



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

C97-7 DPWH
05-27-2020

May 22, 2020

DEPARTMENT MEMORANDUM)

CIRCULAR NO.)
Series of 2020)

41

05-27-2020

FOR/TO : **UNDERSECRETARIES**
ASSISTANT SECRETARIES
SERVICE DIRECTORS
BUREAU DIRECTORS
REGIONAL DIRECTORS
HEADS OF UPMOs
DISTRICT ENGINEERS
BAC CHAIRPERSONS AND MEMBERS
This Department

For information and guidance of all concerned Bids and Awards Committees in the Central, Regional, and District Offices, attached is a copy of Government Procurement Policy Board (GPPB) Resolution No. 09-2020 dated May 7, 2020 entitled: **"APPROVING MEASURES FOR EFFICIENT CONDUCT OF PROCUREMENT ACTIVITIES DURING A STATE OF CALAMITY, OR IMPLEMENTATION OF COMMUNITY QUARANTINE OR SIMILAR RESTRICTIONS"**.

Said GPPB Resolution may be downloaded from the **DPWH website:** <http://dpwhweb> and **GPPB website:** <https://www.gppb.gov.ph/issuances/Resolutions>. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Section, HRAS, upon request.

For dissemination to all concerned.

MARICHU A. PALAFOX, CESO III
Assistant Secretary for Support Services

Incl: GPPB Resolution No. 09-2020

12.1 MPOA/MVSG



**APPROVING MEASURES FOR THE EFFICIENT CONDUCT OF
PROCUREMENT ACTIVITIES DURING A STATE OF CALAMITY, OR
IMPLEMENTATION OF COMMUNITY QUARANTINE OR SIMILAR RESTRICTIONS**

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 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

WHEREAS, Sections 37 and 38 of RA No. 9184 provides that the Head of the Procuring Entity (HoPE) has a fifteen-day (15 day) period to approve the recommendation of the award by the Bids and Awards Committee (BAC) as well as issue the Notice of Award and has a three-month (3-month) period within which to complete the procurement process from the opening of bids up to the award of contract, respectively;

WHEREAS, the recommended earliest possible time and maximum period allowed for the procurement of goods and services, infrastructure projects and consulting services are in Annex “C” of the 2016 revised IRR of RA No. 9184 pursuant to the specific provisions on each procurement activity provided for by the foregoing law and rules;

WHEREAS, the Supreme Court held in the case of *Reynaldo M. Jacomille v. Hon. Joseph Emilio A. Abaya, et al.*,¹ that the different periods provided by RA No. 9184 within which certain stages of the procurement process must be completed is not merely directory but mandatory;

Whereas, Section 39 of RA No. 9184, requires the winning bidder to post a performance security prior to the signing of the contract as a measure of guarantee for the faithful performance of and compliance with his obligations under the contract. Section 39.2 of its IRR prescribes that the allowable forms of performance security shall be: (i) Cash or cashier’s/manager’s check issued by a Universal or Commercial Bank; (ii) Bank draft/guarantee or irrevocable letter of credit issued by a Universal or Commercial Bank; or (iii) Surety bond;

Whereas, Section 25.1 of the 2016 revised IRR of RA No. 9184 provides that bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements and the second shall contain the financial component of the bid;

Whereas, Section 8.1.1 of the 2016 revised IRR of RA No. 9184 provides that the Philippine Government Electronic Procurement System (PhilGEPS) shall serve as the primary and definitive source of information on government procurement while the GPPB is authorized to approve changes in the procurement process to adapt to improvements in modern technology pursuant to Section 8.3.2 of the same IRR;

¹ G.R. No. 212381, April 22, 2015.

WHEREAS, on 8 March 2020, the President signed Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines following the confirmed local transmission of the novel coronavirus disease (COVID-19). Consequently, a Memorandum from the Office of the Executive Secretary² was issued implementing community quarantine over the entire National Capital Region and implementing alternative work arrangements, among others;

WHEREAS, given the COVID-19 pandemic, the GPPB issued Resolution No. 03-2020³ allowing Procuring Entities (PEs) to apply the rules on Negotiated Procurement (Emergency Case) during a State of Calamity and simplifying the process therefor. This was followed by more issuances such as GPPB Resolution No. 05-2020⁴ and GPPB-TSO Non-Policy Matter Opinion (NPM) No. 03-2020⁵ which enable PEs to efficiently and expediently undertake procurement during a State of Calamity;

