



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

NPM No. 132-2012

19 October 2012

MR. TOMAS M. OSIAS
Executive Director
COMMISSION ON POPULATION (PopCOM)
Welfareville Compound,
Mandaluyong City

Re: Procurement of Consulting Services through Competitive Bidding

Dear Executive Director Osias:

We respond to your letter dated 14 August 2012, seeking our opinion and confirmation on whether the Procuring Entity (PE) may adopt competitive bidding as a mode of procurement for the project entitled, "*A Private Research Institution to Conduct Data Collection in Five (5) Regions (Regions 2, 3, 4-A, 7 and 9) of the Philippines for the Young Adult Fertility and Sexuality Study*", with an Approved Budget for the Contract (ABC) in the amount of Ten Million Pesos (Php10,000,000.00), to be implemented from September to December 2012.

It is represented that PopCom, through its staff, inquired from this office about the suitable mode of procurement that the Bids and Awards Committee (BAC) may undertake and consider appropriate for the procurement of the aforementioned project. The original plan of PopCom is to engage the services of a non-stock non-profit private research institution involved in democragraphic and population research and training with known track record and experience in the conduct of surveys on young adults. Notwithstanding such plan, this office has strongly recommended during the said consultation that the proper mode of procurement for the proposed consultancy services should be Competitive Bidding.

Section 10 of the revised Implementing Rules and Regulations of Republic Act (RA) No. 9184 provides that all procurement shall be done through competitive bidding. Alternative methods of procurement are resorted to only in highly exceptional cases set forth in Sections 48-54 of RA 9184 and its IRR¹. Moreover, in all instances, the Procuring Entity (PE) shall ensure that the most advantageous price for the Government is obtained².

Accordingly, it is imperative that the PE identifies the principal objective and the essential aspect of the service in order to determine the more appropriate nature of the procurement. A cursory perusal of the aforementioned project reveals that it falls under the

¹ Section 10 of RA 9184 and its IRR; Section 48.2 of the IRR of RA 9184.

² Section 48.1 of the IRR of RA 9184.

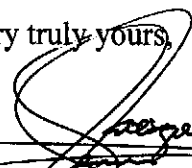
definition of Consulting Services³. However, we wish to stress that regardless of its classification, whether it falls under infrastructure projects, goods or consulting services, the procurement process shall remain competitive, transparent, efficient and with due regard to value for money.

With respect to the original plan of PopCom to contract out the project in favor of a non-stock, non-profit private research institution, suffice it to say that expertise, experience and known track record in demographic and population research, training and surveys on young adults should not serve as the sole consideration in resorting to any of the alternative procurement modalities. It is incumbent upon the PopCom to identify and examine its actual need and provide for the best approach, scheme and strategy towards its satisfaction; and only upon confirmation and validation of the existence of the conditions warranting the application of any of the alternative methods of procurement may it proceed with its utilization.

As regards the appropriate type of consulting services, we are of the opinion that the PopCom would be in the best position to determine the applicable type of consulting services that would best address its needs. Thus, for your guidance, we refer you to **Annex "B"** of the IRR of RA 9184, entitled "General Principles on Consulting Services", particularly Section 6 which enumerates the Types of Consulting Services.

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 to 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 III


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³ Section 5(i) of the IRR of RA 9184.



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ATTY. ROMY L. FUENTES

VP-Contracts Management

FABMIK CONSTRUCTION AND EQUIPMENT CO. INC.

Unit 2911, Cityland Pasong Tamo Tower

Chino Roces Avenue, Makati City, Metro Manila

Re: Failure to submit Original/Authenticated Legal Documents

Dear Atty. Fuentes:

We respond to your letter dated 28 September 2012 seeking our opinion on the propriety of the decision of the Bids and Awards Committee (BAC) of the Philippine Coast Guard (PCG), which declared that your submitted bids failed due to non-submission of the original or certified true copies of the legal documents.

It is represented that during the Opening of Bids for the Supply of Fifteen (15) Units M35 Trucks by the PCG, the submitted legal documents, particularly, the copies of the Securities and Exchange Commission (SEC) Registration Certificate and Mayor's Permit, are not original copies or certified true copies of the issuing agencies. It is further represented that your office made a telephone inquiry with our Help Desk clarifying the issues relating to your disqualification.

In a previous opinion¹ issued by this office, we opined that the PE cannot require the submission of originals as even the procurement rules allow the submission of copies as sufficient compliance with the requirements. This is clear in the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, where the prospective bidder or its duly authorized representative must submit a Sworn Statement in the form prescribed by the GPPB.

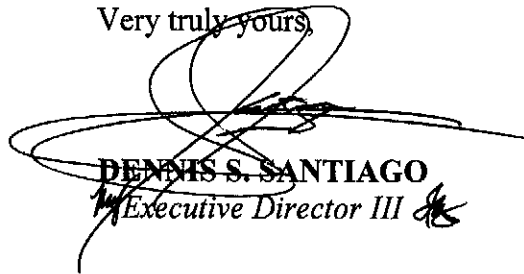
Section 25.2(a)(iv) of the IRR provides that a prospective bidder or its duly authorized representative is required to submit a Sworn Statement in the form prescribed by the Government Procurement Policy Board (GPPB), certifying under oath, among other things, that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct. In this regard, we reiterate our view that a bidder may validly submit copies of the required documents, provided that it executes a Sworn Statement certifying that the copies of the documents submitted are authentic and complete copies of the original documents, and the information and statements therein are true and correct. Nevertheless, it bears stressing that the

¹ NPM 09-2012, dated 12 January 2012.

authenticity of the submitted copies must be verified, validated, and ascertained by the Procuring Entity during the conduct of post-qualification process as prescribed in Section 34 of the revised IRR of RA 9184.

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 to 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 III



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