



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF BUDGET AND MANAGEMENT  
GOVERNMENT PROCUREMENT POLICY BOARD  
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TSO NPM No. 022-2003

October 1, 2003

**HON. SULTAN LINOG M. INDOL**  
Regional Technical Director for LMS  
Department of Environment and Natural Resources (DENR)  
Region 10, Macabalan, Cagayan de Oro City

Re : Advertisement and Posting Requirement.

Dear Sultan Indol:

This refers to your letter which we received through facsimile on September 10, 2003, requesting for information/clarification regarding the advertisement and posting requirement under Section 14.2.1 and 14.2.2 of the Implementing Rules and Regulation ("IRR") of Executive Order No. 40, series of 2001 ("E.O. 40"). The sole issue sought to be resolved is:

Whether or not a procurement of consulting services that has an approved budget for the contract ("ABC") of P 570,000.00 and that has a duration of 3 months should be advertised in newspapers of general circulation.

**Advertisement Requirement under E.O. 40**

Section 14.2.1 of the IRR of E.O. 40 provides that:

14.2.1. Except as otherwise provided in Sections 14.2.2 and 14.2.3 of these IRR, the Invitation to Apply for Eligibility and to Bid shall be:

- a) Advertised at least twice within a minimum period of two (2) consecutive weeks, with a period of seven (7) calendar days between publications, in at least two (2) newspapers of general nationwide circulation which have been regularly published for at least two (2) years before the date of issue of the advertisement;
- b) Posted continuously in the website of the agency concerned, if available, the website of the agency's service provider for its electronic bidding system (EBS), if any, as provided in Section 38.5.4 of these IRR, and the EPS during the two-week period stated above;

- c) Posted at any conspicuous place reserved for this purpose in the premises of the agency concerned, as certified by the head of the BAC Secretariat of the agency concerned; x x x

As expressly provided in Section 14.2.1, it is clear that the provisions of Section 14.2.2 serve as an exception in so far as the publication of the Invitation to Apply for Eligibility and to Bid in newspapers of general circulation is concerned. As such, Section 14.2.2 explicitly provides that if the ABC for the procurement of consulting services is Five Hundred Thousand Pesos (P 500,000.00) and below and/or if the contract duration is four (4) months or less, the Invitation to Apply for Eligibility and to Bid need not be advertised in newspapers of general circulation in accordance with the requirements mandated by Section 14.2.1, provided that it is an imperative for the procuring agency to post the Invitation in: (a) its website, if available; (b) the website of its service provider, if any; (c) the Electronic Procurement System (“EPS”); and, (d) at conspicuous places in the premises of the procuring agency. Section 14.2.2 in part, provides:

14.2.2. x x x For projects/contracts for consulting services with an ABC costing five hundred thousand pesos (P 500,000.00) and below **and/or** those whose duration is four (4) months or less, the Invitation to Apply for Eligibility and to Bid shall be posted at least in the website of the agency concerned, if available, the website of the agency’s service provider for its electronic bidding system (EBS), if any, as provided in Section 38.5.4 of these IRR, the EPS and posted at any conspicuous place reserved for this purpose in the premises of the agency concerned, as certified by the head of the BAC Secretariat of the agency concerned, during the same period as above. (Emphasis supplied)


It should be noted that the two (2) conditions for the exception to the advertising requirement in Section 14.2.2 above are couched conjunctively and disjunctively: (i) conjunctively, a particular procurement for consulting services may be excused from the newspaper advertisement requirement if the ABC costs five hundred thousand pesos (P500,000.00) and below and if the contract duration is four (4) months or less; or (ii) disjunctively, the said procurement may be excused from the newspaper advertisement requirement either if the ABC costs five hundred thousand pesos (P500,000.00) and below, or if the contract duration is four (4) months or less. In its elementary sense, “or” as used in a statute is a disjunctive article indicating an alternative, connecting a series of words or proposition indicating a choice of either. (*See Centeno v. Villalon-Pornillos*, 236 SCRA 197)

In fine, considering that the indicated project duration for the particular procurement of consulting services is below four (4) months, we believe DENR need not publish the Invitation to Apply for Eligibility and to Bid in a newspaper of general nationwide circulation, provided that the same must be posted at the website of DENR, if available, the website of the DENR’s service provider for its electronic bidding system (EBS), if any, the EPS, and posted at any conspicuous place reserved for this purpose in the premises of the agency concerned.

With the foregoing elucidations, we trust that our opinion has provided DENR with the needed information in the advertisement and posting of its Invitation to Apply for Eligibility and to Bid for the procurement of consulting services.

Please note that this opinion is being rendered on the basis of the facts and particular circumstances as represented. However, if upon further study or investigation, it would be disclosed that the facts are different from the afore-mentioned representations and assumptions, if any, then this opinion may no longer be applicable. Nor may this opinion be necessarily applicable upon a different set of facts or circumstances.

Very truly yours,



**JOSE LUIS C. SYQUIA**  
Acting Executive Director