

EXECUTIVE ORDER NO. 301

July 26, 1987

DECENTRALIZING ACTIONS ON GOVERNMENT NEGOTIATED CONTRACTS, LEASE CONTRACTS AND RECORDS DISPOSAL

WHEREAS, it is the policy of the government to promote economy, efficiency and effectiveness in the delivery of public services;

WHEREAS, under the present set-up, a centralized administrative system is provided for reviewing and approving negotiated contracts under Executive Order No. 298 (issued August 12, 1940), as amended; for determining the reasonableness of government lease contracts under Executive Order 290 (issued March 14, 1958), as amended, and for the disposal of government records under Executive Order No. 290,

WHEREAS, such centralized administrative system is not at all "facilitative" particularly in emergency situations, characterized as it is by red tape and too much delay in the processing and final approval of the required transaction or activity; and

WHEREAS, for expeditious action, there is need to decentralize the processing and final approval of negotiated contracts, lease contracts and records disposal to the agencies concerned, subject to compliance with prescribed uniform standards or guidelines and to the review and audit jurisdiction of the Commission on Audit (COA) or its duly authorized representative.

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order:

A. DECENTRALIZATION OF NEGOTIATED CONTRACTS

Sec. 1. Guidelines for Negotiated Contracts. Any provision of law, decree, executive order or other issuances to the contrary notwithstanding, no contract for public services or for furnishing supplies, materials and equipment to the government or any of its branches, agencies or instrumentalities shall be renewed or entered into without public bidding, except under any of the following situations:

- a. Whenever the supplies are urgently needed to meet an emergency which may involve the loss of, or danger to, life and/or property;
- b. Whenever the supplies are to be used in connection with a project or activity which cannot be delayed without causing detriment to the public service;
- c. Whenever the materials are sold by an exclusive distributor or manufacturer who does not have subdealers selling at lower prices and for which no suitable substitute can be obtained elsewhere at more advantageous terms to the government;
- d. Whenever the supplies under procurement have been unsuccessfully placed on bid for at least two consecutive times, either due to lack of bidders or the offers received in each instance were exorbitant or non-conforming to specifications;
- e. In cases where it is apparent that the requisition of the needed supplies through negotiated purchase is most advantageous to the government to be determined by the Department Head concerned;
- f. Whenever the purchase is made from an agency of the government.

Sec. 2. Jurisdiction over Negotiated Contracts. In line with the principles of decentralization and accountability, negotiated contracts for public services or for

furnishing supplies, materials or equipment may be entered into by the department or agency head or the governing board of the government-owned or controlled corporation concerned, without need of prior approval by higher authorities, subject to availability of funds, compliance with the standards or guidelines prescribed in Section 1 hereof, and to the audit jurisdiction of the Commission on Audit in accordance with existing rules and regulations. Negotiated contracts involving P2,000,000 up to P10,000,000 shall be signed by the Secretary and by two other Undersecretaries.

Sec. 3. Abolition of the Presidential Committee on Negotiated Contracts. The Presidential Committee on Negotiated Contracts created under Executive Order No. 298 dated August 12, 1940 as amended, is hereby abolished: Provided, however, That all negotiated contracts pending with the abolished Presidential Commission on Negotiated Contracts shall be processed in accordance with existing procedures and shall be signed by the Secretary of General Services.

Sec. 4. Presidential Approval. Provisions of existing laws requiring approval by the President of contracts of national government offices, agencies and instrumentalities, including government-owned or controlled corporations, awarded through the public bidding or by negotiation, shall continue to be in force and effect.

Sec. 5. Coverage. With particular reference to negotiated contracts, this Executive Order covers only contracts for public services or for furnishing of supplies, materials or equipment to the government under Executive Order No. 298, as amended, and does not apply to, among others, infrastructure or public works contracts and to government contracts for which ceilings for approval by the Department Heads concerned have been prescribed under Executive Order No. 104 dated May 5, 1987.

B. DECENTRALIZATION OF LEASE CONTRACTS

Sec. 6. Guidelines for Lease Contracts. Any provisions of law, decree, executive order or other issuances to the contrary notwithstanding, the Department of Public Works and Highways (DPWH), with respect to the leasing of privately-owned buildings or spaces for government use or of government-owned buildings or space for private use, shall formulate uniform standards or guidelines for determining the reasonableness of the terms of lease contracts and of the rental rates involved.

Sec. 7. Jurisdiction Over Lease Contracts. The heads of agency intending to rent privately-owned buildings or spaces for their use, or to lease out government-owned buildings or spaces for private use, shall have authority to determine the reasonableness of the terms of the lease and the rental rates thereof, and to enter into such lease contracts without need of prior approval by higher authorities, subject to compliance with the uniform standards or guidelines established pursuant to Section 6 hereof by the DPWH and to the audit jurisdiction of COA or its duly authorized representative in accordance with existing rules and regulations.

Sec. 8. Periodic Reports. The abovementioned heads of agency, with respect to the buildings or space rented by them or leased by them to private parties, shall be considered respectively as the administrators of said properties and shall prepare and submit such periodic reports on the status of the lease and occupancy thereof to, and as may be required by, the DPWH.

C. DECENTRALIZATION OF RECORDS DISPOSAL

Sec. 9. Guidelines for Records Disposal. Any provision of law, decree, executive order or other issuances to the contrary notwithstanding, the Records Management and Archives Office of the Department of Education, Culture and Sports shall prescribe

uniform standards or guidelines to be followed by government agencies in the disposal or destruction of their valueless or unnecessary records.

Sec. 10. Jurisdiction Over Records Disposal. The government agencies concerned, through their respective record units or their equivalent, shall have authority to dispose of their valueless records subject to the audit jurisdiction of the Commission on Audit or its duly authorized representative, in accordance with existing rules and regulations, and subject further to compliance with the uniform standards or guidelines on records disposal prescribed by the Records Management and Archives Office.

Sec. 11. Reporting Requirement. For every records disposal undertaken by an agency, a report thereon shall be prepared and submitted to the Records Management and Archives Office, describing briefly the records disposed of and the manner of their disposition.

D. MISCELLANEOUS PROVISIONS

Sec. 12. Repealing Clause. All laws, decrees, executive orders and other issuances or part thereof, which are inconsistent herewith, are hereby repealed or modified accordingly.

Sec. 13. Effectivity. This Executive Order shall take effect immediately.

APPROVED in the City of Manila, this 26th day of July, in the year of Our Lord, nineteen hundred and eighty- seven.