

NPM No. 035-2017

20 December 2017

MR. J. THADDEUS P. HERNAN
Director IV, Administrative Services Department
COMMISSION ON ELECTIONS (COMELEC)
Palacio del Gobernador Bldg., Gen. Luna St.
Intramuros, Manila

**Re: Small Value Procurement; Repair and/or
Maintenance of Government Vehicles -**

Dear Director Hernan:

This refers to your electronic mail inquiring on the following, *to wit*:

- (1) For purchases costing only One Thousand Pesos (PhP1,000.00) through Negotiated Procurement - Small Value Procurement (SVP) under Section 53.9 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, is there a need for the submission of documentary requirements, specially, the Omnibus Sworn Statement, which requires notarization; and
- (2) Aside from Competitive Bidding, is Negotiated Procurement - SVP the appropriate mode of procurement for the repair/maintenance of government vehicles?

Small Value Procurement; Documentary Requirements -

The mandatory documents to be submitted by the suppliers, manufacturers, distributors, contractors, and consultants are enumerated in Appendix A of the *Consolidated Guidelines for Alternative Methods of Procurement* (Guidelines) embodied in Annex "H" of the 2016 IRR of Republic Act (RA) No. 9184, the Government Procurement Reform Act (GPRA).

In Appendix A, Annex "H" of the 2016 IRR, the documentary requirements prescribed for SVP under Section 53.9 are: (1) Mayor's/Business Permit; (2) Philippine Government Electronic Procurement System (PhilGEPS) Registration Number; (3) Income/Business Tax Return; and (4) Omnibus Sworn Statement, in addition to (a) Professional License/Curriculum Vitae for the procurement of consulting services; or the Philippine Contractors Accreditation Board (PCAB) License for the procurement of Infrastructure Projects, as the case may be. The Bids and Awards Committee (BAC) shall indicate in the Request for Quotation or Request for Proposal at what stage of the procurement process these requirements shall be submitted. Thus, regardless of the amount

involved, the aforementioned documentary requirements are mandatory when resorting to Negotiated Procurement - SVP.

The GPPB recently approved amendments¹ (effective 5 December 2017) to the documentary submissions for Negotiated Procurement - SVP under Appendix A of Annex “H” of the 2016 IRR. Consequently, Income or Business Tax Returns shall be required only for procurement projects with an approved budget for the contract (ABC) above PhP 500,000.00 and the Omnibus Sworn Statement shall be required only for procurement projects with an ABC above PhP 50,000.00.

Accordingly, from 28 October 2017 up until 4 December 2017, the Omnibus Sworn Statement shall be required for Negotiated Procurement - SVP regardless of the amount of ABC. From 5 December 2017 onwards, the Omnibus Sworn Statement shall be required only for procurement projects with ABC above PhP 50,000.00.

Repair and/or Maintenance of Government Vehicles -

It is worthy to reiterate that the Procuring Entity (PE) has the sole authority and is in the best position to determine the appropriate method of procurement for a specific project based on its identified needs and requirements. Section 10 of RA 9184 and its 2016 IRR mandates that procurement shall be conducted through Competitive Bidding, except when resort to alternative methods of procurement is warranted by attending circumstances. More importantly, these alternative methods of procurement shall be resorted to only in highly exceptional cases provided in Sections 49 to 53 of RA 9184 and its 2016 IRR.

For guidance, we wish to clarify that Negotiated Procurement - SVP, as an alternative method of procurement, can be resorted to by the PE only upon determination of the existence of the conditions set forth in Sections 48 and 53.9, as well as the Guidelines found in Annex “H” of the 2016 IRR of RA 9184.

In view of the foregoing, the procurement of the repair and/or maintenance of government vehicle can be conducted through Negotiated Procurement - SVP if the PE can establish compliance with the requirements under Annex “H,” Sections 48 and 53.9 of the 2016 IRR of RA 9184.

Summary -

In sum, we wish to reiterate the following, *to wit*:

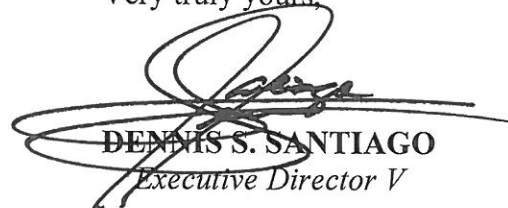
- (1) The documents prescribed in Appendix A, Annex “H” of the 2016 IRR of RA 9184 are mandatory requirements when any of the Alternative Methods of Procurement are resorted to, except for Repeat Order, Shopping under Section 52.1(a), and Negotiated Procurement under Sections 53.1 (Two-Failed Biddings), and 53.5 (Agency-to-Agency) of the 2016 Revised IRR of RA 9184; and
- (2) Repair and/or maintenance of government vehicle can be undertaken through Negotiated Procurement - SVP if the Procuring Entity can

¹ GPPB Resolution No. 21-2017 entitled “*Approving the Amendment to the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act No. 9184*”, dated 30 May 2017, published on 20 November 2017 and took effect 5 December 2017.

establish compliance with the requirements under Annex "H," Sections 48 and 53.9 of the 2016 IRR of RA 9184.

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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