

BIDS AND AWARDS COMMITTEE FOR INFRASTRUCTURE PROJECT (BAC-I)

**Relocation of Underground Utilities Along 8th Avenue,
Bonifacio, Global City, Taguig**

**RESOLUTION NO. 2023-005
(FAILURE OF BIDDING)**

The BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA), through the 2022 General Appropriation Act, approved the procurement of the Relocation of Underground Utilities Along 8th Avenue, Bonifacio Global City, Taguig (Project) with an Approved budget for the Contract (ABC) in the amount of Pesos: Thirty Nine Million Seven Hundred Sixty Three Thousand Two Hundred Seventy Nine and 64/100 (**PhP39,760,279.64**), inclusive of VAT and all applicable taxes and fees;

WHEREAS, the BAC-I through its Secretariat, advertised/posted the Invitation to Bid including the bidding documents on 21 June 2023 in the following platforms:

- a. DBM Philippine Government Electronic Procurement System (PhilGEPS);
- b. BCDA Website; and
- c. In a conspicuous place reserved for the purpose in the premises of BCDA.

WHEREAS, in response to the said advertisements, two (2) interested bidders bought the bid documents, namely:

1. Wing-An Construction and Development Corporation
2. EGB Construction Corporation/GSixty Construction Services (Joint Venture)

WHEREAS, the two (2) aforementioned interested bidders submitted their bids prior to the set deadline of submission of bids for the project on 08 August 2023 at 9:00am;

WHEREAS, on 08 August 2023, the first envelopes which contained the Eligibility and Technical Requirements of the aforementioned two (2) proponents were opened and subjected to preliminary examination by determining the presence or absence of the required documents using "pass/fail" criterion.

WHEREAS, during the said preliminary evaluation and after checking the sufficiency of the required documents as regards their presence or absence, the BAC-I declared the Technical Bids of the two (2) bidders as "Passed";

WHEREAS, the Financial Proposals of the two (2) bidders, whose Technical Proposals were rated "Passed", were opened and likewise subjected to preliminary examination, and considered for the detailed evaluation and comparison of financial bids. The table below shows the bid amount of the 2 bidders (as read):

BIDDERS	BID AMOUNT (AS READ)	RANKING
Wing-An Construction and Development Corporation	35,204,456.01	1
EGB Construction Corporation/ Gsixty Construction Services (Joint Venture)	37,269,070.29	2

WHEREAS, Section 32.2 of the Revised Implementing Rules and Regulations (RIRR) of R.A. 9184 provides that, *“For the procurement of Goods and Infrastructure Projects, the BAC shall evaluate the financial component of the bids to determine the Lowest Calculated Bid... xxx”*.

WHEREAS, on 09-15 August 2023, the BAC Technical Working Group (TWG) conducted the detailed evaluation of the Financial Component of the bids of the aforementioned 2 bidders in accordance with Section 32.2 of the RIRR of R.A. 9184 .

WHEREAS, the bids of the two (2) bidders were ranked in ascending order based on their financial bids or total bid price as calculated, evaluated, and/or corrected for computational errors, to identify the bidder with the Lowest Calculated Bid (LCB) who shall undergo the post-qualification. The table below shows the bid amount of the 2 bidders (as calculated):

BIDDERS	BID AMOUNT (AS CALCULATED)	RANKING
Wing-An Construction and Development Corporation	35,204,456.01	1
EGB Construction Corporation/ Gsixty Construction Services (Joint Venture)	37,269,070.27	2

WHEREAS, consequent to the above results of the detailed bid evaluation, the BAC-I, in its BAC Resolution No. 2023-004 dated 15 August 2023 recommended the declaration of Wing-An Construction and Development Corporation as the bidder with the LCB, subject to post-qualification process pursuant to Section 34 of the RIRR of R.A. 9184;

WHEREAS, on August 16 to 24, 2023, the BAC-I TWG conducted the Post-Qualification on Wing-An Construction and Development Corporation pursuant to Section 34 of the RIRR of R.A. 9184;

WHEREAS, on 24 August 2023, the BAC-I deliberated the Post-Qualification Report of BAC-I TWG. The results of Post-Qualification show that Wing-An Construction and Development Corporation was post-disqualified on 29 August 2023 due to its non-compliance with the requirements provided under the bidding documents for the project. (Please see Annex “A”).

