



REPUBLIC OF THE PHILIPPINES
Department of Budget and Management
Malacañang, Manila

GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

TSO NPM No. 04-2003

March 18, 2003

Paulino 3/19
MR. CESAR R. TOPACIO,
Deputy General Manager
BAC Chairperson
Philippine International Convention Center (PICC)
CCP Complex, Roxas Boulevard, Metro Manila

Re : Applicable Procurement Procedure Pending Approval of the IRR of
R.A. 9184

Dear Mr. Topacio:

This refers to your letter dated March 14, 2003, which we received through facsimile on even date, requesting for confirmation on the applicability of Executive Order No. 40, series of 2001 ("E.O. 40"), and its Implementing Rules and Regulations ("IRR"), pending the approval of the IRR of Republic Act No. 9184 ("R.A. 9184"), otherwise known as the Government Procurement Reform Act.

In response to your request, we confirm the opinion that our office conveyed to MS. EMMA PACIFICO during our telephone conversation held last March 4, 2003. The opinion given during that conversation was that, pending approval of the IRR of R.A. 9184, the provisions of E.O. 40 and its IRR are applicable to the procurement proceedings of government agencies, provided that such provisions do not directly conflict with the clear and expressed self-executing provisions of R.A. 9184.

Furthermore, your letter also mentioned that the Bangko Sentral ng Pilipinas ("BSP") advised your agency to hold in abeyance the conduct of all biddings pending release of the IRR of R.A. 9184. In this regard, mention must be made that BSP, through ATTY. ENRIQUE DOMINGO, raised a similar query which was forwarded to our office. We quote herein *verbatim* the relevant portion of our response to the said query:

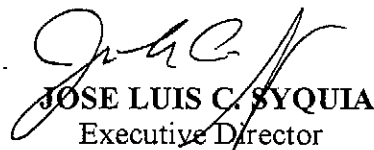
The Government Procurement Reform Act (GPRA), Republic Act No. 9184 (R.A. 9184) was signed by President Gloria Macapagal Arroyo on **January 10, 2003** and the same was published the following day, or on **January 11, 2003**, in two newspapers of general circulation, namely, Manila Times and Malaya. 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, 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.

We trust that our confirmation clarifies the matter.

Very truly yours,


JOSE LUIS C. SYQUIA
Executive Director