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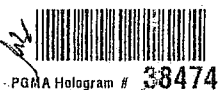
ADMINISTRATIVE ORDER NO. 169

AMENDING THE IMPLEMENTING GUIDELINES, RULES AND REGULATIONS OF THE ARMED FORCES OF THE PHILIPPINES MODERNIZATION PROGRAM

Chapter 1.0. GENERAL PROVISIONS

Article 1.1. General Policies, Guidelines and Objectives

- 1.1.1 Pursuant to Republic Act (RA) No.7898, An Act Providing for the Modernization of the Armed Forces of the Philippines (AFP) and for Other Purposes, it is the policy of the State to modernize the AFP to a level where it can effectively and fully perform its constitutional mandate to uphold the sovereignty and preserve the patrimony of the Republic of the Philippines.
- 1.1.2. Pursuant to RA 7898, the AFP Modernization Program shall have the following objectives:
- (a) To develop the capability of the AFP to uphold the sovereignty and territorial integrity of the Republic and to secure the national territory from all forms of intrusion and encroachment;
 - (b) To develop its capability to assist civilian agencies in the preservation of the national patrimony, including the country's living and nonliving marine, submarine, mineral, forest and other natural resources located within its territory and its exclusive economic zone;
 - (c) To enhance its capability to fulfill its mandate to protect the Filipino people not only from armed threats but from the ill effects of life-threatening and destructive consequences of natural and man-made disasters and calamities, including typhoons, earthquakes, volcanic eruptions, major accidents in far flung or inaccessible terrain or at sea and from all forms of ecological damage;
 - (d) To improve its capability to assist other agencies in the enforcement of domestic and foreign policies as well as international covenants against piracy white slavery, smuggling, drug trafficking, hijacking of aircraft and sea craft and the transport of toxic and other economically harmful substances taking place in or through Philippine territory;



- (e) To enhance its capability in the conduct of Internal Security Operations (ISO), particularly in the suppression of insurgency and other serious threats to national security;
- (t) To enhance its capability to fulfill the country's international commitments; and
- (g) To develop its capability to support national development,

1.1.3. Pursuant to RA 7898, the AFP Modernization Program shall have the following components:

- (a) Force Restructuring and Organization Development;
- (b) Capability, Materiel, and Technology Development;
- (c) Bases/Support System Development;
- (d) Human Resource Development;
- (e) Doctrines Development

1.1.4 Pursuant to RA 7898, the AFP Modernization Program shall be implemented over a period of fifteen (15) years from 1995. It should therefore, be fully implemented by 2010. However, payments for amortization of outstanding multi - year contract obligations incurred under the Program may extend beyond this period.

1.1.5 The AFP has two major roles:

- a. Achieving a strategic defeat of the communist armed rebellion by 2010, eradicating the Abu Sayaff and other terrorist groups, and containing the secessionist movement, and
- b. Serving as the epitome or model for love of country for our people to look up to and emulate. The AFP, as the major institution involved in this three-front war, must have the support of the people. To rally our people behind the AFP, we must project the armed forces as the focal image on love for country and national pride.

1.1.6. The Philippine Defense Reform Program resulting from the Joint Defense Assessment between the Republic of the Philippines and the United States of America shall constitute the core of the AFP Modernization Program.

Art. 1.1. Purpose and Coverage

1.2.1. This Amended Implementing Guidelines, Rules and Regulations (Amended IGRRs) shall govern the implementation of all the programs and projects under the AFP Modernization Program and the Philippine Defense Reform Program.

1.2.2. Chapter 8 of these Amended IGRRs governs the AFP Modernization Act Trust Fund.



Art.1.3. Definition of Terms

For purposes of and as used in these Amended IGRRs, the terms hereunder shall be construed as follows:

- 1.3.1. "AFP" refers to the Armed Forces of the Philippines.
- 1.3.2. "AFP Modernization Act" refers to RA 7898 which was enacted into law on 23 February 1995.
- 1.3.3. "AFP Modernization Act Trust Fund" or "AFPMATF" refers to the trust fund created under Section 11 of the AFP Modernization Act
- 1.3.4. "AFP Modernization Program" or "Program" or "AFPMP" forms part of the Philippine Defense Reform Program, wherein Sec. 15 of RA 7898 provides that "To meet unforeseen national security emergencies, the President, upon recommendation of the National Defense, may modify the program through substitution or revision of a component project therein."
- 1.3.5. "Amended Implementing Guidelines, Rules and Regulations" or "AIGRRs" refers to the guidelines, rules and regulations prescribed for the Armed Forces Modernization Program.
- 1.3.6. "Contract Negotiation" is the second stage in the procedure for the acquisition of equipment and weapons systems under the capability, materiel and technology development component of the AFP Modernization Program.
- 1.3.7. "Department" or "DND" refers to the Department of National Defense.
- 1.3.8. "Doctrine" refers to the fundamental principles by which the armed forces or elements thereof are guided in their actions in support of national objectives.
- 1.3.9. "Equipment" refers to all non-expendable items needed to outfit or equip any individual and/or organizations and sub-organizations within the AFP.
- 1.3.10. "Equipment Acquisition" is the first stage in the procedure for the acquisition of equipment and weapons systems under the capability, materiel and technology development component of the AFP Modernization Program.
- 1.3.11. "GA" or "Arsenal" refers to the Government Arsenal, a bureau under the Department created by Republic Act no.1884, as amended.
- 1.3.12. "Government Guarantee" refers to a statement or declaration by a government guaranteeing that a bidder shall, within the time specified by the Notice of Award, enter into a contract with the Department of National Defense of the Republic of the Philippines and furnish the required security for the faithful performance of its obligations under the contract.



