



## RESOLUTION NO. 25-2013

### **APPROVING AMENDMENTS TO SECTIONS 27.2, 27.5 AND 39.2 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184; THE PHILIPPINE BIDDING DOCUMENTS FOR GOODS, INFRASTRUCTURE PROJECTS AND CONSULTING SERVICES; AND, THE GUIDELINES FOR THE USE OF BID SECURING DECLARATION**

**WHEREAS**, Section 63.1(b) of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

**WHEREAS**, the posting of bid security is required to guarantee that a bidder will not withdraw its bid and will enter into a contract with the procuring entity upon award; and, the posting of performance security guarantees faithful performance of the winning bidder of its obligations under the contract;

**WHEREAS**, Sections 27.2, 27.5 and 39.2 of the IRR of RA 9184 and the Philippine Bidding Documents<sup>1</sup> (PBDs), including the Guidelines for the Use of Bid Securing Declaration<sup>2</sup>, vest upon the bidder the option to choose among any of the prescribed forms of bid and performance security that it will post with the procuring entity.

**WHEREAS**, in a meeting held on 09 July 2013, the Inter Agency Technical Working Group (IATWG) adopted the proposal of the Bureau of Internal Revenue (BIR) to grant the procuring entities the option to choose the forms of bid and performance securities and limit the same to two (2) forms of security that bidders will post;

**WHEREAS**, during the 5<sup>th</sup> Regular GPPB Meeting held on 30 July 2013, the Board discussed the matter, and, after careful deliberation, favorably approved the recommendation of the IATWG;

**WHEREAS**, during the 6<sup>th</sup> Regular GPPB Meeting held on 30 August 2013, the GPPB-Technical Support Office sought clarification from the Board on how to proceed with the amendment of Section 27.2 of the IRR of RA 9184 in relation to use of Bid Securing Declaration. After thorough discussion and careful deliberation, the Board required the procuring entities to select and use Bid Securing Declaration in the identification of at least two (2) acceptable forms of bid security.

**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 following:

<sup>1</sup> Clauses 12.1 (b) (i), 18.1 and 33.2 of the Instructions to Bidders (ITB) and Bid Data Sheet (BDS) of the PBDs for Goods; Clauses 12.1 (b) (i), 18.1 and 32.2 of the ITB and BDS of the PBDs for Infrastructure Projects; Clauses 10.2 (a), 15.1 and 31.2 of ITB and BDS of the PBDs for Consulting Services;

<sup>2</sup> GPPB Resolution 03-2012 dated 27 January 2012.

1. **AMEND** Sections 27.2, 27.5 and 39.2 of the IRR of RA 9184, as shown in **Annex “A”** hereof;
2. **AMEND** Clauses 12.1(b)(i), 18.1 and 33.2 of the ITB and BDS of the PBDs for Goods; Clauses 12.1(b)(i), 18.1 and 32.2 of the ITB and BDS of the PBDs for Infrastructure Projects; and Clauses 10.2(a), 15.1 and 31.2 of the ITB and BDS of the PBDs for Consulting Services, as shown in **Annex “B”** hereof;
3. **DELETE** the following sentence under Article 2 on Guiding Principles under GPPB Resolution 03-2012, thus:

**“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”.**

This resolution shall take effect immediately.

**APPROVED** this 30<sup>th</sup> day of August 2013 at Pasig City, Philippines

(Sgd.)

---

**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

---

**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

(Sgd.)

---

**DEPARTMENT OF EDUCATION**

(Sgd.)

---

**DEPARTMENT OF ENERGY**

(Sgd.)

---

**DEPARTMENT OF FINANCE**

---

**DEPARTMENT OF HEALTH**

---

**DEPARTMENT OF THE INTERIOR AND  
LOCAL GOVERNMENT**

(Sgd.)

---

**DEPARTMENT OF NATIONAL  
DEFENSE**

---

**DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS**

---

**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

---

**DEPARTMENT OF TRADE AND  
INDUSTRY**

(Sgd.)

---

**DEPARTMENT OF TRANSPORTATION  
AND COMMUNICATIONS**

(Sgd.)

---

**PRIVATE SECTOR REPRESENTATIVE**

Attested by:

(Sgd.)

