



DEPARTMENT OF FOREIGN AFFAIRS
KAGAWARAN NG UGNAYANG PANLABAS

BIDS AND AWARDS COMMITTEE

BAC Resolution No. CPM-PB-20-2023

**RESOLUTION RECOMMENDING AWARD OF THE CONTRACT
ON PROCUREMENT OF DFA ASEANA OCA BUILDING
RENOVATION AND REHABILITATION WORKS**

WHEREAS, the Department of Foreign Affairs (DFA), through the authorized appropriations under the Building Fund FY 2022 Continuing Appropriations, intends to apply the sum of ***Nine Million Three Hundred Sixty Eight Thousand Six Hundred Sixty Six and 63/100 (PhP 9,368,666.63) only***, being the Approved Budget for the Contract (ABC) for the ***Procurement of DFA Aseana OCA Building Renovation and Rehabilitation Works*** (Procurement Project);

WHEREAS, the said ABC is chargeable against FY 2022 Building Fund;

WHEREAS, on 11 January 2023, the Bids and Awards Committee (BAC) conducted a ***Pre-Procurement Conference*** to assess the readiness of the procurement by confirming the availability of funds and reviewing all relevant documents in relation to the Procurement Project;

WHEREAS, on 20 January 2023, the BAC Secretariat posted for seven (7) consecutive calendar days the ***Invitation to Bid*** for the Procurement Project on the DFA and PhilGEPS websites, and conspicuous places within the premises of the DFA, in accordance with Section 21.2 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184;

WHEREAS, on 27 January 2023, the BAC held the first ***Pre-Bid Conference***, to discuss the eligibility requirements and the technical and financial components of the contract to be bid, which was attended by *Gig Construction, Hor-Vert Enterprises, Gega Engineering and Construction, RM Mangubat, NVSP Construction and Development, Dex-sal Builders, RITVIT Construction & Development Corp., and JEMN Builders*;

WHEREAS, on 03 February 2023, the BAC held the second ***Pre-Bid Conference***, which was attended by *Agathas Construction, Duamon Construction, RITVIT Construction, and GIG Construction*;

WHEREAS, on 17 February 2023, the deadline for the **submission and receipt of bids as well as the date of opening** thereof, six (6) bidders submitted their bids, namely, **Ritvit Construction & Development Corp., NVSP Construction & Devt., KB Industrial Inc, Duamon Construction & Supply, JEMN Builders, and 5GG Construction**, which the BAC determined to be as follows:

Name of Bidder	Eligibility and Technical Component	Financial Component
Ritvit Construction & Development Corp	Non-compliant with the requirement: Statement of All Ongoing Contracts	Sealed
NVSP Construction & Devt	Non-compliant with the requirement: Statement of All Ongoing Contracts	Sealed
KB Industrial Inc	Non-compliant with the requirement: Statement of All Ongoing Contracts	Sealed
Duamon Construction & Supply	Non-compliant with the requirement: Declaration of the existence/non-existence of Joint Venture Agreement	Sealed
JEMN Builders	Unopened due to improperly labeled envelope	Sealed
5GG Construction	Non-compliant with the requirement: Statement of All Ongoing Contracts	Sealed

WHEREAS, the BAC declared a **failure of bidding** in view of the failure of bidders to satisfy the technical requirements for the Procurement Project;

WHEREAS, the BAC received **Requests for Reconsideration** from the following bidders. Below is the summary of the arguments and the reply of the BAC:

Bidder	Argument	BAC's reply
NVSP Construction & Dev't dated 20 February 2023	The value of outstanding projects is equal to the attached Notice of Award. There is a 0% accomplishment since the Notice to Proceed is yet to be released.	Section 3.1 of the IRR of RA 9184, Item IV provides requires the submission of the Statement of All Ongoing Contracts. Thus, failure of the bidder to present a correct computation will yield to an erroneous computation of the Net Financial Contracting Capacity.
5GG Construction	5GGConstruction's computation of the Statement of all its Ongoing Government and Private Contract uses an "S-curve" to arrive in the computation.	The computation resulted to confusion and various inferences which resulted the BAC from ascertaining compliance with the document required to be submitted for its

		eligibility in accordance to the application of non-discretionary pass/fail criteria prescribed by Sections 32.2.1 and 34.3 of the IRR of RA 9184.
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WHEREAS, on 03 March 2023, **5GG Construction** filed a **verified protest** to the Head of Procuring Entity (HoPE) challenging the decision of the BAC. The HoPE ordered the Technical Working Group (TWG) to evaluate the submission of the bidder considering the technicalities of the computation of the Statement of All On-going Projects;

WHEREAS, the **TWG** verified that **5GG Construction** is **compliant** to the submission of its Statement of All Ongoing Contracts, following the S-Curve computation with the value of outstanding contract as PhP 39,564.811.75. Therefore, the rating of the technical requirement is rated *"Passed"*.