WHEREAS, on 16 March 2020, due to the rapid increase of cases of infection in the country, the President signed Proclamation No. 929 declaring a State of Calamity throughout the Philippines for a period of six (6) months or up to 12 September 2020, unless lifted earlier or extended as circumstances may warrant, and further providing for the implementation of "Enhanced Community Quarantine (ECQ)" over the entire Luzon until 12 April 2020. Following this, a Memorandum Circular⁶ was issued by the Executive Secretary implementing, among others, work from home arrangement for the Executive Branch and the suspension of mass public transport services and other businesses that do not render critical services;

WHEREAS, on 24 March 2020, the President signed RA No. 11469 or the *Bayanihan to Heal as One Act*, which granted the President temporary emergency powers to address the national emergency brought about by the COVID-19 pandemic. Relative thereto, Joint Memorandum Circular No. 1⁷ was issued by the Commission on Audit and the GPPB to support the government's efforts to mitigate, if not contain the transmission of COVID-19 through the expedient procurement of Goods, Infrastructure Projects and Consulting Services needed by frontline workers. This was followed with the issuance of a Memorandum from the Executive Secretary,⁸ GPPB Resolution No. 06-2020,⁹ GPPB-TSO NPM No. 004-2020,¹⁰ and Department of Budget and Management (DBM) National Budget Circular (NBC) No. 580¹¹ in order to implement the temporary emergency measures provided under the *Bayanihan Act*;

WHEREAS, on 7 April 2020, the Office of the Executive Secretary, upon the recommendation of the Inter-Agency Task Force for the Management of Emerging Infectious Disease (IATF), issued a Memorandum extending the ECQ over the entire Luzon until 30 April

² Memorandum Circular on Stringent Social Distancing Measures and Further Guidelines for the Management of the COVID-19 Situation dated 13 March 2020.

³ Adoption of Efficient, Effective, and Expedient Procurement Procedures during a State of Public Health Emergency dated 9 March 2020 and published on 13 March 2020 in the Philippine Daily Inquirer.

⁴ Approving the Acceptance of an Expired Mayor's Permit with Official Receipt for the Renewal Application and Unnotarized Omnibus Sworn Statement as basis for award under the Negotiated Procurement (Emergency Cases) Modality dated 20 March 2020 and published on 24 March 2020 in the Philippine Daily Inquirer.

⁵ Negotiated Procurement under Emergency Cases dated 23 March 2020 and may be accessed through this link: [https://gppb.gov.ph/assets/pdfs/NPM%203-2020_Negotiated%20Procurement%20\(Emergency%20Cases\).pdf](https://gppb.gov.ph/assets/pdfs/NPM%203-2020_Negotiated%20Procurement%20(Emergency%20Cases).pdf).

⁶ Memorandum Circular on Community Quarantine over the Entire Luzon and Further Guidelines for the Management of the COVID-19 Situation dated 16 March 2020.

⁷ Emergency Procurement by the Government during a State of Public Health Emergency Arising from the Coronavirus Disease 2019 (COVID-19) dated 26 March 2020 and published on 28 March 2020 in the Philippine Daily Inquirer.

⁸ Implementation of Temporary Emergency Measures under RA No. 11469, Otherwise Known as the Bayanihan to Heal as One Act dated 28 March 2020.

⁹ Approving the Circular setting the Guidelines on the Emergency Procurement under RA No. 11469 or the *Bayanihan Act* and Recommending for Approval of the President the Increase of Advance Payment to 30% for Procurement Projects covered under the *Bayanihan Act* dated 6 April 2020 and published on 12 April 2020 in the Philippine Star.

¹⁰ Emergency Procurement under RA No. 11469 or the *Bayanihan to Heal as One Act* dated 16 April 2020 and may be accessed through this link: https://www.gppb.gov.ph/assets/pdfs/NPM%20004-2020_Emergency%20Procurement%20under%20Bayanihan%20Act.pdf.

¹¹ Adoption of Economy Measures in the Government Due to the Emergency Health Situation dated 22 April 2020.

