



**ADOPTING AN OFFICIAL POSITION RELATIVE TO THE PROPOSED
AMENDMENT OF REPUBLIC ACT (RA) NO. 9184 THROUGH
SENATE BILL NO. 1653, RECOGNIZING SWISS CHALLENGE OR PRICE
MATCHING SCHEME IN GOVERNMENT PROJECTS
NOT COVERED BY RA 6957, AS AMENDED BY RA 7718**

WHEREAS, Section 7 of RA 9184 requires all procurement to be within the approved budget of the Procuring Entity (PE) and should be meticulously and judiciously planned by the PE. Consistent with government fiscal discipline measures, only those considered crucial to the efficient discharge of government functions shall be included in the Annual Procurement Plan (APP);

WHEREAS, the Government Procurement Policy Board - Technical Support Office (GPPB-TSO) received a request for the issuance of a position paper on Senate Bill (SB) No. 1653 entitled "*An Act Recognizing Swiss Challenge or Price Matching Scheme to Encourage Private Sector Participation in Various Government Projects Not Covered by the BOT Law as Amended*", introduced during the 16TH Congress and sponsored by the Honorable Senator Maria Lourdes Nancy S. Binay;

WHEREAS, SB No. 1653 seeks to recognize Swiss Challenge or Price Matching Scheme in government projects not covered by RA No. 6957, as amended by RA No. 7718, entitled "*An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for other Purposes*", otherwise known as the Build Operate Transfer (BOT) Law;

WHEREAS, SB No. 1653 defines Swiss Challenge as a form of public procurement which requires a government agency which has received an unsolicited bid for a public project or services to be provided to government, to publish the bid and invite third parties to submit proposals on the subject of the unsolicited bid. The entity, which has submitted the unsolicited bid can match or better the best bid which comes out of the Swiss Challenge process;

WHEREAS, SB 1653 seeks to allow unsolicited proposals and the Swiss Challenge system for acquisition of goods and services;

WHEREAS, during the 1st Joint Meeting of the Inter-Agency Technical Working Group (IATWG) and GPPB held on 4 February 2014, the GPPB-TSO made the following comments and/observations on SB No. 1653:

- a) RA 9184 applies to solicited/planned proposals, and does not recognize unsolicited proposals and Swiss Challenge;
- b) Swiss Challenge would not be practical for public procurement under RA 9184 since procurement mandates the PE to identify projects in its Project Procurement Management Plan (PPMP) and APP;

- c) The proposed Swiss Challenge for acquisition of goods and services will be appropriately covered or governed by the BOT Law, thus an amendment of the BOT Law instead;

WHEREAS, during the 2nd Regular GPPB Meeting on 8 April 2014, the GPPB-TSO presented SB No. 1653 and made the following recommendations on the basis of the comments and/or observations made during the Joint IATWG and GPPB Meeting dated 4 February 2014, to wit:

- a) Non-applicability of Swiss Challenge on Public Procurement under RA 9184;
- b) Revisit RA 6957, as amended by RA 7718, and consider the BOT Law's applicability, alongside the concept of a Swiss Challenge mechanism, over acquisition of goods and services;

WHEREAS, the GPPB discussed the salient features of SB No. 1653 and agreed to adopt the foregoing recommendations and comments of the GPPB-TSO;

NOW, THEREFORE, for and in view of all the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the issuance of a Position Paper *vis-à-vis* SB No. 1653, adopting in toto the recommendations of the GPPB-TSO.

This Resolution shall take effect immediately.

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

DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT

DEPARTMENT OF NATIONAL
DEFENSE

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(Sgd.)

**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