



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 101-2014

3 November 2014

ATTY. REGINA SALVE R. LAPUZ
Chairperson, Bids and Awards Committee for Goods
BASES CONVERSION AND DEVELOPMENT AUTHORITY
2/F Bonifacio Technology Center,
31st St. cor. 2nd Ave., Bonifacio Global City,
Taguig City 1634

Re: Section 32.2.1(a) of the revised Implementing Rules and Regulations of RA 9184

Dear Atty. Lapuz:

This refers to your letter seeking our opinion in relation to Section 32.2.1 (a) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

It is represented that BCDA is in the process of procuring security services for four (4) areas of responsibilities. In addition, the Bid Data Sheet (BDS) for this procurement project requires interested bidders to comply with the rates and issuances of the Philippine Association of Detective and Protective Agency Operators, Inc. (PADPAO). It is also represented that the Technical Working Group noted during the detailed evaluation of bids that one of the bidders specified in its bid, zero (0) for the uniform and for the retirement benefit which drastically decreased its bid. Finally, you interpreted the zero (0) bid as being offered to the Government for free and thereby considered the bid as responsive taking into account the compliance of the bidder with the PADPAO rate. It is in this light that you sought our opinion on the following:

1. Whether the BAC is correct in applying Section 32.2.1(a) of the IRR of RA 9184;
2. How to reconcile Section 32.2.1(a) of the IRR of RA 9184 with Clause 13.1 of the BDS which prohibits bidders from submitting a financial proposal that is below the prescribed PADPAO rate; and
3. Whether the offer of the above-mentioned bidder will violate the rule prescribed by the PADPAO.

It is a cardinal rule in statutory construction that no word, clause, sentence, provision or part of a statute shall be considered surplusage or superfluous, meaningless, void and insignificant.¹ To this end, a construction which renders every word operative is preferred over that which makes some words idle and nugatory.² This principle is expressed in the maxim *Ut*

¹ *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 167330, 18 September 2009.

² *Ibid*, citing *Allied Banking Corporation v. Court of Appeals*, G.R. No. 124290, 16 January 1998, 284 SCRA 327, 367, citing *Shimonek v. Tillanan*, 1 P. 2d., 154.

magis valeat quam pereat, that is, we choose the interpretation which gives effect to the whole of the statute – its every word.³

From the foregoing, Section 32.2.1 (a) of the revised IRR of RA 9184 should be taken as a whole and should not be applied in segregated parts. A careful perusal of this section shows that the appreciation of a zero (0) bid in one item as an offer for free to the government is subject to the condition that all the required items in the bidding documents is addressed or complied with. Thus, if a required item is not addressed or complied with by the bidder, the bid shall be considered non-responsive and the bidder will be automatically disqualified. In which case, a zero (0) bid in one item, though treated an offer for free, can no longer be countenanced since the bid is already considered non-responsive due to non-compliance with other requirements of the Procuring Entity.

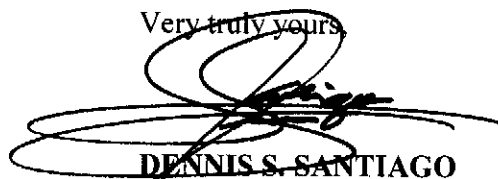
In the BDS⁴ for the project subject of this opinion, one of the requirements is that the financial proposal should not be lower than the amount/rate prescribed by PADPAO. Hence, the zero (0) bid in uniform and retirement benefit which decreases the “Amount in Favor of the Guard and Government” made the bid lower than the PADPAO prescribed rate. Consequently, the bid should have been declared non-responsive for violating Clause 13.1 of the BDS, particularly the failure to comply with the PADPAO rate. This interpretation reconciles the provisions of Section 32.2.1 of the revised IRR of RA 9184 and Clause 13.1 of the BDS which technically are not inconsistent with each other, but are in fact complementary.

Moreover, appreciating the zero (0) bid in one item as an offer for free to the government will create a strange situation wherein a bidder who bids Php99.00 for “Uniform Allowance”⁵ is declared non-responsive (the prescribed amount being Php100.00) while the bidder with zero (0) bid is declared responsive. To prevent this absurd situation, it is but proper to declare non-compliant a bidder who specified zero (0) bid in any item that has a specifically prescribed PADPAO rate.

