



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

NPM No. 16-2014

5 May 2014

HON. PAULYN JEAN B. ROSELL-UBIAL, MD, MPH, CESO II

Assistant Secretary,

Chairperson, Central Office Bids and Awards

Committee B (COBAC B)

DEPARTMENT OF HEALTH (DOH)

Building 6, San Lazaro Compound, Rizal Avenue,

Sta. Cruz, Manila

Re: General Support Services; Multi-year Contracts

Dear Assistant Secretary Rosell-Ubial:

This refers to the letter of the Honorable Assistant Secretary dated 28 March 2014, seeking clarification on whether general support services other than security and janitorial services may be entered into through a multi-year contract facility.

It is represented that DOH COBAC annually procures general support services, such as distribution and hauling services, brokerage services and internet services. Citing Section 5.0 of the Guidelines on the Procurement of Security and Janitorial Services (Guidelines), DOH COBAC is inquiring whether these general support services may be entered through multi-year contracts such as in the case of security and janitorial services.

Please be advised that Republic Act No. 9184 and its revised Implementing Rules and Regulations (IRR) are silent on the issue of multi-year contracts¹. Section 2 of the Guidelines explicitly states that it shall not be applicable to other general support services such as repair and maintenance of equipment, and furniture, trucking, hauling and other services. However, the Guidelines does not make any categorical pronouncement that multi-year contracts may be availed of only in the case of janitorial and security services; rather, said Guidelines simply state that it shall be applicable to the procurement of janitorial and security services².

For guidance, the Department of Budget and Management (DBM) issued DBM Circular No. 2004-12 dated 7 October 2004 prescribing the guidelines and procedures for the implementation of multi-year contracts, which should be read alongside DBM Circular No. 2013-17 dated 23 December 2013 relative to the application for and approval of Multi-Year Obligational Authority (MYOA) for multi-year contracts. Thus, it is respectfully suggested that DOH validate with DBM the extent of these Circulars' applicability to DOH and determine if there is no additional budgetary authority required for the purpose. In the event

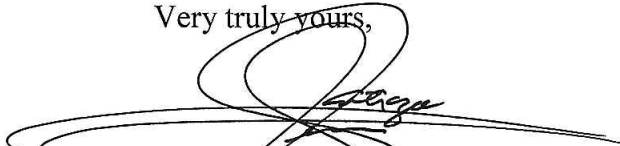
¹ NPM Opinion No. 08-2012 dated 6 January 2012.

² NPM Opinion No. 30-2009 dated 10 June 2009.

that the confirmation yields a negative result, we advise that the foregoing contracts of general support services be procured on a yearly basis.

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

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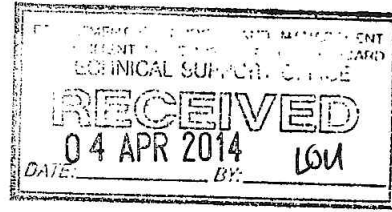


Republic of the Philippines
 Department of Health
CENTRAL OFFICE BIDS AND AWARDS COMMITTEE

7/18/14

28 March 2014

ATTY. DENNIS SANTIAGO
 Executive Director
 Government Procurement Policy Board
 Unit 2506 Raffles Corporate Center
 F. Ortigas Road, Ortigas, Pasig City
 Metro Manila
 Tel. No: 9006741 to 44



Dear Atty. Santiago,

This has reference to the Procurement of General Support Services with Multi-year Contracts.

Appendix 14 Section 5.0 of the Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 states that "Procuring entities may enter into multi-year contracts, but not to exceed three (3) years, in the procurement of security and janitorial services."

We would like to inquire if other general support services such as distribution and hauling services, brokerage services and internet services can be entered into multi-year contracts since the above-mentioned services are procured every year.

In view of the above, we would like to request for a written opinion on the matter.

Thank you.

