



Republic of the Philippines
PUBLIC ATTORNEY'S OFFICE
Tanggapan ng Manananggol Pambayan
Kagawaran ng Katarungan
DOJ Agencies Building, NIA Road corner East Avenue, 1104 Quezon City
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**Bids and Awards Committee
Technical Working Group**

**RECOMMENDATION ON THE MOTION FOR RECONSIDERATION
SUBMITTED BY JUKENI ENTERPRISES**

**PROCUREMENT OF
INK TONERS FOR PUBLIC ATTORNEY'S OFFICE FOR FY 2023
PURCHASE REQUEST NO. 030-01-2023**
(Through Public Bidding Pursuant to 2016 Revised Implementing Rules and
Regulations of Republic Act No. 9184)

1. Approved Budget for the Contract

The bidder shall bid for the item described in this Terms of Reference, which shall not exceed the Approved Budget for the Contract in the amount of **SIX MILLION SEVEN HUNDRED FIFTY THOUSAND PESOS (Php 6,750,000.00)**, inclusive of all taxes applicable and bank and government charges payable.

Issue to be resolved:

Product code submitted by <i>JUKENI ENTERPRISES (JUKENI)</i> in the:		Product code Required as per bidding documents:
Legal and Technical Documents	Financial Documents	
"CT203109"	"CT23109"	"CT203109"

JUKENI's arguments:

JUKENI submitted his Motion for Reconsideration dated March 15, 2023 and received by the Public Attorney's Office - Technical Working Group (PAO-TWG) on the same date.

JUKENI posited the following:

- There are no insufficiencies nor discrepancies since JUKENI confirms that the documents submitted in the *First envelope* complied with all of the technical requirements of the bidding documents including the product code: CT203109.
- In good faith, JUKENI recognizes that there was a typographical error in the description in the price schedule in the *Second envelope*.
- JUKENI posited that there was no intention to mislead nor downgrade the specifications provided in the bidding documents.
- There is no product code CT23109 available for the error they made.
- The bid amount submitted by JUKENI amounting to Two Million Nine Hundred Forty Thousand Pesos (P2,940,00.00) is significantly lower compared to the 2nd lowest calculated bid amounting to Five Million Seven Hundred Forty-Nine Thousand Pesos (P5,749,000.00).
- JUKENI is willing to present the on-stock toner cartridge with product code: CT203109 to determine whether such toner cartridge is compatible, fit, and usable with FUJI PHOTOCOPIER (Docuprint M375z).

We found the arguments of JUKENI meritorious.

At the onset, it is apparent that the Product code in the technical specifications in the *First envelope (Legal and Technical Documents)* submitted by JUKENI contains a discrepancy with the description in the price schedule in the *Second envelope (Financial Documents)*. It is clear that Product code CT203109 is not CT23109. We found that the bidding documents submitted by JUKENI are sufficient but with a discrepancy.

In ***CORPUS TAN vs. OFFICE OF THE LOCAL CIVIL REGISTRAR OF THE CITY OF MANILA¹***,

it provides that:

XXXX

“A *clerical error* is one which is **visible to the eyes or obvious to the understanding; an error made by a clerk or a transcriber; a *mistake in copying or writing*, or a harmless change such as a correction of**

¹ G.R. No. 211435, April 10, 2019

name that is clearly misspelled or of a misstatement of the occupation of the parent”

XXXXX

In ***OCHOA vs. APETA***²,

it further provides that:

XXXXX

Good faith is an **intangible and abstract quality** with no technical meaning or statutory definition, and it encompasses, among other things, **an honest belief**, the **absence of malice** and the **absence of design to defraud or to seek an unconscionable advantage**. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one’s right, ignorance of a superior claim and absence of intention to overreach another.

XXXXX

Here, it is clear that JUKENI made a clerical/typographical error in the description indicated in the price schedule in the *Second envelope (Financial Documents)*. The product code obviously bears a typographical error as the error in the description is apparent to the naked eye. Further, we observed that the error was made in the absence of malice and absence of design to defraud or to seek an unconscionable advantage.

JUKENI acknowledged the presence of typographical error in their motion for reconsideration. They further provided that there was no intention to mislead nor downgrade the specifications provided in the bidding documents. Evidently, JUKENI is willing to present the on-stock toner cartridge with product code: CT203109 to determine whether such toner cartridge is compatible, fit, and usable with FUJI PHOTOCOPIER (Docuprint M375z).

Clearly, JUKENI is willing to prove, through the presentation of the toner, that the product code CT23109 instead of CT203109 in the description indicated in the price schedule in the *Second envelope (Financial Documents)* was a mere typographical error. Consequently, JUKENI’s clerical error was made in good faith because JUKENI is willing to prove that typographical error

² G.R. No. 146259, September 13, 2007

exists. In support thereto, JUKENI is willing to provide an on-stock toner bearing product code: CT203109 to be tested with FUJI PHOTOCOPIER (Docuprint M375z). It is an indication of good faith.

Furthermore, it is true that the ink toners offered by JUKENI in the amount of **Two Million Nine Hundred Forty Thousand Pesos (P2,940,00.00)** is **significantly lower** compared to the 2nd lowest calculated bid amounting to **Five Million Seven Hundred Forty-Nine Thousand Pesos (P5,749,000.00)** by **Two Million Eight Hundred Nine Thousand Pesos (P2,809,000.00)**. The price is the most advantageous to the Government. It is in consonance with Republic Act No. 9184 which provides that "*the Procuring Entity shall ensure that the most advantageous price for the government is obtained.*"

In view of the foregoing premises, we found that the MOTION FOR RECONSIDERATION filed by JUKENI ENTERPRISES is meritorious. We hereby recommend that the on-going post qualification of **T and E ENTERPRISES** be **SUSPENDED** and recommend that the bid submitted by **JUKENI ENTERPRISES**:

- a. ✓ BE DECLARED as the *Lowest Calculated Bid*; and
- b. ✓ BE SUBJECTED to *Post Qualification*.

March 21, 2023

TECHNICAL WORKING GROUP:

Head:


ALMA E. DUMAGO – LATOSA

✓ Director II

Financial Planning and Management Service

Members:


THOR ARTHUR B. AVILLA

Administrative Officer V

Human Resource Management and Development Division
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