



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 10-2012

20 February 2013

HON. ALLAN Q. UMALI
Assistant Secretary
DEPARTMENT OF AGRICULTURE (DA)
Elliptical Road, Diliman, Quezon City

Re : Conflict of Interest

Dear Assistant Secretary Umali:

This refers to your letter dated 5 February 2013, which we received on 18 February 2013, requesting guidance on whether there is conflict of interest when the entity that prepared and made plans/drawings for a Project, likewise participates in the bidding process for the same Project.

As represented, DA is currently conducting the bidding process for the Construction, Supervision and Management of DA-National Agriculture and Fishery Council/Livestock and Development Council Building (Project), the plans/drawings for which was prepared and made by an entity that is now participating as a bidder for the Project.

Please note that the Generic Procurement Manuals for the Procurement of Consulting Services¹ clearly provide that the firm that has been engaged to provide consulting services for the preparation or implementation of a project, and each of its affiliates, will be disqualified from subsequently providing goods, works, or services resulting from or directly related to the firm's consulting services for such preparation or implementation. It also provides that consultants hired to prepare terms of reference for an assignment should not be hired for the assignment in question.²

The Philippine Bidding Documents for the Procurement of Consulting Services³ identifies existence of conflict of interest for "any previous or ongoing participation by the Consultant, its professional staff, or its affiliates or associates under a contract with the Funding Source or the Procuring Entity in relation to [the] Project"⁴. In addition, Clause 2.6 of the same document provides that "[f]airness and transparency in the selection process

¹ Generic Procurement Manuals: Volume 4, Manual of Procedures for the Procurement of Consulting Services, June 2006, p. 37.

² *Id.*

³ Clause 2, Section II. Instructions to Bidders, Part II, Philippine Bidding Documents for the Procurement of Consulting Services, 4th Edition issued on December 2010.

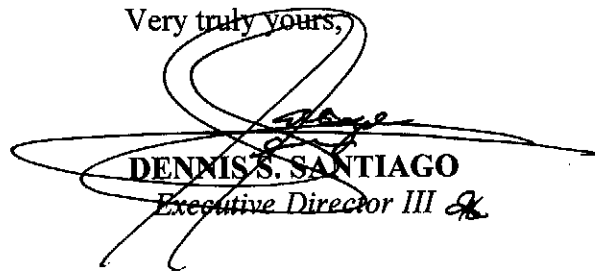
⁴ Clause 2.3, Section II. Instructions to Bidders, Part II, Philippine Bidding Documents for the Procurement of Consulting Services, 4th Edition issued on December 2010.

require that Consultants do not derive unfair competitive advantage from having provided consulting services related to the Project in question.”

All told, it is our view that there is conflict of interest when the entity that prepared the plans/drawings likewise participates in the ensuing procurement activities for the Project.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular circumstances presented, and may not be applicable to a different set of facts and circumstances. Should you have other concerns, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III 