



## TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,  
F. Ortigas Jr. Road, Ortigas Center,  
Pasig City, Philippines 1605

**NPM No. 12-2008**

24 July 2008

**DR. DULCE P. ESTRELLA-GUST**

*Executive Director*

**OCCUPATIONAL SAFETY AND HEALTH CENTER**

**DEPARTMENT OF LABOR AND EMPLOYMENT**

North Avenue Corner Agham Road, Diliman, Quezon City

**Re : Canteen Concessionaire**

Dear Dr. Estrella-Gust:

We respond to your letter dated 03 July 2008 requesting for clarification on whether Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations (IRR-A) applies to contracts for canteen concessionaires.

Based on our research, a concessionaire usually pays a monthly rental fee to the owner of the real property or office space it is utilizing. As such, this type of transaction is often classified as a leasing out of a government-owned building or real property for private use, which we believe is beyond the ambit of R.A. 9184 and its IRR-A.

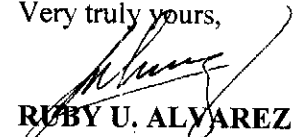
Section 5 of R.A. 9184 and its IRR-A define procurement as the acquisition of goods, consulting services, and the contracting for infrastructure projects. Leasing out of government-owned properties does not involve the acquisition of any particular equipment, material, or contractual service such as janitorial, security, and related services.

Further, while the definition of procurement also includes the lease of goods and real estate, the Government Procurement Policy Board expressly stated in its Implementing Guidelines for Lease of Privately-Owned Real Estate<sup>1</sup> that said guidelines will only apply to lease of privately-owned real estate by government agencies for official use. It is the considered opinion of the Government Procurement Policy Board that there is no legislative intent to include in R.A. 9184 the leasing out of government real properties, buildings and spaces, wherein the concerned government agency does not acquire ownership or temporary use of a thing, but generates income from such transaction

<sup>1</sup> Implementing Guidelines for Lease of Privately-Owned Real Estate as approved and adopted by the GPPB through Resolution No. 19-2007, dated 29 June 2007

We trust that this provides sufficient guidance on the matter. Should you have any additional questions, please do not hesitate to contact us.

Very truly yours,



**RUBY U. ALYAREZ**  
*Executive Director III*



Republic of the Philippines  
DEPARTMENT OF LABOR AND EMPLOYMENT  
Occupational Safety and Health Center  
North Avenue Corner Agham Road, Diliman, Quezon City



03 July 2008

DEPARTMENT OF BUDGET AND MANAGEMENT GOVERNMENT PROCUREMENT POLICY BOARD TECHNICAL SUPPORT OFFICE	
<b>RECEIVED</b>	
DATE: 7/9/08	BY: [Signature]

*Bryan,  
Pls. handle.*

*7/10/08*

**MS. RUBY U. ALVAREZ**  
Executive Director III  
GPPB-TSO  
Unit 2506 Raffles Corporate Center  
F. Ortigas Jr. Avenue  
Ortigas Center Pasig City

Dear Ms. Alvarez:

The Occupational Safety and Health Center is currently looking for a concessionaire for its canteen facilities to cater to its staff and clients availing of the OSHC training programs and other technical services.

In this regard may we be clarified if R.A. 9184 or the Government Procurement Reform Act applies for contracts for canteen concessionaires.

Thank you very much for your immediate response on the matter.

Yours sincerely,

*[Signature]*  
**DR. DULCE P. ESTRELLA-GUST**  
Executive Director