

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

*Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City
Telefax Nos. (02) 900-6741 to 44*

NPM No. 129-2004

October 1, 2004

MR. OLIVER C. JAO
Administrative Officer II
Provincial Legal Office
Province of Cotabato
Amas, Kidapawan City

Re : Provincial Projects under Republic Act 9184 and its Implementing Rules and Regulations Part A

Dear Mr. Jao:

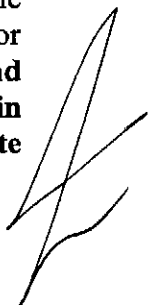
This refers to your letter dated September 10, 2004, which we received on September 13, 2004, requesting clarification on the following:

1. Meaning of the term "provincial projects" under Section 44 of Republic Act 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A);
2. Meaning of the clause "identified in consultation with the concerned members of Congress" under Section 44 of R.A. 9184 and its IRR-A; and
3. Whether or not projects of National Government Agencies (NGAs) may be considered as provincial projects as defined under R.A. 9184 and its IRR-A.

Provincial Projects under R.A. 9184 and its IRR-A

The meaning of the term "provincial projects" can be easily and immediately inferred from Section 44 of IRR-A of R.A. 9184, which states, to wit:

Priority programs and infrastructure projects funded out of the annual GAA which are intended for implementation within the province shall be subject to the same public bidding and to the procurement processes prescribed under this IRR-A. For purposes of this Section, **Engineering District infrastructure projects and priority programs fully funded by the Government and identified in consultation with the concerned members of Congress, shall constitute**



“provincial projects”¹ and shall be governed by this Section and Section 45 of this IRR-A.

Based on the afore-quoted provision, there are two (2) types of provincial projects recognized under R.A. 9184 and its IRR-A, namely the following: (a) Engineering District infrastructure projects funded out of the annual General Appropriations Act (GAA); and (b) Priority programs fully funded by the Government and identified in consultation with the concerned members of Congress. These are the only procurement projects that may be considered within the meaning of “provincial projects” where provincial bidders may practice their right to match under Section 45 of the IRR-A of R.A. 9184.

In this regard, it can be inferred that procurement projects of NGAs, through its respective Engineering District, may be considered within the ambit of the term “provincial projects” provided that the following requirements are present: (i) That the procurement be funded out of the annual GAA; (ii) The procurement is for an infrastructure project; and (iii) Intended for implementation within the province.

The requirement that there be a consultation with the concerned members of Congress is based on the fact that these procurement projects are the priority programs funded out of the Priority Development Assistance Funds (PDAF) given to the members of Congress; hence, the necessity of a consultation or inquiry with them.

Conclusion

In sum, the concerns raised by your office may be answered as follows:

1. The term “provincial projects” includes infrastructure projects of Engineering Districts and priority programs fully funded by the Government as identified through a consultation with the concerned members of Congress.
2. The clause “identified in consultation with the concerned members of Congress” simply pertains to the act of inquiring or verifying with the concerned member of Congress whether a particular project is funded out of PDAF.
3. Projects of NGAs may be considered provincial projects subject to the following requirements: (i) The procurement is funded out of the annual GAA; (ii) The procurement is for an infrastructure project; and (iii) The procurement is intended for implementation within the province.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III

/dlsn/npm/cotabato.provincialproj/09.04

¹ Emphasis supplied.