WHEREAS, on 30 August 2023, Wing-An Construction submitted a request for reconsideration, pursuant to Section 55.1 of the 2016 RIRR of RA 9184, which was denied by the BAC-I on 06 September 2023.

WHEREAS, pursuant to Section 34.8 of the 2016 RIRR of RA 9184, the BAC-I approved and issued the Notice of Post Qualification to **EGB Construction Corporation/ GSixty Construction Services (Joint Venture)** being the bidder with the next lowest calculated bid.

WHEREAS, The BAC-I conducted the post-qualification of **EGB Construction Corporation/ GSixty Construction Services (Joint Venture)** on August 30 to September 08, 2023, being ranked as the 2nd LCB of the subject bidding, but was declared post-disqualified on 08 September 2023 for being non-responsive and non-compliant with the bidding requirements for the project, as stated on the observations herein:

REQUIREMENTS	BIDDER'S SUBMISSION	FINDINGS
<p>Statement of the bidder's Single Largest Completed Contract (SLCC) similar to the contract to be bid, except under conditions provided under the rules.</p> <p>This statement shall be supported by contracts, owner's final acceptance or equivalent document, and CPES rating sheets, if applicable.</p>	<p>Declared SLCC: National Road Network Services - Network Development - Improvement/Widening of National Roads - Primary Roads along N1, Road Widening - Cagayan Valley Road</p> <p>Project Owner: DPWH - Cagayan Third District Engineering Office</p> <p>Start Date of Contract: 08 May 2017</p> <p>Contract Duration: 274 calendar days</p> <p>Contract Amount (at Award): PhP 89,970,840.20</p> <p>Contract Amount (at Completion): PhP 94,943,398.96</p> <p>Supporting Documents: 1. Notice of Award, Notice</p>	<p>With adverse finding</p> <p>Bid Data Sheet ITB Clause 5.2 states that:</p> <p>"For this purpose, the SLCC shall refer to a construction of underground electrical utilities.</p> <p>Xxx."</p> <p>The submitted SLCC does not have any underground electrical utility component based on the submitted As-Built Quantities and the interview with the Representative from DPWH Cagayan 3rd District Engineering Office, Engr. Richard Pastor.</p>

	<p>to Proceed, and Contract Agreement issued by DPWH Cagayan Third District Engineering Office</p> <p>2. Final Completion Inspection Report, Certificate of Completion, and Certificate of Acceptance issued by DPWH Cagayan Third District Engineering Office all dated 07 June 2018</p> <p>3. Constructors Performance Summary Report (CPES) with final rating of 88.40 and qualitative description of "Satisfactory" issued by DPWH Cagayan Third District Engineering Office</p>	
<p>Nominated Personnel Assign to be Assigned to the Project:</p> <p>Safety and Health Officer</p> <ul style="list-style-type: none"> • DOLE-accredited Safety and Health Officer for at least 5 years • At least 3 years of experience as DOLE-accredited Safety and Health Officer <p>Site Engineer</p> <ul style="list-style-type: none"> • Licensed Engineer for at 	<p>Jessie Napala</p> <ul style="list-style-type: none"> • 5 years and 11 months as DOLE-accredited Safety and Health Officer • 2 years experience as Safety and Health Officer <p>1. CV is both signed by the key personnel and the authorized representative.</p> <p>2. The nominated key personnel has no ongoing project per his CV.</p> <p>Antonia Eulin</p> <ul style="list-style-type: none"> • 6 years and 8 months as licensed Civil Engineer • 2 years and 1 month 	<p>With adverse findings</p> <p>The nominated Key personnel for Safety and Health Officer Mr. Jessie Napala did not meet the minimum required experience of at least 3 years of experience as Safety Officer per the submitted CV.</p> <ul style="list-style-type: none"> • Mr. Jessie Napala only has 2 years of experience as Safety and Health Officer. <p>The nominated Key Personnel for Site Engineer Ms. Antonia Eulin did not</p>

