



APPROVING THE ISSUANCE OF A POSITION PAPER ON THE PROPOSED GO LOKAL PROCUREMENT AND VARIOUS BILLS ON THE PROMOTION OF DOMESTIC MATERIALS AND LOCALLY PRODUCED GOODS

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and the 2016 revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 28 October 2016, respectively;

WHEREAS, Section 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

WHEREAS, Section 12, Article XII of the 1987 Constitution provides that the State shall promote the preferential use of Filipino labor, domestic materials, and locally produced goods, and adopt measures that help make them competitive;

WHEREAS, Section 23.4.1.2 of the 2016 revised IRR of RA No. 9184 provides that foreign bidders may be eligible to participate in the bidding for the supply of goods when provided for under any Treaty or International or Executive Agreement as provided in Section 4 of RA No. 9184 and its IRR; when the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines; when the goods sought to be procured are not available from local suppliers; or when there is a need to prevent situations that defeat competition or restrain trade;

WHEREAS, RA No. 5183¹ provides that no contract either through a public bidding or negotiated contract for the supply to, or procurement by, any government-owned or controlled corporation, company, agency, or municipal corporation of materials, equipment, goods, and commodities shall be awarded to any contractor or bidder who is not a citizen of the Philippines or which is not a corporation or association at least sixty percent of the capital of which is owned by Filipino citizens, except, as to a citizen, corporation or association of a country the laws or regulations of which grant similar rights or privileges to citizens of the Philippines;

WHEREAS, Commonwealth Act No. 138² and Section 43 of RA No. 9184 provide that in the interest of availability, efficiency, and timely delivery of goods, the Procuring Entity (PE) may give preference to the purchase of domestically-produced and manufactured goods, supplies, and materials that meet the specified or desired quality;

WHEREAS, during the 18th Congress of the Philippines, the GPPB, and its Technical Support Office (GPPB-TSO) were asked to give comments and submit position papers on various bills promoting domestic materials and locally produced goods in government procurement, to wit;

House Bill (HB) No. 7457	The bill proposes to direct agencies to allocate at least ten percent (10%) of their annual budgets specifically for projects to be procured from social enterprises to promote people’s participation and involvement in the fight against poverty by establishing sustainable
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¹ “An Act Regulating the Award of Contracts for the Supply to, or Procurement by, Any Government-Owned or Controlled Corporation, Company, Agency or Municipal Corporation of Materials, Equipment, Goods, and Commodities, and Providing Penalty for the Violation Thereof” dated 8 September 1967.

² “An Act to Give Native Products and Domestic Entities the Preference in the Purchase of Articles for the Government” dated 7 November 1937.

	and innovative programs that reduce income inequality and increase self-reliance among the poor.
HB No. 7335 and the Proposed Poverty Reduction through Social Entrepreneurship (PRESENT) Bill by the PRESENT Coalition	The bill seeks to give social enterprises priority in Direct Contracting, Shopping, and Negotiated Procurement and a share of at least twenty percent (20%) of the total procurement value of goods and services supplied to the government and mandate agencies to include at least 10% of its annual budget specifically for goods procured and services contracted from social enterprises.
Unnumbered Substitute Bill to HB No. 6995	The bill mandates the proposed Health Procurement and Stockpiling Bureau to encourage the development of domestic sources to ensure a steady, available, and adequate supply of drugs and medicines, vaccines, devices, and materials that are essential in responding to public health emergencies in such a manner as may be allowed by law.
HB No. 9373	The bill seeks to institutionalize the Filipino first policy in the government procurement system, and to establish the parameters, wherein all government institutions must procure their supplies and products from Filipino suppliers, as long as these products and services are of an acceptable standard in accordance with existing laws and treaties or international agreements. It also provides that all government-sponsored or government-issued supplies to beneficiaries should have at least seventy percent (70%) local added value and requires that the materials are both locally produced and locally sourced.
HB No. 7165 and Senate Bill (SB) No. 1759	The bills direct PEs to award the bid to the lowest domestic manufacturer-bidder provided that its bid is not more than twenty percent (20%) in excess of the lowest foreign bid and said bidder has secured from the Department of Trade and Industry (DTI) a Domestic Bidders' Certificate of Preference (DoBid Certificate).
SB No. 1766	The bill requires PEs to award the bid to the lowest domestic manufacturer-bidder provided that its bid is not more than fifteen percent (15%) in excess of the lowest foreign bid and said bidder has secured from the DTI a DoBid Certificate. It also imposes a penalty of a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from the government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws for those who will fail to implement the Domestic Preference provision of the proposed Act;

