



BAC RESOLUTION NO. 2025-007
RESPONSE TO THE REQUEST FOR RECONSIDERATION OF PYTHOS
TECHNOLOGIES PHILIPPINES INC. AND DECLARATION OF FAILURE OF
BIDDING FOR ITB NO. 2024-0019

WHEREAS, the Office of the General Manager, Corporate Planning Office, Administrative Division, Finance Division, Public Affairs, News Division, Provincial Network Division, and Production Program Services requested for the procurement of **Supply and Delivery of Office Laptops and Desktop Workstation Computers** with an Approved Budget for the Contract (ABC) of **twelve million two hundred thousand pesos (PHP 12,200,000.00)** which the Bids and Awards Committee (BAC) reviewed through pre-procurement conference on **19 December 2024** to confirm its readiness for the procurement;

WHEREAS, the People's Television Network, Inc. through its BAC, advertised the invitation to bid of the said request through **Competitive Bidding** under **ITB No. 2024-0019** by posting in the Philippine Government Electronic Procurement Service (PhilGEPS), the Network's website and in conspicuous places within the network's premises in accordance with the rules provided under Republic Act (R.A.) 9184 and its Implementing Rules and Regulations (IRR) on **30 December 2024**;

WHEREAS, on **10 January 2025** the pre-bid conference was held at the BAC Secretariat Office, 3rd Floor, Broadcast Complex, Visayas Ave., Diliman Quezon City and through video conferencing via Google Meet;

WHEREAS, in response to the said advertisement, two (2) bidders, namely, (1) **Pythos Technologies Philippines Inc.** and (2) **Diamond Empire Marketing** bought the bidding documents;

WHEREAS, on **31 January 2025 at 10:00 am**, the deadline of bid submission, the secretariat received only one (1) bid from **Pythos Technologies Philippines Inc.** and on the same day at 10:30 am, the BAC conducted a preliminary examination of the submitted bid at the BAC Secretariat Office, 3rd Floor, Broadcast Complex, Visayas Ave., Diliman Quezon City and through video conferencing via Google Meet;

WHEREAS, after the said examination, the bid of **Pythos Technologies Philippines Inc.** was declared failed due to the incomplete submission of the Financial Bid Form and Price Schedule, wherein the individual who signed the Financial Bid was not the same person specified in the executed and notarized Omnibus Sworn Statement (OSS);

WHEREAS, pursuant to Section 55 of RA No. 9184 and its revised IRR, the BAC informed **Pythos Technologies Philippines Inc.** that they may file a request for reconsideration within three (3) calendar days upon notification;

WHEREAS, in response to the decision, **Pythos Technologies Philippines Inc.** submitted a request for reconsideration on **3 February 2025** attached in this resolution;

WHEREAS, after careful review of the motion and the arguments presented therein, in light of the provisions of Republic Act 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations. The main issue at hand is the validity of Pythos Technologies Philippines Inc's bid offer due to the discrepancy between the authorized signatory declared in Pythos' Omnibus Sworn Statement and the individual who signed the Bid Form;

WHEREAS, the Omnibus Sworn Statement, a mandatory requirement, explicitly identifies **Wenifredo Magnaye** as the authorized representative empowered to submit the bid and execute all necessary actions related to the project. However, the submitted Bid Form/Price schedule bears the signature of **Rose Eden Arucan**;

WHEREAS, Section 25.2(iv) of the Implementing Rules and Regulations (IRR) of R.A. No. 9184 requires the submission of a Sworn Statement by the prospective bidder or its duly authorized representative stating among others, that the signatory is the duly authorized representative of the bidder, and granted full power and authority to do, execute and perform any and all acts necessary and/or to represent the prospective bidder in the bidding, covered by a duly notarized Secretary's Certificate attesting to such fact, if the Bidder is a corporation, partnership, cooperative, or joint venture. This requirement is likewise contained in ITB Clause 12.1 (b)(iii) of the Philippine Bidding Documents. **(emphasis supplied)**

WHEREAS, the abovementioned provision of the IRR dictates that during the submission and opening of bids, the one who will represent the bidder -who is a juridical entity – must be equipped with a Secretary's Certificate, stating that he/she is the duly authorized representative of the corporation, partnership, cooperative or joint venture and has full authority to perform all acts necessary and desirable under the circumstances in representation of the bidder¹;

WHEREAS, while the Motion cites the submitted Secretary's Certificate, which names **Rose Eden Arucan**, as evidence of authorization, this does not rectify the discrepancy. The Secretary's Certificate, while attesting to internal corporate authority, does not supersede the specific representation made in the Omnibus Sworn Statement for this particular procurement process. The Omnibus Sworn Statement serves as a

