



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GENERAL SOLANO STREET, SAN MIGUEL, MANILA

BIDS AND AWARDS COMMITTEE
(Special BAC Meeting)

MINUTES OF MEETING

January 14, 2021, 1:30 p.m.

Bids and Awards Committee Conference Room

I. Attendance

Chairperson	Undersecretary Janet B. Abuel
Vice Chairperson	Director Andrea Celene M. Magtalas
Members:	OIC Assistant Director Rosemarie Pagala Director Dante De Chavez OIC Director Rowel D. Escalante Mr. Virgilio Umpacan, Jr.
End-User Representatives/ Provisional Member	Director Thea Marie Corinne F. Palarca
Technical Working Group:	Mr. Rainier Diaz Ms. Jeanalyn Caceres Mr. George Sotelo Atty. Keith Francis Briones Atty. Madelaine Meris Ms. Janina Papa Ms. Darlene Reyes
Secretariat:	Joyce D. Labao Ms. Rhonna Regina Puno Ms. Abegail Igna

II. Call to Order

The BAC Chairperson called the meeting to order after determining that there is a quorum at 1:32 p.m.

The agenda for January 14, 2021 BAC Meeting is as follows:

Agenda

- A. Bureau of Internal Revenue (BIR) Response to the Query Regarding the BIR Forms Submitted by MMEEN Construction as part of the post qualification requirements
- B. Blacklisting Procedures – MMEEN Construction

III. Highlights of the Meeting

Topics/Issues	Comments/Decisions/Instructions
<p>A. Bureau of Internal Revenue (BIR) Response to the Query Regarding the BIR Forms Submitted by MMEEN Construction as part of the post qualification requirements; and</p> <p>B. Blacklisting Procedures – MMEEN Construction</p>	<ul style="list-style-type: none"> - The BAC Vice Chairperson presented the facts of the case at hand for discussion. - Following is a summary of the presentation: <ol style="list-style-type: none"> 1. The project at hand is the “Replacement of Tiles and Repainting of Interior Walls and Finishes of Budget Information and Training Service Office. 2. The BIR replied to the DBM request for clarification finding the veracity against the submitted documents of the bidder MMEEN Construction. 3. On December 15, 2020 under a BAC Resolution, the DBM-BAC declared the post disqualification of MMEEN Construction for the project due to the following: (1) Failure to timely submit the VAT Returns for the period July to October 2020 as part of the post-disqualification requirements pursuant to Section 34.2 of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184; (2) Questionable June 2020 VAT Declaration Form submitted as part of the post qualification requirements, wherein the QR code appearing on the June 2020 VAT Declaration Form is determined to be identical to that of the May 2020 VAT Declaration Form, which per validation, showed the same serial code when scanned; and (3) Non-compliance with the required contents of the bid Form as prescribed in the bidding documents for the project consistent with the format under the 6th edition of the Philippine Bidding Documents. 4. MMEEN did not file a request for reconsideration of the Notice for Disqualification. 5. On the Notice of Disqualification the BAC also said “show cause” why MMEEN should not be suspended or blacklisted given the noted irregularity in the submitted BIR documents. 6. Consistent with Section 69 of the 2016 Revised IRR of RA No. 9184, the HoPE shall impose on the bidders or prospective bidders the administrative penalty of suspension for one (1) year for the first offense for the following violations: (b) submission of bids containing false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of the eligibility screening, or any other stage of the competitive bidding. 7. Further, Section 69.2 of the IRR provides: <i>“69.2 In addition to the penalty of suspension, the bid security or the performance security posted by the concerned bidder or prospective bidder shall also be forfeited.”</i> 8. Consistent with Appendix 17 provides among others that the “submission of bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening of any other stage of public bidding” is a ground for blacklisting.

Topics/Issues	Comments/Decisions/Instructions				
	<p>9. The notice/show cause was sent to MMEEN on December 21, 2020; the representative of MMEEN was also personally informed on December 22, 2020.</p> <p>10. As part of due diligence, the TWG was instructed to coordinate with the BIR.</p> <p>11. In an email dated January 5, 2021, the BIR informed the DBM-BAC that: (1) the reference numbers of BIR Forms are generated via algorithm. Hence, no VAT declaration form should have the same reference numbers. (2) There were no records found for the May and June Vat Returns. Therefore, the May and June 2020 VAT Returns submitted to the DBM contained the reference and Batch Numbers of the April 2020 VAT Return submitted to the BIR.</p> <p>12. Consistent with 34.2 and 69.2 of the 2016 Revised IRR, Section 4.1 of Appendix 17 the bid security posted by the concerned bidder or prospective bidder shall be forfeited.</p> <p>13. Pursuant to Section 6.0 of Appendix 10, the BAC resolved to recommend to the Head of the Procuring Entity: (1) the issuance of a blacklisting order for two years in all government procurement activities against MMEEN Constructions; and (2) the issuance of a written demand to MMEEN Construction to pay a fine in the amount of P142,109.90, equivalent to the difference between the evaluated bid prices of MMEEN Construction with the 2nd Lowest Calculated Bid within fifteen (15) days from receipt of the said written demand.</p> <p>14. Also raised as a concern was Section 3(b) of the Bid Securing Declaration (BSD) Form which states that the BSD cease to be valid on the following circumstance: <i>"b. I am/We are declared ineligible or post disqualified upon receipt of your notice to such effect, and (i) I/we failed to timely file a request for reconsideration \ or (ii) I/we filed a waiver to avail of said right;"</i> In an initial clarification with the GPPB-TSO, this was confirmed to be a controlling provision.</p> <p>15. Given the guidance of the GPPB-TSO concerning the above concern (No. 14 of this list), the BAC will have to refer to Appendix 17 of the 2016 Revised IRR of RA No. 9184.</p> <p>- Considering all facts as presented, the BAC Chairperson instructed the TWG and the Secretariat to formally seek clarification from the GPPB-TSO providing them with the complete narration of the facts.</p>				
<p>C. Other Matters</p> <p>BAC Action Items</p>	<table border="1" data-bbox="651 1839 1426 2047"> <thead> <tr> <th data-bbox="657 1848 1043 1877">Project</th> <th data-bbox="1043 1848 1420 1877">To Do</th> </tr> </thead> <tbody> <tr> <td data-bbox="657 1877 1043 2038">Blacklisting Procedures – MMEEN Construction</td> <td data-bbox="1043 1877 1420 2038">The Secretariat shall immediately draft a formal letter to the GPPB-TSO to seek clarification on the following:</td> </tr> </tbody> </table>	Project	To Do	Blacklisting Procedures – MMEEN Construction	The Secretariat shall immediately draft a formal letter to the GPPB-TSO to seek clarification on the following:
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Topics/Issues	Comments/Decisions/Instructions	
		<ol style="list-style-type: none"> <li data-bbox="1042 192 1441 741">1. In relation to Item 3 of the BSD Form, if the erring bidder did not file a request for reconsideration when they were declared ineligible or post disqualified, then the BSD ceases to be valid. As such the BAC can no longer impose penalties. Thus the BAC were advised to refer to Appendix 17 again which does not include the imposition of a fine. <li data-bbox="1042 779 1441 1012">2. To request for a meeting to clarify on matters relating to the blacklisting of MMEEN Construction considering the attending facts.

IV. Adjournment

There being no other matters to be discussed, the meeting was adjourned at 3:07 p.m.

Prepared by:

Noted by:

Joyce D. Labao
Secretariat

Director ANDREA CELENE MAGTALAS
Vice-Chairperson