



PAMBANSANG PUNONGHIMPILAN TANODBAYBAYIN NG PILIPINAS
(National Headquarters Philippine Coast Guard)
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NHQ-PCG / CG-4

MEMORANDUM CIRCULAR
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**Implementing Guidelines on the Procurement of Equipment, Material and Systems
for the PCG through Government-to-Government Arrangement**

1. LEGAL BASIS

- 1.1. Executive Order Nr. 459, s-1997, Providing for the Guidelines in the Negotiation of International Agreements and Its Ratification.
- 1.2. Republic Act 9184, an Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes.
- 1.3. Revised Implementation Rules and Regulations (IRR) of RA 9184 dated 22 July 2009 including but not limited to:
 - 1.3.1 Section 4 (Scope and Application)
 - 1.3.2 Section 54 (Terms and Conditions for the use of Alternative Methods)

2. REFERENCES

- 2.1. Republic Act 7898, s-1995, an Act Proving for the Modernization of the Armed Forces of the Philippines and for Other Purposes.
- 2.2. Department Circular Nr. 01, s-2000, Implementing Guidelines, Rules and Regulations of the Armed Forces of the Philippines Modernization Program.
- 2.3. Administration Order Nr. 169, s-2007, Amending the Implementing Guidelines, Rules and Regulations of the AFP Modernization Program.
- 2.4. Memorandum Order No. 17 dated 25 May 2011, Directing the Full Implementation of a Defense Reform Program, Institutionalizing the Proper Stewardship of Public Funds by the Department of National

Defense and the Armed of the Philippines and Providing for the Expeditious and Effective Investigation and Prosecution of Offending DND and AFP Personnel.

- 2.5. Department Circular No. 11 dated 01 July 2011, The DND-Proper Organization and the Defense System of Management (DSOM).
- 2.6. Department of National Defense Circular No. 03 dated 29 February 2012, Implementing Guidelines on the Procurement of major defense equipment or materiel for the DND Through Government-to-Government Arrangement.

3. GOVERNING PRINCIPLES

- 3.1. The PCG may resort to alternative modes of procurement to acquire equipment, material and systems through a Government-to-Government (G2G) arrangement pursuant to Section 4 of the revised IRR of RA 9184.
- 3.2. G2G arrangement must be pre-determined as most advantageous to the Philippine Government in terms of long term availability and efficiency of after-sales support and services, economy of lifecycle costs, manufacturer's/supplier-proponent's reputation, product quality and national security interest.
- 3.3. All G2G Procurement Arrangement should be aligned with the PCG Strategic Plan.

4. OBJECTIVES

This Memorandum Circular shall provide the guidelines on the PCG procurement of equipment, material and systems through G2G Procurement arrangements pursuant to the revised IRR of RA 9184.

5. APPLICABILITY

This Circular applies to the PCG Procurement Process that involves G2G procurement.

6. DEFINITION OF TERMS

- 6.1. *Bids and Awards Committee (BAC)* - refers to the Bids and Awards Committee established in accordance with Rule V of the IRR of RA 9184.
- 6.2. *Executive Agreements* - refers to Internal Agreements except that they do not require legislative ratification.
- 6.3. *GOP*- refers to the Government of the Philippines.
- 6.4. *Government-to Government Procurement (G2G)*- refers to the acquisition of goods, consulting services, or the contracting of infrastructure projects by the Philippine Government, either through

direct purchase from the government of another country or negotiating directly with an agency or instrumentality of another country with which the Philippines has entered into a Treaty or International or Executive Agreement or defense cooperation agreement or otherwise maintains diplomatic relations.

