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Memorandum No. 703
Series of 2024

TO: Ms. Jessamine C. Ecleo, Procurement Office Head

RE: BOR Resolution No. 82 Approval to Terminate Contract with KAG Enterprises Inc. for Supply and Delivery Project

FROM: DR. PROSE IVY G. YEPES
University President

DATE: August 22, 2024

The undersigned is respectfully forwarding to you **BOR Resolution No. 82** approving the request to terminate the contract with KAG Enterprises Inc. for the project called "Supply and Delivery of Various Appliances and Office Equipment" and authorizing the University President to issue notice of termination pursuant to the 2016 Revised IRR of RA No. 9184 prescribing the guidelines on termination of contract.

This is provided for your information, dissemination, appropriate action in accordance with university policies, and usual support.

cc: University/Board Secretary

OFFICE OF THE PRESIDENT

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FM-00P-01
V05 06-06-2024
No. **24-703**



115TH BOARD OF REGENTS MEETING

BOR RESOLUTION NO. 82
Series of 2024

APPROVING THE REQUEST TO TERMINATE CONTRACT WITH KAG ENTERPRISES INC. FOR THE PROJECT "SUPPLY AND DELIVERY OF VARIOUS APPLIANCES AND OFFICE EQUIPMENT" AND AUTHORIZING THE UNIVERSITY PRESIDENT TO ISSUE NOTICE OF TERMINATION PURSUANT TO THE 2016 REVISED IRR OF RA NO. 9184 PRESCRIBING THE GUIDELINES ON TERMINATION OF CONTRACT

Whereas, Republic Act (RA) No. 9184 otherwise known as the "Government Procurement Reform Act" took effect on 26 January 2003, while its 2016 Revised Implementing Rules and Regulations (IRR) took effect on 28 October 2016;

Whereas, Section 42 of RA No. 9184 provides that the rules and guidelines for the implementation and termination of contracts awarded pursuant to the provisions of the Act shall be prescribed in the IRR;

Whereas, Annex "I" of the 2016 revised IRR of RA No. 9184 prescribes the Guidelines on Termination of Contract, under the Guidelines, Procuring Entities are mandated to terminate existing contracts should the supplier incur delay the value of which amounts to at least ten percent (10%) of the contract price;

Whereas, Section 68 under Rule XXIII – Civil Liability of the same IRR, all contract executed in accordance with the Act shall contain a provision on liquidated damages which shall be payable by the contractor in case of breach thereof;

Whereas, the VSU and KAG Enterprises signed and entered into a contract for the project "Supply and Delivery of various appliances and office equipment" on December 6, 2019 with a contract amount of ₱1,169,271.62;

Whereas, critical issues arose regarding KAG Enterprises, Inc. performance and compliance with their contractual obligations: (1) KAG Enterprises has failed to deliver more than 10% of the contract price, with P865,180.36 worth of goods remained undelivered, (2) Repeated Non-Compliance despite an extension granted by VSU on April 14, 2020 to April 30, 2021, (3) Not addressing the Legal Officer's Show Cause order and demand for a response as to why the contract should not be terminated;

Whereas, the total incurred liquidated damages have already reached 29% of the total amount of the contract, amounting to P272,705.64;

Whereas, after careful study and review, the Investigation Committee has recommended the termination of the contract due to non-compliance of its contractual obligations;

BOR Action: APPROVAL
[Signature]
HAZELLE V. ASALDO
BOR & University Secretary

Whereas, to demonstrate VSU's commitment toward procurement effectiveness, the University President requested an authority for the HoPE to terminate contract with KAG Enterprises Inc. for the aforementioned project and authorize the University President to issue Notice of Termination;

Whereas, on May 23, 2024, the proposal was presented to the University Administrative Council during its meeting and obtained favorable action;

Whereas, after careful review and finding the report in order, the Board accepts the recommendation from the Investigation Committee to terminate the contract with KAG Enterprises;

Now, therefore, on motion, duly seconded, and unanimously approved, be it;


Resolved, as it is hereby resolved, that the Board of Regents of Visayas State University approves the request to terminate contract with KAG Enterprises Inc. for the project, "Supply and Delivery of various appliances and office equipment" and authorizing the University President to issue notice of termination pursuant to the 2016 revised IRR of RA No. 9184 prescribing the Guidelines on Termination of Contract.


IN WITNESS of our approval thereof, we hereby affix our signatures this 7th day of June 2024 at VSU, Baybay City, Philippines.

BOR Action: APPROVAL

HAZELLE V. ASALDO
BOR & University Secretary

VSU BOARD OF REGENTS

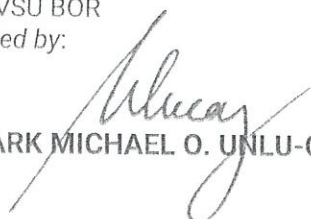

HON. ETHEL AGNES P. VALENZUELA
CHED Commissioner and Chairperson
VSU-Board of Regents


HON. PROSE IVY G. YEPES
VSU President, Vice Chairperson
VSU-Board of Regents

HON. ALLAN PETER S. CAYETANO
Chairperson, Senate Committee on Higher,
Technical and Vocational Education
Member, VSU BOR
Represented by:

HON. MARK O. GO
Chair, Committee on Higher & Technical Education
House of Representatives
Member, VSU BOR
Represented by:

absent
HON. BERNADETTE REMALLA-MAYBITUIN


HON. MARK MICHAEL O. UNLU-CAY


HON. MEYLENE C. ROSALES
Regional Director, National Economic and
Development Authority Regional Office VIII
Member, VSU BOR

absent
HON. ANDREW RODOLFO T. ORAIS
Regional Executive Director, Department of
Agriculture Regional Office VIII
Member, VSU BOR


HON. ERNESTO F. BULAYOG
Faculty Regent - VSU System Faculty Union
Member, VSU BOR


HON. OSCAR B. POSAS
President, VSU Federated Alumni Association
Member, VSU BOR


HON. SHAINA MAE F. LACABA
Student Regent - VSU Student Council Federation
Member, VSU BOR

Private Sector Representatives:


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Member, VSU BOR
Villaba, Leyte


HON. RUPERTO O. APARRI, III
Member, VSU BOR
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