

NPM No. 011-2018

13 April 2018

HON. MARIA GLORIA A. TANGO

OIC-Undersecretary

DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE)

7th Floor, Palacio del Gobernador,
Gen. Luna St. cor. Postigo cor. Soriano St.,
Intramuros, Manila

Re: Direct Financial and Material Assistance

Dear Undersecretary Tango:

This refers to several letters of DOLE seeking our opinion on whether the implementation of DOLE Integrated Livelihood Program and Emergency Employment Program (DILEEP) under direct administration scheme is exempted from the rigorous procurement process pursuant to Section 4.5 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, which provides, among others:

“The following are not procurement activities under R.A. 9184 and this IRR:

- a. Direct financial and material assistance given to beneficiaries in accordance with the existing laws, rules and regulations, and subject to the guidelines of the concerned agency.*

...”

As represented, DILEEP is an anti-poverty program implemented for the poor, vulnerable and marginalized workers as contribution to the government agenda of inclusive growth and poverty reduction, which are implemented by DOLE Regional Offices (ROs), either through direct administration or through an accredited co-partner. Under the direct administration scheme, the procurement of raw materials, equipment, tools and jigs for distribution to program beneficiaries is being done by DOLE ROs following the procedures set forth under RA 9184. As further represented, due to cumbersome procurement process, the regional offices are experiencing difficulties resulting in delay in the delivery of services to beneficiaries, which delay adversely affected the implementation of DOLE programs, and oftentimes become the basis of Audit Observation Memorandum issued by the Commission on Audit (COA). Hence, this request for clarification.

We wish to inform the Honorable Undersecretary that the Government Procurement Policy Board has issued Circular No. 01-2017, dated 9 February 2017, clarifying the term

direct financial and material assistance under Section 4.5(a) of the 2016 IRR of RA 9184. Salient portions of the said Circular provide the following clarification, thus:

- 3.3. “Financial assistance” refers to actual cash or check, while “material assistance” refers to substitutes to cash or check in the form of coupon, stub, guaranty letter, promissory note or voucher that has monetary value, given directly to individual recipients or beneficiaries to address their immediate medical, funeral, transportation and other allied needs and concerns.
- 3.4. The term “direct financial and material assistance” cover medical, burial, transportation, and other allied assistance given by agencies actually mandated by existing laws, rules and regulations to provide such assistance, e.g., Department of Social Welfare and Development (DSWD), Department of Health, and the Philippine Charity Sweepstakes Office (PCSO), directly to individuals in emergency situations, under distress or are in need of supplemental financial support due to health or medical conditions, sickness or disease; funeral and burial concerns, which also includes the most direct and economical transportation expense to or from place of residence or specific destination.
- 3.5. Section 4.5(a) of the 2016 Revised IRR of RA 9184 contemplates financial or material assistance given directly to individual recipients or beneficiaries to address their immediate medical, funeral, transportation and other allied needs and concerns, which do not involve actual procurement of goods and services by government agencies. Accordingly, ***if the direct financial or material assistance takes the form of goods, supplies or items that are to be procured (e.g., relief goods), the same do not fall within the coverage of the cited provision, but is subject to procurement rules and regulations embodied in RA 9184 and its IRR.*** (Emphasis supplied)

Based on your representation, under the direct administration scheme of DILEEP, raw materials, equipment, tools and jigs are provided to the beneficiaries. These items are classified as goods that are subject to the procurement rules and procedures under RA 9184 and its IRR. According to Section 5 of RA 9184 and its IRR, “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.

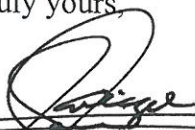
Further, raw materials, equipment, tools and jigs do not fall within the definition of the terms financial assistance and material assistance under Section 3.3 of Circular No. 01-2017 as they cannot be equated to actual cash or check, or their substitutes in the form of coupon,

stub, guaranty letter, promissory note or voucher that has monetary value. Pointedly, Section 3.5 of the same Circular emphasized that if the direct financial or material assistance takes the form of goods, supplies or items that are to be procured (e.g., relief goods), the same do not fall within the coverage of the cited provision, but is subject to procurement rules and regulations embodied in RA 9184 and its IRR.

From the foregoing, it is our considered opinion that the direct administration scheme of DILEEP does not fall within the ambit of Section 4.5(a) of the 2016 IRR of RA 9184 such that the raw materials, equipment, tools and jigs intended to be provided to the beneficiaries shall be procured in accordance with the procurement rules and regulations embodied in RA 9184 and its IRR. The term “direct financial and material assistance” refers only to actual cash or check, or their substitutes in the form of coupon, stub, guaranty letter, promissory note or voucher that has monetary value.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situations presented, and may not be applicable given a different set of facts and circumstances. Should there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director

Copy furnished:

ATTY. MA. KARINA PERIDA-TRAYVILLA
Director IV, Bureau of Workers with Special Concerns
DEPARTMENT OF LABOR AND EMPLOYMENT (COMELEC)
9/F G.E. Antonio Bldg., J. Bocobo St., cor.
T.M. Kalaw Ave., Ermita, Manila 1000

