



RESOLUTION NO. 17-2017

APPROVING THE SUBMISSION OF COMMENTS ON HOUSE BILL NO. 3394 CREATING THE NATIONAL FOOD SERVICE CORPORATION

WHEREAS, the Government Procurement Policy Board - Technical Support Office (GPPB-TSO) received a letter from the House Committee on Government Enterprises and Privatization requesting for comments on House Bill (HB) No. 3394 entitled, “*An Act Creating the National Food Service Corporation (NFSC) Appropriating Funds Therefor and for Other Purposes,*” introduced by Representative Arthur C. Yap;

WHEREAS, House Bill No. 3394 seeks to reorganize the National Food Authority (NFA) by creating NFSC, which will henceforth undertake all trading and security buffer stocking functions of NFA, and the latter to survive with all of its regulatory functions intact;

WHEREAS, Section 10 of House Bill No. 3394 seeks to exempt NFSC from the application of RA 9184 and its IRR for its procurement of rice and corn, upon the express written approval of the President of the Philippines;

WHEREAS, during the 2nd Government Procurement Policy Board (GPPB) and 3rd Inter-Agency Technical Working Group (IATWG) Joint Meeting on 10 April 2017, the GPPB-TSO presented the following comments and observations on HB No. 3394:

1. On the provision to exempt the NFSC from the application of the provisions of RA 9184 and its IRR in the procurement of rice and corn, upon the express written approval of the President of the Philippines, it does not state the applicable law, rules and regulations nor set parameters in the procurement of rice and corn, if the exemption will be applied although there are related laws and programs pertaining to the purchase of rice and corn directly from farmer-suppliers, thus:
 - a. Section 12 of RA 7607 or the Magna Carta of Small Farmers (4 June 1992), which provides that the National Food Authority or any other appropriate agency of the Department of Agriculture, which implements the government price support for agricultural produce, especially rice and corn, shall only procure and purchase *palay*, corn or other agricultural produce directly from small farmers or farmers’ organizations. Such agency shall devise an effective procurement scheme to ensure that small farmers can avail of this benefit;
 - b. Presidential Decree No. 1170 (14 January 1981) that transformed
 - b. National Grains Authority into the National Food Authority, which shall be a government corporation attached to the Office of the President, empowering it with a wider commodity coverage to

include in addition to grains, other food items like raw/fresh and/or manufactured/processed/packaged food products;

- c. Executive Order No. 165 (5 May 2014) mandating the National Food Authority to ensure national food security and stabilize the supply and prices of staple cereals both in the farm and consumer levels, which includes food security through buffer stocking and stabilization of staple cereal supply and prices;
 - d. Item K.6. National Food Authority, Special Provisions, Section 1. Subsidy to the National Food Authority of RA 10924 or the FY 2017 General Appropriation Act appropriating the amount of Php 5,100,000,000 to be used for the Food Security Program of the NFA and mandating that the NFA shall buy directly from farmers, except in case of calamities, fortuitous events, or shortfall in production, where the NFA is authorized to import rice and corn upon recommendation of the NFA Council and approval by the President of the Philippines;
 - e. On NFA's Price Stabilization Function, the mandate of stabilizing rice prices requires the NFA to ensure a stable supply of rice through various measures. The NFA procures "palay", rice in its raw form, from farmers at a price that is higher than the market-determined farm gate price, and then sell the same to consumers at a price that is lower than the market-determined retail price. The two major activities that comprise the stabilization of prices include procurement and distribution operations¹; and
 - f. On the Procurement component of the NFA Support to Farmers Program, NFA buys from farmers/farmers' organizations at the government support price to ensure market to accommodate farmer produce and enable farmers a fair return on production investment. This program is undertaken to ensure and establish manageable buffer stock in line with the agency's function of stabilizing consumer price levels and assuring an adequate and continuous supply of rice. This involves actual procurement from individual and organized small farmers at the government support price²;
2. Sec. 5(aa) of the 2016 Revised IRR of RA 9184 defines procurement as acquisition of goods, consulting services, and the contracting for infrastructure projects by the Procuring Entity. However, NFA's procurement of rice and corn is not simply an acquisition of goods. It is authorized to buy rice and corn directly from farmers/farmers' organizations at the government support price to ensure and establish manageable buffer stock. The NFA is also authorized to undertake rice importation for security and stabilization purposes where there are verified reasons that may warrant the need for importation;

¹ http://ap.fttc.agnet.org/ap_db.php?id=160.

² <http://www.nfa.gov.ph/programs-projects/support-to-farmers>

3. In attaining the objectives of price stabilization for rice and corn, the NFA employs price support and buffer stocking strategies. Price support is implemented by the NFA through procurement and distribution programs;
4. Procurement is undertaken by the NFA when farm gate prices are lower than the government support price. The NFA procures from individuals and organized small farmers palay and corn grains at government support price in order to assist farmers in realizing a reasonable return on their investments. The NFA's procurement is focused on areas not accessible to private traders and where the prevailing farm gate prices of palay and corn are below the government buying price;
5. Since the procurement of rice and corn by the NFA has a technically different meaning from that of RA 9184, it would be more appropriate to cite the specific law/issuance that would apply for its purchase of rice and corn instead of expressly providing for its exemption from RA 9184 and its IRR, which is the singular legal framework for classic procurement.

WHEREAS, after due deliberation and careful review, the GPPB resolved to adopt the recommendation of the GPPB-TSO for the inclusion of a provision in the proposed legislation citing the relevant law/issuance/process that would apply in NFSC's procurement of rice and corn from Farmers applying the rules and procedures embodied in RA 9184 and its associated 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 the submission of comments on House Bill No. 3394 recommending to cite the relevant law/issuance/process that would apply in NFSC's procurement of rice and corn from Farmers applying the rules and procedures embodied in RA 9184 and its associated IRR.

This Resolution shall take effect immediately.

APPROVED this 10th day of April 2017 at Pasig City, Philippines.

(SGD)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(SGD)

DEPARTMENT OF EDUCATION

(SGD)

DEPARTMENT OF ENERGY

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DEPARTMENT OF FINANCE

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DEPARTMENT OF HEALTH

**DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

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**DEPARTMENT OF NATIONAL
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**DEPARTMENT OF PUBLIC WORKS
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**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

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**DEPARTMENT OF TRADE AND
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DEPARTMENT OF TRANSPORTATION

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PRIVATE SECTOR REPRESENTATIVE