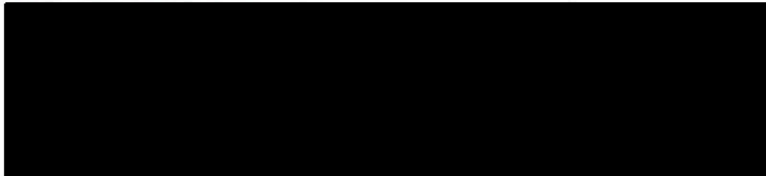


NPM No. 166-2015

22 December 2015



Re: Procurement Short of Award

Dear [REDACTED]:

This refers to your electronic mail inquiring on the applicable procurement rules or issuances relative to the conduct of procurement short of award.

As represented, the MARINA has been encountering delay in the delivery of its Seafarer's Identification and Record Book (SIRB) from its recent procurement. Due to this, two of the three Recognized Government Printers (RGPs) recommended to the MARINA to conduct its 2016 procurement of SIRB in advance using the 2016 National Expenditure Program (NEP) budget levels as basis for its Approved Budget for the Contract (ABC). The two RGPs said that by conducting procurement short of award, they can comply with the delivery requirement as early as the first quarter of 2016.

We wish to clarify that as a general rule, all procurement shall be within the approved budget of the Procuring Entity.¹ Accordingly, the ABC reflected in the approved Annual Procurement Plan (APP) shall be at all times consistent with the appropriations for the project authorized in the General Appropriations Act (GAA), continuing, and automatic appropriations, the corporate budget, or the appropriations ordinance, as the case may be.² By way of exception, however, to facilitate the immediate implementation of projects even pending approval of the GAA, the ABC shall be based on the budget levels under the proposed national budget submitted by the President to Congress.³

For guidance, the Government Procurement Policy Board (GPPB) issued Circular No. 01-2009⁴ providing "*Guidelines Clarifying the Procurement Activities which may be Undertaken Without an Issued Allotment.*" Likewise, the Department of Budget and Management (DBM) issued Circular Letter No. 2010-9⁵ entitled "*Guidelines Directing*

¹ Section 7 of RA 9184.

² Section 7.5 of the IRR of RA 9184.

³ *Ibid.*

⁴ Dated 20 January 2009.

⁵ Dated 30 December 2010.

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Agencies to Expedite the Implementation of their Procurement Activities”, which reiterates and expands certain provisions of GPPB Circular Nos. 02-2008 and 01-2009 on the procedures to be adopted in undertaking procurement activities prior to the approval of the GAA and receipt of the allotments issued by the DBM for the purpose. The aforementioned guidelines authorized the covered agencies to undertake the initial procurement activities for programs, activities and projects (PAPs) contained in the National Expenditure Program (NEP) pending approval and effectivity of the GAA, thereby allowing the early conduct of the selection process with a view to obviating delays, and the timely delivery of the goods, works or services upon approval and effectivity of the GAA to address the needs of the procuring entity.


Under Section 5.7 of DBM Circular Letter No. 2010-9, the government agencies shall issue the Notice of Award only upon receipt of the Special Allotment Release Order (SARO) or Agency Budget Matrix (ABM) for the full cost of the project. However, this was modified by DBM National Budget Circular No. 551⁶ entitled *Guidelines on the Release of Funds for FY 2014*, which implements a new mechanism where the GAA is considered as the budget release document. This means that budgets of departments/agencies, except those categorized as “For Later Release” or under “Negative List”, are considered released as allotments when the GAA takes effect. Thus, except for those categorized as “For Later Release” or under “Negative List” that requires a separate SARO, the Notice of Award for projects funded under the GAA may be issued to the winning bidder upon approval and effectivity of the corresponding GAA.

Based on the foregoing, government agencies covered by the GPPB Circular and DBM Circulars are allowed to commence procurement activities for PAPs that are included in the NEP, but the award of contract shall be made only after the approval and effectivity of the GAA. Accordingly, MARINA may refer to the aforementioned issuances for specific guidelines should it decide to start its procurement for the 2016 SIRB requirements.

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Note that this is being 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.

Very truly yours,

(sgd.)

 **DENNIS S. SANTIAGO**
Executive Director V

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⁶ Dated 2 January 2014.