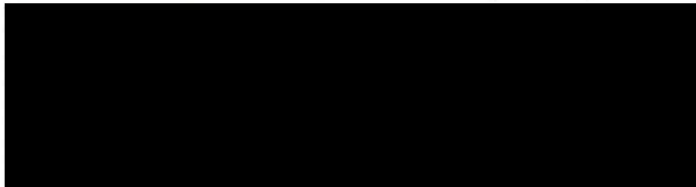


NPM No. 176-2015

29 December 2015



Re: Procurement of Common-use Supplies

Dear :

This refers to your letter seeking exemption from Administrative Order No. 17¹, Series of 2011, relative to MARINA's procurement of inks/toners from the Procurement Service of the Department of Budget and Management (PS-DBM).

As represented, due to unusual delay in the delivery of inks/toners, MARINA has requested PS-DBM for an exemption from the requirement of AO 17 so as to enable MARINA to procure such items on its own, through public bidding. However, PS-DBM informed MARINA that the request for exemption from AO 17 should be coursed through the Government Procurement Policy Board (GPPB).

Pursuant to Sections 2 and 4 of AO 17, all National Government Agencies (NGAs), including Military and Police Units; Government-Owned and/or Controlled Corporation (GOCCs), Government Financial Institutions (GFIs), State Universities and Colleges (SUCs), and Local Government Units are mandated to procure common-use supplies directly from the PS-DBM without need of public bidding, through an Agency-to-Agency Agreement under Section 53.5 of the IRR of RA 9184.

AO 17's requirement is a reiteration of the policy under Letter of Instruction (LOI) No. 755, Series of 1978 and Executive Order (EO) No. 359, Series of 1989, that procurement of government supplies, materials and equipment shall be done in the most transparent and competitive manner by purchasing from legally, technically, and financially capable sources in economic lot sizes, by observing optimum specifications and by making prompt payment². Consequently, PS-DBM is tasked with the implementation of a government-wide procurement system for common-use office supplies, materials and equipment on behalf of all government agencies.

¹ Directing the Use of the Procurement Service and the Philippine Government Electronic Procurement System in the Procurement Activities in Accordance with Republic Act No. 9184, and Improving the Operation of the Procurement Service.

² Section 1, AO 17.


At this juncture, we wish to inform you that the GPPB and its Technical Support Office may only render contemporaneous interpretation and construction of the provisions of Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR), pursuant to its quasi-legislative fiat, and issue rules and regulations pursuant to its rule making power. Thus, it is beyond the power of the GPPB to grant exemption from AO 17, considering that it is no less than the President who issued the administrative order, in accordance with the President's administrative powers under EO 292. Accordingly, should MARINA intend to pursue its request for exemption from AO 17, we respectfully suggest to file the appropriate request from the Office of the President.

On the other hand, in case of non-availability of stocks from the PS-DBM, MARINA may secure a Certificate of Non-Availability of Stocks (CNAS) being issued by the PS-DBM, so that it may proceed in the procurement of the common-use supplies and equipment from outside sources. This mechanism is sanctioned by GPPB Resolution No. 24-2014 dated 31 October 2014.

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.

Very truly yours,

(sgd.)

 **DENNIS S. SANTIAGO**
Executive Director V

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