

**[ GPPB RESOLUTION NO. 09-2004, August 20, 2004 ]**

**UNIFORM GUIDELINES FOR BLACKLISTING OF  
MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS  
AND CONSULTANTS**

**WHEREAS**, Republic Act No. 9184 ("R.A. 9184") entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes," otherwise known as the "Government Procurement Reform Act" ("GPRA") was enacted on January 10, 2003, and took effect on January 26, 2003;

**WHEREAS**, Section 75 of R.A. 9184 provides that the Government Procurement Policy Board ("GPPB") and the members of the Joint Congressional Oversight Committee ("JCOC") shall formulate the necessary rules and regulations for the proper implementation of its provisions, to wit:

***Section 75. Implementing Rules and Regulations and Standard Forms.*** - *Within sixty (60) days from the promulgation of this Act, the necessary rules and regulations for the proper implementation of its provisions shall be formulated by the GPPB, jointly with the members of the Oversight Committee created under Section 74 hereof. The said rules and regulations shall be approved by the President of the Philippines. For a period not later than thirty (30) days upon the approval of the implementing rules and regulations, the standard forms for Procurement shall be formulated and approved.*

**WHEREAS**, pursuant to Section 75 of R.A. 9184, the GPPB and JCOC drafted the Implementing Rules and Regulations Part A ("IRR-A") of R.A. 9184 and endorsed the same for the approval and signature of Her Excellency, President Gloria Macapagal Arroyo, through Joint Resolution No. 01-2003 of the GPPB and the JCOC, dated July 11, 2003;

**WHEREAS**, the IRR-A of R.A. 9184 was approved and signed by Her Excellency on September 18, 2003 and took effect on October 8, 2003;

**WHEREAS**, pursuant to Section 69.4 of the IRR-A of R.A. 9184, the GPPB shall issue the guidelines for the blacklisting of manufacturers, suppliers, distributors, contractors or consultants for Government projects;

**WHEREAS**, the GPPB tasked the GPPB-Technical Support Office ("GPPBTSO") to make an initial draft of the said guidelines to be submitted to and reviewed by the GPPB;

**WHEREAS**, the first draft of the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants was presented by the GPPB-TSO to the GPPB during its 6th meeting held on October 20, 2003, however, the GPPB decided to submit the same to other government agencies for further comments;

**WHEREAS**, the draft Uniform Guidelines for Blacklisting was again presented to the GPPB for deliberation on its 7th Meeting on December 11, 2003 along with the comments coming from the government agencies and after extensive discussions thereof, the GPPB again tasked the GPPB-TSO to revise the same in accordance with the suggestions of the members of the Board;

**WHEREAS**, the draft Uniform Guidelines for Blacklisting has undergone several revisions based on the instructions of the GPPB and in consultation with the Technical Working Group, as well as with the lawyers from different legal offices of various government agencies and the private sector;

**WHEREAS**, the GPPB has reviewed the final draft of the Uniform Guidelines for Blacklisting submitted by the GPPB-TSO during its 6th meeting held on August 20, 2004, at Unit 1103, The Taipan Place, Emerald Avenue, Ortigas Center, Pasig City, 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 confirm, adopt and approve, as **WE** hereby confirm, adopt and approve the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants as referred to **US** and revised according to **OUR** instructions.

This resolution shall take effect immediately.

Adopted: 20 August 2004

(Sgd.)HON. Emilia T. Boncodin  
*Secretary, Department of Budget and Management*

Also signed by the Representatives of the following agencies:

National Economic and Development Authority  
Department of National Defense  
Department of Education Department of Health  
Department of Interior and Local Government  
Department of Energy  
Department of Public Works and Highways  
Department of Trade and Industry

Attested by:

(Sgd.) HON. Jose Martin C. Syquia  
*Board Secretary, GPPB*  
*Executive Director, GPPB-TSO*

***Annex "A"***

**UNIFORM GUIDELINES FOR BLACKLISTING OF MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS AND CONSULTANTS**

**1. SCOPE**

These guidelines shall govern the blacklisting of manufacturers, suppliers, distributors, contractors and consultants ("contractors" for brevity) involved in government procurement for offenses or violations committed during competitive bidding and contract implementation, in accordance with Section 69.4 of the Implementing Rules and Regulations Part A ("IRR-A") of Republic Act No. 9184 ("R.A. 9184"), otherwise known as the "Government Procurement Reform Act."

These guidelines shall apply to all branches, constitutional commissions and offices, agencies, departments, bureaus, offices, and instrumentalities of the Government, including government-owned and/or controlled corporations ("GOCCs"), government financial institutions ("GFIs"), state universities and colleges ("SUCs"), and local government units ("LGUs").

