

MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

MEMORANDUM ORDER NO. 194

APPROVING THE RECOMMENDATION OF THE DEPARTMENT OF NATIONAL DEFENSE AND THE ARMED FORCES OF THE PHILIPPINES TO ACQUIRE, THROUGH NEGOTIATED PROCUREMENT UNDER A GOVERNMENT-TO-GOVERNMENT ARRANGEMENT, THE M113 ARMORED PERSONNEL CARRIER FAMILY OF VEHICLES WITH ASSOCIATED SPARES AND APPLIQUE ARMOUR FROM THE NEW ZEALAND ARMY

WHEREAS, under Republic Act No. 7898, otherwise known as Armed Forces of the Philippines (AFP) Modernization Act, "it is the policy of the State to modernize its Armed Forces 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";

WHEREAS, Joint Resolution Nr. 28, Resolution approving the AFP Modernization Program provides, among others, the upgrade and/or acquisition of armor assets in order to enhance the AFP's armor capability;

WHEREAS, in order for the Philippine Army to effectively conduct Internal Security Operations (ISO), the Light Armor Brigade requires one hundred thirteen (113) units of Armored Personnel Carriers (APC) to increase its present fill-up and to enhance its operational readiness;

WHEREAS, under the amended CY 2000 AFP Modernization Program Revised Reprioritized Projects List (RRPL), as approved by the Office of the President on 28 April 2004, One Hundred Fifty Million Pesos (PhP 150M) was allocated for the M113 APC Upgrade/Acquisition Project;

WHEREAS, the New Zealand Army is offering for tender their decommissioned fleet of sixty two (62) units M113A1 APC Family of Vehicles (FOV) with associated spares and appliqué armour on an "as is where is and with all faults" basis;

WHEREAS, the New Zealand Army is open to a Government-to-Government arrangement and is waiting for the formal submission by the Philippine Government of a Letter of Intent expressing its desire to acquire the New Zealand Army's M113A1 APC FOV with associated spares and appliqué armour not later than 28 October 2005;



WHEREAS, the Philippine Army Inspection Team sent to New Zealand has conducted a technical inspection on the aforesaid equipment and has reported that thirty one (31) units of the M113 APC FOV are generally in good running condition and the other thirty one (31) units can be restored to working condition;

WHEREAS, the Commanding General, Philippine Army recommended to the Chief of Staff, AFP the acquisition of the New Zealand Army M113 APC FOV using the allocated CY 2000 RRPL funds for the purpose, through negotiated procurement under a Government-to-Government arrangement;

WHEREAS, upon the recommendation of the AFP Capability Development Board, the Chief of Staff, AFP favorably endorsed to the Secretary of the National Defense the acquisition of the New Zealand Army M113 APC Fleet through a negotiated procurement under a Government-to-Government arrangement;

WHEREAS, on 13 October 2005, the Department of National Defense (DND) Bids and Awards Committee recommended the acquisition of the subject equipment under a Government-to-Government arrangement, subject to compliance with the conditions under Section 53(g) of the implementing rules and regulations (IRR) of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act;

WHEREAS, Section 53 (g) of the IRR of RA 9184 provides, to wit:

"Negotiated Procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant only in the following cases:

xxx

(g) Upon prior approval by the President of the Philippines, and when the procurement involves major defense equipment for use by the AFP and the Secretary of National Defense has determined that the interest 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 xxx."

WHEREAS, the Republic of the Philippines maintains diplomatic relations with the Government of New Zealand;



WHEREAS, the proposed acquisition of the above-cited major defense equipment is expected to enhance the combat capability of the Philippine Army, particularly in the conduct of ISO and thus, would serve and protect the best interest of the country as determined by the Secretary of National Defense;

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 recommendation of the DND and AFP to acquire, through negotiated procurement, under a Government-to-Government arrangement, the New Zealand Army's decommissioned fleet of sixty two (62) units of M113A1 APC FOV with associated spares and appliqué armour, at a price most advantageous to the Government, in accordance with and subject to compliance with Section 53 (g) of IRR-A of Republic Act No. 9184 and other pertinent provisions of existing laws, rules and regulations. Available allocated CY 2000 RRPL funds for the M113 APC Upgrade/Acquisition Project shall be used for this purpose.

Done in the City of Manila, this 26th day of October 2005, in the year of the Lord, Two Thousand and Five.

Gloria Arroyo



By the President:

Eduardo R. Ermita
EDUARDO R. ERMITA
Executive Secretary

