



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

NPM No. 22-2012

22 February 2012

MS. ELEANOR L. ATIENZA

Vice President for Corporate Services

Chairperson, Bids and Awards Committee for Consultancy Services

BASES CONVERSION AND DEVELOPMENT AUTHORITY

BCDA Corporate Center, 2F Bonifacio Technology Center

31st St., Crescent Park West, Bonifacio Global City

Re: Negotiated Procurement (Adjacent or Contiguous)

Dear Ms. Atienza:

We respond to your letter dated 6 February 2012 requesting for clarification on the term Consulting Service as used in Section 53.4 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184. In addition, the Bases Conversion and Development Authority (BCDA) would like to be informed of the nature of an adjacent and contiguous contract in consulting services.

For your guidance, the provisions on Negotiated Procurement apply to goods, infrastructure projects, and consulting services where the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant.¹ In the case of Negotiated Procurement (Adjacent or Contiguous), Section 53.4 of the IRR clearly states that it applies to infrastructure projects and consulting services. Said provision does not qualify or limit the term "consulting service" to those involving infrastructure projects. Hence, we are of the opinion that Negotiated Procurement (Adjacent or Contiguous) may be used to procure all types of consulting services as defined in Section 5 (i) of the IRR.

As regards the nature of an adjacent or contiguous contract in consulting services, we have discussed in a previous opinion² that the terms "adjacent" and "contiguous" shall be considered synonymous and shall mean that the projects are in actual physical contact with each other. However, unlike infrastructure projects, outputs in consulting services may not necessarily have the characteristic of an actual physical contact. In consulting services, the term "adjacent" or "contiguous" pertains to the linkage or relationship of the subject matters, outputs or deliverables required. In this regard, it is our considered view that what is controlling in determining whether consulting services are adjacent or contiguous with each

¹ Section 53 of the IRR of RA 9184

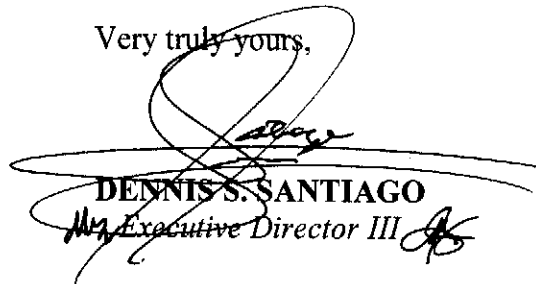
² NPM No. 050-2009 dated 23 September 2009

other is the fact that the subject matters, outputs, components or deliverables of the ongoing contract and the proposed consultancy contract are closely connected, consequentially related or necessarily linked with each other to achieve the continuity or completion of the plan, activity or project of the procuring entity.

In sum, we wish to clarify that the term “consulting service” as used in Section 53.4 of the IRR is not limited to consulting services related to or implemented alongside infrastructure projects. The nature of an “adjacent or contiguous” contract means that the projects are in actual physical contact with each other in the case of infrastructure projects, and shall refer to a necessary connection between the subject matters, outputs, components or deliverables of the ongoing contract and the contract to be negotiated for purposes of project continuity or completion, in the case of consulting services.

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

Very truly yours,



DENNIS S. SANTIAGO
Mr. Executive Director III