

[GPPB RESOLUTION NO. 17-2005, September 12, 2005]

RESOLUTION PROVIDING FOR THE GUIDELINES FOR PAYMENT IN FOREIGN CURRENCY UNDER SECTION 61.1 OF THE IMPLEMENTING RULES AND REGULATIONS PART A (IRR-A) OF REPUBLIC ACT NO. 9184 (RA 9184), AS AMENDED

WHEREAS, Republic Act No. 9184, ("R.A. 9184") entitled "An Act Providing for Modernization, Standardization and Regulation of the Procurement Activities of the Government and for other Purposes," was signed into law on January 10, 2003, and took effect on January 26, 2003. On the other hand, its Implementing Rules and Regulations Part A ("IRR-A") was approved on September 18, 2003, and took effect on October 8, 2003;

WHEREAS, Section 61.1 of the IRR-A of R.A. 9184 provides that all contracts shall be denominated and payable in Philippine currency, and this shall be stated in the bidding documents: Provided, however, That should the procuring entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based in the exchange rate prevailing on the date of bid opening;

WHEREAS, Section 1 of R.A. 8183 provides that all monetary obligations shall be settled in the Philippine currency which is the legal tender in the Philippines. However, the parties may agree that the obligation or transaction shall be settled in any other currency at the time of payment;

WHEREAS, Section 61 of R.A. 9184 does not provide for the requirement that all contracts shall be denominated and payable in Philippine currency, as provided under the Section 61.1 of the IRR-A of R.A. 9184;

WHEREAS, the GPPB deems it necessary to amend Section 61 of the IRR-A of R.A. 9184 to unburden the procuring entities from the unfavorable effects of the reluctance and/or refusal of suppliers/contractors to transact with government and assume the risk of foreign exchange;

WHEREAS, in so doing, the government would not have to deal with high contingency provisions in bids of suppliers/contractors as a result of the foreign exchange risk;

WHEREAS, during the 8th GPPB meeting held on September 12, 2005, the members of the Board discussed and considered to amend Section 61.1 of the IRR-A of R.A. 9184 to conform to R.A. 8183, Section 1, and endorse for approval to the President of the Republic of the Philippines, Her Excellency President Gloria Macapagal-Arroyo, the amendment thereto per Resolution No. 016-2005, as follows:

"61.1 For the given scope of work in the contract 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 and upon prior approval of the GPPB. All contracts shall be denominated and payable in the Philippine currency, and this shall be stated in the bidding documents: Provided, however, That, the procuring entity may provide in the bidding documents that obligations may be settled in any other currency at the time of payment subject to the guidelines to be issued by the GPPB; Provided, further, That should the procuring entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening for purposes of bid comparison and evaluation."

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 these guidelines, set hereunder, to govern payment in foreign currency, subject to the above-mentioned amendment of Section 61.1 of the IRR-A of R.A. 9184:

1. Foreign suppliers, manufacturers, distributors and contractors may denominate their bids in foreign currency. Contracts with said parties may be denominated and paid in foreign currency.
2. Local suppliers, manufacturers, distributors and contractors shall denominate their bids in Philippine currency except where they engage in importation and their goods have import content in which case the bidder, in his bid, shall disaggregate the cost components into foreign and local costs, and may denominate and be paid in foreign and Philippine currencies; provided, that local suppliers availing of this option to denominate portion of its cost in foreign currency shall submit, as a pre-requisite for payment, the relevant import documents as proof thereof. In the event of failure to submit said documents within a reasonable period of time as determined by the procuring entity, payment shall be made in Philippine currency based on the exchange rate at the time of bid opening.
3. For purposes of the immediately preceding rule, import documents shall be those used in the importation by the supplier, manufacturer, distributor or contractor specific to the procurement contract and undertaken within the contract implementation period.
4. Local suppliers, manufacturers, distributors and contractors who do not engage in importation and therefore do not have import contents in their bids, shall denominate their bids wholly in Philippine currency. Their contract shall be denominated and be paid wholly in Philippine peso.

This resolution shall take effect immediately.

Adopted: 12 Sept. 2005

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