



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Manila

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August 24, 2018

DEPARTMENT MEMORANDUM)

CIRCULAR NO.)
Series of 2018)

49)


09.04.18)

FOR / TO : Undersecretaries
Assistant Secretaries
Service Directors
Bureau Directors
Regional Directors
Heads of UPMOs
District Engineers
This Department

For information and guidance, attached is a copy of **GPPB RESOLUTION No. 40-2017, re: APPROVING THE REVISED GUIDELINES FOR BLACKLISTING OF MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS AND CONSULTANTS."**

A copy of said Resolution may also be downloaded from the **DPWH website: <http://dpwhweb>**. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS, upon request.

For dissemination to all concerned.


B. ELIZABETH E. YAP, Ph. D., CESO II
Assistant Secretary for Support Services

Encl: GPPB Resolution No. 40-2017

Cc: Office of the Secretary

12.1.1 CGSC/EDY/MNC/MVSG

**APPROVING THE REVISED GUIDELINES FOR BLACKLISTING OF
MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS AND
CONSULTANTS**

WHEREAS, Section 63.1(b) of Republic Act (R.A.) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, the GPPB issued GPPB Resolution No. 09-2004, dated 20 August 2004, approving and adopting the *Uniform Guidelines for Blacklisting Manufacturers, Suppliers, Distributors, Contractors and Consultants* (Blacklisting Guidelines for brevity);

WHEREAS, the Blacklisting Guidelines was amended by GPPB Resolution No. 03-2011, dated 28 January 2011 to harmonize with the 2009 IRR of RA 9184 and avoid confusion on the implementation of its provisions;

WHEREAS, during the course of implementation of the existing Blacklisting Guidelines, several issues were encountered by procuring entities and bidders and in response thereto, the GPPB Technical Support Office (TSO) proposed specific changes to the Blacklisting Guidelines;

WHEREAS, during the 7th Inter-Agency Technical Working Group (IATWG) Meeting on 14 December 2017, the GPPB-TSO presented the proposed specific changes to the Blacklisting Guidelines and after due consideration, the IATWG adopted the proposed changes to the Blacklisting Guidelines and recommended its approval by the GPPB, subject to the following comments, thus:

1. No need to mention the term “spouse” in the effect of blacklisting of individuals;
2. Clarify that the penalty of Suspension is applicable in any bidding process of the agency;
3. Clarify that the blacklisting after the lapse of project duration shall be applicable only prior to contract closure; and
4. Change the protest mechanism to appeals procedure to avoid confusion with the protest mechanism during bidding process;

WHEREAS, during the 6th GPPB and 8th IATWG Joint Meeting on 21 December 2017, the GPPB-TSO presented the proposed revision of the Blacklisting Guidelines, including the recommendation of the IATWG;

WHEREAS, after careful and due deliberation, the Board approved the proposed Revised Blacklisting Guidelines, subject to the following comments, thus:

1. Consistent use of the term “appeal” instead of “protest”; and
2. Retain the current amounts of the prescribed fees for filing an appeal in accordance with Section 55 of RA 9184 and its 2016 IRR.

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to approve and adopt, as **WE** hereby confirm, adopt and approve the following:

1. **APPROVE** the Revised Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants, copy of which is hereto attached as **Annex “A”**; and
2. **ISSUE** a Circular informing the procuring entities on the procedures on the submission of Blacklisting Orders, copy of which is hereto attached as **Annex “B”**;

The Revised Guidelines shall take effect after fifteen (15) days following the publication in the Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified true copies of this Resolution.

APPROVED this 21st day of December 2017 at Pasig City, Philippines.

