

NPM No. 122-2017

29 December 2017

DR. PAULA PAZ M. SYDIONGCO, MPH, CESe

Director III

DEPARTMENT OF HEALTH (DOH)

REGIONAL OFFICE VIII

Government Center, Palo, Leyte 6501

Re: Discounts -

Dear Director Sydiongco:

This refers to your letter requesting clarification with regard to your procurement of infrastructure projects wherein some bidders tend to offer discounts in its bid only on the face of its bid form and not uniformly reflected in its Bill of Quantities and Detailed Estimates. Particularly, the following are the issues being raised:

1. What is the standard procedure pursuant to the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 on the treatment and consideration of a discount offered by a bidder in infrastructure projects?
2. Is it valid for a bidder to offer a discount, in which its offer is only indicated on the face of the bid form without having the same reflected in the Bill of Quantities? and
3. Is it safe for the Bids and Awards Committee (BAC) to deny the discount offered on the ground that the same is not uniformly reflected in the bidder's Bill of Quantities and without a methodology?

Considering that the issues raised are inter-related we shall discuss the same together.

We wish to clarify that discount is a form of bid modification that can be considered during bid evaluation to identify the Lowest Calculated Bid (LCB). Under Instruction to Bidders (ITB) Clause 27.4 of the Philippine Bidding Documents (PBDs) for the Procurement of Infrastructure Projects, bids shall be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, *discounts* and other modifications. Accordingly, an offer of discount in the Bid Form can be validly considered in the computation of the total calculated bid price¹.

In an earlier opinion², we had the occasion to explain the application of discounts in Bid Form, thus:

[R]epublic Act No. (RA) 9184 and its revised Implementing Rules and Regulations (IRR), including its associated issuances, such as the PBDs,

¹ NPM No. 126-2013 dated 27 December 2013.

² *Ibid.*

recognize offering of discounts to bid offers. 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 an earlier 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.

In another opinion³, we expressed our view that indicating an offer of discount in the Bid Form can be validly considered even though the financial documents included in the bid do not contain or indicate any reference to such discount. We explained our opinion in the following manner:

[T]he Bid Form prescribed in the PBDs is part and parcel of the bidder's bid documents, and provides a list of declarations and undertakings with respect to its bid and the procurement activity.

[D]iscounts 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.

Based on the foregoing, we wish to reiterate that an offer of discount in the Bid Form, even though not uniformly reflected in its Bill of Quantities and Detailed Estimates, can be validly considered in the computation of the total calculated bid price to identify the Lowest Calculated Bid. Further, to ensure consistency with the total calculated bid price, the same discount reflected in the Bid Form shall be proportionately applied in the items in the Bill of Quantities and Detailed Estimates.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and 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.

[Signature]
(sgd.)

Executive Director V. [Signature]

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³ NPM No. 017-2013 dated 27 March 2013.