



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

NPM No. 06-2012

6 January 2012

MR. JOHN CHRISTOPHER M. MANALO IV

Officer-in-Charge

PHILIPPINE AMUSEMENT AND GAMING CORPORATION

1330 Roxas Boulevard,
Ermita, Manila 1000

Re: Exemption from Public Bidding

Dear Mr. Manalo:

We respond to your letter seeking exemption from the public bidding process as mandated under Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).

As represented, the Philippine Amusement & Gaming Corporation (PAGCOR) offers nightly entertainment in its Casino Filipino branches. Given this set-up, PAGCOR is requesting that it be exempted in observing the bidding process in the hiring of nightly performers and celebrity artists.

At the outset, the GPPB cannot grant exemption to the bidding requirement in line with its mandate to provide policy direction in the field of public procurement as it cannot exercise functions beyond the scope of its authority.¹ This office has been consistent with its position that the GPPB cannot waive any of the provisions of RA 9184 and its IRR or allow any exemption from the application of procurement laws, rules and regulations in favor of procuring entities, suppliers, manufacturers, consultants and contractors.²

We wish to inform you that, as a general rule, Section 10 of RA 9184 and its IRR require the Procuring Entity to observe the general mode of procurement, which is competitive bidding³. As discussed in a previous opinion⁴, a cursory perusal of the definition of Goods under Section 5(r) of the IRR shows that the hiring of nightly entertainers/performers would fall under the phrase "non-personal or contractual services", which covers "related or analogous services".

Based on the foregoing, the engagement of nightly performers and celebrity artists must be through public bidding since such services fall under the definition of "Goods" of RA 9184 and its IRR, unless PAGCOR identifies the existence of conditions warranting the

¹ NPM No. 063-2007 dated 3 December 2007

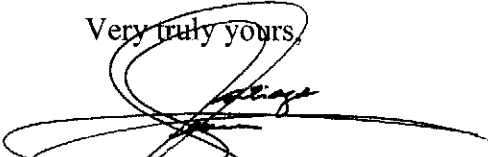

² NPM No. 041-2005 dated 20 September 2005

³ NPM No. 035-2008 dated 6 October 2008

⁴ NPM No. 060-2009 dated 6 November 2009

application of any of the alternative methods of procurement such as small value procurement under Section 53.9 of the IRR.

We hope our advice provided sufficient guidance on the matter. Should you have further questions, please do not hesitate to contact us.

Very truly yours,

DENNIS S. SANTIAGO
Executive Director III 

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