¹ NPM No. 043-2016

definitive declaration of the bidder's authorized representative for this specific bid. The discrepancy creates ambiguity regarding proper representation, a critical concern under RA 9184;

WHEREAS, it must be emphasized that in determining the eligibility of bidders for the procurement of goods, only the documents mentioned in Section 25 of Republic Act No. (RA) 9184 and 23. 1 of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184. Such list of minimum eligibility requirements under the IRR of R.A. 9184 has been streamlined/simplified, such that **only those requirements enumerated are necessary for purposes of determining the bidder's eligibility**;

WHEREAS, the Secretary Certificate included in the bidding documents is not considered an eligibility document as defined by law. It serves as an additional documentary requirement, specifically to verify the authority of the signatory of the Omnibus Sworn Statement. This certificate confirms the signatory's status as the duly authorized and designated representative of the corporation, partnership, or joint venture;

WHEREAS, R.A. 9184 mandates clear and consistent representation in bidding activities. The Omnibus Sworn Statement serves this crucial purpose, assuring that the individual acting on behalf of the bidder is duly authorized to bind the bidder to the terms and conditions of the bidding process. The observed inconsistency between the declared representative in the Omnibus Sworn Statement and the signatory on the Bid Form raises legitimate concerns about the validity of the submitted bid:

WHEREAS, the value and importance of the signature in the bid is of no question. The signature signifies the offer of the bidder to enter into contract with the Government. In relation to this, the Supreme Court, in the case of *Desierto and Vigilant v. Ocampo*², held that unless the bid form is signed by the duly authorized official, the bid is only a scrap of paper. In the case of *Republic v. Judge Capulong*, the High Tribunal made a pronouncement that if there is no duly accomplished and signed Form of Bid submitted to the bidding committee, there is nothing to accept on the part of the government agency²;

WHEREAS, the reliance on the Secretary's Certificate in this context is misplaced. While it confirms **Rose Eden Arucan's** general authority within Pythos Technology, it does not address the specific authorization required for this bid as explicitly declared in the Omnibus Sworn Statement. The principle of specificity dictates that the more specific declaration in the Omnibus Sworn Statement should prevail for the purposes of this procurement activity.

² NPM No. 118-2015


WHEREAS, as between the Corporation Code, a general law governing the rights, relations, and conduct of persons, companies, organizations and businesses, and the Government Procurement Reform Act, a special law which provides the modernization, standardization and regulation of the procurement activities of the government, then the latter shall prevail. As the Court pronounced in *Disomangcop v. The Secretary of the Department of Public Works and Highways Simeon A. Datumanong*:

*It is a finely-imbedded principle in statutory construction that a special provision or law prevails over a general one. Lex specialis derogant generali. As this Court expressed in the case of *Leveriza v. Intermediate Appellate Court*, "another basic principle of statutory construction mandates that general legislation must give way to special legislation on the same subject and generally be so interpreted as to embrace only cases in which the special provisions are not applicable, that specific statute prevails over a general statute and that where two statutes are of equal theoretical application to a particular case, the one designed therefor specially should prevail." (emphasis supplied)*


NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the members of the Bids and Awards Committee, hereby **RESOLVE** as it is hereby **RESOLVED** to:

1. Deny the request for reconsideration of Pythos Technologies Philippines Inc. pursuant to the aforementioned response to the request for reconsideration
2. Declare the failure of bidding pursuant to Section 35 (b) of RA No. 9184 and its revised IRR
3. Conduct mandatory review of the project requirements, approved budget for the contract, and other necessary documents in accordance with RA 9184 and its IRR
4. Direct the Secretariat to cause republication of the project after the mandatory review and its inclusion to the FY 2025 Annual Procurement Plan

RESOLVED, this **5th day of February 2025**, at Conference Room, 3rd Floor, PTNI Broadcast Complex, Visayas Avenue, Diliman, Quezon City and via video conferencing through Google Meet.


