

Resolution No. 861
Series of 2023

A RESOLUTION

RECOMMENDING TO THE HEAD OF THE PROCURING ENTITY, GOVERNOR YVONNE ROÑA CAGAS TO ADOPT THE AMENDED 3-STRIKE POLICY IN THE PROCUREMENT OF CONTRACTS FOR GOODS AND SERVICES, AND INFRASTRUCTURE PROJECTS OF THE PROVINCIAL GOVERNMENT OF DAVAO DEL SUR.

WHEREAS, the Provincial Government of Davao del Sur encounters several failures of biddings due to constant errors committed by the participating Bidders in the submission of their bidding documents despite of the orientation during Pre-Bid Conference and the Instruction to Bidders;

WHEREAS, to further strengthen the integrity of the competitive bidding process, the Bids and Awards Committee unanimously agreed that the following instructions are hereby issued pertaining to the implementation of the 3-Strike Policy of the Provincial Government of Davao del Sur against violations of Section 69 of the IRR of RA 9184;

1. The provision of Section 69.1 of the said IRR, pertaining to the 3-Strike Policy of the Provincial Government of Davao del Sur, is hereby reiterated as follows:

"In addition to the provisions of Rules XXI and XXII of this IRR, the Head of the Procuring Entity, subject to the authority delegated to the BAC, if any, shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first offense, and suspension of two (2) years for the second offense from participating in the competitive bidding process, as well as disqualification from further participating in the competitive bidding being undertaken by the Procuring Entity concerned, where applicable, for the following violations: 69.1.i All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late Bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons."

2. The violations enumerated, which are considered as acts that tend to defeat the purpose of competitive bidding, are hereby clarified to read as follows:
 - a) Non-submission of post-qualification and other requirements within the prescribed period as specified in the notice issued by the BAC;
 - b) Submission of eligibility requirements containing false information or falsified documents.
 - c) 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, or any other stage of the competitive bidding.

- d) Allowing the use of one's name, or using the name of another for purposes of competitive bidding.
 - e) Refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
 - f) Refusal or failure to post the required performance security within the prescribed time
 - g) Termination of the contract due to the default of the bidder
 - h) Refusal to clarify or validate in writing its bid during post-qualification and site validation within a period of seven (7) calendar days from receipt of the request for clarification.
 - i) Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor.
 - j) Refusal to deliver items stipulated in the Purchase Order without justifiable cause, despite receiving the said Purchase Order and despite issuance of demand letter to deliver
 - k) All other acts that tend to defeat the purpose of competitive bidding, such as:
 - 1.) Withdrawing from bidding or Non-dropping of Bid Documents,
 - 2.) Submitting late Bids;
 - 3.) Submitting of patently insufficient bid. Patently insufficient bid is clarified as the "**total absence**" of the required document.
 - 4.) Refusal to receive/acknowledge notice/s issued by the Head of the Procuring Entity and/or Bids and Awards Committee
 - l) Habitually committing offenses that are not grounds for disqualification such as improper sealing, non-tabbing, and the like.
3. Every time a bidder is observed to have done any of the acts enumerated under Item 2 of this Resolution, the Chairperson of the BAC shall immediately issue a Show Cause Order to the erring bidder informing him of his act, and giving him three (3) calendar days to show cause why he should not be sanctioned for committing an act which tends to defeat the purpose of public bidding under the 3-Strike Policy of the Provincial Government of Davao del Sur;
4. Based on the evaluation by the BAC of the bidder's response to the Show Cause Order mentioned in Item No. 3 of this Resolution, the BAC shall, within five (5) calendar days from the receipt of the bidder's response determine whether the bidder's act was done with or without a valid cause;
5. The BAC Secretariat shall submit to the BAC a 3-Strike Policy Report, which, shall contain the information in Item 3 and 9 of this Resolution.



