

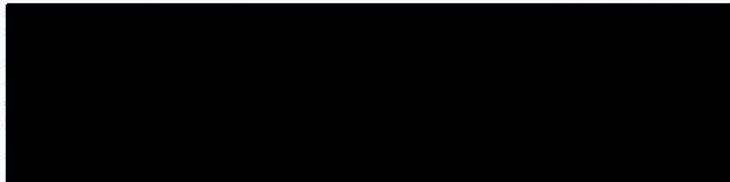


Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 35-2015

8 October 2015




Re: Government Procurement Policy Board (GPPB) Resolution No. 03-2012

Dear :

This refers to your letter seeking our opinion on propriety of the decision of the Department of Agrarian Reform (DAR) Bids and Awards Committee (BAC) in disqualifying RJC Security and Investigation Agency, Inc. on the ground that it only submitted one (1) form of Bid Security, i.e., Bid Securing Declaration (BSD).

As represented, the DAR-BAC issued a Supplemental/Bid Bulletin amending the bidding document, particularly, the requirement of the submission of bid security. The Supplemental/Bid Bulletin required the bidders to submit a BSD and one (1) other form. However, RJC Security only submitted a BSD, which caused its subsequent disqualification by the DAR-BAC.

At the outset, we wish to inform you that the GPPB and its Technical Support Office (GPPB-TSO) only render Policy and Non-Policy Matter Opinions, respectively, on issues purely relating to the interpretation and application of our procurement laws, rules, and regulations. It has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding since it has no quasi-judicial functions or investigatory powers under the law. Moreover, we adhere to the position that apart from courts having actual jurisdiction over the subject matter of a case, 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.

Section 27.2 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, as amended through Government Procurement Policy Board (GPPB) Resolution No. 25-2013 dated 30 August 2013, provides that the procuring entity shall indicate in the Bidding Documents the acceptable forms of bid security that bidders may opt to use, which shall include the BSD as provided in Section 27.5 of the same IRR. 

¹ Non-Policy Matter (NPM) No. 46-2013 dated 11 June 2013.

At this juncture, we wish to reiterate the existing rule on the submission of bid security as explained in Non-Policy Matter Opinion No. 021-2014 dated 17 June 2014, to wit:

"[B]idders are not required to post two (2) forms of bid security. We wish to clarify that the PE is mandated to include the BSD in its Bidding Documents as an acceptable form of bid security and at least one (1) of the forms provided for under the rules. Ultimately, the bidder has the discretion and choice as to what form of bid security it shall post."

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.

(sgd.)

~~DENNIS SANTIAGO~~

Executive Director V 