**2. PROHIBITION ON BLACKLISTED PERSONS/ENTITIES TO PARTICIPATE IN THE BIDDING OF GOVERNMENT PROJECTS/CONTRACTS**

A person/entity that is blacklisted by a procuring entity and/or included in the Government Procurement Policy Board ("GPPB") Consolidated Blacklisting Report shall not be allowed to participate in the bidding of all government projects during the period of disqualification unless it is delisted as provided for in these guidelines.

A joint venture or consortium which is blacklisted or which has blacklisted member/s and/or partner/s as well as a person/entity who is a member of a blacklisted joint venture or consortium are, likewise, not allowed to participate in any government procurement during the period of disqualification.

In the case of corporations, a single stockholder, together with his/her relatives up to the third civil degree of consanguinity or affinity, and their assignees, holding at least twenty percent (20%) of the shares therein, its chairman and president, shall be blacklisted after they have been determined to hold the same controlling interest in a previously blacklisted corporation or in two corporations which have been blacklisted; the corporations of which they are part shall also be blacklisted.

**3. DEFINITION OF TERMS**

**3.1 *Appellate Authority.*** The department, office or government unit exercising

general and/or administrative supervision/control over the blacklisting agency. Department level agencies shall exercise appellate authority over offices, agencies, bureaus, government units, GOCCs and SUCs under their jurisdiction. Provided, further, that blacklisting decisions of government agencies that are not subject to general and/or administrative supervision/control of any department, office or government unit shall be final and executory.

3.2 **Award.** A written notice from the procuring entity accepting a bid or proposal.

3.3 **Blacklisting.** An administrative penalty disqualifying a person or an entity from participating in any government procurement for a given period.

3.4 **Suspension.** The administrative penalty imposed for infractions committed by a contractor during the competitive bidding stage, whereby such contractor is prohibited from further participation in the bidding process of an agency.

3.5 **Consolidated Blacklisting Report.** A report prepared by the GPPB containing the list of suppliers, manufacturers, distributors, contractors or consultants blacklisted by procuring entities.

3.6 **Contract Implementation.** A process of undertaking a project or contract in accordance with the contract documents.

3.7 **Termination of Contract.** Extinction of contract by reason of resolution or rescission under Articles 1191, 1380, 1381 of the Civil Code, Section 68 of the IRR-A of R.A. 9184 and other applicable laws arising from the default of the contractor.

3.8 **Delist.** Removal of a person/entity from the Consolidated Blacklisting Report.

3.9 **Blacklisted Person/Entity.** A person/entity who was disqualified by an agency and/or is included in the GPPB Consolidated Blacklisting Report.

## **4. SANCTIONS AND GROUNDS FOR BLACKLISTING**

### **4.1 *Competitive Bidding Stage***

During the competitive bidding stage, pursuant to Section 69 of R.A. 9184, the procuring entity shall impose on bidders or prospective bidders the penalty of suspension for one (1) year for the first offense, suspension for two (2) years for the second offense from participating in the public bidding process, without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution, as provided by applicable laws, for the following violations:

1. Submission of eligibility requirements containing false information or falsified documents.
2. Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening or any other stage of the

public bidding.

3. Unauthorized use of one's name, or using the name of the name of another for purpose of public bidding.
4. Withdrawal of a bid, or refusal to accept an award, or enter into contract with the government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
5. Refusal or failure to post the required performance security within the prescribed time.
6. Refusal to clarify or validate in writing its Bid during post qualification within a period of seven (7) calendar days from receipt of the request for clarification.
7. Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
8. All other acts that tend to defeat the purpose of the competitive bidding, such as but not limited to: an eligible contractor not buying bid documents or not complying with the requirements during bid evaluation, and contractors habitually withdrawing from bidding or submitting letters of non-participation for at least three (3) times within a year, except for valid reasons.

In addition to the penalty of suspension, the bid security posted by the concerned bidder or prospective bidder shall also be forfeited.

#### 4.2 *Contract Implementation Stage*

Pursuant to Section 69 (6) of R.A. 9184 and without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution as provided by applicable laws, the procuring entity shall impose on contractors after the termination of the contract the penalty of suspension for one (1) year for the first offense, suspension for two (2) years for the second offense from participating in the public bidding process, for violations committed during the contract implementation stage, which include but not limited to the following:

- a) Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the Notice to Proceed ("NTP");
- b) Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the procuring entity or its representative(s) pursuant to the implementation of the contract. For