

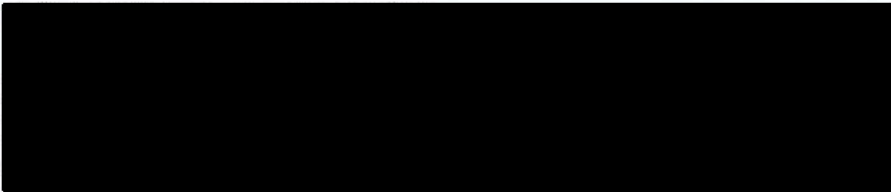


Republic of the Philippines  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
**TECHNICAL SUPPORT OFFICE**



**NPM No. 10-2015**

7 April 2015



**Re: Government Procurement Policy Board (GPPB) Resolution No. 12-2007**

Dear :

This refers to the letter of the Honorable Undersecretary requesting confirmation that GPPB Resolution No. 12-2007 does not impose the requirement that there should first be “*an appropriation law or ordinance earmarking an amount to be specifically contracted out to Non-Governmental Organizations (NGOs)*” before a government agency can transfer funds to an NGO under the circumstances contemplated under Commission on Audit (COA) Circular No. 2007-001.

We wish to clarify that the authority of the GPPB is confined to matters affecting public procurement, with a quasi-legislative function of formulating public procurement policies, rules and regulations<sup>1</sup>. Accordingly, GPPB Resolution No. 12-2007, dated 29 June 2007, was issued to address specific procurement concern, that is, procurement of projects to be specifically contracted out to NGOs. Pointedly, such Resolution confirmed, adopted and approved the *Guidelines on NGO Participation in Public Procurement* (Guidelines for brevity).

The Guidelines was promulgated to provide guidance to Procuring Entities (PEs) in resorting to Negotiated Procurement under Section 53.11 (NGO Participation) of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184. It prescribes the allowable modes<sup>2</sup> of selecting an NGO in the event an appropriation law or ordinance earmarks an amount for projects to be specifically contracted out to NGOs. Thus, the conditions, requirements and procedures set forth in the Guidelines apply only when a PE resorts to Negotiated Procurement under the NGO Participation modality, particularly when an appropriation law or ordinance earmarks an amount for projects to be specifically contracted out to NGOs.

Significantly, when **transfer of fund** to an NGO is effected **not** in the context of Negotiated Procurement under the NGO Participation modality, the requirements and conditions under GPPB Resolution No. 12-2007 does not apply. It must be emphasized that

<sup>1</sup> Section 63, RA 9184.

<sup>2</sup> Public Bidding or Negotiated Procurement under Section 53.11 of the IRR.

**transfer of fund** to NGO is governed by a different set of rules embodied in *Commission on Audit (COA) Circular No. 2007-001 entitled "Revised Guidelines in the Granting, Utilization, Accounting and Auditing of the Funds Released to NGOs/POs"*.

In 2007, the GPPB recognized that entering into partnership with NGOs for the implementation of a government project is legally sanctioned under COA Circular No. 96-003<sup>3</sup>, dated 27 February 1996.<sup>4</sup> The GPPB opined that under the COA Circular, it is the responsibility of the government agency to ensure that the selected NGO has the appropriate legal standing, is financially stable, and has the necessary track record before it enters into a Memorandum of Agreement (MOA) with said NGO.<sup>5</sup> Accordingly, the GPPB, recognizing the authority of COA to provide guidance in the granting, utilization and management, and recording of funds transferred to NGOs, will not encroach upon such authority especially when the subject matter is outside the purview of government procurement.

All told, we would like to clarify that the Guidelines issued pursuant to GPPB Resolution No. 12-2007 applies only when an appropriation law or ordinance earmarks an amount for projects to be specifically contracted out to NGOs, and shall not be made applicable to other matters that are governed by other rules and regulations which are outside the jurisdiction of the GPPB, such as those transactions covered by COA Circular No. 2007-001.

We hope this opinion issued by 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*

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<sup>3</sup> Repealed by COA Circular No. 2007-001.

<sup>4</sup> Policy Matter No. 01-2007, dated March 30, 2007.

<sup>5</sup> *Ibid.*