

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

Mezzanine 125, Mabini Hall, Malacañang, Manila
Telefax Nos. (02) 735-4962; (02) 736-5758

NPM No. 084-2004

June 16, 2004

ATTY. JULIAN LI PACIFICADOR

Director IV
DBM Region IV
2/F PLJ Bldg., 755 Gen. Solano St.
San Miguel, Manila

**Re : Required Authority from the Sangguniang Bayan before the
Municipal Mayor may enter into Contracts in the Procurement of
Goods, Infrastructure Projects and Consulting Services**

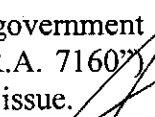
Dear Dir. Pacificador:

This refers to your letter dated April 29, 2004, endorsing the letters of the Municipalities of Lian and Mataasnakahoy of Batangas Province, and Municipality of Santa Cruz, Laguna to our office. A reading of the said letters reveals a single issue that has to be resolved, to wit:

Whether or not it is required that the Municipal Mayor be given an authority from the Sangguniang Bayan before entering into contracts in the procurement of goods, infrastructure projects or consulting services under Republic Act No. 9184 ("R.A. 9184") and its Implementing Rules and Regulations Part A ("IRR-A").

**Authority from the Sangguniang Bayan before the Municipal Mayor May Enter Into
Contracts for the Procurement of Goods, Infrastructure Projects and Consulting
Services**

Considering that this has been a contentious issue among several local government units ("LGUs"), we quote the pertinent provisions under Republic Act 7160 ("R.A. 7160") otherwise known as the Local Government Code of 1991, relevant to the aforesaid issue.



Firstly, Section 22 (c), Chapter 2, Title I, Book I of R.A 7160 provides as follows:

“Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization from the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.” (Emphasis Supplied)

Secondly, Section 444 (b)(vi), Chapter 3, Title II, Book III of R.A. 7160 provides that:

For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

x x x x

Upon authorization by the sangguniang bayan, represent the municipality in all its business transactions and sign on its behalf all bonds, contracts, and obligations, and such other documents made pursuant to law or ordinance. (Emphasis Supplied)

Based on the foregoing citations, it is clear that the authorization from the Sangguniang Bayan is an indispensable requirement before the Municipal Mayor may enter into and sign all contracts and obligations in behalf of the Municipality. It may also be worthwhile to note that it is an explicit rule that **“Contracts in behalf of the political subdivisions** and corporate agencies or instrumentalities **shall be approved by their respective governing boards or councils** and executed by their respective executive heads.”¹

As such, it cannot be denied that it has always been the intention of our laws that no contract shall be entered into by the local chief executive (“LCE”) in behalf of the concerned LGU without any kind of participation from its sanggunian, which can either be in the form of “authorization” as required under the aforementioned provisions of R.A. 7160; or in the form of “ratification or approval” as required in the aforesaid rule under the Revised Administrative Code of 1987 (“RAC”).

Moreover, although it may have been observed that under Section 37 of Rule XI of the IRR-A, specifically in Sections 37.2.3 - 37.3 thereof, prior authorization from the sangguniang bayan was not expressly required as a condition precedent for the approval of the contract by the LCE and the signing of the contract in behalf of the procuring entity, there was also no categorical mention that the same may be dispensed with.

In addition to this, it must be noted that neither R.A. 9184 nor its IRR-A repealed the aforementioned relevant mandatory provisions of R.A. 7160 and the RAC. Witness Section 75 of the IRR-A, to wit:

¹ Section 51, Book I of the Revised Administrative Code of 1987

Section 75. Repealing Clause

“x x x This law amends Title Six, Book Two of Republic Act No. 7160 (R.A. 7160), otherwise known as the “Local Government Code of 1991,” and, in furtherance thereto, Chapter Five, Title One, Book One of the same law; x x x”

Considering that only Title Six, Book Two, which covers Sections 355 to 383 and Chapter Five, Title One, Book One, which covers Sections 37 and 38 of R.A. 7160 are repealed by R.A. 9184, Sections 22 and 444 of R.A. 7160 as well as Section 51 of the RAC remain and continue to be operative and applicable. Hence, we are of the opinion that upon authorization by the Sangguniang Bayan, the Municipal Mayor shall represent the municipality in all its business transactions and sign on its behalf, all contracts for its procurement activities, whether goods, infrastructure projects or consulting services.

With the foregoing elucidations, we trust that our opinion has clarified the aforesaid contentious issue among the LGUs. Please bear in mind that this opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not be necessarily applicable upon a different set of facts or circumstances.

Very truly yours,

Copy furnished:

MR. RUPERTO M. MAGNO
Mayor, Municipality of Lian
Batangas

MR. CALIXTO M. LUNA JR.
Mayor, Municipality of Mataasna Kahoy
Batangas

MR. MARIO M. MANGAHAS
Municipal Administrator
Municipality of Santa Cruz
Laguna

Gse / gppb-iso

REGISTRY RECEIPT 1770

Post Office REGISTERED
MALACANANG POST OFFICE
MANILA
Philippines
Preserve this receipt for reference in case of inquiry
NO. JUN 17 2004
Postmaster/Teller

REGISTRY RECEIPT 1771

Post Office REGISTERED
MALACANANG POST OFFICE
MANILA
Philippines
Preserve this receipt for reference in case of inquiry
NO. JUN 17 2004
Postmaster/Teller

REGISTRY RECEIPT 772

Post Office REGISTERED
MALACANANG POST OFFICE
MANILA
Philippines
Preserve this receipt for reference in case of inquiry
NO. JUN 17 2004
Postmaster/Teller