



BIDS AND AWARDS COMMITTEE
(CENTRAL OFFICE)

RESOLUTION NO. 17-2019

RECOMMENDING THE AWARD OF CONTRACT TO SUCCESS BUSINESS MACHINES CORPORATION FOR LOT 1 (AUDIOVISUAL EQUIPMENT) AND DECLARING A FAILURE OF BIDDING FOR LOT 2 (PHOTOGRAPHIC EQUIPMENT) FOR THE SUPPLY, DELIVERY, CONFIGURATION AND SETUP OF VARIOUS MULTIMEDIA EQUIPMENT FOR THE TESDA CENTRAL OFFICE - REBIDDING

WHEREAS, the Bids and Awards Committee (BAC), as mandated by Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, is the body tasked to post invitations to bid, to conduct pre-bid conferences, to determine the eligibility of prospective bidders, to receive and open bids, to conduct the evaluation of bids, to conduct post-qualification and to recommend award of contracts to the Head of the Procuring Entity;

WHEREAS, the BAC declared a first failure of bidding on 04 February 2019 pursuant to BAC Resolution No. 02-2019. A copy of said BAC Resolution is hereto attached as Annex "A";

WHEREAS, pursuant to Section 35.2 and 35.3 of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act No. 9184 in order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates. Based on its findings, the BAC shall revise the terms, conditions, and specifications, and if necessary, adjust the Approved Budget for the Contract (ABC), subject to the required approvals, and conduct a rebidding with re-advertisement and/or posting, as provided for in Section 21.2 of the 2016 RIRR of Republic Act No. 9184;

WHEREAS, the end-user submitted to the BAC the revised technical specifications of the items subject of the procurement for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office - Rebidding as a result of the mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents;



WHEREAS, pursuant to Section 11.2 of the 2016 RIRR of RA 9184, the Director General as the Head of Procuring Entity (HoPE) designated an officer who has technical expertise relevant to the procurement at hand and a representative from the end-user or implementing unit for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office - Rebidding. A copy of TESDA Order No. 081, Series of 2019, issued on 13 February 2019 is hereto attached as Annex "B";

WHEREAS, the BAC Chairperson created a Technical Working Group (TWG) for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office - Rebidding that shall assist the BAC in the review of the technical specifications, scope of work, and terms of reference, review of bidding documents, evaluation of bids, post-qualification and resolution of request for reconsideration. A copy of the BAC Order No. 08, Series of 2019, issued on 12 March 2019 is hereto attached as Annex "C";

WHEREAS, the Technical Education and Skills Development Authority (TESDA) intends to apply the sum of One Million Nine Hundred Fifty-Three Thousand Two Hundred Twenty-Four Pesos and 67/100 (Php1,953,224.67) for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office – Rebidding. Copies of the Terms of Reference (TOR), the Purchase Request and the Certificate as to Availability of Funds (CAF) are hereto attached as Annexes "D", "E" and "F", respectively;

WHEREAS, pursuant to Section 20 of the RIRR of RA 9184, the BAC conducted a pre-procurement conference with the end-user's representative on 16 April 2019 at 10:20 A.M. at the AS Conference Room located at the 2nd Floor, TESDA Administration Building in Taguig City following the receipt of the approved TOR for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office - Rebidding. A copy of the Minutes of the Meeting is hereto attached as Annex "G";

WHEREAS, pursuant to Section 13 of RIRR of RA 9184, the BAC invited the Commission on Audit (COA) and three (3) other observers registered with the Securities and Exchange Commission (SEC) to witness the bidding activities particularly on the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office – Rebidding for purposes of transparency and good governance. The copies of the letters to observers are hereto attached as Annexes "H", "H-1", "H-2" and "H-3", respectively;

WHEREAS, pursuant to Section 21 of the RIRR of RA 9184, TESDA advertised the Invitation to Bid (ITB) for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office – Rebidding in the websites of the Philippine Government Electronic Procurement System (PhilGEPS) and TESDA and posted the same at the bulletin board near TESDA Gate 1 on 26 April 2019. Proof of postings are hereto attached as Annexes "I", "I-1" and "I-2", respectively;

WHEREAS, responding to the abovementioned Invitation to Bid, three (3) prospective bidders signified their interest to participate in said bidding process by purchasing bidding documents namely 1) The Brain Computer Corporation 2) Audio 4 Design N Technology Corporation 3) Success Business Machines Corporation. Copies of the official receipts for the purchase of bidding documents are hereto attached as Annexes "J", "K" and "L", respectively;