JASMINE B. BARRIOS
Chairperson, Bids and Awards Committee



MARIE THERESE D. NICOLAS
Vice Chairperson


REGINA T. CELESTRE
Member


JOSELITO N. TANGGOL
Member

JOSE EMILIO F. JAUCIAN, JR.
Member

Approved by:


ANTONIO BALTAZAR V. NEBRIDA, JR
Network General Manager
Head of the Procuring Entity (HoPE)
date: _____



FEBRUARY 3, 2025

**HONORABLE JASMINE B. BARRIOS
CHAIRPERSON
BID AND AWARDS COMMITTEE
PEOPLES TELEVISION NETWORK INC.**

Subject: **VERIFIED REQUEST FOR RECONSIDERATION OF THE DISQUALIFICATION of Pythos Technology Phils., Inc. for the "Supply and Delivery of Office Laptops and Desktop Workstation Computers, with identification Number ITB No. 2024-0019 for The People's Television Network, Inc. (PTNI)"**

Dear Honorable Barrios,

On the scheduled Opening of Bid for the subject procurement on 31 January 2025, our company *Pythos Technology Phils., Inc.* was verbally informed of its *Disqualification*. The *Bids and Awards Committee (BAC)* has disqualified our company for the procurement of "Supply and Delivery of Office Laptops and Desktop Workstation Computers, with identification Number ITB No. 2024-0019 for The People's Television Network, Inc. (PTNI)", on the alleged basis that our company's bidding documents particularly the *Omnibus Sworn Statement (OSS)*, Price Schedule and the *Financial Bid* form were signed not by the same person allegedly in violation of allegedly in violation of Section 25 of Republic Act No. 9184 as well as Section 25.3 of the Implementing Rules and Regulations (IRR).

With due respect, the BAC committed reversible errors when it *Disqualified* Pythos from the subject procurement on the day of the opening of bid. Pursuant to *Section 55 of the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184 ("The Government Procurement Reform Act")* our company has three (3) days from receipt of the *Notice of Disqualification* or until 3 February 2025 within which to seek reconsideration of the same.

Thus, I, on behalf of our company *Pythos Technology Phils., Inc.* hereby respectfully **MOVE FOR RECONSIDERATION** of the said *disqualification* as the ground relied upon by the BAC is not applicable to our situation. In support of this position for reconsideration.

A Secretary's Certificate dated January 20, 2025, executed by our *Corporate Secretary Atty. Felix B. Desiderio Jr.*, and notarized on January 23, 2025, by *Atty. Jerome Arteluz S. Babawidan at Pasig City* was submitted in compliance with the requirements under ITB No. 2024-0019 for the Supply and Delivery of Office Laptops and desktop workstation Computers.

Present during the bidding was our representative, *Samantha Nierras*, and myself *Ernest Nierras*, who was online to witness the proceedings.

It was during the opening of our Financial Bid Component that the proceedings were halted, and attendees were temporarily excused. Upon the commencement of the proceedings, our representative Samantha Nierras was informed that *our bid was declared disqualified because the signatory on the Price Schedule and Financial bid form was declared unauthorized.*

It is our position, and it is clearly stated on our Secretary's Certificate that *both Mr. Magnave and Ms. Arucan were authorized to act on behalf of our corporation and were allowed to sign on either the OSS, Price Schedule and Financial Bid form.*

During the discussion, I requested to be recognized by the BAC Chairperson and asked for clarification on the decision to disqualify our bid. It was at this time that Samantha Nierras was allowed to photograph, for our reference of appeal, documents supporting the decision of the BAC Chairperson to disqualify our bid (See attached photos) as well as an **Abstract of Bids as Read** form (See Attached Annex 1). It states the reason for our disqualification and is the premise for our **Move for Reconsideration.**

Please allow us to reference the following: *RA 9184 Sec 215.3, Clause 19.4 of the PBD, and ITB No. 2024-0019.*

RA 9184 Sec. 25.3 The Omnibus Sworn Statement (OSS) executed by the bidder, or its duly authorized representative, shall contain the following:

(a) The signatory is the duly authorized representative of the prospective bidder, and granted full power and authority to do, execute, and perform any and all acts necessary to participate, submit the bid, and sign and execute the ensuing contract accompanied by the duly notarized *Special Power of Attorney, Board/Partnership Resolution, or Secretary's Certificate*, whichever is applicable.

(g) It complies with the responsibilities of a prospective or eligible bidder provided in the PBDs.

Clause 19.4 of the PBD:

19.4. The bid, except for unamended printed literature, shall be signed, and each and every page thereof shall be initialed, by the duly authorized representative/s of the Bidder.

ITB No. 2024-0019: There are no Special Provisions, requirements, or conditions stated in this document that do not follow *RA 9184 Sec 25.3 concerning Clause 19.4 of the PBD.*



Also mentioned during our Bid evaluation was the *Supreme Court case of Disierto and Vigilar v. Ocampo* (see attached photos), which states:

In reference to section 5(d) of Republic Act (RA) No. 9184.

