



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

NPM No. 70-2014

20 October 2014

HON. ROBERTO V. GARCIA
Chairman and Administrator
SUBIC BAY METROPOLITAN AUTHORITY (SBMA)
Building 255, Barryman Road,
Subic Bay, Freeport Zone


Re: GPPB Circular No. 01-2009

Dear Chairman Garcia:

This refers to your letter dated 16 September 2014 indicating the intention of the SBMA to adopt in principle the provisions of GPPB Circular 01-2009, dated 20 January 2009, Guidelines Clarifying the Procurement Activities which may be Undertaken without an Issued Allotment.

It is represented that SBMA is a self-sustaining agency and does not receive funding from the National Government. As such, the yearly Corporate Operating Budget (COB) of SBMA is approved by its Board of Directors and then translated into the DBM Budget Forms for submission to and approval of the DBM. During the Mid-Year Review of the 2014 COB, it was found out that majority of the funded infrastructure projects and Capex equipment are yet to be procured as the necessary documents are yet to be prepared and the required authority are still to be obtained.

It is further represented that while there is still a possibility to award some of the contracts before the year ends, the project implementation and/or delivery of goods may most likely be pushed through in 2015. In addition, the identified projects, equipment and supplies/materials budgeted under the 2014 COB are being included in the 2015 COB, and the 2015 Project Procurement Management Plan (PPMP) of concerned departments of SBMA. As you came across GPPB Circular 01-2009, you propose to adopt its principles to facilitate the procurement of re-budgeted items for 2015; hence, your letter seeking opinion on the matter.

We wish to inform you that apart from the GPPB Circular 01-2009, the Department of Budget and Management (DBM) likewise issued a similar circular, Circular Letter No. 2010-09, dated 30 December 2010, entitled "*Guidelines Directing Agencies to Expedite the Implementation of their Procurement Activities*". However, like the GPPB Circular, this Circular Letter applies only to all departments, bureaus, offices and agencies of the national government, including State Universities and Colleges (SUCs), and Government-Owned and/or Controlled Corporations (GOCCs) and Local Government Units (LGUs), which are tapped as implementing units and recipients of funds/budget from the national government. 

Nonetheless, the limited coverage of these Circulars does not preclude other government entities, from adopting the policy enunciated in these issuances. However, in doing so, the policy to be adopted must be consistent with the provisions of Republic Act (RA) No. 9184. It bears stressing that under Section 7 of RA 9184, "***all procurement should be within the approved budget of the Procuring Entity***" and that "***no procurement shall be undertaken unless it is in accordance with the approved Annual Procurement Plan.***" Based on your representation, the target date for the approval of SBMA's 2015 COB and 2015 APP by its Board is on October 2014.

Of important consideration as well is the corporate power of Government-Owned and/or Controlled Corporation (GOCC). It is axiomatic that a GOCC can only exercise the express and implied power granted to it by its Charter or enabling law. Thus, there is a need to revisit the Corporate Charter of SBMA to determine whether the act to embrace the principles and provisions of the above-mentioned DBM Circulars is within its corporate powers to adopt and perform.

In this regard, it is our considered view that SBMA may opt to adopt a policy containing the principles and provisions of GPPB Circular 01-2009 and DBM Circular Letter No. 2010-09 provided that such policy is consistent with RA 9184 and its IRR, and the act is within the corporate powers of SBMA pursuant to its Corporate Charter or enabling law. Further, with regard to the budget concerns of SBMA, it is highly advisable to coordinate with the respective DBM Bureau having jurisdiction over SBMA for a more responsive and definitive resolution on the matter.

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,

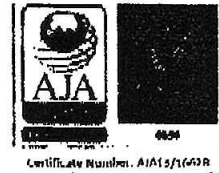

DENNIS S. SANTIAGO
Executive Director V

11/12/13



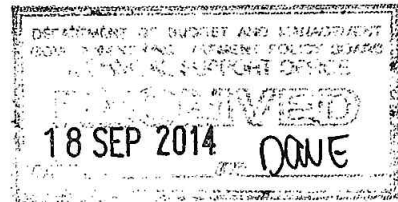
**SUBIC BAY METROPOLITAN AUTHORITY
FINANCIAL CONTROL & ANALYSIS DEPARTMENT**

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16 September 2014

ATTY. DENNIS S. SANTIAGO
Executive Director V
Government Procurement Policy Board (GPPB)
Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Road, Ortigas Center
Pasig City



Dear **Executive Director Santiago**:

SBMA is a self-sustaining agency and does not receive funding from the National Government. As such, the yearly Corporate Operating Budget (COB) is approved by its Board of Directors and then translated into the DBM Budget Forms for submission to and approval of the DBM.

In the course of doing our Mid-Year Review of the 2014 COB, we found that majority of the funded Infrastructure projects and Capex equipment are yet to be procured. The Terms of Reference (TOR) and the Bid Docs of most projects are still being prepared or under review, while the Purchase Requests (PRs) of the equipment are yet to be submitted. On the other hand, we still are securing the authority to procure service vehicles and heavy equipment from DBM and/or OP.

While there is still a possibility to award some of the contracts or Purchase Orders before the year ends, the project implementation and/or delivery of the goods may most likely be in 2015. As coordinated with the concerned departments, the identified projects, equipment and supplies/ materials are being included in the 2015 COB and the 2015 PPMP/ APP as Re-budgeted Items.

We came across the GPPB Circular 01-2009, Guidelines Clarifying the Procurement Activities which may be undertaken without an Issued Allotment. While SBMA is not covered by said circular, we hope to adopt the Circular's principle to facilitate the procurement of the re-budgeted items this year. The TORs and PRs shall cite that the funds being utilized for said procurement are chargeable to the 2015 Budget and the awarding of the Contracts or Purchase Orders shall be made not earlier than January 2015, provided further that the 2015 COB has already been approved by the SBMA Board of Directors and that authority to procure the service vehicles and heavy equipment has already been secured from DBM and/or OP.

On the other hand, our target date to have the 2015 COB and the 2015 APP approved by the SBMA Board of Directors is this October.

We would truly appreciate the GPPB's advice on this matter so that SBMA may be able to pursue the procurement of the re-budgeted projects and equipment in the remaining period of the year.

Thank you very much.

Respectfully,

Antonietta F. Sanqui
ANTONIETTA F. SANQUI
Manager / D.C., OPA for Finance

NOTED BY:

Roberto V. Garcia
ROBERTO V. GARCIA
Chairman & Administrator

Jan. Gregorio 22/Sept/2014
Let us prepare Policy and address fine concerns, but include reference to DBM on budget matters. If the SBMA Corporate powers would allow for such facility i.e., "procure short of award approach" then this can be considered so long as it is a valid corporate act. m.ost