

[MEMORANDUM ORDER NO. 176, June 27, 2005]

**APPROVING AMENDMENTS TO SECTIONS 20.1; 23.6 NO. 2;
24.7.1 NO. 2; 25.2; 25.3; 33.4.1; 33.5; 37.3; 34.5; 54.2 (B); 62.2;
ANNEX D, 1.2; AND ANNEX D, 1.4, OF THE IMPLEMENTING
RULES AND REGULATIONS PART A (IRR-A) OF REPUBLIC ACT
NO. 9184**

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

WHEREAS, pursuant to Section 75 of R.A. No. 9184, the Government Procurement Policy Board (GPPB), jointly with the members of the Joint Congressional Oversight Committee, formulated the Implementing Rules and Regulations Part A (IRR-A) of RA 9184, with Annexes "A" to "E", which was approved by the President of the Philippines in July 11, 2003;

WHEREAS, the joint participation of the Congressional Oversight Committee in the formulation of implementing rules and regulations has recently been declared unconstitutional by the Supreme Court in *Macalintal vs. Comelec*, G.R. No. 157013, July 2003;

NOW, THEREFORE, I GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, hereby approve the amendments of the Implementing Rules and Regulation -Part A (IRR-A) of Republic Act (RA) 9184 as follows:

SECTION 1. Section 20.1; 23.6 No. 2; 24.7.1 No.2; 25.2; 25.3; 33.4.1; 33.5; 37.3; 39.5; 54.2(b); 62.2; Annex D, 1.2; and Annex D, 1.4 of the IRR-A of RA 9184 are hereby amended as follows:

SECTION 20 . Pre-Procurement Conference

20.1 x x x During this conference, the participants, led by the BAC, shall:

X X X

5. Review and agree on the number of eligible bidders to be included in the shortlist, from three to seven eligible bidders, and the minimum score required, as provided for in Section 24.15.2;

6. Review and agree on whether the quality-based or quality-cost based evaluation procedure shall be adopted in the selection of consultant, as provided for in Section 33.3.1; if the quality-cost based evaluation procedure, review and agree on the weights to be allocated to the technical and financial criteria and recommend to the head of the procuring entity for approval, as provided for in section 33.5;

7. Clarify that the specifications and other terms in the bidding documents are minimum requirements and that the bidder may submit an offer which provides for superior specifications and/or better terms and conditions to the Government at no extra cost, without any bonus, credit or premium in the bid evaluation; and

8. Reiterate and emphasize the importance of confidentiality during the bid evaluation process, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance with the foregoing.

SECTION 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects 23.6 Eligibility Check for the Procurement of Goods and Infrastructure Projects

X X X

2. Class "B" Documents -

a. Valid joint venture agreement, in case of a joint venture.

Each member of the joint venture shall submit the required eligibility documents; and

b. X X X

SECTION 24. Eligibility Requirements and Short Listing for Consulting Services

24.7 Eligibility Check for the Procurement of Consulting Services

X X X

2. Class "B" Documents -

a. Valid joint venture agreement, in case of a joint venture.

Each member of the joint venture shall submit the required eligibility documents; and

b. X X X

SECTION 25. Submission and Receipt of Bids

25.2 Eligibility requirements and bids submitted after the deadline shall not be accepted by the BAC

25.3 The first envelope (Technical Proposal) shall contain the following technical information/documents, at the least:

A. For the procurement of Goods:

X X X

9. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in Section 17.7 of the IRR-A;

10. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of R.A. 3019; and

11. Other documents/materials as stated in the Instructions to Bidders.

B. For the procurement of infrastructure projects:

X X X

14. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in Section 17.7 of the IRR-A;

15. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of R.A. 3019; and

16. Documents/materials to comply with other non-discretionary criteria and requirements as stated in the Instructions to Bidders.

C. For the procurement of consulting services:

X X X

8. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in Section 17.7 of the IRR-A;

9. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of RA 3019; and

10. Other information and/or documents specified in the bidding documents.

SECTION 33. Bid Evaluation of Short Listed Bidders for Consulting Services -

33.4.1. For the quality-based evaluation procedure, a two-stage procedure shall be adopted whereby each consultant shall be required to submit his technical and financial proposals simultaneously in separate sealed envelopes, and the evaluation of consultants shall be made based only on the technical proposals without consideration of the estimated cost or financial terms of the services. The BAC shall rank the consultants in descending order based on the numerical ratings of their technical proposals subject to Section 33.3 of this IRR-A and identify the Highest Rated Bid: Provided, however, that the Highest Rated Bid shall pass the minimum score required.

33.5 Quality-Cost Based Evaluation Procedure

X X X For this purpose, it is hereby clarified that, in case of a Quality-Cost Based Evaluation, as distinguished from a Quality-Based Evaluation, the financial proposals of the consultants who meet the minimum technical rating shall be opened on a separate date and time set by the BAC, and not during negotiations. Said consultants shall be notified of the date and time set for the opening of the financial proposal. X X X The weight of the technical criteria shall be adjusted accordingly such that their total weight in percent together with the weight given to the financial proposal shall add to one hundred percent (100%). The methodology to be used in