

**ADOPTING AN OFFICIAL POSITION RELATIVE TO THE AMENDMENT OF
RA 9184 THROUGH HOUSE BILL NO. 6612 BY AMENDING SECTIONS 32, 33, 34,
AND 65 OF REPUBLIC ACT NO. 9184**

WHEREAS, under Section 63 (a) of Republic Act (RA) 9184 and its Revised Implementing Rules and Regulations (IRR), the Government Procurement Policy Board (GPPB) is mandated to protect national interest in all matters affecting public procurement, having due regard to the country's regional and international obligations;

WHEREAS, the Government Procurement Policy Board - Technical Support Office (GPPB-TSO) received a request for the issuance of comment or position on House Bill No. 6612 entitled "**An Act Amending Republic Act No. 9184 Otherwise Known as 'An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purpose'**", introduced during the 15th Congress and sponsored by Representative Angelo B. Palmones;

WHEREAS, House Bill No. 6612 seeks to address the following concerns:

- (a) The attendance of observers who do not meet the qualifications under Section 13;
- (b) The disqualification of "winning bidders" for the "flimsiest" reasons even after submitting the winning bid in order to favor a losing bidder; and
- (c) The existence of anomalous government transactions in bidding;

WHEREAS, House Bill No. 6612 seeks to amend Sections 32 and 33 of Article IX (Bid Evaluation), Section 34 of Article X (Post-qualification), and Section 64 of Article XXI (Penal Clause) through the following:

- (a) Elimination of the post-qualification stage of the bidding process and instead require all bidders to pre-qualify with the prescribed requirements and conditions prior to bid opening;
- (b) Require all bidders to maintain a paid-up capital of at least forty percent (40%) of the total value of the contract;
- (c) Inclusion of penal sanctions for violation of Section 13 of Article V (Observers) committed by:
 - (1) Bids and Awards Committee (BAC) members who allow observers other than those required under Section 13; and
 - (2) Persons who were allowed by the BAC to attend as observers without the necessary qualifications under Section 13;
- (d) Require the BAC to request for technical assistance from the GPPB, which shall serve as adviser on technical matters.

WHEREAS, House Bill No. 6612 was presented to the Inter-Agency Technical Working Group (IATWG) in its meeting on 15 February 2013 for its official position on the proposed bill;

WHEREAS, during said meeting, the IATWG noted the following points:

- (a) Reverting back to pre-qualification is not necessary as it leads to corruption and results in delays which translate into cost of money for the government;
- (b) Requiring bidders to maintain a paid-up capital of at least forty percent (40%) of the total value of the contract is not necessary since IRR of RA 9184 sufficiently provides for prescribed requirements and criteria to establish a bidder's financial liquidity and capacity;
- (c) Requiring penal sanctions for violations of Section 13 (Observers) is not necessary since public competitive bidding is open to the public and that the IRR of RA 9184 provides sufficient qualification requirements and vetting process in determining Observers that will be invited in procurement activities; and
- (d) Requiring the BAC to request for technical assistance from the GPPB on technical matters is not necessary since the GPPB and GPPB-TSO pro-actively provide assistance on procurement matters pursuant to their mandate ;

WHEREAS, after due consideration of the matter, the IATWG agreed to maintain Sections 32, 33, 34 and 65 of RA 9184 unchanged, since the concerns under House Bill No. 6612 are already addressed by the existing provisions of RA 9184 itself;

WHEREAS, House Bill No. 6612 and the IATWG's recommendations were presented to the Government Procurement Policy Board (GPPB) in its meeting on 15 March 2013 for its consideration/official position;

WHEREAS, the GPPB noted that the discussion on House Bill No. 6612 will be academic given that the 15th Congressional session has already ended;

WHEREAS, after due discussion on the matter, the GPPB considered the IATWG's position relative to the proposed amendments under House Bill No. 6612, and its recommendation to maintain Sections 32, 33, 34 and 65 of RA 9184 unchanged;

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. **ADOPT** the position that the proposed amendments in House Bill No. 6612 are not necessary considering the following reasons:
 - (a) The deletion of the post-qualification stage and incorporation of pre-qualification regime will delay the procurement process, which would translate into cost of money for the government;
 - (b) RA 9184 and its IRR sufficiently provides for requirements and criteria to establish a bidder's financial liquidity, thus a minimum paid-up

capital of 40% of the total contract price is no longer required for participating bidders;

- (c) The imposition of penal sanctions for the members of the BAC who allow observers and for the persons who attend the bidding process in violation of Section 13 can be addressed through provisions of the IRR or an amendment thereof;
 - (d) The GPPB and GPPB-TSO pro-actively provide assistance to BACs on procurement matters pursuant to their mandate under RA 9184.
2. **ADOPT** the above-mentioned position to subsequent House Bills and Senate Bills which may be filed by the House of Representatives and Senate, respectively.
 3. Not to submit a Position Paper on House Bill No. 6612 given that the 15th Congressional Session, to which House Bill No. 6612 was filed, already ended.

This resolution shall take effect immediately.

APPROVED this 15th day of March 2013 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**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