



**Philippines: Eligibility of Foreign Bidders in Procurement of Goods  
based on the Implementing Rules of the New Government Procurement Act**

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Republic Act (RA) No. 12009, or the New Government Procurement Act (NGPA), dated July 20, 2024, required the Government Procurement Policy Board (GPPB) to formulate the implementing rules and regulations within 180 days from the promulgation of the NGPA.

Accordingly, the GPPB issued the Implementing Rules and Regulations (IRR) on 10 February 2025.

Government procurement of goods in the Philippines has historically implemented a priority and preference system in favor of Philippine goods and suppliers. With the NGPA now being the governing law for government procurement, it will be necessary for interested or prospective foreign participants to know the prevailing policy on procurement of goods.



**Provisions for eligibility of foreign bidders in the IRR**

In Section 79 of the IRR, the rules for eligibility for foreign bidders are provided below:

1. For a period of 10 years from the effectivity of the RA No. 11981 or the “Tatak Pinoy (Proudly Filipino) Act”, and for Philippine products and services in sectors and economic activities covered by the prevailing Tatak Pinoy Strategy (TPS), the Procuring Entity is mandated to award the contract to the domestic bidder.

Domestic bidder refers to any person or entity offering unmanufactured articles, materials, or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.

2. After the 10 year period counted from the effectivity of the Tatak Pinoy (Proudly Filipino) Act, the domestic preference shall be subject to a margin of preference to be determined by the Tatak Pinoy Council which shall not be lower than 15%.
3. The Procuring Entity shall award to the domestic bidder if the bid is not more than 25% in excess of the lowest foreign bid. The margin of preference provided herein shall be subject to a periodic review and adjustment by the GPPB, as may be necessary.

A Domestic Bidder can only claim preference if it secures from the appropriate agency a certification that the articles forming part of its bid are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines.

The preference mentioned above may be waived should any of the following conditions be present:

- (a) when domestic production is insufficient or unavailable in the required commercial quantities;

- (b) when the specific or desired quality is not met;
- (c) when the priority and preference will result in inconsistencies with the Philippines' obligations under international agreements; and
- (d) other analogous circumstances.

In addition to the above, Rule VIII of the IRR also provides for the following eligibility criteria for participation of foreign bidders in the procurement of goods:

- a) When provided for under any treaty or international or executive agreement;
- b) When the foreign supplier is a citizen, corporation, or association of a country, the laws, or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines;
- c) When the goods sought to be procured are not available from local suppliers; or
- d) When there is a need to prevent situations that defeat competition or restrain trade.

For foreign bidders claiming eligibility by reason of their country's extension of reciprocal rights to Filipinos, a certification from the relevant government office of their country stating that Filipinos are allowed to participate in their government procurement activities for the same item or product.

#### **Notes on the Tatak Pinoy (Proudly Filipino) Act**

The Tatak Pinoy (Proudly Filipino) Act was signed into law on February 26, 2024, and took effect 15 days after publication. Thus, the effectivity of the 10-year mandate to award government procurement contracts to domestic bidders is expected to be until around the second quarter of 2034.

Regarding the TPS, the TPS is a plan developed by the Tatak Pinoy Council and approved by the President of the Philippines to expand and diversify the productive capabilities of domestic enterprises, among others. The TPS is formulated after the identification of target sectors and/or economic activities for both short term and long term objectives.

Please note that the margin of preference mentioned in item 2 above applies to preference and priority for Philippine products guaranteed upon all levels of the procurement process, including raw materials, ingredients, supplies, or fixtures. According to the IRR of the Tatak Pinoy (Proudly Filipino) Act, the Tatak Pinoy Council shall decide on the margin of preference after the expiration of the above mentioned 10-year period, and shall issue further guidelines on the issuance of a "Certificate of Preference" for Philippine products and services covered by the prevailing TPS.

The Tatak Pinoy Council Working Groups reportedly held their inaugural joint meeting on March 28, 2025 to begin the development of the multi-year TPS. Discussions are expected to continue throughout 2025, so further developments are expected.

#### **What should companies do?**

From the provisions of the IRR of the NGPA, it appears that government procurement of goods remains heavily restricted in favor of domestic bidders until 2034. Until such time, it seems foreign bidders may be able to participate in government procurement of goods only if there are no domestic bidders or local suppliers. This should be taken into account for foreign suppliers looking to participate in government procurement in the Philippines.



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