



## RESOLUTION NO. 08-2013

### ADOPTING THE POLICY ON THE USE OF INCOME TAX RETURN IN ESTABLISHING FINANCIAL ELIGIBILITY OF BIDDERS

**WHEREAS**, Republic Act (RA) No. 9184, entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and For Other Purposes,” took effect on 26 January 2003, while its revised Implementing Rules and Regulations (IRR) took effect on 2 September 2003;

**WHEREAS**, the Government Procurement Policy Board (GPPB), under Section 63 of RA 9184 and its IRR, is mandated to formulate and amend public procurement policies, rules and regulations, and amend the IRR, whenever necessary;

**WHEREAS**, the GPPB-TSO received a letter from the Department of Finance (DOF) dated 4 March 2013 proposing the following amendments to the IRR of RA 9184 in line with the thrust of DOF to encourage bidders to declare their income and pay the rightful tax to facilitate increased tax collections for the government, thus:

1. Make the Income Tax Return (ITR) the main basis in determining the financial contracting capacity of bidders;
2. Reconfigure the formula for computing the Net Financial Contracting Capacity (NFCC) to take into account the figures stated in the ITR; and
3. Remove the option of bidders to submit a commitment from banks to issue a credit line facility (CLC) as a basis for establishing financial capability;

**WHEREAS**, in its 2<sup>nd</sup> Regular Meeting held on 25 February 2013, the Inter Agency Technical Working Group (IATWG) thoroughly discussed the proposed amendments to the IRR of RA 9184, and agreed to make the following recommendations to the GPPB:

1. Discourage the inclusion of the ITR as an additional financial eligibility document and retain it as a post-qualification document because the ITR does not reflect the bidder’s current financial capacity; while maintaining it as a post-qualification requirement does not diminish its effectiveness in ensuring payment of proper taxes;
2. Maintain status quo on the allowable proofs of financial eligibility, *i.e.*, NFCC Computation and CLC, until data from the Department of Public Works and Highways and Department of Health showing the comparative analysis of the percentage of discontinued contracts that used either NFCC or CLC has been studied and analyzed to determine whether the CLC is an unreliable basis of financial capability;

**WHEREAS**, in its 2<sup>nd</sup> Regular Meeting held on 15 March 2013, the GPPB meticulously considered and deliberated on the advantages and disadvantages of the proposed amendments of DOF and the recommendations of the IATWG;

**WHEREAS**, the GPPB recognized that, as a matter of policy, using the ITR in determining the financial eligibility and capacity of bidders is in line with the government's thrust and intent to strengthen tax collection and administration.

**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 following:

1. To **ADOPT** as a matter of policy, that the ITR, together with the Audited Financial Statement (AFS), can be used in determining the financial eligibility of bidders; and
2. To **REQUEST** the Bureau of Internal Revenue to coordinate with the IATWG of the GPPB and provide for the parameters and bases for the computation, evaluation and assessment of the financial capacity of bidders based on their ITR and AFS, which must be in line with the principles of competition, transparency, and efficiency in public procurement, before any revision of the rules may be implemented.

This resolution shall take effect immediately.

**APPROVED** this 15<sup>th</sup> day of March 2013 at Manila, Philippines

(Sgd.)

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**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

By:

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**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

By:

(Sgd.)

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**DEPARTMENT OF EDUCATION**

By:

(Sgd.)

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**DEPARTMENT OF ENERGY**

By:

(Sgd.)

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**DEPARTMENT OF FINANCE**

By:

(Sgd.)

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**DEPARTMENT OF HEALTH**

By:

(Sgd.)

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**DEPARTMENT OF THE INTERIOR AND  
LOCAL GOVERNMENT**

By:

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**DEPARTMENT OF NATIONAL  
DEFENSE**

By:

(Sgd.)

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**DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS**

By:

(Sgd.)

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

By:

(Sgd.)

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**DEPARTMENT OF TRADE AND  
INDUSTRY**

By:

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**DEPARTMENT OF TRANSPORTATION  
AND COMMUNICATIONS**

By:

(Sgd.)

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**PRIVATE SECTOR REPRESENTATIVE**

By:

Attested by:

(Sgd.)

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