



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

NPM No. 30-2014

8 October 2014

P/CS HENRY PELOBELLO LOSAÑES

Regional Director

PHILIPPINE NATIONAL POLICE (PNP)

POLICE REGIONAL OFFICE 8

Camp Kangleon,

Palo, Leyte

Re: Negotiated Procurement under Section 53.2 (Emergency Cases)

Dear Police Chief Superintendent Losañes:

This is in response to your letter dated 24 June 2014 seeking our opinion on whether your office, similar to the Department of Social Welfare and Development (DSWD), is authorized to procure goods and infrastructure projects through Negotiated Procurement under Section 53.2 (Emergency Cases) of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184 to carry out immediate repair of police buildings and vehicles damaged by Typhoon Yolanda. It is represented that your office received a Notice of Fund Availability (NFA) to support PNP activities as mentioned. Per attached supporting documents, the amounts indicated in the NFA are as follows:

1. Thirty-Two Million Four Hundred Ten Thousand Pesos (Php 32,410,000.00) for the repair and maintenance of office building;
2. Twenty-Six Million One Hundred Forty Seven Thousand Seven Hundred Sixty One Pesos and 70/100 Centavos (Php 26,147,761.70) for the repair and maintenance of office building;
3. Two Million One Hundred Twelve Thousand Five Hundred Pesos (Php 2,112,500.00) for the repair and maintenance of motor vehicles;

Government Procurement Policy Board (GPPB) Resolution No. 34-2013 that was mentioned in your letter provides that:

1. **GPPB approval is not necessary** for government contracts procured through any of the alternative methods of procurement involving **an Approved Budget for the Contract (ABC) less than Five Hundred Million Pesos (PhP 500,000,000.00)**; and
2. **Authority is granted to all concerned government procuring entities** to procure goods and infrastructure projects, for the purpose of providing

rescue, recovery, relief, and/or rehabilitation efforts for, and to continue to provide basic services to victims in areas affected by Typhoon Yolanda, through Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184 with **an ABC of at least Five Hundred Million Pesos (PhP 500,000,000.00)** for the duration of the State of National Calamity until lifted by the President pursuant to Proclamation No. 682, Series of 2013. (*Emphasis supplied*)

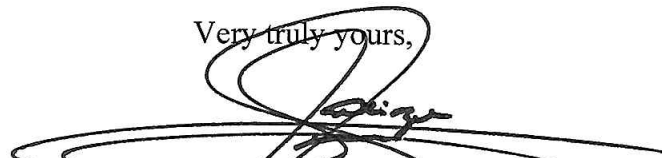
GPPB Resolution No. 34-2013 restates the rule that all Procuring Entities, including PNP Police Regional Office VIII, may resort to Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184 without GPPB approval, provided that the ABC is **less than 500 Million Pesos**. However, this is subject to the condition that any alternative method of procurement may only be resorted to under highly exceptional circumstances; and when warranted by valid, lawful, reasonable and justifiable conditions and circumstances allowing the use of the proposed alternative modality that would be most advantageous to the procuring entity taking into consideration the principles of competition, economy and efficiency in public procurement.²

It is worthy to emphasize that the responsibility and accountability in determining and justifying the existence of conditions or circumstances warranting the use of any of the alternative methods of procurement provided in RA 9184 and its IRR rest primarily with the procuring entity.³

All told, since the foregoing procurement projects of the PNP Police Regional Office VIII have ABCs less than 500 Million Pesos, we are of the opinion that it may resort to Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184 without the approval of the GPPB, provided that all the requirements are clearly established and the procedural rules are faithfully observed.

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 you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V

² NPM No. 31-2012 dated 04 April 2012.

³ NPM No. 107-2013 dated 20 December 2013.