

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

NPM No. 08-2012

6 January 2012

DR. AILEEN RIEGO-JAVIER, CESO IV

Executive Director

NATIONAL KIDNEY AND TRANSPLANT INSTITUTE

Km. 24 Manila East Road, Don Hilario Cruz Avenue,

Club Manila East Compound, Brgy. San Juan, Taytay Rizal

Re: Service Contracts Entered into a Multi-Year Basis

Dear Executive Director Riego-Javier:

We respond to your letter dated 20 September 2011 seeking an approval from the Government Procurement Policy Board (GPPB) for an exemption from the one-year limitation for certain service contracts that will allow the National Kidney and Transplant Institute (NKTi) to enter into multi-year contracts.

In your letter, you identified two (2) factors that restrict NKTi from entering into service contracts on a multi-year basis, namely, (a) the Guidelines on the Procurement of Security and Janitorial Services¹ which states that procuring entities may enter into multi-year contracts for their security and janitorial services requirements but not to exceed three (3) years; and (b) the Revised Guidelines on Extension of Contracts for General Support Services which provides that extension of all on-going contracts for general support services which are essential, indispensable, or necessary to support the operations of any of the procuring entities or for the enhancement of the welfare of its personnel shall not exceed one (1) year.

At the outset, we wish to inform you that it is beyond the power of the GPPB to grant exemptions from Republic Act (R.A.) 9184 and its Implementing Rules and Regulations (IRR) as it does not have the power to legislate nor determine the coverage of the law. At most, the GPPB may only render contemporaneous interpretation and construction of the provisions of the law pursuant to its quasi-legislative fiat, and issue rules and regulations pursuant to its rule-making power².

Please be advised that R.A. 9184 and its IRR are silent on the issue of multi-year contracts. The Guidelines on the Procurement of Security and Janitorial Services, does not make any categorical pronouncement that multi-year contracts may be availed of only in the

¹ Approved and adopted by the GPPB through Resolution No. 24-2007

² See NPM No. 25-2011, dated 27 December 2011

case of janitorial and security services contracts; rather, said Guidelines simply state that it shall be applicable to the procurement of janitorial and security services³.

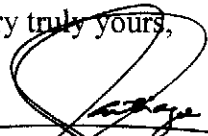

Likewise, the Revised Guidelines on Extension of Contracts for General Support Services does not prohibit procuring entities from entering into contracts on a multi-year basis. It simply provides that contracts for general support services can be extended, but not to exceed one (1) year for the purpose of averting hiatus in support services essential, indispensable, or necessary in the operations of a procuring entity.

In this regard, an approval from the GPPB or this office is not necessary in order that NKTi may enter into multi-year contracts. There is also nothing in the aforementioned guidelines that prevents NKTi from executing multi-year contracts for other services. Hence, if the Board of NKTi, as head of the agency and acting within its corporate authority and power, approves the plan to engage in a multi-year contract, then it can do so for as long as this act is allowed under its corporate charter. Granting that the said authority or power is provided, a Board resolution duly issued allowing multi-year contracts for other services will suffice.⁴

Notwithstanding all the foregoing, please be guided by the provisions of Department of Budget and Management (DBM) Circular Letter 2004-12 prescribing the guidelines and procedures for the implementation of multi-year contracts for all national government agencies. Thus, it is suggested that your office validate with DBM if said Circular applies to NKTi and determine if there is no additional budgetary authority required for the purpose. If the Board of NKTi is prohibited from engaging in multi-year contracts then we suggest to procure the other services on a yearly basis⁵

We trust that our advice clarifies your concern. 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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³ See NPM No. 30-2009, dated 10 June 2009

⁴ See NPM No. 011-2009 dated 26 February 2009

⁵ See NPM No. 40-2011, dated 28 December 2011 and NPM No. 30-299, dated 10 June 2009