



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

NPM No. 110-2012

5 September 2012

ATTY. FRANCISCO J. FAROLAN

Partner

MORENTE FAROLAN & MALLARI (MFM)

13-A Ilang-Ilang Street,
Cubao, Quezon City

Re: Section 32.2.3 vis-à-vis Section 34.3 of the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184

Dear Atty. Farolan:

We respond to your letter dated 23 July 2012, ^{2011 original query} seeking clarification on the correct interpretation and application of Sections 32.2.3 and 34.4 of the revised IRR of RA 9184.

It is represented that the bidder submitted a unit price of PhP 898.00 for 52,524 units of goods, which when multiplied will yield a bid of PhP 47,166,552.00. However, the bidder failed to submit its bid in the amount of PhP 47,166,552.00 but instead submitted a bid of PhP 41,166,552.00, upon which the Procuring Entity (PE) based its award citing Section 34.4¹ of the revised IRR of RA 9184. MFM contends that Section 32.2.3(b)² of the revised IRR of RA 9184 should be made to apply to the instant matter in accordance with an opinion³ issued by this office.

For your guidance, although Section 32.2.3(b) of the revised IRR applies in resolving the discrepancies between total price per item and unit price per item multiplied by the item quantity, this determination is still subject to Section 34.4 of the revised IRR, which provides that award of contract should be in the amount whichever is lower between the submitted bid price and the calculated bid price. Assuming for the sake of discussion that the application of corrections based on Section 32.2.3(b) yields the calculated bid price of PhP 47,166,552.00, Section 34.4 dictates that the lower amount between the submitted bid price and the calculated bid price shall prevail, which in this case is the written bid price of PhP 41,166,552.00.

¹ If the BAC determines that the bidder with the Lowest Calculated Bid/Highest Rated Bid passes all the criteria for post-qualification, it shall declare the said bid as the Lowest Calculated Responsive Bid/Highest Rated Responsive Bid, and recommend to the Head of the Procuring Entity the award of contract to the said bidder at its submitted bid price or its calculated bid price, whichever is lower or, in the case of quality-based evaluation procedure, submitted bid price or its negotiated price, whichever is lower. (Underline ours)

² In case of discrepancies between:... (b) total price per item and unit price for the item as extended or multiplied by the quantity of that item, the latter shall prevail;...

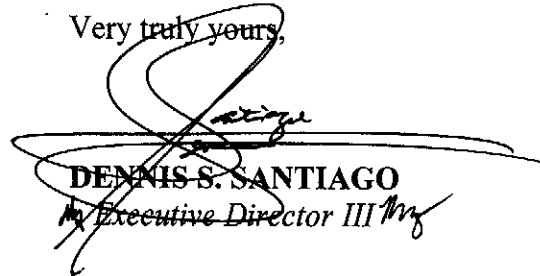
³ NPM No. 20-2010 dated 1 July 2010.

Please note that the issue clarified in NPM No. 020-2010 involved the discrepancy between the bid prices stated in words against that stated in figures. Applying Section 32.4.3 of the IRR Part A (IRR-A), now Section 32.2.3(a) of the revised IRR, the bid price in words prevail over the bid price in figures. Since the submitted bid price in words is the same as the calculated bid price in NPM No. 020-2010, we opined that the application of Section 37.1 of the IRR-A, now Section 34.4 of the revised IRR, is not necessary. In order for said opinion to apply in your case, the submitted bid price in words should also be PhP 47,166,552.00, that is, "Forty Seven Million One Hundred Sixty Six Thousand Five Hundred Fifty Two Pesos", in which case, the submitted bid price in figures amounting to PhP 41,166,552.00 will be prevailed upon by the submitted bid price expressed in words pursuant to Section 32.2.3(a) of the revised IRR.

Based on the foregoing, applying the rules stated in Section 32.2.3 and Section 34.4 of the revised IRR of RA 9184, and absent any showing that the submitted bid price in words is the same as the calculated bid price, we are of the opinion that the submitted bid price of PhP 41,166,552.00 should prevail over the calculated bid price of PhP 47,166,552.00.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular circumstances presented, and may not be applicable to a different set of facts and circumstances. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III