WHEREAS, during the Senate hearings on Senate Resolution No. 405 and the privilege speech of Senator Francis Pangilinan on Micro, Small and Medium Enterprises (MSMEs), representatives of the GPPB-TSO had clarified that the government has a long-standing policy on domestic preference which allows PEs to grant preference to bids, not bidders, of goods substantially from articles, materials, or supplies grown, produced or manufactured in the Philippines, as evidenced by a DoBid Certificate issued by the DTI. The GPPB-TSO also posited that the rules on domestic preference under Section 43 of RA No. 9184 and its IRR requiring the domestic bid to match the lowest foreign bid were dispensed with when the domestic preference rule was adopted for the conduct of procurement for goods covered under RA No. 11494 or the *Bayanihan* to Recover as One Act in order to reduce the adverse impact of Coronavirus Disease 2019 (COVID-19) in the Philippine economy, particularly in the business activities and livelihood of Filipinos, most especially the local manufacturers and the MSMEs, in various sectors;

WHEREAS, given the various versions of the bill espousing domestic preference in government procurement as well as the seeming inclination of our legislators to require the government to procure locally (“Go Lokal”) there is a need for the GPPB to provide a position paper on this in order to clarify and properly guide our legislators on these initiatives;

WHEREAS, during the Joint Meeting of the GPPB and its Inter-Agency Technical Working Group on 28 July 2021, the GPPB-TSO recommended the issuance of a position paper on the *Go Lokal* procurement, thus:

1. It cannot be gainsaid that government procurement is an effective tool for creating social values as in the case of domestic or local preference policy towards local economic recovery. With more reason therefore that in adopting such a policy, the government takes a more holistic perspective to ensure its success. This means that domestic or local preference is not simply or exclusively within the domain of procurement rules. It requires more circumspect consideration of the many elements that go into an effective domestic or local preference policy.
2. For one, any policy adopting domestic or local preference should be weighed against the overarching principle of competition in government procurement as this directly affects economic efficiency, consumer welfare, and an overall favorable business climate. Thus, domestic or local preference policy should be strategic, focusing on local industries that can sufficiently provide governmental requirements.

In this regard, the DTI³ can readily use the DoBid Certificates being issued by its Competitiveness Bureau for unmanufactured articles, materials or supplies of the growth or production of the Philippines, and of manufactured articles, materials and supplies produced, made and manufactured in the Philippines substantially from articles, materials or supplies of the growth, production or manufacture of the Philippines. The following list of goods bearing the DoBid Certificates issued by the DTI as of 11 June 2021 is ~~an~~ a good starting point in addressing the imperatives of balancing the effects of adopting a domestic or local preference against economic efficiency in the use of public funds for government projects.

Goods	2019	2020	2021
Ammunition	14	18	0
Military Uniform/Vest	0	7	2
Personal Protective Equipment	0	6	4
Playing Cards	1	0	0
Pyroclave Machine	1	2	0
Coffee	0	1	0
Puncher	0	1	0
Face Mask: All types	0	19	11
Pharmaceuticals	0	7	1
Garments/shoe cover lab gown etc.	0	5	4
Shoes	0	2	0
Firefighting suit	0	0	2
Fiberglass Reinforced Plastic Hull of Speedboats	0	0	1

³ The DTI Competitiveness Bureau was created to enhance development and pursuit of competitiveness of Philippine trade and local industries through focused efforts on the implementation of programs/projects/activities intended to improve the quality of industry outputs and services, as well as their productivity, through improvement in business systems and process and the flow of inputs and outputs pursuant to Executive Order No. 366.

