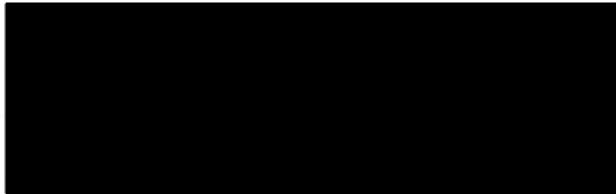


NPM No. 070-2016

15 November 2016



Re: Lease of Real Property or Venue

Dear [REDACTED]:

This refers to your letter asking clarification whether or not prior resort to public bidding is necessary before a Procuring Entity can use Negotiated Procurement-Lease of Real Property, specifically for the procurement for lease of venue (session hall, meals and accommodation, etc.) with an Approved Budget for the Contract (ABC) of Five Hundred Thousand pesos (Php500,000.00).

Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) provide that the general mode of procurement is competitive bidding. However, subject to the prior approval of the Head of the Procuring Entity or his duly authorized representative, and whenever justified by the conditions provided under the procurement law and the rules, the Procuring Entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement.

The Guidelines for Lease of Privately-Owned Real Estate and Venue (Guidelines)¹ sets forth the rules and procedures in entering into contracts for lease of privately-owned real estate and venue pursuant to Section 53.10 of the IRR of RA 9184. As an alternative method of procurement, resort to this method shall be subject to the conditions required by the rules and the applicable guidelines.

A careful review of the Guidelines shows it neither requires prior resort to competitive bidding as a condition precedent before resorting to this alternative modality; nor does it provide a threshold on the ABC for its applicability. The Guidelines merely requires procuring entities to conduct a cost-benefit analysis to assess the feasibility of leasing a privately-owned real estate or venue as against purchasing or leasing a government-owned real estate or venue. It is important to note, however, that Annex H of the 2016 revised IRR or the Consolidated Guidelines for Alternative Methods of Procurement, which took effect last 28 October 2016, revised the Guidelines. Under Section 9(b)(ii) thereof, in the event that the Procuring Entity would resort to privately-owned real property or venue, instead of

¹ GPPB Resolution 08-2009, dated 3 November 2009, and published in The Daily Tribune on 2 December 2009.

leasing publicly-owned real property or venue from other government agencies, and instead of conducting a cost-benefit analysis, the End-User unit shall justify that resort thereto is more efficient and economical to the government.

All told, we clarify that while the procuring entity is not prohibited from resorting to competitive bidding in acquiring contracts for lease of property, such as venue, lease contracts may be procured under Section 53.10 of the IRR, regardless of the ABC and without need of prior resort to public bidding, subject to the rules and conditions set forth in the Guidelines as revised.

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.

(sgd.)

~~DENNIS S. SANTIAGO~~
Executive Director *V. [Signature]*

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