WHEREAS, the pre-bid conference was held on 07 May 2019 at 11:05 a.m. at the AS Conference Room located at the 2nd Floor, TESDA Administration Building in Taguig City. Likewise, the minutes of the meeting was posted at the website of TESDA on 10 May 2019 in compliance with Section 22.4 of the 2016 RIRR of RA 9184 and Government Procurement Policy Board (GPPB) Resolution No. 03-2018 dated 09 March 2018. Copies of which are hereto attached as Annexes "M" and "N";

WHEREAS, the bid opening was held on 21 May 2019 at 2:10 p.m. at the AS Conference Room located at the 2nd Floor, TESDA Administration Building in Taguig City. A copy of the Minutes of the Meeting is hereto attached as Annex "O";

WHEREAS, pursuant to Section 30.1 of the RIRR of RA 9184, the BAC shall check the submitted documents of each bidder against a checklist of required documents to ascertain if they are all present, using a non-discretionary "pass/fail" criterion. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete or patently insufficient shall be considered as "failed." Otherwise, the BAC shall rate the said first bid envelope as "passed";

WHEREAS, The Brain Computer Corporation, Audio 4 Design N Technology Corporation and Success Business Machines Corporation passed the eligibility requirements pursuant to Sections 23 and 25 of the RIRR of RA 9184. However, said bidders only submitted their bids for Lot 1 (Audiovisual Equipment). A copy of the Eligibility Requirements Checklist and Abstract of Bids are hereto attached as Annexes "P" and "Q", respectively;

WHEREAS, the BAC evaluated the financial component of the bids to determine the Lowest Calculated Bid pursuant to Section 32.2 of the RIRR of RA 9184. A copy of the bid evaluation report is hereto attached as Annex "R";

WHEREAS, pursuant to Section 34.2 of the 2016 RIRR of RA 9184, a Notice of Lowest Calculated Bid (LCB) dated 22 May 2019 was issued to Success Business Machines Corporation. Said bidder was required to submit the documents stated in the Instruction to Bidders (ITB) Clause 29.2 of the Bid Data Sheet of the Bidding Documents in certified as true copy/ies from the original by the authorized representative for purposes of post-qualification within five (5) calendar days from receipt by the bidder of the notice from the BAC that the bidder is the Lowest Calculated Bid. A copy of the Notice of LCB dated 22 May 2019 which was received by Success Business Machines Corporation on 23 May 2019 is hereto attached as Annex "S";

WHEREAS, Success Business Machines Corporation submitted the documentary requirements stated in the Notice of LCB on 28 May 2019;

WHEREAS, given the Bid Evaluation was done on 22 May 2019 and pursuant to Section 34.8 of the 2016 RIRR of RA 9184, the BAC has only twelve (12) calendar days or until 03 June 2019 to complete the post-qualification process. The post-qualification entails verification, validation, and ascertainment of all statements made on the documents submitted by the bidder with the LCB as stated in the Bidding Documents. Also, the TWG has to verify/check the performance of the bidders relative to their previous contracts with the government and/or private entities;

WHEREAS, considering that the BAC only received the post-qualification documents of the LCB last 28 May 2019, the BAC requested for the extension of the period within which to complete the post-qualification process for the abovementioned procurement which would not exceed forty-five (45) calendar days, or on or before 05 July 2019. A copy of the approved memorandum dated 31 May 2019 for the Director General from the BAC is hereto attached as Annex "T";

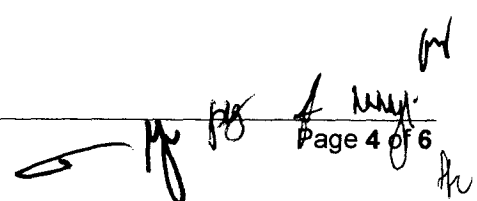
WHEREAS, the BAC invited the COA and four (4) observers registered with SEC to witness the presentation of the Post-Qualification Report of the TWG on 19 June 2019 for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office – Rebidding for purposes of transparency and good governance. The copies of the letters to the observers is hereto attached as Annexes "U", "U-1", "U-2", "U-3" and "U-4", respectively;

WHEREAS, the TWG reported that the bid offered by Success Business Machines Corporation is not compliant with the requirements set forth by the agency pursuant to Section 34 of Rule X (Post-Qualification) of the RIRR of RA 9184. Based on the TWG Report, the said bidder failed to comply with the agency requirements due to the following reasons:

- a) The bidder failed to support its statement of compliance to the warranty of all items in Section VII (Technical Specifications) of the Bidding Documents;
- b) The bidder failed to submit its Quarterly Income Tax Returns (Form 1702Q) covering the previous six (6) months as filed through Electronic Filing and Payment System (eFPS); and
- c) The bidder failed to submit the updated Eligibility Documents under Annex "A" of the PhilGEPS Certificate of Registration (Platinum Membership).