2020. This was further extended until 15 May 2020 but this time includes Central Luzon and Region 4A or Calabarzon pursuant to the order of the President;¹²

WHEREAS, on 8 April 2020, during a virtual press briefing,¹³ Cabinet Secretary Karlo Nograles stated that for areas outside Luzon, local government units (LGUs) have the discretion to implement community quarantines if they deem necessary as long as local officials coordinate with the Department of the Interior and Local Government and the Department of Health on their decisions. Afterwards, this was superseded by Executive Order No. 112,¹⁴ wherein the President specifically identified areas under ECQ and General Community Quarantine and announced that no LGU shall declare its own community quarantine without observing the procedures set forth by the IATF;

WHEREAS, the GPPB-TSO recognizes that apart from conducting emergency procurement, PEs are likewise undertaking the procurement of Goods, Infrastructure and Consulting Services not related to the COVID-19 pandemic through public bidding or any of alternative modes of procurement, the conduct of which are equally important to ensure continuous delivery of public services and support the government during the State of Calamity;

WHEREAS, given the exceptional circumstances brought about by the COVID-19 pandemic, particularly the ECQ and the suspension of mass public transport services, both the PEs and Bidders are finding it hard to continue with the conduct of procurement activities and thus, PEs are at risk of exceeding the maximum calendar days allowed for specific procurement activities;

WHEREAS, in consideration of the foregoing and after careful review and deliberations, the Board resolved, upon recommendation of the GPPB-TSO, to adopt the below-described measures for the efficient conduct of procurement activities during a State of Calamity, or implementation of community quarantine or similar restrictions;

NOW, THEREFORE, for and in view of all the foregoing, **We**, the Members of the **Government Procurement Policy Board**, by virtue of the powers vested on **Us** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **We** hereby confirm, adopt, and approve the following measures, as recommended by the GPPB-TSO, for the efficient conduct of all procurement activities, regardless of procurement modality, during a nationally or locally declared State of Calamity arising from natural or human-induced hazard that may cause loss of life, injury or other health effects or impacts, property damage, loss of livelihood and services, social and economic disruption, or environmental damage, or implementation of community quarantine, or similar restrictions where movement of people and mass public and private transport are limited:

1. PEs to **ASSESS AND REVIEW** all of their planned and ongoing procurement for the fiscal year 2020 and identify which shall be discontinued or terminated pursuant to the DBM NBC No. 580 and other subsequent similar issuances. For those to be continued, PEs shall review the existing project requirements to ensure that the same cover only what they need and can actually implement within the year, taking into consideration the PE's available budget in light of the implementation of DBM NBC No. 580 and other similar issuances.

¹² *Presidential Communications Operations Office* Press Release dated 24 April 2020 and may be accessed through this link: https://pcoo.gov.ph/news_releases/president-duterte-extends-restriction-in-metro-manila-central-luzon-other-areas-until-may-15/

¹³ Video and transcription may be accessed through this link: <https://pcoo.gov.ph/press-briefing/inter-agency-task-force-virtual-presser-with-cabinet-secretary-karlo-nograles-3/>

¹⁴ Imposing an Enhanced Community Quarantine in High-risk Geographic Areas of the Philippines and a General Community Quarantine in the Rest of the Country from 01 to 15 May 2020, Adopting the Omnibus Guidelines on the Implementation Thereof, and for Other Purposes dated 30 April 2020.

2. **ENJOIN** PEs to maximize the use of existing rules under RA No. 9184, its IRR and related issuances on the conduct of procurement activities, particularly those meant to streamline, simplify and expedite the conduct of procurement and address the challenges and disruptions brought by calamities and crisis such as the COVID-19 pandemic, such as use of videoconferencing, webcasting and similar technology in the conduct of any of the meetings and determination of quorum by the BAC¹⁵ and use of digital signatures in procurement related documents;¹⁶
3. In order to complement these, **ALLOW** the (i) submission of procurement related documents, except for the submission and receipt of bids, through electronic mail or facsimile subject to the submission of the printed copies as soon as practicable, as determined by the Bids and Awards Committee (BAC); and (ii) use of other forms of digital or electronic signature in all procurement related documents. For this purpose, PEs shall establish their respective internal rules to ensure the security, integrity and authenticity of the documents electronically submitted and the use of digital or electronic signature.

These measures shall be allowed at any time, not just during a State of Calamity, or implementation of community quarantine or similar government restrictions.

4. In light of the unavailability of the online bidding facility under the modernized Philippine Government Electronic Procurement System (mPhilGEPS), **AUTHORIZE** the online or electronic submission and receipt of bids for procurement modalities where a two-envelope procedure or sealed price quotation is required. The BAC shall decide whether to allow the online or electronic submission and receipt of bids based on the PE's procurement needs and capabilities.

