

**Government Procurement Policy Board (GPPB)  
CALENDAR YEAR – 2003**

**For the Month of May**

**POLICY MATTERS**

Name of Agency	Date Received by GPPB	Date Released by GPPB	Issues/ Concerns/ Queries	Brief Conclusion of the Reply of GPPB
1. Department of Health (DOH)	04/09/03	05/13/03  (PM No. 01–2003)	<p><b>Re: Letter of the Executive Director of the Philippine Children’s Medical Center (PCMC) to the Corporate Secretary of the Board of Trustees of the Department of Health, dated March 24, 2003</b></p> <ul style="list-style-type: none"> <li>• Comments on the letter of the Executive Director of PCMC to the Board of Trustees of DOH, requesting for delegation of authority to approve projects with an Approved Budget for the Contract (ABC) of Ten Million Pesos (Php 10,000,000.00) and below to the Executive Director of PCMC, as provided under Executive Order No. 109, Series of 2002 (E.O. 109)</li> </ul>	<p><b>Personality and Powers of PCMC</b> Based on Section 3 of P.D. 1631, PCMC is directly under the Lungsod and is governed and administered by the latter’s Board of Trustees empowered to perform the specific powers under Section 4 of the same law. A cursory look at the enumerated corporate powers under Section 4 of P.D. 1631 will readily reveal that the Board of Trustees has the power to procure for and in behalf of the Lungsod, including PCMC, and to enter into any lawful contract with private or government entities in furtherance of its</p>

				<p>corporate interest. Notwithstanding this fact, it is important to point out that procurement in government is still subject to such rules and regulations to which the Board of Trustees must comply.</p> <p><b>Government Procurement Subject to Existing Laws</b></p> <p>Applying Section 8 of E.O. 109, there is no doubt that before a contract approved by the Board of Trustees governing the PCMC becomes valid and binding to the government, the same must be APPROVED by the Secretary of the Department to which PCMC is attached, <i>i.e.</i> the Secretary of Health.</p> <p>Emphasis must be made, however, that such power of approval may be delegated in writing by the Secretary of Health to the Board of Trustees of PCMC or to any <i>appropriate officials</i>, subject to appropriate ceilings, as sanctioned by the second paragraph of Section 8, E.O. 109, provided that the approval amount does not exceed Three Hundred Million Pesos (Php 300,000,000.00).</p> <p>Accordingly, in the exigency of public service and for a more expeditious procurement of government projects, we</p>
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				<p>believe that the Secretary of Health is duly authorized under paragraph 2 of Section 8 of E.O. 109 to delegate the power to approve contracts amounting to Ten Million Pesos (Php 10,000,000.00) to the Executive Director of PCMC, who, in this case, could be considered the <i>appropriate official</i> mentioned in said Section 8.</p> <p><b>Effect of R.A. 9184 to E.O. 109</b></p> <p>Although Section 8 grants the Department Secretary authority to delegate the approval of contracts involving an amount below Three Hundred Million Pesos (Php 300,000,000.00), whether publicly bid or excepted from public bidding, this provision and Section 7(b) of E.O. 109, which conjunctively requires approval of the Department Secretary; seem to run counter to R.A. 9184, which grants the governing boards of GOCCs the full authority to approve and sign contracts.</p> <p>In view of the foregoing inconsistencies between R.A. 9184 and E.O. 109, we believe that Section 7 and 8 of E.O. 109, have been impliedly repealed by the provisions of R.A. 9184.</p>
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