

NPM No. 074-2017

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MS. PILAR PINGA CRUZ

Chief, Planning and Policy Formulation Division

PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO)

3/F Conservatory Shaw Plaza Bldg.

Shaw Blvd., Mandaluyong City

Re: Agency-to-Agency Agreement -

Dear Ms. Cruz:

This refers to your electronic mail (e-mail) inquiring whether there is still a need to get quotations from other survey providers where the Procuring Entity is planning to engage the services of the Development Academy of the Philippines to conduct a Third (3rd) Party survey at PCSO.

In accordance with Section 10 of Republic Act (RA) No. 9184, the Government Procurement Reform Act, the procuring entity shall, as a general rule, adopt competitive bidding as a mode of procurement. However, in order to promote efficiency and economy, the procuring entity may resort to any alternative mode of procurement, subject to the approval of the head of the procuring entity, whenever justified by the conditions provided for under the law and the rules.

For guidance, in cases where procurement from another agency of the government is more efficient and economical, Negotiated Procurement under the Agency-to-Agency modality sanctioned by Section 53.5 of the 2016 revised Implementing Rules and Regulations (IRR) of RA 9184 may be resorted to. This rule allows a government entity to procure from another government entity without need of public bidding or sending Requests for Quotations to other prospective bidders, subject to compliance with the prescribed conditions and procedures under the rules, particularly Annex "H" of the 2016 IRR or the *Consolidated Guidelines for the Alternative Methods of Procurement* (Guidelines).

Pursuant to Section V(D.5) of the Guidelines, Agency-to-Agency Agreements may be resorted to if the following conditions are complied with:

- 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.

Thus, when resorting to Agency-to-Agency procurement for its 3rd Party survey, the PCSO need not obtain quotations from other survey providers for as long as it is compliant with the prescribed conditions and procedures set forth above. It bears stressing, however, that it is the general policy of the government to purchase its requirements from the private sector and only in highly exceptional cases may one government agency procure from another government agency when it is determined to be more efficient, economical and advantageous to government.

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 V