(SGD)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(SGD)

DEPARTMENT OF EDUCATION

(SGD)

DEPARTMENT OF ENERGY

(SGD)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

(SGD)

**DEPARTMENT OF INFORMATION AND
COMMUNICATION TECHNOLOGY**

**DEPARTMENT OF INTERIOR AND
LOCAL GOVERNMENT**

(SGD)

**DEPARTMENT OF NATIONAL
DEFENSE**

(SGD)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(SGD)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRADE AND
INDUSTRY**

(SGD)

DEPARTMENT OF TRANSPORTATION

PRIVATE SECTOR REPRESENTATIVE



ANNEX "A"

UNIFORM GUIDELINES FOR BLACKLISTING OF MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS AND CONSULTANTS

1. SCOPE

These guidelines shall govern the blacklisting of manufacturers, suppliers, distributors, contractors and consultants ("contractors" for brevity) involved in government procurement for offenses or violations committed during procurement and contract implementation stages, in accordance with Section 69.4 of the Implementing Rules and Regulations ("IRR") of Republic Act No. 9184 ("R.A. 9184"), otherwise known as the "Government Procurement Reform Act."

These guidelines shall apply to all branches, constitutional commissions and offices, agencies, departments, bureaus, offices, and instrumentalities of the Government, including government-owned and/or controlled corporations ("GOCCs"), government financial institutions ("GFIs"), state universities and colleges ("SUCs"), and local government units ("LGUs").

2. PROHIBITION ON BLACKLISTED PERSONS/ENTITIES TO PARTICIPATE IN THE BIDDING OF GOVERNMENT PROJECTS/CONTRACTS

A person/entity that is blacklisted by a procuring entity and/or included in the Government Procurement Policy Board ("GPPB") Consolidated Blacklisting Report shall not be allowed to participate in the bidding of all government projects during the period of disqualification unless it is delisted as provided for in these guidelines. Blacklisting shall apply to the following persons:

- a) In case of individuals or sole proprietorships, to the bidders and their spouses;
- b) In case of partnerships, to the partnership itself and its partners;
- c) In case of cooperatives, to the cooperative itself and members of the board of directors, general manager or chief executive officer;
- d) A partnership, joint venture or consortium which is blacklisted or which has blacklisted member/s and/or partner/s as well as a person/entity who is a member of a blacklisted joint venture or consortium are, likewise, not allowed to participate in any government procurement during the period of disqualification;
- e) In the case of corporations, a single stockholder, together with his/her relatives up to the third civil degree of consanguinity or affinity, and their assignees, holding at

least twenty percent (20%) of the shares therein, its chairman and president, shall be blacklisted after they have been determined to hold the same controlling interest in a previously blacklisted corporation or in two corporations which have been blacklisted; the corporations of which they are part shall also be blacklisted.

3. DEFINITION OF TERMS

- 3.1 ***Appellate Authority.*** The department, office or government unit exercising general and/or administrative supervision/control over the blacklisting agency. Department level agencies shall exercise appellate authority over offices, agencies, bureaus, government units, GOCCs and SUCs under their jurisdiction. *Provided, further,* that blacklisting decisions of government agencies that are not subject to general and/or administrative supervision/control of any department, office or government unit shall be final and executory.
- 3.2 ***Award.*** A written notice from the procuring entity accepting a bid or proposal.
- 3.3 ***Blacklisting.*** An administrative penalty disqualifying a person or an entity from participating in any government procurement for a given period.
- 3.4 ***Suspension.*** An interim penalty imposed for infractions committed by a bidder during the procurement stage, whereby such bidder is prohibited from further participation in any of the bidding process of an agency. It shall remain in effect during the period of motion for reconsideration and/or appeal and shall terminate only upon final decision by the HoPE or appellate authority.
- 3.5 ***Consolidated Blacklisting Report.*** A report prepared by the GPPB containing the list of suppliers, manufacturers, distributors, contractors or consultants blacklisted by procuring entities.
- 3.6 ***Contract Implementation.*** A process of undertaking a project or contract in accordance with the contract documents.
- 3.7 ***Termination of Contract.*** Extinction of contract by reason of resolution or rescission under Articles 1191, 1380, 1381 of the Civil Code, and Section 68 and Annex "I" (Guidelines on Termination of Contracts) of the IRR of R.A. 9184 and other applicable laws arising from the default or unlawful act of the contractor.
- 3.8 ***Delist.*** Removal of a person/entity from the Consolidated Blacklisting Report.
- 3.9 ***Blacklisted Person/Entity.*** A person/entity who was disqualified by an agency and/or is included in the GPPB Consolidated Blacklisting Report.
- 3.10 ***Offense.*** A violation under Section 69 of RA 9184 and its IRR in one procurement project wherein the Procuring Entity has already issued a Blacklisting Order.

