

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. 156-2004

December 20, 2004

MR. REYNALDO N. DALMA JR.
Senior Vice President
Management Services Sector
Chairperson
Bids and Awards Committee (Consulting Services)
Philippine Health Insurance Corporation
Citystate Centre, 709 Shaw Boulevard,
Pasig City

Re : Application of Republic Act 9184 (R.A. 9184)
and its Implementing Rules and Regulations Part
A (IRR-A)

Dear Senior Vice-President Dalma:

This refers to your letter dated December 14, 2004 which we received through facsimile on even date, seeking clarification on R.A. 9184, with the sole substantive issue, to wit:

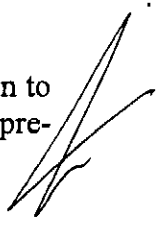
Whether or not the participation of Observers and the Representative of the Commission on Audit (COA) in the Pre-Procurement Conference is required.

Bidding Stages where observers shall be invited

Observers are invited only starting from the pre-bid conference until contract award, including special meetings of the BAC. Section 13.3 of the IRR-A explicitly states:

“Observers will be informed at least 2 days before the stages of procurement to which observers shall be invited: pre-bid conference; opening of bids; post-qualification; and contract award; and special meetings of the BAC. The absence of observers will not nullify the BAC proceedings, provided that they have been duly invited in writing.”

Clearly, the law limits the stages of the bidding process where the BAC is imposed upon to invite participation of observers. However, taking into account the purpose and character of a pre-



procurement conference, it may be rightly said that the same is principally an internal proceeding of the procuring entity.

The pre-procurement conference shall, among others, assess the readiness of the procurement in terms of confirming the certification of availability of funds, as well as reviewing all relevant documents as to their adherence to law and procedures. This shall be attended by the BAC, the unit or officials who prepared the bidding documents and the draft Invitation to Bid, as well as consultants hired by the agency concerned and the representative of the end-user.¹

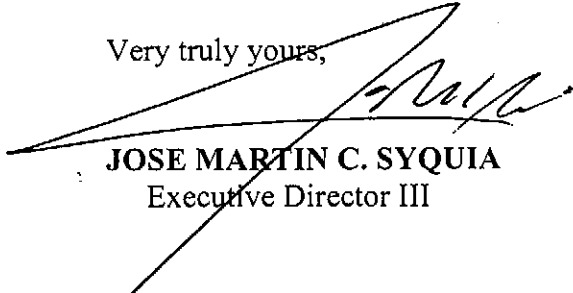
Government Procurement Policy Board (GPPB) Opinion

During the 7th regular meeting of the Government Procurement Policy Board (GPPB) Meeting held last November 22, 2004, the Board had the occasion to resolve the same issue now being raised. The proposed amendment to Section 13.3 of IRR-A, meant to effect the mandatory invitation of observers to participate during the pre-procurement conference. The GPPB holds that the discretion to invite observers in such stage lies with the procuring entity. Such holding by the GPPB is made on the pretext that the law is not meant to bind said procuring entity from inviting observers during such stage of the bidding process.

In other words, the procuring entities are not compelled under the law to invite observers and a COA representative during the pre-procurement conference. However, this does not mean their prohibition from requesting the participation of said observers at such stage.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III

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December 15, 2004

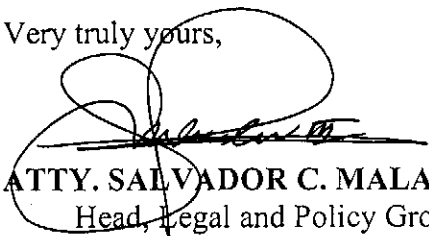
MR. REYNALDO N. DALMA JR.
Senior Vice-President
Management Services Sector
Chairperson
Bids and Awards Committee – Consulting
Philippine Health Insurance Corporation
Citystate Centre, 709 Shaw Boulevard,
Pasig City

Dear Mr. Dalma:

This refers to your letter dated 14 December 2004, which we received through facsimile on even date, addressed to Executive Director Jose Martin C. Syquia, seeking clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A, specifically on the propriety of inviting observers in the pre-procurement conference.

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. SALVADOR C. MALANA III
Head, Legal and Policy Group

