

MALACAÑANG
Manila

PRESIDENTIAL DECREE No. 1764

REQUIRING COMPLIANCE WITH COMPETITIVE BIDDING REGULATIONS AND ADOPTION OF UNIFORM GENERAL TERMS AND CONDITIONS IN CASE OF CERTAIN GOVERNMENT AND PRIVATE CONTRACTS

WHEREAS, for the implementation of the Government's priority industrial programs, competitive bidding is essential to ensure that only the most suitable and cost efficient industrial plants and technology are acquired and that the foreign exchange reserves of the Philippines are prudently utilized in the acquisition of such plants and technology and not diverted to unauthorized or illegal uses;

WHEREAS, uniform general terms and conditions of contracts, carefully designed for the optimum protection of the interests of the owner of the project, should be very useful means for the coordinated and efficient implementation of the Government's priority industrial programs;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree as part of the law of the land the following:

Section 1. All contracts, with the total value exceeding \$5 million, proposed to be entered into by the Government for the design, procurement or manufacture, installation, testing and commissioning of industrial plants, or any part thereof, shall be awarded only after compliance with competitive bidding regulations to be issued and promulgated by the Ministry of Industry, after approval of the President of the Philippines.

Section 2. All contracts referred to in Section 1 hereof shall, in addition, incorporate as integral parts thereof uniform general terms and conditions designed to secure optimum protection of the interests of the Government as owner of the industrial project concerned, and the realization of such project in the most efficient and economical way possible. Such general terms and conditions may, however, be modified on a contract-to-contract basis by the addition of such particular terms and conditions as may be reasonably necessary in the light of the specific features of an individual industrial project and the financial and commercial circumstances surrounding such project. The Ministry of Industry shall issue and promulgate, with the approval of the President of the Philippines, one or more sets of uniform general terms and conditions to be incorporated in differing prevailing types of contracts including, without limitation, lump sum turnkey contracts with or without an escalable local currency component, and cost-plu contracts.

Section 3. For purposes of this Decree, "Government" shall mean the Government of the Republic of the Philippines, but shall include ministries, bureaus, offices, commissions, agencies or instrumentalities thereof, and government-owned or controlled corporations as well as

subsidiaries or affiliates thereof, whether exercising proprietary or governmental functions or otherwise, and whether acting on their own or in joint venture with the private sector.

Section 4. The provisions of this Decree shall apply not only to contracts to be entered into by the Government, but also to contracts to be entered into by private persons or entities where financing or financial guarantees for the projects concerned are obtained from the Government.

Section 5. All contracts which are subject to the provisions of this Decree, but which are entered into without compliance with competitive bidding regulations in effect, or without incorporating the applicable general terms and conditions, shall be disapproved by responsible officials, and if such contracts are nonetheless approved by such government officials, shall be unenforceable as against the Government, or the local private contracting party, as the case may be, without prejudice to the application of penalties provided by law against the responsible government officials.

Section 6. All provisions of existing laws, decrees, orders, letters of instructions, administrative issuances, rules or regulations inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

Section 7. This Decree shall take effect ten (10) days after the publication in the Official Gazette or in a newspaper of general circulation in Metropolitan Manila, whichever comes earlier, of (a) the competitive bidding regulations referred to in Section 1 hereof; and (b) with respect to the particular type or types of contracts concerned, the uniform general terms and conditions of contract referred to in Section 2 hereof.

Done in the City of Manila this 11th day of January in the year of Our Lord, nineteen hundred and eighty-one.