4. SANCTIONS AND GROUNDS FOR BLACKLISTING

4.1 *Procurement Stage*

During the procurement stage, pursuant to Section 69 of R.A. 9184, the procuring entity shall impose on bidders or prospective bidders the penalty of blacklisting for

one (1) year for the first offense, blacklisting for two (2) years for the second offense, from participating in the public bidding process, without prejudice to the imposition of additional administrative, civil or criminal sanctions, as provided by applicable laws, for the following violations:

- a) Submission of eligibility requirements containing false information or falsified documents.
- b) Submission of Bids that contain false information or falsified documents, or the concealment of such information in the Bids in order to influence the outcome of eligibility screening or any other stage of the public bidding.
- c) Allowing the use of one's name, or using the name of the name of another for purpose of public bidding.
- d) Withdrawal of a bid, or refusal to accept an award, or enter into contract with the government without justifiable cause, after he had been adjudged as having submitted the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid.
- e) Refusal or failure to post the required performance security within the prescribed time.
- f) Refusal to clarify or validate in writing its Bid during post qualification within a period of seven (7) calendar days from receipt of the request for clarification.
- g) Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- h) All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding or submitting late bids or patently insufficient bids, for at least three (3) times within a year, except for valid reasons.

In addition to the penalty of blacklisting, the bid security posted by the concerned bidder or prospective bidder shall also be forfeited.

4.2 *Contract Implementation Stage*

Pursuant to Section 69 (6) of R.A. 9184 and without prejudice to the imposition of additional administrative sanctions as the internal rules of the agency may provide and/or further criminal prosecution as provided by applicable laws, the procuring entity shall impose on contractors after the termination of the contract the penalty of blacklisting for one (1) year for the first offense, blacklisting for two (2) years for the second offense from participating in the public bidding process, for violations committed during the contract implementation stage, which include but not limited to the following:

- a) Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the Notice to Proceed ("NTP");

- b) Failure by the contractor to fully and faithfully comply with its contractual obligations without valid cause, or failure by the contractor to comply with any written lawful instruction of the procuring entity or its representative(s) pursuant to the implementation of the contract. For the procurement of infrastructure projects or consultancy contracts, lawful instructions include but are not limited to the following:
 - i. Employment of competent technical personnel, competent engineers and/or work supervisors;
 - ii. Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;
 - iii. Stockpiling in proper places of all materials and removal from the project site of waste and excess materials, including broken pavement and excavated debris in accordance with approved plans and specifications and contract provisions;
 - iv. Deployment of committed equipment, facilities, support staff and manpower; and
 - v. Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.
- c) Assignment and subcontracting of the contract or any part thereof or substitution of key personnel named in the proposal without prior written approval by the procuring entity.
- d) For the procurement of goods, unsatisfactory progress in the delivery of the goods by the manufacturer, supplier or distributor arising from his fault or negligence and/or unsatisfactory or inferior quality of goods, as may be provided in the contract;
- e) For the procurement of consulting services, poor performance by the consultant of his services arising from his fault or negligence. Any of the following acts by the consultant shall be construed as poor performance:
 - i. Defective design resulting in substantial corrective works in design and/or construction;
 - ii. Failure to deliver critical outputs due to consultant's fault or negligence; and
 - iii. Specifying materials which are inappropriate, substandard, or way above acceptable standards.
 - iv. Allowing defective workmanship or works by the contractor being supervised by the consultant.
- f) For the procurement of infrastructure projects, poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his

fault or negligence as reflected in the Constructor's Performance Evaluation System ("CPES") rating sheet. In the absence of the CPES rating sheet, the existing performance monitoring system of the procuring entity shall be applied. Any of the following acts by the constructor shall be construed as poor performance:

- i. Negative slippage of 15% and above within the critical path of the project due entirely to the fault or negligence of the contractor; and
 - ii. Quality of materials and workmanship not complying with the approved specifications arising from the contractor's fault or negligence.
- g) Willful or deliberate abandonment or non-performance of the project or contract by the contractor resulting to substantial breach thereof without lawful and/or just cause.
- h) In case it is determined *prima facie* that the contractor has engaged, before or during implementation of the contract, in unlawful deeds and behaviors relative to contract acquisition and implementation as enumerated in Section III.D. of the Guidelines on Termination of Contracts.

In addition to the penalty of blacklisting, the performance security posted by the contractor shall also be forfeited.

5. PROCEDURE FOR BLACKLISTING DURING THE PROCUREMENT STAGE

5.1 *Initiation of Action*

Any bidder/prospective bidder or duly authorized observer may initiate the blacklisting proceedings by filing a written complaint with the Bids and Awards Committee ("BAC"). The BAC may also *motu proprio* (by itself) commence the proceedings upon *prima facie* (self-sufficient) determination that the contractor as a bidder or prospective bidder has committed any of the grounds for blacklisting during the procurement stage.

At the option of the procuring entities, a reasonable fee may be required for initiating the blacklisting proceedings.

5.2 *Notification*

Upon verification of the existence of grounds for blacklisting, the BAC shall immediately notify the contractor concerned in writing, advising him that:

- a) a complaint for blacklisting has been filed against him, or he has been considered by the BAC for blacklisting, stating the grounds for such;

For this purpose, multiple violations in a procurement project as grounds for blacklisting shall be included in one complaint, which shall be considered separate offenses, once proven.

- b) he has the opportunity to show cause why he should not be suspended and blacklisted;

- c) a hearing shall be conducted before the BAC, upon his request, where he may present documentary evidence, verbal testimony and cross-examine the witnesses presented against him; and
- d) the consequences of being suspended and blacklisted.

Within five (5) calendar days from receipt of notification, the contractor shall submit its written answer with documentary evidence to the BAC with a manifestation for request of hearing to determine questions of fact, if he so desires. No time extension shall be allowed.

Should the contractor fail to answer within the same period, the BAC shall issue a resolution recommending to the Head of the Procuring Entity the immediate suspension of the contractor from participating in any bidding process of the agency and the forfeiture of his bid security.

5.3 *Hearings*

If a hearing is requested, the BAC shall immediately set the date and time for hearing. The hearing shall be non-litigious and shall be terminated within five (5) days.

The BAC may also invite a representative from a duly recognized private group in a sector or discipline relevant to the procurement at hand as an observer for each hearing.

If no request is made, the BAC shall make a determination of the case based on the complaint, answer, documentary evidence submitted and facts verified. If the BAC is convinced that the contractor is at fault, it shall issue a resolution recommending to the head of the agency the suspension of the contractor from participating in any bidding process of the agency and the forfeiture of his bid security.

5.4 *Decision*

The Head of the Procuring Entity shall, within fifteen (15) days from receipt of the resolution and the records of the BAC proceedings, determine whether reasonable cause exists for the suspension of the contractor and the forfeiture of the latter's bid security. If the Head of the Procuring Entity determines that such reasonable cause exists, he shall issue a decision suspending the contractor from participating in any bidding process of the agency, and further declaring that his bid security is forfeited. Otherwise, he shall dismiss the case.

The decision shall clearly and distinctly state the facts, evidence and the law on which it is based, as well as the date of effectivity of the penalty, if any.

The Head of the Procuring Entity may delegate to the BAC the authority to impose the corresponding sanction(s) provided for in these guidelines.

5.5 *Notice of Decision*

The Head of the Procuring Entity shall furnish the suspended contractor a copy of

the decision immediately from its promulgation.

5.6 *Effect of Decision*

A contractor is suspended upon receipt of the notice of decision prohibiting him from participating in the bidding process of the agency. The suspension shall remain in effect during the period of motion for reconsideration and appeal and shall terminate only upon final decision by the Head of the Procuring Entity or appellate authority.

If no motion for reconsideration or appeal is filed within reglementary period, the decision shall become final and executory. Thereafter, the Head of Procuring Entity shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

The motion for reconsideration and/or appeal must first be resolved before any Blacklisting Order may be issued.

5.7 *Motion for Reconsideration*

A motion for reconsideration may be filed by the suspended person/entity within three (3) calendar days from receipt of the notice of decision and shall be for either or both of the following causes, provided that only one (1) motion for reconsideration shall be filed with the blacklisting agency:

- a) The decision is not in conformity with the evidence and/or facts presented; and
- b) Newly discovered evidence or facts which not be discovered and produced at the investigation and which when presented would probably alter the result of the investigation.

The Head of the Procuring Entity shall resolve with finality the motion for reconsideration within seven (7) calendar days from the filing thereof and furnish suspended contractor a copy of the resolution immediately from its promulgation.

5.8 *Appeal*

In the event that the motion for reconsideration is denied, the suspended bidder may file an appeal, through a Notice of Appeal, with the appellate authority, if any, within seven (7) calendar days from receipt of the decision denying the motion for reconsideration, and upon payment of the appeal fee in the same amount as prescribed for the filing of protest under Section 55.3 of the IRR of R.A. 9184. The appellate authority shall decide on the appeal within seven (7) calendar days upon perfection of appeal.

5.9 *Finality of Decision*

The decision of the agency shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision or resolution on the motion for reconsideration. If an appeal is filed, the affirmed, modified or reversed decision shall become final and executory upon receipt thereof by the agency and person/entity concerned.

Upon finality of the decision blacklisting the contractor, the Head of Procuring Entity or appellate authority shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

6. PROCEDURE FOR BLACKLISTING DURING THE CONTRACT IMPLEMENTATION STAGE

- 6.1 Upon termination of contract due to default and/or unlawful acts of the contractor, the Head of the Procuring Entity shall issue within seven (7) calendar days a Blacklisting Order immediately disqualifying the erring contractor from participating in the bidding of all government projects. The performance security of said contractor shall also be forfeited.
- 6.2 Where contract termination is no longer possible, but the contractor committed acts or causes which may constitute ground(s) for blacklisting, the implementing unit shall, within seven (7) days after the lapse of project duration, cause the execution of a Verified Report, with all relevant evidence attached, subject to the following procedures:
- a) **Notice of Blacklisting.** Upon recommendation by the Implementing Unit, the Head of the Procuring Entity shall initiate the blacklisting procedures by a written notice to the contractor conveying the following information:
 - 1. a statement of the acts that constitute the ground(s) for blacklisting;
 - 2. an instruction to the contractor to show cause as to why it should not be blacklisted; and
 - 3. special instructions of the Procuring Entity, if any.

The Notice of Blacklisting shall be accompanied by a copy of the Verified Report.

- b) **Show Cause.** Within a period of seven (7) calendar days from receipt of the Notice of Blacklisting, the contractor shall submit to the Head of the Procuring Entity a verified position paper stating why it should not be blacklisted.

If the contractor fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, the Head of the Procuring Entity shall issue a Blacklisting Order.

- c) **Decision.** Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, the Head of the Procuring Entity shall decide whether or not to blacklist the contractor. It shall serve a written notice to the contractor of its decision which shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision.

7. STATUS OF BLACKLISTED PERSON/ENTITY

Before the issuance of a Blacklisting Order, the erring contractor may participate in the procurement of any government project except in the agency where he is suspended.