WHEREAS, the HoPE issued a decision on 10 March 2023 to address the protest of 5GG Construction, to wit:

1. *Reversing the decision of the BAC;*
2. *Declared the protestant as PASSED in the evaluation of the Statement of Ongoing Government and Private Contracts; and*
3. *ALLOW protestant to continue participating in the bidding process for the said procurement.*

WHEREAS, the HoPE **ordered the BAC to proceed with the evaluation** of the bid submission of 5GG Construction;

WHEREAS, the BAC scheduled the **resumption of the Opening of Bids** 28 March 2023, 1: 30 PM, and the Post-Qualification Conference on 03 April 2023, 10:00 AM, should the bidder qualify for post-qualification. The said schedule was published in the DFA website;

WHEREAS, during the Opening of Bids, **5GG Construction** was declared **"compliant" to the technical and financial component** with a bid of PHP 8,291,220.81 with 12.10% discount;

WHEREAS, 5GG Construction, having the Single Calculated Bid, was scheduled for **Post-Qualification** on 03 April 2023, pursuant to Section 34.2 of the IRR of RA 9184, to determine whether it complies with and is responsive to all the requirements and conditions specified in the Bidding Documents;

WHEREAS, during the Post-Qualification and after careful consideration, the BAC determined that the bid of **5GG Construction** was non-compliant with the requirements and conditions specified in the Bidding Documents;

WHEREAS, 5GG Construction filed a **Request for Reconsideration** based on the following:

- 1. The DFA BAC should undertake a real effort to verify the authenticity and genuineness of the submitted documents from their official sources and/or issuing entities and not merely carry out a gratuitous desk evaluation.*
- 2. Hard copies of all eligibility requirements were correctly and timely submitted and well organized. Proponents likewise submitted scanned copies of all the requirements. Both hard and scanned copies are identical and complete.*
- 3. DFA BAC failed to consider the submitted hard and scanned copies that constitute all its eligibility documents.*

WHEREAS, BAC denied the request for reconsideration reiterating its findings during the Post-Qualification;

WHEREAS, on 24 April 2023, **5GG** filed a verified protest. The HoPE, in its reply, stated Section 34.8 of IRR of RA 9184 which states:

"The post-qualification process shall be completed in not more than twelve (12) calendar days from the determination of the Lowest Calculated Bid/Highest Rated Bid. In exceptional cases, the post-qualification period may be extended by the HoPE, but in no case shall the aggregate period exceed forty-five (45) calendar days for Goods and Infrastructure Projects, or thirty (30) calendar days in Consulting Services."

WHEREAS, the HoPE is granted leeway to extend the post-qualification process for exceptional cases, which is applicable in the present case considering the DPWH recommendation to take immediate action to ensure the safety of DFA ASEANA OCA Building and its occupants and clients as a result of its structural assessment and evaluation,

WHEREAS, the HoPE decided to:

- 1. Reverse the earlier decision of the BAC declaring Protestant post-disqualified for the above-mentioned bidding project; and*
- 2. Declare the Protestant qualified to continue participating in the bidding process.*
- 3. The BAC is ordered to complete the post-qualification process up to 18 May 2023 in consonance with Section 34.8 of the IRR of RA 9184 granting*

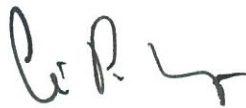
HoPE to extend the post- qualification process, but in no case shall the aggregate period exceed forty-five (45) calendar days for Goods and Infrastructure Projects.

WHEREAS, the **Post Qualification Conference** was scheduled on 12 May 2023 upon the posting of the notice of resumption and notification of the observers and the bidder;

WHEREAS, after the Post-Qualification, the BAC and the TWG members, after careful consideration and evaluation, determined that the bid of **5GG Construction** was compliant with and is responsive to all the requirements and conditions specified in the Bidding Documents;

NOW, THEREFORE, we, the members of the Bids and Awards Committee, unanimously RESOLVE to RECOMMEND the award of the contract for the **Procurement of DFA Aseana OCA Building Renovation and Rehabilitation Works** for the Department of Foreign Affairs to **5GG Construction** for having submitted the Single Calculated and Responsive Bid in the amount Eight Million Two Hundred Ninety One Thousand Two Hundred Two Pesos and 81/100 (PHP 8,291,220.81) Only with 12.10% discount, pursuant to Section 37 of the revised IRR of RA 9184.

ADOPTED this 18th day of May 2023, Pasay City.



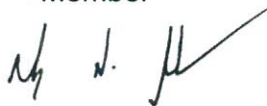
CHARLIE P. MANANGAN
Chairperson



ARMAN R. TALBO
Vice-Chairperson



KERWIN ORVILLE C. TATE
Member



ARIZ SEVERINO V. CONVALECER
Member



CONRADO B. BEMDEM JR.
Member



CATHERINE L. ALPAY
Alternate Member



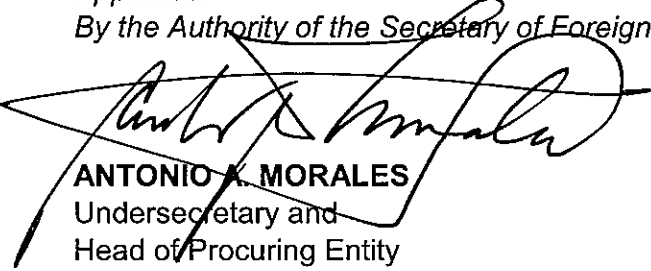
NOEL L. RODRIGUEZ
Alternate Member



GEORGE MARIANO A. SORIANO
End-user Representative

Approved:

By the Authority of the Secretary of Foreign Affairs:



ANTONIO A. MORALES
Undersecretary and
Head of Procuring Entity