



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 05-2014

11 March 2014

ATTY. MARIE ANTONIETTE DUMAGAN-DIAZ

Chairman, Bids and Awards Committee

HOME DEVELOPMENT MUTUAL FUND (HDMF)

PAG-IBIG FUND

Pryce Tower Condo, Pryce Business Park,

Bajada, Davao City

Re: Extension and Amendment of Contracts

Dear Atty. Dumagan-Diaz:

We refer to your letter seeking clarification on the following concerns:

- 1) Whether the contract for additional guards procured through Small Value Procurement (SVP) may be extended on a monthly basis until the approval of the 2014 budget. If not, what would be the proper recourse considering that the presence of the guards is vital to the operations of HDMF?
- 2) Whether HDMF is allowed to amend the existing multi-year contract for security services so that it would not have to conduct a public bidding in case the approved budget for 2014 would be sufficient to cover the costs of the additional guards for the two newly opened offices. If so, what are the requirements to effect the same?

It is represented that you have an existing multi-year contract for security services for the years 2013-2015. However, during the 3rd quarter of 2013, you have opened two (2) new offices, Davao South and Digos offices, which necessitated the procurement of eight (8) additional security guards. Since the current budget cannot cover the cost of the increase in security guards, you decided to procure them using the alternative modality of SVP from a different security agency. For the year 2014, the two newly opened offices would still require the said additional security guards.¹ It is in this context that you seek clarification on the above issues.

Extension of Contract for Security Services

To properly address your concerns, we refer to the General Conditions for Extension² found in the GPPB Revised Guidelines on the Extension of Contracts for General Support

¹ Clarified through a phone conversation with you on 27 December 2013.

² 4.1 No contract extension shall exceed one (1) year.

Services (Guidelines)³, which were formulated to identify the conditions for the allowance of contract extension and to prescribe the rules and procedures governing the same, for the purpose of averting hiatus in support services essential, indispensable, or necessary in the operations of a procuring entity.

Pursuant to the Guidelines, the Head of the Procuring Entity (HOPE) of HDMF may extend the duration or effectivity of its ongoing security services contract about to expire, provided it complies with the conditions enumerated. The Guidelines do not require that the original contract to be extended was awarded as a result of competitive bidding. The only requirement under Section 4.2 is that the original contract was awarded in accordance with the provisions of R.A. 9184 and its IRR. Hence, the procurement of security services through Small Value Procurement may be extended subject to the other conditions provided in the Guidelines.

We wish to stress the conditions provided in Sections 4.3, 4.4 and 4.5 of the Guidelines, which necessitates that efforts are actually being undertaken toward procuring the required services but the new contract cannot be awarded any time before or within a month after the expiration of the term of the original contract because of circumstances beyond the procuring entity's control. Thus, the contemplated extension is merely an emergency measure to maintain status quo in the operations of the procuring entity.

Moreover, the procedural requirements⁴ under the Guidelines mandates that all contract extensions shall be subject to prior approval of the Head of Procuring Entity or his/her duly authorized representative upon recommendation of the BAC. And in the event that the proposed contract extension exceeds six (6) months, what is incumbent upon the Head of the Procuring Entity is to immediately report in writing its intention to extend the said service to the GPPB. The GPPB's approval for such extension, however, is not necessary.⁵

Amendments to an Existing Contract

Anent your second question, Section 5 of the Guidelines on the Procurement of Security and Janitorial Services⁶ provides that all bid prices for a duration of three (3) years shall be fixed and shall not be adjusted during contract implementation.⁷ One of the exceptions is, when during the term of the contract the procuring entity sees the need for an increase or decrease in the number of security guards, it may make the necessary adjustments in the bid price provided that the resulting cost does not exceed the Approved Budget for the Contract (ABC) for the relevant year. A

4.2 The original contract subject of the extension was awarded in accordance with the provisions of Republic Act 9184 (R.A. 9184) and its revised Implementing Rules and Regulations (IRR).

4.3 The procuring entity concerned has substantially undertaken the procurement activities required prior to award of the new contract under R.A. 9184 and its IRR.

4.4 The aforesaid contract extension is undertaken due to circumstances beyond its control and the procuring entity concerned cannot award a new contract within a month after the expiration of the term of the original contract.

4.5 The contemplated extension is merely an emergency measure to maintain status quo in the operations of the Procuring Entity and to avoid interruption of service.

4.6 The current service provider has not violated any of the provisions of the original contract.

4.7 The terms and conditions of the original contract shall not be changed or modified, except when changes or modifications will redound to the advantage of the government at no additional cost to the Procuring Entity.

³ GPPB Resolution No. 23-2007 dated 28 September 2007.

⁴ Section 5 of GPPB Resolution 023-2007.

⁵ NPM 063-2009 dated 3 December 2009.

⁶ Issued through GPPB Resolution 024-2007, dated 28 September 2007, and published in the Manila Times on 26 October 2007.