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- 1.3.13. A "Major Equipment or Weapons System" refers to one of a limited number of systems or sub-systems, which, for reasons of military urgency, criticality, or resource requirements, is determined by the DND as being vital to the interests of national defense and security.
- 1.3.14. A "manufacturer" refers to an entity which makes, develops, fabricates, assembles, builds or otherwise produces an equipment or weapon system. In case of equipment or weapons systems involving sub-manufacturers, the manufacturer for each part or sub-system shall be required to make the undertaking for the availability of after-sales services and spare parts mentioned in 3.1.1(e) hereunder, in addition to the undertaking of the principal manufacturer.
- 1.3.15. A "Notice of Award" is a formal communication made to the bidder whose bid was determined by competent authorities to be the lowest evaluated responsive bid.
- 1.3.16. "Secretary" or "SND" refers to the Secretary of National Defense.
- 1.3.17. "Upgrade" refers to the improvement, refurbishing, or rehabilitation of existing equipment or weapons system in order to improve its original operational capabilities through the replacement of components or sub-systems with new ones, or the installation of new additional equipment such as missiles, fire control system, and digital electronics.
- 1.3.18. "Weapons system" refers to a combination of one or more weapons with all related equipment, materials, services, personnel, and means of delivery and deployment (if applicable) required for self-sufficiency.

Art.1.4. Applicability of Pertinent Laws

- 1.4.1. RA 9184, An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes, and its implementing rules and regulations (IRRs) shall cover infrastructure and other construction contracts under the Program.
- 1.4.2. RA 9184 and its IRR shall likewise govern procurement contracts under the capability building, materiel and technology development component of the Program.
- 1.4.3. Contracts for consultancy services under any of the component programs and projects of the AFP Modernization Program shall likewise be governed by existing laws, rules and regulations, particularly RA 9184 and its IRRs.

Chapter 2.0. IMPLEMENTATION OF FORCE RESTRUCTURING AND ORGANIZATIONAL DEVELOPMENT PROGRAM

Art. 2.1. Pursuant to RA 7898, the AFP Modernization Program shall develop the AFP into a compact, efficient, responsive and modern force with the capability to engage in



conventional and/or unconventional warfare, disaster relief and rescue operations, and contribute to economic development and perform other non-traditional roles.

Art. 2.2. Pursuant to RA 7898, this component of the modernization program shall likewise provide for the identification, organization, training and development of reserve force and affiliated reserve units in the AFP, especially in the Navy and Air Force.

Art. 2.3. The support of the people shall be engaged by enhancing civil-military relations with the end view of increasing our people's sense of patriotism through military service. The reservist and reserve force development program of the AFP, the Reserved Officers' Training Corps (ROTC) and other similar programs shall be reviewed consistent with the doctrine of a citizen's army enshrined in the Constitution.

Art. 2.4. The intelligence community, being the country's first line of defense, must also be organized according to the requirements of the Enhanced National Internal Security Plan to achieve a strategic defeat of the Communist Terrorist Movement by 2010, destroy the Abu Sayaff and other terrorist groups, and contain the southern Philippines secessionist groups in order to establish a physically and psychologically secure environment conducive to national development.

Chapter 3.0. IMPLEMENTATION OF CAPABILITY, MATERIEL AND TECHNOLOGY DEVELOPMENT PROGRAM

Art. 3.1. Policies and Objectives

3.1.1. Pursuant to RA 7898, the AFP Modernization Program entails the development and employment of certain capabilities needed to address assessed threats. The acquisition of these capabilities shall be governed by the following policies:

- a. Pursuant to RA 7898, the acquisition of air force, navy and army equipment and materiel of such types and quantities shall be made in accordance with the need to develop AFP capabilities pursuant to its modernization objectives.
- b. Pursuant to RA 7898, the acquisition of new equipment and weapons systems shall be synchronized with the phase-out of uneconomical and obsolete major equipment and weapons systems in the AFP inventory.
- c. Pursuant to RA 7898, no major equipment and weapons systems shall be purchased if the same are not being used by the armed forces in the country of origin or used by the armed forces of at least two countries. A later modified version of such equipment or weapons system, or subsystems thereof, provided such modified version is not a prototype, shall be deemed to be the same as the original one for the purpose of this provision and shall qualify for acquisition under the provision of Section 4(b) of RA 7898.
- d. Pursuant to RA 7898, only offers from suppliers who are themselves the manufacturers shall be entertained.
- e. Pursuant to RA 7898, no supply contract shall be entered into unless such contract provides for, in clear and unambiguous terms, an after-sales services and the availability of spare parts.



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3.1.2. Pursuant to RA 7898, the AFP Modernization Program shall be geared towards the development of the following defense capabilities:

- a. Naval defense capability – Given the archipelagic and littoral nature of the Philippines, the Philippine Navy shall develop its capabilities for naval defense, amphibious warfare, sealift and transport, and surface warfare; naval gunfire support, detection and maritime surveillance, search and rescue, disaster response as well as capabilities for anti-air, anti-submarine and mine warfare.
- b. Air defense capability – The Philippine Air Force, being the country's first line of external defense, shall develop its air defense capability by acquiring multi-role aircraft, air munitions, avionics, point and area defense missile system, maritime patrol and reconnaissance, and early warning and control system, as well as capabilities for strategic and battlefield airlift and limited ground attack in support of surface forces.
- c. Ground defense capability – The fragmented nature of Philippine land territory requires the Philippine Army to develop its capabilities for ground defense and internal security as well as its capability for assistance to national development, search and rescue operations, relief and rehabilitation, natural resources and environmental protection.
- d. General headquarters capability – The modernization of the AFP further requires the development of the General Headquarters capabilities for command, control, communications and information systems network.

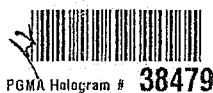
Art. 3.2. Development of AFP Capability, Materiel and Technology

3.2.1. The AFP shall develop its capabilities to effectively carry out its Internal Security Operations (ISO) and External Defense Operations. Its ISO shall address the following mission: to achieve a strategic defeat of the Communist Terrorist Movement by 2010, destroy the Abu Sayaff and other terrorist groups, and contain the southern Philippines secessionist groups in order to establish a physically and psychologically secure environment conducive to national development. The AFP upgrade shall be directed towards the acquisition of mission essentials, or what is needed to immediately win this three-front war.

3.2.2. The development of the defense capabilities mentioned in item 3.1.2. above shall be undertaken through the acquisition of new equipment and weapons systems from in-country or foreign sources and the upgrading of existing inventories, to include raw materials for the Government Arsenal.

3.2.3. Used equipment or weapons system may be acquired, provided that:

- a. The used equipment or weapon system meets the desired operational requirements of the AFP;
- b. It still has at least fifteen (15) years service life, or at least fifty percent (50%) of its service life remaining, or if subjected to a life extension program, is upgradeable to attain its original characteristics or capabilities;
- c. Its acquisition cost is reasonable compared to the cost of new equipment; and



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d. The supplier shall ensure the availability of after-sales maintenance support and services.

3.2.4. Lend-lease or lease-purchase arrangements for the acquisition of major equipment or weapons systems may be resorted to if practicable and advantageous cost-wise from the standpoint of operations and maintenance, among other considerations.

3.2.5. Communications and electronic equipment to be acquired shall, as much as possible, have built in communication security features and, if applicable, provisions for upgrade considering the rapid advances in technology.

3.2.6. In contracts worth US One Million Dollars (\$1M) or more involving the acquisition or upgrade of equipment or weapons systems from foreign suppliers, the approval of the Secretary of National Defense is required.

3.2.7. For the procurement of defense equipment and weapons systems, sources of funds other than the annual General Appropriations Act shall be explored. In addition, financial strategies shall be devised to address the huge financial outlay required to accommodate implementation of this component of the Program.

3.2.8. The operation, maintenance and repair costs of equipment and weapons systems acquired under the AFP Modernization Program shall be included in the annual AFP regular budget proposal.

Art. 3.3. Procurement Procedures Under the Capability, Materiel and Technology Development Component of the Program

3.3.1. Pursuant to RA 7898, The DND-AFP shall strengthen its systems and procedures for equipment acquisition, taking into account new requirements under the AFP Modernization Program.

3.3.2. Pursuant to RA 7898, contract negotiations and equipment acquisition shall be, treated as two sequential but separate steps, each requiring the separate decision of the Secretary of National Defense.

Art. 3.4. Equipment Acquisition

3.4.1. Pursuant to RA 7898, the decision making process for equipment acquisition shall start at the appropriate service command and submitted to the AFP Weapons Systems Board.

3.4.2. The respective Project Management Teams of the Major Services shall be responsible for a single procurement project in all its stages, except the Contract Negotiation stage, from identification up to implementation.



