

May 5, 1987

**EXECUTIVE ORDER NO. 164**

**PROVIDING ADDITIONAL GUIDELINES IN THE PROCESSING AND APPROVAL OF CONTRACTS OF THE NATIONAL GOVERNMENT**

**WHEREAS**, as a consequence of the continued expansion of developmental projects and increased delivery of essential public services to the people, the volume and value of government contracts have substantially increased over the years;

**WHEREAS**, in view of such increase in the contracting activities of the government and in line with the government's policy of decentralization and administrative delegation which is intended to expedite the implementation of projects, it is thus necessary that Secretaries and governing boards of government-owned or controlled corporations be provided with greater authority to approve contracts to implement projects falling within their respective jurisdiction;

**WHEREAS**, to ensure that essential materials and services needed by the government are procured at the most economical and advantageous terms, there is a need to expand the membership of the Prequalifications, Bids and Awards Committees existing in every Department/Agency Implementing Office so as to include representatives from the private sector, as non-voting members;

**NOW, THEREFORE, I, CORAZON C. AQUINO**, President of the Philippines, do hereby order:

**SECTION 1. Ceiling for infrastructure Contracts.**

The following shall be the ceilings for all civil works, construction and other contracts for infrastructure projects, including supply contracts for said projects, awarded through public bidding or through negotiation, which may be approved by the Secretaries of Public Works and Highways, Transportation and Communications, Local Government with respect to Rural Road Improvement Project, and governing boards of government-owned or controlled corporations.

	Awarded Through Public Bidding	Awarded Through Public Negotiation
a. Secretary of Public Works and Highways	P 100 Million	P 10 Million
b. Secretary of Transportation and Communications	P 100 Million	P 10 Million
c. Secretary of Local Government with respect to the Rural Improvement Project	P 100 Million	P 2 Million
d. Governing Boards of Infrastructure Corporations (National Power Corporation, National Irrigation Administration, Metropolitan Waterworks and Sewerage System, National Housing Authority, Philippine Ports Authority, National Electrification Administration, Export Processing Zone Authority, Philippine National Railways, Local Water Utilities Administration, Light Rail Transit Authority and Philippine National Oil Company)	P 50 Million	P 5 Million
e. Governing Boards of Non-Infrastructure Corporations	P 7.5 Million	P 1 Million

Save as provided for above, the approval ceilings signed to the department/ agency involved in national infrastructure and construction projects shall remain at their present levels.

**SECTION 2. Contracts for Approval by the President.**

Contracts for infrastructure projects, including contracts for the supply of materials and equipment to be used in said projects, which involve amounts above the ceiling provided in the preceding section shall be approved by the President: Provided, That the President may, when conditions so warrant, and upon recommendation of the National Economic and Development Authority, revise the aforesaid ceilings of approving authority.

### **SECTION 3. Approval of Consultancy Contracts.**

All purely consultancy contracts relating to infrastructure projects, regardless of amount, shall be approved by the Secretaries concerned, in accordance with the Guidelines on the Hiring of Consultancy to be promulgated by the National Economic and Development Authority: Provided, That the National Economic and Development Authority shall be furnished by the departments, agencies or government corporations concerned, copies of all consultancy contracts entered into by them involving an amount in excess of P1 million for monitoring purposes.

### **SECTION 4. Delegation of Authority to Governing Boards of Government Corporations.**

The Secretaries are hereby authorized to delegate to the governing boards of government-owned or controlled corporations which are attached to or are under the administrative supervision of their respective departments, the authority to approve contracts for infrastructure projects entered into by said corporations involving amounts which are beyond the ceiling provided for government corporations under Section 1 hereof but which are within the approving authority of the Secretaries concerned under the said Section. In the case of government corporations which are attached to or under the Office of the President, the delegation shall be made by the Executive Secretary.

