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REPUBLIKA NG PILIPINAS  
REPUBLIC OF THE PHILIPPINES  
**KAGAWARAN NG EDUKASYON**  
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DepED MEMORANDUM  
No. 208 , s. 2005

JUL 26 2005

DISSEMINATION OF EXECUTIVE ORDER NO. 438  
AND MEMORANDUM ORDER NO. 176

To: Undersecretaries  
Assistant Secretaries  
Bureau Directors  
Directors of Services, Centers and Heads of Units  
Regional Directors  
Schools Division/City Superintendents

1. For the information and guidance of all concerned, enclosed are the copies of the following:
  - a. **Executive Order No. 438** dated June 27, 2005 entitled " Approving and Adopting the Medium-Term Youth Development Plan (MTYDP) 2005-2010"; and
  - b. **Memorandum Order No. 176** dated June 27, 2005 entitled " Approving Amendments to Sections 20.1; 23.6 No. 2; 24.7.1 No. 2; 25.2; 25.3; 33.4.1; 33.5; 37.3; 39.5; 54.2(b); 62.2; Annex D, 1.2; and Annex D, 1.4, of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. 9184 (Government Procurement Reform Act)."
2. Immediate dissemination of this Memorandum is desired.

*R. C. Bacani*  
RAMON C. BACANI  
Undersecretary  
Officer-in-Charge

Encls.: As stated  
Reference: None  
Allotment: 1- -(D.O. 50-97)  
To be indicated in the Perpetual Index  
under the following subjects:

BUREAUS & OFFICES  
LEGISLATIONS  
PROCUREMENT

Draft by: Maricar/DM-EO & MO  
07-18-05

**Malacañang**  
**Manila**

**BY THE PRESIDENT OF THE PHILIPPINES**

**MEMORANDUM ORDER NO. 176**

**APPROVING AMENDMENTS TO SECTIONS 20.1; 23.6 NO. 2; 24.7.1 NO. 2; 25.2; 25.3; 33.4.1; 33.5; 37.3; 39.5; 54.2(b); 62.2; ANNEX D, 1.2; AND ANNEX D, 1.4, OF THE IMPLEMENTING RULES AND REGULATIONS PART A (IRR-A) OF REPUBLIC ACT NO. 9184**

**WHEREAS**, Republic Act (RA) No. 9184, otherwise known as the Government Procurement Reform Act, was signed into law on January 10, 2003;

**WHEREAS**, pursuant to Section 75 of R.A. No. 9184, the Government Procurement Policy Board (GPPB), jointly with the members of the Joint Congressional Oversight Committee, formulated the Implementing Rules and Regulations Part A (IRR-A) of RA 9184, with Annexes "A" to "E", which was approved by the President of the Philippines on July 11, 2003;

**WHEREAS**, the joint participation of the Congressional Oversight Committee in the formulation of implementing rules and regulations has recently been declared unconstitutional by the Supreme Court in *Macalintal vs. Comelec*, G.R. No. 157013, July 2003;

**NOW THEREFORE, I GLORIA MACAPAGAL-ARROYO**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, hereby approve the amendments of the Implementing Rules and Regulation – Part A (IRR-A) of Republic Act (RA) 9184 as follows:

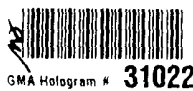
**SECTION 1.** Sections 20.1; 23.6 No. 2; 24.7.1 No. 2; 25.2; 25.3; 33.4.1; 33.5; 37.3; 39.5; 54.2(b); 62.2; Annex D, 1.2; and Annex D, 1.4 of the IRR-A of RA 9184 are hereby amended as follows:

***Section 20. Pre-procurement Conference***

*20.1. X X X During this conference, the participants, led by the BAC, shall:*

*. X X X*

- 5. Review and agree on the number of eligible bidders to be included in the shortlist, from three to seven eligible bidders, and the minimum score required, as provided for in Section 24.15.2;*
- 6. Review and agree on whether the quality-based or quality-cost based evaluation procedure shall be adopted in the selection of consultant, as provided for in Section 33.3.1; if the quality-cost based evaluation*



