



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

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TSO NPM No. 016-2003

August 19, 2003

ATTY. JOSE JESUS P. MORENO
Member, Technical Working Group (TWG)
National Transmission Corporation (TRANSCO)
South Luzon Regional Operation and Maintenance
San Vicente, Biñan, Laguna

**Re : Applicability of the Implementing Rules and Regulations of
Republic Act No. 9184**

Dear Atty. Moreno:

This refers to your letter dated August 5, 2003, which was addressed to the Honorable Secretary Emilia T. Boncodin of the Department of Budget and Management, as Chair of the Government Procurement Policy Board ("GPPB"), and forwarded to our office on August 11, 2003. In that letter, your office requested for guidance on the applicability of the proposed Implementing Rules and Regulations ("IRR") of Republic Act No. 9184 ("R.A. 9184"), otherwise known as the "Government Procurement Reform Act."

Applicability of the IRR of R.A. 9184

Although R.A. 9184 has already been signed by her Excellency President Gloria Macapagal Arroyo on January 10, 2003 and became effective on January 26, 2003, the said legislative enactment cannot be applied in its totality without its IRR. In consonance with this, we wish to inform your office that even though the proposed IRR of R.A. 9184 has already been finalized by the Government Procurement Policy Board ("GPPB") and the Joint Congressional Oversight Committee ("JCOC") on July 11, 2003, the same has not yet been approved by the President. Hence, even if there are self-executing provisions in R.A. 9184, the same cannot be fully implemented unless and until the IRR therefor has been finally approved by the President and published for dissemination. In other words, legally speaking, as of this writing there is no IRR yet for R.A. 9184 to be observed by procuring entities.

It is for the above reason that we apprise your office that during the 3rd Meeting of the GPPB on May 26, 2003, the members unanimously agreed on the following:

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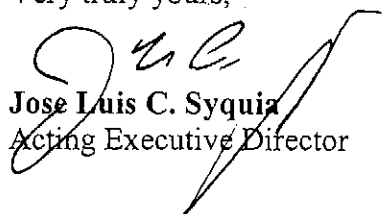
1. Government agencies are justified in applying Executive Order No. 40, series of 2001, and its IRR, pending the approval of the IRR of R.A. 9184; and
2. A provision should be included in the Transitory Clause of the draft IRR of R.A. 9184 that in cases where the invitations for bids were issued after the effectivity of R.A. 9184 but before the effectivity of its IRR, procuring entities may continue adopting the procurement procedures embodied in E.O. 40 and its IRR, or other applicable procurement laws, rules and regulations.

The need for the foregoing provisions was due to the fact that R.A. 9184 did not provide for a transitory provision that would govern government procurement during the *interim* or until its IRR is approved by the President. Moreover, although Section 76 of R.A. 9184 repeals E.O. 40 and its IRR, the same cannot be effected until the IRR of R.A. 9184 is issued, because to do otherwise, no procedure would exist to govern public procurement, a situation that was not intended by R.A. 9184.

In sum, pending approval by the President of the IRR of R.A. 9184, we believe that procuring entities, such as TRANSCO, may still utilize the provisions of E.O. 40 and its IRR in the conduct of its public procurement.

We trust that this clarifies matters.

Very truly yours,


Jose Luis C. Syquia
Acting Executive Director

Copy furnished:

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

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