 2004-5 was amended by BC No. 2004-5A, dated 7 October 2005, to incorporate DOF-DBM-COA Permanent Committee Resolution No. 2005-2, providing that Procuring Entities:

1. May treat the collections from sources under paragraph 5.0 of BC No. 2004-5 as trust receipts exclusively for the payment of honoraria and overtime pay;
2. May utilize up to 100% of the collections for payment of honoraria and overtime pay; and
3. Shall remit any excess in the amount collected to the Bureau of Treasury, in case of NGAs. However, in the case of GOCCs and LGUs, the same shall form part of their corporate and local government funds.

WHEREAS, on 29 November 2007, DBM issued BC No. 2007-3 amending BC No. 2004-5A, which provides, among others, that amounts necessary for payment of honoraria and overtime pay shall be sourced from the following:

1. Collections from successfully completed projects limited to activities prior to awarding of contracts to winning bidders:
 - a) Proceeds from sale of bid documents;
 - b) Fees from contractor/supplier registry;
 - c) Fees charged for copies of minutes of bid openings, BAC resolutions and other BAC documents;
 - d) Protest fees; and,

- e) Proceeds from bid/performance security forfeiture.
2. Savings realized from the current year specific budget of the agency under the GAA.
3. In case of GOCCs, savings from the DBM approved corporate operating budgets.
4. In case of LGUs, savings from local budgets approved by their respective *Sanggunian*, subject to the pertinent provisions of RA 7160.

WHEREAS, several procuring entities have inquired if proceeds from the sale of bidding documents, which at present is exclusively used for honoraria and overtime pay of BAC members, may be utilized for: (i) capacity development; (ii) logistics support; (iii) mailing; (iv) publication; (v) traveling expenses; and, (vi) upgrading and purchase of IT equipment. The inquiry stemmed from concerns that agencies have accumulated proceeds from sale of bidding documents which remain unutilized awaiting only to be returned to the Bureau of Treasury at the end of the Final Year in the case of NGAs; and, form part of the corporate and local government funds in the case of GOCCs and LGUs, respectively;

WHEREAS, in its 9th meeting held on 13 July 2012, the Inter-Agency Technical Working Group, resolved to recommend the use of proceeds from the sale of bidding documents for legal and medical assistance, as well as for the indemnity package of BAC members and its support staff, to the GPPB;

WHEREAS, in its 7th Meeting held on 27 July 2012, the GPPB, after a careful review and deliberation of the recommendation of the IATWG, resolved to propose amendments to DBM issuances, particularly BC No. 2004-5A and BC No. 2007-3, to allow the unutilized proceeds from the sale of bidding documents to be used for legal assistance and indemnification package (legal, medical, insurance) for BAC members and support staff. Further, the Board agreed to propose that the proceeds may likewise be applied to other expenses pertaining to the activities of the BAC in the production of the Bidding Documents;

NOW, THEREFORE, for and in view of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the following:

Recommend amendments to BC No. 2004-5A and BC No. 2007-3, thus:

1. Allow the use of proceeds from the sale of biddings documents for legal assistance, as well as for the indemnification package (legal, medical and insurance) of BAC members and its support staff; and,
2. Apply proceeds from the sale of bidding documents to other expenses pertaining to the activities of the BAC in the production of the Bidding Documents.

Other relevant recommendations in relation to the amendment of BC No. 2004-5A and BC No. 2007-3, to wit:

1. Activities and Expenses of the BAC which may be sourced from the proceeds of the sale of Bidding Documents will be identified and suggested by the GPPB-TSO;

2. DOF, DBM and COA will be requested to make the proper distinctions as to which expenses/activities may be sourced from the proceeds of the sale of Bidding Documents; and,
3. Refer to the Permanent Committee composed of DOF, DBM and COA the proposed increase in the amount of Honoraria received by BAC members and their support staff.

This Resolution shall take effect immediately.

APPROVED this 27 July 2012 at Pasig City, Philippines.

<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF BUDGET AND MANAGEMENT</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF EDUCATION</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF ENERGY</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF FINANCE</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF HEALTH</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF NATIONAL DEFENSE</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF SCIENCE AND TECHNOLOGY</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF TRADE AND INDUSTRY</p>	<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS</p>
<p>(Sgd.)</p> <hr style="border: 0.5px solid black;"/> <p>PRIVATE SECTOR REPRESENTATIVE</p>	

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO