

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. 112-2004

August 12, 2004

ATTY. VICTORIA C. BERCILES
Chairperson
Bids and Awards Committee
Philippine International Convention Center
CCP Complex, Roxas Boulevard,
Metro Manila, Philippines

Re : Conduct of Bidding Prior to Approval of Budget for the Contract

Dear Atty. Berciles:

This refers to your letter dated August 3, 2004, which we received through facsimile on August 4, 2004, requesting clarification on Section 21 of the Implementing Rules and Regulations Part A ("IRR-A") of Republic Act 9184 ("R.A. 9184").

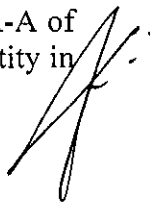
As per your letter, PICC expresses its intent to bid out its annual general services contracts prior to its expiration; however, the annual budget for the succeeding year has not yet been approved by its Board of Directors. The requirement under Section 21 of the IRR-A that the approved budget for the contract shall be included in the Invitation to Apply for Eligibility and to Bid ("IAEB") leads us to the sole substantive issue, to wit:

Whether or not budget estimates may be included in IAEBs instead of the approved budget for the contract in case the appropriate authority has not yet approved the budget for the contract to be bid.

Approved Budget for the Contract Necessary Prior to Posting

Section 21.1 of the IRR-A of R.A. 9184, provides that "[t]he approved budget for the contract to be bid" shall be included in the IAEB for the information of prospective bidders.

The term "approved budget for the contract" as defined under Section 5(b) of the IRR-A of R.A. 9184 refers to the budget for the contract duly approved by the head of the procuring entity in



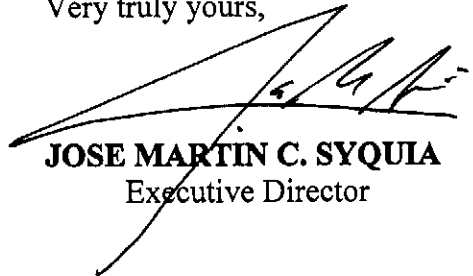
the case of national government agencies, by the governing board in the case of government-owned and/or -controlled corporations and state universities and colleges, and by the *Sanggunian* in the case of local government units.

Accordingly, the amount of the budget for the contract to be included in the IAEB ought to be that which has been duly approved by the appropriate authority, not mere budget estimates. Furthermore, Section 20.1 of the IRR-A provides that during the pre-procurement conference the readiness of the procurement, which includes a determination of the availability of appropriations and programmed budget for the contract at hand, shall be determined before proceeding with the procurement activity.

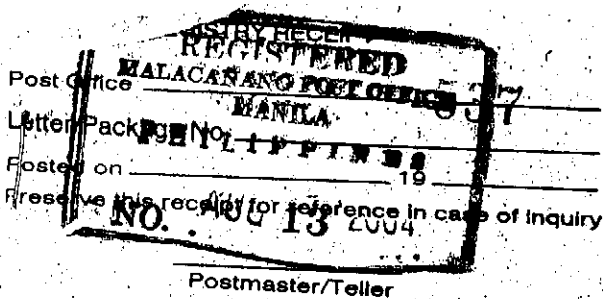
In fine, a procuring entity cannot replace the requirement for the information on the approved budget for the contract with mere budget estimates. Corollarily, only upon approval by the appropriate authority of the budget for the contract may a procuring entity commence with its procurement activity. As such, PICC cannot use budget estimates as replacement for the approved budget for the contract in the IAEB. It must first secure the approval of its Board of Directors of its annual budget for the succeeding year in order to proceed with the procurement of its general services contracts.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director



RESPONSE SHEET FOR ^{PH} ONE OPINIONS

PhO No. 056-2001

Date Received: 08/04/04

Date Called: 08/06/04

Requesting Entity: PICC

Contact Person / Number: Ms. Victoria Berciles 551-7920 / Ms. Emma Pacifico 551-8230

Issue(s) / Request(s): Whether or not public bidding may be conducted for contract of services even before the ABC therefor has been approved.

Response: No. The law requires that before a bidding is conducted an approved the budget for the contract should have been approved.

Remarks: Call again on Monday / letter requested.

Assigned to: Dennis

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August 4, 2004

MS. VICTORIA C. BERCILES
Chairperson, Bids and Awards Committee
Philippine International Convention Center
CCP Complex, Roxas Boulevard,
Metro Manila

Dear Ms. Berciles:

This refers to your letter dated August 3, 2004, which we received through facsimile on August 4, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A, specifically the bidding out of contract services prior to the approval by the Board of Directors of the Approved Budget for the Contract.

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 for appropriate resolution should referral thereto becomes necessary.

Very truly yours,


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

REGISTRY RECEIPT

Post Office	104
Letter Package No.	REGISTERED
Posted on	MALACANANG POST OFFICE
	MANILA 19
Preserve this receipt for reference in case of inquiry	
AUG 5 2004	
Postmaster/Teller	