With regard to the last query, we are not in the position to determine violations of PADPAO rules. The PADPAO, which you have mentioned as the regulatory body for security services, is the proper authority to make the determinations.

We hope 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 you have other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director

1/1/23

³ *Id.*, citing *Inding v. Sandiganbayan*, G.R. No. 143047, 14 July 2004, 434 SCRA 388, 403.

⁴ A bid price wherein the “amount to guard and government” is lower than the minimum rate per guard per month prescribed in PADPAO Wage Order NCR-No.18b for the National Capital Region and PADPAO Wage Order No. RB III-17 for areas within the jurisdiction of Region III shall automatically be disqualified.

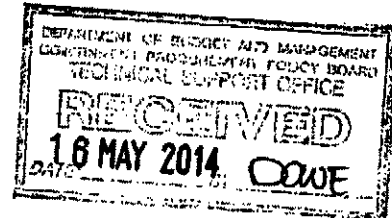
⁵ Uniform Allowance (RA 5487) is Php 100.00 under PADPAO Rate Computation per Wage Order NCR No.18b and Wage Order No. RB III-17.

BCDA

Bases Conversion and Development Authority

15 May 2014

Mr. DENNIS S. SANTIAGO
Deputy Executive Director
Technical Support Office
Government Procurement Policy Board
Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road, Ortigas Center
Pasig City



Dear Deputy Executive Director Santiago:

We would like to solicit the legal opinion of the GPPB in relation to Paragraph 32.2.1 (a) of the Revised implementing Rules and Regulations of R.A. 9184 which states, to wit:

“Completeness of Bid. Unless the Instruction to Bidders specifically allow partial bids, bids not addressing or providing all of the required items in the Bidding Documents including, where applicable, bill of quantities, shall be considered non-responsive and, thus, automatically disqualified. In this regard, where a required item is provided, but no price is indicated, the same shall be considered as non-responsive, but specifying a “0” (zero) for the said item would mean that it is being offered for free to the Government...” (Emphasis supplied.)

Facts:

1. BCDA is in the process of bidding for the Procurement of Security Services for four (4) areas of responsibilities, namely, BCDA Corporate Center, Lots in Bonifacio Global City, Bataan and Clark.

2. Section 13.2 on the Additional Conditions of our Bid Data Sheet (BDS) states that:

“A bid price wherein the “amount to guard and government” is lower than the minimum rate per guard per month prescribed in PADPAO Wage Order NCR-No. 18b for the National Capital Region and PADPAO Wage Order No. RB III-17 for areas within the jurisdiction of Region III shall automatically be disqualified.

Section 9,(b), ii of DOLE Department Order No. 18-A, Series 2011 (rules implementing Articles 106 to 109 of the Labor Code as Amended) provides that *“The place of work and terms and conditions governing the contracting arrangement, to include the agreed amount of the services to be rendered, the standard administrative fee of not less than ten percent (10%) of the total contract cost.”*

3. Since the procurement involves security services, BCDA specified that the rate shall strictly follow PADPAO issuances. We have also emphasized this in our Bid Bulletin. (Please see Annex 1.)

BCDA

Bases Conversion and Development Authority

PROCUREMENT OF SECURITY SERVICES FOR AORS I, II, III AND IV

BID BULLETIN NO. 2014-001

In response to queries during the Pre-Bid Conference for Security Services for AORs I, II, III and IV, held last 14 April 2014 and written requests for clarification, this Bid Bulletin is issued to clarify matters relative to the Bidding. This shall form an integral part of the Bid Documents.

1. Checklist of Requirements for Bidders

1.1 **Tab B**- Only a copy of a valid Mayor's Permit is acceptable and not a mere application for permit.

1.2 Certified True Copy of the following should be certified by the issuing agency:

1.2.1 **Tab C** - Certified True Copy of the Agency's valid "License to Operate" as a Security/Detective Agency from the Supervisory Office for Security and Investigative Agencies (SOSIA) of the Philippine National Police (PNP).

