

NPM No. 135-2015

27 November 2015

MS. AMELIA P. SORIANO

BAC Secretariat

SCIENCE CITY OF MUÑOZ

Science City of Munoz City Hall Comp., Tobias St.
 Poblacion West, Science City Of Munoz, Nueva Ecija

Re: Bidder's Bond

Dear Ms. Soriano:

This is in response to your electronic mail dated 24 September 2015, seeking guidance as regards the forms of bid security.

As represented, one of the bidders in your procurement project, the installation of the CCTV Camera System, submitted its bid accompanied by a "Bidder's Bond", which is callable on demand with the specified amount equal to five percent (5%) of the budget cost. In this wise, you are seeking advice as regards the acceptability of the "Bidder's Bond" as a form of bid security.

Section 27.2 of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) provides that in addition to the Bid Securing Declaration provided in Section 27.5 of the IRR of RA 9184, bidders may opt to use any of the following acceptable forms of bid security in the amount equal to a percentage of the Approved Budget for the Contract (ABC) in accordance with the following schedule:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
a) Cash or cashier's/manager's check issued by a Universal or Commercial Bank.	Two percent (2%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)
d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

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For biddings conducted by Local Government Units (LGUs), the Procuring Entity (PE) may also require bidders to submit bid securities in the form of cashier's/manager's check, bank draft/guarantee, or irrevocable letter of credit from other banks certified by the Bangko Sentral ng Pilipinas as authorized to issue such financial instrument.

As we have discussed in a previous opinion¹, bidders are mandated to include bid security in the prescribed form, amount and validity period in the first envelope of their bids. The bid security must be in the amount equal to a percentage of the ABC, in accordance with the schedule indicated in Section 27 of the IRR, and in the form and validity period indicated in the bidding documents of the PE. Failure to enclose the required bid security in the prescribed form and amount shall automatically disqualify the bid concerned.

Furthermore, please be informed of the issuance of GPPB Resolution No. 25-2013² and GPPB Circular No. 01-2014³, providing that PEs 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 any of the forms identified in Section 27.2 of the IRR.

As can be gleaned from the foregoing, the bidder must post a bid security, which is either a Bid Securing Declaration or any of the options indicated by the PE in the bidding documents, and the same must be in the form, amount, denomination, and validity prescribed in Section 27 of the IRR. Accordingly, a bidder may submit a bidder's bond that is a surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security, which shall be in the amount equal to five percent (5%) of the ABC, if such form of bid security has been identified by the PE as one of the forms allowed in the bidding documents.

In conclusion, we are of the opinion that the "Bidder's Bond" is an acceptable form of bid security provided that it is in the prescribed form, amount, denomination, and validity in accordance with Section 27 of the IRR of RA 9184, and that it is in the form the PE elected in its bidding documents.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular 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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¹ NPM No. 63-2014 dated 15 October 2014.

² GPPB Resolution No. 25-2013 dated 30 August 2013.

³ GPPB Circular No. 01-2014 dated 23 May 2014.

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