But if Blacklisting Order is issued prior to the date of the notice of award ("NOA"), the blacklisted person/entity shall not be qualified for award and such project/contract shall be awarded to another bidder pursuant to R.A. 9184 and its IRR.

If the Blacklisting Order is issued after award of a government project/contract to the blacklisted person/entity, the awarded project/contract shall not be prejudiced by the said order: *Provided, however*, that the said offense(s) committed by the blacklisted person/entity is/are not connected with the awarded project/contract.

The effectivity period for the penalty of one (1) or two (2) years, as the case may be, shall be clearly specified in the Blacklisting Order, the commencement of which, shall be the same date as the issuance of the Blacklisting Order.

8. APPLICATION OF PENALTY

In case the penalty of blacklisting for two (2) years is imposed during the pendency of a previous blacklisting order, the latter shall be deemed terminated and subsumed in the two (2)-year blacklisting.

If an offense is committed for the third time or oftener, the penalty applicable shall still be blacklisting for two (2) years.

9. DELISTING

A blacklisted person/entity shall be automatically delisted after the period for the penalty has elapsed.

10. METHODOLOGY FOR NOTIFICATION TO THE GPPB

10.1. Unless otherwise provided in these guidelines, the blacklisting agency concerned shall submit to the GPPB, within seven (7) calendar days after the issuance of the blacklisting order/delisting orders made by the agency, the following documents:

- a) Blacklisting Order duly signed by the Head of the Procuring Entity/appellate authority containing, among others, Department/Office Order or Board Resolution number, name and address of the blacklisted person/entity, license number, if applicable, Authorized Managing Officer ("AMO"), name of project/contract and location/amount, specific ground(s)/offense(s) committed as provided in Section 4 hereof, sanction imposed and its specific duration, that is, "start" date and "end" date, and date of issuance of the order to blacklist.
- b) Delisting Order duly signed by the blacklisting agency containing, among others, Department/Office Order or Board Resolution number, name and address of the blacklisted person/entity, name of project/contract and location, specific sanction being lifted and the number of previously issued blacklisting Department/Office Orders or Board Resolutions, effectivity date of delisting, and date of delisting approval.

10.2 The GPPB shall prepare the Consolidated Blacklisting Report every quarter, based on the submitted Blacklisting Orders as provided for in Section 9.1(a) hereof and disseminate the same to procuring entities and the Commission on Audit ("COA"). The report shall be further posted in the GPPB website and the Government

Electronic Procurement System ("G-EPS") and shall indicate the number of times a person/entity has been blacklisted, the type of offense/violation committed, the penalty imposed, and the blacklisting agency concerned.

The GPPB shall delist from such report those whose sanctions are lifted automatically after serving the given penalty as provided for in Section 8 hereof.

- 10.3 The ministerial authority of the GPPB and its Technical Support Office is limited to the receipt and posting of Blacklisting Orders in its website and the preparation of the Consolidated Blacklisting Report based on submitted Blacklisting Orders. The blacklisting order submitted to the office carries with it the presumption that the provisions of the Blacklisting Guidelines and the Contract Termination Guidelines were duly complied with and that due process was afforded the blacklisted manufacturer, supplier, distributor, contractor or consultant.

Non-posting of the Blacklisting Order in the GPPB Website or the non-inclusion of the name of the blacklisted manufacturer, supplier, distributor, contractor or consultants in the GPPB Consolidated Blacklisting Report does not affect the status of the blacklisted entity in as much as the operative act of the blacklisting is the issuance of the Blacklisting Order by the agency concerned, and not the submission thereof to the GPPB.

- 10.4 In the case of procurement of infrastructure projects, should a blacklisting agency decide to refer the case of its blacklisted person/entity to the Philippine Contractors Accreditation Board ("PCAB") for license suspension/revocation, it shall submit to PCAB a copy of the decision accompanied with supporting documents.
- 10.5 All existing blacklisting reports of the Government or any of its procuring entities, as well as the list of constructors whose licenses are suspended or revoked by the PCAB as of the date of effectivity of the IRR, are hereby adopted and made part of the GPPB Consolidated Blacklisting Report upon the issuance of these guidelines.

