

NPM No. 159-2012

21 December 2012

HON. ESTANISLAO C. GRANADOS, JR.
Executive Director IV
Procurement Service
DEPARTMENT OF BUDGET AND MANAGEMENT
R.R. Road, Cristobal Street,
Paco, Manila

Re: Acquisition of Real Property

Dear Executive Director Granados:

This is in response to your letter dated 22 November 2012, which we received on 28 November 2012, seeking clarification on the limitations imposed by Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR) as regards the acquisition of real property.

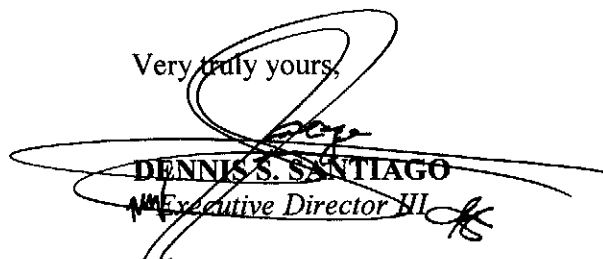
It is represented that the Environment and Management Bureau Region Office III (EMB-ROIII) intends to acquire real property, which is being coursed through the Procurement Service (PS), pursuant to Agency Procurement Request No. 12-0210S that was received on 8 October 2012, with funding from a continuing allocation that will expire on 31 December 2012. The PS is of the view that RA 9184 and its IRR are explicit that they do not apply to the acquisition of real property, and the same law and rules do not expressly prohibit the PS or any agency from undertaking such transactions.

The acquisition of real property is governed by Republic Act (RA) 8974¹, and not by RA 9184 and its IRR. This is clearly provided in Section 4.4(b) of the IRR of RA 9184. In this regard, we concur with your observation that the acquisition of real property is not covered by RA 9184 and its IRR.

As regards any prohibition on undertaking the acquisition of real property, we wish to note that a cursory reading of RA 9184 and its IRR would reveal no express or implied prohibition on said transaction. Thus, we are of the view that RA 9184 and its IRR do not prohibit the PS or any agency from acquiring real property.

We hope our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular situations presented, and may not be applicable given a different set of facts and circumstances. Should you have further questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director III

¹ "An Act to Facilitate the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects and for Other Purposes".