



Republic of the Philippines
OFFICE OF THE CITY MAYOR
City Of Silay



BIDS AND AWARDS COMMITTEE (BAC)

Silay City Hall

Silay City, Negros Occidental

ATTENTION:

MR. RAMON H. DUMANCAS

BAC Chairman

SUBJECT:

INVOKING THE USE OF RULE X, SECTION 41 RESERVATION CLAUSE WHERE THE HOPE RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS, DECLARE FAILURE OF BIDDING, AND OR NOT TO AWARD THE CONTRACT.

GREETINGS:

Please be advised that the undersigned Head of the Procuring Entity is invoking the use of **Rule X, Section 41** of the Revised IRR of RA 9184 (**Reservation Clause**) relative to the procurement of Two Thousand (2,000) sacks of rice (premium), with Approved Budget for the Contract (ABC) in the amount of Five Million Pesos (Php5,000,000.00), under P.R. No. 0677, I.T.B. No. 0213 (hereinafter "**Project**"), the funds of which is chargeable under "Other MOOE – Peace and Order Program (CMO)", to be given to the Philippine National Police and Philippine Army as part of Silay City's assistance to law enforcement agencies, due to the following reasons:

1. An examination of the Purchase Request of the Project would reveal that the description/technical specifications of the subject items to be procured **were not properly specified**. What was merely indicated in the "Item Description" were the words "Rice (Premium)". It must be stressed that under Rule VI of the Revised IRR of R.A. 9184 (Preparation of Bidding Documents), Section 17.2 thereof provides:

x x x

RULE VI - PREPARATION OF BIDDING DOCUMENTS

Section 17. Form and Contents of Bidding Documents:

x x x

17.2. The specifications and other terms in the Bidding Documents shall reflect the necessary specifications required to meet the needs of the Procuring Entity in clear and unambiguous terms. (Emphasis and underscoring supplied)

x x x

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[Signature]

2. The undersigned wishes to introduce major changes in the item description/technical specifications of the Project in order to reflect the necessary specifications required to meet the needs of the Procuring Entity in clear and unambiguous terms, to wit:

ITEM DESCRIPTION/ SPECIFICATION	QUANTITY	UNIT
<p>Specifications of Rice:</p> <ul style="list-style-type: none"> • Of good quality, no live insects or pests, and no busted bags; • Locally harvested and locally milled; • Well-milled, long grain, white rice; • Have moisture content not exceeding 14%; 	2,000	sacks
<p>Packaging:</p> <ul style="list-style-type: none"> • Rice shall be packaged in a brand new woven polypropylene sacks and must be clean, sturdy, and strongly sewn or sealed; 		
<p>Weight:</p> <ul style="list-style-type: none"> • Fifty (50) kilos per sack; 		
<p>Age of Milled Rice must not be more than two (2) months after receipt of Notice of Award by the Supplier;</p>	N/A	N/A
<p>Rice must be available for pick-up within Seven (7) calendar days upon receipt of purchase order.</p>		

Moreover, as provided under **Rule X, Section 41** of the Revised IRR of RA 9184 (**Reservation Clause**):

“Section 41. Reservation Clause

The HOPE reserves the right to reject any and all bids, declare a failure of bidding, or not to award the contract in the following situations: a) If there is prima facie evidence of collusion between appropriate public officers or employees of the Procuring Entity, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party, including any act which restricts, suppresses or nullifies or tends to restrict, suppress or nullify competition; b) If the BAC is found to have failed in following the prescribed bidding procedures; or c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the GOP, as follows: (i) if the physical and economic conditions have significantly changed so as to render the project no longer

economically, financially, or technically feasible, as determined by the HOPE; (ii) if the project is no longer necessary as determined by the HOPE; or (iii) if the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.”

WHEREFORE, based on the foregoing reasons, the undersigned Head of the Procuring Entity, hereby invokes **RULE X, SECTION 41 (RESERVATION CLAUSE)**, and to **REJECT ANY AND ALL BIDS** and to **NOT AWARD THE CONTRACT**;

The procurement project which was cancelled based on the Reservation Clause shall again be submitted for bids after compliance with the advertisement, posting and other requirements of the procurement law and its associated rules.

All participating bidders may secure the refund of their bidding document expenses as provided under Section 17.5 of the afore-mentioned Revised IRR, to wit:

17.5. Bidding Documents Fee maybe refunded in accordance with the aforementioned Guidelines based on the grounds provided for under Section 41 of the Act and this IRR.

SO ORDERED.

Silay City, Negros Occidental, December 1, 2020.


MARK ANDREW ARTHUR J. GOLEZ
City Mayor/ Head of the Procuring Entity