

[GPPB RESOLUTION NO. 020-2005, October 07, 2005]

APPROVING AND ADOPTING THE GUIDELINES ON PROCUREMENTS INVOLVING FOREIGN-DENOMINATED BIDS, CONTRACT PRICES AND PAYMENT USING LETTERS OF CREDIT

WHEREAS, Republic Act No. 9184 (R.A. 9184), otherwise known as "Government Procurement Reform Act" and its Implementing Rules and Regulations Part A (IRR-A) took effect on 26 January 2003 and 08 October 2003 respectively;

WHEREAS, Section 63.1 of the IRR-A of R.A. 9184 provides that the Government Procurement Policy Board (GPPB), as established in Section 63 of R.A. 9184 shall have the power to formulate and amend public procurement policies, rules and regulations, and amend, whenever necessary the IRR-A;

WHEREAS, Section 61 of R.A. 9184 provides that all bid prices shall be considered as fixed prices and therefore shall not be subject to price escalation during contract implementation, except under extraordinary circumstances as determined by the National Economic and Development Authority (NEDA) and upon prior approval of the GPPB;

WHEREAS, the need to address situations regarding the proper implementation of said Section 61, specifically in the evaluation of bids when the bidders are all-foreign or mixed local and foreign, is hereby recognized;

WHEREAS, in the procurement of materials, supplies, and equipment or services from foreign manufacturers, suppliers and/or distributors, there is a need to prescribe guidelines providing for the rules and procedures to address circumstances where foreign exchange fluctuations result in the increase of the actual costs of the procuring entity because of price adjustments that may arise from the time of bid opening until the opening of letters of credit, and from the assumption of foreign exchange risk by the procuring entity incidental to the opening of a letter of credit in favor of the a foreign supplier/contractor;

WHEREAS, the need to address the foregoing circumstances as recognized above is in view of eluding the ill-effect of the potential reluctance and/or refusal of suppliers/ contractors to transact with government and the assumption by the former of the risk of foreign exchange as this would effectively draw them towards anticipatory increase in prices;

WHEREAS, the members of the Technical Working Group of the GPPB during its meetings held on 30 September and 05 October 2005 reviewed the draft Guidelines on Procurement involving Foreign Denominated Bids, Contract Prices and Payment using Letters of Credit be submitted to the GPPB for review and approval;

WHEREAS, during the 9th GPPB meeting held on 07 October 2005 at Unit 2506 Raffles Corporate Center, F. Ortigas Jr. Road, Ortigas Center, Pasig City, the members of the Board discussed, considered and unanimously agreed to approve and adopt the Guidelines Involving Foreign-Denominated Bids, Contract Prices and Payment using Letters of Credit be submitted to the GPPB for review and approval, a copy of which is attached hereto as Annex "A" to form an integral part hereof;

NOW, THEREFORE, for and in consideration of the foregoing, WE, the Members of the GOVERNMENT PROCUREMENT POLICY BOARD, by virtue of the powers vested in Us by law, hereby RESOLVE to approve and adopt the Guidelines Involving Foreign-Denominated Bids, Contract Prices and Payment using Letters of Credit, attached hereto as Annex "A".

This resolution shall take effect immediately.

Adopted: 7 Oct. 2005

(SGD.) ROMULO L. NERI
Secretary
Department of Budget and Management

(SGD.) AUGUSTO B. SANTOS
Director General
National Economic and Development Authority

Also signed by representatives of the following agencies:

DEPARTMENT OF NATIONAL DEFENSE

DEPARTMENT OF HEALTH

DEPARTMENT OF ENERGY

DEPARTMENT OF TRADE AND INDUSTRY

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

Attested by:

(SGD.) JOSE MARTIN C. SYQUIA
Board Secretary, GPPB
Executive Director, GPPB-TSO

Guidelines on Procurements Involving Foreign-Denominated
Bids, Contract Prices and Payment Using Letters of Credit

1. POLICY STATEMENT

Pursuant to Section 61 of Republic Act No. 9184 and its counterpart provision in the Implementing Rules and Regulations Part A, for the given scope of work in procurement contracts as awarded, all bid prices shall be considered as fixed prices and, therefore, not subject to price escalation during contract implementation, except under extraordinary circumstances. Thus, to ensure that this policy is carried out, it is required, as a matter of general rule and procedure, that all contracts be denominated and paid in Philippine