



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

**NPM No. 157-2012**

21 December 2012

**ATTY. MARITES C. ALVAREZ**

*Officer-in-Charge, Boracay Regulatory Office*

**REGULATORY OFFICE**

**TOURISM INFRASTRUCTURE AND ENTERPRISE ZONE AUTHORITY (TIEZA)**

Club Intramuros Golf Course,  
Bonifacio Drive, Intramuros, Manila

**Re: Extension of Contract with Additional Remuneration of Consultant**

Dear Atty. Alvarez:

We respond to your letter dated 13 August 2012 seeking advice on whether TIEZA may be allowed to grant time extension with corresponding additional remuneration to its consultant under the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184.

It is represented that TIEZA has an ongoing contract for consulting services for the Rate Rebasing Exercise (RRE) in Boracay, Malay Province. The Consultant is requesting for time extension with corresponding additional remuneration on the ground that TIEZA did not immediately provide all the information for the RRE claiming that it needed to resolve some issues prior to providing such data, of which certain documents are confidential. TIEZA's failure to provide the necessary information on time has resulted in the delay of the RRE, which is scheduled to be implemented in 2013, including the submission of reports.

For your guidance, Section 2 of Annex "F"<sup>1</sup> of the IRR of RA 9184 expressly provides that all consultancy contracts shall be fixed price contracts and any extension of contract time shall not involve any additional cost. Based on this provision, an extension of time may be granted for contracts involving consultancy services provided that it should not entail additional cost to the Procuring Entity (PE) to cover the extension. Moreover, we note that Section 2 of Annex "F" is clear and does not provide any exceptions to the fixed price contract feature. Hence, following the principle of *verba legis* or plain meaning rule, where a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without any attempt to interpret.<sup>2</sup>

We wish to inform you that the Consultant may, by written notice of suspension, suspend work on any or all activities when there is the failure on the part of the PE to deliver

<sup>1</sup> Contract Implementation Guidelines for the Procurement of Consulting Services.

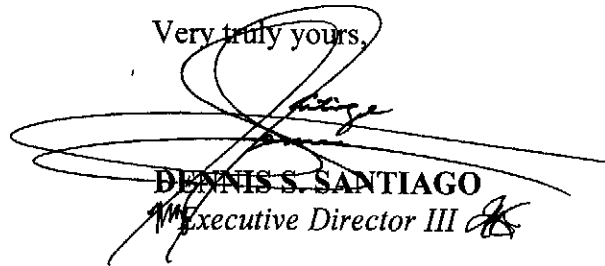
<sup>2</sup> NPM No. 73-2012 dated 8 June 2012 citing *Limson v. Wack Wack Condominium*, G.R. No. 188802 dated 14 February 2011.

government-furnished equipment, resources, reports or data as stipulated in the contract. In such cases, the elapsed time between the effective order suspending operation and the order to resume work shall be considered in the adjustment/extension of contract time.<sup>3</sup> Thus, the Consultant should have suspended its work during the period when TIEZA failed to provide the necessary information or data, and resumed work only when the necessary reports have been submitted. This is part of the Consultant's look out and obligation. Further, considering that the documents being requested by the Consultant are essential in the execution of the consulting services for the RRE, the late submission indicates that no work could have been performed during the period of delay; hence a corresponding payment is not justified.

Based on the foregoing, we are of the view that TIEZA may validly grant time extension for the consultant to completely render the services required and stipulated under the contract for consultancy services for the RRE. However, the time extension should not entail additional cost to the PE as this is prohibited under Annex "F" of the IRR of RA 9184.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



**DENNIS S. SANTIAGO**  
Executive Director III

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<sup>3</sup> Manual of Procedures for the Procurement of Consulting Services, June 2006, page 198.