



TECHNICAL SUPPORT OFFICE

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NPM No. 82-2007

7 December 2007

MR. PETER ANTHONY ABAYA

President and CEO

**PHILIPPINE NATIONAL OIL COMPANY-
ALTERNATIVE FUEL CORPORATION (PNOC-PAFC)**

PNOC Bldg. VI Energy Center
Meritt Road, Bonifacio Global City
Taguig, Metro Manila

Re : **Procurement of Jatropha Seeds and Seedlings**

Dear Mr. Abaya:

We respond to your letters dated 06 February 2007 and 02 October 2006. In connection with the procurement of Jatropha seeds and seedlings for the mega-nursery to be undertaken by the PNOC Alternative Fuel Corporation (PAFC), you wish to be clarified on the following matters:

1. Whether the procurement of Jatropha seeds and seedlings is within the coverage of Republic Act No. 9184 (R. A. 9184) and its Implementing Rules and Regulations Part A (IRR-A);
2. Whether consulting services may be procured through direct contracting;
3. Whether there are exceptions on the 60-40% requirement for foreign corporations who would be doing business in the Philippines through joint venture contracts relative to the establishment of a plantation and refinery with the PAFC utilizing the Jatropha seeds/seedlings.

As regards your first query, it must be clarified at the outset that the Jatropha seeds and seedlings are considered as "goods" as defined under Section 5 (k) of the IRR-A. Therefore, the procurement of the said items which are needed by PAFC is clearly within the scope and application of R. A. 9184 and its IRR-A.


It is the policy of the Government that procurement of goods, infrastructure projects, and consulting services shall be competitive and transparent, and therefore the general mode of procurement shall be through public bidding. However, subject to the prior approval of the head of the procuring entity and whenever justified by the conditions provided by R. A. 9184 and its IRR-A, in order to promote economy and efficiency, the procuring entity may resort to any of the alternative modes of procurement, such as but not limited to direct contracting, limited source bidding or negotiated procurement.

Anent your second query, Section 50 of the IRR-A expressly provides that direct contracting or single source procurement is a method of procurement of goods. Thus, consulting services cannot be procured through direct contracting. However, this does not preclude the procuring entity from directly negotiating a contract with a technically, legally and financially capable individual consultant under Section 53 (f) of the IRR-A or resorting to limited source bidding under Section 49 of the IRR-A, whenever justified by the conditions provided under R. A. 9184 and its IRR-A.

Finally, as regards your query on the joint venture contracts, please be informed that the National Economic Development Authority is currently drafting the guidelines for joint venture arrangements.

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

Very truly yours,



RUBY U. ALVAREZ
Executive Director III