



UNIVERSITY OF THE PHILIPPINES MINDANAO

Bids and Awards Committee for Goods



BAC Resolution No. 07 s. of 2022

DECLARING THE LOWEST CALCULATED AND RESPONSIVE BID (LCRB) FOR LOT 3 – AIR CONDITIONING UNITS OF THE REBIDDING OF ASIMOV HAWKS PROJECT EQUIPMENT- PBM 2022-01

WHEREAS, the Bids and Awards Committee for Goods (BAC) conducted the Rebidding of Asimov HAWKS Project Equipment consisting of eight (8) lots with a total approved budget for the contract (ABC) in the amount of P5,168,900.00;

WHEREAS, on April 6, 2022 the BAC passed Resolution No. 06 series of 2022 recommending, among other things, the post disqualification of the bid of Emtor, Inc. for Lot 3-Air Conditioning Units for the reason that the following mandatory provision in the Omnibus Sworn Statement was not included in its OSS form that it submitted, namely:

ix. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code. [NEW].

WHEREAS, after the Notice of Post Disqualification was issued, Emtor, Inc submitted a request for reconsideration on April 7, 2022 stating that the said provision is not applicable to their bid for Lot 3- Air Conditioning Units. The BAC sent a reply on April 12, 2022 denying the request for the reason that the disqualification issue is not for consideration of the BAC since the committee can only use non-discretionary criteria in the conduct of the bidding /post qualification as provided in RA 9184. The Government Procurement Policy Board (GPPB) Circular 04-2020 clearly provides that non-inclusion of the mandatory provisions in any of the required forms, of which the OSS is one, shall be a ground for disqualification.

WHEREAS, upon the post disqualification of Emtor, Inc. the BAC directed the TWG to proceed with the post qualification on the bid submitted by Air Prosystems Inc, the 2nd lowest bidder for Lot 3. On April 19, 2022 the TWG submitted its report dated April 8, 2022 containing the following findings, to wit:

Item No.	Description	Findings
1.	TECHNICAL COMPONENT	
	<i>Class "A" Documents</i>	
	<i>Legal Documents</i>	
a.	PHILGEPS Registration Certificate; or	- Platinum Membership valid until 18 Sep 2022 as verified from PHILGEPS Portal - Not blacklisted as verified from GPPB Portal - COMPLIANT
	Registration Certificate from SEC;	- <i>submitted</i>
	Business/Mayor's permit; and	- <i>submitted</i>
	Tax Clearance per E.O. 398, s. 2005	- <i>submitted</i>
	<i>Technical Documents</i>	-
b.	Statement of the bidder of all its on-going government and private	- The Regular Contractor's License

	contract, including contracts awarded but not yet started;	<ul style="list-style-type: none"> - (Technical Component page 123) states "Not Registered for Government Projects" under the kinds of project and respective size ranges. Does it affect their application to bid? - Needs BAC resolution - 3 on-going contracts - COMPLIANT
c.	Statement of the bidder's Single Largest Completed Contract (SLCC) similar to the Contract to be bid;	<ul style="list-style-type: none"> - Name of Contract: <u>Supply and installation of DAIKIN Airconditioning Units</u> - Name of Owner: <u>Ragojos Heritage Construction Corporation</u> - Date of Contract: <u>May 7, 2021</u> - Contract amount: <u>₱12,250,000.00</u> - The Contract is considered similar to the project - COMPLIANT
d.	Bid Security;	<ul style="list-style-type: none"> - Notarized Bid - Securing Declaration - COMPLIANT
e.	Conformity with the Technical Specifications (signed by authorized signatory); and	<ul style="list-style-type: none"> - Stated "Comply" on Tech Specs for Lots 3 - COMPLIANT as confirmed by the end-user (see attached end-user's evaluation report) - Compliant
f.	Omnibus Sworn Statement (OSS)	<ul style="list-style-type: none"> - Duly signed & notarized standard form - COMPLIANT
	<i>Financial Documents</i>	
	<i>Audited Financial Statement for the preceding calendar year which should not be earlier than two (2) years from the date of bid submission.</i>	<ul style="list-style-type: none"> - Submitted AFS-comparative CY 2020 & 2019 - NOTE: In 2020 AFS they incurred a Net Loss amounting to (P29,891). This will not be a ground for disqualification because their Net Loss is only 9.75% of the ABC P306,656. Based on GPPB NPM 023-2009 #4 which states: - 4. Whether a substantial net loss, negative stockholders equity and a gross annual income equivalent to 21% of the ABC disqualifies a bidder despite the

