



REPUBLIC OF THE PHILIPPINES  
**DEPARTMENT OF BUDGET AND MANAGEMENT**  
GOVERNMENT PROCUREMENT POLICY BOARD  
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TSO NPM No. 010-2003

June 6, 2003

**GREGORIO G. SANCHEZ, JR.**  
Board Member, 3<sup>rd</sup> District  
Office of the Provincial Board  
Province of Cebu  
2<sup>nd</sup> Floor, East Wing,  
Capitol Bldg., Cebu City

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

Dear Mr. Sanchez:

This refers to your letter which we received through facsimile on June 4, 2003, where the following queries were raised, to wit:

1. What guidelines will be used in the absence of the Implementing Rules and Regulations ("IRR") of Republic Act No. 9184 ("R.A. 9184")?
2. Is it legal to use the IRR of Executive Order No. 40 as the IRR of R.A. 9184?

**Applicable Law Pending Finalization of the IRR of R.A. 9184**

R.A. 9184 was signed by President Gloria Macapagal Arroyo on **January 10, 2003**, and was published the following day or on **January 11, 2003**, in two (2) newspapers of general circulation, namely, Manila Times and Malaya. In this regard, R.A. 9184 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 R.A. 9184 cannot be fully implemented until its IRR is finally approved by the President and published for dissemination. For this reason, we

believe that the procedures embodied in existing laws, such as Executive Order No. 40, Series of 2001 ("E.O. 40"), and its IRR, and, in the case of Local Government Units, the relevant provisions of Republic Act No. 7160 ("R.A. 7160") and its IRR, shall still apply until the IRR of R.A. 9184 shall have been finally approved.

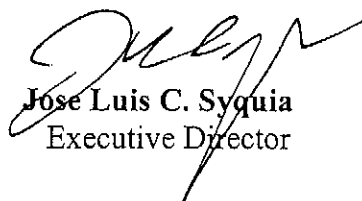
### Applicability of the IRR of E.O. 40

Although we opine that E.O. 40 and its IRR, as well as the relevant provisions of R.A. 7160 and its IRR, are applicable until the full effectivity of R.A. 9184, it should be noted that the IRR of E.O. 40 cannot be considered as the IRR of R.A. 9184 for the simple reason that they refer to different laws. Particularly, while the former is an executive issuance, the latter is a legislative enactment which provides for the issuance and effectivity of its own implementing rules. (See R.A. 9184, Section 75) As such, it should be further noted that, while we believe that agencies may apply the procurement procedures under existing laws in the absence of the IRR of R.A. 9184, it would be prudent for these agencies to ensure that the said procedures are not in direct conflict with the clear and self-executing provisions of R.A. 9184.

Incidentally, in connection with your telephone conversation with one of our staff yesterday where you were quoted as saying that our office was "incompetent," do take note that while it is the pleasure of our office to assist Government agencies such as yours, please bear in mind that there are other agencies that have equal or, at times, more pressing matters that need our attention as well. This, in addition to the general procurement policies and other matters that our office is tasked to work on. In this regard, while we have no intention to treat your concerns any less than those of other agencies, we also cannot do the same to the latter; and, as such, we would request that due consideration and respect be accorded our office, as our tasks are neither menial nor ministerial.

We trust that this clarifies matters.

Very truly yours,



Jose Luis C. Syquia  
Executive Director

REGISTRY RECEIPT  
REGISTERED  
OPTICALS CENTER POST OFFICE  
PASIG, MARIKINA CITY  
Letter/Package No. 041619  
Posted on JUN 11 2003 20  
Preserve this receipt for reference in case of inquiry  
Postmaster/Teller