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6. The BAC through its Secretariat shall monitor the participation of bidders in all of its projects/participations, and maintain a tally of violations by each bidder of the 3-Strike Policy in its jurisdiction as well as of the violations by the bidder of the said policy in other offices of the Provincial Government of Davao del Sur;
7. All other petty defects found in the bid documents of the bidder which will not redound to defeat the purpose of Competitive Bidding shall not be a ground for the imposition of a strike, subject to the discretion of the BAC
8. For the procurement of Infrastructure Projects, this Policy is applicable to all methods of procurement, be it Competitive Bidding or alternative methods of procurement. For the procurement of Goods and Consulting Services, this Policy is applicable to Competitive Bidding only, except for the following which shall also be applicable to Procurement Contracts for Goods and Services under Alternative Methods of Procurement
 - 2.e Refusal to accept an award, or enter into contract with the Government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
 - 2.g Termination of the contract due to the default of the bidder
 - 2.j Refusal to deliver items stipulated in the Purchase Order without justifiable cause, despite receiving the said Purchase Order and despite issuance of demand letter to deliver
9. For the sanctions to be imposed:
 - **ONE (1) STRIKE** will be imposed for various IB Nos. participated by the bidder with the same nature of violation opened on the same date, or was disqualified during post-qualification stage with the same case of the latter;
 - **MULTIPLE STRIKES** for different discrepancies/offenses under different IB Nos. opened on the same date, or was disqualified during post-qualification stage with the same case of the latter;
 - **For Item 2.I:** Three habitual offenses are equivalent to one (1) strike
10. Each "offense" by a bidder referred to in Section 69.1.i. of the IRR, as stated in this Resolution, consists of three violations or strikes within a period of **one calendar year** for all the procurements of all offices of the Provincial Government of Davao del Sur. A Fresh Period of one (1) year in counting of "strikes" shall be observed in the succeeding year;
11. Based on the 3-Strike reports, the Bids and Awards Committee, shall recommend to the Head of the Procuring Entity, for approval, the following administrative sanctions on the erring Contractor/Supplier for the violation of the 3-Strike Policy:

- a. For the first violation or strike – a first warning.
- b. For the second strike – a second warning.
- c. For the third strike, which together with the first two strikes constitutes the first offense against the 3-Strike Policy – an administrative penalty of suspension for one (1) year from participating in any procurement process in the Provincial Government of Davao del Sur.
- d. For the second offense – the second set of three strikes committed by the bidder – an administrative suspension for two (2) years from participating in any procurement process in the Provincial Government of Davao del Sur.

WHEREFORE, on motion of BAC Member, Dominic S. Bucol, JD duly seconded by all BAC Members present it was –

RESOLVED, as it is hereby RESOLVED, to recommend to the Head of the Procuring Entity, GOVERNOR YVONNE ROÑA CAGAS to ADOPT THE **AMENDED 3-STRIKE POLICY IN THE PROCUREMENT OF CONTRACTS FOR GOODS AND SERVICES, AND INFRASTRUCTURE PROJECTS OF THE PROVINCIAL GOVERNMENT OF DAVAO DEL SUR.**

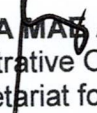
RESOLVED FINALLY, to furnish copies of this Resolution to all agencies concerned, Suppliers, and Concerned End Users, for their information and guidance.


UNANIMOUSLY APPROVED at the Ralota Hall, Governor Douglas Ralota Cagas Sports and Business Complex, Barangay Matti, Digos City, Province of Davao del Sur, this 15th day of June, 2023.

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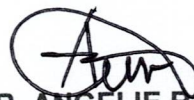
I hereby concur to the correctness of the minutes:



Engr. SHIELA MAE A. ZAPANTA, MPA
Administrative Officer IV, PMO
Head, BAC Secretariat for Infrastructure Projects


NORJANNA M. CAMAGUIN, MPA
Chief Administrative Officer, PMO
Head, BAC Secretariat for Goods and Consulting Services

(ON LEAVE)
ENGR. RODERICK MILANA, REA
Provincial Assessor / BAC Member



ALLAN C. PUTONG, JD
PGDH-PGSO / BAC Member


ENGR. ANGELIE R. GELLA
APGDH-PEO / BAC Member


DOMINIC BUCOL, JD
PGDH-PCSMO / BAC Member


RAUL R. FUECONCILLO,
LAgri.MAg.Dev.
Provincial Agriculturist / BAC Member


RAUL D. RAUT, ENP, JD
PGDH-PHRMO / BAC Vice-Chairperson


DESSAMIE BUAT-SANCHEZ, CPA, JD
PGDH-PBO / BAC Chairperson
Presiding Officer

Approved by:

YVONNE ROÑA CAGAS
Governor
Head of Procuring Entity

Authority of the Governor
As per MC No. 4 Series of 2022


CHRISTOPHER T. TAN
PGDH-PDRMO