

NPM No. 49-2009

14 September 2009

ATTY. RORI-JAMES LAWRENCE R. MIRAFLOR
City Legal Officer/BAC-TWG
OFFICE OF THE CITY LEGAL OFFICER
CITY OF BAYAWAN, NEGROS ORIENTAL

Re : Partial Bids

Dear Atty. Miraflor:

This pertains to your letter dated 14 August 2009 requesting further guidance relative to the conduct of your bidding on a by lot and/or partial bid basis.

Specifically, you are inquiring whether it is proper for your Bids and Awards Committee (BAC) to accept partial bids and to require the bidders to compute their Bid Security based on the total Approved Budget for the Contract (ABC) even if they would submit only partial bids.

At the outset, we wish to inform you that the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 was approved by the Government Procurement Policy Board (GPPB) on 22 July 2009, and took effect last 02 September 2009. However, considering that the bidding subject of your query is still covered by the IRR Part A (IRR-A) of RA 9184, we shall be referring to IRR-A provisions to address the same.

Please be advised that Section 32 of IRR-A provides for the procedure in the detailed evaluation of bids for the procurement of goods and infrastructure projects. The pertinent portion thereof is quoted hereunder, viz:

32.4.1 To determine the Lowest Calculated Bid for the procurement of goods and infrastructure projects, after the preliminary examination of bids, the BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using a non-discretionary criteria, as stated in the Invitation to Apply for Eligibility and to Bid and the Instructions to Bidders, which shall include a consideration of the following:

- a) The bid must be complete. Unless the Instructions 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; xxx (emphasis ours)

It is clear from the foregoing that a procuring entity's decision to allow partial bids must be specifically contained in the Instructions to Bidders (ITB), and not merely reflected in a bid form without any reference whatsoever to the ITB. In the absence thereof, such partial bids must be declared non-responsive and thus, automatically disqualified. Should there be no other responsive bidders, then the BAC has no recourse but to declare a failure of bidding.

Anent your second query, we opine that, should partial bids be allowed, then the ABC per line item as well as the total ABC should be indicated in the Invitation to Apply for Eligibility and to Bid. Consequently, the bidders should be made to compute their bid security on the basis of the total ABC of the bids they are offering. Otherwise, this could result in an absurd situation where a bid security of a bidder offering a partial bid is unconscionably disproportionate to, or, even higher than, the total ABC of its bid.

We hope to have provided sufficient guidance on the matter. Should you have additional questions, please do not hesitate to contact us.

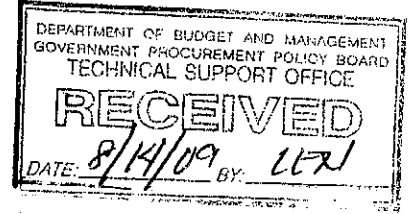
Very truly yours,

Ruby U. Alvarez
for **RUBY U. ALVAREZ**
Executive Director III

35 C-0638



Andy,
Pls. check first if a response to their email query has been made. Give me call if any.
Republic of the Philippines
Province of Negros Oriental
CITY OF BAYAWAN
St. Helen



OFFICE OF THE CITY LEGAL OFFICER

August 14, 2009

GOVERNMENT PROCUREMENT POLICY BOARD

Unit 2506, Raffles Corporate Center
F. Ortigas Jr. Road
Ortigas Center, Pasig City
1106

Eunnie,
Pls. handle. Sign in my behalf. If you need my inputs, just tell me.
Mf 8/14/09

Re: Request for Opinion

Sir/Madam,

I am writing this letter to further clarify the query sent to your office via your website by Ms. Helen Barte of BAC-BAYAWAN CITY, Negros Oriental.

Our query is anchored on the conduct of our bidding wherein we give priority to bidders who bid by lot and would consider only partial bids when no bidders would bid by lot or when some items in the lot bid are non - responsive. Recently, we have adopted a policy requiring all bidders to compute their bid security on the total ABC of the project since we no longer put the ABC per item. The change in the procedure was made known to all our bidders and in fact, they have been complying with the same.

Our query is that was it proper for the BAC to require bidders to compute their Bid Security on the total ABC of the project even if they would only submit partial bid? Second, assuming that in the given situation nobody submitted a lot bid or some items in the lot bid are non-responsive, can we proceed and consider partial bids since partial bids are also allowed as reflected in our Bid Form?

We are anticipating your response the soonest time possible. Your response would help us resolve the matter pending before us.

Thank you and more power!

Atty. Rom James Lawrence R. Mirafior
City Legal Officer/BAC-TWG

gppbtso

From: gppbtso [gppb@gppb.gov.ph]
Sent: Thursday, August 06, 2009 4:19 PM
To: 'Helen Barte'
Subject: RE: query_awarding of items after bids have been submitted and evaluated

Dear Ms. Barte:

In that case, you should declare a failure of bidding if none of the bidders submit a complete bid. In order to accept partial bids, the bidding documents must specify that partial bids are accepted. Moreover, the IAEB should indicate the ABC per line item and the total ABC of the project. The specification of ABC per line item allows bidders to compute for the bid security they will include in their bids.

Should you have other concerns or clarifications that require immediate attention, kindly contact our Help Desk at (02) 9006741 to 44. We also encourage you to participate in the GPPB Online Forum (<http://gppb.topicsolutions.net>).

Information Management Group
GPPB-Technical Support Office

The foregoing response is based on the representations made and may not necessarily apply to other concerns.

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-----Original Message-----

From: Helen Barte [mailto:hlbarte@bayawancity.gov.ph]
Sent: Thursday, August 06, 2009 2:28 PM
To: gppb@gppb.gov.ph
Subject: query_awarding of items after bids have been submitted and evaluated

Sir/Madam:

This query pertains to the awarding of items after bids have been submitted and evaluated.

In the case of Bayawan City Government, we are not specifying the individual ABC of each item in our bid docs. Rather, only the over-all ABC of the purchase request is indicated. However, upon the evaluation of bids, more often than not, partial bids are submitted by our suppliers.

We are now in dilemma as to how to take up/consider these bids. As we could not opt for evaluation by lots, there being partial bids.

Neither could we also consider partial bids as we have not indicated in our bid docs the per item ABCs.

What then could we possibly do about this.

Thank you.

HELEN L. BARTE

