

## TECHNICAL SUPPORT OFFICE

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Pasig City, Philippines 1605

**NPM No. 42-2005**

September 22, 2005

**ATTY. EFREN J. SABONG**  
Director, Directorate for Legal Affairs  
National Food Authority  
Matimyas Building, 101 e. Rodriguez Sr. Ave.,  
Quezon City

**Re : Lease of Office Building Owned By Another Government Agency**

Dear Atty. Sabong:

This pertains to your letter dated 22 August 2005, requesting for clarification on the provisions of Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A), particularly with respect to the lease of National Food Authority's (NFA's) office building owned by the Sugar Regulatory Authority (SRA).

For our consideration are the following issues, reproduced herein verbatim from the subject letter:

1. Whether or not the National Food Authority (NFA) can enter into a negotiated contract of lease with the SRA without passing through PS-DBM, with respect to its building, to be used as NFA central office.
2. Whether or nor lease of office space is covered by RA 9184.

At this outset, we stress that lease of office space is within the scope of RA 9184. Lease is embraced within the legal contemplation of "goods," as defined under the Implementing Rules and Regulations Part A (IRR-A) in the nature of general services.

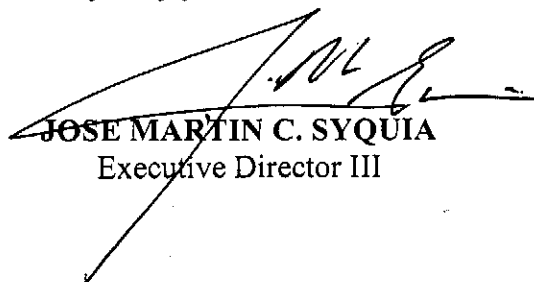
Whether Section 53 (e) of the IRR-A is applicable in procurement of lease services is of no moment, for purposes of this query. The said provision does not provide the basis or authority for government agencies to contract with other government agencies in view of acquiring the services of the latter for any of the former's administrative purposes. It bears stating, at this juncture, that government-to-

government transactions or acquisitions are not contemplated as procurement within the meaning of RA 9184. Obviously, it does not involve the expenditure of government funds for the benefit of any participating private person or entity.

In light of the foregoing, a government agency may execute a Memorandum of Agreement (MoA) with another agency for the purpose of acquiring the latter agency's services. This facility however is subject to other applicable rules governing government expenditure audit in view of seeing to it that such expenditure is regular, necessary, reasonable or proves to be the better or cheaper alternative; and does not necessarily validate the transaction insofar as the capacity or permissibility of the government agencies to enter into such arrangements in accordance to their given mandate. Thus, the terms and conditions of the lease arrangement subject of the MoA should conform to established rules and guidelines.

We trust that this clarifies matters.

Very truly yours,



**JOSE MARTIN C. SYQUIA**  
Executive Director III