



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

NPM No. 130-2013

27 December 2013

MR. PANTELEON LL. TABANAO
General Manager
LAGUNA WATER DISTRICT (LWD)
National Highway, Los Banos, Laguna

Re: Multi-Year Contract

Dear Mr. Tabanao:

This is in response to your letter dated 7 October 2013 requesting for clarification on whether LWD may enter into a five-year contract with a septage provider pursuant to Republic Act (RA) No. 9275 (Clean Water Act), which mandates Local Government Units' (LGUs) Water Districts to desludge all septic tanks once within five (5) years or when the septic tank is half full.

As represented, on December 2008, the Supreme Court En Banc promulgated the issuance of a "Continuing Mandamus" for the Local Water Utilities Administration and other agencies, through the local water districts and in coordination with the Department of Environment and Natural Resources, to provide, install and maintain sewerage and sanitation facilities and the efficient and safe collection, treatment and disposal of sewage in the provinces of Laguna, Cavite, Bulacan, Pampanga, and Bataan at the earliest possible time. However, since construction of the wastewater and disposal facilities would entail a large investment, the LWD intends to outsource this kind of service. It is in this wise that LWD is inquiring whether it can enter into a five-year contract with a service provider.

We explained in Non-Policy Matter No. 30-2009¹ that RA No. 9184 and its revised Implementing Rules and Regulations (IRR) are silent on the issue of multi-year contracts. The Guidelines on the Procurement of Security and Janitorial Services² (Guidelines) explicitly govern only the procurement of security and janitorial services by government agencies. Nonetheless, said Guidelines do not make any categorical pronouncement that multi-year contracts may be availed of only in the case of janitorial and security services contracts. Said Guidelines simply state that it shall be applicable to the procurement of janitorial and security services.

¹ Dated 10 June 2009.

² Issued through GPPB Resolution No. 24-2007 dated 28 September 2007.


For your guidance, the General Appropriations Act provides that no agency shall enter into a multi-year contract without securing a Multi-Year Obligational Authority (MYOA) issued by the Department of Budget and Management (DBM) for the purpose. Corollarily, the DBM has issued Circular Letter No. 2004-12³ dated 27 October 2004 which prescribes the guidelines and procedures for the implementation of multi-year contracts by national government agencies.

As discussed in another opinion⁴, inasmuch as accountability for entering into multi-year contracts solely rests on the Bids and Awards Committee and the Head of Procuring Entity, it is prudent to validate if your governing board is authorized to enter into multi-year contracts under the law creating LWD or under the corporate articles, whichever is applicable; and, whether there is no additional budgetary authority required for the purpose.

Based on the foregoing, we wish to clarify that procuring entities may procure and enter into multi-year contracts, subject to applicable rules and regulations governing multi-year obligations. As such, we urge LWD to first verify if it is allowed to enter into multi-year contracts under DBM Circular No. 2004-12 or whether its governing board is authorized to enter into multi-year contracts under its enabling law or corporate charter. In the event that the confirmation yields a negative result, we propose that the contract be procured on a yearly basis.⁵ We also suggest that LWD inquire with DBM for an authoritative and definitive interpretation of the applicability of its Circular to LWD.

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 there be other concerns, please do not hesitate to contact us.

Very truly yours,


DENNIS LORNE S. NACARIO
Officer-in-Charge


//lsd5

³ Amended by DBM Circular 2010-8, issued on 30 December 2010.

⁴ NPM 40-2011 dated 28 December 2011.

⁵ NPM 46-2012 dated 26 April 2012.