



## TECHNICAL SUPPORT OFFICE

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

**NPM No. 56-2009**

15 October 2009

**FONCHITO C. GALLEVO**

*Municipal Accountant*

**MUNICIPAL ACCOUNTANT'S OFFICE**

307 Solano, Nueva Vizcaya, Philippines

**Re: Applicability of RA 9184**

Dear Mr. Gallevo:

We respond to your letter dated September 15, 2009, which we received on September 23, 2009 inquiring on the applicability of Republic Act (R.A.) No. 9184, otherwise known as "Government Procurement Reform Act" (RA 9184), to the proposed potable water project of the Municipal Government of Solano, Nueva Vizcaya.

Specifically, you represent that the Municipal Government of Solano, Nueva Vizcaya is embarking on a project to provide potable water for its constituents by having a water system that can be implemented using any one of the following schemes:

- Scheme I: The Generation System is to be implemented and financed by a qualified private company, while the Distribution System is to be implemented by the LGU through financing from the Land Bank of the Philippines.
- Scheme II: Both the Generation and Distribution Systems will be implemented and financed by a qualified private company.

At the outset, please be informed that the GPPB has already issued the revised Implementing Rules and Regulations (IRR) of RA 9184, which took effect last September 2, 2009.

Section 4 of said IRR of RA 9184 provides that it shall apply to all procurement of any branch, agency, department, bureau, office, or instrumentality of the GOP, including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs), except in certain activities, viz:

“4.4. This IRR shall not apply to the following activities:

- a) x x x
- b) x x x
- c) Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes,” as amended: Provided, however, That for the portions financed by the GOP, regardless of source of funds, whether local or foreign, the provisions of this IRR shall apply. (Emphasis supplied.)

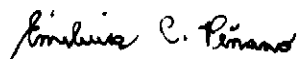
It is clear from the foregoing that when no government funds is used to finance a procurement project of a Local Government Unit (LGU), the IRR of RA 9184 shall not apply, unless otherwise provided by the agreement of the private company and the LGU. However, if the procurement project is financed by both private and public funds, the portion financed by the GOP shall be procured in accordance with the IRR of RA 9184.

Thus, for Scheme I, the procurement of the distribution system must comply with the provisions of the IRR of RA 9184 because government funds will be used. Scheme II on the other hand, need not to comply with the provisions of the IRR of RA 9184 because no government funds will be used to finance the procurement project.

This opinion is being rendered in the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

  
**RUBY U. ALVAREZ**  
*Executive Director III*



## TECHNICAL SUPPORT OFFICE

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

14 October 2009

**FONCHITO C. GALLEVO**  
*Municipal Accountant*  
**MUNICIPAL ACCOUNTANT'S OFFICE**  
307 Solano, Nueva Vizcaya, Philippines

**Re: Applicability of RA 9184**

Dear Mr. Gallevo:

We respond to your letter dated September 15, 2009, which we received on September 23, 2009 inquiring on the applicability of Republic Act No. 9184 otherwise known as "Government Procurement Reform Act" (RA 9184) to the proposed potable water project of the Municipal Government of Solano, Nueva Vizcaya.

Specifically, you represent that the Municipal Government of Solano, Nueva Vizcaya is embarking on a project to provide potable water for its constituents by having a water system that can be implemented using any one of the following schemes.

- Scheme I: The Generation System is to be implemented and financed by a qualified private company, while the Distribution System is to be implemented by the LGU through financing from the Land Bank of the Philippines.
- Scheme II: Both the Generation and Distribution Systems will be implemented and financed by a qualified private company.

At the outset, please be informed that the GPPB has already issued the revised Implementing Rules and Regulations (IRR) of RA 9184, which took effect last September 2, 2009.

Section 4 of the IRR of RA 9184 provides that the IRR shall apply to all procurement of any branch, agency, department, bureau, office, or instrumentality of the GOP, including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs), except in certain activities, viz:

"4.4. This IRR shall not apply to the following activities:

- a) x x x
- b) x x x

c) Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes," as amended: Provided, however, That for the portions financed by the GOP, regardless of source of funds, whether local or foreign, the provisions of this IRR shall apply.