- 4.1 The GPPB Online Portal established under Item 9.0 of the GPPB Circular No. 1-2020¹⁷ shall be further developed to allow for the online submission and receipt of bids. The GPPB Online Portal shall ensure the security, integrity and confidentiality of the bids submitted and generate an audit trail of transactions for the security, integrity and authenticity of the bid submissions.

The GPPB-TSO shall issue the procedure for the use of the GPPB Online Portal for the online submission and receipt of bids, once it becomes operational.

- 4.2 Bid submission may be done through any electronic means available to the PEs, provided that the same:
 - a. uses a two-factor security procedure consisting of an archive format compression and password protection to ensure the security, integrity and confidentiality of the bids submitted;
 - b. allows access to a password-protected Bidding Documents on opening date and time. The passwords for accessing the file will be disclosed by the Bidders only during the actual bid opening which may be done in person or face-to-face through videoconferencing, webcasting or similar technology; and

¹⁵ GPPB Resolution No. 24-2018 dated 4 December 2018.

¹⁶ GPPB Resolution No. 16-2019 dated 17 July 2019.

¹⁷ Guidelines for Emergency Procurement under Republic Act No. 11469 or the Bayanihan to Heal as One Act dated 6 April 2020.

- c. capable of generating an audit trail of transactions to ensure the security, integrity and authenticity of bid submissions.

For this purpose, the highest official managing the Information Technology system of the agency shall issue a Certification describing the electronic system or procedure to be used by the PE for the electronic submission and receipt of bids and a statement that the same is compliant with the foregoing requirements. The said Certification shall be submitted to the GPPB-TSO through ITcertification@gppb.gov.ph prior to posting of the Bidding Documents allowing for electronic submission and receipt of bids.

5. Moreover, PEs shall ensure **ADOPTION** of the following procedure for online or electronic bid submission:

- 5.1 The Invitation to Bid, including the Bidding Documents shall clearly state whether the PE shall allow the submission and receipt of bids through electronic means;
- 5.2 Bidders shall submit their Bids through any of the abovementioned online or electronic facilities at any time before the closing date and time specified in the Bidding Documents;
- 5.3 Upon receipt of the first and second envelopes, PEs shall generate a Bid receipt page for the official time of submission which can be saved or printed by the bidder; and
- 5.4 As with manual submission, Bidders may modify or withdraw their Bid at any time before the deadline for the submission and receipt of bids. Where a bidder modifies its Bid, it shall not be allowed to retrieve its original Bid and shall only be allowed to submit another. For electronic bid submission, Bidders shall send another Bid equally secured, properly identified, and labelled as a "modification" of the one previously submitted. The time indicated in the latest Bid receipt page generated shall be the official time of submission. Bids submitted after the deadline shall not be accepted.

The use of the aforesaid online or electronic bid submission shall be allowed until such time as the online bidding facility under the mPhilGEPS becomes fully operational. For this purpose, the PhilGEPS shall submit to the GPPB-TSO the proposed guidelines for the use of the online bidding facility during its testing stage to ensure the timely review and approval of the Board.

6. In consideration of the limited access to financial institutions, regulatory and other offices, as well as the implementation of government restrictions on transport and travel, **ALLOW** PEs to accept the following alternate documentary requirements for procurement activities during a State of Calamity, or implementation of community quarantine or similar restrictions declared or being implemented either in the locality of the PE or of the Bidder:

- 6.1 Unnotarized Bid Securing Declaration;
- 6.2 Expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of Business or Mayor's permit after award of contract but before payment;

- 6.3 Unnotarized Omnibus Sworn Statement subject to compliance therewith after award of contract but before payment; and
- 6.4 Performance Securing Declaration (PSD) in lieu of a performance security to guarantee the winning bidder's faithful performance of obligations under the contract, subject to the following:
- a. Similar to the PSD used in Framework Agreement, such declaration shall state, among others, that the winning bidder shall be blacklisted from being qualified to participate in any government procurement activity for one (1) year, in case of first offense or two (2) years, if with prior similar offense, in the event it violates any of the conditions stated in the contract. A copy of the PSD form is attached hereto as Annex "A";
 - b. An unnotarized PSD may be accepted, subject to submission of a notarized PSD before payment, unless the same is replaced with a performance security in the prescribed form, as stated below; and
 - c. The end-user may require the winning bidder to replace the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 revised IRR of RA No. 9184 upon lifting of the State of Calamity, or community quarantine or similar restrictions, as the case may be.

