

NPM No. 095-2017

29 December 2017

MS. SALOME DIEL
BAC Secretariat
CITY OF TALISAY, NEGROS OCCIDENTAL

Re: Bidding Documents Rate -

Dear Ms. Diel:

This refers to your electronic mail (e-mail) requesting for clarification on the rate of Bidding Documents. More specifically, you inquire as to whether or not the Procuring Entity may impose a value of 1% of the ABC in the sale of Bidding Documents.

Under Section 17.4 of the 2016 revised Implementing Rules and Regulations of Republic Act No. (RA) 9184, the Government Procurement Reform Act, “[b]idders may be asked to pay a fee to recover the cost for the preparation and development of the Bidding Documents pursuant to the *Guidelines on the Sale of Bidding Documents*¹ (Guidelines).”

As provided for in the Guidelines, “the standard rate for the sale of bidding documents shall be based on the fixed rate on a fixed range approach and shall be applicable in the procurement of goods, consulting services and the contracting for infrastructure projects by the procuring entity, whether procured by way of public bidding or any of the alternative methods of procurement that utilize processes and procedures in competitive bidding.”²

Item 5 of the guidelines provides for the standard rates of bidding documents. The cost of bidding documents shall correspond to the ABC range as provided below. The cost of bidding documents provided below **shall be the maximum amount of fee** that procuring entities can set for the acquisition of bidding documents, thus:

Approved Budget for the Contract (ABC)	Maximum Cost of Bidding Documents (in Philippine Peso)
500,000 and below	500.00
More than 500,000 up to 1 Million	1,000.00
More than 1 Million up to 5 Million	5,000.00
More than 5 Million up to 10 Million	10,000.00
More than 10 Million up to 50 Million	25,000.00
More than 50 Million up to 500 Million	50,000.00
More than 500 Million	75,000.00

¹ Issued through GPPB Resolution No. 04-2012 dated 24 February 2012.


² Item 4.4. of the Guidelines of the Sale of Bidding Documents

Furthermore, Item 4.5 of the Guidelines proscribes procuring entities from adopting any internal rule or practice that establishes fees that are inconsistent or beyond the standard rate for the sale of bidding documents. However, considering that the standard rates provide only for the maximum cost of bidding documents, the Procuring Entities may require an amount within the prescribed range as long as it will not exceed the applicable maximum rate provided in the table; for example, for an ABC of more than PhP 500 Million, the cost of bidding documents can be as low as PhP 10,000.00 to a "maximum" of PhP 75,000.00.

Imposition of a value of one percent (1%) of the ABC in the sale of bidding documents violates Section 17.4 of the 2016 IRR in relation to the Guidelines. Procuring Entities are bound to abide by the procurement law, rules and regulations and considering that the rules provide for specific standard rates of cost of bidding documents, the PEs should impose a value or amount not exceeding the applicable maximum cost per range of ABC as prescribed.

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.
(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director V 

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