



RESOLUTION NO. 16-2015

APPROVING THE ISSUANCE OF A POSITION PAPER ON THE PROPOSED PHILIPPINE NATIONAL POLICE (PNP) REORGANIZATION AND MODERNIZATION ACT

WHEREAS, on 23 January 2015, the Government Procurement Policy Board – Technical Support Office (GPPB-TSO) received a letter from the Committee on Public Order and Safety of the House of Representatives requesting comments on the draft substitute bill entitled “*An Act Providing for the Reorganization and Modernization of the Philippine National Police, and Appropriating Funds Therefor*” introduced during the 16th Congress by the Honorable House Representatives Leopoldo N. Bataoil, Rufus B. Rodriguez, Maximo Rodriguez Jr., Jeffrey P. Ferrer, Romeo M. Acop, Samuel D. Pagdilao, Jr., Diosdado Macapagal-Arroyo, Gloria Macapagal-Arroyo, Magnolia Rosa C. Antonino-Nadres, Raneo E. Abu and Gary C. Alejano;

WHEREAS, under the proposed legislation, infrastructure development and equipment acquisition are two (2) of the identified components of PNP Reorganization and Modernization¹, where the procurement system for which shall adopt the spirit, intent and criteria set by RA 9184 in the determination of awards of contractual arrangements²;

WHEREAS, the draft substitute bill allows the PNP to resort to Negotiated Procurement in the following instances:

1. contracts for the supply of military and police equipment including any parts, components or sub-assemblies thereof, and special tools and machines which are necessary for the production and maintenance of such equipment; and
2. contracts for works and services directly related to military and police equipment such as, but not limited to, repair of equipment for any and all elements of the life cycle of such equipment including firearms, armored personnel carriers, tanks, aircrafts and ships, and construction of test facilities;

WHEREAS, during the 3rd Inter Agency Technical Working Group (IATWG) Meeting on 19 June 2015, the GPPB-TSO made the following comments and observations on the draft substitute bill:

1. The provision giving preference to Filipino contractors and suppliers is consistent with the economic policies enunciated in the 1987 Philippine Constitution, particularly on the promotion of Filipino labor, domestic

¹ Draft Substitute Bill as of 3 March 2015, Chapter I, Section 4.

² *Ibid*, Chapter IV, Section 23(b).

materials, and locally produced goods³, and Republic Act No. (RA) 9184, in relation to RA 5183⁴ and Letter of Instruction No. 630⁵;

2. The procurement of requirements for the PNP's infrastructure and equipment development and modernization shall strictly comply with the provisions of RA 9184, its IRR and associated guidelines and issuances;
3. Negotiated procurement can only be resorted to in the presence of the highly exceptional circumstances under Section 53 of RA 9184 and its IRR; and
4. In goods and works involving national security and defense, posting requirements prescribed under the IRR of RA 9184, specifically the technical specifications and requirements of the project, may be dispensed with pursuant to the Generic Procurement Manual, and the prospective bidders may be subjected to confidentiality and non-disclosure agreements, to protect national security.
 - a. The phrase "national security" should be well-defined and confined to prevent abuse of its use. A guidepost shall be formulated to set the requirements for a procurement project that can be considered within the ambit of "national security". To this end, the framers may revisit the provisions of the Philippine National Security Policy 2011-2016 and seek further opinion/technical assistance from the National Security Council in defining national security within the context of the mandate of PNP. The definition provided by the National Intelligence Coordinating Agency (NICA) may also be considered, as well as the applicable international standards;

WHEREAS, in the aforesaid IAWTG Meeting, the members discussed the comments and observations of the GPPB-TSO to the draft substitute bill, and resolved to recommend for approval to the GPPB such comments and observations, subject to the following:

1. For the GPPB-TSO to include as part of the position paper the recommendation to define the word "substantial" found in Section 23(a) of the House Bill;
2. For the TWG on IRR Revision to revisit the provisions on domestic preference under Section 43 of the IRR of RA 9184; and

³ Article XII, Section 12 of the 1987 Philippine Constitution

⁴ 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.

⁵ In order to encourage and promote the development of domestic construction industry ... bidding award or negotiations of primarily civil works contracts shall be limited to Filipino individuals and to corporations, partnership, or associations seventy-five percent (75%) of the capital of which is owned by citizens of the Philippines.

3. For the GPPB-TSO to coordinate with the National Intelligence Coordinating Agency (NICA) to define the scope of “national security” within the context of PNP Reorganization and Modernization;

WHEREAS, in compliance with the recommendation of the IATWG, the GPPB-TSO sent a letter, dated 1 July 2015, to NICA requesting for a meeting in order to set the requirements for a procurement project that concerns “national security” and, in response, the GPPB-TSO was informed by NICA that they will establish a committee specifically to discuss the matter;

WHEREAS, on 15 July 2015, the Committee on Public Order and Safety of the House of Representatives forwarded to the GPPB the updated version of the draft substitute bill as of 6 July 2015, which includes the following changes:

1. Use of Direct Contracting instead of Negotiated Procurement for the two (2) instances concerning the procurement of military and police equipment; and
2. Laying down the procedures in resorting to Direct Contract, that is, the PNP may request other agencies to submit a list of qualified suppliers of the goods and services that meet its requirements. From the list, the PNP shall declare the supplier who tenders the most economical and advantageous tender as the lowest calculated bidder;

WHEREAS, the comments and observations of the GPPB-TSO as well as the recommendations of the IATWG was presented to the GPPB during its Fourth (4th) Regular Meeting on 16 July 2015 with further recommendation that the framers of the draft substitute bill shall coordinate with NICA to set the requirements for a procurement project that concerns “national security” within the context of PNP Reorganization and Modernization;

WHEREAS, the GPPB discussed the salient features of the draft substitute bill and agreed to adopt the recommendations and comments of the GPPB-TSO and IATWG, subject to the following additional comments:

1. Procurement concerns that can be addressed through a provision in the IRR of RA 9184 may be considered by the GPPB in its on-going revision of the said IRR so that it may be applied to all Procuring Entities.
2. Direct Contracting is already included in RA 9184 and its IRR as one of the alternative methods of procurement, and that the two (2) above-mentioned instances where resort to Direct Contracting is proposed to be allowed may instead be used by the PNP to form part of the justification in resorting to Direct Contracting.

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 comments and recommendations of the GPPB-TSO and the IATWG, including the issuance of Position Paper on the PNP Reorganization and Modernization Act.

This Resolution shall take effect immediately.

APPROVED this 16th day of July 2015 at Pasig City, Philippines.

Sgd.

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

Sgd.

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

Sgd.

DEPARTMENT OF EDUCATION

Sgd.

DEPARTMENT OF ENERGY

Sgd.

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

Sgd.

**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**

Sgd.

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

Sgd.

PRIVATE SECTOR REPRESENTATIVE

Attested by:

Sgd.

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