



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 94-2015

13 October 2015

HON. JOSEPH Y. DELA CRUZ

Deputy Administrator

NATIONAL FOOD AUTHORITY (NFA)

Philippine Sugar Center Bldg., North Avenue,
Diliman, Quezon City

Re: Procurement of Accountable Forms

Dear Deputy Administrator Dela Cruz:

This refers to the Honorable Deputy Administrator's letter seeking clarification on the Procurement of Accountable Forms thru Recognized Government Printers (RGPs).

Your request emanated from a letter of Mr. Guillermo L. Sylianteng, Jr., President of Ready Form Incorporated (RFI), claiming that Accountable Forms must be procured through public bidding based on the following:

1. The Court of Appeals, per Entry of Judgment dated 11 May 2014, affirmed the Orders of the Regional Trial Court of Mandaluyong City, which allegedly invalidated Section 29 of the General Appropriations Act (GAA) of 2010 that was the basis of GPPB Resolution No. 05-2010, otherwise known as the Guidelines on the Procurement of Services (Guidelines);
2. GPPB Resolution No. 12-2014 dated 23 May 2014, which recommended that the Printing of Accountable Forms and Sensitive, High Quality/Volume requirements be subjected to competitive bidding.

Procurement of Accountable Forms

The Guidelines provides that procuring entities should resort to public bidding for all their printing and publication expenditures. Nonetheless, for printing services involving *Accountable Forms* and Sensitive High Quality/Volume requirements, procuring entities are required to source such service from any of the three (3) Recognized Government Printers (RGPs) through an Agency-to-Agency Agreement pursuant to Section 53.5 of the revised Implementing Rules and Regulations (IRR) of RA 9184¹.

¹ NPM No. 88-2012, 16 July 2012.

In our Non-Policy Matter (NPM) Opinion No. 148-2012², this office discussed the legal background and basis of GPPB Resolution No. 05-2010 thus:

In 2010, RA 9970 (GAA of 2010) was enacted, Section 29 of which provided that the printing of Accountable Forms and Sensitive High Quality/Volume requirements shall only be undertaken by the three (3) RGPs, which are NPO, BSP and APO. The President's Veto Message provided that the implementation of Section 29 shall be subject to the guidelines to be issued by the GPPB. This provision was reiterated in the succeeding GAAs, *i.e.* RA 10147 (GAA of 2011) and RA 10155 (GAA of 2012).

Pursuant to said mandates, GPPB issued Resolutions 05-2012 and 04-2011 reflecting the policy adopted by the Legislature that the printing of Accountable Forms and Sensitive High Quality/Volume requirements shall only be undertaken by NPO, BSP and APO, and providing the Guidelines for the engagement of the services of the appropriate RGP.

GPPB Resolution No. 12-2014 dated 23 May 2014

Pursuant to GPPB Resolution No. 04-2011 dated 25 February 2011, the Guidelines for Printing Services shall be applicable to succeeding GAAs, unless a contrary or inconsistent policy is adopted therein.

At this juncture, we wish to clarify that GPPB Resolution No. 12-2014 is merely a recommendation to the Department of Budget and Management to subject the Printing of Accountable Forms and Sensitive, High Quality/Volume requirements to competitive bidding under the proposed national expenditure program of the government. The GPPB did not issue the said Resolution by virtue of its quasi-legislative power, and is not in any manner intended to supplant statutory mandates contained in an existing law, the General Appropriations Act.

Be that as it may, what would be controlling is the mandate and directive in Republic Act (RA) No. 10651 or the GAA of 2015 which reiterated the policy of procurement of Accountable Forms from any of the three (3) RGPs in accordance with the GPPB Guidelines on the Procurement of Printing Services, thus:

Section 24. Printing and Publication Expenditures. Department, bureaus, offices and instrumentalities of the National Government, including Constitutional Offices enjoying fiscal autonomy, SUCs and GOCCs are hereby given the option to engage the services of private printers in their printing and publication activities, subject to public bidding in accordance with R.A. No. 9184, its IRR and pertinent accounting and auditing rules and regulations: **PROVIDED, That the printing of accountable forms, shall only be undertaken by the recognized government printers, namely: the BSP, National Printing Office and the Asian Productivity Organization (APO) Production Unit, Inc.:** PROVIDED, FURTHER, That the BSP, NPO and APO are not authorized to engage the services of sub-contractors in doing their printing jobs: PROVIDED, FURTHERMORE, That said agencies shall first secure certification from BSP, NPO, and APO stating their

² Dated 29 November 2012.

inability to accept the printing services before such agencies can engage services of private printers through competitive bidding subject to the provisions of RA 9184.

Implementation of this Section shall be subject to the guidelines issued by the GPPB. (Emphasis supplied)

In *Grande v. Antonio*³, the Supreme Court ruled in this wise:

Nonetheless, the hornbook rule is that an administrative issuance cannot amend a legislative act. In *MCC Industrial Sales Corp. v. Ssangyong Corporation*, We held:

After all, the power of administrative officials to promulgate rules in the implementation of a statute is necessarily limited to what is found in the legislative enactment itself. The implementing rules and regulations of a law cannot extend the law or expand its coverage, as the power to amend or repeal a statute is vested in the Legislature. Thus, if a discrepancy occurs between the basic law and an implementing rule or regulation, it is the former that prevails, because the law cannot be broadened by a mere administrative issuance - an administrative agency certainly cannot amend an act of Congress.

Court of Appeals Decision did not invalidate Section 29 of GAA 2010

The letter of Mr. Syllianteng, Jr. is inaccurate when he asserted that the RGP's exclusive jurisdiction over the printing of Accountable Forms has already been ruled by the Court of Appeals *to be invalid with finality* as evidenced by its Entry of Judgment.

Please note that the Honorable Court of Appeals in its Decision dated 8 April 2012 (**Annex A**) which Mr. Syllianteng, Jr. failed to submit, did not even discuss or mention the assailed GAA provisions on the exclusive jurisdiction of the RGPs relative to the printing of Accountable Forms. The Honorable Appellate Court simply affirmed the previous Orders⁴ of the Regional Trial Court, Branch 213, Mandaluyong City, where the latter dismissed the petition for declaratory relief in Civil Case No. MC-10-4337, for *lack of cause of action*. Simply put, the Honorable Appellate Court did not pass upon the merits of the case which should have been a sufficient basis of a definitive ruling against the legality of Section 29 of the 2010 GAA.

Summary

All told, we wish to clarify that procuring entities are mandated to procure the printing of Accountable Forms from any of the three (3) RGPs through an Agency-to-Agency procurement modality, in accordance with the procedure prescribed under GPPB Resolution No. 05-2010.



³ G.R. No. 206248, February 18, 2014

⁴ Orders dated 25 June 2010 and 5 October 2010.

We hope this opinion issued by 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 there be other concerns, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director V

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