		<p><i>submission of the cash deposit certificate and/or credit line commitment from a licensed bank.</i></p> <ul style="list-style-type: none"> - <i>In the manner of establishing the financial capacity of the bidder, only the financial documents required under Section 23.6.1 (j) shall be sufficient for the purpose.</i> - <i>Thus, submission of the audited financial statements, and either the NFCC requirement, the credit line commitment under a licensed bank, or cash deposit certificate are adequate under the rules as proof of financial stability regardless of any substantial net loss, negative stockholders equity or gross annual income of less than fifty per cent (50%) of the ABC, which a bidder incurs, as may be determined by the BAC.</i>
g.	<p>NFCC or A committed Line of Credit from Universal or Commercial Bank</p>	<ul style="list-style-type: none"> - COMPLIANT - P181,929,373.40 - Crossed referenced to the AFS COMPLIANT
	<i>Class "B" Documents</i>	
h.	<p>Joint Venture Agreement (if applicable) Or duly notarized statements from all the potential joint venture</p>	<ul style="list-style-type: none"> - n/a
2.	FINANCIAL COMPONENT	
	ABC for LOT 3 = 330,000.00	
a.	Bid Form	<ul style="list-style-type: none"> - Duly signed and accomplished standard form - Bid Amount: LOT 3 = 306,656.00 - Bid Amount is within the ABC - COMPLIANT
b.	Price Schedules	<ul style="list-style-type: none"> - Duly signed and accomplished standard form - The same amount in the Bid Form as calculated.

		- COMPLIANT
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WHEREAS, after the BAC discussed the foregoing findings, particularly on the Regular Contractor's License where it was indicated that it was "Not Registered for Government Projects" under the kinds of project and respective size ranges. However, it was pointed out that this was not a requirement for this procurement project. Thus, it was resolved that Air Prosystems passed post qualification. The BAC declared Air Prosystems as the lowest calculated and responsive bid for Lot 3 – Air Conditioning Units;

WHEREAS, it was recalled that there are two other lots that were not awarded, namely:

Lot Number-Description	Approved Budget
Lot 4 – Biometric Lock Assembly, QR-Based Inventory System and CCTV Kit	P150,000.00
Lot 8 - Smartphone	P23,000.00

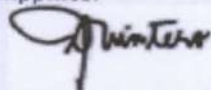
The reason for the non-award for Lot 4 is that the single bidder was post disqualified whereas for Lot 8, there were no bids received;

NOW THEREFORE, we the members of the BAC for Goods hereby **RESOLVE** the following:

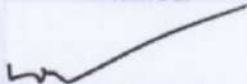
- 1) To declare **Air Prosystems** as the lowest calculated and responsive bid (LCRB) and recommend it for award of the contract for **Lot 3 – Air Conditioning Units** with contract amount of **P306,656.00**;
- 2) To recommend the use of negotiated procurement (after two failed biddings) mode for the procurement of items under Lots 4 and 8, and
- 3) To endorse the foregoing for approval by the Chancellor of UP Mindanao.

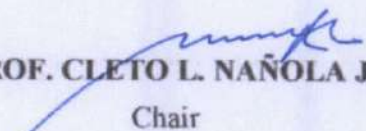
RESOLVED through online meeting on April 20, 2022, Davao City, Philippines.

Ms. JO-AN A. GARCIA (absent)
Member

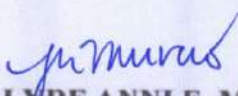

PROF. GENEVIEVE J. QUINTERO
Member


PROF. ERWIN E. PROTACIO
Member


PROF. DOMINICA M. DACERA
Vice Chair


PROF. CLETO L. NAÑOLA JR.
Chair

Approved:


PROF. LYRE ANNI E. MURAO
Chancellor 