

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*

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**NPM No. 162-2004**

December 22, 2004

**MR. OCTAVINO Q. ESGUERRA**  
Chairperson, Bids and Awards Committee  
Philippine Health Insurance Corporation (PHIC)  
Citystate Centre, 709 Shaw Boulevard  
Pasig City

**Re : Lease of Office Space**

Dear Mr. Esguerra:

This has reference to your letter<sup>1</sup> dated November 2, 2004 which we received on November 18, 2004, seeking clarification on the inclusion of lease of office space under the definition of "Goods" as provided for under the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (R.A. 9184), otherwise known as the Government Procurement Reform Act (GPRA).

In your letter, it was posited that lease of office space through competitive bidding may not be the most favorable method of procurement as when there is already an existing office space leased and occupied by the procuring entity and a yearly bidding would be required before a new contract can be entered into. Considerations of practicality and convenience highlight the rationale for said contention.

Pointedly, the issue sought to be resolved is:

Whether or not lease of office space should be procured through competitive bidding.

**Lease of Office Space is referred to as "Goods" within the ambit of R.A. 9184**

All procurement of the national government, its departments, bureaus, offices and agencies, government owned and/or controlled corporations, government financial

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<sup>1</sup> Addressed to the Honorable Secretary Emilia T. Boncodin as Chairperson of the Government Procurement Policy Board (GPPB).



institutions and local government units, shall, in all cases, be governed by the principles of transparency, competitiveness and accountability, *inter alia*.<sup>2</sup> Thus, R.A. 9184, in the broadness of its scope, applies to procurements of infrastructure projects, goods and consulting services.

The lease of office space, no doubt, is considered as goods procurement under the IRR-A of R.A. 9184. Witness Section 5(k), to wit:

#### **Section 5. Definition of Terms**

For purposes of this IRR-A, the following terms or words and phrases shall mean or be understood as follows:

xxx

**k) Goods.** Refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. **The term “related” or “analogous services” shall include, but not be limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the procuring entity.**<sup>3</sup>

On the basis of the foregoing definition, the IRR-A by clear-cut expression, embraces lease of office space within the concept of “goods” procurement. Concomitantly, lease of office space shall be governed either by the rules on competitive bidding or through the alternative methods of procurement, subject only to lawful, reasonable and justifiable conditions as regards the latter case.

#### **Procurement Method for the Lease of Office Space**

The appropriate procurement method for the lease of office space is Competitive Bidding. Competitive bidding implies an open participation by any and all qualified suppliers, consultants or contractors in a selection process to determine the party that can offer to the government the most advantageous deal. The process consists of advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract.<sup>4</sup> This practically extends equal opportunities to the public to deal with the government subject to certain eligibility requirements and qualifications.

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<sup>2</sup> See Sec. 3 of R.A. 9184.

<sup>3</sup> Emphasis supplied.

<sup>4</sup> See Sec. 5, IRR-A

However, the peculiarity involved in the lease of office space deserves more consideration specifically in the preparation of the technical specifications. The lease of office space depends entirely on the needs and requirements of the agency such as, but is not limited to, location, the width and dimension of the area, floor shape and size, accessibility, amount of lease, structural aptness, architectural design, interior set-up, floor to ceiling clearance, communication readiness, electricity load, access to light, view and air, and the like.

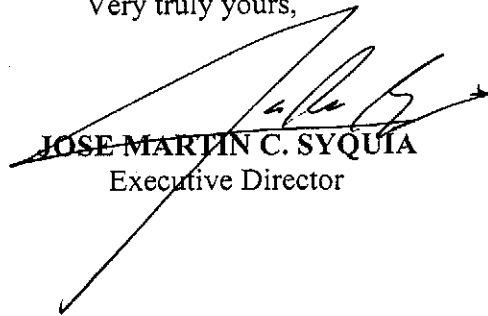
The restrictive and customized technical specifications involved in the lease of office space calls for elaborate specifications which may indicate more detailed and need-specific requirements. As such, although competitive bidding is the primary recourse, the peculiarity of the object to be bid significantly limits the number of bidders qualified to deliver an agency's requirements.

### Multi-Year Contracts

So as to avoid the recurring issue on the re-negotiation or renewal of lease contracts, it is best to refer to the corporate charter or legislative franchise of PHIC, such that if the charter allows the governing Board to enter into multi-year contracts, the Board within the limits provided for by its charter and applicable laws, may pass a Resolution allowing lease of office spaces on a multi-year basis. It must, however, be reiterated that contracting out by the Board on a multi-year basis should be legally allowed so as not to invalidate, at a later time, its corporate act as *ultra vires*.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA  
Executive Director

**REGISTRY RECEIPT**

Post Office	REGISTERED
Letter/Packages No.	
Posted on PASIL	002493
Preserve this receipt for reference in case of inquiry	
NO.	JAN 11 2005
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November 8, 2004

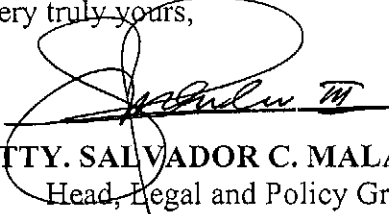
**MR. OCTAVINO Q. ESGUERRA**  
Senior Vice President and Chief Actuary  
Chairperson, Bids and Awards Committee  
Philippine Health Insurance Corporation  
Citystate Centre, 709 Shaw Boulevard,  
Pasig City

Dear Mr. Esguerra:

This refers to your letter dated November 2, 2004, which we received on November 8, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for clarification on Republic Act 9184 and its Implementing Rules and Regulations Part A, specifically on the procurement of lease of office space.

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