The BAC shall determine or validate the existence of the State of Calamity, or implementation of community quarantine or similar restrictions and may require the submission of documentary proof for this purpose.

7. **ALLOW** the BAC to suspend the conduct of procurement activities adversely affected or interrupted by the declaration of a State of Calamity, or implementation of community quarantine or similar restrictions at any time during the existence of such calamity, or quarantine or similar restrictions, and when it has assessed or determined that:
- 7.1 No Bidder will be able to submit a Bid or comply with the requirements of the procurement rules due to the limitations resulting from the declaration of a State of Calamity, or implementation of a community quarantine or similar restrictions; or
 - 7.2 The conduct of procurement activities cannot be undertaken without endangering the health and welfare of its personnel despite the work from home or other alternative work arrangements.

In case of suspension, the BAC shall notify all prospective bidders and post a notice on the PE's website, if any. The notice shall include the suspension of the conduct of procurement activities for a specific Procurement Project,¹⁸ its estimated date of resumption and all the implications of such suspension which shall include, but not limited to the fixed price rule in procurement, extension of the bid validity and security, validity of the eligibility requirements prior to the award of contract, conditions of award, and revised date of delivery.

¹⁸ As defined under GPPB Circular No. 06-2019 dated 17 July 2019, a Procurement Project shall refer to a specific or identified procurement covering goods, infrastructure project or consulting services. A Procurement Project shall be described, detailed, and scheduled in the Project Procurement Management Plan prepared by the agency which shall be consolidated in the procuring entity's APP.

Given the COVID-19 pandemic, PEs may retroactively suspend the conduct of procurement activities beginning 9 March 2020 following the declaration by the President of a State of Public Health Emergency throughout the Philippines, subject to the determination by the BAC of the existence of any of the grounds for the suspension of the conduct of procurement activities and compliance with the notice requirement.

8. **ALLOW** the subsequent tolling of the periods for the Procurement Projects covered by the suspension, including the running of the 3-month period to award the contract and terminate the procurement process under Section 38 of RA No. 9184, during the suspension of the conduct of procurement activities, as determined by the BAC.

The suspension of the conduct of procurement activities shall be lifted upon determination of the BAC that the basis for the suspension no longer exists or upon the lifting of the State of Calamity, or implementation of community quarantine or similar restrictions, as the case may be. In which case, the BAC shall notify all affected bidders of the lifting of the suspension and post a notice on the PE's website, if any.

The period for the conduct of procurement activities shall run again upon posting of the notice of resumption of procurement activities on the website of the PE, if any, or in the absence thereof, any conspicuous place in the premises of the PE. The PE shall likewise inform the affected bidders of the resumption of procurement activities for the participation and/or compliance, as the case may be.

The period of action on procurement activities shall not commence anew but rather, grants the PE the balance of the remaining period available for the conduct of procurement activities which has been tolled or suspended.

9. Without prejudice to Section 35.1 of the 2016 revised IRR of RA No. 9184, **ALLOW** the BAC, upon consultation with the end-user unit, to cancel or terminate the conduct of procurement activities for any justifiable reason, such as but not limited to:

- 9.1 the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible, as determined by the end-user unit;
- 9.2 the project is no longer necessary as determined by the end-user unit;
- 9.3 the source of funds for the project has been withheld or reduced through no fault of the PE; or
- 9.4 brought about by the declaration of a State of Calamity, or implementation of community quarantine or similar restrictions.

The cancellation or termination authorized herein shall be allowed at any time, not just during a State of Calamity, or implementation of community quarantine or similar government restrictions.

A copy of the relevant provisions and guidelines on submission and receipt of bids as well as on suspension and termination that are amended as a consequence of the foregoing is attached as Annex "B" and made an integral part hereof.

This Resolution shall take effect immediately.

APPROVED this 7th day of May 2020 at Manila, Philippines.

Sgd.

WENDEL E. AVISADO
GPPB, Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

Sgd.

LAURA B. PASCUA
Alternate to the Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

DEPARTMENT OF EDUCATION

Sgd.

DEPARTMENT OF ENERGY

DEPARTMENT OF FINANCE

Sgd.

DEPARTMENT OF HEALTH

**DEPARTMENT OF THE INTERIOR AND
LOCAL GOVERNMENT**

Sgd.

**DEPARTMENT OF NATIONAL
DEFENSE**

Sgd.

