



RESOLUTION NO. 04-2014

APPROVING THE AMENDMENTS TO SECTIONS 23.2 AND 24.2 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184 AND THE PHILIPPINE BIDDING DOCUMENTS FOR GOODS, INFRASTRUCTURE PROJECTS AND CONSULTING SERVICES

WHEREAS, Republic Act (RA) No. 9184 entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and For Other Purposes,” took effect on 26 January 2003, while its revised Implementing Rules and Regulations (IRR) took effect on 2 September 2009;

WHEREAS, Section 63.1(b) of RA 9184 and its IRR authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, Sections 23.2 and 24.2 of the IRR of RA 9184; Clause 11 of the Instructions to Bidders (ITB) of the Philippine Bidding Documents (PBDs) for Goods and Infrastructure Projects; and Clause 2.3, Section II. Eligibility Documents, and Clause 9 of the ITB of the PBDs for Consulting Services require that the eligibility requirements or statements, the bids, and all other documents submitted to the Bids and Awards Committee (BAC) must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class “A” and “B” documents if they are in other foreign language;

WHEREAS, on 2 December 2013, the GPPB-Technical Support Office (TSO) received a letter from the DND requesting for the following:

1. An opinion or clearance for the DND to relax the application of Sections 23.2 and 24.2 of the IRR of RA 9184 to allow the submission of the appropriate translation of the documents with certification of the appropriate office to include those coming from the country of origin or the nearest available embassy or consular office;

2. Appropriate amendments to Sections 23.2 and 24.2 of the IRR of RA 9184 to read: “A translation of the documents in English certified by the appropriate embassy, consulate or its equivalent, or any competent entity in the Philippines or the nearest available office must accompany the eligibility requirements under Class “A” and “B” Documents if they are in other foreign language.”

WHEREAS, DND asserts that Sections 23.2 and 24.2 of the IRR of RA 9184 have affected the participation of foreign suppliers in the procurement of defense materiel for the Armed Forces of the Philippines (AFP) since there are some countries that do not have embassies or consular offices in the Philippines; or foreign embassies or consular offices in the Philippines do not issue certificates of translation such as the Republic of Serbia and Israel.

WHEREAS, during the 1st Joint Meeting of the Inter-Agency Technical Working Group (IATWG) and GPPB held on 4 February 2014, the GPPB-TSO presented the foregoing requests of the DND and made the following recommendations:

1. The GPPB cannot issue an opinion or clearance to relax the application of any provision in the IRR of RA 9184 for one particular Procuring Entity without amending the rules. Other Procuring Entities would be requesting similar clearance to relax the rules to suit their needs;

2. The GPPB to amend the last sentence of Section 23.2 and 24.2 of the IRR of RA 9184, and other relevant provisions in the Philippine Bidding Documents as follows:

If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.

WHEREAS, after due deliberation, the IATWG and GPPB adopted the foregoing recommendation of the GPPB-TSO subject to clarification from the Department of Foreign Affairs (DFA) regarding the authentication/certification for English-translated foreign documents;

WHEREAS, representatives from the GPPB-TSO and the DFA-Authentication Division (AD) met on 31 March 2014 to discuss the issue on the authentication/certification of English-translated foreign documents;

WHEREAS, the DFA-AD confirmed that under the Vienna Convention on Consular Relations, Philippine embassies and consular offices do not certify the correctness of English-translated foreign documents, but merely authenticate the signature of the notary public or officiating officer appearing on the document;

WHEREAS, on the basis of the foregoing confirmation by the DFA-AD, the GPPB upheld the approval of the amendment of Section 23.2 and 24.2 of the IRR of RA 9184 and the relevant provisions of the PBDs for Goods, Infrastructure Projects and Consulting Services during its 2nd Regular Meeting held on 8 April 2014;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to approve and adopt, as **WE** hereby confirm, adopt and approve the following:

1. **AMEND** Sections 23.2 and 24.2 of the revised IRR of RA 9184, as shown in **Annex “A”** hereof; and,
2. **AMEND** Clause 11 of the ITB of the PBDs for Goods and Infrastructure Projects, and Clause 2.3, Section II. Eligibility Documents and Clause 9 of the ITB of the PBDs for Consulting Services, as shown in **Annex “B”** hereof.