1.2.2 **Tab D** - Certified True Copy of Clearance issued by the SOSIA of the PNP.

1.2.2.1 The clearance should certify that the bidder has not violated any regulation imposed by SOSIA in relation to their License to Operate (LTO) or that the bidder has no adverse record filed with SOSIA in relation to their operations as security provider of both private and government institutions.

1.2.3 **Tab E** - Certified True Copy of PADPAO Membership.

1.3 Affidavit should be properly duly sworn or notarized with complete information on the PTR No., MCLE No., Authority or Commission Number, etc., for the following:

1.3.1 **Tab F** - Notarized Authority of the Signing Official

RECEIVED
APR 24 2014
John 9/18

PPMD

Jan 16:2014
1/24/14
President: [Signature]
1/19/14
Page 1 of 6

Schwarz
2:19

1.4.1 Using Sample Form 4, the "Completed Project" should be a single project (not cumulative) with a value equivalent to at least 50% of the ABC of the Project or Contract on bid. If bidding for two (2) or more AORs, the completed project should be 50% of the bigger or biggest contract or AOR, as the case may be.

1.5 **Tab I** – Copy of Audited Financial Statements for years 2011 and 2012 and/or years 2012 and 2013, if available, stamped "received" by the BIR or its duly accredited and authorized institutions.

1.6 **Tab J** - Computation of the Net Financial Contracting Capacity (NFCC) in accordance with ITB Clause 5 (Sample Form 5)

or

(Original) Credit Line Certificate (CLC), a Certificate of Commitment specific to the contract at hand, issued by a licensed bank to extend to the bidder a credit line if awarded the contract.

If bidding for two (2) or more AORs, the CLC must cover the higher or highest ABC for the AOR, as the case may be.

1.7 **Tab K** – Bid Security (Use Sample Form 7 in case of Bank Guarantee; use Sample Form 8 in case of Surety Bond; use Sample Form 9 in case of Bid Securing Declaration)

1.7.1 Bidders are required to choose only **one (1)** form of Bid Security from the options given in Section 18.1 of the Bid Data Sheet.

1.8 **Tab M** - Using Sample Form 11, the title of the third (3rd) column should be "License to Operate a Radio Station Network".

1.9 **Tab R** – The title of Tab R in the Checklist of Requirements for Bidders should be "List of Guards Earmarked for Deployment to BCDA" (Sample Form 15)

1.9.1 Using Sample Form 15, the list of deployable guards would depend on the AOR chosen by the bidders. However, if bidding for two (2) or more AORs, the bidder shall submit the deployable guards for the highest or biggest AOR.

1.10 **Tab T** - Using Sample Form 17, bidders shall put a check (✓) mark on the appropriate column per AOR. Likewise, the check (✓) mark should come with initials of the authorized representative. The absence of initials will render the particular row invalid.

4.4 BCDA requires that all radio equipment to be used should be compatible with each other. Example: If the bidder is going to use UHF radio, all radio equipment should be UHF.

5. Reminders

- 5.1 BCDA adheres to the **"No-Contact Rule"**. All clarifications should be sent to the BAC for Goods in writing before the issuance of the Bid Bulletin. **Any request for clarification after the issuance of the Bid Bulletin will not be entertained.**
- 5.2 Visiting or calling the member of the BAC, the TWG, the Secretariat or anyone working for BCDA is not allowed and will not be therefore entertained.
- 5.3 The Bid Bulletin shall be published in the PhilGEPS and the BCDA Website. However, only those who purchased the bidding documents are entitled to receive a copy of Bid Bulletins.
- 5.4 The deadline for the Submission of Bids for Security Services for AOR I, II, III and IV on **April 30, 2014 at 9:00 AM at the BCDA Central Receiving and Releasing Area (CRRA) located at the 2nd Floor Bonifacio Technology Center, 31st St. cor. 2nd Avenue Bonifacio Global City, Taguig City shall be strictly followed. The reference time that will be followed shall be the computer time at the CRRA. hence, participating bidders are advised to synchronize their timepieces with the said computer time at the CRRA. Bids submitted after 9:00 AM of April 30, 2014 shall not be accepted for being late.**
- 5.5 The BAC expects the bidders to exercise due diligence in going through the bidding documents to be able to prepare their bids intelligently.
- 5.6 **The Bid Bulletin should form part of the Eligibility Documents to be tabbed as Tab V and shall be placed inside the Eligibility Documents envelope.**
- 5.7 **Every page of the Eligibility and Financial Requirements submitted should be duly signed by the PRINCIPAL BIDDER OR THE BIDDER'S AUTHORIZED REPRESENTATIVE.**

