



RESOLUTION NO. 21-2006

AMENDING SECTION 27.4 OF THE IRR-A OF R.A. 9184 TO ALLOW THE RETURN OF BID SECURITY TO A POST-DISQUALIFIED BIDDER

WHEREAS, Republic Act No. 9184 (R.A. 9184), otherwise known as the Government Procurement Reform Act, and its Implementing Rules and Regulations Part A (IRR-A) took effect on 26 January 2003 and 08 October 2003, respectively;

WHEREAS, under Sections 27 and 27.1 of the IRR-A, all bids shall be accompanied by a bid security in order to guarantee that the successful bidder shall, within ten (10) calendar days from receipt of the Notice of Award, enter into a contract with the procuring entity and furnish the performance security prescribed by Section 39 of the IRR-A;

WHEREAS, Section 27.4 of the IRR-A also provides that, except to those who failed to comply with any of the requirements to be submitted in the first bid envelope, bid securities shall only be returned after the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid has signed the contract and furnished the required performance security;

WHEREAS, queries and requests for clarification from government agencies have been received as to the proper and opportune time to return the bid security once a bidder has been post-disqualified with finality.

WHEREAS, failure to return the bid security even if a bidder has already been post-disqualified with finality in accordance with the literal interpretation of Section 27.4 of the IRR-A is inconsistent with the purpose of a bid security; moreover, it would prove prejudicial to the bidders, and in the long run, to the effective implementation of R.A. 9184;

WHEREAS, it is better policy to allow bidders to regain their bid security once they have been post-disqualified and signified that they have no intention to file a protest since the bid security loses its value to the procuring entity;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the amendment of Section 27.4 of the IRR-A of R.A. 9184, as follows:



RESOLUTION NO. 21-2006

No Bid Securities shall be returned to bidders after the opening of bids and before contract signing, except to those that *(i)* failed to comply with any of the requirements to be submitted in the first bid envelope of the bid *or (ii) were post-disqualified and submitted a written waiver of its right to file a motion for reconsideration and/or protest*, as provided in this IRR-A. Without prejudice to the provisions the Act and this IRR-A on the forfeiture of Bid Securities, Bid Securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, as the case may be, has signed the contract and furnished the Performance Security, but in no case later than the expiration of the Bid Security validity period indicated in the Instructions to Bidders.

This resolution shall take effect immediately.

APPROVED this 6th day of December, 2006 at Pasig City, Philippines.

(Sgd.)

ROLANDO G. ANDAYA, JR.
Secretary
Department of Budget and Management

ROMULO L. NERI

Director General
National Economic and Development
Authority

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF HEALTH

**DEPARTMENT OF INTERIOR AND
LOCAL GOVERNMENT**

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(Sgd.)

DEPARTMENT OF FINANCE



RESOLUTION NO. 21-2006

**DEPARTMENT OF TRADE AND
INDUSTRY**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

RUBY U. ALVAREZ
Board Secretary, GPPB
Executive Director, GPPB-TSO