



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF BUDGET AND MANAGEMENT
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

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TSO NPM No. 13-2003

June 12, 2003

MR. ANGEL EFREN J. AGUSTIN
BAC Chairman
Metropolitan Waterworks and Sewerage System (MWSS)
Regulatory Office
Katipunan Road, Balara, Quezon City 1105

**Re : Application of Republic Act No. 9184, otherwise known as the
"Government Procurement Reform Act"**

Dear Mr. Agustin:

This refers to your letter dated May 26, 2003, which we received through facsimile on May 29, 2003, requesting for information on the following matters;

1. Preparation of the Implementing Rules and Regulations ("IRR") of Republic Act No. ("R.A. 9184"), otherwise known as the "Government Procurement Reform Act;" and
2. Use of R.A. 9184 prior to the issuance of its IRR.

A. Preparation of the IRR:

For appropriate implementation, Section 75 of R.A. 9184 mandates that Government Procurement Policy Board (GPPB) and the members of the Joint Congressional Oversight Committee to prepare and formulate the corresponding IRR of the law for approval by the President.

At present, the draft IRR is already in its final stage of preparation, minor revisions are being made and the contentious provisions and issues are now being discussed for finalization. In fact, the GPPB and the Joint Congressional Oversight Committee held a meeting on May 26, 2003, for the specific purpose of finalizing the said IRR. As soon as the

IRR is approved by the President, we shall have the same immediately published for dissemination.

B. Use of the GPRA Prior to the Approval of the IRR.

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:

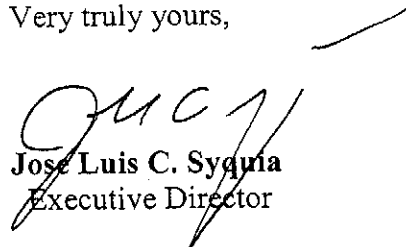
Sec. 78. Effectivity Clause - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

It must be noted that although R.A. 9184 is already effective, the said law cannot be fully implemented unless and until its IRR has been 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, shall still apply until the IRR of R.A. 9184 shall have been finally approved.

Accordingly, in order to prevent delay, inconvenience or hiatus in its procurement activities, we further believe that MWSS-Regulatory Office need not wait for the issuance of the IRR of R.A. 9184 and may proceed with the conduct of its procurement, applying the procurement rules and procedures embodied in E.O. 40 and its IRR. It is in this connection that we inform your office that during the afore-mentioned meeting held on May 26, 2003, the members unanimously agreed that Government agencies are justified in applying E.O. 40 in the absence of the IRR of R.A. 9184, and that a provision should be included in the Transitory Clause of the draft IRR of R.A. 9184 that in cases where the invitations for bids were issued after the effectivity of R.A. 9184 but before the effectivity of its IRR, procuring entities may continue adopting the procurement procedures, rules and regulations provided in E.O. 40 and its IRR, or other applicable laws.

We trust that this clarifies matters.

Very truly yours,


Jose Luis C. Syquia
Executive Director

Copy Furnished:

Honorable EMILIA T. BONCODIN
Secretary
Department of Budget and Management
Chairperson
Government Procurement Policy Board