



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 20-2019

17 October 2019

CTCSUPT. MA. LOURDES M. RAZON, MD.
Chairperson, Bids and Awards Committee
Bureau of Corrections
NBP Reservation,
Muntinlupa City

Re: Procurement by Lot and Splitting of Contracts

Dear Chairperson Razon:

This refers to your letter,¹ requesting for opinion on whether the decision of the Bureau of Corrections (BuCor) to divide the procurement of food subsistence for persons deprived of liberty confined at the Maximum Security Compound of the New Bilibid Prison into four (4) lots is considered splitting of contracts proscribed under Section 54.1 of the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.

At the outset, we emphasize that the procurement strategy to be employed in any given project is well within the authority of the procuring entity (PE). Thus, during the procurement planning stage, PEs are required to meticulously ascertain how to proceed with the procurement of the project in the most efficient and economic manner,² including the determination of whether or not lots should be formed so as to attract the maximum competition. This is in consideration of the fact that the PE is in the best position to determine its needs, including the procurement strategy to be employed to address said needs. Accordingly, the Government Procurement Policy Board (GPPB) or its Technical Support Office (TSO) cannot supplant such determination through an opinion, as doing so would encroach upon or interfere with the exercise of the PE's authority.

Based on your representation, the BuCor's decision to bid out the aforementioned procurement into four (4) lots was made in accordance with the bureau's existing regulation on security classification and segregation scheme under RA No. 10575.³ Following the foregoing elucidation, such determination is well within the prerogative of the PE because it is in the best position to ascertain the needs and requirements of persons deprived of liberty confined at the BuCor.

With respect to the splitting of contracts, Section 54.1 of the revised IRR of RA No. 9184 is instructive. It defines splitting of contracts as the division or breaking up of government contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts **for the purpose of evading or circumventing the requirements of law and its IRR**, particularly the necessity of competitive bidding and the requirements for the alternative methods of procurement. Thus, the mere act of dividing a contract into smaller quantities or phases does not automatically constitute splitting of contract.

¹ Dated 27 June 2019.

² Section 2, 2016 revised IRR of RA No. 9184.

³ Entitled "Bureau of Corrections Act of 2013".

What is material for the BuCor to consider in deciding to divide the procurement project into lots is if the same will circumvent the provisions of RA No. 9184 and its 2016 revised IRR. In fine, the BuCor is authorized to divide a procurement project into lots to attract the maximum competition and carry out procurement in an efficient and economic manner and when doing so, should ensure that the same is not made to circumvent any provisions of RA No. 9184 and its revised IRR.

As a final point, the above opinion was made on the basis of the particular facts presented and circumstances availing, and may not, therefore, be applicable given a different set of facts and circumstances.

We hope to have sufficiently clarified the matter at hand.

Sincerely yours,
(sgd.)


ROWENA CANDICE M. RUIZ
Executive Director V

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