



RESOLUTION NO. 06-2006

TO REQUEST FOR THE AMENDMENT OF SECTION 4 OF EXECUTIVE ORDER NO. 423, REPEALING EXECUTIVE ORDER NO. 109-A PRESCRIBING THE RULES AND PROCEDURES ON THE REVIEW AND APPROVAL OF ALL GOVERNMENT CONTRACTS

WHEREAS, it is the policy of the Administration that all Government contracts of Government Agencies shall be awarded through open and competitive public bidding, save in exceptional cases provided by law and applicable rules and regulations;

WHEREAS, Executive Order No. 423 was issued to repeal Executive Order No. 109-A transferring to the Government Procurement Policy Board (GPPB) the function of the Secretary of Justice of rendering opinion, upon request of procuring entities, on whether a Government contract involving an amount of at least five hundred million pesos (P500M) falls within the exceptions from public bidding;

WHEREAS, while the functions of the GPPB under its mandate is limited to rule-making and contingent legislative powers, it is considered to be in the best position to pass upon questions of propriety of resort to any of the alternative modes of procurement allowed under Republic Act No. 9184;

WHEREAS, the GPPB recognizes the mandate of the Department of Justice (DOJ) as the principal law agency and legal counsel of the government and as having the primary authority to render opinion for and in behalf of government instrumentalities or agencies on matters within its power and competence;

WHEREAS, under E.O 423, an approval from the Director-General of the National Economic and Development Authority (NEDA) to proceed with a specific alternative method of procurement shall be sought as pre-requisite to proceeding with any procurement through any of the alternative methods;

WHEREAS, the NEDA is a statutory and regular member of the GPPB and the Director-General of the same seats as Alternate Chairman thereto; thus, the present procedures for the approval of resort to alternative methods anent the procurement of contracts within the coverage of the E.O. creates a situation where a resolution arrived at by consensus of a collegial body is subsequently reviewed by a member thereof;

WHEREAS, during the 1st GPPB meeting held on January 20, 2006, the representatives of both the DOJ and the NEDA signified their positions that the authority to approve contemplated procurement undertakings within the scope of E.O 423 is best lodged with the GPPB in recognition of its expertise on the field of procurement.



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WHEREAS, during the said meeting, the members of the Board, in considering the position of the DOJ and the NEDA, discussed and considered to recommend for the amendment of Executive Order No. 423, particularly Section 4 thereof.

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested in US by law, hereby **RESOLVE**:

To recommend to the President of the Republic of the Philippines, Her Excellency President Gloria Macapagal-Arroyo the amendment of Executive Order No. 423, particularly Section 4 thereof, to read as follows:

Section 4. Approval of Government Contracts Entered Into Through Alternative Methods of Procurement

a. For Government Contracts Involving An Amount Of At Least Five Hundred Million Pesos (P500 Million). – Where the Head of the Procuring Entity has made a determination that a Government contract, including Government contracts required by law to be acted upon and/or approved by the President, involving an amount of at least Five Hundred Million Pesos (P500 Million) falls under any of the exceptions from public bidding described in Section 3 hereof, the Head of the Procuring Entity shall, before proceeding with the alternative methods of procurement provided by law and applicable rules and regulations, ***obtain the approval of the Government Procurement Policy Board (GPPB) that said Government proposed procurement undertaking falls within the exceptions from public bidding and that the proposed specific alternative mode of procurement is appropriate.***

Except for Government contracts required by law to be acted upon and/or approved by the President, the Heads of the Procuring Entities, after obtaining the foregoing requirements, shall have full authority to give finally



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approval and/or to enter into said Government contracts of their respective agencies, entered into through alternative methods of procurement allowed by law. Provided, that the Head of the Procuring Entity certifies under oath that the contract has been entered into in faithful compliance with all applicable laws and regulations.

This resolution shall take effect immediately.

APPROVED this 20th of January, 2006 at Pasig City, Philippines.

(Sgd.)

ROMULO L. NERI

Secretary

Department of Budget and Management

(Sgd.)

AUGUSTO B. SANTOS

Secretary

National Economic and Development
Authority

(Sgd.)

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

DEPARTMENT OF EDUCATION

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

DEPARTMENT OF ENERGY



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(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

DEPARTMENT OF FINANCE

**DEPARTMENT OF TRADE AND
INDUSTRY**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

ELMER H. DORADO
OIC Board Secretary, GPPB
Officer-in-Charge, GPPB-TSO