3.4.3. The Bidding Documents shall be prepared by the AFP following the standard forms and manuals prescribed by the Government Procurement Policy Board created in accordance with the IRR of RA 9184. The bidding documents shall include the following:

- a) Approved Budget for the Contract;
- b) Eligibility Requirements;
- c) Instructions to Bidders, including criteria for eligibility, bid evaluation and post-qualification, as well as the date, time and place of the pre-bid Conference (where applicable), submission of bids and opening of bids;
- d) Terms of Reference (TOR), for consulting services;
- e) Scope of work, where applicable;
- f) Plans and Technical Specifications;
- g) Form of Bid, Bid Price Form, and List of Goods or Bill of Quantities;
- h) Delivery Time or Completion Schedule;
- i) Form, Amount and Validity Period of Bid Security;
- j) Form and Amount of Performance Security and Warranty; and
- k) Form of Contract, and General and Special Conditions of Contract.

3.4.4. The AFP Weapons Systems Board shall review and validate the proposed procurement project and bidding documents in accordance with the requirements of the Philippine Defense Reform.

3.4.5. Upon approval by the Secretary, the Chief of Staff, AFP shall begin the next step of the procurement procedure.

Art. 3.5. Contract Negotiation

3.5.1. Contract negotiations start at general headquarters AFP level.

3.5.2. Pursuant to RA 9184, all contract negotiations shall be done through Competitive Bidding, except as provided for in these Amended Implementing Guidelines, Rules and Regulations (AIGRRs).

3.5.3. Pursuant to RA 9184, the Government Procurement Reform Act, The DND shall have a single Bids and Awards Committee (BAC) for its procurement. The BAC shall have at least five (5) members, but not more than seven (7) members, provided, that the Major Service concerned shall be represented in the BAC.

3.5.4. For contracts worth less than One Million Dollars (\$1M), the Chief of Staff, AFP shall prescribe and designate members of a single full-time BAC. The separate BACs created by the AFP for the Maintenance and Other Operating Expenses of the various end-user units of the AFP shall not deal with modernization procurement.



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3.5.5. The composition of the DND and AFP BACs shall comprise the following:

Regular Members:

1. Chairman, at least a third ranking permanent official in the case of DND and in the case of the AFP, at least a Major General;
2. An officer, who is at least a fifth ranking permanent official in the case of the DND and in the case of the AFP, a Colonel (0-6), with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the legal or administrative area of the DND or the AFP as the case may be;
3. An officer, who is at least a fifth ranking permanent official in the case of the DND or in the case of the AFP, a Colonel (0-6), with knowledge, experience and/or expertise in procurement who, to the extent possible, represents the finance area of the DND or the AFP as the case may be;

Provisional Members:

4. An officer who has technical expertise relevant to the procurement at hand, and, to the extent possible, has knowledge, experience and/or expertise in procurement; and
5. A representative from the end user Major Service who has knowledge of procurement laws and procedures.

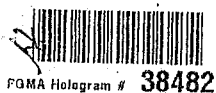
The Secretary of National Defense shall designate the members of the DND-BAC, including the Chairman and Vice-Chairman. The members of the AFP-BAC, including the Chairman and the Vice-Chairman, shall be designated by the Chief of Staff, AFP. Moreover, the Vice-Chairman shall be a regular member of the BAC.

3.5.6. Observers

3.5.6.1. Pursuant to RA 9184, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the Commission on Audit, five (5) observers to sit in its proceedings. One (1) shall come from a duly recognized private group in sector or discipline relevant to the procurement at hand, for example, a specific relevant chamber-member of the Philippine Chamber of Commerce and Industry. Another observer shall come from a non-government organization (NGO). The other three (3) observers shall represent the National Security Council (NSC), which is chaired by the President: a Presidential Assistant seconded to the DND; a Presidential Assistant seconded to the NSC; and an Undersecretary of Finance.

3.5.6.2. The private and NGO observers should be duly registered with the Securities and Exchange Commission, and should meet the following criteria:

1. Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
2. Absence of direct or indirect interest in the contract to be bid out; and
3. Any other criteria that may be determined by the BAC.



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3.5.7. Pre- Procurement Conference

Pursuant to RA 9184, prior to the issuance of the Invitation to Bid, the BAC is mandated to hold a pre-procurement conference on each and every procurement.

The pre-procurement conference shall assess the readiness of the procurement in terms of confirming the certification of availability of funds, as well as reviewing all relevant documents in relation to their adherence to law. This shall be attended by the BAC, the unit or officials who prepared the bidding documents and the draft Invitation to Bid, as well as consultants hired by the DND or the AFP as the case may be and the representative of the end-user.

3.5.8. Advertising and Contents of the Invitation to Bid

Pursuant to the IRR of RA 9184, all Invitations to Bid for contracts under competitive bidding shall be advertised by the DND or AFP as the case may be.

The Invitation to Apply for Eligibility and to Bid shall be:

- a) Advertised at least twice within a period of seven (7) calendar days, with a period of six (6) calendar days in between publications, in a newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement;
- b) Posted continuously in the website of the DND or the AFP as the case may be, if available, as provided in the IRR-A of RA 9184, and the Government Electronic Procurement System during the maximum period of fourteen (14) calendar days stated above; and
- c) Posted at any conspicuous place reserved for this purpose in the premises of the DND or the AFP as the case may be, as certified by the head of the BAC of the DND or the AFP as the case may be.

The Invitation to Bid shall contain, among others:

- (a) A brief description of the subject matter of the Procurement;
- (b) A general statement on the criteria to be used by the DND or AFP as the case may be for eligibility check, the examination and evaluation of Bids, and post-qualification;
- (c) The date, time and place of the deadline for the submission and receipt of the eligibility requirements, the pre-bid conference if any, the submission and receipt of bids, and the opening of bids;
- (d) The Approved Budget for the Contract to be bid;
- (e) The source of funding;
- (f) The period of availability of the bidding documents, and the place where the bidding documents may be secured;
- (g) The contract duration or delivery schedule;
- (h) The name, address, telephone number, facsimile number, e-mail and web site addresses of the DND or AFP as the case may be, as well as its designated contact person; and

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(i) Such other necessary information deemed relevant by the procuring entity.

3.5.9. Pre-Bid Conference

3.5.9.1. Pursuant to RA 9184, at least one pre-bid conference shall be conducted for each procurement.

3.5.9.2. Pursuant to the IRR for RA 9184, the pre-bid conference shall be held at least twelve (12) calendar days before the deadline for receipt of bids to allow prospective bidders to adequately prepare their bids.

3.5.9.3. Requests for clarification(s) on any part of the bidding documents or for an interpretation must be in writing and submitted to the BAC of the DND or AFP as the case may be at least ten (10) calendar days before the deadline set for the submission and receipt of bids. The BAC shall respond to the said request by issuing a Supplemental Bid/Bulletin, duly signed by the BAC chairman, to be made available to all those who have properly secured the bidding documents from the DND or the case may be, at least seven (7) calendar days before the deadline for the submission and receipt of bids.

3.5.10. Receipt and Opening of Bids

3.5.10.1. Eligibility Criteria for the Procurement of Goods:

3.5.10.1.1. Pursuant to Resolution No.07-2006 of the Government Procurement Policy Board, the prospective bidder must have an experience of having completed within the period specified in the Invitation to Apply for Eligibility and to Bid (IAEB) concerned a single contract that is similar to the contract to be bid, and whose value, adjusted to current prices using the wholesale consumer price index, must be at least fifty percent (50%) of the approved budget for the contract to bid.

However, (a) when failure of bidding has resulted because no single bidder has complied with the said requirement; or (b) imposing the same will likely result to a monopoly that will defeat the purpose of the public bidding, the DND or AFP as the case may be may instead require the following:

- a. The prospective bidder should have completed at least three similar contracts and the aggregate contract amounts should be equivalent to at least fifty percent (50%) of the Approved Budget for the Contract (ABC) to be bid;
- b. The largest of these similar contracts must be equivalent to at least twenty-five percent (25%) of the ABC project to be bid; and
- c. The business/company of the prospective bidder willing to participate in the bidding has been in existence for at least three (3) consecutive years prior to the advertisement and/or posting of the IAEB.

Provided, further, that when the item/good to be procured is novel or its procurement is otherwise unprecedented or is unusual, and compliance to the



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requirement on a largest single similar contract is impracticable, the prospective bidder will only have to comply with requirement (c) above.

3.5.10.1.2. The prospective bidder must present a commitment from a licensed bank to extend to it a credit line if awarded the contract to be bid, or a cash deposit certificate, in an amount not lower than that set by the DND or the AFP as the case may be in the Bidding Documents, which shall be at least equal to ten percent (10%) of the approved budget for the contract to be bid; or must have a Net Financial Contracting Capacity (NFCC) at least equal to the approved budget for the contract to be bid, calculated as follows:

NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding projects, under ongoing contracts, including awarded contracts yet to be started.

Where:

K = 10 for contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than two years.

3.5.10.1.3. The involvement of brokers and middlemen is discouraged.

3.5.10.2. Submission and Receipt of Bids

3.5.10.2.1. Pursuant to RA 9184, a bid shall have two (2) components, namely the technical and financial components which should be in separate sealed envelopes, and which shall be submitted simultaneously. The bids shall be received by the, BAC on such date, time and place specified in the invitation to bid.

3.5.10.2.2. The deadline for the receipt of bids shall be fixed by the BAC, provided, pursuant to the IRR of RA 9184, that from the last day of the period for advertising and/or posting of the Invitation to Apply for Eligibility and to Bid up to the opening of the bids, a maximum period of thirty (30) calendars days shall be observed.

