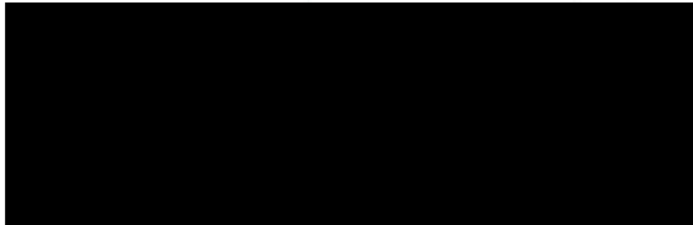


NPM No. 156-2015

11 December 2015



Re: PhilGEPS Posting of BUB Projects

Dear [REDACTED]

We respond to your electronic mail inquiring on the liability of the Local Government Units for non-compliance with the posting requirements on the Philippine Government Electronic Procurement System (PhilGEPS) for Bottom-Up Budgeting (BUB) Projects.

At the outset, we wish to emphasize that by virtue of Section 4 of Republic Act (RA) No. 9184 and its revised (Implementing Rules and Regulations (IRR), all procurement of any branch, agency, department, bureau, office, or instrumentality of the Government of the Philippines (GOP), including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs), regardless of source of funds, shall be governed by RA 9184 and its IRR.

Section 4.4 of the IRR of RA 9184, however, identifies the activities excluded from the application of the Government Procurement Reform Act, which includes the procurement of goods, infrastructure projects, and consulting services funded from Foreign Grants covered by R.A. 8182, as amended by R.A. 8555, entitled "An Act Excluding Official Development Assistance (ODA) from the Foreign Debt Limit in order to Facilitate the Absorption and Optimize the Utilization of ODA Resources, Amending for the Purpose Paragraph 1, Section 2 of Republic Act No. 4860, As Amended", unless the Government of the Philippines and the foreign grantor/foreign or international financing institution agree otherwise.

Under Section 8.1.1 of the revised IRR of RA 9184, all procuring entities are required to post all procurement opportunities and other related information at the PhilGEPS bulletin board. Moreover, all Procuring Entities (PE) are mandated to fully use the PhilGEPS in the conduct of procurement activities. The mandatory character of PhilGEPS posting is emphasized in Section 21.2.1 of the IRR, which provides that:

[E]xcept as otherwise provided in Sections 21.2.2 and 54.2 of this IRR, and for the procurement of common-use goods and supplies, the Invitation to

A small, handwritten signature or initials in the bottom right corner of the page.


Bid/Request for Expression of Interest shall be posted continuously in the PhilGEPS website, the website of the procuring entity concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting from the date of advertisement.

The use of the word “shall” makes the registration and the posting of the Invitation to Bid in the PhilGEPS website mandatory, unless falling under the exceptions stated in the foregoing provisions.¹

In view of the foregoing, procurement activities under the BUB must comply with the PhilGEPS posting requirements prescribed by RA 9184 and its revised IRR. Non-compliance with these posting obligations shall render the accountable officials liable for dereliction of duty and conduct grossly prejudicial to best interest of the service, without prejudice to other charges, whether administrative, civil, or criminal that may be commenced under appropriate laws and regulations.²

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular 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.)

 **DENNIS S. SANTIAGO**
Executive Director V

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¹ NPM 104-2014, 3 November 2014

² NPM No. 27-2008 dated 19 September 2008.