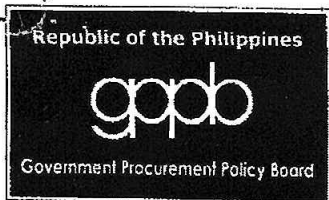
Very truly yours,

Rizal Rosas,
 We have an OPINION on the
 issue raised. Please prepare the
OPINION ASAP.
 DR. OSS

Paulyn Jean B. Rosell-Ubial
PAULYN JEAN B. ROSELL-UBIAL, MD, MPH, CESO II
 Assistant Secretary of Health
 Chairperson, COBAC B

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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,

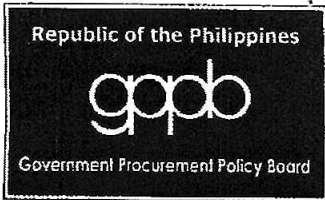

DENNIS S. SANTIAGO
Executive Director III 

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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



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

NPM No. 46-2012

26 April 2012

ENGR. EDWIN V. REGALADO
Acting General Manager
DAVAO CITY WATER DISTRICT (DCWD)
Km. 5 Jose P. Laurel Avenue,
Bajada, Davao City

Re: Multi-Year Vehicle Lease Contracts

Dear Engr. Regalado:

This is in response to your letter dated 21 February 2012 seeking our opinion on whether multi-year vehicle lease contracts may be allowed under Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).

It is represented that the DCWD is contemplating on leasing vehicles instead of acquiring new ones. Based on its own study, the lease rate per vehicle is lower if the contract is spread for a period of two (2) to three (3) years, instead of just one (1) year. Thus, DCWD plans to implement a multi-year vehicle scheme similar to the procedure outlined in the Guidelines on the Procurement of Security and Janitorial Services¹ (Guidelines). It is of the view that this scheme may be applied to other general support services.

As correctly mentioned in your letter, RA 9184 and its IRR are silent on the issue of multi-year contracts.² Nonetheless, the Department of Budget and Management (DBM) has issued DBM Circular No. 2004-12 on 7 October 2004 prescribing the guidelines and procedures for the implementation of multi-year contracts.

As discussed in a previous opinion,³ inasmuch as accountability for entering into multi-year contracts solely rests on your Bids and Awards Committee and the Head of Procuring Entity, it is prudent to validate if your governing board is authorized to enter into multi-year contracts under the law creating DCWD or under the corporate articles, whichever is applicable; and, whether there is no additional budgetary authority required for the purpose.

¹ GPPB Resolution 021-2007 dated 28 September 2007.

² NPM No. 22-2008 dated 16 September 2008.

³ NPM No. 40-2011 dated 28 December 2011.

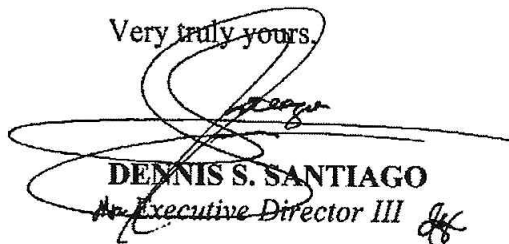
For your guidance, Section 2 of the Guidelines explicitly states that it shall not be applicable to other general support services such as repair and maintenance of equipment and furniture, trucking, hauling, and other services. Nonetheless, the Guidelines do not make any categorical pronouncement that the multi-year contracting approach may be availed of only and exclusively in the case of contracts for janitorial and security services.⁴

Based on the foregoing, we are of the opinion that DCWD should first verify if it is allowed to enter into multi-year contracts under DBM Circular No. 2004-12 or whether its governing board is authorized to enter into multi-year contracts under its enabling law or corporate charter. In the event that the confirmation yields a negative result, we propose that the contract be procured on a yearly basis.

At this juncture, it is worthy to stress that the Government Procurement Policy Board and its Technical Support Office render policy and non-policy opinions on issues purely relating to the interpretation, construction and application of our procurement laws, rules and regulations.⁵ This authority does not include the power to grant or approve requests of procuring entities to engage in multi-year contracts involving the procurement of goods, civil works and consulting services.

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

Very truly yours,


DENNIS S. SANTIAGO
An Executive Director III

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⁴ NPM 011-2009 dated 26 February 2009.

⁵ NPM 061-2008 dated 27 November 2009.