CHECKLIST OF REQUIREMENTS FOR BIDDERS

"ELIGIBILITY AND FINANCIAL REQUIREMENTS SHOULD BE APPROPRIATELY SIGNED AND PROPERLY TABBED AS FOLLOWS:"

ELIGIBILITY DOCUMENTS' ENVELOPE

- Tab A** Registration certificate from Securities and Exchange Commission (SEC), Department of Trade and Industry (DTI) for sole proprietorship, or Cooperative Development Authority (CDA) for cooperatives
- Tab B** Copy of a valid Mayor's permit issued by the city or municipality where the principal place of business of the prospective bidder is located
- Tab C** Certified True Copy of the Agency's "License to Operate" as Security Services Agency issued by Supervisory Office for Security and Investigative Agencies (SOSIA).
- Tab D** Certified True Copy of the Clearance Issued by Supervisory Office for Security and Investigative Agencies (SOSIA) of the PNP
- Tab E** Certified True Copy of the Certificate of Membership issued by the Philippine Association of Detective and Protective Agency Operators, Inc. (PADPAO)
- Tab F** Notarized Authority of the signing official (Sample Form 1a and Sample Form 1b)
- Tab G** Notarized Omnibus Sworn Statement/Affidavit of the prospective bidder (of its background, affiliations, responsibilities as Bidder, authorizations, etc.) - (Sample Form 2)
- Tab H** Statement / List of all on-going and completed government and/or private contracts, similar in nature to the subject of the bidding at hand, within at least the past three (3) years (from March 2011 to present) using the following forms and support documents:
- (FORM SF-GOOD-13a) Statement of all **ON-GOING** government and/or private contracts (Sample Form 3) awarded but not yet started supported with **any** the following documents from TWO (2) of the **biggest** contracts, **IF ANY**:
 1. Contract; or
 2. Notice of Award or Notice to Proceed or Official Receipt of Payment
 - (FORM SF-GOOD-13b) A Statement of **at least one (1) COMPLETED** government and/or private contracts (Sample Form 4) which is similar in nature having a value of at least fifty (50%) of the Approved Budget for the Contract (ABC) of the Project or Contract on bid at hand supported with the following documents (in accordance to Clause 5.4 of the BDS):
 1. Contract; and
 2. Certificate of Completion or Official Receipt of last payment received

FINANCIAL PROPOSAL ENVELOPE

The Financial Component shall contain the following:

Financial Bid Forms shall be duly signed in each and every page by the principal bidder or the bidder's authorized representative

<i>Form 16(a)</i>	For the derivation of Bid Price per AOR indicating the total bid price for one year of the contract
<i>Form 16(b)</i>	Bid price per Security Guard per PADPAO Wage Order No. RB III-17 for areas within the jurisdiction of Region III for AORs III and IV.
<i>Form 16(c)</i>	Bid price per Security Guard per PADPAO Wage Order No. NCR-No. 18b for 12-hour duty within the National Capital Region for AOR I.
<i>Form 16(d)</i>	Bid price per Security Guard per PADPAO Wage Order No. NCR-No. 18b for 8-hour duty within the National Capital Region for AOR II.

