



## **BIDS AND AWARDS COMMITTEE (BAC)**

### **BAC RESOLUTION DECLARING LCRB AND RECOMMENDING APPROVAL**

#### **RESOLUTION No. CB 2023-005**

**WHEREAS**, the DA-AGRICULTURAL TRAINING INSTITUTE –RTC- CORDILLERA ADMINISTRATIVE REGION (DA-ATI-RTC-CAR) posted an Invitation to Bid for the **Construction of Swine A.I. sa Barangay (SWAIB) Project Housing and Facility in Bauko, Mt. Province** in the DA-ATI-RTC-CAR website, PhilGEPS website and three (3) conspicuous places particularly at the bulletin boards of ATI-CAR, Benguet Provincial Capitol, and La Trinidad Municipal Hall continuously for 20 calendar days starting on April 17, 2023;

**WHEREAS**, four (4) bids were submitted on May 8, 2023 and all passed the preliminary examination of bids, despite having no flashdrive included in the “original” Envelope B of Two M Construction and Engineering Services and Pataras Construction Services;

<b>Name of Bidder</b>	<b>Abstract of Bid as Read</b>	<b>ABC</b>	<b>% Variance from the ABC</b> <i>%Variance=(ABC-Bid Price)/ABC*100</i>
Tawid Builders Corporation	₱3,081,419.60	₱3,349,986.63	8.02%
Longboan Construction	₱3,050,000.00	₱3,349,986.63	8.95%
Two M Construction and Engineering Services	₱2,913,530.66	₱3,349,986.63	13.03%
Pataras Construction Services	₱2,955,461.76	₱3,349,986.63	11.78%

**WHEREAS**, a representative from Longboan Construction raised that flashdrive containing the soft copy of the computation of the detailed estimate and bill of quantities was mentioned in the bidding document as part of the “original” of the Envelope B;

**WHEREAS**, after the BAC had convened regarding the issue, a decision was made the “Pass” all bids and to post-qualify all the bidders.

**WHEREAS**, the detailed evaluation of bids conducted on May 8-9, 2023 resulted in the following bids as calculated:

<b>Name of Bidder</b>	<b>Abstract of Bid as Calculated</b>	<b>ABC</b>	<b>% Variance from the ABC</b> <i>%Variance=(ABC-Bid Price)/ABC*100</i>
Tawid Builders Corporation	₱3,081,419.60	₱3,349,986.63	8.02%
Longboan Construction	₱3,050,000.00	₱3,349,986.63	8.95%
Two M Construction and Engineering Services	₱2,913,530.66	₱3,349,986.63	13.03%
Pataras Construction Services	₱2,955,461.76	₱3,349,986.63	11.78%

**WHEREAS**, the BAC then proceeded with the onsite post-qualification on the legal, technical and financial capacities all the bidders from May 11-16, 2023;





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**WHEREAS**, during the post-qualification of Two M Construction and Engineering Services, latest income and business tax returns shown was the Audited Financial Statement for 2021 and Business Income Tax Return for the Third Quarter of 2022 which is not in compliance with **BDS 20. Post Qualification** of the bidding document which states that *“The latest income and business tax returns are those within the last six months preceding the date of submission.”*

**WHEREAS**, during the post-qualification of Pataras Construction Services, two grounds for disqualification were seen. First, on the The List of Equipment, Owned or Leased and/or under Purchase Agreement, Pledged to the Proposed Contract, pledged was one (1) unit cutting outfit but the required number of cutting outfit is two (2) as stated in BDS 11.5 of the Bidding Document. Second, the contract duration of the Construction of Second Floor of the RHU Building in Poblacion, Kibungan, Benguet, is 160 Calendar Days (CD) based on the contract agreement but in the List of All Ongoing Government and Private Contracts, Including Contracts Awarded but Not Yet Started it was 170 CD. Considering the date of receipt of the Notice to Proceed, the project started on November 12, 2022 and should have ended on April 20, 2023 but actual accomplishment indicated is just 80% thereby obtaining a negative slippage of 20%. No document was attached to support the claim that the start of project was delayed due to the end user’s request.

**WHEREAS**, during the deliberation and preparation of written reports of the post-qualification, a Letter of Re-Consideration from Longboan Construction was received on May 18, 2023, requesting for the BAC to reconsider the decision made during the Bid Opening and disqualify Two M Construction and Engineering Services and Pataras Construction Services on the ground that *a flash drive containing the soft copy of the computation of Detailed Estimate and Bill of Quantities shall be included in the “original copy” of the bid in Envelop B;*

**WHEREAS**, to correct the mistake during the Bid Opening, the members of the Bids and Award Committee (BAC) unanimously agreed to declare a Post-Disqualification of Two M Construction and Engineering Services and Pataras Construction Services, and to include as additional grounds for disqualification the findings during the post-qualification;

