



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;

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;

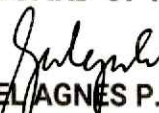
Whereas, after careful review and finding the report in order, the Board accepts the recommendation from the Investigation Committee to terminate the contract with KAG Enterprises;

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.

VSU BOARD OF REGENTS


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VSU-Board of Regents


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Tacloban City, Leyte



29 May 2024

THE HONORABLE MEMBERS OF THE BOARD

Board of Regents, Visayas State University

Dear Honorable Members of the Board,

Greetings of peace and solidarity!

This is to formally request authority for the HoPE to terminate contract with KAG Enterprises Inc. for the project "Supply and Delivery of Various Appliances and Office Equipment" and authorize the undersigned to issue Notice of Termination.

This report highlights several critical issues regarding the performance and compliance of KAG Enterprises Inc. with their contractual obligations. The key points are as follows:

- **Failure to Deliver**
KAG Enterprises Inc. has failed to deliver more than 10% of the contract price, with P865,180.36 worth of goods remaining undelivered.
- **Repeated Non-Compliance**
Despite an extension granted by VSU on April 14, 2020, expiring on April 30, 2021, KAG Enterprises Inc. has continually failed to fulfill its obligations.
- **Lack of Response**
The Legal Officer's letter dated January 18, 2023, demanding a response to why the contract should not be terminated, has not been adequately addressed by KAG Enterprises Inc.

Given these issues, the Investigation Committee has recommended the termination of the contract.

Attached are the investigation's findings, the extensions granted, and the multiple opportunities provided to KAG Enterprises Inc. to comply with their contractual obligations.

It is further respectfully requested that the Board authorize the undersigned to issue a formal Notice of Contract Termination to KAG Enterprises Inc. and to take further action as recommended by the Board.

In anticipation of your consideration, let me thank you most sincerely.

Sincerely,


PROSE IVY G. YEPES, EdD
University President
Vice Chairperson, VSU Board of Regents

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