



REPUBLIC OF THE PHILIPPINES  
**Department of Budget and Management**  
Malacañang, Manila

**PROCUREMENT POLICY BOARD**  
**Technical Support Group**

NPM No. 001-2003

January 15, 2003

**HON. EDILBERTO C. DE JESUS**

Secretary  
Department of Education (DepEd)  
DepEd Complex, Meralco Avenue,  
Pasig City, Philippines

Re : Engagement of the services of MEET

Dear Sec. De Jesus:

This refers to your letter dated January 6, 2003 requesting this Office to permit the engagement of the services of MEET, an events organizer represented by Ms. Narzalina Lim, to help the Department of Education (DepEd) in hosting the 38<sup>th</sup> SEAMEO Council Meeting to be held in Manila on March 5-7, 2003.

A careful reading of your letter reveals a single issue to be resolved, that is:

"Whether or not DepEd may procure the services of a consultant not through public bidding but by way of negotiation."

Before we address your concern, we respectfully manifest that the Procurement Policy Board (PPB) is not authorized under existing

*Procurement Policy Board*  
*Chairman*  
1/16/03

procurement laws, including Executive Order No. 40 (E.O. 40) and its Implementing Rules and Regulations (IRR), to allow or disallow an Agency to use a specific procedure in the course of its procurement process.

In E.O. 40 and its IRR, the PPB in cooperation with the National Economic Development Authority (NEDA) Infrastructure Committee (INFRACOM), was only empowered to perform specific tasks such as, but not limited to, the supervision of the Procurement Service (PS) in the establishment, management and operation of the Electronic Procurement System (EPS), the preparation of generic procurement manuals and standard bidding documents, and the amendment of the IRR of E.O. 40 in the course of its implementation, among others. This being so, the PPB is not in a position to allow or disallow the engagement of MEET and Ms. Narzalina Lim by way of negotiated procurement.

Going now to the issue at hand, it must be stressed that it is the policy of the Government that procurement of civil works, goods, supplies, materials and related services, and **consulting services** shall be competitive and transparent, and therefore shall be through public bidding. (Sec. 2, IRR of E.O. 40) This rule, however, has its exception. Thus, in the interest of economy and efficiency, the Agency concerned may adopt any of the alternative methods of procurement provided for under Section 35 of the IRR of E.O. 40 after the Head of Agency concerned or his duly authorized representative has approved the use of the same, upon recommendation of the BAC.

As provided for in your letter, it appears that DepEd is procuring the services of an Affairs Management Consultant in the person of Ms. Narzalina Lim whose group has the specific expertise to handle the SEAMEO Council meeting. We are glad to inform you that as an alternative, Section 35.3 of the IRR of E.O. 40 allows the procurement of consultants by way of negotiation specifically so when there is lack of material time to procure the same by way of public bidding, witness Sec. 35.3.(a):

*"35.3. Negotiated Procurement for Consulting Services – Negotiated procurement for consulting services as may be differentiated from the usual open competitive selection procedure may be conducted only when any of the following conditions exists and the implementing agency is not capable of undertaking the project by administration:*

a) In times of emergencies or **when time is of the essence**, as certified by the head of agency upon the recommendation of the BAC;" (Emphasis supplied)


It is respectfully submitted, however, that under this particular situation and predicament, before pursuing the procurement of consulting services by way of "negotiated procurement", DepEd should conform with the following requirements, to wit:

- 1) The alternative method of "negotiated procurement" was recommended by the Bids and Awards Committee (BAC);
- 2) The recommendation must be approved by the Head of the Agency;
- 3) The Agency is not capable of undertaking the project by administration; and
- 4) Time is of the essence as certified by the Head of the Agency so that procurement of the consulting service by way of "negotiated procurement" is truly necessary.

Should the foregoing requirements be at hand, and DepEd validly justifies that time is really of the essence, the engagement of Ms. Narzalina Lim and her group by way of negotiated procurement may be pursued.

We trust that this clarifies matters.

Very truly yours,

  
**JOSE LUIS C. SYQUIA**  
Executive Director