

NPM No. 21-2006

29 November 2006

MS. CARMENCITA S. COCHINGCO*Regional Director*

National Economic and Development Authority

Region XIII - CARAGA

Nimfa Tiu Building, J. Rosales Avenue, Butuan City

Dear Dir. Cochingco:

We refer to your letter dated 13 February 2006 requesting for clarification on whether the procurement of grains by Farm Level Grain Centers (FLGCs), a local business enterprise created by Local Government Units (LGUs) and funded by the Spanish Government, is exempt from the requirements of Republic Act No. 9184 (R.A. 9184).

Based on documents submitted, we understand that:

1. The Spanish Government, through *Agencia Espanola de Cooperacion International* (AECI), extended a grant to the Philippine Government in the amount of US\$ 1,718,170.00 for the implementation of the Caraga Food Sufficiency Project (CFSP) under a Memorandum of Agreement dated 9 July 2002.¹
2. National Economic Development Authority Regional Office No. XIII-Caraga (NEDA Caraga) was designated as the **executing agency** in behalf of the Philippine Government.
3. The purpose of the grant is to give farmers the option to sell their grains to FLGCs at prices higher than that offered by commercial middlemen.
 - a. NEDA Caraga will enter into Memorandum of Agreements (MoAs) with LGUs. Under said MoAs, the LGUs shall agree to operationalize FLGCs as *local economic enterprises* that shall offer post harvest facilities to farmers and serve as alternative market channel for the farmer's rice products.²

¹ NEDA-CARAGA's letter addressed to the Government Procurement Policy Board, dated 13 February 2006

² NEDA-CARAGA's letter and its attached documents, addressed to Atty. Estanislao C. Granados, Jr., dated 10 March 2006. It appears that FLGCs had been established in the municipalities of Sta. Josefa, Prosperidad, and Jabonga. FLGCs in the municipalities of Bunawan, Agusan del Sur and Bueavista, Agusan del Norte are about to be established.

- b. Fund assistance from the Spanish Government will be released after the LGU is able to deposit its capital counterpart in the trust fund.³
4. The FLGC Manual of Operations approved by the local sanggunian provides for a policy/governing board that determines, among others, the pricing (purchase and selling price) of rice paddies in the operation of its rice/paddy trading⁴.

From the foregoing, NEDA Caraga posits that compliance with R.A. 9184 becomes impractical considering that:

1. Farmers will most likely not participate in any bidding and simply sell their products to middlemen at a lower price, thereby, placing the market price at the control of middlemen to the disadvantage of the farmers; and
2. The life and purpose of the FLGCs can best be served and sustained if FLGCs are allowed to set their own prices, *i.e.*, a buying price higher than what the middlemen can offer, and a selling price not too high to attract buyers within the region and that would allow a reasonable margin of profit needed for the FLGCs "going concern" existence.

Please be advised that this matter was discussed during the 7th Regular Inter-Agency Technical Working Group (IATWG) meeting of the Government Procurement Policy Board held last 25 September 2006. Representatives from NEDA-Caraga were present during said meeting.

After a thorough deliberation, the IATWG resolved that the procedure for the procurement of grains by the FLGCs shall be governed by the MoA entered into between the Spanish and the Philippine Government as embodied in the approved FLGC Manual of Operations. While R.A. 9184 generally applies to all procurement activities of the government, whether national or local, it is specifically stated in its Section 4 that any treaty or international or executive agreement affecting procurement activities to which the Philippine Government is a signatory shall be observed.

Therefore, FLGCs may be allowed to procure *palay* grains based on its own procedures in conformity with their Manual of Operations. However, other procurement activities of the FLGCs, such as the procurement of supplies, are subject to the provisions of R.A. 9184.

We hope to have clarified the matter. Should you have any additional questions, please do not hesitate to contact us.

Very truly yours,

for: 
RUBY U. ALVAREZ
Executive Director III

³ *Ibid.*

⁴ Highlights of the Consultative Meeting on Administrative and Finance Management Systems of LGU-Operated Farm Level Grain Centers