



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 03-2015

20 February 2015

MR. EDUARDO RAMON T. DIMAANO

President

BENDIMIL CONSTRUCTION AND DEVELOPMENT CORPORATION

Summerhill Subd.

Pasonanca, Zamboaga City

Re: DPWH Department Order No. 97

Dear Mr. Dimaano:

This refers to your letter dated 19 February 2014¹, seeking clarification on the validity of Department Order No. 97² issued by the Department of Public Works and Highways (DPWH), which effectively contravenes Section 27.5 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 and the Guidelines on the Use of Bid Securing Declaration³.

At the outset, we wish to inform you that during the 7th Regular GPPB Meeting held on 25 October 2013, the Board was informed of Department of Public Works and Highways (DPWH) Department Order (D.O.) No. 97 which disallows the use of BSD as a form of bid security in all procurement activities of DPWH. The GPPB noted that D.O. No. 97 is inconsistent with GPPB Resolution Nos. 03-2012 and 25-2013, and discussed the repercussions and options to address the concerns on the matter. Hence, the Board resolved to advise the DPWH to hold in abeyance the implementation of D.O. No. 97 until a meeting is conducted resolving the matter.⁴

Consequently, after the meeting with DPWH, the Department revoked its D.O. No 97 through the issuance of Department Order No. 18⁵, entitled "*Revoking D.O. No. 97 s. 2013, Disallowing the Use of Bid Securing Declaration as Bid Security*", which provides:

In line with the Government Procurement Policy Board's representation to this Department to implement and allow the use of the Bid Securing Declaration as specifically stated under Section 27.5 of Rule VII, Revised Implementing Rules and Regulations of R.A. 9184 relative to the procurement of infrastructure projects, goods or consultancy services, and in uniformity with other procuring entities of various agencies in the country, D.O. No. 97, series of 2013, is hereby revoked. Strict observance on the use of the prescribed

¹ Received on 24 February 2014.

² Series of 2013, 31 dated October 2013.

³ GPPB Resolution No. 03-2012 dated 20 August 2012

⁴ GPPB Resolution No. 32-2013 dated 25 October 2013.

⁵ Series of 2014, dated 18 February 2014.

format of Bid Securing Declaration under Appendix 24 of R.A.9184 is hereby enjoined. This shall take effect fifteen (15) days after its publication in the Official Gazette or newspaper of nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this order.

Accordingly, the above-mentioned D.O. No. 18 s. 2014, effectively revoked D.O. No. 97, which disallowed the use of Bid Securing Declaration (BSD). As such, the submission of BSD is allowed as a form of bid security in all procurement activities of DPWH. As for all the other procuring entities of the government, BSD continues to be an alternative to the existing forms of Bid Security under the revised IRR, in order to enhance competition and bidders' participation, reduce transactional costs, and promote economy in procurement activities of government.

We also wish to inform you of the issuance of GPPB Resolution No. 25-2013⁶ and GPPB Circular No. 01-2014⁷, amending among others, Section 27.2 of the IRR of RA 9184, which provide that Procuring Entities are given the option to limit the bid security to two (2) acceptable forms in the Bidding Documents, one of which shall be the Bid Securing Declaration (BSD) and the other may be chosen from at least one (1) of the forms identified in Section 27.2.⁸

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_{pm}

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⁶ GPPB Resolution No. 25-2013 dated 30 August 2013.

⁷ GPPB Circular No. 01-2014 dated 23 May 2014.

⁸ Clause 3.1, *ibid.*