Instant Champorado	0	0	0
Medical device	0	0	4
Plastic Cards: EMV for Visa and Mastercard	0	0	2
Total	16	68	31

3. At present, PEs are allowed to grant preference to bids the articles, materials, or supplies of which are grown, produced, or manufactured in the Philippines, as evidenced by a DoBid Certificate issued by the DTI. Pursuant to DTI Department Administrative Order No. 19-01,⁴ a DoBid Certificate shall be issued after the goods being applied for certification have gone through the assessment, verification, and recommendation process conducted by the Supply Chain and Logistics Management Division of the Competitiveness Bureau of the DTI. Any policy on domestic or local preference should be limited to those goods with domestic preference and should therefore not apply to those goods for which no certification has yet been issued by the DTI. This is more geared towards an effective and efficient procurement process as well as enhance competitiveness in government spending.
4. Second, there is a need to look into the necessary support mechanisms for an enabling environment for an effective domestic preference policy that will boost local economic recovery. Simply legislating this in our procurement system will not do much with the limited local or domestic goods currently enjoying domestic preference, as shown above.
5. On 15 September 2020, in preparation for the implementation of RA No. 11494 or the *Bayanihan 2*, the GPPB-TSO coordinated with representatives of the DTI- Competitiveness Bureau, the Philippine Textile Research Institute (PTRI), and the Food and Drugs Administration (FDA) to discuss the adoption of the domestic preference rule for the procurement of goods covered under the *Bayanihan 2* and the possible modifications thereto. Consequently, when the GPPB issued Resolution No. 19-2020⁵ approving the adoption of the domestic preference rule in the procurement of COVID-19 related goods covered under the *Bayanihan 2*, the requirement that the bidder with the lowest domestic bid has to match the lowest foreign bid has been dispensed with to help jumpstart the local economy. PEs are likewise directed to dispense with the Single Largest Completed Contract for bidders claiming domestic preference considering that the articles forming part of their bids would be new product offerings of the bidders who shifted their businesses in order to address the shortage of supplies during the pandemic.

More importantly, the GPPB-TSO conducted a webinar on 1 October 2020 to guide suppliers on the necessary procedures and requirements to obtain the DoBid Certificate. It is imperative that suppliers of local or domestic goods, particularly those that shifted to the manufacturing of COVID-19 related items are aware of the need for securing the DoBid Certificate. Moreover, in the case of personal protective equipment (PPE) and surgical masks, submission of documentary requirements such as FDA registration, and proofs that the products passed various PPE tests such as those done in the PTRI to ensure that PPEs or masks are safe and secure and can protect the wearer as intended, are required in the application for certification for domestic preference.

⁴ Entitled "Guidelines in the Issuance of a Certificate of Preference for Domestic Bidders Participating in Government Procurement Projects" dated 3 January 2019.

⁵ Dated 21 September 2020. Copy of the Resolution may be accessed through the link <https://www.gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No.%2019-2020.pdf>

It is worth noting that following the aforesaid webinar, the number of DoBid Certificates issued by the DTI has increased from 31 to 101⁶ covering various goods such as ammunitions, garments, food, pharmaceuticals, machines, and medical devices. Accordingly, the expected increase for the applications for DoBid Certificates necessitates the strengthening of the capacity of the DTI to conduct their assessment, verification, and evaluation of the applications to keep up with the influx of manufacturers, suppliers, or distributors that would apply for DoBid Certificates.

6. Third, the economic cost of delay in government procurement should be carefully factored in the decision to adopt a domestic or local preference policy. Even by limiting preferential treatment in favor of goods with domestic preference certificates, there is no assurance that a bidder with such certificate will ultimately join government bidding. As mentioned during the Senate Hearing⁷ on 7 July 2021, if the DTI's proposal to limit bidding opportunities among domestic or locally produced goods is to be adopted and the government will be mandated to procure only local or domestic goods (i.e., those with DoBid Certificates), then PEs will have to limit the participation of bidders with domestic preference at the outset, excluding all others. This means that PEs can only hope that bidders with domestic preference actually submit their bid come opening date. If no such bidder joins, PEs will have to repost and re-bid their Procurement Project.

It cannot be simplistically argued that PEs can just as easily ask other bidders to submit their bid if no bidder with a DoBid Certificate joins the bidding as you need to provide them sufficient time to prepare their bids. Moreover, Prospective Bidders will not just wait around and see nor invest time and money for a Procurement Project they are not eligible to join.

More to the point, according to the Philippine Country Procurement Assessment Report 2012 of the World Bank,⁸ a period of at least thirty (30) days for bid preparation is required for a bidder to study the bidding documents, prepare complete and responsive bids, and submit their bids. It is for this reason that under Annex "C" or the Recommended Earliest Possible Time and Maximum Period Allowed for the Procurement of Goods and Services provided under the IRR of RA No. 9184, the recommended earliest possible time for the opening of bids is at least twenty (20) calendar days from the advertisement/posting of the procurement opportunity to ensure that all Prospective Bidders are given equal opportunity and time to prepare their bid and prevent collusive or manipulative practices such as having a pre-determined winning bidder.