<p>least 5 years</p> <ul style="list-style-type: none"> At least 3 years of experience as Site Engineer 	<p>experienced as Site Engineer</p> <p>Note:</p> <ol style="list-style-type: none"> CV is both signed by the key personnel and the authorized representative. The nominated key personnel has no ongoing project per his CV. Original PRC License was presented and was checked with PRC that the license is valid. 	<p>meet the minimum required experience of at least 3 years of experience as Site Engineer per the submitted CV.</p> <ul style="list-style-type: none"> Ms. Antonia Eulin only has 2 years and 1 month of experience as Site Engineer.
<p>List of contractor's major equipment units, which are owned, leased, under purchase agreements, supported by proof of ownership or certification of availability of equipment from the equipment lessor/vendor for the duration of the project, as the case may be</p> <p>(Section 10.5 of the Invitation to Bid and Bid Data Sheet)</p>	<p>Water Truck - 1 unit (10,000L or 10,000 kg)</p> <p>Owned (EGB Construction Corporation)</p> <ul style="list-style-type: none"> Brand/Model : Isuzu Declared Capacity : 10,000 L Proof of Capacity : Location: Gamu, Isabela <p>Generator Set - 1 Unit (150KVA)</p> <p>Owned (EGB Construction Corporation)</p> <ul style="list-style-type: none"> Brand/Model : DCA150SPM Capacity : 150 KVA Location: Gamu, Isabela 	<p>With adverse findings</p> <ul style="list-style-type: none"> ITB Clause 10.5 of the Bid Data Sheet provides for the list of minimum equipment and required capacities, particularly, the water truck requires the capacity of 10,000L or 10,000kgs <p>The Actual Capacity of the Water Truck pledged by the bidder has only 6100L capacity based on the CR presented during Post-Qualification.</p> <ul style="list-style-type: none"> The Generator Set presented to the TWG representatives during post-qualification is not consistent with the declared equipment in the bid. <p>Generator set declared: DCA150SPM Brand: Mitsubishi 6D22 Engine Number: 247876 Serial No: 3667916</p>

		<p>Generator set presented on site: DCA150SPK Brand: Komatsu Ltd Japan Engine Number: S6DL08-1 Serial No: 17809</p>
<p>Omnibus Sworn Statement pursuant to Section 25.3 (f) of the Revised IRR of RA9184 and using the form prescribed in Annex "H" in Bidding Forms:</p> <p><i>The Omnibus Sworn Statement executed by the bidder, or its duly authorized representative, shall contain the following:</i></p> <p>Xxx</p> <p><i>(f) It complies with existing labor laws and standards</i></p>	<p>Submitted an Omnibus Sworn Statement, duly notarized and signed by the authorized representative of the bidder.</p>	<p>With adverse findings</p> <p>Bid Data Sheet, ITB Clause 20 states:</p> <p>"Other documents shall also be presented during the conduct of post-qualification such as, but not limited to:</p> <p>Xxx</p> <p>b. Compliance with labor legislations, i.e. proof of remittances, in accordance with GPPB Circular No. 01-2008.</p> <p>Xxx."</p> <p>Clause 3.3 of the above-mentioned Circular allows the procuring entity to ascertain the statements made by the bidder in its certificate under oath that it complies with existing labor laws and standards. Non-compliance therewith shall be a ground for post-disqualification.</p> <p>Per SSS letter dated 30 August 2023, GSIXTY CONSTRUCTION SERVICES is "non-compliant" with remarks</p>

