



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 54-2012

4 May 2012

ATTY. BENJAMIN T. SUBIDO

Director, Office of Legal Affairs

DEPARTMENT OF TRADE AND INDUSTRY (DTI)

2F, DTI Building

361 Sen. Gil Puyat Avenue, Makati City

Re: Letter of Instructions (LOI) 1307

Dear Director Subido:

We respond to your letter dated 2 March 2012 requesting for clarification on whether LOI 1307 was repealed or superseded by Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).

This query stems from the Memorandum of Atty. Luis M. Catibayan, Director of DTI-Bureau of Import Services (BIS) dated 29 February 2012, a copy of which was attached to your letter. The Memorandum states that the Board of Investments was initially tasked to implement LOI 1307 by requiring all government agencies to first obtain an authority prior to making any importation of goods. However, this function has been transferred to DTI-BIS on 30 October 1990. Considering there are certain provisions in RA 9184 that allows government agencies/entities to source from foreign suppliers, DTI-BIS seeks clarification if such provisions in RA 9184 repealed or superseded the applicable provisions of LOI 1307.

In the case of *Angat v. Republic of the Philippines*¹, the Supreme Court held that, "Laws are repealed only by subsequent ones and a repeal may be express or implied". Since RA 9184 did not expressly repeal LOI 1307, it is necessary to check whether the former impliedly repealed the latter. In order to determine whether there was implied repeal, it is a well-settled rule that the two laws must be absolutely incompatible and clearly repugnant that the later law cannot exist without nullifying the prior law.² In this regard, it is necessary to determine if there exists a conflict between RA 9184 and LOI 1307.

LOI 1307 was issued for the purpose of conserving the foreign exchange resources of the Philippines, which should be utilized only to address the most urgent and necessary

¹ G.R. No. 132244, 14 September 1999.

² *GSIS vs. COA*, G.R. No. 162372, 19 October 2011.


importations. A careful reading of LOI 1307 shows that it encourages the use of domestically produced goods as opposed to importing similar items as stated in Sections 1³ and 2⁴ thereof.

On the other hand, Section 4 of RA 9184 provides that in the procurement of goods, supplies and materials, procuring entities should observe Commonwealth Act (CA) 138, which gives preference to native products and domestic entities. This rule on domestic preference is also reflected in Section 43 of the IRR relative to the rule on source of goods. It should be noted that both LOI 1307 and RA 9184 allow goods to be sourced from foreign suppliers albeit with some limitations.

Based on the foregoing, we are of the view that there is no conflict between the provisions of LOI 1307 and RA 9184, including its IRR, as both laws endeavor to promote domestically produced goods and limit the reliance on foreign goods. As such, since RA 9184 did not expressly repeal LOI 1307, and considering that there is no conflict between the two laws, we are of the considered view that RA 9184 did not repeal or supersede LOI 1307.

We hope our advice provided sufficient guidance on the matter. Should you have further questions, please do not hesitate to contact us.

Very truly yours,


for **DENNIS S. SANTIAGO**
Executive Director III

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³ Government shall endeavor to use domestically produced goods, particularly those with the maximum local material and labor content.

⁴ Only vehicles that are locally produced or assembled shall be acquired by government entities, including fire trucks, garbage trucks and other similar vehicles, whether or not financed from external debt.