This Resolution shall take effect after fifteen (15) days following the publication in the Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified true copies of this Resolution.

APPROVED this 8th day of April 2014 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRADE AND
INDUSTRY**

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO



**REVISED IMPLEMENTING RULES AND REGULATIONS (IRR)
OF REPUBLIC ACT (RA) NO. 9184**

ORIGINAL	AMENDED
<p>Section 23.2</p> <p>Subject to Section 37.1 of this IRR, in the case of foreign bidders, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned. The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class "A" and "B" Documents if they are in other foreign language.</p>	<p>Section 23.2</p> <p>Subject to Section 37.1 of this IRR, in the case of foreign bidders, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the country of the foreign bidder concerned. The eligibility requirements or statements, the bids, and all other documents to be submitted to the BAC must be in English. <u>If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines.</u></p>
<p>Section 24.2</p> <p>In the case of foreign consultants, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the foreign consultant's country. The eligibility requirements or statements, the bids, and all other documents to be</p>	<p>Section 24.2</p> <p>In the case of foreign consultants, the foregoing eligibility requirements under Class "A" Documents may be substituted by the appropriate equivalent documents, if any, issued by the foreign consultant's country. The eligibility requirements or statements, the bids, and all other documents to be</p>

submitted to the BAC must be in English. A translation of the documents in English certified by the appropriate embassy or consulate in the Philippines must accompany the eligibility requirements under Class “A” and “B” Documents if they are in other foreign language.

submitted to the BAC must be in English. **If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder’s country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder’s affairs in the Philippines.**

PHILIPPINE BIDDING DOCUMENTS

Goods and Infrastructure Projects

<i>Instructions to Bidders</i>	
ORIGINAL	AMENDED
<p>Clause 11. Language of Bid</p> <p>The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written in English. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation in English certified by the appropriate embassy or consulate in the Philippines, in which case the English translation shall govern for purposes of interpretation of the bid.</p>	<p>Clause 11. Language of Bid</p> <p>The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring Entity, shall be written in English. <u>If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder's country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder's affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.</u></p>

Consulting Services

<i>Part I</i>	
<i>Section II. Eligibility Documents</i>	
ORIGINAL	AMENDED
<p>Clause 2.3. The eligibility requirements or statements and all other documents to be submitted to the BAC must be in English. A translation of the documents in English certified by the appropriate embassy or</p>	<p>Clause 2.3. The eligibility requirements or statements and all other documents to be submitted to the BAC must be in English. <u>If the eligibility requirements or statements, the bids, and all other documents submitted</u></p>

<p>consulate in the Philippines must accompany the eligibility requirements under Classes “A” and “B” Documents if they are in other foreign language.</p>	<p><u>to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder’s country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder’s affairs in the Philippines.</u></p>
<p><i>Part II</i> <i>Section II. Instructions to Bidders</i> <i>C. Preparation of Bids</i></p>	
<p>Clause 9. Language of Bids</p> <p>The Bid, as well as all correspondence and documents relating to the bid exchanged by the Consultant and the Procuring Entity, shall be written in English. Supporting documents and printed literature furnished by the Consultant may be in another language provided they are accompanied by an accurate translation in English certified by the appropriate embassy or consulate in the Philippines, in which case the English translation shall govern, for purposes of interpretation of the bid.</p>	<p>Clause 9. Language of Bids</p> <p>The Bid, as well as all correspondence and documents relating to the bid exchanged by the Consultant and the Procuring Entity, shall be written in English. <u>If the eligibility requirements or statements, the bids, and all other documents submitted to the BAC are in foreign language other than English, it must be accompanied by a translation of the documents in English. The documents shall be translated by the relevant foreign government agency, the foreign government agency authorized to translate documents, or a registered translator in the foreign bidder’s country; and shall be authenticated by the appropriate Philippine foreign service establishment/post or the equivalent office having jurisdiction over the foreign bidder’s affairs in the Philippines. The English translation shall govern, for purposes of interpretation of the bid.</u></p>