

Regional Conference on the Use of Procurement Agents in Public Procurement

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PROCUREMENT AGENTS IN THE PHILIPPINES

A. LEGAL FRAMEWORK

Procurement in the Philippines is governed by Republic Act (RA) No. 9184,¹ otherwise known as the "Government Procurement Reform Act." RA No. 9184 is an omnibus law which consolidated, standardized and updated all the previous procurement laws, rules and regulations, administrative issuances and procedures for all national government agencies and entities, including local government units, to apply to goods, infrastructure projects and consulting services. RA No. 9184 took effect on January 26, 2003, while its Implementing Rules and Regulations (IRR) took effect on October 08, 2003.

After gaining actual experiences from the implementation of the law, the IRR of RA No. 9184 was revised to bridge implementation gaps, improve on some rules and guidelines to make them more responsive to the prevailing circumstances, and to introduce more international best practices. The revised IRR became effective on September 02, 2009.

One of the new features in the IRR is the engagement of procurement agents. In order to hasten project implementation, procuring entities which may not have the proficiency or capability to undertake a particular procurement, as determined by the Head of the Procuring Entity concerned, may request other government agencies to undertake such procurement for them, or at their option, recruit and hire consultants or procurement agents to assist them directly and/or train their staff in the management of the procurement function.² The Government Procurement Policy Board (GPPB) was tasked to issue the guidelines to implement this provision.³

In summary, the Philippine law allows procurement servicing for government agencies through:

- Agency to agency procurement;
- Procurement Agents (Government and Private); and
- Procurement Management.

B. OBJECTIVES IN RESORTING TO PROCUREMENT AGENTS

The objectives in resorting to procurement agents are expressed in the rule itself as above-mentioned. Overall, the anticipated advantages of this alternative are:

- Facility in project implementation, especially for those without procurement capability or proficiency.
- Efficient and timely delivery of goods, works and consulting services.
- Intervention based on expertise and experience that are beneficial to procuring entities.
- Infusion of private sector market experience and innovations through knowledge and technology transfer.

¹ The complete title of RA No. 9184 is "An Act providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes."

² Section 53.6 of the revised IRR

³ The GPPB was created under RA No. 9184 to: protect national interest in all matters affecting public Procurement, having due regard to the country's regional and international obligations; formulate and amend, whenever necessary, the IRR and the corresponding standard forms for Procurement; ensure that Procuring Entities regularly conduct Procurement training programs and prepare a Procurement operations manual for all offices and agencies of government; and conduct an annual review of the effectiveness of the Act and recommend any amendments thereto, as may be necessary.

C. CURRENT STATUS OF PROCUREMENT AGENTS IN THE PHILIPPINES

At present, the GPPB has not yet issued the guidelines for the engagement of procurement agents. Nevertheless, the following government agencies serve as procurement agents for other government agencies:

- Philippine International Trading Corporation (PITC); and
- Department of Budget and Management – Procurement Service.

The private sector is yet to be officially utilized as procurement agent, but this will admittedly require extensive guidelines on, among others, the parameters and standards of the engagement.

D. CHALLENGES IN PROCUREMENT THROUGH PROCUREMENT AGENTS

Based on feedbacks from the field, the following are the challenges that need to be addressed on the matter:

- **For Government Procurement Agents:**
 - Volume of transactions; Weak procurement planning by procuring entities; Lack of standards that will facilitate the drawing up of technical specifications; and Lack of policy support that will provide the special procedures for procurement through agents.
- **For Private Sector Procurement Agents:**
 - Non-implementation due to some setbacks, such as limited recognition of the potentials and advantages of using procurement agents from the private sector; availability, readiness and maturity of market participants versus government procurement; comfort level in the engagement between government and private procurement agents; fear of abuse; government readiness to shift procurement paradigm; and government capacity to address all policy requirements to set the stage for this innovation.

E. NEXT STEPS

- **For Government:**
 - Ensure serious and judicious procurement planning by procuring entities;
 - Set up standards to serve as guide in drawing up technical specifications;
 - Pursue continuing capacity building for Government Procurement Agents and procuring entities; and
 - Review organizational capacity of the DBM-Procurement Service.
- **For Private Sector Procurement Agents:**
 - Evaluate the feasibility of tapping the private sector as procurement agents in the context of the Philippines, with sufficient guidelines to ensure that the objectives of the law are achieved.
- Considering the foregoing, the Philippine participants to the Conference may be able to gain knowledge and appreciate the rule, system, and processes adopted by other countries on procurement agents, to be able to learn from their experiences/best practices – success, challenges and even failures, if any, so that the same can serve as very valuable and relevant inputs to the Philippines in our consideration and crafting of the guidelines on the use of procurement agents in the country.