

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office
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NPM No. 124-2004

September 20, 2004

MR. CARLOS L. BOTEROS
Regional Director
Department of Labor and Employment
Regional Office VI

Re : Procurement Under Section 52 of the Implementing Rules and Regulations Part A of Republic Act 9184

Dear Director Boteros:

This refers to your letter dated July 23, 2004, indorsed to our office by Director Viola P. Villanueva of the Commission on Audit – Regional Office VI on August 27, 2004, requesting clarification on the applicability of the alternative method of procurement through Shopping¹ on several procurements of your agency, namely: (a) catering services costing less than P50,000.00; (b) security services (one security guard); (c) janitorial services (one janitor); and other services costing less than P50,000.00, such as mimeographing, photocopying, and air condition maintenance.

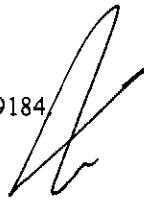
The sole substantive issue that needs to be resolved is as follows:

Whether or not the alternative method of procurement of Shopping under Section 52 of Republic Act 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A) may also be used in procurement of services.

Coverage of Shopping

The issue stems from the fact that Section 52 of the IRR-A of R.A. 9184 allows Shopping for readily available off-the-shelf goods or ordinary/regular equipment but is silent as to its application on services. The provision states, to wit:

¹ Section 52, Implementing Rules and Regulations Part A, Republic Act 9184



Shopping is a method of procurement of goods whereby the procuring entity simply requests for the submission of price quotations for **readily available off-the-shelf goods or ordinary/regular equipment** to be procured directly from suppliers of known qualifications. This method of procurement shall be employed only in any of the following cases:

- a) When there is an unforeseen contingency requiring immediate purchase: *Provided, however,* That the amount shall not exceed fifty thousand pesos (P50,000.00); or
- b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding two hundred fifty thousand pesos (P250,000.00): *Provided, however,* That the procurement does not result in splitting of contracts, as provided in Section 54.1 of this IRR-A: *Provided, further,* That at least three (3) price quotations from bona fide suppliers shall be obtained.

The above amounts shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect changes in economic conditions and for other justifiable reasons.²

The phrase "readily available off-the-shelf goods or ordinary/regular equipment" in the above-quoted provision seems to exclude services from being procured through Shopping. The term "off-the-shelf" refers to something that is available as a stock item: not specially designed or made.³ To be available as a stock item, a thing must be tangible and capable of being stored. Since services are intangible by nature and cannot be stored or kept in stock, logic dictates that Section 52(a) of the IRR-A of R.A. 9184 excludes services from its coverage. Consequently, janitorial and security services, regardless of the amount involved, cannot be procured through Shopping.

However, it is important to clarify that the above-mentioned interpretation will not hold true for certain services such as catering, photocopying, mimeographing, repair, and other similar services where the foremost intention is to procure a tangible good and the service component, which may cost more than the tangible good procured, is merely ancillary thereto. In these cases, there is a readily available off-the-shelf good that will be procured and an accompanying service component that is provided for the proper use or consumption of such good. To illustrate, using repair services as example, the primary or foremost consideration is the replacement of a defective part of an equipment – a tangible good; the installation of which is an ancillary service required for the proper use of the procured good. As regards maintenance services, although tangible goods are procured for the maintenance of equipments, the same may not be procured through Shopping considering that these types of services do not arise from unforeseen contingency.

Based on the foregoing, subject to the existence of any of condition set forth in Section 52(a) of R.A. 9184 and its IRR-A, Shopping may be used in procuring services where the primary intent is the acquisition of a readily available off-the-shelf goods and the service component is just ancillary to its acquisition. In relation to this, procurement of services which do not have readily available off-the-shelf goods component, or those which include goods component but do not arise from an unforeseen contingency, cannot be procured through Shopping.

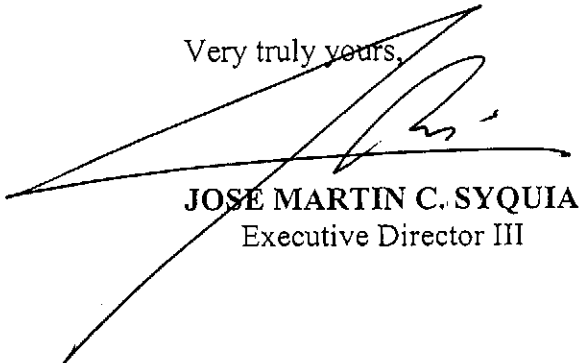
² Emphasis supplied.

³ The Merriam-Webster Dictionary, 1997, p. 515.

Accordingly, we are of the opinion that the Department of Labor and Employment – Regional Office VI may procure catering services, photocopying, mimeographing, and other similar services as discussed above subject to Section 52(a) of R.A. 9184 and its IRR-A.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III

Copy furnished:

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