



Republic of the Philippines
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE



NPM No. 072-2017

21 December 2017

MS. MARY GRACE PASCUAL
Disbursement Division, Financial Accounting Department
BANGKO SENTRAL NG PILIPINAS
A. Mabini St. cor. P. Ocampo St.,
Malate, Manila 1004

Re: Acceptability of Non-Policy Matter Opinions -


Dear Ms. Pascual:

This refers to your request for guidance on the applicability of Non-Policy Matter (NPM) Opinions being issued by the Government Procurement Policy Board-Technical Support Office (GPPB-TSO), and whether they are acceptable and be considered valid references in making decisions.

Authority to Issue Non-Policy Matter Opinions by the GPPB-TSO -

Section 63 of Republic Act (RA) No. 9184 mandates the GPPB as the sole administrative authority imbued with quasi-legislative and incidental powers to determine the policy direction in the area of public procurement through the formulation of procurement rules, regulations and guidelines. In line with this, the GPPB-TSO was created under the same Section 63 of RA 9184. Section 63.3 of the 2016 revised Implementing Rules and Regulations (IRR) of RA No. 9184 also mandates the GPPB-TSO to provide research, technical, and administrative support to the GPPB, including research-based procurement policy recommendations and rule-drafting, among others.

In this regard, in order to be effective and efficient, the GPPB's proper and immediate response to requests for opinions and/or comments was made through the GPPB-TSO's issuance of Non-Policy Matter (NPM) Opinions. Thus, the GPPB, pursuant to Resolution No. 03-2003, dated 26 May 2003, authorized the GPPB-TSO, through its Executive Director, to issue NPM Opinions in response to requests of National and Local Government Agencies dealing with non-policy procurement related matters or issues, or technical applications of the procurement rules and regulations.

Accordingly, Non-Policy Matter Opinions are being issued by the GPPB-TSO pursuant to the authority granted by the GPPB, in accordance with the latter's quasi-legislative power and mandate to determine policy direction in the area of government procurement through the formulation of procurement rules, regulations and guidelines. 

Interpretation of Administrative Agencies **Accorded great respect by the Courts -**

The opinions of the GPPB-TSO can be given weight with regard to the interpretation of RA 9184 and its 2016 Revised IRR. In the case of *Pest Management Association of the Philippines v. Fertilizer and Pesticide Authority, et al.*, the Honorable Supreme Court emphasized that “[t]he interpretation of an administrative government agency, which is tasked to implement a statute is generally accorded great respect and ordinarily controls the construction of the courts.”

The underlying reason for this rule was explained in *Nestle Philippines, Inc. v. Court of Appeals*¹ in this wise:

The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to the accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute. In *Asturias Sugar Central, Inc. vs. Commissioner of Customs*², the Court stressed that **executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to the government agency officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they frequently are the drafters of the law they interpret.** (Emphasis supplied)

All told, NPM Opinions issued by the GPPB-TSO are not in the nature of laws or court decisions that would have for its effect the application of the principle of *stare decisis* (adherence to precedents), but these are opinions rendered by the agency based on careful study, research and application of the tenets and crucibles of the procurement law and its allied rules and regulations. Since the GPPB-TSO is tasked to provide research, technical, and administrative support to the GPPB including research-based procurement policy recommendations and rule-drafting, among others, its NPM Opinions can be accorded great respect considering the knowledge, experience and expertise the agency gained in the application and interpretation of the law; including the formulation of the ensuing rules and allied guidelines where its participation was instrumental.

Summary –

In sum, we wish to stress the following:

1. Non-Policy Matter Opinions are being issued by the GPPB-TSO pursuant to the authority granted by the GPPB, in accordance with the latter’s quasi-legislative power and mandate to determine policy direction in the area of government procurement through the formulation of procurement rules, regulations and guidelines; and


¹ *Nestle Philippines, Inc., vs. Court of Appeals and Securities and Exchange Commission*, G.R. No. 86738, November 13, 1991.

² 29 SCRA 617 (1969).

2. The Non-Policy Matter Opinions of the Government Procurement Policy Board - Technical Support Office can be accorded great respect considering the knowledge, experience and expertise the agency gained in the application and interpretation of the law; including the formulation of the ensuing rules and allied guidelines where its participation was instrumental.

We hope 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 you have further questions, please do not hesitate to contact us.

Very truly yours,
(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director V 

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