



RESOLUTION NO. 23-2014

AMENDING SECTION 34.2 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT (RA) NO. 9184, CLAUSES 29.2, 28.2, AND 27.2 OF THE INSTRUCTIONS TO BIDDERS OF THE PHILIPPINE BIDDING DOCUMENTS (PBDs) FOR GOODS, INFRASTRUCTURE PROJECTS AND CONSULTING SERVICES, RESPECTIVELY

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement;

WHEREAS, Section 8.5.1 mandates that to ensure the widest dissemination of the Invitation to Bid/Request for Expression of Interest, manufacturers, suppliers, distributors, contractors and/or consultants shall register with the PhilGEPS;

WHEREAS, Section 34.2 of the revised IRR of RA 9184, Clauses 29.2, 28.2 and 27.2 of the ITB of the PBDs for Goods, Infrastructure Projects and Consulting Services, respectively, require the submission of Certificate of PhilGEPS Registration during post-qualification of a bidder with the Lowest Calculated Bid or Highest Rated Bid;

WHEREAS, in its letter dated 10 June 2014, The Department of Foreign Affairs (DFA) requested the GPPB for temporary suspension from the use and registration with PhilGEPS of manufacturers, suppliers, distributors, contractors and/or consultants for Foreign Service Posts (FSPs) procurement until all features of the new PhilGEPS system and other related provisions of the IRR are made applicable for procurement in foreign jurisdictions;

WHEREAS, foreign suppliers are reluctant to participate with FSPs procurement activities because of the registration requirement with PhilGEPS. Suppliers are unwilling to subscribe to the membership process, pay user fees and to submit eligibility documents. Private contracting parties in foreign countries who are eligible and qualified to participate in public bidding and other procurement projects are discouraged to supply to FSPs because of the registration requirement.;

WHEREAS, the DFA raised the following common issues of FSPs in PhilGEPS registration by suppliers:

1. Business Tax Identification Number (TIN) – Business TIN of different countries are not the same. The Israeli business TIN has 9 digits only. The PhilGEPS website requires a 12-digit business TIN, and tags the 9-digit TIN as invalid.
2. SEC Certificate Number – Many suppliers abroad do not have SEC Certificates or its equivalent.

3. SEC Registration Date – This is not applicable to foreign suppliers due to non-availability of SEC Certificates.
4. Organization Address and Area of Delivery of Goods and Services to be procured – the fields only allow for the Philippine locations.
5. Telephone number – The field has a default country code of +63.
6. Some suppliers are unwilling to provide information on their market capitalization;

WHEREAS, in order to resolve the concern of FSPs in cases where the prospective bidders are unwilling to register with the PhilGEPS, the procuring entity may assist the suppliers, manufacturers, distributors, contractors and/or consultants by undertaking the registration in behalf of the bidders to meet the requirements of RA 9184 and its IRR.

WHEREAS, the present registration of the manufacturers, suppliers, distributors, contractors and/or consultants with the PhilGEPS has corresponding Registration Number that can be required from the bidder in lieu of the Certificate of PhilGEPS Registration under Section 34.2 of the IRR of RA 9184.

WHEREAS, after careful and judicious deliberations on the matter, the GPPB found DFA’s reasons and justifications sufficient to amend the requirements under Section 34.2 of the IRR of RA 9184, particularly the requirement for PhilGEPS Certificate of Registration for manufacturers, suppliers, distributors, contractors and/or consultants for FSPs and other government agencies operating in foreign countries;

WHEREAS, during the 6th GPPB and 5th Inter-Agency Technical Working Group (IATWG) Joint Meeting held on 31 October 2014, the requirement for Certificate of PhilGEPS Registration for FSPs manufacturers, suppliers, distributors, contractors and/or consultants under Section 34.2 of the IRR of RA 9184, was discussed;

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 confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the following:

1. **AMEND** Section 34.2 of the IRR of RA 9184, relative to Certificate of PhilGEPS Registration, as shown in **Annex “A”** hereof; and,
2. **AMEND** Clauses 29.2, 28.2, and 27.2 of the ITB of the PBDs for Goods, Infrastructure and Consulting Services, respectively, as shown in **Annex “B”**.

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 31st day of October 2014 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(Sgd.)

**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

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

ORIGINAL	AMENDED
<p>Section 34.2</p> <p>Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the BAC:</p> <p>a) Latest income and business tax returns; b) Certificate of PhilGEPS Registration; and, c) Other appropriate licenses and permits required by law and stated in the Bidding Documents. ..</p>	<p>Section 34.2</p> <p>Within three (3) calendar days from receipt by the bidder of the notice from the BAC that the bidder has the Lowest Calculated Bid or Highest Rated Bid, the bidder shall submit the following documentary requirements to the BAC:</p> <p>a) Latest income and business tax returns; b) <u>Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that participating bidders should register with the PhilGEPS prior to bid opening; and</u> c) Other appropriate licenses and permits required by law and stated in the Bidding Documents...</p>

**PHILIPPINE BIDDING DOCUMENTS (PBDS)
 INSTRUCTIONS TO BIDDERS (ITB)**

<i>Clause 29.2, ITB, PBDs for Goods</i> <i>Clause 28.2, ITB, PBDs for Infrastructure Projects</i>	
ORIGINAL	AMENDED
<p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <ul style="list-style-type: none"> (a) Latest income and business tax returns in the form specified in the BDS; (b) Certificate of PhilGEPS Registration; and (c) Other appropriate licenses and permits required by law and stated in the BDS... 	<p>Within a non-extendible period of three (3) calendar days from receipt by the bidder of the notice from the BAC that it submitted the LCB, the Bidder shall submit the following documentary requirements:</p> <ul style="list-style-type: none"> (a) Latest income and business tax returns in the form specified in the BDS; (b) <u>Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that participating bidders should register with the PhilGEPS prior to bid opening; and</u> (c) Other appropriate licenses and permits required by law and stated in the BDS...
<i>Clause 27.2, ITB, PBDs for Consulting Services</i>	
ORIGINAL	AMENDED
<p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <ul style="list-style-type: none"> (a) Latest income and business tax returns in the form specified in the BDS; (b) Certificate of PhilGEPS Registration; and (c) Other appropriate licenses and permits required by law and stated in the BDS... 	<p>Within a non-extendible period of three (3) calendar days from receipt by the Consultant of the notice from the BAC that it is the HRB, the Consultant shall submit the following documentary requirements:</p> <ul style="list-style-type: none"> (a) Latest income and business tax returns in the form specified in the BDS; (b) <u>Certificate of PhilGEPS Registration or PhilGEPS Registration Number if the procuring entity is a Philippine foreign office or post, provided that participating bidders should register with the PhilGEPS prior to bid opening; and</u> (c) Other appropriate licenses and permits required by law and stated in the BDS...