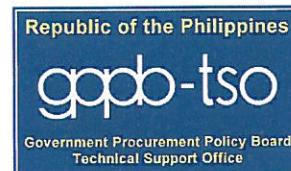




Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 131-2016

29 December 2016

MR. JONATHAN JAVIER
Javierjonathan290@gmail.com

Re: Bidding Documents; Conduct of Opening of Bids

Dear Mr. Javier,

This refers to your electronic mail (e-mail) requesting guidance on the following issues:

1. Components of Bidding Documents parallel to the Philippine Bidding Documents (PBDs); and
2. Process in the conduct of Opening of Bids.

In your e-mail, you disclosed that during your attendance in the Opening of Bids of a government corporation, you observed that the bidding documents provided did not conform to contents of the Philippine Bidding Documents. You also raised an issue as to how the procuring entity conducts the Opening of Bids which is done by a BAC staff who evaluates the legal, technical and financial documents without flashing the same to the public and the BAC members.

Hence, this inquiry.

Procuring Entity's Bidding Documents

As defined under Section 5 of the Implementing Rules and Regulations (IRR) of Republic Act No. 9184 (R.A. 9184), bidding documents refer to the documents issued by the procuring entity as the bases for bids, furnishing all information necessary for a prospective bidder to prepare a bid for the infrastructure projects, goods, and/or consulting services required by the procuring entity.

Section 17.2 of the revised IRR is instructive that The Bidding Documents shall be prepared by the procuring entity **following the standard forms and manuals prescribed by the GPPB**. It shall clearly and adequately define, among others: (a) the objectives, scope, and expected outputs and/or results of the proposed contract; (b) the eligibility requirements of bidders, such as track record to be determined by the Head of the Procuring Entity; (c) the expected contract

duration, the estimated quantity in the case of procurement of goods, delivery schedule and/or time frame; and (d) the obligations, duties, and/or functions of the winning bidder.

In order to simplify the preparation of the Bidding Documents for each procurement, the PBDs group the provisions that are intended to be used unchanged in Section II. Instructions to Bidders (ITB) and in Section IV. General Conditions of Contract (GCC). Data and provisions specific to each procurement and contract should be included in Section III. Bid Data Sheet (BDS); Section V. Special Conditions of Contract (SCC); Section VI. Schedule of Requirements; Section VII. Technical Specifications, and Section IX. Foreign-Assisted Projects. The forms to be used are provided in Section VIII. Bidding Forms. Nonetheless, the PBDs provide that in preparing Sections III and V thereof, information that specifies and complements provisions of Section II and IV must be incorporated; and amendments and/or supplements, if any to provisions of Sections II and IV, respectively, as necessitated by the circumstances of the specific procurement must also be incorporated.

In an earlier opinion¹, we likewise emphasized that under Section 6.2 of the IRR of RA 9184, once issued by the GPPB, the use of the PBDs and other standard forms shall be mandatory upon all procuring entities. However, whenever necessary, to suit the particular needs of the procuring entity, modifications may be made particularly for major and specialized procurement subject to the approval of the GPPB.

Conduct of Opening of Bids

On the conduct of evaluation of legal, technical and financial documents without flashing the same to the public, please be advised that the rules does not mandate the flashing of the documents to the public. However, the BAC must ensure that transparency and integrity of the whole process is observed.

Also, we explained in an earlier opinion² that Sections 12.1, 30.1 and 30.2 of the revised IRR of RA 9184 categorically vests upon the BAC the authority to determine each bidder's compliance with the required documents for purposes of eligibility. The BAC cannot delegate its conduct of opening and preliminary examination of bids, where discretion and sound judgment is required. However, this does not preclude the BAC from assigning to its BAC Secretariat the mechanical opening and examining the presence or absence of the required documents of the bidders during the preliminary examination of bids provided such act is done in the presence and under their direct instruction and supervision.³

In sum, under Section 6.2 of the IRR of RA 9184, the use of the PBDs and other standard forms shall be mandatory upon all procuring entities once issued by the GPPB. Modifications may be made particularly for major and specialized procurement, whenever necessary, to suit the particular needs of the procuring entity, subject to the approval of the GPPB. The BAC cannot delegate its conduct of opening and preliminary examination of bids, where discretion and sound judgment is required.

¹ NPM No. 121-2014 dated November 10, 2014

² NPM No. 069-2013 dated June 27, 2013

³ NPM No. 003-2005 dated January 13, 2005

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V

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