

NPM No. 113-2016

6 December 2016

HON. CLEMELLE L. MONTALLANA

Vice President for Administration

LEYTE NORMAL UNIVERSITY (LNU)

Tacloban City.

Re : Adjacent or Contiguous Infrastructure Projects

Dear VP Montallana:

This refers to your letter specifically requesting for clarification on the application of Negotiated Procurement (Adjacent or Contiguous) under Section 53.4 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

As presented, LNU is currently undertaking an infrastructure project for Phase 2 of Hotel Cresencia, a 4-storey laboratory hotel for hospitality management students. For phase 3 of the project, you advised the Bids and Awards Committee to proceed with competitive bidding because the Manual of Procedures for Infrastructure Projects made mention that the Adjacent or Contiguous modality may only be undertaken once for a particular project. Hence, you request our guidance on whether the Adjacent or Contiguous modality may only be resorted to only once for a specific project.

The phrase "adjacent or contiguous" refers to projects that are in actual physical contact with each other or in the immediate vicinity such that the required equipment and other resources can easily be mobilized in the case of infrastructure projects. Thus, the physical connection of the two (2) projects should be actual and not superficial. The objective of this policy is to take the advantage of the economy and efficiency in engaging the contractor for the on-going project, and ensure that the two structures are soundly connected.

Under Annex H of the 2016 IRR, resort to Negotiated Procurement under the Adjacent or Contiguous modality is not absolute. It may only be allowed if the following conditions are complied with, thus:

- (a) the original contract is the result of a Competitive Bidding;
- (b) the subject contract to be negotiated has similar or related scopes of work;
- (c) it is within the contracting capacity of the contractor/consultant considering the legal, technical (*e.g.*, PCAB license, SLCC) and financial (*e.g.*, NFCC for the contiguous project) requirements for eligibility;

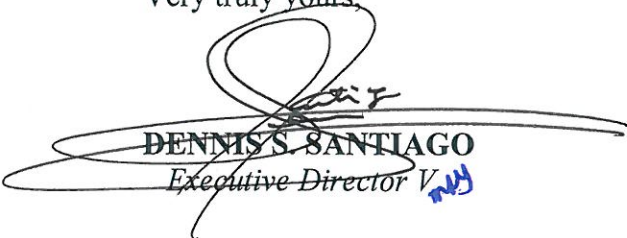

- (d) in determining the SLCC, NFCC and PCAB license, the sum of the value of the remaining works for the existing contract and the ABC of the Contiguous or adjacent work shall be considered;
- (e) the contractor consultant uses the same prices or lower unit prices as in the original contract less mobilization cost;
- (f) The ABC of the contiguous or adjacent work involved does not exceed the contract amount of the ongoing project; and,
- (g) the contractor/consultant has no negative slippage/delay in the original contract during the time of negotiation; and
- (h) Negotiations for the procurement are commenced before the expiry of the original contract.

On the other hand, the 2006 edition of the Manual of Procedures for Infrastructure Projects provides that the Adjacent or Contiguous modality can only be undertaken once for a particular ongoing infrastructure project.

Accordingly, Negotiated Procurement under the Adjacent or Contiguous modality, as sanctioned by Section 53.4 of the 2016 IRR of RA 9184, may be resorted to only when all the conditions are complied with. Moreover, the procuring entity may only resort to Adjacent or Contiguous modality once for a specific project as provided for under the 2006 edition of Manual of Procedures for Infrastructure Projects.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director 

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