



TECHNICAL SUPPORT OFFICE

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NPM No. 27-2010

21 September 2010

ATTY. ROBERTO T. ONGSIAKO
Chairman, Bids and Awards Committee
SUBIC BAY METROPOLITAN AUTHORITY
Room 211 Building 229 Waterfront Road
Subic Bay Freeport Zone

Re : Procurement of Services of ISO Certifying Body

Dear Atty. Ongsiako:

We refer to your letter dated 29 April 2010 seeking our guidance on the following concerns:

1. Whether procurement of the services of an International Organization for Standardization (ISO) Certifying Body is covered by Republic Act (RA) 9184;
2. If so, whether the procurement of said service falls under goods or consulting services; and
3. The appropriate method of procurement that may be used therefor.

Procurement of Services of ISO Certifying Body Covered by RA 9184

We would like to note that RA 9184 generally applies to the procurement of infrastructure projects, goods, and consulting services by all branches of government, including government-owned and/or -controlled corporations. Unless, therefore, the procurement of an ISO Certifying Body by the Subic Bay Metropolitan Authority (SBMA) falls under any of the exceptions provided under Section 4.4 of the revised Implementing Rules and Regulations (IRR) of RA 9184, then it shall be within the ambit of said procurement rules.

Classification of Procurement of Services of ISO Certifying Body

We understand that the primary task of the Certifying Body is to audit and assess whether SBMA conforms to ISO 9001:2008 as prescribed in Administrative Order 161. The

SBMA Bids and Awards Committee (BAC) for Consultancy Services initially resolved that the procurement falls under consulting services. The end-user unit, Total Quality Management Office, however, believes otherwise because certification bodies are said to be prohibited from providing consultancy services to customers it assists to prepare for certification audit.

We would like to inform you that the procuring entity is vested with the authority and responsibility to determine under which category a certain procurement falls, as appropriately guided by the provisions of RA 9184 and its IRR. The determination of the nature of procurement ultimately belongs to the procuring entity considering that it is in the best position to identify the primary purpose of the contract.¹

For your guidance, please note that the definition of “goods” under Section 5 (r) of the IRR of RA 9184 includes general support services and related or analogous services essential to the operation of the procuring entity. On the other hand, Section 5 (i) of the same IRR defines the term “consulting services” as follows:

Refer to services for infrastructure projects and other types of projects or activities of the GOP requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the GOP to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies.

For additional perspective on the distinction between services as “goods” and services as “consulting”, you may find the following portion from Chapter 1.2 of the Consulting Services Manual 2006² of the World Bank helpful:

[O]ne must distinguish between professional consulting services and other types of services in which the physical component of the activity is crucial, although the boundary between them blurs in some cases. The latter often involve equipment-intensive assignments using established technologies and methodologies that have measurable physical outputs—for example, field investigations and surveys such as cartography, aerial surveys, satellite mapping, drilling, computer services and installation of information systems, and plant operation and maintenance. These services are procured under the Bank’s guidelines for procurement of goods and works, also called “Procurement Guidelines.”

It appears then that if the services to be undertaken by the ISO Certifying Body involve the use of established technologies or methodologies that have measurable physical outputs, it may be classified as “goods”. In contrast, if the services involve review and provision of advice on particular projects, or planning and project feasibility assessment, or rendition of financial, legal or other professional services, including management, testing, and quality control, then it may properly be considered as “consulting services”.

¹ Please see Non-Policy Opinion Nos. 06-2008 (27 May 2008) and 29-2008 (23 September 2008).

² <http://siteresources.worldbank.org/PROCUREMENT/Resources/csm-final-ev3.pdf>.


Lastly, in the event that you determine that the services of an ISO Certifying Body is a consulting service, we suggest that a further study on the distinction between offering or providing management system consultancy and performing audit and assessment of compliance with ISO 9001-2008 be conducted.

Appropriate Method of Procurement

Please be reminded that in accordance with Section 10 of RA 9184, all procurement shall, as a general rule, be undertaken through public bidding. Alternative methods of procurement may only be resorted to under highly exceptional instances whenever justified by the conditions provided therein and subject to the approval of the head of the procuring entity.³

We hope to have provided sufficient guidance on the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



DENNIS LORNE S. NACARIO
OIC-Executive Director III

³ Section 48, R.A. 9184.