### **SECTION 5. Public Bidding of Contracts; Exceptions.**

As a general rule, contracts for infrastructure projects shall be awarded after open public bidding to bidders who submit the lowest responsive/evaluated bids. Open Public Bidding shall be conducted among pre-qualified contractors in accordance with existing laws, rules and regulations not inconsistent with the provisions of this Executive Order. The Award of such contracts through negotiation shall not be allowed by the Secretary or Governing Board of the Corporation concerned within the limits as stated in Section 1 hereof in the following cases:

- a. In times of emergencies arising from natural calamities where immediate action is necessary to prevent imminent loss of life and/or property, in which case, direct negotiations or simplified bidding may be undertaken;
- b. Failure to award the contract after competitive public bidding for valid cause or causes, in which case, simplified bidding may be undertaken;
- c. Where the construction project covered by the contract is adjacent or contiguous to an on-going projects and it could be economically prosecuted by the same contractor, in which case, direct negotiation may be undertaken with the said contractor at the same unit prices and contract conditions, less mobilization costs, provided, that he has no negative shippage and has demonstrated a satisfactory performance. Otherwise, the contract shall be awarded through public bidding.

### **SECTION 6. Contracts for Community Employment and Development Program Projects.**

Contracts covering projects under the Community Employment and Development Program of the government shall be awarded through open public bidding: Provided, that the invitation to bid for the said projects shall be advertised at least once within one week in a newspaper of local circulation within the province where the project is situated, through posting of notices in the premises of the municipal/provincial office, and through other forms of media, such as radio and television: Provided, further, That the deadline for submission of bids for projects costing not more than P1 million each may be shortened for one week after the date of such invitation, posting of notices or advertisement through other forms of media.

### **SECTION 7. Constitution of the Prequalification, Bids and Awards Committee.**

Each department/Office/agency shall have in its head office or in its implementing offices a Prequalification, Bids and Awards Committee which shall be responsible for the conduct of prequalification of contractors, biddings, evaluation of bids and recommending awards of contract. Each Prequalification, Bids and Awards Committee shall be composed of the following:

- a. A Chairman (regular) who should at least be a third ranking official of the department/agency/implementing Office.
- b. An Executive Officer and Secretary (regular) who is a Legal Officer of the department/ office/agency implementing Office.

- c. A Technical Member (regular) to be designated by the head of the department/ office/agency/implementing office.
- d. Two members (provisional) with experience in the type of projects to be bidded and in project management, duly designated by the head of the department/office/agency/implementing office on a project-to-project basis.
- e. A representative from at least one of the following organizations who shall be a non-voting member:
  - 1. Philippine Institute of Civil Engineers
  - 2. Philippine Constructors Association
  - 3. National Confederation of Contractors Associations of the Philippines, Inc.
  - 4. Philippine Institute of Certified Public Accountants

The representation in the Prequalification, Bids and Awards Committee of the abovementioned private organizations shall be made as follows:

- 1. During the prequalification stage, the representative to be invited shall come from the Philippine Institute of Certified Public Accountants.
- 2. In the bidding, bid evaluation and award stages, a representative each from the Philippine Institute of Certified Public Accountants and from the Philippine Constructors Association or the National Confederation of Contractors Association of the Philippines, Inc. shall be invited as non-voting members of the Prequalification, Bids and Awards Committee without prejudice to inviting another representative/s from any of the other organizations mentioned above.

#### **SECTION 8. Approval of Other Types of Government Contracts.**

All other types of government contracts which are not within the coverage of this Executive Order shall continue to be processed and approved in accordance with existing laws, rules and regulations.

#### **SECTION 9. Applicability of Presidential Decree No. 1594 and Its Implementing Rules.**

The provisions of Presidential Decree No. 1594 and its Implementing Rules and Regulations shall, except as modified in this Executive Order, continue to be applicable.

#### **SECTION 10. Repealing Clause.**

All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

#### **SECTION 11. Effectivity.**

This Executive Order shall take effect immediately.

**Done** in the City of Manila, this 5th day of May, in the year of Our Lord, nineteen hundred and eighty-seven.