The resulting inevitable delay should no bidder with domestic preference join government bidding brings to fore the need to balance both interests. Thus, the existing domestic preference rule may be recalibrated such that preferential treatment is afforded to bidders of goods with a DoBid Certificate. Bidders with a DoBid Certificate who have been determined as eligible will be ranked first amongst each other, to be followed by those without such domestic certification but are likewise eligible. Bidders from each group (with domestic

⁶ List of DoBid Applications as of 11 June 2021 which may be accessed through this link: <https://www.dti.gov.ph/good-governance-program/domestic-bidders-program/>

⁷ Senate Committee on Trade, Commerce and Entrepreneurship Public Hearing on Senate Resolution No. 405 Re Effects of COVID-19 on Philippine Trade and Commerce and the Privilege Speech of Senator Francis Pangilinan on Micro, Small and Medium Enterprises which may be viewed through the link <https://www.youtube.com/watch?v=3kM6ZGFTH7s>

⁸ Copy of the report may be accessed through the link <https://www.adb.org/sites/default/files/institutional-document/34079/files/philippines-country-procurement-assessment-report-2012.pdf>

certificate and without) will be evaluated using the lowest calculated bid criteria. If no bidder with a domestic preference certificate participated, the PE may simply evaluate all bidders equally without preference, similarly using the lowest calculated bid criteria. This way, the incidence of delay is minimized while espousing preference for local or domestic goods.

7. Fourth, in the greater interest of competition, the herein proposed policy on preference for domestic or local goods should be for a definite or limited period. The specific duration should be based on the study of the DTI on the period needed to jumpstart local economic recovery. This should factor in the incubation period for a product vis-a-vis the needs of government as well as the momentum for local economic recovery. This is particularly true for local companies that shifted their manufacturing upon the encouragement of the DTI. It may be that a longer period is needed for the development of a particular local industry before the same can contribute to local economic recovery.

The DTI should likewise conduct a midterm review, evaluation, and assessment of the efficacy and effectiveness of the policy on preference for domestic or local goods in enabling local economic recovery, and based thereon, the Department may recalibrate, refocus, and reassess its other strategic priorities towards this goal.

8. In sum, any form of preferential treatment, whether it be in favor of social enterprises, local health manufacturers, or MSMEs, should be weighed against the imperatives of a sound and strong competition policy. Government procurement as a vehicle to promote preferential policies should not undermine the gains of competitive bidding. The power of government procurement should be yielded to secure complimentary benefits, it should not be a zero-sum game. Hence, we should evaluate preferential policies in a holistic fashion, not in silo with other aspects of governance. It is only in doing so that we achieve a whole of government approach and truly bounce back better.

WHEREAS, after careful review and deliberations, the Board resolved to approve the issuance of a Position Paper on the *Go Lokal* procurement containing the abovementioned statements;

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 and other executive issuances, hereby **RESOLVE**, to confirm, adopt, and approve, as **WE**, hereby confirm, adopt, and approve the issuance of a Position Paper, addressed to the appropriate committees of the Senate and the House of Representatives, on the promotion in government procurement of goods that are substantially grown, produced, or manufactured in the Philippines adopting *in toto* the above recommendations of the GPPB-TSO.

This Resolution shall take effect immediately.

APPROVED this 28th day of July 2021 at Pasig City, Philippines.

Sgd.

Sgd.

TINA ROSE MARIE L. CANDIA
GPPB, Chairperson
DEPARTMENT OF BUDGET AND

ROLANDO U. TOLEDO
Alternate to the Chairperson
DEPARTMENT OF BUDGET AND

MANAGEMENT

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

Sgd.

DEPARTMENT OF ENERGY

Sgd.

DEPARTMENT OF HEALTH

**DEPARTMENT OF NATIONAL
DEFENSE**

Sgd.

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

DEPARTMENT OF TRANSPORTATION

PHILIPPINE SPACE AGENCY

MANAGEMENT

Sgd.

DEPARTMENT OF EDUCATION

DEPARTMENT OF FINANCE

Sgd.

**DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT**

Sgd.

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

Sgd.

DEPARTMENT OF TRADE AND INDUSTRY

**DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

Sgd.

PRIVATE SECTOR REPRESENTATIVE