*procedure, review and agree on the weights to be allocated to the technical and financial criteria and recommend to the head of the procuring entity for approval, as provided for in section 33.5;*

- 7. Clarify that the specifications and other terms in the bidding documents are minimum requirements and that the bidder may submit an offer which provides for superior specifications and/or better terms and conditions to the Government at no extra cost, without any bonus, credit or premium in the bid evaluation; and*
- 8. Reiterate and emphasize the importance of confidentiality during the bid evaluation process, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance with the foregoing.*

### **Section 23. Eligibility Requirements for the Procurement of Goods and Infrastructure Projects**

#### *23.6. Eligibility Check for the Procurement of Goods and Infrastructure Projects*

*X X X*

##### *2. Class "B" Documents –*

- a) Valid joint venture agreement, in case of a joint venture. Each member of the joint venture shall submit the required eligibility documents; and*
- b) X X X*

### **Section 24. Eligibility Requirements and Short Listing for Consulting Services**

#### *24.7. Eligibility Check for the Procurement of Consulting Services*

*X X X*

##### *2. Class "B" Documents –*

- a) Valid joint venture agreement, in case of a joint venture. Each member of the joint venture shall submit the required eligibility documents; and*
- b) X X X*

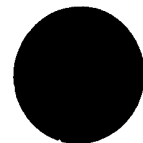
### **Section 25. Submission and Receipt of Bids**

*25.2. Eligibility requirements and bids submitted after the deadline shall not be accepted by the BAC.*

*25.3. The first envelope (Technical Proposal) shall contain the following technical information/documents, at the least:*

#### *A. For the procurement of Goods:*

*X X X*



XXX

9. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in Section 17.7 of the IRR-A;
10. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of R.A. 3019; and
11. Other documents/materials as stated in the Instructions to Bidders.

B. For the procurement of infrastructure projects:

XXX

14. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in section 17.7 of the IRR-A;
15. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of R.A. 3019; and
16. Documents/materials to comply with other non-discretionary criteria and requirements as stated in the Instructions to Bidders.

C. For the procurement of consulting services:

XXX

8. A sworn statement attesting compliance to the responsibilities of a Prospective or Eligible Bidder as provided in Section 17.7 of the IRR-A;
9. A sworn affidavit of compliance with the Disclosure Provision under Section 47 of the Act in relation to other provisions of RA 3019; and
10. Other information and/or documents specified in the bidding documents.

**Section 33. Bid Evaluation of Short Listed Bidders for Consulting Services**

33.4.1. For the quality-based evaluation procedure, a two-stage procedure shall be adopted whereby each consultant shall be required to submit his technical and financial proposals simultaneously in separate sealed envelopes, and the evaluation of consultants shall be made based only on the technical proposals without consideration of the estimated cost or financial terms of the services. The BAC shall rank the consultants in descending order based on the numerical ratings of their technical proposals subject to Section 33.3 of this IRR-A and



*identify the Highest Rated Bid: Provided, however, that the Highest Rated Bid shall pass the minimum score required.*

*- 33.5 Quality-Cost Based Evaluation Procedure*

*X X X For this purpose, it is hereby clarified that, in case of a Quality-Cost Based Evaluation, as distinguished from a Quality-Based Evaluation, the financial proposals of the consultants who meet the minimum technical rating shall be opened on a separate date and time set by the BAC, and not during negotiations. Said consultants shall be notified of the date and time set for the opening of the financial proposal. X X X The weight of the technical criteria shall be adjusted accordingly such that their total weight in percentage together with the weight given to the financial proposal shall add to one hundred percent (100%). The methodology to be used in the evaluation of the financial proposal shall be described in the Instructions to Bidders. The BAC shall rank the consultants in descending order based on the combined numerical ratings of their technical and financial proposals and identify the Highest Rated Bid: Provided, however, That subsequent negotiations in accordance with Section 33.4.3 of this IRR-A shall still be undertaken with the first in rank consultant, except for item (e) thereof. Except for meritorious reasons, negotiations with any one consultant shall be completed within fourteen (14) calendar days. X X X*

**Section 37. Notice and Execution of Award**

*37.3. Contract Signing*

*The winning bidder or its duly authorized representative shall comply with all the remaining documentary requirements, if any, prior to formally entering into contract with the procuring entity concerned within ten (10) calendar days from receipt by the winning bidder of the Notice of Award.*

*The Procuring Entity shall enter into contract with the winning bidder within the same ten (10) day period provided that all the documentary requirements are complied with.*

**Section 39. Performance Security**

*39.5. For the procurement of infrastructure projects, the winning bidder shall post an additional performance security following the schedule above to cover any cumulative increase of more than ten percent (10%) over the original value of the contract as a result of amendments to order or change orders, extra work orders and*



*supplemental agreements, as the case may be. The winning bidder shall cause the extension of the validity of the Performance Security to cover approved contract time extensions.*

**Section 54. Terms and Conditions for the use of Alternative Methods.**

54.2. b) *For items (a) and (b) of Section 53, in the case of goods and infrastructure projects, the procuring entity shall draw up a list of at least three (3) suppliers or contractors which will be invited to submit bids. The procedures for the conduct of public bidding shall be observed, and the lowest calculated and responsive bid shall be considered for award. However, the minimum period for each bidding procedure may be reduced. Moreover, the provisions of Section 21.2.4 of this IRR-A shall be observed.*

**Section 62. Warranty**

62.2

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*The warranty shall be stated in Philippine Pesos, shall remain effective during the applicable warranty period stated in Section 62.2 of the IRR-A and shall be returned only after the lapse of the said warranty period. The warranty shall be full for the first year, and renewable every year thereafter, subject to depreciation after the first year, on a straight line basis.*

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**ANNEX "D"**

**CONTRACT IMPLEMENTATION GUIDELINES FOR THE PROCUREMENT OF GOODS, SUPPLIES AND MATERIALS**

1. Amendment to Order

1.2. *An amendment to order may be issued only in emergency cases or during fortuitous events requiring necessary adjustments within the general scope of the contract in any one or more of the following is required in order to fully meet the requirements of the project:*

- a) *drawings, design or specifications, if the goods to be furnished are to be specifically manufactured for the Government in accordance therewith;*
- b) *method of shipment or packing; or*
- c) *place of delivery*



1.4. Under no circumstances shall a supplier proceed to commence work under any amendment to order unless the same has been approved by the head of the procuring entity concerned or his duly authorized representative. As an exception to the rule the Regional Director/Head concerned may authorize the immediate start of work under any amendment to order in the event of emergencies to avoid detriment to public service, or damage to life and/or property or when time is of the essence: Provided, however, That the same is valid only on items up to the point where the cumulative increase in the contract cost which has not yet been duly fully approved by the head of the procuring entity concerned or his duly authorized representative does not exceed five percent (5%) of the original contract cost: Provided, further, That the corresponding amendment to order shall immediately be prepared and submitted for approval to the head of the procuring entity concerned or his duly authorized representative. For an amendment to order involving a cumulative amount exceeding five percent (5%) of the original contact price, no work thereon shall be commenced unless the same has been approved by the head of procuring entity concerned or his duly authorized representative: Provided, That, the said cumulative amount does not exceed ten percent (10%) of the original contract price.

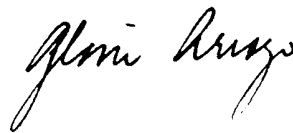
**SEC. 2.** All other provisions of the IRR-A of RA 9184 shall remain unchanged.

**SEC. 3.** This Memorandum Order shall take effect immediately upon its publication in a national newspaper of general circulation.

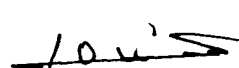
**DONE** in the City of Manila, this 27<sup>th</sup> day of June, in the year of Our Lord, Two Thousand Five.

