

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

NPM No. 104-2004

July 30, 2004

ATTY. MA. MADELINE L.R. VICTORINO

Director, DLA
National Food Authority
Matimyas Bldg., 101 E. Rodriguez Sr. Ave.,
Quezon City

Re : Procurement of In-House Training/Seminar on Transformational Leadership and Management Program

Dear Director Victorino:

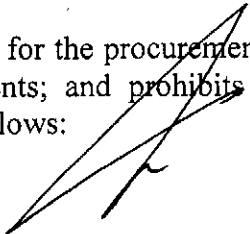
This refers to your letter dated July 6, 2004, which we received on July 21, 2004, requesting guidance on the applicable provision of Republic Act 9184 ("R.A. 9184") and its Implementing Rules and Regulations Part A ("IRR-A") for the procurement of an in-house training/seminar on Transformational Leadership and Management Program for the executives of the National Food Authority ("NFA").

The concern of NFA is that since the training program is very specific, the use of the term "Transformational Leadership and Management Program" is prohibited under Section 18 of the IRR-A of R.A. 9184 as reference to brand name. In addition, the NFA is contemplating on undertaking the procurement of the said training program through Limited Source Bidding using the generic term "7 habits." The relevant issues therefore are as follows:

1. Whether or not Section 18 of the IRR-A of R.A. 9184 applies to all types of procurement; and
2. Whether or not the procurement of an in-house training/seminar for "Transformational Leadership and Management Program" may be considered a procurement of consulting services.

Applicability of the Prohibition on Reference to Brand Names

Section 18 of the IRR-A requires that specifications for the procurement of goods be based on relevant characteristics and/or performance requirements; and prohibits reference to brand names. Section 18 of the IRR-A specifically provides as follows:



Specifications for the procurement of goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

It is apparent from the above-quoted provision that the prohibition on reference to brand names applies only to procurement of goods. Accordingly, reference to brand names is not prohibited in the procurement of infrastructure projects and consulting services.

Nature of the Subject Procurement Project

Consulting services as defined under Section 5(f) of R.A. 9184 "refers to services for Infrastructure Projects and other types of projects or activities of the Government requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the government to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies."

Annex "B" of the IRR-A of R.A. 9184 enumerates the various types of services included under the category of management and related services, to wit:

Management and Related Services. These may include the following:

- a) Sector policy and regional development studies;
- b) Planning, feasibility, market, economic, financial, technical, operations and sociological studies;
- c) Project management, including procurement advisory services, impact monitoring, and post-evaluation services;
- d) Production management, inventory control, and productivity improvement;
- e) Marketing management and systems;
- f) Information and communications technology services, including but not limited to, information systems design and development, and network design and installation;
- g) Institutional strengthening, organization development, manpower requirements, **training and technology transfer**;
- h) General management consultancy; and
- i) Other related services. (Emphasis supplied)

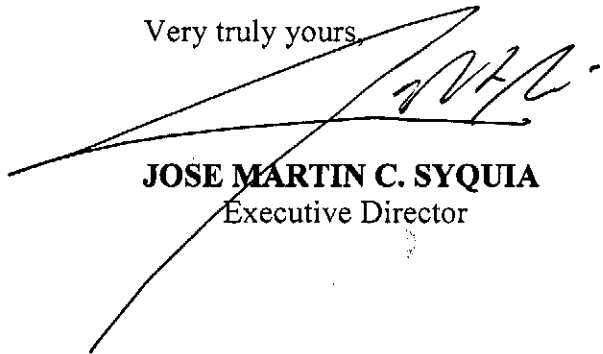
Based on all the foregoing, we are of the opinion that the training/seminar for "Transformational Leadership and Management Program" falls under the management and related services category of consulting services; and thus exempted from the application of the prohibition

on brand names under Section 18 of the IRR-A. It is noteworthy that this type of procurement project may be procured through Limited Source Bidding if it is, as represented, offered by only few consultants.¹

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director

/disn/npm/nfa.7habits/07.04

REGISTRY RECEIPT

REGISTERED	
Post Office	MALACANANG POST OFFICE
Letter/Package No.	348
	MANILA
Postmaster/Teller	19
Preserve this receipt for reference in case of inquiry	
NO.	700 30 2004
Postmaster/Teller	

¹ Section 49(a), IRR-A, R.A. 9184

RESPONSE SHEET FOR PHONE OPINIONS

PhO No. _____

Date Received: 07/21/04

Date Called: 07/23/04

Requesting Entity: NFA

Contact Person / Number: Baby Trumada

Issue(s) / Request(s): W/N Proc. of Transformational Leadership and Management Program falling under may be undertaken through Limited Source Bidding?

W/N it falls under the prohibition a brand names.

Response: The procurement is in the nature of consulting services. If it can be justified that there are limited entities offering this type of training program, Limited Source Bidding may be resorted.

As a procurement of consulting services, it does not fall under the prohibition of brand names.

Remarks: Letter requested

Assigned to: Dom's

Denial
call/letter

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

July 21, 2004


ATTY. MA. MADELINE L.R. VICTORINO
Director, DLA
National Food Authority
Matimyas Bldg., 101 E. Rodriguez Sr. Ave.,
Quezon City

Dear Director Victorino:

This refers to your letter dated July 6, 2004, which we received on July 21, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board (GPPB) for appropriate resolution should referral thereto becomes necessary.

Very truly yours,


ATTY. REYNALDO H. BICOL JR.
Procurement Management Officer V