**WHEREAS**, under BAC Resolution No. CB 2023-001 dated 22<sup>nd</sup> day of May 2023, the BAC resolved as follows:

- a. To declare the Post-disqualification of Two M Construction and Engineering Services and Pataras Construction Services for the abovementioned Contract; and
- b. To recommend to the BAC-TWG to complete the post-qualification of Longboan Construction, the Bidder with the Lowest Calculated Bid, as corrected;

**WHEREAS**, the BAC issued a Notice of Post-Disqualification to Two M Construction and Engineering Services and Pataras Construction Services on May 24, 2023 and May 25, 2023 and were received May 26, 2023 and May 29, 2023, respectively;

**WHEREAS**, Section 55.1 of the IRR of RA No 9184 provides that *“Decisions of the BAC at any stage of the procurement process may be questioned by filing a request for reconsideration within the three (3) calendar days upon receipt of written notice or upon verbal notification”;*

**WHEREAS**, Section 34.6 of the 2016 Revised IRR of RA No 9184 provides that *“Immediately after the BAC has notified the first bidder of its post-disqualification, and not withstanding any pending request*





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*for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second Lowest Calculated Bid/Highest Rated Bid.”;*

**WHEREAS**, the BAC commenced on the completion of the post-qualification evaluation on the legal, technical and financial capacities of Longboan Construction;

**WHEREAS**, during the post-qualification process that involved the careful examination, validation and verification of the technical and financial requirements submitted and stated in the bidding documents, BAC-Technical Working Group noted that in the Detailed Cost Estimate and Summary List of Unit Prices in Coming Up with the Bid, the daily rate of a Laborer is ₱350.00 which is a violation of Republic Act (RA) 9184, through **Section 25.3 of its Implementing Rules and Regulations (IRR)** states that *The Omnibus Sworn Statement executed by the bidder, or its duly authorized representative, shall (f) it complies with existing labor laws and standards;*

**WHEREAS**, under BAC Resolution No. CB 2023-002 dated 29<sup>th</sup> day of May 2023, the BAC resolved as follows:

- a. To declare the Post-disqualification of Longboan Construction for the abovementioned Contract; and
- b. To recommend to the BAC-TWG to proceed to the post-qualification of Tawid Builders Corporation, the Bidder with the next Lowest Calculated Bid, as corrected.

**WHEREAS**, the BAC issued a Notice of Post-Disqualification to Longboan Construction on May 29, 2023 and was received June 2, 2023;

**WHEREAS**, three (3) calendar days after the receipt of the Notice of Post-Disqualification by Two M Construction and Engineering Services, no request for reconsideration was filed;

**WHEREAS**, on June 1, 2023, the BAC received a Motion for Reconsideration from Pataras Construction Services in response to BAC's issued Notice of Post-Disqualification. It emphasized that “a) The bid document marked as “passed” is complete in accordance with the mandatory requirements. The discretionary “pass/fail” criterion is applied during the bid opening and not after the bid opening, hence it is not applicable during post qualification evaluation; b) Certification dated May 16, 2023 issued by Antonio P. Kito, Municipal Engineer of Municipality of Kibungan is attached to indicate the reason for slippage; c) 11% discount does not affect the account for the payment of the minimum wage under Wage Order No. CAR-21 because the discount is pragmatic to the contract amount not the minimum wage; d) The Construction firm pleads that the post-disqualification be reversed in favor of this construction firm”;

**WHEREAS**, the BAC received a Motion for Reconsideration from Longboan Construction on June 5, 2023 stating that “a) LONGBOAN CONSTRUCTION has complied with all the necessary requirements of the law and still continues to comply with it. The construction firm humbly submits in the bid there was no specification provided for in Labor thus, an estimation was done which is an error on our part and can be subjected to modification”;

**WHEREAS**, under BAC Resolution No. CB 2023-003 dated June 7, 2023, the Motion for Consideration of Pataras Construction Services was **DENIED** due to following grounds: a) failure to refute the insufficiency of the offered equipment. The requirement is two units of cutting outfit, however, the bidder is offering only one unit; b) the BAC also determined that in the List of All Ongoing Government and Private Contracts Including Contracts Awarded but Not Yet Started, the bidder misrepresented





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the contract duration as “**170 cd**” whereas in the contract the duration is actually “**160**” calendar days, which the bidder also failed to justify the discrepancy; c. The Section 34.1 of the IRR of RA 9184 provides that *The Lowest Calculated Bid/Highest Rated Bid shall undergo post-qualification in order to determine whether the bidder concerned **complies with and is responsive to all the requirements** and conditions as specified in the Bidding Documents.* The BAC has the duty to determine that the bidder is compliant and responsive to **all** requirements. There is no rule prohibiting it from revisiting compliance of bidders during the opening of bids; d) The statement in the certification issued by the municipal engineer of Kibungan is categorical: “**with the understanding that he will be issued a 30-day extension**” is insufficient to justify the slippage. The project’s supposed original duration lapsed by April 26, 2023. If there indeed was an extension, it would have been issued **prior to the end of the project duration and already available to the bidder at the time of the preparation of the bids and at the time the letter of reconsideration was being prepared.** Remarkably, the certification was issued on May 16, 2023. At the time the certification was issued, the notice of extension would have been available for presentation to the BAC. The presentation of the notice would have been very convenient rather than obtaining a certification. Instead of presenting the notice of extension, the movant submitted a certification, a document more cumbersome to obtain. At any rate, there is no categorical statement that the project duration was extended or suspended.

