



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

NPM No. 17-2014

5 May 2014

HON. LUISA D.C. ANGELES

Mayor

OFFICE OF THE MAYOR

Local Government of Bombon

Poblacion, Bombon, Camarines Sur, 4404

Re: Authorization by the Sanggunian for Contracts Entered Into by the Local Chief Executive in behalf of the Local Government Unit

Dear Mayor Angeles:

This refers the Honorable Mayor's letter dated 17 March 2014, which we received on 15 April 2014, seeking clarification relative to the authorization from the Sangguniang Bayan for contracts to be executed by the Mayor in behalf of the municipality, thus:

1. Whether there is a need to secure authority from the *Sangguniang Bayan* to enter into contract after the issuance of award to winning contractor or supplier; and
2. Whether there is a need to secure an authority from the *Sangguniang Bayan* to implement or to enter into contract in all procurements even though they are specifically identified in the annual budget such as TRAININGS, OFFICE SUPPLIES, OTHER SUPPLIES, REPAIR & MAINTENANCE OF I.T. and OFFICE EQUIPMENT.

In an earlier opinion¹, we discussed that the authorization from the Sangguniang Bayan is an indispensable requirement before the Municipal Mayor may enter into and sign all contracts and obligations in behalf of the Municipality. The same opinion states that:

[c]onsidering that only Title Six, Book Two, which covers Sections 355 to 383 and Chapter Five, Title One, Book One, which covers Sections 37 and 38 of R.A. 7160 are repealed by R.A. 9184, Sections 22 and 444 of R.A. 7160 as well as Section 51 of the [Revised Administrative Code of 1987] remain and continue to be operative and applicable.

For guidance on the abovementioned issues, we refer to the Supreme Court's decision in "*Hon. Gabriel Luis Quisumbing, et. al. vs. Hon. Gwendolyn F. Garcia Velasco, Jr., (In her capacity as Governor of the Province of Cebu), et. al.*,"² to wit: 8

¹ Non-Policy Matter No. 084-2004 (16 June 2004).

² G.R. No. 175527, 8 December 2008.

R.A. No. 9184 establishes the law and procedure for public procurement. Sec. 37 thereof explicitly makes the approval of the appropriate authority which in the case of local government units, is the *Sanggunian*, the point of reference for the notice to proceed to be issued to the winning bidder. This provision, rather than being in conflict with or providing an exception to Sec. 22(c) of R.A. 7160, blends seamlessly with the latter and even acknowledges that in the exercise of the local government units' corporate powers, the chief executive acts merely as an instrumentality of the local council. Read together, the cited provisions mandate the local chief executive to secure the Sanggunian's approval before entering into procurement contracts and to transmit the notice to proceed to the winning bidder not later than seven (7) calendar days.

...

The question of whether a *sanggunian* authorization separate from the appropriation ordinance is required should be resolved depending on the particular circumstances of the case. Resort to the appropriation ordinance is necessary in order to determine if there is a provision therein which specifically covers the expense to be incurred or the contract to be entered into. Should the appropriation ordinance, for instance, already contain in sufficient detail the project and cost of a capital outlay such that all that the local chief executive needs to do after undergoing the requisite public bidding is to execute the contract, *no further authorization is required, the appropriation ordinance already being sufficient.* (Italics and emphasis supplied)

On the other hand, should the appropriation ordinance describe the projects in generic terms such as "infrastructure projects," "inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems projects," "reclamation projects" or "roads and bridges," there is an obvious need for a covering contract for every specific project that in turn requires approval by the *sanggunian*. Specific *sanggunian* approval may also be required for the purchase of goods and services which are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses.

Based on the foregoing we wish to clarify that there is a need for the Mayor to secure authorization from the *Sanggunian* to enter into contracts. Such authorization may either be given through the Appropriation Ordinance or through a separate approval if the Appropriation Ordinance describes the project in generic terms as jurisprudentially elucidated in the *Quisumbing* case.

We hope that the opinion issued by GPPB-TSO provided sufficient guidance on the matter. Note that this is issued on the basis of particular facts and situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V

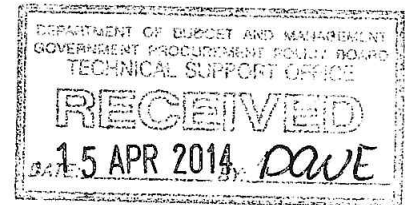


Republic of the Philippines
Province of Camarines Sur
Municipality of Bombon
-00000-
OFFICE OF THE MAYOR

Riza / Diana,
Please prepare
opinion. Refer to
previous opinions;
21, 09

March 17, 2014

THE CHIEF OF LEGAL DIVISION
Government Procurement Policy Board
Unit 2506, Raffles Corporate Center
Ortigas Center, Pasig City



Dear Sir / Madam ,

Greetings!

The undersigned would like to seek the legal opinion of your office regarding the following concerns :

1. Do the Mayor still need to secure authority to enter into contract from the Sangguniang Bayan after the issuance of award to winning contractor or supplier ?
2. Is there a need for the Mayor to secure an authority to implement or authority to enter into contract from the Sangguniang Bayan in all procurement even though it is stated specific in the annual budget such as TRAININGS, OFFICE SUPPLIES , OTHER SUPPLIES & REPAIR & MAINTENANCE OF IT & OFFICE EQUIPMENT

Thank you & may we be informed & enlighten of your written reply regarding the matter.

Very truly yours,


MA. LUISA D. ANGELES
Municipal Mayor

Our Address:

Local Government of Bombon
Poblacion , Bombon, Camarines Sur
4404

received : 4/22/2014 8:30 am