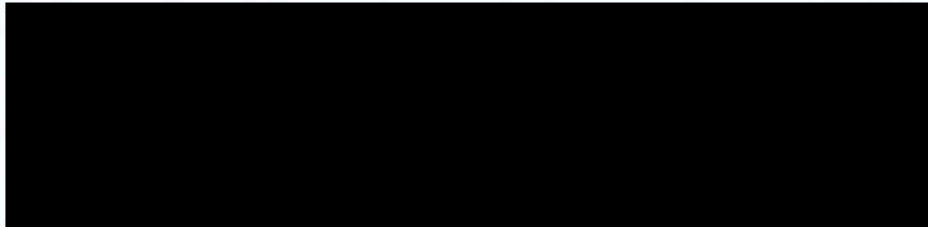


**NPM No. 64-2015**

12 October 2015



**Re : Tax Clearance; Direct Contracting**

Dear [REDACTED]:

This refers to your email requesting for an opinion on whether a Tax Clearance is required to be submitted by suppliers in the procurement of goods through Direct Contracting under Section 50 of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR).

It is represented that the Bids and Awards Committee (BAC) of the BSP-Security Plant Complex (SPC) currently requires Tax Clearance from the suppliers it has engaged through Direct Contracting. However, one of its transactions has remained stalled for almost a month since the concerned supplier has not submitted the required Tax Clearance. It is in this regard that our opinion is sought.

Section 23.1(a)(iii) of the IRR of RA 9184 expressly requires for the submission of a Tax Clearance as part of the eligibility requirements in the procurement of goods through competitive bidding. However, the Rules is silent as to whether or not the same eligibility documents required in public bidding must likewise be submitted when resorting to any of the Alternative Methods of Procurement, except those where competitive bidding or a semblance thereof is present.

Thus, it is our considered view that the procuring entity has the discretion as to what legal, technical and financial eligibility documents to require under the Direct Contracting modality, with a *caveat* that it shall "[d]irectly negotiate a contract with a technically, legally and financially capable supplier, contractor or consultant."<sup>1</sup> On the other hand, it must be emphasized that the use of Alternative Methods of Procurement is couched upon the principles of efficiency and economy, such that requiring too many eligibility documents may, in the process, defeat the very purpose for which the relevant alternative procurement modalities were introduced and institutionalized.<sup>2</sup>

<sup>1</sup> Section 53, IRR of RA 9184.

<sup>2</sup> NPM No. 124-2014, dated 12 November 2014.

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.)

~~BENNETT S. SANTIAGO~~  
*Executive Director V*

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