

NPM No. 35-2008

6 October 2008

MS. VICTORIA G. GENTILES*General Manager***BANTAYAN SECURITY AGENCY & ALLIED SERVICES, INC.**3rd Floor, SAMS Building, San Agustin, City of San Fernando, Pampanga**Re : Negotiated Procurement under Section 53 (a)**

Dear Ms. Gentiles:

This refers to your letter dated 15 July 2008 requesting for an opinion from the Government Procurement Policy Board (GPPB) whether your office may be considered in the conduct of Negotiated Procurement pursuant to Section 53 (a) of Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A) by the Tarlac City Water District.

Please be advised that the procuring entity shall adopt public bidding as the general mode of procurement (Section 10, R.A. 9184 and its IRR-A). Subject to the prior approval of the Head of the Procuring Entity (HOPE) or his duly authorized representative, upon the recommendation of the Bids and Awards Committee (BAC), and whenever justified by the conditions provided in Sections 49- 54 of R.A. 9184 and its IRR-A, the procuring entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement {Section 48, IRR-A of R.A. 9184}.

From the foregoing, it can be seen that the authority to determine the applicable mode of procurement for goods, infrastructure projects and consulting services is a mandated function of the BAC. The BAC has the prerogative to recommend to the HOPE whether to resort to competitive bidding or, in exceptional cases, any of the alternative methods of procurement.

Likewise, we would like to stress that the resort to Negotiated Procurement, whenever there has been a failure of bidding for the second time, under Section 53 (a) of the IRR-A of R.A. 9184, is merely an option available to the procuring entity. The BAC, in the exercise of its sound discretion, may still recommend to the HOPE resort to a third bidding.

If the procuring entity decides to resort to Negotiated Procurement, it shall draw up a list of at least three (3) suppliers, contractors, or consultants of good standing which will be invited to submit bids and negotiate with the bidder who submitted the lowest calculated bid or highest rated bid, whichever is applicable. If the offer of the bidder who submitted the lowest calculated bid or highest rated bid, whichever is applicable, is not responsive to the

original specifications and ABC, negotiation shall be made in ascending order starting from the lowest offer. The bidder whose bid is found to be responsive to the original specifications and ABC shall be considered for award. In all cases, the award of contract shall be posted at the G-EPS website, website of the procuring entity, if any, and in a conspicuous place within the premises of the procuring entity [Section 54.2 (b)¹, IRR-A of R.A. 9184]

Thus, the preparation of the list of at least three (3) bidders of good standing whom they will be inviting to submit its bid is within the BAC's responsibility.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

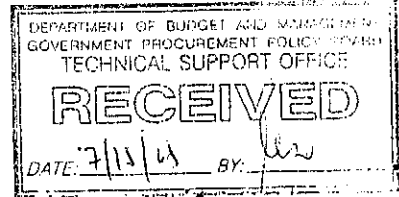

for **RUBY U. ALVAREZ**
Executive Director III

¹ As amended by Memorandum Order No. 213, dated 08 May 2006, published in the Manila Times on 12 May 2006.

*Bryon,
Pls. draft reply per
Dir. Ruby's comments.*

BANTAYAN SECURITY AGENCY & ALLIED SERVICES INC.
3rd floor, SAMS Bldg. San Agustin, City of San Fernando, Pampanga
Tel. No. (045) 963 - 38 - 18

7/15/08



July 15, 2008

Atty. Ruby U. Alvarez
Executive Director - III
GPPB - GSO

*Ermine,
Pls. handle. Answer
is it is up to procuring entity
they want. Its still bid or
go negotiated. If procurement
Bantayan cannot free
procuring entity to
negotiate. Right?*

*[Signature] 7/17/08
P.S. Sign in
my behalf*

Madam,

Last may 29, 2008 Tarlac City Water District (TCWD) conducted a RE - BIDDING for re Procurement of Security Services 2008 and unfortunately again the Re - BIDDING is FAILED.

Presently we are the provider of their Security Services with GOOD STANDING (Certification Attached).

In view of the above may we request your opinion if we can be considered in their NEGOTIATED BIDDING.

Hoping this request will be given a prompt attention and reply.

Thank you & more Power

for
[Signature]
Victoria G. Gentiles
General Manager



TARLAC CITY WATER DISTRICT

Sta. Rosa Road, Maliwalo, Tarlac City

Contact Nos.: [045] 982-0356/ 982-1059/ 982-1346/ 982-1545

Telefax Nos.: [045] 982-3528/ 982-7604

19 May 2008

CERTIFICATION

This is to certify that **BANTAYAN SECURITY & ALLIED SERVICES** has completed its Security Service Contract with Tarlac City Water District (TCWD) from April 16, 2007 to April 15, 2008. The amount of the contract amounted to **FOUR MILLION THREE HUNDRED FIFTY THREE THOUSAND SIX HUNDRED FORTY SIX PESOS AND 32/100 (PhP4,353,646.32).**

This certification is issued on whatever legal purposes it may deem necessary.

Certified by:

Melania C. Galang
Division Manager
Administrative Services Division

Noted:

Ester T. Vengco
General Manager