

**NPM No. 06-2006**

April 03, 2006

**HON. SALVADOR S. SALACUP**  
Assistant Secretary  
Chairman, Bids and Awards Committee  
Department of Agriculture  
Elliptical Road, Diliman, Quezon City

**Re : Renewal of Contract for Lease of Office Space**

Dear Assistant Secretary Salacup:

This refers to your letter dated 08 March 2006, which we received on 13 March 2006, requesting for opinion on the validity of the renewal of your existing contract of lease for the Bureau of Agricultural Statistics (BAS) office space. Based on your representations, the issue brought for resolution is as follows:

Whether or not the lease of office space may be exempted from public bidding. ✓

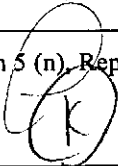
**Procurement Method for the Lease of Office Space**

Generally, procurement is defined as the acquisition of Goods, Consulting Services, and the contracting for Infrastructure projects by the Procuring Entity. Procurement shall also include the lease of goods and real estate<sup>1</sup>.

In the light of the foregoing, the evident intent of the law is to include the lease of office space within the ambit of R.A. 9184, specifically following the rules on the procurement of goods. This is specifically provided under Section 5 (k) of Republic Act No. 9184 (R.A. 9184), stated hereunder, to wit:

**k) Goods.** Refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. The term "related" or "analogous

<sup>1</sup> Section 5 (n), Republic Act No. 9184.



services” shall include, but not be limited to, *lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the procuring entity.*<sup>2</sup>

Concomitantly, lease of office space shall be governed either by the rules on competitive bidding or through the alternative methods of procurement, subject only to lawful, reasonable and justifiable conditions as regards the latter case.

Based on the aforementioned considerations, it undoubtedly follows that the applicable procurement method for the lease of office space is competitive bidding. Competitive bidding presupposes an open participation by any and all qualified suppliers, consultants or contractors in a selection process to determine the party that can offer the most advantageous deal to the government.

Notably, the lease of office space depends entirely on the needs and requirements of the agency such as, but is not limited to, location, the width and dimension of the area, floor shape and size, accessibility, amount of lease, structural aptness, architectural design, interior set-up, floor to ceiling clearance, communication readiness, electricity load, access to light, view and air, and the like.

The restrictive and customized technical specifications involved in the lease of office space calls for elaborate specifications which may indicate more detailed and need-specific requirements. As such, although competitive bidding is the primary recourse, the peculiarity of the object to be bid significantly limits the number of bidders qualified to deliver an agency’s requirements.


Based on your representations, it was alleged that the existing rental rate with current lessor Ben-lor is still the lowest in Quezon City. If this is the case, then the current lessor would have a good chance at being awarded the lease contract should the procedures for public and competitive bidding is adopted.

Anent the foregoing, we opine that the applicable method of procuring leased office space is through competitive bidding among lessors. Thus, procuring entities are discouraged from merely renewing their existing lease contract to ensure that the government gets the most advantageous price.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,

  
~~ESTANISLAO C. GRANADOS JR.~~  
Executive Director IV

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<sup>2</sup> Emphasis supplied.