



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

NPM No. 66-2014

17 October 2014

DR. PETER S. SOBREVEGA
Vice Chairman, Bids and Awards Committee (BAC)
OFFICE OF THE REGIONAL EXECUTIVE DIRECTOR
DEPARTMENT OF AGRICULTURE (DA)
Regional Field Unit 6,
Parola, Iloilo City

Re: GPPB Resolution No. 34-2013

Dear Dr. Sobrevega:

This refers to your letter seeking clarification whether the Government Procurement Policy Board (GPPB) Resolution No. 34-2013 Granting All Concerned Procuring Entities the Authority to Resort to Negotiated Procurement under Section 53.2 (emergency Cases) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 issued on 14 November 2013, is still in effect.

It is represented that your office is planning to procure 32,984 bags of UREA Fertilizer for utilization in the Haiyan Agricultural Rehabilitation Program (HARP) funded by International Fund for Agricultural Development (IFAD).

In this regard, you want clarification on the following:

- (1) Whether or not GPPB Resolution 34-2013 is still in effect on the basis of Proclamation No. 682, s. 2013; and
- (2) Whether or not Negotiated Procurement under Section 53.2 (Emergency Cases) of the revised IRR of RA 9184 may be used as the method for procurement of the said project.

Anent the first concern, considering that the State of National Calamity declared through Proclamation No. 682 has not been lifted by the President and the GPPB has not revoked the issuance, the authority granted to all government procuring entities concerned to procure goods and infrastructure projects through Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184 with an Approved Budget for the Contract (ABC) of Five Hundred Million Pesos is still in effect.

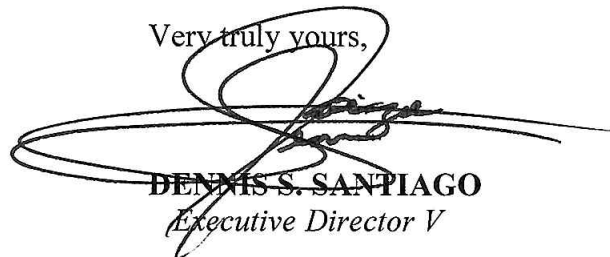
Note, however, that contracts amounting to less than PhP500 million need no prior GPPB approval pursuant to Section 4 of EO No. 423, s. 2005; hence, not covered by the grant of authority under GPPB Resolution No. 34-2014. Moreover, notwithstanding the grant of authority, all procuring entities are required to comply with all the conditions and requirements provided for under RA 9184, its IRR, and associated rules.

Anent your second concern, Negotiated Procurement under Emergency Cases modality may be resorted to if the conditions provided for under Section 53.2 are present. Nonetheless, we wish to stress that under Section 4 of RA 9184 and its IRR, if use of foreign government or foreign or international financing institution procurement procedures and guidelines has been expressly provided for by a Treaty or International or Executive Agreement to which the Government of the Philippines is a signatory, then such procedures and guidelines shall be applied and observed in the subject procurement. Accordingly, the provisions and conditions in the IFAD Grant Agreement relative to procurement rules and procedures to be applied for projects supported by the proceeds of the Grant shall be observed.

In this regard, we wish to confirm that GPPB Resolution No. 34-2013 is still in effect as the President has not lifted the State of National Calamity pursuant to Proclamation No. 682, s. 2013, and the GPPB has not yet withdrawn the grant of such authority to all concerned procuring entities. On the other hand, resort to Negotiated Procurement under Emergency Cases modality for the project must comply with the conditions prescribed under RA 9184 and its revised IRR for the use therefor, subject to limitations that may be found under the provisions governing projects funded by IFAD.

We hope 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

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01/09/15



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Regional Field Unit 6
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September 26, 2014

26 SEP 2014 *DONE*

DIR. DENNIS SANTIAGO
Executive Director V
Government Procurement Policy Board
Technical Support Office
Department of Budget and Management
Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road
Ortigas Center, Pasig City

Jan 16, 2014
Please prepare OPINION.
Note the source of fund and its
contributions, vis section 4. The B's

Sir:

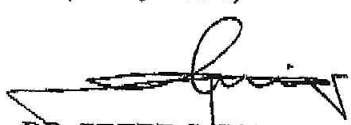
Our office is planning to procure 32,984 bags of UREA Fertilizer for utilization in the Haiyan Agricultural Rehabilitation Program (HARP) funded by International Fund for Agricultural Development (IFAD).

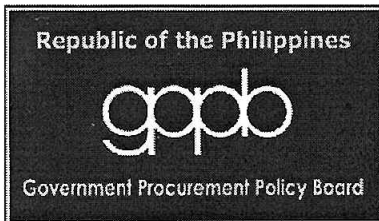
In this connection, we would like to ask from your good office if the GPPB Resolution No. 34-2013 is still in effect on the basis of proclamation no.682, S. 2013 declaring a state of national calamity and if we could use Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184 as our method of procurement for this transaction in order to carry out rehabilitation effort of International Fund for Agricultural Development (IFAD) through Department of Agriculture.

Hoping for your immediate response on this matter in order for us to make necessary actions in order not to delay our rehabilitation effort under HARP.

Thank you very much.

Very Truly Yours,


DR. PETER S. SOBREVEGA
BAC Vice Chairman



RESOLUTION NO. 34-2013

GRANTING ALL CONCERNED GOVERNMENT PROCURING ENTITIES THE AUTHORITY TO RESORT TO NEGOTIATED PROCUREMENT UNDER SECTION 53.2 (EMERGENCY CASES) OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement;

WHEREAS, Executive Order (EO) No. 423, S. 2005, as amended by EO 645, S.2007, prescribes the rules and procedures on the review on approval of government contracts to conform with RA 9184;

WHEREAS, Section 4 of EO 423, S. 2005, as amended, provides that where the Head of the Procuring Entity (HOPE) has made a determination that the Government contract involving an amount of at least Five Hundred Million Pesos (PhP 500,000,000.00) falls under the exceptions from public bidding, the HOPE shall, before proceeding with the alternative methods of procurement, obtain the approval of the GPPB that said Government proposed procurement undertaking falls within the exceptions from public bidding and that the proposed specific alternative mode of procurement is appropriate;

WHEREAS, the President of the Republic of the Philippines signed Proclamation No. 682, S. 2013, on 11 November 2013, declaring a state of national calamity, as a result of the widespread death, destruction and incalculable damage in several areas, including Samar provinces, Leyte, Cebu, Iloilo, Capiz, Aklan and Palawan caused by Typhoon Yolanda (international codename: Haiyan) last 8 November 2013;

WHEREAS, on 14 November 2013, the Department of Social Welfare and Development (DSWD), through Secretary Corazon Juliano-Soliman requested that the DSWD be allowed to resort to Negotiated Procurement under Section 53.2 (Emergency Cases) of the IRR of RA 9184, in procuring PhP 3.1 Billion worth of relief goods and other logistics requirements;

WHEREAS, the DSWD, in its letter dated 14 November 2013, stated that “[t]here is imminent danger to life because the basic sustenance of the typhoon victims is dependent upon the relief operations of the national and local governments which are logistically challenged by the sheer magnitude of damage caused by the typhoon. There is imminent danger to property as well because looting poses a continuing threat in the affected communities and the authorities on the ground are not enough to maintain peace and order. These circumstances emphatically justify the need to employ *Emergency Cases* procedure”;

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO