



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

**NPM No. 30-2013**

27 March 2013

**MR. FROILAN A. TAMPINCO**

*President*

**NATIONAL POWER CORPORATION (NPC)**

NPC Building, corner Agham and BIR Road,  
Diliman, Quezon City

**Re: Extensions of Contract for Janitorial Services**

Dear Mr. Tampinco:

We respond to your letter dated 21 January 2013 seeking advice on whether the Government Procurement Policy Board (GPPB) Resolution No. 23-2007<sup>1</sup> or the Revised Guidelines on the Extension of Contracts for General Support Services (Guidelines) shall apply to the extension of janitorial services for generating plants affected by the implementation of the privatization law as mandated by Republic Act (RA) No. 9136<sup>2</sup>, otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA).

It is represented that the NPC-Angat Hydroelectric Power Plant (AHEPP) has a contract for janitorial service set to expire on 15 January 2013. AHEPP was sold by the Power Sector Assets and Liabilities Management Corporation (PSALM) on an "as-is-where-is" basis pursuant to RA 9136, which resulted to the filing of case by the Dialogue and Empowerment Through Alternative Legal Services, Inc. against PSALM. In September 2012, while AHEPP was preparing its purchase requisition (PR) for the procurement of new janitorial services in place of an expiring contract, the Supreme Court rendered its decision on 9 October 2012 ruling that the sale of AHEPP was valid and legal<sup>3</sup>. Thus, instead of submitting the PR to the NPC Bids and Awards Committee (BAC), AHEPP submitted a request to extend the existing contract for janitorial services since it could not determine the duration of the new PR, and when AHEPP will be officially turned over to the buyer. It is further represented that NPC is merely an operator of AHEPP and has no control of the sale. NPC cannot undertake any procurement activity as the determination of the contract duration is dependent on the turnover date of AHEPP, which can only be determined by PSALM and the new owner.

For your guidance, the Guidelines allow the extension of ongoing contracts of general support services which are **essential, indispensable, or necessary** to support the operations

<sup>1</sup> Dated 28 September 2007.

<sup>2</sup> An Act Ordaining Reforms in the Electric Power Industry, Amending for the Purpose Certain Laws and for Other Purposes.

<sup>3</sup> G.R. No. 192088.

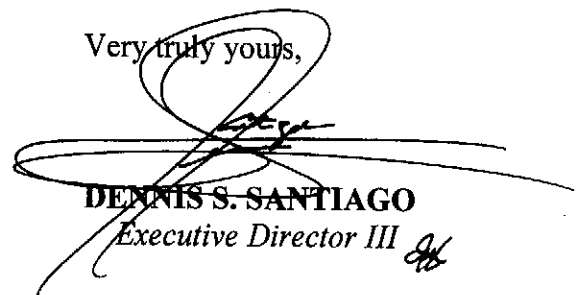
of the Procuring Entities (PE), such as janitorial services.<sup>4</sup> An existing contract for janitorial services may be extended several times as long as the aggregate extension shall not be more than one (1) year, subject to the conditions enumerated in Section 4<sup>5</sup> of the Guidelines.

It bears stressing that RA 9814 and the revised Implementing Rules and Regulations (IRR), including the various guidelines applies to all procurement of any branch, agency, department, bureau, office, or instrumentality of the government of the Philippines, including government-owned and/or-controlled corporations, government financial institutions, state universities and colleges, and local government units. Thus, if the personality of AHEPP as a government agency has been transformed into a private entity, then the procurement laws will no longer apply.<sup>6</sup>

In view of the foregoing, until the actual turnover of AHEPP to the new private owner is made, the government agency having control over AHEPP may still consider the extension of contract for janitorial services subject to the conditions laid down in Section 4 of the Guidelines. It must be emphasized, however, that the aggregate period of extension should not exceed one (1) year.

We hope that our advice provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular 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 III*

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<sup>4</sup> Section 3 on Scope of Application of the Revised Guidelines on the Extension of Contracts for General Support Services.

<sup>5</sup> Procuring entities may extend the duration or effectivity of an ongoing contract about to expire, under the following conditions:

- 4.1 No contract extension shall exceed one (1) year.
- 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 Implementing Rules and Regulations Part A (IRR-A).
- 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-A
- 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.

<sup>6</sup> Section 4.1 of the IRR of RA 9184.