

[DOA CIRCULAR NO. 01, S. 2004, November 03, 2004]

DIRECTING THE ADOPTION OF COUNTERTRADE IN THE FOREIGN PROCUREMENTS/IMPORTATIONS OF THE DEPARTMENT OF AGRICULTURE INCLUDING ITS ATTACHED BUREAUS AND OFFICES PURSUANT TO E.O. 120 S. 1993

Chapter 1.0 General Policies and Guidelines

Article 1.1 Countertrade - Cognizant of the benefits of countertrade particularly in the development and modernization of the agriculture sector, it is hereby declared a policy of the Department of Agriculture (hereinafter referred to as the "Department") to require the integration/adoption of countertrade in the importation or foreign procurement of equipment, machineries, supplies, products and commodities by Department proper or by any of its attached bureaus and offices when the value of the importation or foreign procurement is equivalent to at least US\$ ONE MILLION (US\$1,000,000.00) or its equivalent in other convertible foreign currency.

Article 1.2 Applicability of Executive Order No. 120 (s. 1993) and its implementing rules and regulations - Executive Order No. 120 (series of 1993) and its Implementing Rules and Regulations (IRR) directs the Philippine government, its departments, bureaus, agencies including government owned and controlled corporations to adopt countertrade as a supplemental trade tool with respect to the importation of foreign capital equipment, machinery, products, goods and services equivalent to at least US\$1 Million and above. The provisions of E.O. 120 (series of 1993) and its IRR shall apply to all countertrade arrangements covered by this Circular, unless otherwise expressly provided herein.

Article 1.3 Coverage - This Circular shall cover all importation or foreign procurements of equipment, machineries, supplies, products and commodities from foreign suppliers or their duly authorized local representatives valued at US\$1,000,000.00 and over or its equivalent in other convertible foreign currency undertaken by, or for the benefit of, the Department Proper or any of its attached bureaus and offices when such procurement or importation will be paid for by the Philippine government or out of Philippine government funds.

The term "paid for by the Philippine government or out of Philippine government funds" shall be construed to mean that government funds will be utilized to pay for the procurement or importation whether on cash or on credit terms.

In relation to the foregoing, countertrade shall be applicable even when the budgetary allotment of the Department, including those of its attached bureaus and offices and/or the prices quoted by suppliers of the imported equipment, spare parts and supplies to be procured by the Department or its attached bureaus and offices, are denominated in Philippine Pesos (as required under pertinent provisions of the

IRR-A of R.A. 9184) for as long as the equivalent value thereof (in Philippine Pesos) is at least US\$ 1 Million or over based on the prevailing exchange rate at the time of bidding or submission of price offer/quotation, as applicable.

Article 1.4 Exclusion - Excluded from the coverage of this Circular are importations or foreign procurements of the Department or any of its attached bureaus or offices which are funded entirely from:

- Donations;
- Grants in aid; or
- Overseas Development Assistance (ODA) as defined by the NEDA and/or DOF

Should only a portion of the purchase price for such imported equipment, machineries, supplies, products or commodities is funded by any of the above, the remaining portion of the purchase for the same, if amounting to at least US\$1 Million and over, to be paid for by the Philippine government, will be subject to countertrade.

Article 1.5. Coordinating Agency - The Department and its attached bureaus and offices shall coordinate with the Philippine International Trading Corporation (PITC) of the Department of Trade and Industry through the DA-Agribusiness and Marketing Service (DTI-AMAS) on all matters relating to countertrade as prescribed in this Circular pursuant to E.O. 120 s. 1993 and its IRR. The DA-AMAS shall be the countertrade liaison office between PITC and DA.

Chapter 2.0 Countertrade Commitment of Suppliers

Article 2.1 Countertrade level - For procurement contracts covered by this Circular, the minimum commitment to be required of the supplier/manufacturer shall be equivalent to at least fifty percent (50%) of the value of the imported the equipment, machinery, supplies, products or commodities under the Supply Contract.

The "value" of the imported equipment, for purposes of this Article, shall mean the its CIF or FOB value (as applicable), excluding Philippine taxes and duties and local costs.

Article 2.2. Countertrade Program - The countertrade program to be offered by suppliers/manufacturers/contractors of the Department or any of its concerned bureaus and offices shall consist of either Offsets (directs or indirect), such as, but not limited to: investments, technology transfer, training and skills upgrade, donations, research and development projects which will primarily benefit the Philippine agriculture and fisheries sector, and/or counter-purchase of Philippine agricultural/fisheries products and commodities.

Chapter 3.0 Integrating Countertrade in the DA Procurement Process

Article 3.1 Open Competitive Bidding and Limited Source Bidding -

3.1.1 Eligibility Requirements : Countertrade Undertaking Form

- a. The Countertrade Undertaking Form per the format attached hereto as Annex "A"* shall be included as one of the eligibility form/document to be accomplished and submitted by bidders applying for eligibility. Said