

MALACAÑANG

Manila

MEMORANDUM ORDER NO. 195

APPROVING THE AMENDMENT TO SECTION 53 (G) OF THE IMPLEMENTING RULES AND REGULATIONS PART A (IRR-A) OF REPUBLIC ACT NO. 9184

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the Government Procurement Reform Act, was signed into law on January 10, 2003;

WHEREAS, the Secretary of National Defense is authorized, pursuant to Section 53 (g) of the Implementing Rules and Regulations Part A (IRR-A) of RA 9184, to negotiate directly with an agency or instrumentality of another country with which the Philippines has entered into a defense cooperation agreement or otherwise maintains diplomatic relations, for the procurement of major defense equipment for use by the Armed Forces of the Philippines (AFP) upon prior approval of the President of the Philippines, and determination of the Secretary of National Defense that the interest of the country shall be protected;

WHEREAS, the effective implementation of the priority programs of the Department of National Defense (DND), such as the AFP Modernization Program and the Philippine Defense Reform, requires that negotiated procurement be allowed not only for major defense equipment but also for its related services and defense-related consultancy services, when expertise or capability required is not available locally;

WHEREAS, the Government Procurement Policy Board (GPPB), in Resolution No. 15-2005 dated August 5, 2005, has adopted and endorsed for approval of the President the proposed amendment to Section 53 (g) of the IRR-A of RA 9184;

WHEREAS, the joint participation of the Congressional Oversight Committee in the formulation of implementing rules and regulations has recently been declared unconstitutional by the Supreme Court in *Macalintal vs. Comelec* G. R. No. 157013, July 2003, thereby allowing the GPPB to recommend any amendment to the IRR-A of RA 9184, as the need arises, for approval of the President;

NOW, THEREFORE, I GLORIA MACAPAGAL – ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby approve the amendment to Section 53 (g) of the Implementing Rules and Regulation – Part A (IRR-A) of Republic Act (RA) 9184 as follows:

Section 53. Negotiated Procurement.

g) Upon prior approval by the President of the Philippines, and when the procurement for the use by the AFP involves ***major defense equipment and/or defense-related consultancy***

services, when the expertise or capability required is not available locally, and the Secretary of National Defense has determined that the interests of the country shall be protected by negotiating directly with an agency or instrumentality of another country with which the Philippines has entered into a defense cooperation agreement or otherwise maintains diplomatic relations: Provided, however, That the performance by the supplier of its obligations under the procurement contract shall be covered by a foreign government guarantee of the source country covering one hundred percent (100%) of the contract price.

All other provisions of the IRR-A of RA 9184 shall remain unchanged.

This Memorandum Order shall take effect immediately upon its publication in a national newspaper of general circulation.

DONE in the City of Manila, this 14th day of November, in the year of Our Lord, Two Thousand Five.

(Sgd.) **GLORIA MACAPAGAL - ARROYO**

By the President

(Sgd.) **EDUARDO R. ERMITA**
Executive Secretary