A copy of the Post-Qualification Report is hereto attached as Annex "V";

WHEREAS, pursuant to Section 34.5 of the RIRR of RA 9184, the BAC in its letter dated 19 June 2019 notified Success Business Machines Corporation of its post-disqualification and the grounds for it. A copy of the letter dated 19 June 2019 to Success Business Machines Corporation is hereto attached as Annex "W";


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WHEREAS, pursuant to Section 55.1 of Rule XVII (Protest Mechanism) of the RIRR of RA 9184, Success Business Machines Corporation had been given three (3) calendar days from 24 June 2019 or until 27 June 2019 within which to file its request for reconsideration;

WHEREAS, Success Business Machines Corporation filed its request for reconsideration on 27 June 2019. Said bidder admitted that it did not support the warranty for all the items at the Statement of Compliance in Section VII of the Bidding Documents. However, its authorized representative, Mr. Jose B. Sabado, had fully signed and stated that he was amenable to all statements in said Section of the Bidding Documents. Further, Success Business Machines Corporation had attached all the brochures of the equipment they offered and all the specifications were found in the brochures. On another note, said bidder stated that Mr. Sabado had submitted all the post-qualifications documents as stated in the Notice of LCB. A copy of the Request for Reconsideration from Success Business Machines Corporation to the BAC dated 26 June 2019 is hereto attached as Annex "X";

WHEREAS, in its meeting on 02 July 2019, the BAC granted the request for reconsideration of Success Business Machines Corporation based on the following reasons:

1. Based on careful evaluation of the bidder's response, the BAC agreed that the bidder's response is sufficient with the agency's technical specifications. Moreover, the warranty certificate is being given along with the product upon its delivery;
2. The brochures submitted by the bidder is considered as sufficient evidence to support the statement of "comply" in the Technical Specifications;
3. The BAC upon review of the Bureau of Internal Revenue (BIR) Rules and Regulations, agreed that the submitted documents from the bidder are sufficient and in compliance with the agency's requirement on latest Income Tax Returns and Value-Added Tax Returns; and
4. The updated PhilGEPS Certificate of Registration and its Annex "A" containing the updated list of documents is sufficient to comply with the agency's requirements.

A copy of the minutes of meeting dated 02 July 2019 is hereto attached as Annex "Y";

WHEREAS, the eligible bidders namely The Brain Computer Corporation, Audio 4 Design N Technology Corporation and Success Business Machines Corporation only submitted their bids for Lot 1 (Audiovisual Equipment) and said bidders did not submit its bids for Lot 2 (Photographic Equipment) on 21 May 2019;

WHEREAS, pursuant to Sections 35.1 (a) and 35.5 of the 2016 RIRR of RA 9184, the BAC shall declare the bidding a failure when no bids are received. Should there occur a second failure of bidding, the Procuring Entity may resort to negotiated procurement, as provided for in Section 53.1 of the said RIRR.

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, to recommend the award of the contract to Success Business Machines Corporation as the bidder with a Lowest Calculated and Responsive Bid for Lot 1 (Audiovisual Equipment) in the amount of One Million One Hundred Eight Thousand Eight Hundred Pesos (Php1,108,800.00) subject to compliance with existing procurement law and government accounting and auditing rules and regulations.

BE IT RESOLVED FINALLY, to declare a failure of bidding for Lot 2 (Photographic Equipment) for the Supply, Delivery, Configuration and Setup of Various Multimedia Equipment for the TESDA Central Office - Rebidding and to resort to Negotiated Procurement subject to compliance with the requirements of Section 53 of the RIRR of RA 9184.

Resolved this 2nd day of July, 2019.


REBECCA J. CALZADO
BAC Chairperson


CONRADO G. BARES
BAC Vice Chairperson


MA. MAGDALENA P. BUTAD
BAC Member

© DID NOT PARTICIPATE DURING THE DELIBERATIONS


ATTY. MARICHELE D. DE GUZMAN
BAC Member


RENATO L. GERON
BAC Member

** Did not participate in the deliberation*


MARISSA S. LEGASPI
BAC Provisional Member


LOURDES F. CASTANTE
BAC Provisional Member

Approved

Disapproved


SEC. ISIDRO S. LAPEÑA, PhD., CSEE
Director General