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

Sgd.

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

Sgd.

DEPARTMENT OF TRADE AND INDUSTRY

DEPARTMENT OF TRANSPORTATION

**DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

Sgd.

PRIVATE SECTOR REPRESENTATIVE

REPUBLIC OF THE PHILIPPINES)
CITY OF _____) S.S.

X-----X

PERFORMANCE SECURING DECLARATION

Invitation to Bid: [Insert Reference Number indicated in the Bidding Documents]

To: *[Insert name and address of the Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, to guarantee the faithful performance by the supplier/distributor/manufacturer/contractor/consultant of its obligations under the Contract, I/we shall submit a Performance Securing Declaration within a maximum period of ten (10) calendar days from the receipt of the Notice of Award prior to the signing of the Contract.
2. I/We accept that: I/we will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of one (1) year if in case it is my first offense, or two (2) years if I have a prior similar offense upon receipt of your Blacklisting Order if I/we have violated my/our obligations under the Contract.
3. I/We understand that this Performance Securing Declaration shall cease to be valid upon:
 - a. issuance by the Procuring Entity of the Certificate of Final Acceptance, subject to the following conditions:
 - i. Procuring Entity has no claims filed against the contract awardee;
 - ii. It has no claims for labor and materials filed against the contractor; and
 - iii. Other terms of the contract; or
 - b. replacement by the winning bidder of the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 IRR of RA No. 9184 as required by the end-user.

IN WITNESS WHEREOF, I/We have hereunto set my/our hand/s this ____ day of *[month]* *[year]* at *[place of execution]*.

[Insert NAME OF BIDDER'S AUTHORIZED REPRESENTATIVE]
[Insert signatory's legal capacity]
Affiant

SUBSCRIBED AND SWORN to before me this __ day of *[month]* *[year]* at *[place of execution]*, Philippines.

[Select one of the two following paragraphs and delete the other]

Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC).

Affiant/s exhibited to me his/her *[insert type of government identification card used]* with no. _____ issued on _____ at _____.

Witness my hand and seal this ____ day of *[month]* *[year]*.

NAME OF NOTARY PUBLIC

Serial No. of Commission _____

Notary Public for _____ until _____

Roll of Attorneys No. _____

PTR No. __, *[date issued]*, *[place issued]*

IBP No. __, *[date issued]*, *[place issued]*

Doc. No. ____

Page No. ____

Book No. ____

Series of ____.

**2016 REVISED IMPLEMENTING RULES AND REGULATIONS (IRR)
OF REPUBLIC ACT (RA) NO. 9184**

<i>ORIGINAL</i>	<i>AMENDED</i>
<p>Section 25. Submission and Receipt of Bids</p> <p>25.1 Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of this IRR for the procurement of Goods and Infrastructure Projects, and the second shall contain the financial component of the bid.</p>	<p>Section 25. Submission and Receipt of Bids</p> <p>25.1. Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, or two (2) password-protected Bidding Documents in compressed archive folders, in case of electronic bid submission, and which shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements under Section 23.1 of this IRR for the procurement of Goods and Infrastructure Projects, and the second shall contain the financial component of the bid.</p>
<p>25.6 Bids, including the eligibility requirements under Section 23.1 of this IRR, submitted after the deadline shall not be accepted by the BAC. The BAC shall record in the minutes of bid submission and opening, the bidder’s name, its representative and the time the late bid was submitted.</p>	<p>25.6 Bids, including the eligibility requirements under Section 23.1 of this IRR, submitted after the deadline shall not be accepted by the BAC. The BAC shall record in the minutes of bid submission and opening, the bidder’s name, its representative and the time the late bid was submitted or in case of online or electronic bid submission, generate a Bid receipt page for the official time of late submission which can be saved or printed by the bidder.</p>
<p>25.9 Unsealed or unmarked bid envelopes shall be rejected. However, bid envelopes that are not properly sealed and marked, as required in the Bidding Documents, shall be accepted, provided that the bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.</p>	<p>25.9 Unsealed or unmarked bid envelopes, or in case of electronic bid submission, Bidding Documents not in compressed archive folders and are not password-protected, shall be rejected. However, bid envelopes that are not properly sealed and marked or not properly compressed and password-protected, as required in the Bidding Documents, shall be accepted, provided that the bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The BAC shall assume no responsibility for the misplacement of the contents of the improperly sealed or</p>

