



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

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TSO NPM No. 14-2003

June 16, 2003

**DR. ROSARIO MARILYN S. BENABAYE**

Director III  
Officer-in-Charge  
Department of Health  
Regional Field Office VI  
Osmeña Blvd., Cebu City

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

Dear Dir. Benabaye:

This refers to your letter dated June 10, 2003, which we received through facsimile on the same date, where the following query was raised, to wit:

Whether or not the Implementing Rules and Regulations ("IRR") of Executive Order No. 40, Series of 2001 ("E.O. 40"), may still be used until such time that the IRR of Republic Act No. 9184 ("R.A. 9184") is approved

**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.

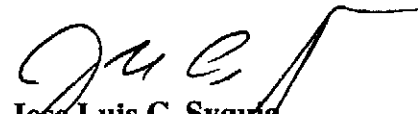
It must be noted that although R.A. 9184 is already effective, the said law cannot be fully implemented until its IRR has been finally approved by the President and published for

dissemination. For this reason, we believe that the procedures embodied in existing laws, such as E.O. 40, and its IRR, shall still apply until the IRR of R.A. 9184 shall have been finally issued.

Accordingly, in order to prevent delay, inconvenience or hiatus in its procurement activities, we further believe that your 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 3<sup>rd</sup> Meeting of the Government Procurement Policy Board ("GPPB") 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