11. AMENDMENTS

- 11.1 In the implementation of these guidelines, the GPPB may introduce modifications thereto through the amendment of its specific provisions as the need arises.
- 11.2 Any amendment to these guidelines shall be applicable to government projects advertised for bid after the effectivity of the said amendment

12. EFFECTIVITY

These Guidelines or any amendments thereof shall take effect immediately after publication in the Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of these guidelines.

CIRCULAR 10-2017

21 December 2017

TO : Heads of Departments, Bureaus, Offices and Agencies of the National Government, including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units

SUBJECT : Submission of Blacklisting Order

1.0 Purpose

This Circular is being issued to reiterate to all procuring entities the requirement for the submission of Blacklisting Orders to the GPPB.

2.0 Coverage

All Departments, Bureaus, Offices and Agencies of the National Government, including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units.

3.0 Submission of Blacklisting Order

3.1 Unless otherwise provided, the blacklisting agency concerned shall submit to the GPPB, within seven (7) calendar days after the issuance of the blacklisting order/delisting order made by the agency, the following documents:

3.1.1 Blacklisting Order duly signed by the Head of the Procuring Entity/appellate authority containing, among others, Department/Office Order or Board Resolution number, name and address of the blacklisted person/entity, license number, if applicable, Authorized Managing Officer ("AMO"), name of project/contract and location/amount, specific ground(s)/offense(s) committed as provided in Section 4 hereof, sanction imposed and its specific duration, that is, "start" date and "end" date, and date of issuance of the order to blacklist.

3.1.2 Delisting Order duly signed by the blacklisting agency containing, among others, Department/Office Order or Board Resolution

number, name and address of the blacklisted person/entity, name of project/contract and location, specific sanction being lifted and the number of previously issued blacklisting Department/Office Orders or Board Resolutions, effectivity date of delisting, and date of delisting approval.

- 3.2 The GPPB shall prepare the Consolidated Blacklisting Report every quarter, based on the submitted Blacklisting Orders as provided for in Section 9.1(a) hereof and disseminate the same to procuring entities and the Commission on Audit (“COA”). The report shall be further posted in the GPPB website and the Government Electronic Procurement System (“G-EPS”) and shall indicate the number of times a person/entity has been blacklisted, the type of offense/violation committed, the penalty imposed, and the blacklisting agency concerned.

The GPPB shall delist from such report those whose sanctions are lifted automatically after serving the given penalty.

- 3.3 The ministerial authority of the GPPB and its Technical Support Office is limited to the receipt and posting of Blacklisting Orders in its website and the preparation of the Consolidated Blacklisting Report based on submitted Blacklisting Orders. The blacklisting order submitted to the office carries with it the presumption that the provisions of the Blacklisting Guidelines and the Contract Termination Guidelines were duly complied with and that due process was afforded the blacklisted manufacturer, supplier, distributor, contractor or consultant.

Non-posting of the Blacklisting Order in the GPPB Website or the non-inclusion of the name of the blacklisted manufacturer, supplier, distributor, contractor or consultants in the GPPB Consolidated Blacklisting Report does not affect the status of the blacklisted entity in as much as the operative act of the blacklisting is the issuance of the Blacklisting Order by the agency concerned, and not the submission thereof to the GPPB.

- 3.4 In the case of procurement of infrastructure projects, should a blacklisting agency decide to refer the case of its blacklisted person/entity to the Philippine Contractors Accreditation Board (“PCAB”) for license suspension/revocation, it shall submit to PCAB a copy of the decision accompanied with supporting documents.

4.0 This Circular shall take effect immediately.

5.0 For guidance and compliance.

BENJAMIN E. DIOKNO
Chairperson