		<p><i>“with various unpaid premium contributions.”</i></p> <p>Section 23.6 of 2016 RIRR of RA9184 provides that:</p> <p><i>“Notwithstanding the eligibility of a bidder, the Procuring Entity concerned reserves the right to review the qualifications of the bidder at any stage of the procurement process if the Procuring Entity has reasonable grounds to believe that <u>a misrepresentation has been made by the said bidder, or that there has been a change in the bidder’s capability to undertake the project from the time it submitted its eligibility requirements.</u> Should such review uncover <u>any misrepresentation made in the eligibility requirements, statements or documents,</u> or any changes in the situation of the bidder which will affect the capability of the bidder to undertake the project so that it fails the eligibility criteria, <u>the Procuring Entity shall consider the said bidder as ineligible and shall disqualify it from obtaining an award or contract,</u> in accordance with Rules XXI, XXII, and XXIII of this IRR.”</i></p>
<p>Compliance with existing labor laws and standards</p>	<p>Submitted proof of remittance to SSS for July 2023.</p> <p>Non-compliant due to various unpaid premium contributions per SSS letter</p>	<p>With adverse findings</p> <p>Relative to the above findings on the Omnibus Sworn Statement, the LCB failed to comply with GPPB Circular</p>

	dated 30 August 2023.	01-2008. Section 3.3 provides that: <i>“xxx the procuring entity may, during post-qualification, verify, validate and ascertain the statements made by a bidder in its certificate under oath that it complies with existing labor laws and standards. Specifically, the procuring entity may verify whether the bidder-</i> <i>xxx</i> <u>3.3.2. Regularly remits mandated premiums to SSS, PhilHEALTH and PAG-IBIG</u> <i>xxx</i> <u>Non-compliance with any one of the above shall be a ground to declare the bidder as “post-disqualified”.</u>
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WHEREAS, on 08 September 2023, the BAC-I deliberated the results of the Post-Qualification. Based on its findings, the Committee declared **EGB Construction Corporation/ GSixty Construction Services (Joint Venture)**, as post-disqualified.

WHEREAS, BCDA did not receive within the prescribed period a protest from Wing-An Construction nor a request for reconsideration from EGB Construction Corporation/Gsixty Construction Services (Joint Venture), which ended on 11 September 2023 and 13 September 2023, respectively, pursuant to Section 55 of the RIRR of R.A. 9184.

WHEREAS, based on the aforementioned, the BAC-I declares a failure of bidding, pursuant to the Section 35.1 of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act (R.A.) No. 9184, to wit:

“35.1. The BAC shall declare the bidding failure when:

- c) All bids fail to comply with all the bid requirements or fail post-qualification, or, in the case of Consulting Services, there is no successful negotiation;

xxx”

NOW, THEREFORE, We, the Members of the Bids and Awards Committee for Infrastructure Projects, hereby RESOLVE as it is hereby RESOLVED the following:

1. To declare a Failure of Bidding for the Relocation of Underground Utilities Along 8th Avenue, Bonifacio Global City, Taguig City, in accordance with Section 35.1 of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act (R.A.) No. 9184;
2. To direct the end-user, Engineering and Social Support Services Department (ESSD) to conduct a mandatory review and evaluation of the terms, conditions and specifications of the Bidding Documents, including the cost estimates and other requirements relative to this procurement pursuant to the Section 35.2 of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act (R.A.) No. 9184; and,
3. To proceed with the rebidding of the Project based on the results of the aforementioned mandatory review pursuant to the Section 35.3 of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act (R.A.) No. 9184.

RESOLVED, at the BCDA Corporate Center, this 14th day of September 2023.

BIDS AND AWARDS COMMITTEE FOR INFRASTRUCTURE

ATTY. GISELA Z. KALALO
Chairperson

ENGR. MARK P. TORRES
Vice Chairperson

SAMUEL JOHN L. VIDALLON
Member

ENGR. VERGEL Q. PARAS
Member

ENGR. RYAN S. GALURA
Member

Approved by:

JOSHUA M. BINGCANG
President and CEO