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CIRCULAR 06-2013

17 December 2013

- TO :** Heads of Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, Local Government Units, as well as the private sector
- SUBJECT :** Allowing the Government Procurement Policy Board-Technical Support Office (GPPB-TSO) to refrain from rendering Non-Policy Matter Opinions relative to Actual Procurement Controversies, Issues and Concerns pending with Procuring Entity
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1.0 PURPOSE

- 1.1 This Circular is issued to inform all government agencies as well as the private sector that the GPPB-TSO is given the full authority to refrain from rendering Non-Policy Matter Opinions relative to actual procurement controversies, issues, and concerns pending before the Procuring Entity (PE), Head of the Procuring Entity (HOPE) and/or its Bids and Awards Committee (BAC) where the GPPB-TSO is ultimately requested to decide and exercise discretion for and in behalf of the PE, HOPE and/or BAC.
- 1.2 This Circular also seeks to remind all government agencies as well as the private sector of the functions of the GPPB, the GPPB-TSO, and the BAC.

2.0 COVERAGE

All Departments, Bureaus, Offices, and Agencies of the National Government including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions, Local Government Units, as well as the private sector.

3.0 FUNCTIONS OF THE GPPB

- 3.1 Section 63 of Republic Act 9184 states that the GPPB is established to perform the following functions:

- a) Protect national interest in all matters affecting public procurement, having due regard to the country's regional and international obligations;
- b) Formulate and amend, whenever necessary, the IRR and the corresponding standard forms for procurement;
- c) Ensure that procuring entities regularly conduct procurement training programs and prepare a procurement operations manual for all offices and agencies of the government; and
- d) Conduct an annual review of the effectiveness of RA 9184 and recommend any amendments thereto, as may be necessary.

4.0 FUNCTIONS OF THE GPPB-TSO

4.1 Section 63 of RA 9184 created the GPPB-TSO to provide support in the performance of the GPPB's duties and responsibilities. Section 63.3 of the revised Implementing Rules and Regulations (IRR) of RA 9184 states that the GPPB-TSO shall provide research, technical, and administrative support to the GPPB, including:

- a) Research-based procurement policy recommendations and rule-drafting;
- b) Development and updating of generic procurement manuals and standard bidding forms;
- c) Management and conduct of training on procurement systems and procedures;
- d) Evaluation of the effectiveness of the government procurement system and recommendation of improvements in systems and procedures;
- e) Monitoring the compliance to RA 9184 and assisting procuring entities improve their compliance;
- f) Monitoring the implementation and effectiveness of the PhilGEPS; and
- g) Secretariat support.

4.2 Pursuant to GPPB Resolution No. 03-2003¹, the GPPB-TSO was authorized to issue Non-Policy Matter Opinions in response to requests of National and Local Government Agencies dealing with non-policy procurement related matters or issues, or technical applications of the procurement rules and regulations.

5.0 FUNCTIONS OF THE BAC

5.1 Section 12 of the revised IRR of RA 9184 states the functions of the BAC, as follows:

¹ Dated 26 May 2003.

- a) Advertise and/or post the invitation to bid/request for expression of interest;
- b) Conduct pre-procurement and pre-bid conferences;
- c) Determine the eligibility of prospective bidders;
- d) Receive bids;
- e) Conduct the evaluation of bids;
- f) Undertake post-qualification proceedings;
- g) Resolve motions for reconsideration;
- h) Recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative;
- i) Recommend the imposition of sanctions in accordance with the administrative sanctions under Rule XXIII of the IRR;
- j) Recommend to the HOPE the use of Alternative Methods of Procurement as provided for in Rule XVI; and
- k) Perform such other related functions as may be necessary, including the creation of a Technical Working Group (TWG) from a pool of technical, financial, and/or legal experts to assist in the procurement process, particularly in the eligibility screening, evaluation of bids, and post-qualification.

6.0 IMPORTANT CONSIDERATIONS

- 6.1 The GPPB has neither quasi-judicial and investigatory nor fact-finding powers and functions, such as, to hold hearings, determine facts, and exercise discretion of a judicial nature, and thus cannot dictate upon, decide, nor interfere with the functions of the PE, HOPE and BAC, which solely falls within its discretion and authority as sanctioned by law.
 - 6.2 The GPPB and the GPPB-TSO can only render policy and non-policy opinions, respectively, on issues purely relating to the interpretation and application of the procurement laws, rules and regulations, and not decide for and in behalf of the PE, HOPE and BAC.
 - 6.3 The GPPB-TSO is authorized to refrain from responding to requests for opinion pertaining to actual procurement controversies, issues, and concerns that are pending before a procuring entity where it is ultimately requested to decide and exercise discretion for and in behalf of the PE, HOPE and BAC.
- 7.0** This Circular shall take effect immediately.
- 8.0** For guidance and information.

(Sgd.)
FLORENCIO B. ABAD
Chairperson