Based on Standard Form Number: SF-GOOD-1.3b of 2004

Statement / List of at least One (1) Government &/or Private Contracts completed which are similar in nature

Business Name : _____
 Business Address : _____

Name of Contract	Owner's Name a. Address b. Telephone Nos. c.	Nature of Work	Bidder's Role		Amount at Award a. Amount at Completion b. Duration c.	Date Awarded a. Contract Effectivity b. Date Completed c.
			Description	%		
Government						
Private						

Note: This statement shall be supported with:

- 1 Contract; and
- 2 Clearance, Certificate of Performance, Certificate of Acceptance or Official Receipt(s) of Last Payment

Submitted by : _____
 Designation : _____
 Date : _____
 (Printed Name & Signature)

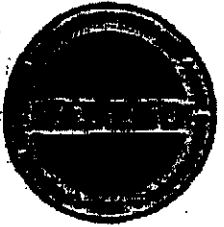
NOTE:

If Partnership or Joint Venture (JV), each Partner or Member Firm of the JV NEED NOT submit supporting documents to this document. Submittals from any of the partners or members of the JV shall constitute compliance. (per Sec. 23.1 (b) of the revised IRR of RA No.

9184)

One of the documents required to be in the Eligibility Envelope of a prospective bidder, is a list of all contracts within the prescribed period that is similar in nature to the contract to be bid. This statement will show that the value of the prospective bidder's largest single completed contract, adjusted to current prices using the National Statistics Office (NSO) consumer price indices available at the G-EPS website, one contract (or an aggregate amount of two contracts) should be at least fifty percent (50%) of the approved budget for the contract to be bid.

16(c)



PHILIPPINE ASSOCIATION OF DETECTIVE AND PROTECTIVE AGENCY OPERATORS (PADPAO), INC.

No. 13, 5th Avenue, Brgy. Bagang Lipunan ng Cranes, Cubao Quezon City
Tel. No.: 723-4882 Fax No.: 723-4885
Email Address: padpaoinc@yahoo.com
Website: www.padpaoinc.org

Cost Distribution Per Month Wage Order No. NCR-185 Effective January 1, 2014

Days worked per week
No. of days/year

7 days
303.50
12 hours work / day

Amount to Guard
New Daily Wage (DW)

P 451.00

Ave. Pay/ Month (451 x 303.5/12 mos.)
Night Differential Pay (Ave. Pay/mon. X 10% x12)
13th Month pay (451 x 303 /12/12)
5 Days Incentive Pay (450+30 x 5/12)
Uniform Allowance (P.A. 5457)
COLA (P 15.00 x 377/12)

P 14,788.04
738.45
1,143.18
184.17
100.00
471.25
8,348.57

26,785.44

Amount to Gov't. in Favor of Guard

Retirement Benefit (P.A. 7841)
SSS Premium
Philhealth Contribution
State Insurance fund
Pag-ibig Fund

P 845.83
1,178.70
178.00
30.00
100.00

2,328.33

A. TOTAL AMOUNT TO GUARD & GOVT.

P 28,114.77

B. AGENCY FEE

Administrative Overhead and Margin

7,174.83

2,911.48

C. VALUE ADDED TAX (Agency fee x 12% VAT-RMC-38-3807)

860.85

MINIMUM CONTRACT RATE FOR 12 HRS

P 37,150.35

Overtime Pay Computation

Overtime 7 days
Rate per hour (55.38) 55.38
Regular days (55.38 x 125% x 298 x 4) 64,008.20
Regular holidays (55.38 x 200% x 12 x 4) 7,086.24
Sundays/ Rest days (55.38 x 100% x 52 x 4) 10,818.70
Special Days (55.38 x 185% x 3 x 4) 1,319.28
112,180.41
12
8,348.57

Divided by:
Overtime pay (4) hours/day

Computation of COLA

Regular days (298 days x 100%) 298
Regular holidays (12 days x 200%) 24
Special Days (3 x 100%) 3
Rest days (52 days x 100%) 52
377 days

NOTE: This supersedes previous issuances 10/17/2013

COMMITTEE ON PADPAO RATE COMPUTATION

RAMON D. BERGADO
President

MANUEL P. BALLEJO
Exec. Vice President

SHEILA S. GERVASIO
Secretary

ROGER M. PEDREZO
Treasurer

CESAR B. POE
Vice President for PSA

HELEN C. AQUINO
Auditor