
* Legal FiNeSse *

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Electronic Procurement System for Government Imposed

Executive Order No. 40 was recently issued to ensure that the procurement process in government is competitive and transparent and to facilitate and increase the efficiency in the procurement process by dispensing with the red tape and corruption which usually accompany public bidding. The new rules cover the procurement of the goods, supplies, materials and related services, civil works, and consulting services, by all National Government agencies, including State Universities and Colleges, Government-Owned or Controlled Corporations and Government Financial Institutions.

An Electronic Procurement System (EPS) in the form of a single and centralized electronic portal for the procurement requirements of the government is now established. The EPS include among others: an Electronic Bulletin Board – a centralized electronic bulletin board for advertising procurement opportunities, notices, awards, etc, Suppliers' Contractors' and Consultants' Registry – a centralized electronic registry of all authorized suppliers, consultants and contractors, Electronic Catalogue – a centralized electronic price list, and Additional Features – Virtual Store, electronic bid submissions, on-line payment.

Under this Executive Order, each agency of government shall establish a single Bids and Awards Committee (BAC) for its procurement requirements to determine the eligibility of prospective bidders, receive and open bids, conduct the evaluation of bids, undertake post-qualification proceedings, and recommend the award of contract.

The procedures for public bidding are now standardized to include: pre-procurement conference, invitation to bid, pre-bid conference, eligibility check for prospective bidders, submission and receipt of bids, posting of a bid security (except for procurement of consulting services), bid opening and examination (applies only for procurement of goods, supplies, materials and relevant services and civil works), bid evaluation, and post-qualification or verification and validation of all documents submitted.

SEC Requirements Re Adoption of Corporate Governance Manual

All listed corporations and those non-listed but with secondary license from the SEC are required to adopt a Manual on Corporate Governance. All other corporations, though not required, are encouraged to draw up their own Manual. The deadline for the submission of the Manual was reset from July 1, 2002 to September 1, 2002. No request for extension shall be given due course after said date.

The SEC, in coordination with the Asian Development Bank, will be conducting a Seminar on Corporate Governance at the EDSA Shangri-La Hotel on August 2, 2002, from 8:00 a.m. to 5:00 p.m. This is strictly for corporate directors only.

Pending Bill on Special Purpose Asset Vehicles

Pending before Congress is Senate Bill No. 2116 otherwise known as "An Act Authorizing the Creation of Special Purpose Asset Vehicles to Allow Investment in, and Acquisition of Non-Performing Assets, and for other Purposes." It seeks to authorize the creation of Special Purpose Asset Vehicles (SPAVs) in accordance with the Corporation Code of the Philippines to address among others, the non-performing asset (NPAs) problems of the financial sector, to encourage private sector investments in non-performing assets and to improve the liquidity of the financial system. NPAs consist of loans and receivables such as mortgage loans, unsecured loans, registered and unregistered security and collateral instruments, whose principal and/or interest have remained unpaid for at least one hundred eighty (180) days after they have become past due or any of the events of default under the loan agreement have occurred. NPAs also include real and other properties already owned or acquired by financial institutions through settlement of loans, foreclosure or execution of judgment.

The bill seeks to establish a medium whereby these NPAs may be acquired by the private sector. Through the bill, financial institutions may transfer NPAs to SPAVs whereby the latter shall assume the rights and obligations of the financial institution with respect to the transferred NPAs. The SPAV shall have the power to acquire or invest in permitted investments, to restructure or condone debts, to enter into dation in payment arrangements and to foreclose judicially or extra-judicially the NPAs transferred to it.

DOLE Liberalizes Policies on AEP

The Department of Labor and Employment (DOLE) liberalized its rules on the Alien Employment Permit (AEP) with the issuance of Department Order No. 12, Series of 2001, known as the "Omnibus Guidelines for the Issuance of Employment Permits to Foreign Nationals".

The cumbersome requirement of an Understudy Training Program (UTP) in the issuance of AEP has now been dispensed with and the employer has the option to implement transfer of technology.

A resident foreign national can now obtain a permit valid for multiple positions and for multiple companies or employers, regardless of the nature and duration of his employment while non-resident foreign nationals may now procure one permit valid for multiple positions in the same company.

Now, the duration of the permits is fixed based on the length of service provided for in the employment contract. In lieu of the original forty-five day period, an application for AEP renewal shall now be filed fifteen (15) days before its expiration, save for elective positions where a renewal therefor must be filed upon election or upon expiration of AEP. Elective and appointive officers, however, are given a five-day grace period after their election or appointment within which to renew therefor without penalty.

FNS Hosts Globalaw Conference

FNS hosted on June 5 to 8 the second Asia Pacific Regional Conference of the Globalaw, an International Law Group composed of some 75 law firms in 63 countries of which FNS is the sole Philippine member. The event was attended by 11 delegates from five (5) countries representing the Firm's correspondents in the US, Hong Kong, Taiwan, Thailand, and Japan. The conference proved to our Globalaw correspondents that the Firm can facilitate enriching discussions and at the same time squeeze in some sports and recreation. The congratulatory messages extended by those who joined us greatly prove how well organized and successful the event was.

Through the Firm's association with Globalaw, our clients who have need for legal services in other countries may simply liaise with FNS so that the appropriate referrals may be made.

The Firm Completes Revisions to International Publication

Another international commitment that FNS honored was its completion of the revisions to the Philippine chapter of *Transnational Litigation: A Practitioner's Guide*, an international guide to litigation practice around the world published by Oceana Publications, Inc. of New York. The Firm's treatise is set to come out this year. The previous chapter, which was also prepared by the Firm, was released in September 2000.

Since then several landmark changes had occurred in the Philippine legal landscape, including the passing of the Securities Regulation Code, which transferred the quasi-judicial powers of the Securities and Exchange Commission to the regular courts, and the promulgation of the Revised Rules on Criminal Procedure. Revisions on the chapter included an entirely new chapter on Arbitration and its treatment as an alternative mode of dispute settlement in the Philippine setting. The current version underwent incisive scrutiny and editing to produce an up-to-date guide to law practice in the Philippines tackling different topics from the jurisdiction of courts to recognition of foreign judgments in the country. The Philippine chapter of *Transnational Litigation: A Practitioner's Guide* is not only a comprehensive guide for lawyers from other jurisdictions, it is also a primer-reviewer for Philippine lawyers who want to keep abreast of current developments in the country.

Launching of FNS brochure

On the occasion of the Firm's 9th year anniversary, FNS launched its re-designed brochure. The brochure aims to put emphasis on the three basic concepts which serve as the Firm's commitments: *Blazing a Trail for Others to Follow* – FNS nurtures its experience and proficiency to help its client blaze a trail in their respective fields for others to follow; *A Team Works with You* and *Our Personal Concern* – the Firm assures its clients that they are supported, not just by one mind, but by a team and that their business is our personal and primary concern.