



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 53-2015

9 October 2015

MS. MA. ELENA D. CASTRO
Business Unit Head – Rescue & Hydraulics Group
JUNNA INDUSTRIAL CORPORATION
JGC Corporate Center, 2419 Syquia corner
Calderon Sts. Sta Ana, Manila

Re: Bid Securing Declaration

Dear Ms. Castro:

This refers to your letter requesting for our opinion on the denial of your request for reconsideration by the Municipality of Boac, stating that your Bid Securing Declaration (BSD) is not acceptable since it was not specified in their Invitation to Bid (IB).

It is represented that you participated in a bidding of the Municipality of Boac for the Supply and Delivery of one (1) unit Hand Vario Tool. You submitted a BSD as your bid security, but it was not accepted since the Procuring Entity (PE) claimed that the BSD was not specified in its IB as one of the acceptable forms. Your request for reconsideration having been denied, you seek our opinion on the matter. Similarly, you ask if the communications found in the online forum in the Government Procurement Policy Board (GPPB) website is valid and binding.

GPPB and TSO; Authority

At the outset, we reiterate our position in NPM Opinion No. 118-2013¹ clarifying that the GPPB and its Technical Support Office (TSO) do not have the authority to decide for and on behalf, or overturn a decision of a PE. The GPPB is a quasi-legislative body mandated to formulate and amend the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184. It has no quasi-judicial powers and functions; hence, it cannot investigate and ascertain the existence of facts, hold hearings, and exercise discretion of a judicial nature over actual controversies with regard to the conduct of biddings by PEs. Thus, we wish to clarify that the GPPB and the GPPB-TSO cannot dictate upon the PE how to decide or resolve issues, nor pass upon the validity of such decisions, relative to its procurement activities.

Online Forum

Please be informed that www.gppb.topicsolutions.net is neither created nor administered by this office. The views and opinions expressed in the said forum are those of the participants and do not necessarily reflect the official policy or position of the Board or the GPPB-TSO.

¹ Dated 26 December 2013.

Hence, these on-line exchanges, although informative, can neither be the source of definitive information, interpretation, construction and application of the procurement law and its associated IRR, nor may it be regarded as an official source of interpretation, construction and position on the part of the GPPB and its TSO.

BSD as Bid Security

Nonetheless, as mentioned in your letter, the GPPB issued GPPB Resolution No. 03-2012², which adopted the use of BSD as a form of Bid Security, in order to enhance competition and bidders' participation, reduce transactional costs, and promote economy in public procurement. We also wish to inform you of the issuance of GPPB Resolution No. 25-2013³ and GPPB Circular No. 01-2014⁴, 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 and the other may be chosen from at least one (1) of the forms identified in Section 27.2.⁵

Accordingly, the PE is mandated to include the BSD in its Bidding Documents as an acceptable form of bid security and at least one (1) other form provided for under the rules. Thereafter, the bidder has the discretion and choice as to what form of bid security it shall submit, that is, either a BSD or the other form of bid security identified by the procuring entity.

Summary

All told, we wish to clarify that the opinions, views and exchanges contained in "gppb.topicsolution.net" is not a definitive source of information on procurement policies, rules and regulations, specifically on the interpretation, construction and application of the procurement legal framework and its associated rules and guidelines; and, cannot be appropriately used as reference for the official position of the GPPB and its TSO. Additionally, the PE is mandated, under the rules, to include the BSD in its Bidding Documents and accept its submission as an acceptable form of bid security.

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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² Dated 27 January 2012.

³ GPPB Resolution No. 25-2013 dated 30 August 2013.

⁴ GPPB Circular No. 01-2014 dated 23 May 2014.

⁵ Clause 3.1, *Ibid*.