



REPUBLIC OF THE PHILIPPINES

## Department of Budget and Management

Malacañang, Manila

### GOVERNMENT PROCUREMENT POLICY BOARD Technical Support Office

TSO NPM No. 02-2003

March 7, 2003

**ATTY. ENRIQUE DOMINGO**

Deputy Director

Administrative Services Department (ASD)

Banko Sentral ng Pilipinas (BSP)

2<sup>nd</sup> Floor, Five Storey Building,

Banko Sentral Complex, Malate, Manila

**RE : Status of Pending Projects and the PBAC in Light of R.A. 9184**

Dear Atty. Domingo:

This refers to your electronic mail (email) sent to Procurement Watch Incorporated ("PWI") dated February 21, 2003, which was forwarded to this office on February 27, 2003. In your email, you sought clarifications on the following matters to wit:

1. Since the new law expressly repealed PD 1594, what happens to the projects in the pipeline, can the procurement proceed pending the issuance of the new IRR?
2. Is the PBAC or other bidding committees *ipso facto* abolished in view of the repeal of PD 1594 and EO 40 and other previous laws/regulations?

**Projects in the Pipeline -**

The Government Procurement Reform Act ("GPRA"), Republic Act No. 9184 was signed by President Gloria Macapagal Arroyo on **January 10, 2003** and the same was published the following day, or on **January 11, 2003**, in two newspapers of general circulation, namely, Manila Times and Malaya. The GPRA took effect on **January 26, 2003**, pursuant to Section 78 thereof, which we quote;

Sec. 78. *Effectivity Clause* - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

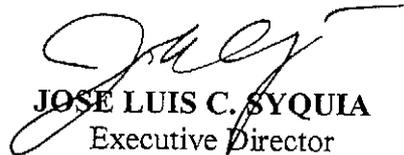
It must be noted, however, that although there are self-executing provisions in the GPRA, the same cannot be fully implemented unless and until the Implementing Rules and Regulations ("IRR") therefor has been finally approved by the President and published in accordance with the GPRA. For this reason, we believe that the procedures embodied in Executive Order No. 40, series of 2001 ("E.O. 40"), and its IRR shall still apply until the IRR of the GPRA is finally approved. Pending such approval, it is our opinion that BSP may still utilize the procedures embodied in E.O. 40 and its IRR in the conduct of its ongoing procurement projects, provided that they do not directly conflict with the clear and expressed provisions of the GPRA.

#### **Abolition of the PBAC -**

Even prior to the effectivity of the GPRA, the existence of the Prequalification Bids and Awards Committee ("PBAC") has already been rendered obsolete by virtue of the pertinent provisions of E.O. 40 and its IRR. Section 7 of E.O. 40 clearly provides that "[E]ach agency shall establish a **single Bids and Awards Committee ("BAC")** for its procurement." (Emphasis supplied) Considering that the IRR of the GPRA has not yet been approved, until such approval, it is our opinion that the existing BACs of agencies should be maintained, particularly with respect to its membership, duties and functions.

We trust that this clarifies matters.

Very truly yours,

  
**JOSE LUIS C. SYQUIA**  
Executive Director

#### **Copy Furnished:**

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Executive Director  
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