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### 12.1.1 EDY/MVSG

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**CIRCULAR 03-2018**

9 March 2018

**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 : Presidential Issuances on Government Procurement**

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**1.0 Purpose**

This Circular is being issued to reiterate the salient provisions of recent Presidential Issuances on Government Procurement and enjoining strict compliance therewith.

**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 Presidential Issuances on Government Procurement**

All procuring entities are enjoined to strictly comply with the provisions of the recent presidential issuances on government procurement, the salient provisions of which are provided below:

- 3.1. *Executive Order No. 34, series of 2017 entitled Further Amending Executive Order No. 423(s. 2005), as Amended, Prescribing the Rules and Procedures on the Review and Approval of All Government Contracts, Pursuant to Republic Act No. 9184, Otherwise Known as the "Government Procurement Reform Act Of 2003" issued on 17 July 2017*

**"Approval of Government Contracts Entered Into Through Alternative Methods of Procurement.** Where the Head of the Procuring Entity has made a determination that a Government contract, including Government contracts required by law to be acted upon and/or approved by the President, regardless of amount, falls under any of the exceptions from public bidding described in Section 3 hereof, the Head of the Procuring Entity may proceed with the alternative methods of

procurement according to the law and applicable rules and regulations; Provided, that for Government contracts involving an amount of at least ₱500 Million, the Head of the Procuring Entity issues a certification under oath that the contract falls within the exceptions from public bidding, is being entered into faithful compliance with all applicable laws, rules and regulations, and is advantageous to the government.

Except for Government contracts required by law to be acted upon and/or approved by the President, the Head of the Procuring Entity shall have full authority to give final approval and/or enter into said Government contracts through alternative methods of procurement allowed by law and applicable rules and regulations upon issuing the certificates mentioned in the immediately preceding paragraph, when applicable.

The Head of the Procuring Entity may delegate in writing this full authority to give final approval and/or to enter into Government contracts, through alternative methods of procurement allowed by law, involving such amount or threshold as he may deem appropriate, as circumstances may warrant, subject to existing laws and such limitations imposed by the Head of the Procuring Entity concerned (Section 5(j), Republic Act No. 9184). However, the Head of the Procuring Entity may not delegate the authority to certify under oath that the contract falls within the exceptions from public bidding, is being entered into in faithful compliance with all applicable laws, rules and regulations, and is advantageous to the government.”

**“Section 6. Government Contracts Requiring Presidential Action and/or Approval.** All Government contracts required by law to be acted upon and/or approved by the President, and any subsequent amendments or supplements thereto, shall be submitted with complete documentation to NEDA, through its Director-General, within seven (7) days from approval by the Head of Procuring Entity concerned or his duly authorized representative, as the case may be, for NEDA’s review and evaluation.

Government contracts submitted hereunder shall be accompanied by a complete execution copy of the contract, related agreements, annexes, other approvals and permits, including a detailed summary of the pertinent laws, rules and regulations governing the processing and award of the contract, and accompanied by the requirements of Section 4 hereof where alternative methods of procurement were resorted to.”

- 3.2. *Memorandum Circular No. 36, series of 2017 entitled All Government Offices, Agencies, and Instrumentalities, Including Government-Owned or-Controlled Corporations, State Universities and Colleges, and Local Government Units, to Comply with the Provisions of Republic Act No. 9184 Requiring Publication of Procurement Notices in their Respective Websites issued on 29 November 2017*

“[A]ll government offices, agencies, and instrumentalities, including government-owned or- controlled corporations, state universities and colleges, and local government units, are hereby directed to comply strictly with the provisions of Republic Act No. 9184, otherwise known as the Government Procurement Reform Act, and its 2016 Revised Implementing Rules and Regulations requiring the publication and posting of the Invitation to Bid/Request for Expression of Interest are directed to comply strictly with the provisions of RA 9184 requiring the publication and posting of the ITB/REI in (i) any conspicuous place in the premises of the Procuring Entity; (ii) PhilGEPS website and the website of the Procuring Entity; and (iii) a newspaper of general circulation nationwide, in such manner and for such length of time as may be necessary under the circumstances or as may be provided for by law or regulations, in order to ensure the widest possible dissemination thereof.”

- 3.3. *Memorandum Circular No. 39, series of 2018 entitled Requiring All Heads of National Government Agencies (NGAs), Government Owned and/or Controlled Corporations (GOCCs), State Universities and Colleges (SUCs), and Local Government Units (LGUs) to Submit to the Office of the President (OP) a Report on Funds Transferred to the Department of Budget and Management (DBM) – Procurement Service (PS) for the Purpose of Procuring Various Supplies, Equipment, and Infrastructure Projects issued on 26 January 2018*

“[A]ll Heads of Procuring Entity (HOPE) of NGAs, GOCCs, SUCs and LGUs are hereby required to comply with the provisions of RA No. 9184 (GPRA) and its 2016 RIRR, and to submit to OP, for monitoring and evaluation purposes, a report on funds transferred to DBM-PS for the purpose of procuring supplies, equipment and infrastructure projects as of 31 December 2017, to be submitted on/or before 31 March 2018 using the prescribed format [t]hereto attached as Annex “A”, and every year thereafter.”

4.0 This Circular shall take effect immediately.

5.0 For guidance and compliance.

(SGD)  
**BENJAMIN E. DIOKNO**  
*Chairperson*