"(d) BID – refers to a signed offer or proposal submitted by a supplier, manufacturer, distributor, contractor or consultant in response to the Bidding Documents." (Emphasis supplied)

"The value and importance of the signature in the bid is of no question. The signature signifies the offer of the bidder to enter into a contract with the government. In relation to this, the Supreme Court, in the case of Disierto and Vigilar v. Ocampo, held that unless the bid form is signed by the duly authorized official, the bid is only a scrap of paper. In the case of Republic v. Jude Capulong, the High Tribunal made a pronouncement that if there is no duly accomplished and signed Form of Bid submitted to the bidding committee, there is nothing to accept on the part of the government agency".

"A cursory reading of Clause 19.4 of the PBD reveals that the two requirements must be complied with by the authorized representative/s of the bidder for the signing of the bids, thus (1) the bid, except for unamended printed literature shall be signed; and (2) each and every page of the bid shall be initialed".

In understanding the referenced laws and clauses mentioned by the BAC during the bid opening, we were able to comprehend that **there was no violation on our part by having two authorized signatories on our Bid Document**. Wenifredo Magnaye (President) and Rose Eden T. Arucan (Accounting Manager), both officers of Pythos Technology Inc. were duly authorized to act on behalf of the corporations as signatories on our Bid Documents.

As prescribed in the Philippine Republic Act (RA) 9184, Section 25.3, clearly explains that the **Omnibus Sworn Statement (OSS)** is a crucial document required in government procurement. It serves as a certification that the bidder complies with various legal requirements, such as being free from conflicts of interest, having no pending case, and other legal obligations. **The signatory of the Omnibus Sworn Statement does not have to be the same person as the signatory for the Price Schedule and Financial Bid Form**. In our case, we submitted both Wenifredo Magnaye and Rose Eden T. Arucan via our Secretary Certificate as duly authorized signatories.

In examining **ITB No. 2024-0019** for the **OSS, Price Schedule, and Financial Bid forms**, there is no explicit requirement or law under **RA 9184 or Clause 19.4 PBD** that mandates the same person to sign both documents. What matters is that the person signing has proper authority.

Clearly, there is nothing in the above provisions of *Section 25 of Republic Act No. 9184 as well as Section 25.3 of the Implementing Rules and Regulations*, that specifically mandate that the *Financial Bid Documents* must be signed by the same person who signed the OSS. What the above provisions require is that the person or persons signing the bid documents as well as the OSS must be the authorized representative of the bidder.

In practice, as long as the bidding entity provides clear evidence of each signatory's authority—typically through a Board Resolution or Secretary's Certificate specifying the individuals authorized to sign specific documents—the bid is compliant with the procurement regulations.

To support our position, we submitted a Secretary's Certificate that duly authorized both Wenifredo Magnaye and Rose Eden T. Arucan to sign on behalf of the Board of Directors. This is compliant with RA 9184 Sec 25.3, Clause 19.4 of the PBD, and ITB No. 2024-0019.

Republic Act 9184 itself (the Government Procurement Reform Act) and its Implementing Rules and Regulations (IRR), NPM No. 072012 issued by the GPPB clearly state this as prescribed in the notations reference at the opening of this Motion for Reconsideration. As well as the Corporation Code of the Philippines, and General Principles of Agency (Civil Code of the Philippines)

1. ***RA 9184 (Government Procurement Reform Act) – Section 25.3*** requires an Omnibus Sworn Statement, ***but it does not specify that the same person who signs the Omnibus Sworn Statement must sign the financial documents.*** If the signatories are duly authorized by the corporation to sign such documents, it is not a violation of RA 9184 if different individuals sign each.
2. ***RA 9184 IRR (Implementing Rules and Regulations).*** The IRR provides further clarification about the procurement process, the required documents, and the roles of signatories in the bidding process. Section 23.1(b) of the IRR states:

"The Omnibus Sworn Statement shall be signed by a person duly authorized by the bidder's board of directors, or its equivalent body, or the bidder's partner, in case of a partnership, or by the bidder himself, in case of a sole proprietorship."

3. In addition, under ***NPM No. 07-2012 issued by the GPPB***, it is required that ***"the signatory to the submitted bid should be the person prescribed or authorized in the OSS."*** However, ***it does not prohibit the bidder from authorizing two (2) persons to submit and sign the bid documents*** as in this case both *Wenifredo M. Magnaye* who signed the OSS and *Rose Eden T. Arucan* who signed the *Price Schedule and Financial Bid form*. Stated otherwise, the signatories to the bid documents as well as

the OSS were never changed as both *Wenifredo M. Magnaye* and *Rose Eden T. Arucan* were duly authorized by our company Pythos.

