



RESOLUTION NO. 12-2013

APPROVING THE AMENDMENTS OF SECTIONS 23.6, 24.6, AND 53.5 OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184, AND ITS ASSOCIATED PROVISIONS IN THE IMPLEMENTING GUIDELINES ON AGENCY-TO-AGENCY AGREEMENTS

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

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

WHEREAS, Sections 23.6 and 24.6 of the IRR of RA 9184 provide that government corporate entities (GCEs) may participate in Competitive Bidding activities of procuring entities if they can establish that they are (a) legally and financially autonomous, (b) operate under commercial law, and (c) not dependent agencies of the GOP or the procuring entity;

WHEREAS, considering that GCEs depend on the GOP to some extent, the condition that they should not be dependent agencies of the GOP to be deemed eligible to participate in competitive bidding activities effectively disqualifies all GCEs;

WHEREAS, the GOCC Governance Act of 2011 provides a technical definition of GCEs which may sow confusion as to the intended application of Sections 23.6 and 24.6 of the IRR as to be limited only to the GCEs defined in the GOCC Governance Act of 2011.

WHEREAS, these considerations necessitate appropriate revisions to Sections 23.6 and 24.6 of the IRR in order to properly implement the policy and meet the objectives for which they were adopted;

WHEREAS, Section 53.5 of the IRR of RA 9184, and the Implementing Guidelines on Agency-to-Agency Agreements issued through GPPB Resolution 18-2007, allows the procurement of goods, infrastructure projects, and consulting services, from another agency of the GOP, but excludes Government Owned or Controlled Corporations (GOCCs) incorporated under *Batas Pambansa Blg. 68* (non-chartered GOCCs), otherwise known as the “Corporation Code of the Philippines”, from being engaged as a servicing agency;

WHEREAS, there is a need to revisit the prohibition on non-chartered GOCCs from being engaged as servicing agency in an Agency to Agency Agreement under Section 53.5 of the IRR of RA 9184 in order to attain a more efficient and streamlined public procurement process;

WHEREAS, in its 3rd Meeting held on 26 April 2013, the GPPB carefully reviewed and deliberated on the issues and recommendations presented by the GPPB-TSO on the proposed

amendments to Sections 23.6, 24.6, and 53.5 of the IRR of RA 9184, as well as the implementing guidelines of Section 53.5 of the IRR;

NOW, THEREFORE, for and in view of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the following:

1. **AMEND** Sections 23.6 and 24.6 of the IRR of RA 9184 to use the term GOCCs instead of GCEs, delete the reference to GOP in item (c) thereof, and replace the term “dependent” with “attached”, to wit:

*GOCCs may be eligible to participate in Competitive Bidding only if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law, and (c) are not **attached agencies of the procuring entity**.*

2. **AMEND** Section 53.5 of the IRR of RA 9184 and **DELETE** the second paragraph thereof to read as follows:

Procurement of infrastructure projects, consulting services, and goods from another agency of the GOP, such as the PS-DBM, which is tasked with a centralized procurement of Common-Use Supplies for the GOP in accordance with Letters of Instruction No. 755 and Executive Order No. 359, series of 1989.

3. **AMEND** Section 4(c) of the Implementing Guidelines on Agency-to-Agency Agreements (Guidelines) and **DELETE** the second paragraph that excludes non-chartered GOCCs as Servicing Agencies, to wit:

Servicing Agency shall refer to the agency which delivers the goods, undertakes the infrastructure project, or provide consulting services.

4. **AMEND** the *Scope and Application* in the Guidelines excluding the engagement of PS-DBM from its application, to wit:

These guidelines shall govern the procurement of infrastructure projects, consulting services, and goods from another agency of the GOP, which includes all Departments, Bureaus, Offices and Agencies of the National Government, Government-Owned and/or Controlled Corporations, Government Financing Institutions, State Universities and Colleges, and Local Government Units.

However, infrastructure projects undertaken through the Armed Forces of the Philippines Corps of Engineers (AFPCOE) which shall continue to be governed by the Guidelines on Implementation of Infrastructure Projects Undertaken by the AFP Corps of Engineers under Government Procurement Policy Board (GPPB) Resolution No. 09-2005, are excluded from the application of these guidelines.

This Resolution shall take effect immediately.

APPROVED this 10th day of May, 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