



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

NPM No. 37-2014

09 October 2014

MR. MICHAEL T. PENOLIO
Municipal Treasurer and Member
Bids and Award Committee
MUNICIPALITY OF TIGAON
Camarines Sur

Re: ISO Certification

Dear Mr. Penolio:

This refers to your electronic mail (email) dated 6 June 2014 seeking our opinion on whether an ISO Certification can be included as a requirement for bidding of an ARCP II project that is funded by the Asian Development Bank (ADB) through the Department of Agrarian Reform (DAR).

At the outset, we would like to clarify two things. First, procurement for goods, infrastructure projects and consulting services funded from Foreign Grants covered by Republic Act No. (RA) 8182, as amended by RA 8555, are not covered by RA 9184 and its associated Implementing Rules and Regulations (IRR), unless the Government of the Philippines and the foreign grantor/foreign or international financing institution agree otherwise.¹ On the other hand, Section 4 of RA 9184 and its IRR recognizes observance of Treaty, International or Executive Agreement provisions, specifically when the procurement processes and procedures are specified in the executive agreement (Loan and Grant Agreement). The Supreme Court in *DBM-PS vs. Kolonwel Trading*² and *Abaya vs. Ebdane*³, had the occasion to elucidate on the matter, thus:

“The question as to whether or not foreign loan agreements with international financial institutions, such as Loan No. 7118-PH, partake of an executive or international agreement within the purview of Section 4 of RA 9184, has been answered by the Court in the affirmative.”

Second, authority from the Government Procurement Policy Board (GPPB) is not necessary for matters/actions that are within the Procuring Entity (PE)'s authority, function, and discretion under the procurement law, rules, and regulations. The GPPB and its Technical Support Office (GPPB-TSO) render policy and non-policy opinions, respectively, on issues purely pertaining to the interpretation and application of procurement law, rules, and regulations.⁴ Nonetheless, we will discuss the applicable rules in relation to the inclusion of ISO Certification as a requirement for bidding, using as basis RA 9184 and its IRR.

¹ Section 4.4(a) of the IRR of RA 9184.

² G.R. No. 175608 promulgated on 08 June 2007.

³ G.R. No. 167919 promulgated on 14 February 2007.

⁴ NPM No. 46-2013 dated 11 June 2013.

ISO Certification as Additional Eligibility Requirement

We wish to clarify that for purposes of determining the eligibility of bidders, only the documents mentioned in Section 23.1 (for Goods and Infrastructure projects) and Section 24.1 (for Consulting Services) of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 are required. A Procuring Entity (PE) cannot add another requirement to, nor delete any requirement from, the identified list of eligibility requirements. This is because the list of minimum eligibility requirements under the IRR of RA 9184 has already been streamlined⁵ alongside the governing principle of government procurement, *i.e.*, a streamlined government procurement process⁶.

ISO Certification as Part of Technical Specifications

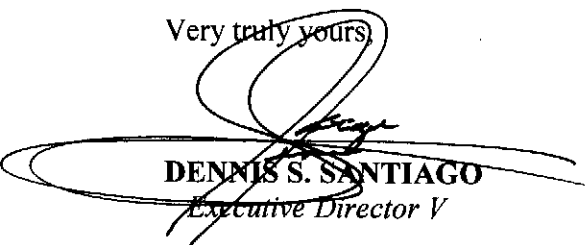
Technical specifications of a procurement project serve a twin-purpose. They present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured, and at the same time, permit the widest possible competition.⁷ It needs to be set in a precise manner to identify the actual requirements of the PE, but should not be couched in terms that are too limiting that it becomes restrictive and violative of the principle of competition.

In the specification of standards for equipment, materials, and workmanship, recognized Philippine and international standards should be used as much as possible⁸. Since ISO Certification is one of the recognized international standards, it can be included in the technical specifications for a procurement project. However, it bears stressing that in using ISO Certification as the standard, the specifications must have a direct relation on the agency's need *vis-à-vis* the goods or works to be procured that will satisfy the identified needs. In addition, the specifications should also state that equipment, materials, and workmanship that meet other authoritative standards, and which ensure at least a substantially equal quality than the standards mentioned, will also be acceptable,⁹ this is to enhance competition among prospective bidders.

In sum, it is our considered view that under RA 9184 and its IRR, an ISO Certification cannot be included as part of the Eligibility Requirements, but may be required as part of the technical specifications, provided that it will not be too limiting to be restrictive of competition.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V

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⁵ NPM No. 79-2013 dated 20 September 2013.

⁶ Section 3(c) of the IRR of RA 9184.

⁷ Section VII, Technical Specifications, Philippine Bidding Documents for the Procurement of Goods.

⁸ *Ibid.*

⁹ *Id.*