	<p>marked bid, or improperly compressed or password-protected folder, or for its premature opening.</p>
<p>Section 26. Modification and Withdrawal of Bids</p> <p>26.1 A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. Where a bidder modifies its bid, it shall not be allowed to retrieve its original bid, but shall only be allowed to send another bid equally sealed, properly identified, linked to its original bid and marked as a “modification,” thereof, and stamped “received” by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the bidder unopened.</p>	<p>Section 26. Modification and Withdrawal of Bids</p> <p>26.1 A bidder may modify its bid, provided that this is done before the deadline for the submission and receipt of bids. For manual submission and receipt of bids, where a bidder modifies its bid, it shall not be allowed to retrieve its original bid, but shall only be allowed to send another bid equally sealed, properly identified, linked to its original bid and marked as a “modification,” thereof, and stamped “received” by the BAC. Bid modifications received after the applicable deadline shall not be considered and shall be returned to the bidder unopened.</p> <p>For online or electronic bid submission, where a bidder modifies its Bid, it shall not be allowed to retrieve its original Bid, but shall only be allowed to send another Bid equally secured and properly identified. In the case of electronic submission, to be labelled as a “modification,” of the one previously submitted. The time indicated in the latest Bid receipt page generated shall be the official time of submission. Bids submitted after the deadline shall not be accepted.</p>
<p>Section 29. Bid Opening</p> <p>The BAC shall open the bids immediately after the deadline for the submission and receipt of bids. The time, date, and place of the opening of bids shall be specified in the Bidding Documents.</p>	<p>Section 29. Bid Opening</p> <p>The BAC shall open the bids immediately after the deadline for the submission and receipt of bids. The time, date, and place of the opening of bids shall be specified in the Bidding Documents.</p> <p>For electronic bid submission, the passwords for accessing the Bidding Documents will be disclosed by the Bidders only during the actual bid opening which may be done in person or face-to-face through videoconferencing, webcasting or similar technology.</p>

<p>Section 35. Failure of Bidding</p> <p>35.1. The BAC shall declare the bidding a failure when:</p> <ul style="list-style-type: none"> a) No bids are received; b) All prospective bidders are declared ineligible; c) All bids fail to comply with all the bid requirements or fail post-qualification, or, in the case of Consulting Services, there is no successful negotiation; or d) The bidder with the LCRB, HRRB, SCRB or SRRB refuses, without justifiable cause, to accept the award of contract, and no award is made in accordance with Section 40 of the Act and this IRR. 	<p>Section 35. Failure of Bidding</p> <p>(NEW) Section 35.6</p> <p>Without prejudice to Sec. 35.1 hereof, the BAC is authorized, upon consultation with the end-user unit, to cancel or terminate the conduct of procurement activities, for any justifiable reason, such as but not limited to:</p> <ul style="list-style-type: none"> a) the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible, as determined by the end-user unit; b) the project is no longer necessary as determined by the end-user unit; c) the source of funds for the project has been withheld or reduced through no fault of the PE; or d) brought about by the declaration of a State of Calamity, or implementation of community quarantine or similar restrictions.
<p>Section 38. Period of Action on Procurement Activities</p> <p>38.1. The procurement process from the opening of bids up to the award of contract shall not exceed three (3) months, or a shorter period to be determined by the Procuring Entity concerned. All members of the BAC shall be on a “jury duty” type of assignment until the Notice of Award is issued by the HoPE in order to complete the entire procurement process at the earliest possible time.</p> <p>xxx</p> <p>38.2. The maximum periods and the recommended earliest possible time for action on specific procurement activities are provided for in Annex “C” of this IRR. In case the deadline for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, or other nonworking days duly declared by the President, Governor, Mayor or other Government Official authorized to</p>	<p>Section 38. Period of Action on Procurement Activities</p> <p>38.1. The procurement process from the opening of bids up to the award of contract shall not exceed three (3) months, or a shorter period to be determined by the Procuring Entity concerned. All members of the BAC shall be on a “jury duty” type of assignment until the Notice of Award is issued by the HoPE in order to complete the entire procurement process at the earliest possible time.</p> <p>xxx</p> <p>38.2. The maximum periods and the recommended earliest possible time for action on specific procurement activities are provided for in Annex “C” of this IRR. In case the deadline for each activity falls on a non-working day (i.e. Saturday and Sunday), legal holiday, or special non-working holiday, or other nonworking days duly declared by the President, Governor, Mayor or other Government Official authorized to make</p>

