



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 60-2015

9 October 2015

MR. JETER S. SESPEÑE
University President
PALAWAN STATE UNIVERSITY (PSU)
Tinguiban Heights, Puerto Princesa
Palawan 5300

Re: Approval of the Head of the Procuring Entity (HOPE)

Dear Mr. Sespeñe:

This refers to your letter requesting our opinion relative to the purchase of risograph machine in FY 2014 which did not pass the review and approval of the Board of Regents (BOR) of Palawan State University (PSU).

As represented, the procurement of risograph machine was included in the 2014 Annual Procurement Plan (APP) of PSU with an Approved Budget for the Contract (ABC) in the amount of Php 2,422,800.00. The procurement was conducted through Competitive Bidding and the contract was awarded to Copylandia Office Systems Corporation for a contract price of Php 2,422,000.00. You claimed that the procurement was sought as an immediate response to the then urgent need to replace the only risograph machine that crashed, which consequently delayed the production of the instructional and examination materials and other forms used in different offices of PSU. With the urgency of the need to procure the machine, and considering that the regular BOR meetings are only held quarterly, you were compelled to initiate the procurement of the risograph machine. Nevertheless, the procurement was presented to the PSU BOR during its 175th meeting held on 24 February 2015 for its confirmation, but the BOR questioned the conduct of the procurement without first seeking its approval for bidding. Hence, this request for opinion.

We wish to emphasize that the APP is the requisite document that the agency must prepare to reflect the entire procurement activity that it plans to undertake within the calendar year, and which contains the following information:¹

1. Name of the procurement program/project;
2. Project management office or end-user unit;
3. General description of the procurement;
4. Procurement method to be adopted;

¹ Section 3.2, GPPB Circular No. 01-2009, dated 20 January 2009, in relation to the IRR of EO 662, as amended by EO 662-A, entitled *Enhancing the Transparency Measures under RA 9184 and Creating the Procurement Transparency Group*.

5. Time schedule for each procurement activity;
6. Source of fund; and
7. Approved Budget for the Contract (ABC).

Section 7 of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) mandates that no government procurement shall be undertaken unless it is in accordance with the approved APP of the Procuring Entity (PE). It further requires that the APP shall be approved by the Head of the Procuring Entity (HOPE).


The approval by the HOPE of the APP necessarily carries with it the approval of all of its contents. Such approval serves as an authority to the Bids and Awards Committee (BAC) to conduct any procurement activity indicated in the APP using the identified mode of procurement, within the specified time schedule, and in accordance with the ABC. For purposes of efficiency and timely procurement, a separate approval by the HOPE for each item in the APP is not necessary if the procurement activity to be undertaken by the BAC is strictly in accordance with the duly approved APP. Requiring another approval for the same procurement activity that was already included in the approved APP is not only redundant, but also contravenes the principle of efficiency in government procurement.

In case of unforeseen contingencies that are not part of the approved APP or any changes that necessitates the amendment of the approved APP, the IRR sanctions the updating of the PPMP and APP to incorporate such changes in the procurement activities, thus:

Section 7.4. Updating of the individual PPMPs and the consolidated APP for each procuring entity shall be undertaken every six (6) months or as often as may be required by the Head of the Procuring Entity. **The updating of the PPMPs shall be the responsibility of the respective end-user units of the Procuring Entities, while the consolidation of these PPMPs into an APP shall be lodged with the BAC Secretariat, subject to approval of the Head of the Procuring Entity.** (Emphasis ours)

In this regard, it is our considered view that after the approval of the APP by the HOPE, the BAC is authorized to undertake any procurement activity indicated therein, provided that it is strictly done in accordance with the duly approved APP.


It bears stressing that under Section 37 of RA 9184, the recommendation of the BAC to award the contract to the Lowest Calculated and Responsive BID (LCRB) or Highest Rated and Responsive Bid (HRRB) shall be subject to the approval of the HOPE or his duly authorized representative. For State Universities and Colleges (SUCs), the governing board or its duly authorized official is considered as the HOPE.²

From the foregoing, while the BAC has the mandate to undertake the procurement activities indicated in the approved APP, the award of contract shall always be subject to the approval of the HOPE, that is, the governing board or its duly authorized official in case of SUCs. 

² Section 5(t) of the IRR of RA 9184.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being 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 *VS*

1/14/15