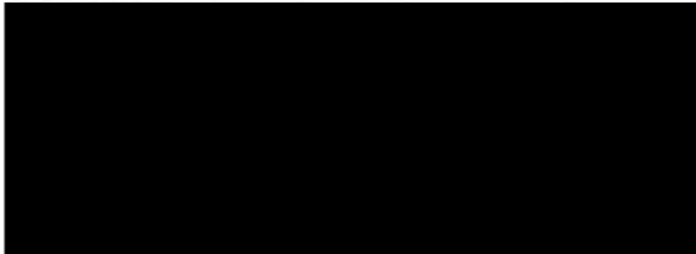


**NPM No. 143-2015**

27 November 2015



**Re : Contract Approval by Higher Authority**

Dear [REDACTED]

This refers to your letter seeking clarification on Section 37.3 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 on contract approval by higher authority. A clarification is likewise sought in determining the higher authority that can approve the contract in case of Government Owned and Controlled Corporations (GOCCs).

In our previous opinion<sup>1</sup>, we discussed that the contract approval process embodied in Sections 7 and 8 of Executive Order No. 109, Series of 2002 (EO 109), in so far as GOCCs are concerned, which conjunctively requires approval of the Department Secretary, have been implicitly repealed by RA No. 9184, which grants the governing boards of GOCCs or its duly authorized representative the full authority to approve and sign all contracts. In view of the passage of RA 9184, the governing boards or its duly authorized representative now has full responsibility and accountability for all their contracts, regardless of the amount.

The wordings of RA 9184 and its revised IRR clearly changed the contract approval process for GOCCs such that the intent is to grant the approval of contracts only to the governing board or its duly authorized representative. Pursuant to Section 5(t) of the IRR of RA 9184, the head of the procuring entity (HOPE) in GOCCs is either the governing board or its duly authorized official. Section 37.3 in connection thereof, provides that when approval of higher authority is required, the higher authority in case of GOCCs is the governing board or its duly authorized representative who shall be given a maximum of twenty-five (25) calendar days from the receipt of the subject contract to approve or disapprove the same.

As the IRR is silent as to when such approval becomes necessary, it behooves us to determine when contract approval of higher authority is required. In our previous opinion<sup>2</sup>, we explained that Section 37.3 of the IRR of RA 9184 recognizes that there are decisions on procurement activities that may require further approval by the higher authority. However,

<sup>1</sup> NPM No. 09-2003 dated 19 May 2003. Rep

<sup>2</sup> NPM No. 14-2013 dated 01 March 2013.


this rule should be read side by side with the enabling law, rules, guidelines, or orders that required such "further approval of higher authority." Thus, when the governing board designates an official, usually the General Manager, to exercise the powers and functions of the HOPE, the Board can limit the approval power of the General Manager to certain contract thresholds, as the Board deems appropriate, by issuing the corresponding Board Resolution to that effect.

In this regard, while the General Manager or any other official is designated as the HOPE, his authority as such can be limited by the Governing Board, in which case, any procurement above and beyond the limit imposed must be endorsed to the higher authority, which under Section 37.3 is the Governing Board or its duly authorized representative, for approval.

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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