<p>make such declaration, the deadline shall be the next working day.</p> <p>xxx</p> <p>xxx</p>	<p>such declaration, the deadline shall be the next working day.</p> <p>xxx</p> <p>xxx</p> <p>(NEW) 38.4 The period of action on procurement activities is tolled or suspended, as follows:</p> <ul style="list-style-type: none"> a. For Early Procurement Activities, pending approval and effectivity of the GAA, corporate budget or appropriations ordinance, or the loan agreement in the case of FAPs; and b. during the suspension of the conduct of procurement activities, as determined by the BAC. <p>The period of action on procurement activities which has been tolled or suspended shall begin to run again once the basis of such tolling or suspension no longer exists, such as upon the approval and effectivity of the GAA, reenacted budget, appropriations ordinance, corporate budget or loan agreement, as the case may be, or upon lifting of the suspension of the conduct of procurement activities.</p> <p>The period of action on procurement activities shall not commence anew but rather, grants the PE the balance of the remaining period available for the conduct of procurement activities which has been tolled or suspended.</p>
---	--

ANNEX “H” OR CONSOLIDATED GUIDELINES FOR THE ALTERNATIVE METHODS OF PROCUREMENT OF THE 2016 REVISED IRR OF RA NO. 9184

<i>ORIGINAL</i>	<i>AMENDED</i>
<p>V. Specific Guidelines</p> <p>xxx</p> <p>D. Negotiated Procurement.</p> <p>xxx</p>	<p>V. Specific Guidelines</p> <p>xxx</p> <p>D. Negotiated Procurement.</p> <p>xxx</p>

<p>9. Lease of Real Property and Venue</p> <p>xxx</p> <p>c) Procedures for Lease of Privately-Owned Real Property and Venue</p> <p>i. Real Property</p> <p>a) The BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations.</p> <p>On a specified date, submitted price quotations shall be opened to determine the Lowest Calculated Quotation. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.</p>	<p>9. Lease of Real Property and Venue</p> <p>xxx</p> <p>c) Procedures for Lease of Privately-Owned Real Property and Venue</p> <p>i. Real Property</p> <p>a) The BAC shall invite at least three (3) prospective Lessors to submit sealed price quotations or password-protected price quotations in compressed archive folders, in case of electronic submission of price quotations.</p> <p>On a specified date, submitted price quotations shall be opened to determine the Lowest Calculated Quotation. Receipt of at least one (1) quotation is sufficient to proceed with the evaluation thereof.</p> <p>For electronic submission of price quotations, the passwords for accessing the same will be disclosed by the prospective Lessors on a specified date which may be done in person or face-to-face through videoconferencing, webcasting or similar technology.</p>
---	---

GUIDELINES ON NON-GOVERNMENTAL ORGANIZATION PARTICIPATION IN PUBLIC PROCUREMENT¹⁹

<p>6.0 Negotiated Procurement Under Section 53.11 of IRR</p> <p>xxx</p> <p>6.2 After the required posting period, the procuring entity shall invite at least three (3) prospective NGOs to submit sealed price quotations.</p> <p>xxx</p>	<p>6.0 Negotiated Procurement Under Section 53.11 of IRR</p> <p>xxx</p> <p>6.2 After the required posting period, the procuring entity shall invite at least three (3) prospective NGOs to submit sealed price quotations or password-protected price quotations in compressed archive folders, in case of electronic submission of price quotations.</p> <p>xxx</p>
--	--

¹⁹ As amended by GPPB Resolution 03-2011, dated 28 January 2011, published in the Manila Times on 6 April 2011.

<p>6.4 On the date specified in the notice, the procuring entity shall open the price quotations and determine the Lowest Calculated Bid (LCB). Consistent with the nature of an NGO, no profit should be included in its bid. Thus, the procuring entity shall ensure that the LCB does not include any profit margin or mark-up.</p>	<p>6.4 On the date specified in the notice, the procuring entity shall open the price quotations and determine the Lowest Calculated Bid (LCB). For electronic submission of price quotations, the passwords for accessing the same will be disclosed on a specified date by the prospective NGOs to the Procuring Entity either in person or face-to-face through videoconferencing, webcasting or similar technology and the Procuring Entity shall determine the Lowest Calculated Bid (LCB). Consistent with the nature of an NGO, no profit should be included in its bid. Thus, the procuring entity shall ensure that the LCB does not include any profit margin or mark-up.</p>
--	--