- 6.5. *International Agreements* - refers to a contract or understanding, regardless of nomenclature, entered into between the Government of the Philippines and another government or foreign or international financing institution in written form and governed by international law, whether embodied in a single instrument or in two (2) or more related instruments.
- 6.6. *National Interest* - advantages or enhanced prestige or benefit to the country as defined by its political and/or administrative leadership.
- 6.7. *Negotiated Procurement* - refers to the method of procurement whereby a procuring entity directly negotiates a procurement contract with technically, legally and financially capable supplier or contractor or consultant.
- 6.8. *Procurement* - refers to the acquisition of goods, consulting services and the contracting for infrastructure projects.
- 6.9. *Procurement Directive (PD)* - is a document issued by the DCCGS for Logistics, CG-4 to acquire a particular equipment or material.
- 6.10. *Project Procurement Management Plan (PPMP)* - is a comprehensive document that details the procurement approaches and strategies' including details of the sequence of procurement activities and when these activities will take place, and explains how the procurement and proposal evaluation approaches will obtain the best-value-for-money and most advantageous results for the PCG.
- 6.11. *Provisional Effect* - recognition by one or both sides of the negotiation process that an agreement be considered in force pending compliance with domestic requirements for the effectivity of the agreement.
- 6.12. *Technical Specifications (TS)* - is a document that sets forth the operational and technical requirements of the equipment, materials and systems to be procured.
- 6.13. *Terms of References (TOR)* - refers to the document prepared by the concerned Negotiating Team and Technical Working Group that serves as guide for the successful execution of the negotiation and the project itself.
- 6.14. *Treaties* - refers to international agreements entered into by the Government of the Philippines which require legislative ratification after executive concurrence.

7. GENERAL GUIDELINES ON NEGOTIATED PROCUREMENT THROUGH GOVERNMENT-TO-GOVERNMENT (G2G) PROCUREMENT ARRANGEMENT

7.1. A Government to Government Procurement can be implemented through the following:

7.1.1. Through an existing Memorandum of Understanding (MOU) between the PCG and a foreign government or its authorized representative.

7.1.2. Through an initiative endorsement of an agency or department of the Republic of the Philippines (through subsuming) which has an existing MOU with a foreign government or its authorized representative.

7.2. Negotiated Procurement through G2G Procurement arrangement may be implemented through commercial transactions with government agencies or instrumentalities of another country in accordance with a Treaty or International or Executive Agreement (with specific provision/s for procurement) as method in Section 4 of the revised IRR of RA 9184.

7.3. G2G Procurement in accordance with an Existing Treaty or International or Executive Agreement pursuant to Section 4 of revised IRR of RA 9184

7.3.1. The succeeding provisions under this Title cover Treaties or International or Executive Agreements where specific provisions for procurement had been delineated therein or are covered by subsequent Implementing Arrangement and/or other documents to that effect.

7.3.2. Pursuant to Section 4.2 of revised IRR of RA 9184, "Any Treaty or International or Executive Agreement to which the Government of the Philippines (GOP) is a signatory affecting the subject matter of the Act and this IRR shall be observed. In case of conflict between the terms of the Treaty or International or Executive Agreement and this IRR, the former shall prevail".

7.3.3. Procurement of equipment, material and systems in accordance with a G2G arrangement under a Treaty or International or Executive Agreement shall be subject to the following guidelines:

a. Compliance of the supplier-proponent and its offered equipment, material and systems to the PCG specifications and terms and conditions;

b. The supplier-proponent is an authorized supplier/exporter and/or contractor under pertinent

laws of the country with which the GOP entered into an agreement;

c. The supplier-proponent is the direct manufacturer of the equipment, material and systems offered are traceable to the original manufacturer and verifiable as to manufacturing/production process: and

d. Prices of the offered equipment, material and systems are internationally competitive.

7.3.4. G2G Procurement arrangement under a Treaty or International or Executive Agreement (with provisions for procurement) shall be carried out under the terms of the Agreement by a duly-designated official or entity qualified for such functions, and processed and executed with BAC participation.

7.4. Negotiated Procurement under a G2G Procurement arrangement, either through procurement from a government agency or instrumentality of another country pursuant to the revised IRR of RA 9184, or in accordance with a G2G Agreement under a Treaty or International or Executive Agreement, shall be specified in the pertinent Project Procurement Management Plan (PPMP) and duly reflected in the Procurement Directive to be submitted with a corresponding Disposition Form (DF) from CG-4 for the approval and signature of the Commandant, PCG.

7.5. All acquisition by the PCG through a G2G Procurement Arrangement are initiated through a procurement directive with a corresponding Disposition Form (DF) from CG-4 duly approved by Commandant, PCG.

8. PROCEDURES IN THE IMPLEMENTATION OF GOVERNMENT-TO-GOVERNMENT (G2G) ARRANGEMENT PURSUANT TO THE REVISED IRR OF RA 9184

8.1. The steps in the G2G Procurement are shown in the PCG procurement process (Government-to-Government) herewith attached as Annex A.

