



RESOLUTION NO. 17-2015

APPROVING THE ISSUANCE OF A POSITION PAPER ON THE PROPOSED AMENDMENTS TO REPUBLIC ACT NO. 8974, OTHERWISE KNOWN AS “AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE, OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES”

WHEREAS, the Government Procurement Policy Board-Technical Support Office (GPPB-TSO) received several versions of bills on the amendment of **Republic Act No. 8974**, otherwise known as “*An Act to Facilitate the Acquisition of Right-of-Way, Site, or Location for National Government Infrastructure, Appropriating Funds Thereof, and for Other Purposes*”.

WHEREAS, the proposed amendments to RA 8974 are the: **Substitute to House Bill No. 2994** entitled “*An Act Amending Republic Act No. 8974, Otherwise Known as an Act to Facilitate the Acquisition of Right-of-Way, Site, or Location for National Government Infrastructure, Appropriating Funds Therefor, and for Other Purposes*” introduced by Representative Ronald Cosalan; **Senate Bill No. 2447** entitled “*An Act to Enable Government Infrastructure Projects and Public-Private Partnership (PPP) Projects by Amending Republic Act No. 8974, Otherwise Known as An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and Appropriating Funds Therefor, and for Other Purposes*” introduced by Senator Teofisto “TG” Guingona; **Senate Bill No. 2145** entitled “*An Act Strengthening the Process of Acquiring the Right of Way, Sight, or Location for National Government Infrastructure Projects, thereby Repealing for such Purpose Republic Act No. 8974, Otherwise Known as ‘An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and Appropriating Funds Therefor’*” introduced by Senator Ferdinand “Bongbong” Marcos, Jr. ; and **Senate Bill No. 2180** entitled “*An Act Revitalizing the Procedure for Acquisition of Right of Way, Sight or Location for National Government Infrastructure Projects, thereby Repealing for such Purpose Republic Act No. 8974, Otherwise Known as ‘An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and Appropriating Funds Therefor’*” introduced by Senator Lito Lapid.

WHEREAS, the proposed amendments to R.A. 8974 aim to facilitate the expeditious acquisition of private properties necessary for infrastructure projects to address the delay caused by the long and tedious process in the acquisition of right-of-way, site, or location for National Government Infrastructure Projects.

WHEREAS, Section 4 of House Bill No. 2994 and Senate Bill No. 2447, and Section 5 of Senate Bill No. 2145 on “Rules on Negotiated Sale” of the proposed legislations provide for the engagement of an independent property appraiser accredited by the Bangko Sentral ng Pilipinas (BSP) or professional association of appraisers recognized by BSP to be procured by the Implementing Agency under the provisions of RA 9184 and its IRR.

WHEREAS, during the 4th Inter Agency Technical Working Group (IATWG) Meeting on 19 June 2015, the GPPB-TSO made the following comments and observations on the proposed amendments:

1. Based on Section 5(n) of RA 9184 and amplified by Section 4.4 (b) of its IRR, the acquisition of real property is expressly excluded from the scope and application of R.A. 9184 and its IRR as it is covered by R.A. 8974;
2. Section 4 of House Bill No. 2994 and Senate Bill No. 2447, and Section 5 of Senate Bill No. 2145 on “Rules on Negotiated Sale” provides for the engagement of an independent property appraiser accredited by the Bangko Sentral ng Pilipinas (BSP) or professional association of appraisers recognized by BSP to be procured by the Implementing Agency under the provisions of RA 9184 and its IRR pertaining to consulting services. The proposed provision has the following effects, thus:
 - a. This provision limits the participation of bidders to those appraisers accredited by the BSP; and
 - b. The type of procurement, whether it is goods and services or consulting services should be left to the discretion of the procuring entity;
3. Section 12 of House Bill No. 2994, Section 13 of Senate Bill No. 2447, and Section 11 of Senate Bill No. 2145 and 2180 on “Rules and Regulations”, expanded the composition of the committee for the issuance of the revised implementing rules and regulations of RA 8974, and it now includes the DBM.

WHEREAS, during the said IATWG Meeting, the GPPB-TSO presented the following recommendations:

1. To insert in Section 9 of House Bill No. 2994 the phrase: *“No infrastructure or civil works projects to be procured through Republic Act No. 9184, the Government Procurement Reform Act, or those to be facilitated through Republic Act No. 6957, as amended by Republic Act No. 7718, the Build Operate Transfer (BOT) Law, shall be commenced unless the Right of Way or private property affected by the works and the private owners shall have been duly compensated. However, actual taking of the private property affected by the works may be commenced upon written consent of the private owners or upon issuance of writ of possession by courts of competent jurisdiction.”*; and
2. To adopt or maintain the provision in the IRR of R.A. 9184 insofar as it recognizes appraisers accredited by government financing institutions and not only by the Bangko Sentral ng Pilipinas (BSP).

WHEREAS, in the aforesaid IATWG Meeting, the members discussed the comments, observations, and recommendations of the GPPB-TSO to House Bill No. 2994, Senate Bill Nos. 2145, 2180, and 2447, and resolved to recommend for approval to the GPPB the following recommendations:

1. The proposed insertion to Section 9 is recommended to be adopted to emphasize the need to acquire the property before commencing infrastructure projects/ civil works; and
2. The type of procurement of property appraisers, whether it be goods and services or consulting services, should be left to the discretion of the procuring entity.

WHEREAS, the comments and observations of the GPPB-TSO as well as the recommendations of the IATWG were presented to the GPPB during its Fourth (4th) Regular Meeting on 16 July 2015.

WHEREAS, the GPPB discussed the salient features of the draft substitute to House Bill No. 2994, Senate Bill Nos. 2145, 2180, and 2447, and made the following proposals:

1. For the GPPB-TSO to remove the proposed insertion to Section 9 of House Bill No. 2994; and
2. For the GPPB-TSO to recommend in the position paper the removal of the following phrases: “*accredited by the Bangko Sentral ng Pilipinas (BSP) and a professional association of property appraisers recognized by the BSP*” in Section 4a of House Bill No. 2994 and Senate Bill No. 2447, and Section 5 of Senate Bill No. 2145, and “*pertaining to consulting services*” in Section 4 of House Bill No. 2994 and Senate Bill No. 2447 on “Rules on Negotiated Sale.”

The provision should read as follows:

Section 4a

“iii. The current market value of crops and trees therein. **To determine the said price offer, the implementing agency may engage the services of a Government Financing Institution with adequate experience in property appraisal, or an independent property appraiser to be procured by the implementing agency in accordance with Republic Act No. 9184** and its implementing rules and regulations pertaining to consulting services if the property owner does not accept this price offer, the Implementing Agency shall initiate expropriation proceedings pursuant to section 5, hereof.”

NOW, THEREFORE, for and in view of all 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 issuance of Position Paper on Draft Substitute to House Bill No. 2994; Senate Bill No. 2447; Senate Bill No. 2145; and Senate Bill No. 2180, subject to the following proposals made.

This Resolution shall take effect immediately.

APPROVED this 16th day of July 2015 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF FINANCE

**DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

(Sgd.)

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

Attested by:

(Sgd.)

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