



TECHNICAL SUPPORT OFFICE

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NPM No. 24-2005

April 25, 2005

HON. SIMEON V. MARCELO

Tanodbayan
Office of the Ombudsman
Agham Road, Diliman
Quezon City

**Re : Procurement of Services for the Implementation of an Integrity
Development Review**

Dear Tanodbayan Marcelo:

This refers to your letter dated 05 April 2005 which we received on 19 April 2005, requesting opinion on whether or not the services of the Development Academy of the Philippines (DAP) for an Integrity Development Review (IDR) may be contracted or engaged by the Office of the Ombudsman through a Memorandum of Agreement (MoA).

We understand, the IDR evaluation will not be conducted in the Office of the Ombudsman but, rather, in selected government agencies, including the Bureau of Customs, Bureau of Internal Revenue, Department of Health and Department of Public Works and Highways, in pursuit of its on-going Corruption Prevention Project.

This clarification is being sought because of the uncertainty on the manner by which the services of DAP for an IDR evaluation may be acquired.

Engagement of Services for IDR Implementation

The IDR is a readily available systems improvement tool that focuses on assessing an agency's corruption vulnerabilities and identifying measures to strengthen its resistance to corruption. Although self-assessment by an agency using the IDR may be done, a third party assessment provides a more objective and credible evaluation of the agency's corruption vulnerability. Thus, services of an individual or aggregate of individuals (*e.g.* group/unit, partnership, corporation, joint venture) may be contracted for purposes of acquiring the third party assessment component of the IDR.

For this purpose, if an agency decides to engage the services of a private entity for purposes of an external evaluation, it will have to contract this service through competitive bidding using the rules for procurement of goods under Republic Act 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A). If the procuring entity determines that engaging the services of other government instrumentalities proves to be more beneficial and advantageous to the Government, by authorization of its head, a MoA may be entered into with the identified appropriate government entity to engage its services.

Procurement of Goods

It is quite apparent that the procurement to be undertaken falls under the purview of procurement of goods under R.A. 9184. Section 5 of the IRR-A of the said law specifically states:

Goods. Refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. xxx

In view of the fact that the service sought to be secured falls clearly within the contemplation of goods procurement, Section 53 (e) of the IRR-A of R.A. 9184 applies. Witness the provision, to wit:

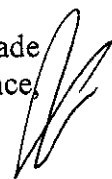
Negotiated Procurement is a method of procurement of goods, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier only in the following cases:

xxx

- e) Purchases of goods from another agency of the Government

xxx

In addition, Section 54.2 (g) mentions that a direct negotiation may be made with the Government agency concerned in cases under the foregoing provision. Hence,



the Office of the Ombudsman, may enter into a MoA with DAP to acquire the latter's IDR evaluation services.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III