3.5.10.3. Bid Opening

The BAC shall publicly open all bids at the time, date and place specified in the bidding documents. Pursuant to the IRR of RA 9184, from the last day of the period for advertising and/or posting of the Invitation to Apply for Eligibility and to Bid up to the opening of the bids, a maximum period of thirty (30) calendars days shall be observed.

3.5.11. Bid Evaluation

3.5.11.1. Pursuant to RA 9184, prior to Bid evaluation, the BAC shall examine first the technical components of the bids using "pass/fail" criteria to determine whether all required documents are present. Only bids that are determined to contain all the bid



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requirements of the technical component shall be considered for opening and evaluation of their financial component.

3.5.11.2. Pursuant to RA 9184, the Approved Budget for the Contract (ABC) shall be the upper limit or ceiling for the Bid prices. Bid prices that exceed this ceiling shall be disqualified outright from further participating in the bidding. There shall be no lower limit to the amount of the award.

3.5.11.3. Pursuant to RA 9184, for the procurement of Goods, the BAC shall evaluate the financial components of the bids. The bids that passed the preliminary examination shall be ranked from the lowest to highest in terms of their corresponding calculated prices. The bid with the lowest calculated price shall be referred to as the "Lowest Calculated Bid." Pursuant to the IRR of RA 9184, this shall be done within seven (7) calendar days from the submission and opening of bids.

3.5.12. Post-Qualification

3.5.12.1. Pursuant to the IRR of RA 9184, within seven (7) days from the determination of Lowest Calculated Bid, the BAC shall conduct and accomplish a post-qualification of the bidder with the Lowest Calculated Bid. Pursuant to RA 9184, this is the stage where the bidder with the Lowest Calculated Bid undergoes verification and validation whether he has passed all the requirements and conditions as specified in the Bidding Documents.

If the bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, his bid shall be considered the Lowest Calculated and Responsive Bid (LCRB). However, if a bidder fails to meet any of the requirements or conditions, he shall be "post-disqualified" and the BAC shall conduct the post-qualification on the bidder with the second Lowest Calculated Bid. If the bidder with the second Lowest Calculated Bid is post-qualified, the same procedure shall be repeated until the LCRB is finally determined.

In all cases, the contract shall be awarded only to the bidder with the LCRB.

3.5.12.2. Pursuant to RA 9184, there shall be a failure of bidding if:

- a) No bids are received;
- b) No bid qualifies as the LCRB;
- c) Whenever the bidder with the LCRB refuses, without justifiable cause to accept the award of contract.

Under any of the above instances, the contract shall be re-advertised and re-bid. The BAC shall observe the same process and set the new periods according to the same rules followed during the first bidding. After the second failed bidding, however, the BAC may resort to negotiated procurement as provided for in RA 9184.

3.5.12.3. Pursuant to RA 9184, single calculated and responsive bid shall be considered for award if it falls under any of the following circumstances:

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- a) If after advertisement, only one prospective bidder submits a Letter of Intent and/or applies for eligibility check, and meets the eligibility requirements or criteria, after which it submits a bid, which is found to be responsive to the bidding requirements;
- b) If after the advertisement, more than one prospective bidder applies for eligibility check, but only one bidder meets the eligibility requirements or criteria, after which it submits a bid which is found to be responsive to the bidding requirements; or
- c) If after the eligibility check, more than one bidder meets the eligibility requirements, but only one bidder submits a bid, and its bid is found to be responsive to the bidding requirements.

In all instances, the DND or AFP as the case may be shall ensure that the BAC reflects the most advantageous prevailing price for the government.

3.5.13. Award of the Contract

3.5.13.1. Pursuant to the IRR of RA 9184, within a period not exceeding seven (7) calendar days from the determination and declaration by the BAC of the LCRB, and the recommendation of the award, the Secretary, DND or Chief of Staff, AFP as the case may be or his/her duly authorized, representative shall approve or disapprove the said recommendation. In the case of approval, the SND or Chief of Staff, AFP or his/her duly authorized representative shall immediately issue the Notice of Award to the bidder with the LCRB.

Within ten (10) calendar days from receipt of the Notice of Award, the winning bidder shall formally enter into contract with the DND or AFP as the case may be.

The DND or AFP as the case may be shall issue the Notice to Proceed to the winning bidder not later than three (3) calendar days from the date of approval of the contract by SND or Chief, AFP as the case may be.

3.5.13.2. Pursuant to the IRR of RA 9184, the procurement process from the opening of bids up to the issuance of the Notice to Proceed shall not exceed fifty (50) days.

If no action on the contract is taken by the SND or Chief of Staff, AFP as the case may be, or by his/her duly authorized representative, within the periods specified in the preceding paragraphs, the contract concerned shall be deemed approved.

