

**NPM No. 020-2017**

21 November 2017

**MS. MA-LOU ATES-BALINO**

*Procurement Staff*

**DEPARTMENT OF HEALTH – REGIONAL OFFICE XI (DOH-RO XI)**

DOH Compound, J.P. Laurel Avenue, Davao City

**Re: Negotiated Procurement (Agency-to-Agency)**

Dear Ms. Ates-Balino:

We respond to your electronic mail inquiring what documents are required for Negotiated Procurement (Agency-to-Agency) under Section 53.5 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

Negotiated Procurement undertaken through Agency-to-Agency is defined under Section 53.5 of the 2016 IRR of RA 9184 as procurement of Goods, Infrastructure Projects, and Consulting Services from another agency of the Government of the Philippines.

For guidance, we refer to Section V(D)(5) of the Consolidated Guidelines for the Alternative Methods of Procurement, or Annex “H” of the 2016 IRR, which provides for specific guidelines for Negotiated Procurement through the Agency-to-Agency modality. Please note that Sections V(D)(5)(b) and (c) of the same Annex “H” provides for the relevant conditions and procedures, respectively, thus:

**b) Condition**

- (i) The Procuring Entity shall justify that entering into an Agency-to-Agency Agreement with the Servicing Agency is more efficient and economical to the government;
- (ii) Servicing Agency has the mandate to deliver the goods and services required to be procured or to undertake the infrastructure project or consultancy required by the Procuring Agency;
- (iii) Servicing Agency has the absorptive capacity to undertake the project;
- (iv) Servicing Agency owns or has access to the necessary tools and equipment required for the project;
- (v) Sub-contracting is not allowed. However, the servicing agency may implement the infrastructure project in-house, by job-order, or through the pakyaw contracting system; and
- (vi) For procurement of infrastructure projects, the Servicing Agency must have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand.

**c) Procedure**

- (i) The End-User unit shall justify to the Bids and Awards Committee (BAC) that the resort to Agency-to-Agency is more efficient and economical to the government.
- (ii) It shall likewise secure a certificate from the relevant officer of the Servicing Agency that the latter complies with all the foregoing conditions.
- (iii) Based on the assessment and recommendation of the End-User unit, the BAC shall issue a Resolution recommending the use of Agency-to-Agency Agreement to the Head of the Procuring Entity (HoPE).
- (iv) In case of approval, the HOPE shall enter into a Memorandum of Agreement (MOA) with the Servicing Agency.

In view of the foregoing, resort to Negotiated Procurement (Agency-to-Agency) requires the following documents, *to wit*:

- (1) The justification of the End-User that the resort to Agency-to-Agency is more efficient and economical to the government;
- (2) A certificate from the relevant officer of the Servicing Agency that the latter complies with all the conditions set forth in Section V(D)(5)(b) of Annex "H" of the 2016 IRR;
- (3) BAC Resolution recommending the use of Agency-to-Agency Agreement to the HoPE; and
- (4) MOA between the Servicing Agency and the Procuring Entity.

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 V

  
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