

Public Procurement and Management of Supplies Bill B.E. ...

1. Background

The Secretariat of the Cabinet issued a most urgent letter no. nor ror 0503/wor 398 dated 9th November 2016 requesting related government agencies to speed up submitting 25 more draft laws in addition to the legislative process or put them in effect within December 2016, including the Public Procurement and Management of Supplies B.E. ...

The National Reform Steering Extraordinary Committee issued a most urgent letter no. sor por thor 4101/2016 dated 14th November 2016 inviting Secretary-General of the National Human Rights Commission of Thailand (NHRCT), or representative (s) at administration level, to attend a meeting with the Committee to provide comments and recommendations about the Public Procurement and Management of Supplies Bill B.E. ... Office of the NHRCT by the Secretary-General of the NHRCT attended this meeting on 23rd November 2016 at Parliament Building 2 and then prepared comments and recommendations towards the Bill to propose to the Committee.

2. Suggestions about improvement of laws

To make provisions in the Public Procurement and Management of Supplies Bill B.E. ... being enforced and put in practice according to its intendment and the principle of good governance and consistent with human rights protection principle according to international human rights obligations that Thailand have to observe, the NHRCT opines that it should come up with suggestions for improvement of the law and propose them to the National Legislative Assembly in the status of the Parliament according to Section 15(3) of the National Human Rights Commission Act B.E. 2542 (1999) as follows:

(1) The National Legislative Assembly should add wordings to Section 7 Paragraph 3 and Section 8 to make them consistent with the UN Guiding Principles on Business and Human Rights by adding principles about Sustainable Public Procurement which takes into consideration social, economic and environmental impacts as follows:

(1.1) Section 7 Paragraph 3 should be added with the following underlines:

“For cases as in Paragraph 1, government agencies are to have rules or regulations concerning procurement and management of supplies according to criteria in this Act; at least there must be principle concerning cost-effectiveness, transparency, efficiency and effectiveness, and sustainability, taking into consideration social, economic and environmental impacts”.

(1.2) Section 8 should be amended to be

“Procurement and management of supplies by any government agency must create maximum benefits for the agency and must be consistent with a principle as follows:

(5) Sustainability by taking into consideration social, economic and environmental impacts.

(2) The National Legislative Assembly should amend rates of imprisonment and fines according to Section 118 in order that court could use discretion to make judgments that are appropriate and proportional with each character of offence which has wide scope for interpretation, both offence occurred from actions or neglect of actions in the procurement or management of supplies according to this Act, ministerial rules, regulations or proclamation issued by provisions in this Act as follows:

“Anyone who is an official or a person with authority...shall be punished by imprisonment not more than 10 years and fine not more than 400,000 Baht”.

December 2016