



TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center
F. Ortigas Jr. Avenue, Ortigas Center
Pasig City, Philippines 1605

NPM No. 41-2008

27 October 2008

HON. LYNN DANA-O-MORENO
*Assistant Executive Secretary &
Chairman, Bids and Awards Committee*
OFFICE OF THE PRESIDENT
Malacañang, Manila

Re : Negotiated Procurement

Dear Asec. Moreno:

This formalizes our response to your letter dated 25 July 2007 seeking guidance from the Government Procurement Policy Board (GPPB) on whether the Office of the President (OP) can resort to Negotiated Procurement pursuant to Section 53 (b) of Republic Act (R.A.) No. 9184 and its Implementing Rules and Regulations Part A (IRR-A) for their procurement of the repair and overhaul of the Combining Gear Box (C-Box) of Bell 412 Helicopter Nr. 2000.

As mentioned in your letter, Col. Alger C. Tan of the Philippine Air Force was the one who proposed the resort to Negotiated Procurement considering that time is of the essence for the repair of the C-Box as it is vital for the commissioning of Bell 412 Nr. 2000. Bell 412 Nr. 2000 is one of the aircrafts used by the President in her engagements in the country; hence, the security and safety of the President is the primary concern at hand.

Please be advised that generally the approval of the GPPB on the use of a particular alternative method of procurement is not required under R.A. 9184 and its IRR-A.

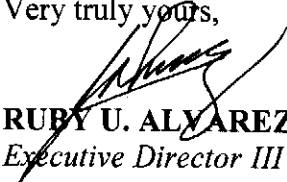
The determination and accountability for the use of any of the alternative methods of procurement rest primarily with the head of the procuring entity (HOPE), upon prior recommendation of the Bids and Awards Committee.

On the other hand, we would also like to point out that in cases where the HOPE has made a determination that a government contract involving an amount of at least Five Hundred Million Pesos (Php. 500,000,000.00) or more falls under any of the exceptions from public bidding, the HOPE, before proceeding with the alternative methods of procurement, shall obtain the approval of the GPPB that said government proposed procurement undertaking falls within the exceptions from public bidding and that the proposed specific

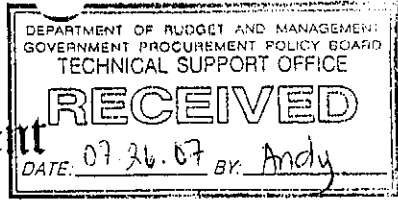
alternative method of procurement is appropriate. [Section 4 of Executive Order (E.O.) No. 423, dated 30 April 2005, as amended by E.O. No. 645, dated 31 July 2007]

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

Very truly yours,



RUBY U. ALVAREZ
Executive Director III



Office of the President
 of the Philippines
 Malacañang

25 July 2007

DIR. RUBY U. ALVAREZ
 Executive Director
 Government Procurement Policy Board
 Emerald Avenue, Rasols
 Ortigas Center, Pasig City
 Telefax Nos. 900-67-41 to 90067-44

*Bryan. #
 Lets prepare response to
 this. I think we've issued
 similar responses in the past.
 where we tell agency it's their
 decision, not ours! 1/8/6/07*

Dear Director Alvarez:

This has reference to the letter request dated 10 July 2007 [Annex "A"] of Col. Alger C. Tan, Project Manager, PMT, 250th Presidential Airlift Wing, to procure the repair and overhaul of the Combining Gear Box [C-Box] of Bell 412 Helicopter Nr. 2000 thru negotiated procurement pursuant to **Sec. 53b of IRR-A of 9184**, which states:

"xxx In case of imminent danger to the life or property during a state calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore public services, infrastructure facilities or other public utilities". xxx

Bell 412 Helicopter Nr. 2000 is one of the aircrafts being used by the President of the Philippines for her engagements in the country. The Philippine Air Force's utmost concern is the security and safety of the President of the Philippines. As represented by Col. Tan, only two [2] out of six [6] helicopters are operational and that there is a strong possibility that the Presidential Airlift Wing [PAW] may not be able to carry out its mandated functions specially during the engagements of the President.

In view thereof, may we seek the **GPPB's** comment and/or recommendation whether or not the peculiarity of the need to procure the aforesaid C-Box falls within the purview of Sec. 53B of IRR-A of RA 9184 as above-quoted.

Thank you and cordial regards.

Very truly yours,

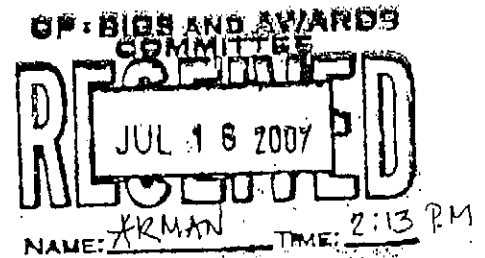
Atty. LYNN DANA-O-MORENO
 Assistant Executive Secretary &
 Chairman, OP Bids and Awards Committee



PHILIPPINE AIR FORCE
HEADQUARTERS 250TH PRESIDENTIAL AIRLIFT WING
Colonel Jesus Villamor Air Base, Pasay City

10 July 2007

ATTY. LYNN DANA0-MORENO
Assistant Executive Secretary and Chairman
Office of the President Bids and Awards Committee
Malacañang Palace, Manila



Dear Atty. Moreno,

This refers to the repair and overhaul of the Combining Gear Box (C-Box) of Bell 412 Helicopter Nr 2000 which was one of the topics discussed during the OPBAC meeting last 04 July 2007. It can be recalled that the PMT justified that said maintenance work is not part of the 2,500-Hour Mandatory Inspection of Bell 412 Nr 2000 conducted by Asian Aerospace Corporation (AAC).

As Chairman of the PMT, may I respectfully reiterate the necessity of overhauling the C-Box. As I explained, Bell 412 Nr 2000 remains grounded due to non-availability of C-Box to make it operational. Consequently, the operational readiness of 250th PAW to provide reliable helicopters during presidential movements is greatly affected. At present, only two (2) helicopters out of six (6) possessed by this Wing are operational. Hence, there is a high possibility that this Wing may not be able to provide the required number of Bell 412 helicopters, which the President prefers to use, during provincial engagements. Such situation could result to security and safety concerns.

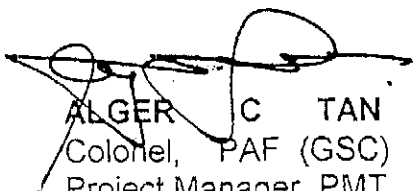
Notwithstanding the urgency of the requirement, this Wing is fully aware of the provisions of RA 9184, otherwise known as the Procurement Reform Act which governs all procurements by government agencies. While public bidding is the prescribed and preferred mode for government procurements, RA 9184 allows alternative modes as the situation warrants especially when there is urgency in the procurement of the particular goods or services. In this case, the Negotiated Mode of Procurement may be applied citing Section 53b of IRR-A RA 9184, to wit:

xxx " In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities." xxx

ANNEX "A"

This Wing considers that time is of the essence for the repair of C-Box as it is badly needed for the commissioning of Bell 412 Nr 2000. Hence, this Wing recommends that Negotiated Procurement or other applicable alternative modes of procurement as prescribed in RA 9184 be adopted to expedite the repair and overhaul of said component.

Very truly yours,



ALGER C TAN
Colonel, PAF (GSC)
Project Manager, PMT