

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

NPM No. 096-2004

July 15, 2004

MS. PRISCILLA M. RABINA
Vice President
Physical Resources Services
Government Service Insurance System
Financial Center, Pasay City, Metro Manila

Re : Applicability of Repeat Order for the Procurement of General Support Services

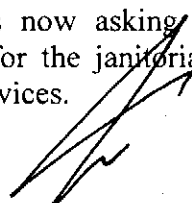
Dear Ms. Rabina:

This refers to your letter dated July 5, 2004, which we received through facsimile on July 6, 2004, seeking guidance on the appropriate alternative method of procurement to undertake for the janitorial service requirements in one of the acquired properties of the Government Service Insurance System ("GSIS"), specifically, the Metropolitan Theatre ("MET").

This is in connection with the decision of the GSIS to terminate the contract for janitorial services between MET and Contemporary Services Inc. ("CSI"), which is being renewed on a monthly basis. It was also mentioned in your letter that the need to terminate the monthly contract of CSI is pursuant to GSIS policy coupled with the intention to engage the services of a contractor that will be in accordance with the provisions of Republic Act 9184 ("R.A. 9184").

When GSIS bid out the janitorial service requirements for its headquarters and district offices, MET was not taken into account due to the pending result of its turnover by the City of Manila. LBP Services, the winning bidder for the janitorial requirements of the GSIS Headquarters and District Offices, offered a quotation for the MET janitorial services under the same terms and conditions of the original contract.

In view of these circumstances, GSIS is now asking for the most appropriate alternative method of procurement to undertake for the janitorial service requirements of MET taking into consideration the offer of LBP Services.



During a phone inquiry made by Ms. Tess Timoteo to our office regarding this matter, our initial answer was that Repeat Order under Section 51(d) of the Implementing Rules and Regulations Part A ("IRR-A") of R.A. 9184 may apply in the foregoing case. However, after careful consideration of the facts attending this case and the wordings of the said section, it appears that Repeat Order under Section 51(d) of the IRR-A does not squarely apply to the subject procurement. Section 51 of the IRR-A specifically provides as follows:

Repeat Order, when provided for in the APP, is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding. Repeat orders from the previous winning bidder may be resorted to by procuring entities only in cases where the **procured item is clearly superior to the other bids not only in terms of the price quoted but also in terms of equipment reliability, availability of spare parts, after-sales service and delivery period**, among others. Repeat orders shall likewise be subject to the following conditions:

- a) Contract prices of the repeat order must be the same as or lower than those in the original contract, provided that such prices are still the most advantageous to the Government after price verification;
- b) The repeat order will not result in splitting of contracts, requisitions or purchase orders, as provided for in Section 54.1 of this IRR-A;
- c) Except in cases duly approved by the GPPB, the repeat order shall be availed of only within six (6) months from the date of the Notice to Proceed arising from the original contract; and
- d) The repeat order shall not exceed twenty-five percent (25%) of the quantity of each item in the original contract. (Emphasis supplied)

Cursory reading of the above-quoted provision reveals that repeat order applies to procurement of goods only. However, it should be noted that careful analysis of the provision reveals that repeat order as an alternative method of procurement finds its application only to procurement of tangible goods, such as items, supplies, materials, and equipment; but excludes procurement of goods in the nature of general support services, *i.e.* janitorial services, security services, and health maintenance. The inclusion of the phrase "procured item is clearly superior to the other bids not only in terms of the price quoted but also in terms of equipment reliability, availability of spare parts, after-sales service and delivery period," apparently limits the application of the provision so as to exclude general support services. This interpretation is furthermore corroborated by the fourth condition imposed by law for repeat order, wherein the percentage limit is based on quantity of the items procured. Obviously, this condition cannot be straightforwardly applied to general support services considering that services procured are not quantified, hence there is no accurate gauge by which the twenty five percent (25%) limit for repeat order can be determined.

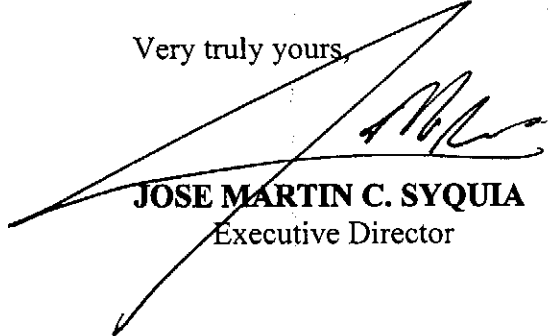
In this regard, we are of the opinion that only tangible goods, such as supplies, materials, and equipment may be the subject of procurement using repeat order. General support services like janitorial and security service, therefore, are beyond the contemplation of this alternative method of procurement.

In view of all the foregoing, please note that repeat order cannot be used for the procurement of janitorial services for MET by GSIS. Moreover, in lieu of any other applicable alternative method of procurement for the subject matter of this request, we strongly recommend that GSIS pursue the acquisition of janitorial services for MET through competitive bidding.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director

REGISTRY RECEIPT
REGISTERED
Post Office MANTALA
Letter/Package No. 2228
Posted on JUL 21 2004
Preserve this receipt for reference in case of inquiry
Postmaster/Teller

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July 7, 2004

MS. PRISCILLA M. RABINA
Vice President
Physical Resources Services
Government Service Insurance System
Financial Center, Pasay City

Dear Ms. Rabina:

This refers to your letter dated July 5, 2004, which we received on July 6, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A, specifically on the appropriate alternative method of procurement applicable to the procurement of janitorial services by your agency.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board for appropriate resolution should referral thereto becomes necessary.

Very truly yours,


ATTY. REYNALDO H. BICOL JR.
Procurement Management Officer V