By the President:

  
**EDUARDO R. ERMITA**  
Executive Secretary





**CERTIFIED COPY:**  
  
**LAMBERTOR R. BARBIN**  
In-charge  
Malacañang Pressing Office

847-6-05

**MALACAÑANG**  
**Manila**

**BY THE PRESIDENT OF THE PHILIPPINES**

**EXECUTIVE ORDER NO. 438**

**APPROVING AND ADOPTING THE MEDIUM-TERM YOUTH DEVELOPMENT PLAN (MTYDP) 2005-2010**

**WHEREAS**, Art. II, Sec. 13 of the Philippine Constitution provides that: *"the State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs";*

**WHEREAS**, the National Youth Commission (NYC) is mandated under RA 8044 also known as the *"Youth in Nation Building Act of 1995"* to plan, implement, and oversee a national integrated youth promotion and development program;

**WHEREAS**, the Social Development Committee (SDC) - Cabinet Level approved the MTYDP 2005-2010 in its 30 March 2005 meeting and issued SDC Resolution No. 1 Series of 2005, entitled *"Approving the MTYDP 2005-2010 (National Framework for Youth Development)"*;

**WHEREAS**, the timely, efficient, and effective implementation of the policies, programs, and activities in the MTYDP 2005-2010 are crucial in ensuring that the vision and goals of the plan are realized and will rebound to a better quality of life of the Filipino Youth;

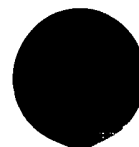
**NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO**, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby approve the Medium-Term Youth Development Plan 2005-2010, hereto attached as Annex "A" and made an integral part hereof, and hereby order:

**SECTION 1.** The Medium-Term Youth Development Plan, hereinafter referred to as the "Plan", shall serve as the guiding framework for National Government Agencies (NGAs), Local Government Units (LGUs), and Non-Government Organizations (NGOs) in the formulation and implementation of youth-oriented programs and policies.

**SECTION 2.** The "Plan" shall be adopted by NGAs to institutionalize youth development programs, activities, and projects in their annual planning,



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programming, and budgeting processes, implementation, and monitoring and evaluation.

**SECTION 3.** All LGUs are encouraged to adopt the "Plan" in their efforts to address the issues and concerns of the youth at the local level.

**SECTION 4.** The NYC, in coordination with concerned agencies, shall (a) monitor the implementation of the plan; and (b) conduct periodic assessment and updating of the plan every change in national leadership.

Pursuant to the foregoing, the NYC may call upon the assistance of any government agency, including, government-owned and/or controlled corporations (GOCCs), or any instrumentality, as well as existing inter-agency structures as may be necessary. NGOs and private entities are enjoined to assist and support the implementation of the MTYDP.

**SECTION 5.** The overall coordination of the MTYDP shall be charged against appropriations of the NYC. The cost of the programs and projects included in the MTYDP shall be charged in the respective appropriations of the lead/concerned agencies.

In view thereof, all-youth-serving agencies shall give priority in their Indicative Budget Ceiling the implementation of Section 31 of the General Appropriations Act of 2005. These agencies are hereby encouraged to include in their succeeding budget proposal, their programs in response to the needs/issues of the youth as identified in the "Plan".

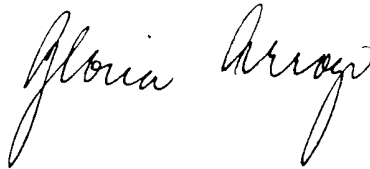
**SECTION 6. Repealing Clause.-** All orders, issuances, rules and regulations or parts thereof that are inconsistent with this Executive Order are hereby repealed and/or modified accordingly.

**SECTION 7. Effectivity.-** This Order shall take effect immediately.

DONE in the City of Manila this 27<sup>th</sup> day of June in the year of Our Lord, Two Thousand and Five.

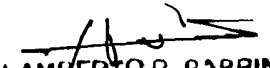
By the President:

  
**EDUARDO R. ERMITA**  
Executive Secretary





CERTIFIED COPY:

  
**LAMBERTO R. BARBIN**  
In-Charge  
Malacañang Records Office

847-6-05