



RESOLUTION NO. 14-2015

REITERATING THE POSITION OF THE GOVERNMENT PROCUREMENT POLICY BOARD (GPPB) RELATIVE TO DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) DEPARTMENT ORDER (DO) NO. 18-A, SECTION 9(b)(ii)

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 63.1(d) of the IRR of RA 9184 mandates the GPPB to ensure proper implementation by procuring entities of RA 9184, its IRR and all other relevant rules and regulations pertaining to public procurement;

WHEREAS, Section 31 of RA 9184 and its IRR provides that there shall be no lower limit or floor on the amount of award;

WHEREAS, DOLE issued DO No. 18-A on 14 November 2011, wherein Section 9(b)(ii) thereof requires that the Service Agreement between the principal and the contractor shall include, among others, the standard administrative fee of not less than ten percent (10%) of the total contract cost;

WHEREAS, on 5 January 2012, DOLE requested the GPPB to issue an advisory enjoining all government agencies to ensure that the bidder with the Lowest Calculated and Responsive Bid (LCRB) complies with labor and social legislation, and to append DO 18-A to the advisory that will be disseminated to all government agencies.

WHEREAS, after due deliberation and careful review, the GPPB, through Resolution No. 14-2012, dated 30 June 2012, expressed its position that it cannot support the dissemination of DOLE DO No. 18-A in its entirety as its Section 9(b)(ii) is violative of Section 31 of RA 9184 and its IRR.

WHEREAS, GPPB issued Policy Matter (PM) Opinion Nos. 03-2012 and 02-2013, dated 30 November 2012 and 11 April 2014, respectively, explaining that 10% administrative fee provided under Section 9(b)(ii) of DO 18-A is a percentage rate that has for its effect the fixing of a floor price imposed on all service agreements for all contracting and subcontracting arrangements where no employer-employee relationship exist, which directly violates Section 31 of RA 9184 and its IRR;

WHEREAS, during the 3rd GPPB Meeting on 23 May 2014, DOLE Undersecretary Rebecca Chato proposed two (2) alternatives in order to resolve the issue relative to the 10% administrative fee required under Section 9(b)(ii) of DOLE DO No. 18-A and the provision of RA 9184: 1) issuance of a Joint DOLE-GPPB Circular; or 2) issuance of DOLE Labor Advisory, and in a meeting between DOLE and GPPB-TSO held on 28 July 2014, the DOLE representative signified its intention to issue a Labor Advisory on the matter;

WHEREAS, Atty. Romeo M. Montefalco, Jr., Director IV of DOLE Legal Service, submitted to GPPB a draft GPPB Circular on 20 March 2015 in an attempt to harmonize the provisions of Section 9(b)(ii) of DOLE DO No. 18-A with the position of the GPPB;

WHEREAS, on 30 April 2015, the GPPB, during its 3rd regular meeting, discussed the matter and after due deliberation, resolved to set a meeting between GPPB and DOLE in order to find a way to harmonize the positions of the two government offices, and meantime, reiterate to all PEs the position of the board that Section 9(b)(ii) of DOLE DO No. 18-A is violative of Section 31 of RA 9184 and its IRR.

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 to **INFORM** the Procuring Entities, through a Circular, to comply with GPPB Resolution No.14-2012 meantime that the matter is being discussed by the GPPB and DOLE.

This Resolution shall take effect immediately.

APPROVED this 30th day of April 2015 at Pasig City, Philippines.

(SGD)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

(SGD)

DEPARTMENT OF EDUCATION

(SGD)

DEPARTMENT OF FINANCE

(SGD)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(SGD)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(SGD)

**DEPARTMENT OF TRADE AND
INDUSTRY**

(SGD)

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

DEPARTMENT OF ENERGY

(SGD)

DEPARTMENT OF HEALTH

**DEPARTMENT OF NATIONAL
DEFENSE**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

(SGD)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(SGD)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(SGD)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO