

**NPM No. 002-2018**

30 January 2018

**MS. LORY L. SAMPIANO**  
*ifpcpmrd@yahoo.com*

**Re: Method of Procurement -**

Dear Ms. Sampiano:

This refers to your electronic mail (e-mail) seeking guidance on the procedure for changing the method of procurement to an alternative method of procurement.

At the outset, we wish to clarify that the determination of the appropriate method of procurement rests within the sole authority and accountability of the Head of the Procuring Entity (HoPE), as the approving authority, and the Bids and Awards Committee (BAC), as the recommendatory body.<sup>1</sup> We adhere to the position that no other agency, office or official may interfere with these functions of the HOPE and the BAC, and dictate the method of procurement to be used for a particular project. Guided by the provisions of Republic Act (RA) No. 9184, the Government Procurement Reform Act, and its 2016 revised Implementing Rules and Regulations (IRR), the Procuring Entity (PE), through the HoPE and the BAC, is in the best position to determine the correct method of procurement for all its projects taking into consideration all the surrounding conditions for each procurement project.

Section 10 of RA 9184 mandates that all procurement shall be done through competitive bidding, except as provided for in Article XVI thereof, which enumerates the allowable alternative methods of procurement. Accordingly, alternative methods of procurement may be resorted to only upon prior approval of the Head of the Procuring Entity (HOPE), in order to promote economy and efficiency, and whenever justified by the conditions for each alternative method of procurement specified in Sections 49 to 53 of the IRR of RA 9184.<sup>2</sup> This is consistent with the pronouncement of the Supreme Court that competitive bidding may not be dispensed with nor circumvented and alternative methods of procurement may only be resorted to in the instances provided for by law.<sup>3</sup>

Section 48.3 of the same IRR provides that the method of procurement to be used shall be as indicated in the approved Annual Procurement Plan (APP). If the original method of procurement recommended in the APP was competitive bidding but cannot be ultimately pursued, the BAC, through a resolution, shall justify and recommend the change in the method of procurement to be approved by the HoPE. Such changes must be reflected in the APP to be submitted to the GPPB, pursuant to Section 7.4, which states that: (sgd.)

<sup>1</sup> Section 12.1 of the IRR of RA 9184 in relation to Section 48.1 of the IRR of RA 9184.

<sup>2</sup> Section 48.1 of the IRR of RA 9184.

<sup>3</sup> *Manila International Airport Authority, et al v. Olongapo Maintenance Services Inc., et al; Antonio P. Gana, et al. v. Triple Crown, etc.; Triple Crown etc. v. Manila International Airport Authority, et al.*, G.R. Nos. 146184-85/ G.R. No. 161117/ G.R. No. 167827, January 31, 2008.

Changes to the individual PPMPs and the consolidated APP may be undertaken every six (6) months or as often as may be required by the HoPE. The respective end-user or implementing units of the Procuring Entity shall be responsible for the changes to the PPMPs, while the BAC Secretariat shall be responsible for the consolidation of these PPMPs into an APP, which shall be subject to the approval of the HoPE. Changes in the APP, if any, for the budget year shall be submitted to the GPPB in July of the current budget year, and in January of the following budget year.

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

Very truly yours,  
(sgd.)

~~DENNIS S. SANTIAGO~~  
*Executive Director* *V. M. M.*

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