

NPM No. 13-2018

13 April 2018

MR. NOLAN T. TAPALES
General Manager
MOALBOAL WATER DISTRICT

Re: Authority of Local Water Districts to Undertake Procurement Activities Independent of the Local Government Unit (LGU) -

Dear Mr. Tapales:


This refers to your electronic mail seeking clarification on whether the Moalboal Water District (MWD) has authority to undertake the procurement activities independent of the LGU. Further, as represented, MWD is not dissolved; and is a separate and distinct agency from the LGU.

As held in the case of *Davao City Water District v. Civil Service Commission*, local water districts (LWDs) are considered as government-owned or controlled corporations (GOCCs) with original charter.¹ As such, LWDs, such as MWD, falls within the scope and coverage of Section 4 of Republic Act No. (RA) 9184 or the Government Procurement Reform Act and its 2016 revised Implementing Rules and Regulations (IRR). Thus, Section 5(bb) of the IRR of RA 9184 defines Procuring Entity as referring to “any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of the GoP (NGA), including GOCC, GFI, SUC and LGU procuring goods, infrastructure projects and consulting services.” (Emphasis supplied)

From the foregoing, for purposes of conducting procurement activities under RA 9184 and its revised IRR, the MWD, as a GOCC, is considered as a Procuring Entity as defined under RA 9184 and its IRR, hence, it has authority to undertake the procurement activities independent of the LGU. It shall have its governing board or its duly authorized official as the Head of Procuring Entity (HOPE) pursuant to Section 5(t) of the 2016 IRR of RA 9184. As such, the Board shall exercise the functions of the HOPE as provided for in the procurement law, its associated rules and procedures.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular 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

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¹ G.R. No. 95237-38, 13 September 1991.