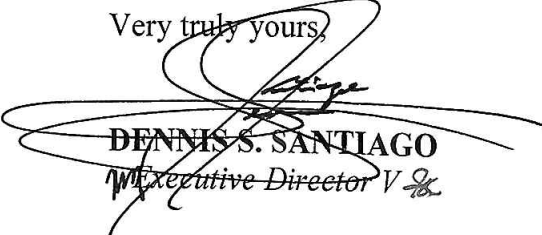
⁷ Item 5.2, *Id.*

Applying the said provision in this case, HDMF may increase the number of its security guards for 2014 as long as the resulting increase in the cost will not exceed the original ABC provided for the relevant year of the said procurement. It cannot increase the yearly ABC and/or the total ABC for the said procurement when it was procured in 2013, notwithstanding an increase in its agency's yearly budget. What can only be adjusted is the bid/contract price provided for 2014 to accommodate the increase in the number of security guards.

In sum, HDMF may extend the duration or effectivity of its ongoing security services contract about to expire on a monthly basis, subject to the conditions provided under the Guidelines. On the other hand, as a general rule, bid prices for a duration of three (3) years shall be fixed and shall not be adjusted during contract implementation. One of the exceptions is when there is a need for an increase in the number of the security guards as in this case. The necessary adjustment in the bid price to accommodate the said increase may be made, provided that the resulting cost does not exceed the ABC for the relevant year.

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.

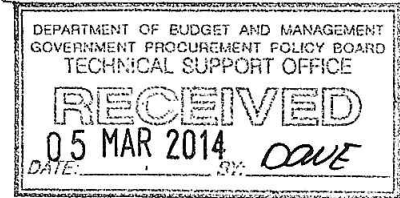
Very truly yours,



DENNIS S. SANTIAGO
Executive Director V. S.



HOME DEVELOPMENT MUTUAL FUND



March 5, 2014

RIZA - 12-2-13

ATTY. DENNIS S. SANTIAGO
 Executive Director V
 Government Procurement Policy Board (GPPB-TSO)
 Unit 2506, Raffles Corporate Center
 F Ortigas Jr. Avenue
 Ortigas Center, Pasig City

*Dennis/Payo,
 please submit the
 draft opinion on the
 matter by 3/11. Kindly
 provide update on 3/10. T.S.*

Dear Atty. Santiago:

This has reference to our letter dated November 27, 2013, seeking clarification regarding the extension/procurement process of our additional service providers.

Relative thereto, we would like to be apprised on the status of our inquiry. Please find attached photocopy of the letter for your reference

Thank you.

Very truly yours,

ER
ERNA B. TAGHAP †
 Officer-Incharge, Davao Branch
 Concurrent ADM I-Support Services

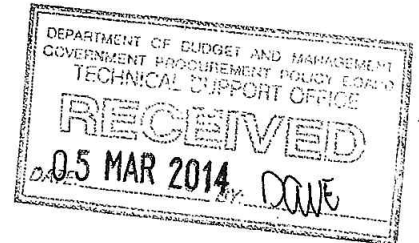


Pag-IBIG FUND

(Home Development Mutual Fund)

November 27, 2013

Atty. DENNIS S. SANTIAGO
 Executive Director V
 Government Procurement Policy Board (GPPB-TSO)
 Unit 2506; Raffles Corporate Center
 F. Ortigas Jr., Avenue
 Ortigas Center, Pasig City



Dear Sir:

This pertains to our procurement for the Provision of Security Services for Pag-IBIG Fund Davao Branch Office for the year 2013-2015.

The branch has an existing contract with a security company which shall expire on the year 2015. However, during the 3rd quarter of this year, it has opened two (2) new offices namely the Davao South Office and Digos Office. The budget for the provision of the abovementioned services for these offices were taken from the current ABC hence, it was not able to sustain the costs of the additional number of the deployed Security Guards. In order not to exceed with the approved budget, we resorted to Small Value Procurement to cover the additional costs for the period October 01 to December 31, 2013 which was covered by a Job Order (JO) with a different security agency.

For the year 2014, the two newly opened offices would be needing a total of eight (8) additional Security Guards. Pending the approval of the Annual Procurement Plan (APP) for the year 2014, we would like to seek clarification on the following concerns:

1. Can we extend the services of the additional guards on a monthly basis until the approval of the budget considering that we resorted to Small Value Procurement where the threshold should not exceed Five Hundred Thousand Pesos (P500,000.00)? If not, what would be our remedy considering that the presence of the guards is vital to our operations.
2. If the approved budget for 2014 would be sufficient to cover the costs of the additional guards for the two newly opened offices, we are planning to amend the existing contract so as not to undergo Public Bidding process and facilitate the provision of the said services. If allowed, what would be the requisites and the documentary requirements.

Should you need further details on these matters, you may contact the undersigned thru landline #(082)224-5848 or thru email at davao_admin@pagibigfund.gov.ph.

Your prompt reply on these matters will be highly appreciated.

Thank you.

Very truly yours,

[Signature]
Atty. MARIE ANTONIETTE DUMAGAN-DIAZ
 Chairperson, Bids and Awards Committee