



RESOLUTION NO. 07-2006

TO ENDORSE FOR THE APPROVAL OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, HER EXCELLENCY PRESIDENT GLORIA MACAPAGAL-ARROYO AMENDMENT TO SECTION 23.11.1 OF THE IMPLEMENTING RULES AND REGULATIONS PART A (IRR-A) OF REPUBLIC ACT NO. 9184 (RA 9184), TO PROVIDE FOR EXCEPTIONS TO THE ELIGIBILITY REQUIREMENT ON “LARGEST SINGLE CONTRACT.”

WHEREAS, Republic Act No. 9184 (“R.A. 9184”), entitled “An Act Providing for Modernization, Standardization and Regulation of the Procurement Activities of the Government and for other Purposes,” was signed into law on January 10, 2003, and took effect on January 26, 2003. On the other hand, its Implementing Rules and Regulations Part A (“IRR-A”) was approved on September 18, 2003 and took effect on October 8, 2003;

WHEREAS, Section 23.11.1 of the IRR-A of R.A. 9184 provides as eligibility criterion for the procurement of goods that a prospective bidder must have completed, within the period specified in the Invitation to Apply for Eligibility and to Bid, at least a contract similar to that which is to be bid and having a value of at least fifty percent (50%) of the approved budget for the contract, adjusted to current prices using the wholesale consumer price index;

WHEREAS, the obvious intent of the aforesaid requirement is to spare the government from the venture of novice suppliers who contract with the government and whose inexperienced embarkation or apprenticeship in public procurement might put government transactions and operations at risk and under conditions of uncertainty;

WHEREAS, the present requirement is subject of concern of procuring entities and suppliers raising issues as to its practicability and wisdom in certain situations where its application proves to be rather prejudicial to the principles of open competition and efficiency and effectiveness in procurement processes as it results to failures of bidding and opens opportunities for monopolies;

WHEREAS, the GPPB takes cognizance of the need to strike a balance between sustaining the intent of the law to protect the government from inexperienced suppliers and assuring effective and efficient procurement procedures to effect the implementation of determined procurement principles and policies;

WHEREAS, during the 1st GPPB meeting held on January 20, 2006, the members of the Board discussed and considered to amend Section 23.11.1 of the IRR-A of R.A. 9184 to better enforce the principles underlying the enactment of the law, and endorse for



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approval to the President of the Republic of the Philippines, Her Excellency President Gloria Macapagal-Arroyo, the amendment thereto.

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 endorse for approval to the President of the Republic of the Philippines, Her Excellency President Gloria Macapagal-Arroyo, amendment to Section 23.11.1 of the IRR-A of R.A. 9184, to read as follows:

Section 23.11. Eligibility Criteria

23.11.1. For the procurement of goods

XXX

2. The prospective bidder must have an experience of having completed within the period specified in the IAEB concerned a single contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the wholesale consumer price index, must be at least fifty percent (50%) of the approved budget for the contract to be bid.

However, (a) when failure of bidding has resulted because no single bidder has complied with the said requirement; or (b) imposing the same will likely result to a monopoly that will defeat the purpose of public bidding, the procuring entity, in lieu of the above, may instead require the following:

- a. The prospective bidder should have completed at least three similar contracts and the aggregate contract amounts should be equivalent to at least fifty percent (50%) of the ABC of the project to be bid;
- b. the largest of these similar contracts must be equivalent to at least twenty-five percent (25%) of the ABC of the project to be bid; and



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- c. the business/company of the prospective bidder willing to participate in the bidding has been in existence for at least three (3) consecutive years prior to the advertisement and/or posting of the IAEB, under any of the following circumstances:

For this purpose, the similar contracts mentioned under 2(a) and 2(b) above must have been completed within the period specified in the Invitation to Apply for Eligibility and to Bid. The procuring entity can clarify in the bidding documents the similar projects that can be considered in the bidding.

Provided, further, that when the item/good to be procured is novel or its procurement is otherwise unprecedented or is unusual, and compliance to the requirement on a largest single similar contract is impracticable, the prospective bidder will only have to comply with requirement (c) above.

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**

DEPARTMENT OF EDUCATION

DEPARTMENT OF HEALTH



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(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

DEPARTMENT OF ENERGY

(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