It is clear from the foregoing that when no government funds is used to finance a procurement project of a Local Government Unit (LGU), the IRR of RA 9184 shall not apply, unless otherwise provided by the agreement of the private company and the LGU. However, if the procurement project is financed by both private and public funds, the portion financed by the GOP shall be procured in accordance with the IRR of RA 9184.

Thus, for Scheme I, the procurement of the distribution system must comply with the provisions of the IRR of RA 9184 because government funds will be used. Scheme II on the other hand, does not need to comply with the provisions of the IRR of RA 9184 because no government fund will be used to finance the procurement project.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

**RUBY U. ALVAREZ**  
*Executive Director III*



*Anak*

*pr*

# TECHNICAL SUPPORT OFFICE

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

14 October 2009

**FONCHITO C. GALLEVO**

*Municipal Accountant*

**MUNICIPAL ACCOUNTANT'S OFFICE**

307 Solano, Nueva Vizcaya, Philippines

*Applicability of RA 9184*

**Re: Inquiry on the requirement of RA 9184 on the Advertisement**

Dear Mr. Gallevo:

We respond to your letter dated 15<sup>th</sup> day of September 2009, which we received on September 23, 2009, inquiring on the applicability of RA 9184 to the proposed potable water project of the Municipal Government of Solano, Nueva Vizcaya.

Specifically, you represent that the Municipal Government of Solano, Nueva Vizcaya is embarking on a project to provide potable water for its constituents by having a water system that can be implemented using any one of the following schemes:

Scheme I: *the* ~~A~~ Generation System is to be implemented and ~~to be~~ *spell-out* financed by a qualified private company, while *the* ~~A~~ Distribution System is to be implemented by the LGU through financing from the Land Bank of the Philippines.

Scheme II: Both the Generation and Distribution Systems will be implemented and financed by a qualified private company.

At the outset, please be informed that the GPPB has already issued the revised Implementing Rules and Regulations (IRR) of RA 9184, which took effect last September 2, 2009.

Section 4 of the IRR of RA 9184 provides that the IRR shall apply to all procurement of any branch, agency, department, bureau, office, or instrumentality of the GOP, including government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), state universities and colleges (SUCs), and local government units (LGUs), except in certain activities, viz:

“4.4. This IRR shall not apply to the following activities:

- a) x x x
- b) x x x

c) Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes," as amended. Provided, however, **That for the portions financed by the GOP**, regardless of source of funds, whether local or foreign, the provisions of this IRR shall apply.

*bold. ~~underline~~ this as well*

It is clear <sup>from the foregoing</sup> ~~in the above provisions~~ that, when no government funds is used to finance a procurement project of a Local Government Unit (LGU), IRR of RA 9184 shall not apply, unless otherwise provided by the agreement of the private company and the LGU. However, if the procurement project is financed by both private and public funds, the portion financed by the GOP shall be procured in accordance with the IRR of RA 9184.

Thus, <sup>for</sup> Scheme I, the <sup>procurement of the</sup> distribution system must comply with the provisions of the IRR of RA 9184 because government funds will be used. Scheme II, on the other hand, <sup>does not</sup> need to comply with the provisions of the IRR of RA 9184 because no government fund will be used to finance the procurement project.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

**RUBY U. ALVAREZ**  
*Executive Director III*



Thank,  
Pls. revise as noted.  
kindly check grammar/syntax, as well.

Mark

ICE

Center,  
F. Ortigas Jr. Road, Ortigas Center,  
Pasig City, Philippines 1605

10/15/09

14 October 2009

**FONCHITO C. GALLEVO**  
Municipal Accountant  
**MUNICIPAL ACCOUNTANT'S OFFICE**  
307 Solano, Nueva Vizcaya, Philippines

**Re: Inquiry on the requirement of RA 9184 on the Advertisement.**

Dear Mr. Gallevo:

We respond to your letter dated 15<sup>th</sup> day of September 2009 <sup>which we</sup> and received on the 23<sup>rd</sup> day of September 2009 inquiring on whether or not the schemes provided <sup>is</sup> subject to the provisions of RA 9184. <sup>the applicability of RA 9184 to the proposed potable water projects of the Municipal Government of Solano, Nueva Vizcaya</sup> Based on your letter, the Municipal Government of Solano, Nueva Viscaya is embarking on a project to provide potable water for its constituents by having a water system that can be implemented using any one of the <sup>following</sup> schemes.

