

**[ EXECUTIVE ORDER NO. 278, February 02, 2004 ]**

**PRESCRIBING GUIDELINES FOR PROJECT LOAN NEGOTIATIONS  
AND PACKAGING OF GOVERNMENT FOREIGN-ASSISTED  
INFRASTRUCTURE PROJECTS**

WHEREAS, the 1987 Constitution and existing laws such as Commonwealth Act Nos. 138 & 541, Republic Act (RA) No. 5183, the Official Development Assistance (ODA) Act of 1996, as amended, and Republic Act (RA) No. 9184 (otherwise known as the Government Procurement Reform Act) mandate the government to give preference to qualified Filipinos in the grant of rights, privileges, and concessions covering the national economy and patrimony, including the purchase of materials, supplies, goods, and equipment as well as in the hiring of consultants, contractors, architects, engineers and other professionals necessary for a project's implementation;

WHEREAS, for recent foreign-assisted infrastructure projects bid out by various government agencies, there have been concerns raised by the Philippine Constructors Association (PCA) and the Confederation of Filipino Consulting Organizations (COFILCO) that Filipino constructors and consultants are experiencing difficulty in participating in the bidding of such projects due to various reasons such as, among others, that the contracts have been packaged in sizes too large or beyond local financial capabilities or that the criteria and requirements for participation have been set above local capabilities and experience, or the criteria are set beyond the requirements of the project;

WHEREAS, there is a need to prescribe guidelines in the areas of preparation and packaging of projects/contracts and loan negotiations for government foreign-assisted infrastructure projects which will provide Filipino constructors and consultants with better market opportunities and allow them to upgrade their capabilities and compete internationally;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

*SECTION 1. General Policy on Consultancy Services for Government Infrastructure Projects.* As a general rule, the government should, as much as possible, fund consultancy services for government infrastructure projects with local funds and using local resources and expertise. Consultancy services shall be proposed for foreign assistance only where foreign funding is indispensable or local funds are insufficient. For this purpose, the concerned government units shall provide funds in their respective investment program for the following consultancy services:

- a. Pre-investment components which shall include feasibility studies and related surveys and special studies;
- b. Detailed engineering design and related activities (where the project is determined to be feasible); or
- c. Project Management/Supervision

Where Filipino capability is determined by appropriate authorities to be insufficient, Filipino consultants may hire or associate themselves with foreign consultants, provided that the Filipino shall be the lead consultant.

Where foreign funding is indispensable, foreign consultants for the project must enter into joint venture with Filipino consultants.

*SECTION 2. Packaging of government Infrastructure Projects* - The following basic principles shall govern the work packaging of government infrastructure projects, irrespective of the funding source:

- 2.1 Large government infrastructure projects, when feasible, shall be packaged into separable work components without sacrificing the technical integrity of the structure to be built and taking into account Filipino capabilities. Complex and/or multi-disciplinary infrastructure projects covering works of a different nature requiring varied competencies shall be packaged into separate work components to be defined in the Implementing Rules and Regulations (IRR) of this Order.
- 2.2 The packaging of such projects shall take into account the technical and financial capabilities and experience of Filipinos in the domestic and international market, as well as the most logical and practical scope of work to complete a project or any part thereof.
- 2.3 In the criteria for determining eligible or pre-qualified bidders, the successful completion of a single project whose value is at least fifty percent of the value of the contract to be bid shall be acceptable as work experience requirement.
- 2.4 Clustering of small and medium projects may be adopted, provided that the resulting cluster or package is within the capabilities of Filipino contractors.