8.2. Creation of the Negotiating Committee

8.2.1. The BAC shall perform their respective duties and responsibilities in accordance with Republic Act No. 9184 and its revised IRR.

8.2.2. The BAC shall organize a Negotiating Team that will conduct direct negotiation with the supplier/proponent to be recommended by the identified country and evaluate, assess and determine the proposals if they comply with the requirements of the PCG. The

Negotiating Team shall ensure that the offer is most advantageous to the government.

8.2.3. The membership of the Negotiating Team shall be composed of officials who have knowledge and/or experience and/or expertise in procurement negotiation, technical, logistics, operations, financial and legal matters. The Negotiating Team must be chaired by a member coming from the BAC.

8.2.4. The BAC, through a Resolution, shall recommend to the Commandant, PCG the composition of the Negotiating Team for approval and issuance of appropriate Order.

8.2.5. The Negotiating Team and TWG shall prepare a Terms of Reference (TOR) to be recommended by the concerned BAC to the Commandant, PCG for approval that will serve as guide for the negotiation process.

8.3. Negotiation Process

8.3.1. Upon receipt of the PCG the name of supplier/proponent designated or recommended by the foreign government with which the PCG has an existing MOU or through an initiative endorsement of an agency or department of the ROP (through subsuming) which has an existing MOU with a foreign government or its authorized representative, or maintains diplomatic relations, the Negotiating Team designated by the Commandant, PCG shall inform the concerned supplier/proponent of the intention of the PCG.

8.3.2. The Negotiating Team shall conduct a pre-negotiation conference with the supplier/proponent to discuss the project, terms and conditions, required documentary (eligible & technical) requirements, and timelines.

8.3.3. The concerned supplier/proponent shall submit their proposals based on the intention, specifications and other information provided on the intended procurement/offer.

8.3.4. The Negotiating Team shall negotiate with the concerned supplier/proponent and evaluate, assess and determine the proposals if they comply with the requirements of the PCG.

8.3.5. The Negotiating Team shall present to the BAC the results of the negotiation and make recommendations for approval of the BAC. The BAC shall issue

Resolution(s) confirming the recommendations of the Negotiating Committee.

8.3.6. After post-qualification (if necessary), the BAC shall prepare the corresponding recommendation and Notice of Award (NOA) for the approval of the Commandant, PCG.

8.3.7. The BAC, through the BAC Secretariat, shall give the Notice of Award (NOA) to the winning supplier/proponent. The BAC Secretariat shall inform the winning supplier-proponent of its obligation to post the performance bond within the prescribed period specified in the NOA, but prior to the date of the signing of the Contract for the project pursuant to Section 39 of the revised IRR of RA 9184.

8.3.8. The supplier must acknowledge receipt of the NOA and post a performance security equivalent to the percentage set forth in Section 39 of the revised IRR of RA 9184.

8.3.9. The BAC, through the BAC Secretariat, shall post the Notice of Award (NOA) at the websites of the PCG and PhilGeps.

8.3.10. The BAC, through the BAC Secretariat, shall coordinate with and forward all pertinent documents of the project to the concerned PCG office for the finalization and signing of the contract.

9. OBSERVERS

9.1. Observers from Non-Government Organizations, Commission on Audit and others as provided for in the IRR of RA 9184, and/or as required by the PCG shall be invited to observe proceedings of transactions under the G2G Procurement arrangement.

9.2. With the assistance of the observers, adequate measures should be adopted to ensure that all G2G Procurement arrangements strictly adhere to existing rules and regulations on procurement.

10. FUNCTIONAL RESPONSIBILITY

10.1. The DCCGS for Logistics, CG-4 shall exercise oversight functions on all G2G Procurement arrangements of the PCG. He shall also ensure the strict implementation of this Circular.

10.2. The CG Logistics Systems Command (CGLSC) shall provide direction and coordination for all procurements in accordance with G2G Arrangement.

11. REPEALING CLAUSE

All circulars and policies inconsistent with this memorandum Circular are hereby repealed or modified accordingly.

12. EFFECTIVITY

This Circular takes effect upon publication.

BY COMMAND OF ADMIRAL HERMOGINO, PCG:

OFFICIAL:



LIEZEL B BAUTISTA
CDR PCG
Coast Guard Adjutant

29/10/1998

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