**WHEREAS**, under BAC Resolution No. CB 2023-004 dated June 8, 2023, explained that Section 26/1 of the IRR of RA 9184 expressly provides that “*A bidder may modify its bid, provided that this is **done before the deadline** for the submission and receipt of bids. For manual submission and receipt of bids, where a bidder modifies its bid, it shall not be allowed to retrieve its original bid, but shall only be allowed to send another bid equally sealed, properly identified, linked to its original bid and marked as a “modification,” thereof, and stamped “received” by the BAC. **Bid modifications received after the applicable deadline shall not be considered and shall be returned to the bidder unopened.*** The error sought to be corrected is the labor rate which, in this case, will certainly increase the bid amount after adjustment. This will not be merely a **computational** error but will already be tantamount to a bid modification abhorred by the rules. The word “shall” does not leave any room for discretion. It is mandatory. To the committee’s mind, the bid modification which is allowed to be considered as provided under section 32 of the rules are bid modifications made **prior** to the deadline and filed in accordance with the established procedure. Hence, BAC **DENIED** the motion for reconsideration of Longboan Construction.

**WHEREAS**, in accordance with Section 55 of the 2016 Revised IRR of RA 9184, Pataras Construction Services and Longboan Construction have seven (7) calendar days upon receipt of Resolutions No CB 2023-003 and CB 2023-004, respectively, upon receipt from the BAC to protest the decision by filing a verified position paper, accompanied by the payment of a non-refundable protest fee, before the Head of the Procuring Entity;

**WHEREAS**, Section 57 of the IRR of RA 9184 provides that “*In no case shall any protest taken from any decision treated in this Rule stay or delay the bidding process: Provided, however, that protests must first be resolved before any award is made*”;

**WHEREAS**, upon verification with the ATI-RTC-CAR Records Office on June 16, 2023, it was determined that, as of said date, no protest from Pataras Construction Services and Longboan Construction were received on the BAC’s denial of their motion for reconsideration;





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**WHEREAS**, Section 34.6 of the 2016 Revised IRR of RA No 9184 provides that *“Immediately after the BAC has notified the first bidder of its post-disqualification, and notwithstanding any pending request for reconsideration thereof, the BAC shall initiate and complete the same post-qualification process on the bidder with the second Lowest Calculated Bid/Highest Rated Bid. If the second bidder passes the post-qualification, and provided that the request for reconsideration of the first bidder has been denied, the second bidder shall be post-qualified as the bidder with the LCRB or HRRB.”*;

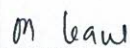
**WHEREAS**, considering the foregoing and pursuant to BAC Resolution No. CB 2023-002, after verification, validation, and ascertainment of all statements made and documents submitted by Tawid Builders Corporation, the BAC found that Tawid Builders Corporation passed all the criteria for post-qualification.

**NOW, THEREFORE**, we, the Members of the Bids and Awards Committee, hereby **RESOLVE** as it is hereby **RESOLVED**:

- a. To declare Tawid Builders Corporation as the bidder with the Lowest Calculated and Responsive Bid (LCRB) for Construction of Swine A.I. sa Barangay (SWAIB) Project Housing and Facility in Bauko, Mt. Province; and
- b. To recommend to the Training Center Director of ATI-RTC-CAR for approval, the award of the said Contract to Tawid Builders Corporation as the bidder with the Lowest Calculated and Responsive Bid (LCRB) at its total submitted bid or total Calculated Bid, whichever is lower.

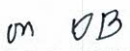
**RESOLVED**, at Agricultural Training Institute-RTC-CAR, BSU Compound, La Trinidad, Benguet, this 16<sup>th</sup> day of June 2023.

  
**MAXIMINO R. AROMIN JR.**  
BAC Chairperson

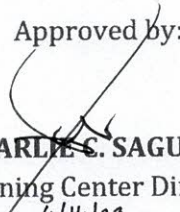
  
**MARIBETH M. LADU-AN**  
BAC Vice - Chairman

  
**JAILA S. SAGPA-EY**  
BAC Member

  
**JAM R. BALINGAN**  
BAC Member

  
**RESLEY ANN G. SUMEDCA**  
BAC Member

Approved by:

  
**CHARLIE C. SAGUDAN**  
Training Center Director  
6/16/23