3.5.13.3. Pursuant to RA 9174, the SND or Chief of Staff, AFP reserves the right to reject any and all Bids, declare a failure of bidding, or not award the contract in any of the following situations:

- a) If there is prima facie evidence of collusion between the appropriate public officers or employees of the DND or AFP as the case may be, or between the BAC and any of the bidders, or if the collusion is between or among the bidders themselves, or between a bidder and a third party;



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- b) If the BAC is found to have failed in following the prescribed bidding procedures; or
- c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the government as defined in the IRR-A of RA 9184.

3.5.14. Alternative Methods of Procurement

3.5.14.1. Subject to the prior approval of the SND, and whenever justified by the conditions provided in RA 9184, the DND or AFP as the case may be may, in order to promote economy and efficiency, resort to any of the following alternative methods of Procurement:

- a) Single Source Procurement;
- b) Repeat Order; or
- c) Negotiated Procurement, under the following extraordinary circumstances provided for in these AIGRRs.

3.5.14.2. Negotiated Procurement shall be allowed only in the following instances:

- (a) In cases of two (2) failed biddings, as provided in RA 9184; or,
- (b) When the procurement involves major defense equipment for use by the AFP and the SND has determined that the interests of the country shall be protected by negotiating directly with an agency or instrumentality of another country with which the Philippines has entered into a defense cooperation agreement or otherwise maintains diplomatic relations: Provided, however, That the performance by the supplier of its obligations under the procurement contract shall be covered by a foreign government guarantee of the source country covering one hundred percent (100%) of the contract price.

In both instances, the DND or AFP as the case may be shall ensure that the most advantageous price for the government is obtained.

3.6. Self-Reliant Defense Posture Program

3.6.1. Pursuant to RA 7898, the AFP, as a self-reliance policy shall, as far as practicable, give preference to Filipino contractors and suppliers or foreign contractors or suppliers willing to locate a substantial portion or, if not the entire, production process of the item(s) involved, within the Philippines.

3.6.2. In order to reduce foreign exchange outflow, generate local employment opportunities, and enhance technology transfer to the Philippines, the SND shall, as far as feasible, incorporate in each contract/agreement special foreign exchange reduction schemes such as counter-trade, in-county manufacture, co-production, or other innovative arrangements or combinations thereof.

3.6.3. The AFP shall likewise ensure that in negotiation all applicable contracts or agreements, provisions are incorporated respecting the transfer to the AFP of the



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principal technology involved as well as the training of AFP personnel to operate and maintain such equipment or technology.

Chapter 4.0. IMPLEMENTATION OF BASES/SUPPORT SYSTEMS DEVELOPMENT PROGRAM

Art. 4.1. Policies

Pursuant to RA 7898, The AFP Modernization Program shall entail the development of permanent bases for land, air, and naval forces to conform with national defense strategies and the government's socioeconomic thrusts; provide a systematic relocation of AFP units and personnel; provide training grounds for maneuver and territorial forces as well as the reserve components and develop bases and camps along standard criteria for space allocations, zoning and efficient correlation of land areas and structure.

Chapter 5. IMPLEMENTATION OF HUMAN RESOURCES DEVELOPMENT PROGRAM

Art. 5.1. Objectives

Pursuant to RA 7898, the Human Resource Development (HRD) component of the AFP Modernization Program shall have the following objectives:

- a. To strengthen the patriotic spirit and nationalist consciousness of the military, and respect for people's rights in the performance of their duty;
- b. To develop and transform the AFP into an external security-force that can secure the Republic against international terrorism, and an internal security-force that can achieve the following mission: to achieve a strategic defeat of the Communist Terrorist Movement by 2010, destroy the Abu Sayaff and other terrorist groups, and contain the southern Philippines secessionist groups in order to establish a physically and psychologically secure environment conducive to national development;
- c. To develop a compact, effective, efficient, and responsible citizen-based force;
- d. To implement programs that will enable the AFP to perform its role in environment/resource protection and multi-national peacekeeping operations;
- e. To convert the AFP into a service/people-oriented and professionally united force;
- f. To improve the quality of life of soldiers and their families and reorient values of all personnel in the AFP; and
- g. Doctrines development.

Art. 5.2. Development of the AFP Human Resources

The AFP HRD program shall conform to the objectives of the modernization program: (a) force restructuring and organization development; (b) capability, materiel, and technology development; and (c) bases/support system development.

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Chapter 6.0. IMPLEMENTATION OF DOCTRINES DEVELOPMENT PROGRAM

Art. 6.1. Policy

Pursuant to RA 7898, The DND and the AFP shall generate, evaluate, consolidate and formalize doctrines; conduct periodic review and validation thereof through field application, experience, testing and exercises; and disseminate and inculcate approved doctrines at all levels of command.