In short, a closer look at entirety of Pythos' *Omnibus Sworn Statement (OSS)* would show that **it was not only Wenifredo M. Magnaye who was authorized but also Rose Eden T. Arucan** as clearly stated in the attached *Secretary's Certificate dated 23 January 2025*. Thus, the fact that *Magnaye* signed the *OSS* and *Arucan* signed the Financial Bid Documents, cannot be construed as a violation of the *GPPB's NPM No. 07-2012* requiring that "*the signatory to the submitted bid should be the person prescribed or authorized in the OSS* since both *Magnaye* and *Arucan* were the same **persons prescribed or authorized** by Pythos as stated in the *Secretary's Certificate dated 23 January 2025 attached to the OSS*.

4. Corporation Code of the Philippines (Batas Pambansa Blg. 68)

The Corporation Code governs the authorization of corporate officers and the delegation of signing authority within a company. *Under Section 23 of the Corporation Code*, the authority to represent the corporation can be granted to specific individuals via a Board Resolution or Secretary's Certificate. This allows the company to grant separate authorities for different documents (e.g., one person for the Price Schedule and Financial Bid Form, and another for the Omnibus Sworn Statement). Section 23 of the Corporation Code (1980):

"The board of directors may, by resolution, designate one or more officers or agents of the corporation to sign, execute, and deliver documents, including but not limited to, contracts, deeds, and other instruments in the name and on behalf of the corporation, and to perform such acts and duties as may be designated by the board."

This provides the foundation for the company to designate separate representatives for different tasks, such as signing financial documents and signing the Omnibus Sworn Statement.

5. General Principles of Agency (Civil Code of the Philippines)

Article 1868 of the Civil Code of the Philippines allows the corporation's governing body (e.g., the board of directors) to grant authority to an agent (or representative) to act on its behalf. This can be done through a Board Resolution or other appropriate authorization.

Article 1868:

"By the contract of agency, a person (the principal) gives another person (the agent) the authority to do something for the principal, and the agent agrees to do it."



This supports our position that both Wenifredo Magnaye and Rose Eden T. Arucan are authorized agents, and can represent the company in various capacities, including signing different documents in relation to the submission of our complete Bid Documents.

These laws and principles together support our position that different individuals may sign the **Omnibus Sworn Statement, Price Schedule, and Financial Bid form**, as long as each is properly authorized through the appropriate corporate processes (such as Board Resolutions or Secretary's Certificates).

Section 25.3 of RA 9184 IRR focuses on the legal authority of the person signing the bid documents, especially the Omnibus Sworn Statement (OSS). It requires that: The OSS must be signed by a duly authorized representative of the bidder. Proof of such authority must be submitted, typically in the form of a Board Resolution, Secretary's Certificate, or Special Power of Attorney (SPA).

Clause 19.4 of the Philippine Bidding Documents (PBD): Clause 19.4 complements Section 25.3 by specifying the procedural requirements during the submission and opening of bids. It outlines the following: The bid documents must be signed by the bidder's authorized representative(s). The proof of authority (as required under Section 25.3) must be included in the bid submission. The absence of proper authorization documents may result in the bid being declared non-responsive.

We submit that Section 25.3 (RA 9184 IRR) sets the **legal requirement for signatory authority without mandating a single signatory for all the documents**. Clause 19.4 (PBD) provides the procedural framework for implementing and verifying this requirement during bid submission and evaluation by emphasizing the need for valid authorization but allows flexibility when compliance with legal authority requirements is maintained.

Therefore, multiple signatories on the OSS, Price Schedule, and Financial Bid form do not violate Clause 19.4 of the **Philippine Bidding Documents (PBD) nor RA 9184 IRR Sec 25.3**.

The practice of having different authorized signatories for the OSS, Price Schedule and Financial Bid Form is generally accepted, provided that each signatory is duly authorized through appropriate corporate documentation, such as a Secretary's Certificate.

This aligns with the requirements outlined in **Section 25.3 of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184**, which mandates that the OSS and other bid documents be signed by a duly authorized representative, with the necessary proof of such authority included in the bid submission, but it does not specify that the same person who signs the Omnibus Sworn Statement must sign the Price Schedule and Financial Bid form.



In view of the foregoing, it is respectfully prayed that the *Disqualification* of our company *Pythos Technology Phils., Inc.* **on 31 January 2025** for the procurement of “*Supply and Delivery of Office Laptops and Desktop Workstation Computers, with identification Number ITB No. 2024-0019 for The People’s Television Network, Inc. (PTNI)*”, should **BE RECONSIDERED AND SET ASIDE.**

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Ernest Nierras', is written over a light blue horizontal line.

Ernest Nierras
Chairman/CEO
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