Scheme I: The <sup>1</sup> generation system is to be implemented and to be financed by a qualified private company ~~that can meet the demand of water consumers and the quality of water specified by the government water regulatory bodies,~~ whereas; the <sup>2</sup> distribution system is to be implemented by the LGU through financing from the Land Bank of the Philippines.

Scheme II: Both the Generation and Distribution Systems will be implemented and financed by a qualified private company.

<sup>At the outset, please be informed that revised</sup> The GPPB has already issued the <sup>revised</sup> Implementing Rules and Regulations (IRR) of RA 9184 <sup>which</sup> took effect last September 2, 2009.

<sup>all pertinent of any bank, agency, dept. etc. - - - except in certain activities, viz:</sup> Under Section 4.4 of the IRR of RA 9184, it states that, <sup>provides that the IRR shall apply to</sup>

" 4.4. This IRR shall not apply to the following activities:

- a) x x x
- b) x x x
- c) Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled "An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes," as amended: Provided, however, That for the portions financed by the GOP, regardless of source of funds, whether local or foreign, the provisions of this IRR shall apply.

~~Therefore~~ It is clear in the above provisions that, when no government funds is used to finance a procurement project of a LGU, IRR of RA 9184 shall not apply, unless otherwise provided by the agreement of the private company and LGU. However if the procurement project is financed by both private and public funds, the portion financed by the GOP shall be ~~proceeded~~ <sup>in</sup> accordance with the IRR of RA 9184. <sup>and</sup>  
<sub>used</sub>

<sup>thus,</sup>  
Here, Scheme I, the distribution system must comply with the provisions of the IRR of RA 9184, because government funds will be used. Scheme II on the other hand, <sup>don't</sup> need to comply with the provisions of the IRR of RA 9184 because no government fund will be used to finance the procurement project.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,

**RUBY U. ALVAREZ**  
*Executive Director III*



**MUNICIPAL ACCOUNTANT'S OFFICE**

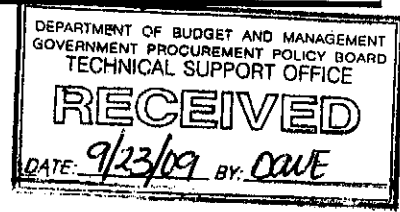
**3709 Solano, Nueva Vizcaya, Philippines**

Telephone No. (078) 326-5441



September 15, 2009

*Thank,  
Pls. draft reply.*



**The Executive Director**  
Government Procurement Policy Board  
Unit 2506 Raffles Corporate Center  
F. Ortigas Jr. Road  
Ortigas Center, Pasig City

*T.X.  
10/11/09*

*Sumie,  
Pls. handle. sounds like  
a BOT rather than procurement  
Sign in my behalf. 18/9/2010*

Sir:

The Municipal Government of Solano, Nueva Vizcaya is embarking on a project to provide potable water for its constituents by having a water system that can be implemented using any one of the following schemes:

Scheme I : The generation system is to be implemented and to be financed by a qualified private company that can meet the demand of water consumers and the quality of water specified by the government water regulatory bodies, whereas; the distribution system is to be implemented by the LGU through financing from the Land Bank of the Philippines.

*this is govt. funds. RA 9184*

This scheme is much like an electric Cooperative should be observed buying electricity from NAPOCOR for distribution to its consumers.

Scheme II : Both the Generation and Distribution Systems will be implemented and financed by a qualified private company.

**Our query is:** Under both schemes, is LGU Solano required to adhere to the provisions of R.A. 9184 particularly on the advertisement requirement of the Government Procurement Reform Act? When no government funds is used to finance the project, do we still need to advertise as provided for in the Act?

*No need if  
this is the  
case. Could fall  
under different*

We anticipate with thanks your kind reply to our query.

Very truly yours,

  
**FONCHITO C. GALLEVO, CPA, CSEE**  
Municipal Accountant