



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

OCT 21 2013

DEPARTMENT ORDER)
No. **97**)
Series of 2013)

**SUBJECT: DISALLOWING THE USE OF BID
SECURING DECLARATION AS BID
SECURITY**

Section 27.5 of Rule VII, Revised Implementing Rules and Regulations of R.A. 9184, allows a bidder to submit a Bid Securing Declaration, in lieu of Bid Security. Except for the fact that in the Bid Securing Declaration, the bidder commits to enter into contract and to provide the required performance security, the Bid Securing Declaration is not supported by any monetary consideration. This is inconsistent with the intent and spirit of Section 27 of R.A. 9184, which provides that all bids shall be accompanied by a Bid Security, which shall serve as a guarantee that, after receipt of the Notice of Award, the winning bidder shall enter into a contract with the Procuring Entity within the stipulated time and furnish the required performance security. The SPECIFIC AMOUNTS (emphasis supplied) and allowable forms of the Bid Security are prescribed in the Revised IRR.

The rationale of the law in requiring that the Bid Security should have a specific monetary value is that in the event the bidder, who is awarded the contract for the project, refuses or fails to enter into contract without valid or lawful cause, the specified amount shall be forfeited by the Procuring Entity to answer for the financial loss that the Procuring Entity shall incur on account of the refusal or failure of the bidder to enter into contract. Since a Bid Security in the form of a Bid Securing Declaration is not supported by any financial value, it does not serve the purpose or intention of the statutory prescription that the specific amounts shall be prescribed in the IRR and the purpose for which the Bid Securities are required.

In view of the foregoing, all Bids and Award Committees in the DPWH Central Office, Regional Offices and District Offices, whether for infrastructure, goods or consultancy services, are hereby strictly enjoined not to accept a Bid Securing Declaration as a form of Bid Security. Henceforth, only cash, cashier's/manager's check, bank draft, bank guarantee, irrevocable standby letter of credit issued by a universal or commercial bank (2% of the ABC), surety bond (5% of the ABC) callable on demand and issued by a surety or insurance company and certified by the Insurance Commission as authorized to issue such security or Bid Securities in the forms and amounts prescribed in Section 27.2, Rule VIII of the Revised Implementing Rules and Regulations of R.A. 9184, shall be accepted. Bids not accompanied by Bid Securities in any of the forms and amounts prescribed in Section 27.2 shall be rejected outright.

This prohibition shall be discussed during the pre-bid conferences and shall be indicated in the Bid Data Sheets for information/compliance of the prospective bidders.

Violation of this order shall be a ground for administrative/disciplinary action provided under existing laws, rules and regulations.

This order shall take effect fifteen (15) days after its publication in the Official Gazette or newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this guideline.


ROGELIO L. SINGSON
Secretary

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Office of the Secretary



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