

GOVERNMENT PROCUREMENT POLICY BOARD

Resolution No. 06-2003

December 1, 2003

WHEREAS, Presidential Decree No. 415 (“P.D. 415”), entitled “Authorizing the Secretary of National Defense to Enter into Defense Contracts to Implement Projects under the Self-Reliant Defense Programs and for other Purposes,” as amended by Presidential Decree No. 1081 (“P.D. 1081”), authorizes the Secretary of National Defense to enter into contracts with or without public bidding for the manufacture or procurement of supplies, equipment, or components thereof, facilities, utilities and appurtenances thereto which are necessary for the manufacture, servicing, or operation of such supplies, equipment or components thereof needed for national defense and covered by the Self-Reliant Defense Program approved by the President of the Philippines;

WHEREAS, Republic Act No. 7898 (“R.A. 7898”), entitled “An Act Providing for the Modernization of the Armed Forces of the Philippines and for other Purposes,” contain provisions on procurement procedures and practices that are peculiar to the Modernization Program of the Armed Forces of the Philippines;

WHEREAS, Republic Act No. 9184 (“R.A. 9184”), entitled “An Act Providing for Modernization, Standardization and Regulation of the Procurement Activities of the Government for other Purposes,” was signed into law on January 10, 2003 and its Implementing Rules and Regulations Part A (“IRR-A”) took effect on October 8, 2003;

WHEREAS, R.A. 9184 and its IRR-A, under Section 4 thereof, provides that it shall apply to the procurement of infrastructure projects, goods and consulting services, regardless of source of funds, whether local or foreign by all branches and instrumentalities of Government, its departments, offices and agencies, including government-owned and/or – controlled corporations and local government units;

WHEREAS, Section 76 of R.A. 9184 and Section 75 of its IRR-A provide that it repeals the relevant provisions of R.A. 7898, and that any other law, presidential decree or issuances, executive order, letter of instruction, administrative order, proclamation, charter, rule or regulation and/or parts thereof contrary to or inconsistent with provisions of R.A. 9184 is repealed, modified or amended accordingly;

WHEREAS, considering the above-mentioned repealing clauses of R.A. 9184 and its Implementing Rules and Regulations, the relevant affected provisions of R.A. 7898 (AFP Modernization Act) are Sections 4(b), 10(b) and 14;

WHEREAS, specific provisions of P.D. 415, as amended by P.D. 1081, and R.A. 7898 have been identified as being contrary and repugnant to the provisions of R.A. 9184;

WHEREAS, the Department of National Defense – Armed Forces of the Philippines (“DND-AFP”) has submitted a position paper dated September 19, 2003, on specific provisions of P.D. 415, as amended by P.D. 1081, and R.A. 7898 that are to be considered repealed/amended accordingly;

WHEREAS, during the Special GPPB meeting held on December 1, 2003, the Members of the Board discussed and unanimously confirmed the amendments and/or revisions to R.A. 7898, Sections 4(b), 10(b) and 14, and P.D. 415, Section 1, as amended by P.D. 1081 to conform with the provisions of R.A. 9184 and its IRR-A.

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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, as WE hereby confirm that the following revisions and/or amendments to P.D. No. 415, as amended by P.D.1081 and R.A. 7898, respectively, to conform with the provisions of R.A. 9184 and its IRR-A, in particular, as follows:

With respect to P.D. 415, as amended by P.D. 1081:

1. Section 1. The Secretary of National Defense, in behalf of the Government of the Republic of the Philippines, is hereby authorized to enter into contracts, under such terms and conditions as may be agreed upon, with any natural or juridical person, with [Deleted: OR WITHOUT] public bidding, **consistent with the provisions on competitive bidding and alternative methods of procurement under Republic Act Numbered Nine Thousand One Hundred Eighty-four and its Implementing Rules and Regulations**, for the manufacture or procurement of supplies , equipment or components thereof, facilities, utilities and appurtenances thereto which are necessary for the manufacture, servicing or operating of such supplies , equipment or components thereof needed for national defense and covered by the Self-Reliant Defense Program approved by the President of the Philippines; Provided, That the accrued interests of Bank Guarantee Deposits made with PVB and PNB (or any authorized banking institution) in favor of the SRDP Defense contractors shall automatically be reverted to SRDP, funds for utilization within the program; Provided, That the Program of Expenditure shall be submitted and approved by the Secretary of National Defense; Provided further , That these accounts have been properly accounted for and reported to the Budget Commission and the Commission on Audit; any provision of law, including section Six hundred and seven of the Revised Administrative Code, Commonwealth Act Numbered Five hundred forty-one, Act Numbered Four thousand two hundred thirty nine, Republic Act Numbered Five thousand one hundred eighty three and other related laws to the contrary notwithstanding.

With respect to R.A. 7898:

2. Section 4(b) Capability, material and technology development – The AFP modernization program entails the development and employment of certain capabilities that can address the assessed threats: Provided that the acquisition of air force, navy and army equipment and material of such types and quantities shall be made in accordance with the need to develop AFP capabilities pursuant to its modernization objectives: Provided, further, That the acquisition of new equipment and weapons system, shall be synchronized with the phase-out of uneconomical and obsolete major equipment and weapons system in the AFP inventory: Provided, even further, **That in the case of procurement from foreign sources**, no major equipment and weapons system shall be purchased if the same are not being used by the armed forces in the country of origin or used by the armed forces of at least two countries: Provided furthermore, That only offers from suppliers who are themselves the manufacturers shall be entertained: Provided, finally, That no supply contract shall be

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entered into unless such contract provides for, in clear and unambiguous terms, an after-sales services and the availability of spare parts;

3. Section 10 (b), as quoted hereunder, is repealed:

Section 10. Self-Reliant Defense Posture Program (b) In order to reduce foreign exchange outflow, generate local employment opportunities and enhance technology transfer to the Philippines, the Secretary of National Defense shall, as far as feasible, incorporate in each contract/agreement special foreign exchange reduction schemes and counter-trade, in-country manufacture co-production, or other innovative arrangements or combinations thereof.

4. Section 14, as quoted hereunder, is repealed:

Section 14. AFP Procurement System – The DND-AFP shall strengthen its systems and procedures for equipment acquisition, taking into account new requirements under the AFP modernization program. Contract negotiations and equipment acquisition shall be treated as two sequential but separate steps, each requiring the separate decision of the Secretary of National Defense. The decision-making process for equipment acquisition shall start at the appropriate service command and submitted to the AFP Weapons System Board, while contract negotiation shall start at general headquarters AFP level. In its system and procedures for equipment acquisition, the provisions of Presidential Decree No. 1594, as amended and other applicable laws shall apply.

HON. EMILIA T. BONCODIN

Secretary
Department of Budget and
Management

HON. ROMULO L. NERI

Director General
National Economic and Development
Authority

HON. EDILBERTO C. DE JESUS

Secretary
Department of Education

HON. VICENTE S. PEREZ, JR.

Secretary
Department of Energy

HON. JUANITA D. AMATONG

Acting Secretary
Department of Finance

HON. MANUEL M. DAYRIT

Secretary
Department of Health

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HON. JOSE D. LINA, JR.

Secretary
Department of Interior and Local
Government

HON. EDUARDO R. ERMITA

Secretary
Department of National Defense

HON. FLORANTE M. SORIQUEZ

Secretary
Department of Public Works and
Highways

HON. ESTRELLA F. ALABASTRO

Secretary
Department of Science and Technology

HON. MANUEL A. ROXAS II

Secretary
Department of Trade and Industry

HON. LEANDRO R. MENDOZA

Secretary
Department of Transportation and
Communication