---

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

REVISED IMPLEMENTING RULES AND REGULATIONS (IRR)  
 OF REPUBLIC ACT (RA) NO. 9184

ORIGINAL	AMENDED
<p>Section 27.2</p> <p>“The bid security shall be in an amount equal to a percentage of the ABC in accordance with the following schedule:</p> <p>...</p> <p>For biddings conducted by LGUs, the prospective bidder may also submit bid securities in the form of cashier’s/manager’s check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument.”</p>	<p>Section 27.2</p> <p><b><u>“The procuring entity shall indicate in the Bidding Documents the acceptable forms of bid security that bidders may opt to use, which shall include the Bid Securing Declaration provided in Section 27.5 of this IRR and at least one (1) other form,</u></b> the amount of which shall be equal to a percentage of the ABC in accordance with the following schedule:</p> <p>...</p> <p>For biddings conducted by LGUs, <b><u>the procuring entity may also require bidders to submit bid securities in the form of...</u></b></p>
<p>Section 27.5</p> <p>In lieu of a bid security mentioned in Section 27.2 above, the bidder may submit a Bid Securing Declaration that is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the required performance security within ten (10) calendar days, or less, as indicated in the Bidding Documents, from receipt of the Notice of Award, and committing to pay the corresponding fine and be suspended for a period of time from being qualified to participate in any government activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the GPPB.</p>	<p>Section 27.5</p> <p>A Bid Securing Declaration is an undertaking which states, among others, that the bidder shall enter into contract with the procuring entity and furnish the required performance security within ten (10) calendar days, or less, as indicated in the Bidding Documents, from receipt of the Notice of Award, and committing to pay the corresponding fine and be suspended for a period of time from being qualified to participate in any government activity in the event it violates any of the conditions stated therein as required in the guidelines issued by the GPPB<sup>3</sup>.</p>
<p>Section 39.2</p> <p>“The performance security shall be in an amount be equal to a percentage of the total contract price in accordance with the following schedule:</p>	<p>Section 39.2</p> <p><b><u>“The procuring entity shall indicate in the Bidding Documents at least two (2) acceptable forms of performance security taken from two</u></b></p>

<sup>3</sup> GPPB Resolution No. 03-2012 dated 27 January 2012, Guidelines on the Use of Bid Securing Declaration.

<p>...</p> <p>For biddings conducted by LGUs, the prospective bidder may also submit performance securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument."</p>	<p><b><u>(2) categories below, that bidders may opt to use,</u></b>  the amount of which shall be equal to a percentage of the total contract price in accordance with the following schedule:</p> <p>...</p> <p>For biddings conducted by LGUs, <b><u>the procuring entity may also require bidders to submit performance securities in the form of ...</u></b></p>
--	--

**PHILIPPINE BIDDING DOCUMENTS  
 FOR GOODS, INFRASTRUCTURE PROJECTS AND CONSULTING SERVICES**

*INSTRUCTIONS TO BIDDERS*

<b>Clause 12.1(b)(i), ITB for Goods and Infrastructure Projects</b>	
<b>ORIGINAL</b>	<b>AMENDED</b>
<p>Unless otherwise indicated in the <b>BDS</b>, the first envelope shall contain the following eligibility and technical documents:</p> <p>...</p> <p><u>(b) Technical Documents –</u></p> <p>(i) Bid security in accordance with <b>ITB</b> Clause 18. If the Bidder opts to submit the bid security in the form of:</p>	<p>Unless otherwise indicated in the <b>BDS</b>, the first envelope shall contain the following eligibility and technical documents:</p> <p>...</p> <p><u>(b) Technical Documents –</u></p> <p>(i) Bid security in accordance with <b>ITB</b> Clause 18. <b><u>If the Procuring Entity requires the bidders to submit the bid security in the form of:</u></b></p>
<b>Clause 10.2(a), ITB for Consulting Services</b>	
<p>The Technical Proposal shall contain the following information/documents:</p> <p>(a) Bid security as prescribed in <b>ITB</b> Clause 15. If the Bidder opts to submit the bid security in the form of:</p>	<p>The Technical Proposal shall contain the following information/documents:</p> <p>(a) Bid security as prescribed in <b>ITB</b> Clause 15. <b><u>If the Procuring Entity requires the bidders to submit the bid security in the form of:</u></b></p>
<b>Clause 18.1, ITB for Goods and Infrastructure Projects; and, Clause 15.1, ITB for Consulting Services</b>	
<p>The bid security in the amount stated in the <b>BDS</b> shall be equal to the percentage of the ABC in accordance with the following schedule:</p> <p>...</p> <p>For biddings conducted by LGUs, the prospective bidder may also submit bid securities in the form of cashier’s/manager’s check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the BSP as authorized to issue such financial instrument.”</p>	<p><b><u>The procuring entity shall prescribe in the BDS the acceptable forms of bid security that bidders may opt to use, which shall include the Bid Securing Declaration and at least one (1) other form,</u></b> the amount of which shall be equal to a percentage of the ABC in accordance with the following schedule:</p> <p>...</p> <p>For biddings conducted by LGUs, <b><u>the procuring entity may also require bidders to submit bid securities in the form of...</u></b></p>
<b>Clause 33.2, ITB for Goods; Clause 32.2, ITB for Infrastructure Projects; and, Clause 31.1, ITB for Consulting Services</b>	
<p>The performance security shall be denominated</p>	<p><b><u>The procuring entity shall prescribe at least two</u></b></p>

<p>in Philippine Pesos and posted in favor of the Procuring Entity in an amount equal to the percentage of the total contract price in accordance with the following schedule:</p>	<p><u><i>(2) acceptable forms of performance security taken from two (2) categories below that bidders may opt to use,</i></u> denominated in Philippine Pesos and posted in favor of the Procuring Entity...</p>
--	---

*BID DATA SHEET*

<b>Clause 18.1, BDS for Goods and Infrastructure Projects; and, Clause 15.1, BDS for Consulting Services</b>	
ORIGINAL	AMENDED
<p>The bid security shall be in the following amount: ... 3. Any combination of the foregoing proportionate to the share of form with respect to total amount of security.</p>	<p><u><i>The bid security shall be limited to Bid Securing Declaration and at least one (1) other form in accordance with the following amount:</i></u> ... 3. Any combination of the foregoing proportionate to the share of form with respect to total amount of security.</p>