The AFP shall evolve a strategy to realize a war of rapid conclusion to address armed rebellion, with the National Security Council, which is chaired by the President, providing policy direction and management of the war against communist insurgency, southern secessionism and terrorism. This strategy shall be called the Enhanced National Internal Security Plan.

The AFP

Art. 6.2. Development of AFP Doctrines

6.2.1. The Department of National Defense and the General Headquarters, AFP shall be responsible for the generation, evaluation, consolidation and formalization of doctrines; the conduct of periodic review and validation of doctrines through field application, testing and exercises; and the dissemination of approved doctrines at all levels of command.

6.2.2. The external security mission of the AFP, i.e., to secure the Republic from international terrorism, and its internal security mission, i.e., to achieve a strategic defeat of the Communist Terrorist Movement by 2010, destroy the Abu Sayaff and other terrorist groups, and contain the southern Philippines secessionist groups in order to establish a physically and psychologically secure environment conducive to national development, shall be the strategic framework for the formulation of doctrines.

Chapter 7.0. MODERNIZATION OF THE GOVERNMENT ARSENAL (GA)

Art.7.1. Policies

The modernization of the government arsenal, for the development of production capabilities to enhance self-reliance and sufficiency in defense requirements, shall be part of the AFP Modernization program. The government arsenal shall be effectively utilized in the production of basic weapons, ammunition and other munitions for the use of the AFP and the Philippine National Police (PNP), and for the domestic sale and export of products in excess of AFP/PNP requirements. The government arsenal may use such production facilities as it may own or be provided with or as it may arrange under joint venture, co-production or similar arrangements with local and foreign entities.

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Chapter 8.0. ADMINISTRATION OF THE ARMED FORCES OF THE PHILIPPINES MODERNIZATION ACT TRUST FUND (AFPMA TF)

Art. 8.1. Purpose

This Chapter governs the administration of the AFP Modernization Act Trust Fund (RA 7898), created under Section 11 of the AFP Modernization Act, and updates DND Department Circular 01 dated 06 March 2000.

Art. 8.2. General Guidelines

8.2.1. Pursuant to RA 7898, The AFPMATF which shall be used exclusively for the AFP Modernization Program, but not to include salaries and allowances, shall be funded out of the following:

- (a) Appropriations for the AFP Modernization Program;
- (b) Proceeds from the sale, lease or joint development of military reservation as may be authorized by Congress, include such immovable and other facilities as may be found therein, not covered by the Bases Conversion Development Authority, as provided for in RA 7227;
- (c) Shares of the AFP from the proceeds of the sale of military camps provided for under RA 7227;
- (d) Proceeds from the sale of the products of the government arsenal;
- (e) The proceeds from the disposal of excess and/or uneconomically repairable equipment and other movable assets of the AFP and the government arsenal;
- (f) Funds from budgetary surplus, if any, as may be authorized by Congress subject to the provisions of RA 7227; and
- (g) All interest income of the trust fund.

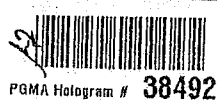
8.2.2. Pursuant to RA 7227, the Secretary of National Defense shall administer the trust fund in accordance with existing government auditing rules and regulations.

8.2.3. Pursuant to RA 7227, the Secretary of National Defense may, subject to provisions of existing laws and regulations including those of the Commission on Audit and under such terms and conditions most favorable to the government, enter into multi-year contracts, lease and lease-purchase agreements.

Chapter 9.0. MANAGEMENT OF THE AFP MODERNIZATION PROGRAM

Art. 9.1. The Secretary is the administrator of the AFP Modernization program and shall exercise his/her functions through the Chief of Staff, AFP, unless otherwise indicated in these AIGRRs.

Art. 9.2. A Presidential Assistant seconded to the DND shall assist the President in administering the AFP Modernization Program.



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Art. 9.3. Reportorial Requirements. Pursuant to RA 7898, The Chief of Staff, AFP shall submit to the President and Congress, through the Secretary of National Defense, an annual report containing the progress of the implementation of the AFP Modernization Program.

Chapter 10.0. MODIFICATION OF THE AFP MODERNIZATION PROGRAM

To meet any unforeseen national security emergency, the Secretary shall recommend to the President the modification of the AFP Modernization Program through substitution and/or revision of any component project therein.

Chapter 11.0. FINAL PROVISIONS

Art. 11.1. Separability Clause


If any provision of these Amendatory Implementing Guidelines, Rules, and Regulations should be declared invalid by a competent court or tribunal, the remaining provisions hereof, unaffected thereby, shall remain valid and binding.

Art 11.2. Repealing Clause

All orders, circulars, memoranda and other department issuances inconsistent with this Department Circular are hereby repealed or modified accordingly.


Art. 11.3. Effectivity. This Administrative Order shall take effect fifteen (15) days from publication.

JAN 3 0 2007



GLORIA M. ARROYO
President and Acting Secretary of National Defense



By the President:


EDUARDO R. ERMITA
Executive Secretary




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