

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

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NPM No. 099-2004

July 26, 2004

MR. ALBERTO V. REYES
Officer-In-Charge
Office of the Governor
Bangko Sentral ng Pilipinas (BSP)

**Re : Queries on Republic Act No. 9184 ("R.A. 9184") and its
Implementing Rules and Regulations Part A ("IRR-A")**

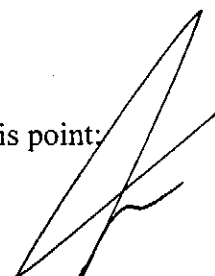
Dear Mr. Reyes:

This refers to your letter dated July 15, 2004, addressed to Secretary Emilia T. Boncodin of the Department of Budget and Management as Chairperson of the Government Procurement Policy Board (GPPB), which was referred to us for appropriate action on July 21, 2004, and to which we have already responded through a phone conversation on even date. In the said conversation with Mr. Armando L. Suratos, Deputy Governor of BSP, a written opinion was sought from us on the following issues:

1. Whether or not the BSP may create separate and additional Bids and Awards Committees (BACs) to handle projects falling under the category of (a) infrastructure projects and (b) non-infrastructure projects;
2. Whether or not in procurement through Shopping, the procurement procedures may be undertaken by an office/unit other than the BAC after its recommendation to the head of the procuring entity that such method of procurement should be used for the project to be procured.

Creation of Separate BACs

Section 11.1 of the IRR-A of R.A. 9184 is clear on this point:



“Each procuring entity shall establish in its head office a single BAC to undertake the functions specified in Section 12 of this IRR-A. **However, to expedite the procurement process for practical intents and purposes, the head of the procuring entity may create separate BACs where the number and complexity of the items to be procured shall so warrant. The BACs may be organized either according to: (a) geographical location of PMO or end-user units of the procuring entity; or (b) nature of procurement.** Similar committees for decentralized and lower level offices may also be formed when deemed necessary by the head of the procuring entity. The creation of the separate BACs shall be limited in order to facilitate professionalization and harmonization of procedures and standards. x x x”
(Emphasis and Underscoring Supplied)

Based on the aforequoted provision, the BSP through its head may create separate BACs provided that the number and complexity of the items to be procured by such agency requires the need for multiple or separate BACs. In fact, the creation of separate BACs by BSP for infrastructure projects and non-infrastructure projects may be validly considered as “creation of BACs according to nature of procurement,” which is expressly allowed under the aforecited provision.

Duty of the BAC to Recommend the Award of Contracts to the Head of the Procuring Entity

Under Section 12.1 of the IRR-A of R.A. 9184, one of the responsibilities entrusted to the BAC is to recommend the award of contracts to the head of the procuring entity or his duly authorized representative. However, this responsibility is performed by the BAC in cases where the agency procures through competitive bidding or under the alternative methods of procurement where public bidding procedures are required to be adopted, such as *Limited Source Bidding* under Section 49 of the IRR-A of R.A. 9184, and *Negotiated Procurement* under Section 53 (a) and (b) of the same rules.

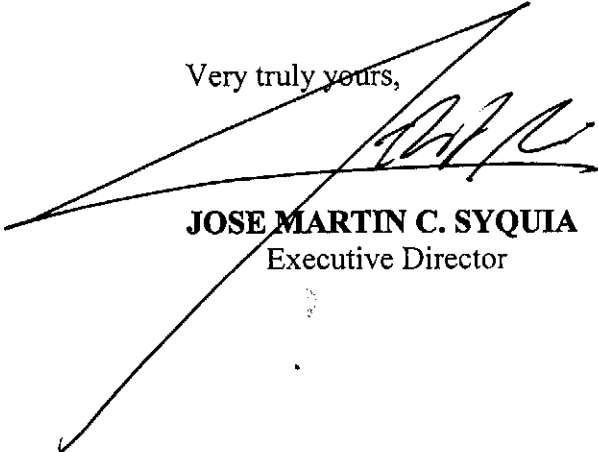
On the other hand, with respect to those alternative methods of procurement where public bidding procedures are not prescribed to be undertaken, such as, *Direct Contracting*, *Repeat Order* and *Shopping*, under Sections 50, 51 and 52 of the IRR-A of R.A. 9184, respectively, we are of the opinion that there is no need for the BAC to perform such function.

As such, on the second issue raised, we agree with the position of the BSP that the duty of the BAC to recommend award of contract to the head of the procuring entity in their procurement through Shopping may be dispensed with or may be undertaken by another office or unit such as the end-user unit.

Be that as it may, it must be noted that such alternative methods of procurement should be resorted to only upon recommendation of the BAC to the head of the procuring entity that such method should be adopted and upon determination that any of the exceptional circumstances mentioned in the IRR-A of R.A. 9184 justifying the use of such alternative methods of procurement is present.

With the foregoing elucidations, we trust that your issues have been clarified. 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,



JOSE MARTIN C. SYQUIA
Executive Director

REGISTRY RECEIPT

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