



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

NPM No. 110-2013

23 December 2013

MR. ALEX A. DE GUZMAN

Assistant Vice President

Accounts Management Group

DBP LEASING CORP.

4/F DBP Head Office Building,

Sen. Gil J. Puyat Avenue cor. Makati Avenue,

Makati City

**Re : Exemption from Disqualification as Servicing Agency
under Negotiated Procurement (Agency-to-Agency)**

Dear Mr. De Guzman:

This is in response to your letter dated 20 September 2013 requesting for exemption from the rule disqualifying non-chartered Government Owned and/or Controlled Corporations (GOCCs) from being engaged as Servicing Agency through Negotiated Procurement (Agency-to-Agency) under Section 53.5 of the revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184.

As represented, DBP Leasing Corp. (DLC) is a non-chartered GOCC, *i.e.*, a GOCC incorporated under *Batas Pambansa Blg. 68*, otherwise known as the Corporation Code of the Philippines, and as such, is not qualified as a Servicing Agency under Section 53.5 of the IRR of RA 9184 and the Implementing Guidelines on Agency-to-Agency Agreements¹ (Guidelines). DLC operates not only to engage in its own business, but also to contribute to the growth of the national economy and the upliftment of society as a whole. In pursuit of its business, it needs the authority to engage other government agencies by way of Negotiated Procurement (Agency-to-Agency). It is in this context that the above-mentioned request is being made.

Please note that it is beyond the authority of the Government Procurement Policy Board (GPPB) to grant exemptions from the application of RA 9184, its IRR, and associated issuances, as it does not have the mandate to legislate nor limit the coverage of the law. The GPPB may render contemporaneous construction of the provisions of the law pursuant to its quasi-legislative fiat, and issue rules and regulations on the basis of its rule-making power. Thus, we regret to inform you that the requested exemption cannot be granted.

Nonetheless, we wish to inform you that GPPB Resolution No. 12-2013 dated 10 May 2013, which amends Section 53.5 of the IRR of RA 9184 and its Guidelines by removing the

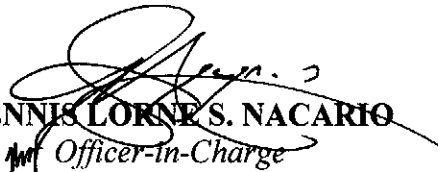
¹ Issued by the Government Procurement Policy Board (GPPB) through GPPB Resolution No. 18-2007 dated 31 May 2007.

disqualification of non-chartered GOCCs from being engaged as Servicing Agency for projects procured through Negotiated Procurement (Agency-to-Agency), was published at the Manila Times on 12 November 2013 and took effect on 13 November 2013.

In this regard, non-chartered GOCCs, such as DLC, may be engaged as Servicing Agency by procuring entities in contracts procured using Negotiated Procurement (Agency-to-Agency) under Section 53.5 of the IRR of RA 9184 starting 13 November 2013, subject to the requirements provided in the Guidelines.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular 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 LORNE S. NACARIO
Officer-in-Charge

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