

NPM No. 161-2015

22 December 2015

DR. AMADO P. IMPER

Bids and Awards Committee (BAC) Chairperson
KALINGA-APAYAO STATE COLLEGE (KASC)
 Bulanao, Tabuk City, Kalinga.

*Received: Amado P. Imper
 Jan 8/16 2:10 pm*

Re : Discount on Bid Price

Dear Dr. Imper:

This refers to your letter requesting our opinion whether the discount offered by a bidder should be deducted from the bidder's original bid price or the Approved Budget for the Contract (ABC).

It is represented that one of the bidders in its submitted Bid Form stated that its bid offer is Twenty One Million Five Hundred Eighty Five Thousand Three Hundred Eight Pesos and Thirty Centavos (PhP 21,585,308.30), and offered a discount of Two Million Five Hundred Eighty Five Thousand Three Hundred Five Pesos and Thirty Centavos (PhP 2,585,305.30). It is noted that the BAC computed the final bid offer of the bidder at Nineteen Million Fifty Four Thousand Five Hundred Two Pesos and Seventy Nine Centavos (PhP 19,054,502.79), the remainder after deducting the offered discount. However, the bidder insisted that its final offer was PhP 21,585,308.30, which is the original offer as stated in the bid form, stating that the offered discount in the amount of PhP 2,585,305.30 should be discounted from the ABC. In this regard, you presented the exact texts of the Bid Form as submitted by the bidder, thus:

(b)1. We offer to execute the Works for this Contract in accordance with the Bid and Bid Data Sheet, General and Special Conditions of Contract accompanying this Bid:

The total price of our Bid, excluding any discounts offered in item (d) below is PhP 21,585,308.30.

The discounts offered and the methodology for their application is: PhP 2,530,805.51.

...

It is in this context that you seek our guidance.

At the outset, we wish to inform you that the Government Procurement Policy Board (GPPB) and its Technical Support Office (GPPB-TSO) adhere to the position that we cannot, nor any other government agency, authority, or official, encroach upon or interfere with the exercise of the functions of the BAC, since these duties and responsibilities fall solely within the ambit of its authority and discretion as sanctioned by law. However, it is also our mandate to ensure the proper implementation by Procuring Entities of Republic Act (RA) No. 9184, its Implementing Rules and Regulations (IRR) and all other relevant rules and regulations pertaining to public

procurement¹. In this regard, we shall provide discussion on the interpretation of the procurement law, rules and regulations pertinent to the issue presented.

RA 9184 and its IRR, including its associated issuances, such as the Philippine Bidding Documents (PBDs), recognize offer discounts from bidders. The Bid Form prescribed in the PBDs is part and parcel of the bidder's bidding documents, and provides a list of declarations and undertakings with respect to its bid and the procurement activity. Of particular relevance to the issue at hand is the statement of the bidder's total bid price in the Bid Form, including the application of discounts offered and the corresponding methodology for its application. Through this facility, the bidder may indicate any discount to be applied on the specified total bid price, and not against the ABC.

In our earlier opinion,² we had the occasion to opine that "discounts stated in the Bid Form allow bidders to itemize the application of discounts that are not yet reflected in the amounts specified in its bill of quantities and detailed estimates, *vis-a-vis* the program of works, as there could be a situation that the decision to offer a discount came long after these amounts have been prepared, finalized and reflected in the bid documents, and changing the entries may be too cumbersome and time consuming for the bidder."

Moreover, Section 32.2.4 of the IRR recognizes the consideration of bid modifications in the computation of the bid price. Bid modifications may be in the form of discounts offered either as part of the financial document or through the Bid Form. Thus, as explained in the same opinion, although Section 32.2.4 of the IRR does not mention the word "discount", it does not mean that discounts are not to be considered in the computation of the bidder's total calculated bid price. ITB Clause 27.4 of the PBDs for the Procurement of Infrastructure Projects provides that the determination of the Lowest Calculated Bid requires the evaluation and correction for computational errors, discounts and other modifications.

Accordingly, we wish to reiterate that the offer of discount contemplated under the IRR of RA 9184 shall be deducted from the total bid price and not from the ABC. The discount can be validly considered in the computation of the total calculated bid price during the bid evaluation stage. In addition, since the offered discount does not qualify the methodology of its application, it can be presumed that the discount will apply to the whole amount of the identified total bid price, that is, PhP 21,585,308.30. Thus, the total calculated bid may be determined by deducting PhP 2,585,305.30 from the bid price of PhP 21,585,308.30.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V



¹ Section 63.1(d) of the IRR of RA 9184.

² Non-Policy Matter No. 17-2013, dated 27 March 2013