



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

NPM No. 52-2013

26 June 2013

MS. ELOISA C. TAMINA
Chief, Accountable Forms Division
BUREAU OF INTERNAL REVENUE (BIR)
National Office Building, Diliman,
Quezon City

Re : Purchase of Community Tax Certificate (CTC)

Dear Ms. Tamina:

We write in reference to your response¹ to the letter of Mr. Abel A. Guiñares, Provincial Treasurer of Davao Del Sur (Province) relating to the purchase of CTCs by the Province, a copy of which was furnished this office by Director Gary R. Martel of the Department of Budget and Management-Regional Office XI for appropriate clarification.

Based on the communications furnished us, the Province requested your office for a certification stating that the BIR complies with the conditions prescribed under Section 5(a) of the Implementing Guidelines on Agency-to-Agency Agreements in relation to the Province's purchase of CTC for Individual and Corporation. In response to such request, your office informed the Province that the mode of procurement for CTCs should be "Direct Contracting" as stated in Section 50, Article XVI of Republic Act No. (RA) 9184, considering that the BIR has exclusive authority to cause the printing of CTCs and its distribution to different local government units in accordance with Section 164, Article XI, Book II of RA 7160.

Applicability of Direct Contracting

Section 50 of the IRR of RA 9184 provides that Direct Contracting may be resorted to only under any of the following conditions:

- a) procurement of goods of proprietary nature which can be obtained only from the proprietary source, *i.e.*, when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
- b) procurement of critical components from a specific supplier is a condition precedent to hold a contractor to guarantee project performance, in accordance with the provisions of its contract; and

¹ Dated 25 March 2013.

- c) procurement of items sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no substitute can be obtained at more advantageous terms to the GOP.


Accordingly, it is necessary to establish the existence of any of the said conditions before procurement of CTC from the BIR may be conducted using Direct Contracting. However, since it appears that none of these conditions are present in the procurement of CTC from BIR, we are of the considered view that Direct Contracting is not the appropriate or applicable procurement modality for this activity.

Applicability of Negotiated Procurement (Agency-to-Agency Agreements)

We recognize that Section 164 of RA 7160 and Article 249 of the IRR of RA 7160 provide that the BIR shall cause the printing of CTC and distribute the same to the cities and municipalities through the city and municipal treasurers in accordance with the prescribed regulations. Upon our inquiry² with your office on the regulations prescribed by the BIR for this purpose, we observe that since cities and municipalities are required to accomplish a Purchase Order corresponding to the purchase of CTCs to be made, the transaction calls for the expenditure of public funds for items acquired from another agency of government.

Please note that in cases where procurement from another agency of the government is more efficient and economical, Negotiated Procurement under Section 53.5 (Agency-to-Agency Agreements) of the revised Implementing Rules and Regulations (IRR) of RA 9184 may be resorted to. This rule allows a government entity to procure from another government entity without need of public bidding, subject to compliance with the prescribed conditions and procedures under existing rules and the Guidelines on Agency-to-Agency Agreements³ (Guidelines).

Among the procedural requirements provided in the Guidelines is for the procuring entity to secure a certificate from the relevant officer of the Servicing Agency that the latter complies with all the conditions prescribed under Section 5(a), particularly items (iii) and (iv), of the Guidelines. This certification is necessary to establish that the Servicing Agency has the mandate to deliver the goods required to be procured, and that it owns or has access to necessary tools required for the project.

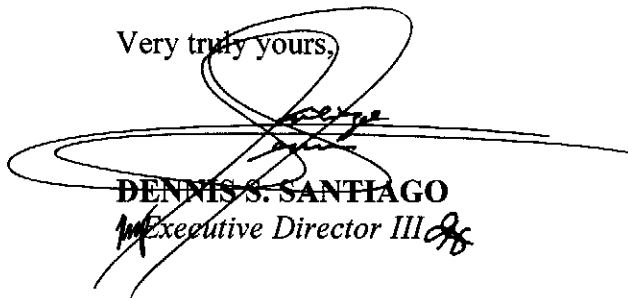
Based on the foregoing, since Negotiated Procurement under Section 53.5 (Agency-to-Agency Agreement) of the IRR of RA 9184 appears to be the more appropriate method for the procurement of CTC, the procuring entity is advised to comply with the conditions and requirements provided in the Guidelines. As such, the certification from the BIR, as the Servicing Agency, that it has the mandate to deliver the goods required to be procured, and that it owns or has access to necessary tools required for the project must necessarily be obtained by the procuring entity. 

² Dated 21 June 2013.

³ Issued through GPPB Resolution 18-2007 dated 31 May 2007.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular situations presented, and may not be applicable given 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

Copy furnished:

DIR. GARY R. MARTEL
Regional Director,
DEPARTMENT OF BUDGET AND MANAGEMENT
REGIONAL OFFICE XI

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