

Office of the President of the Philippines

Malacañang

MEMORANDUM ORDER NO. 172

APPROVING AMENDMENT TO NO. 4 OF ANNEX "D", CONTRACT IMPLEMENTATION GUIDELINES FOR THE PROCUREMENT OF GOODS, SUPPLIES AND MATERIALS, OF THE IRR-A OF REPUBLIC ACT (RA) NO. 9184, (GOVERNMENT PROCUREMENT REFORM ACT), PROVIDING FOR THE INCLUSION OF A PROVISION FOR THE APPLICATION OF ADVANCE PAYMENT FOR PROCUREMENT OF GOODS AS SECTION 4 OF ANNEX "D" OF THE IRR-A OF R.A. NO. 9184.

WHEREAS, Republic Act (RA) No. 9184 otherwise known as the Government Procurement Reform Act was signed into law on January 10, 2003;

WHEREAS, pursuant to Section 75 of R.A. No. 9184, the Government Procurement Policy Board (GPPB), jointly with the members of the Joint Congressional Oversight Committee formulated the Implementing Rules and Regulations Part A (IRR-A) of R.A. 9184 which was approved by the President of the Philippines on July 11, 2003;

WHEREAS, the joint participation of the Congressional Oversight Committee in the formulation Implementing rules and regulations has recently been declared unconstitutional by the Supreme Court in Macalintal vs. Comelec, G.R. No. 157013, July 2003;

WHEREAS, there is a need to amend No. 4 Annex "D", Contract Implementation Guidelines for the Procurement of Goods, Supplies and Materials, of IRR-A of R.A. No. 9184, to provide for the inclusion of a provision for the application of advance payment for Procurement of Goods as Section 4 of Annex D. of the IRR-A of R.A. No. 9184;

WHEREAS, pursuant to Section 75, Article XXV of R.A. No. 9184, the GPPB-Technical Support Office formulated and proposed the foregoing amendment which was favorably endorsed by GPPB per its Resolution No. 04-2005 dated April 1, 2005.

NOW, THEREFORE I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, hereby approve the amendment of No 4 Annex "D" of the Implementing Rules and Regulations – Part A (IRR-A) of R.A.. No 9184 as follows:

SECTION 1. No. 4 of Annex "D" of the Implementing Rules and Regulations – Part A (IRR-A) of Republic Act No. 9184 is hereby amended to read as follows:

"4. ADVANCE PAYMENT

4.1 In accordance with Presidential Decree 1445, advance payment shall be made only after prior approval of the President, and shall not exceed fifteen percent (15%) of the contract amount, unless otherwise directed by the President; Provided, however, that for cases mentioned under 4.3 and 4.4 of these guidelines, no prior approval by the President shall be necessary.

4.2 All progress payment shall first be charged against the advance payment until the latter has been fully exhausted, unless otherwise approved by the President.

4.3 A single advance payment not to exceed fifty percent (50%) of the contract amount shall be allowed for contracts entered into by a procuring entity for the following services where requirement of down payment is a standard industry practice

1. Hotel and restaurant services;
2. Use of conference/seminar and exhibit areas; and
3. Lease of office space.

4.4 Advance payment not to exceed fifteen percent (15%) of the contract amount, unless otherwise directed by the President, shall also be allowed for procurement of goods required to address contingencies arising from natural or man-made calamities in areas where a "State of Calamity" has been declared by appropriate authorities."

SEC. 2. The current provision No. 4 shall be renumbered No. 5. All other provisions of Annex "D" of the IRR-A of R.A. 9184 shall remain unchanged.

SEC. 3. This amendment shall take effect immediately.

DONE in the City of Manila, this 19th day of May, in the year of Our Lord Two Thousand and Five.

(Sgd.) **GLORIA MACAPAGAL-ARROYO**

By the President:

(Sgd.) **EDUARDO R. ERMITA**
Executive Secretary