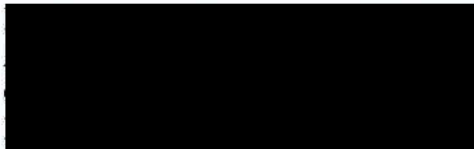


**NPM No. 89-2015**

13 October 2015



**Re: Forms of Bid Security**

Dear :

We respond to your electronic mail (e-mail) dated 2 October 2015 seeking guidance on which form of bid security a procuring entity should require.

At the outset, we wish to remind you that the Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) do not have the authority to decide for and in behalf of a procuring entity. Thus, we wish to clarify that the GPPB and the GPPB-TSO cannot dictate unto the procuring entity how to decide relative to its procurement activities.

Nonetheless, we refer you to an earlier opinion<sup>1</sup> where we discussed GPPB Resolution No. 25-2013<sup>2</sup> in this wise:

During its 3<sup>rd</sup> Regular Meeting last 23 May 2014 and pursuant to its original intent, the Board clarified that pursuant to Section 27.2 of the IRR of RA 9184, as amended, Procuring Entities (PEs) are given the option to limit the acceptable forms of bid security in the Bidding Documents, one of which shall be the Bid Securing Declaration (BSD) as a mandatory form to be included, while the other form may be chosen from at least one (1) of the following, thus:

Form of Bid Security	Amount of Bid Security (Equal to Percentage of the ABC)
a) Cash or cashier's/manager's check, issued by a Universal or Commercial Bank.	Two percent (2%)
b) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by	

<sup>1</sup> NPM No. 21-2014, dated 17 June 2014.

<sup>2</sup> Dated 30 August 2013 and published in *Malaya Business Insight* on 14 April 2014.

a Universal or Commercial Bank, if issued by a foreign bank.	
c) Surety bond callable upon demand issued by a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Five percent (5%)
d) Any combination of the foregoing.	Proportionate to share of form with respect to total amount of security

On the other hand, the prospective bidder is given the choice to post just one form of bid security, that is, a BSD OR any other form of bid security indicated by the PE in the Bidding Documents.

To clarify the above-mentioned Resolution, this office subsequently issued GPPB Circular No. 01-2014<sup>3</sup> to explain that the prospective bidder shall be given the option to post either a BSD or any of the forms of bid security identified by the procuring entity in its Bidding Documents.

In sum, we wish to reiterate that:

1. 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; and
2. The bidder has the discretion and choice as to what form of bid security it shall post or submit from the two options the PE indicated in the Bidding Documents.

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.

(sgd.)

**DENNIS S. SANTIAGO**  
*Executive Director V*

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<sup>3</sup> Dated 23 May 2014 and published in The Daily Tribune on 3 September 2014.