

[MEMORANDUM ORDER NO. 15, May 09, 2011]

AMENDING NO. 4.5 OF ANNEX "D", CONTRACT IMPLEMENTATION GUIDELINES FOR THE PROCUREMENT OF GOODS, SUPPLIES AND MATERIALS, OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184, AUTHORIZING ADVANCE PAYMENT UPON SUBMISSION OF AN IRREVOCABLE LETTER OF CREDIT OR BANK GUARANTEE.

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the "Government Procurement Reform Act," was signed into law on 10 January 2003;

WHEREAS, Section 63 of RA No. 9184 authorizes the Government Procurement Policy Board (GPPB) to formulate and amend, whenever necessary, the Implementing Rules and Regulations (IRR) of RA No. 9184;

WHEREAS, advance payment under No. 4.5 of Annex "D", Contract Implementation Guidelines for the Procurement of Goods, Supplies and Materials, of the IRR of RA No. 9184, is limited to goods sourced from abroad;

WHEREAS, the GPPB and the National Economic Development Authority (NEDA), through GPPB Resolution No. 04-2010 (s. 2010), recognize the need to amend No. 4.5 of Annex "D" by increasing the allowable amount of advance payment to fifteen percent (15%) of the contract amount and expanding the rule to include procurement of goods, regardless of their source, consistent with the policy of giving equal opportunities to local suppliers;

WHEREAS, in order to provide sufficient safeguards for the Government, the GPPB recognizes the need to provide for the inclusion of a provision authorizing advance payment upon submission of an irrevocable letter of credit as an alternative to a bank guarantee; and

WHEREAS, Section 88 of Presidential Decree No. 1445, otherwise known as the "Government Auditing Code," generally prohibits advance payment for services not yet rendered or for supplies and materials not yet delivered under any government contract unless prior approval of the President is obtained.

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. No. 4.5, Annex "D" of the IRR of R.A. No 9184 is hereby amended to read as follows:

"4.5. Upon submission of an irrevocable letter of credit or bank guarantee issued by a Universal or Commercial Bank, advance payment not to exceed fifteen percent (15%) of the contract amount shall be allowed and