

NPM No. 092-2017

29 December 2017

MS. BRENDA LI P. PASCUAL

Assistant Vice President

QUEDAN AND RURAL CREDIT GUARANTEE CORPORATION (QUEDANCOR)

34 Panay Avenue, Quezon City

Re: Engagement of Real Estate Brokers -

Dear Ms. Pascual:

This refers to your electronic mail (e-mail) requesting guidance as to whether the engagement of real estate brokers for the sale of the properties of QUEDANCOR will be procured through competitive bidding.

As disclosed in your e-mail, QUEDANCOR is a government corporation engaged in extending loans to agricultural businessmen and entities. At present, it is in the process of disposing the foreclosed properties of its borrowers and intends to engage the services of real estate brokers.

In an earlier opinion¹ that it is the Procuring Entity (PE) that has the sole authority and is in the best position to determine the appropriate method of procurement for a specific project based on the identified needs and requirements of the PE and the attendant circumstances.

We would like to stress the declared policy of the Government of the Philippines (GOP) that procurement of infrastructure projects, goods and consulting services shall be competitive and transparent, and therefore shall go through public bidding, except as otherwise provided under Republic Act (RA) No. 9184, the Government Procurement Reform Act, and its revised Implementing Rules and Regulations (IRR).² Public bidding, as used interchangeably with competitive bidding, refers to a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract.³

Section 10 of RA 9184 and its 2016 IRR mandate that all procurement shall be done through Competitive Bidding, except when resort to alternative methods of procurement is warranted by attending circumstances. More importantly, these alternative methods of procurement shall be resorted to only in highly exceptional cases provided in Sections 49 to 53 of RA 9184, including Annex "H" or the *Consolidated Guidelines for the Alternative*

¹ Non-Policy Matter Opinion No. 001-2015 dated 05 February 2015

² Section 2, 2016 Revised IRR of RA 9184.

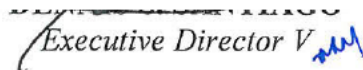
³ Section 5(h), 2016 Revised IRR of RA 9184.

Methods of Procurement (Guidelines) found in the 2016 IRR. In the absence of these exceptional cases, procurement shall be done through Competitive Bidding.

Accordingly, based on attending circumstances, QUEDANCOR shall consider competitive bidding in the engagement of real estate brokers. However, depending on the need of the procuring entity, the time element to satisfy the need of the procuring entity and all other relevant circumstances, QUEDANCOR has the authority to decide on the appropriate method of procurement to engage the services of real estate brokers. In making a decision as to the procurement modality to be adopted, QUEDANCOR shall uphold the governing principles of Government Procurement as well as promote economy and efficiency, while obtaining the most advantageous terms for the government pursuant to RA 9184 and its 2016 IRR.

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.)


Executive Director V

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