

NPM No. 22-2007

30 July 2007

MS. CHERYL G. RAMOS
Administrative Officer IV
CENTRAL LUZON STATE UNIVERSITY
 Science City of Muñoz,
 Nueva Ecija 3120

Re: Sealed Canvass Bidding

Dear Ms. Ramos

We respond to your letter dated 5 June 2006, to which a copy of a draft Contract of Services is attached, requesting for an opinion on the following issues:

1. Whether the implementation of an infrastructure project may be conducted by procuring entity through sealed canvass bidding;
2. Whether an infrastructure project may be implemented through a "Contract of Services" wherein the contractor shall provide labor, equipment, and materials needed by the procuring entity; and
3. What will be the allowable ceiling or contract amount of the infrastructure project?

We will answer your queries in the order they were presented above.

Sealed Canvass Bidding Not Allowed Under R.A. 9184

It is the policy of the Government that procurement of infrastructure projects, goods, and consulting services shall be competitive and transparent, and therefore through public bidding (Sections 2, 3 and 10 of Republic Act No. 9184 [R. A. 9184]).

On the other hand, Section 48 of R. A. 9184 specifically enumerates the alternative methods of procurement, namely:

- a) Limited Source Bidding;
- b) Direct Contracting;

- c) Repeat Order;
- d) Shopping; and
- e) Negotiated Procurement.

These alternative methods of procurement are resorted to only in highly exceptional cases as set forth in Sections 49-54 of R. A. 9184 and its Implementing Rules and Regulations-Part A (IRR-A), subject to the approval of the head of the procuring entity (Section 48 of R. A. 9184).

Sealed canvass bidding is not one of the alternative methods of procurement. Therefore, the procurement of an infrastructure project cannot be through sealed canvass bidding.

Mandatory Use of Philippine Bidding Documents

Under Circular No. 04-2005 dated 16 May 2005 issued by the Government Procurement Policy Board (GPPB), all branches and instrumentalities of Government, its department, offices and agencies, including government-owned and controlled corporations, government financial institutions, state universities and colleges and local government units are mandated to use the Philippine Bidding Documents (PBD) effective 01 July 2005. A state university is likewise covered by GPPB Circular 04-2005.


Thus, the infrastructure project cannot be implemented through the Contract of Services attached to your letter dated 05 June 2006.

Allowable Ceiling or Contract Amount for Infrastructure Projects

All procurement should be within the approved budget for the contract (ABC) of the procuring entity. No procurement shall be undertaken unless it is in accordance with the Annual Procurement Plan. The ABC shall be at all times consistent with the appropriations authorized in the GAA/corporate budget approved by the governing boards (Section 7 of R. A. 9184 and its IRR-A). If the submitted total bid price exceeds the ABC, the Bids and Awards Committee shall rate the bid concerned as "failed" (Section 30.2, IRR-A).

We hope that we have sufficiently addressed your queries. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


RUBY U. ALVAREZ
Executive Director III