



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road, Ortigas Center
Pasig City, Philippines 1605

NPM No. 20-2007

20 July 2007

ENGR. AMBER R. MONTEMAYOR

Managing Partner

URBAN ENGINEERS

2/F UCIC Corporate Building No. 8 Lands Street,
VASRA Diliman, Quezon City 1128

Re: Procurement of Engineering Consultancy Services

Dear Engr. Montemayor:

This pertains to your letter dated 28 February 2007 bringing to our attention instances of advertisements for various locally-funded projects which do not disqualify corporations from bidding in engineering consultancy services. You also request that the "procurement and employment of corporations in civil engineering assignments be stopped or various government agencies be enjoined from entering into contract for consultancy services involving the practice of civil engineering, or if one has already been entered into, the same be revoked and/or declared violative of RA 544, as amended, and, therefore null and void."

At the outset, allow us to state that we concur with your opinion that corporations may not participate in government bidding for engineering consultancy services.

Section 24.1 of the Implementing Rules and Regulations-Part A (IRR-A) of Republic Act No. 9184 (R. A. 9184) defines the term "Consultant" as a natural person or juridical person, qualified by appropriate education, training and relevant experience to render any or all of the types and fields of consulting services. However, participation of corporations in consulting services is subject to relevant laws that restrict the practice of a particular profession to individuals or partnerships (Section 24.1.1.d, IRR-A).

Section 24 of Republic Act No. 544, as amended, otherwise known as the "Civil Engineering Law" (R.A. 544) provides that no firm, partnership, corporation or association may be registered or licensed as such for the practice of civil engineering, provided however that persons properly registered as civil engineers may, among themselves, form and obtain registration of a firm, partnership or association.

However, in such a case, individual members of such firm, partnership or association shall be responsible for their own respective acts.

Consequently, no corporation can validly submit a bid for engineering consultancy services in a government project since under R.A. 544, the practice of civil engineering is limited to individuals or partnerships.

However, please be advised that the Government Procurement Policy Board is an administrative body imbued with quasi-legislative or rule-making power¹ to determine policy directions in the area of public procurement. It has no jurisdiction to rule over actual controversies with regard to the conduct of the bidding process considering that it has no *quasi-judicial*² functions under the law. As such, it has no power to revoke or declare null and void contracts entered into in violation of R.A. 9184

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III

¹ Rule-making power of administrative agencies refers to the power to issue rules and regulations which result from delegated legislation in the administrative level. (See Agpalo, *Philippine Administrative Law*, 1999 Ed., p.137).

² Quasi-judicial is defined as a term applied to the actions or discretions of public administrative officers or bodies required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. (See Agpalo, *Philippine Administrative Law*, 1999 Ed., p. 216 citing *Lupangco v. CA*, 160 SCRA 848 [1988]).