



08.03.2022

SUBJECT : Procedural Flow and Timeline in the Processing of Blacklisting of Contractors for Locally-Funded and Foreign-Assisted Infrastructure Projects during Implementation Stage

In line with the Department's Quality Policy to implement projects at the right time and to ensure compliance with existing laws, rules and regulations, and policies, particularly with the GPPB Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants as well as to expedite the processing of the same by DPWH Implementing Offices, the Procedural Flow and Timeline in the Processing of Blacklisting of Contractors for Locally-Funded and Foreign-Assisted Infrastructure Projects during Implementation Stage is hereby issued.

I. RATIONALE

This policy aims to ensure the department's compliance with the provisions and instructions set forth under the GPPB Uniform Guidelines for Blacklisting of Contractors during the implementation stage of the project. Further, this policy shall streamline the process of Blacklisting Contractors from the effectivity of contract termination up to the issuance of the Blacklisting Order.

II. SCOPE AND APPLICATION

This Department Order (DO) shall be applicable only for blacklisting contractors with locally-funded and foreign-assisted contracts as implemented by the DPWH Central Offices (i.e. Bureau of Construction (BOC), Bureau of Maintenance (BOM) and Unified Project Management Offices (UPMO)), Regional Offices, and District Engineering Offices.

This DO shall likewise be applicable only for contracts terminated during its implementation stage and due to the fault of the contractor and/or unlawful acts for grounds provided in Item III(A)(2) of Annex I and Section 4.2 Appendix 17 of the 2016 Revised IRR of RA 9184.

Blacklisting of Contractors with terminated contracts for grounds other than the default of the contractor and/or unlawful acts shall be governed by the provisions of their contract, prevailing laws, rules and regulations as may be applicable.

III. PROCEDURES

Pursuant to Section 6.5 Appendix 17 of the revised IRR of RA 9184, to quote, "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” unquote.

In this regard, the following procedures are hereby prescribed:

1. Upon the effectivity of Contract Termination, as set forth in the Notice of Decision to Terminate duly received by the Contractor, the Head of the Implementing Office (IO) shall facilitate the preparation of all pertinent documents relative to the approved contract termination, for subsequent Blacklisting of the erring contractor which shall include the following as required under D.O. 90, s. 2020:
 - a.) Copy of the approved Contract Termination together with the pertinent documents;
 - b.) IO's Recommendation for the Blacklisting of the Contractor;
 - c.) Duly accomplished Blacklisting Order as per Appendix 1 of the GPPB Resolution No. 14-2020 (**Annex "A"**);
 - d.) Certification from the Implementing Office that the approved Termination complied with the procedures stipulated in D.O. 90, s. 2020 and in accordance with the provisions of Appendix I of the revised IRR of RA 9184 (**Annex "B"**);
2. The Information Management System (IMS) shall create a portal in the DPWH Intranet that will serve as the platform for submitting all necessary documents as mentioned above, which shall only be accessible to the authorized DPWH Personnel.
3. Within one (1) calendar day from the effectivity of Contract Termination, the IO shall forward all supporting documents for Blacklisting of the Contractor to the Central Office addressed to the Secretary through the Undersecretary for Operations concerned, the Legal Service, and the Bureau of Construction. Simultaneously, a scanned copy of the said documents shall be uploaded to the Blacklisting Portal in the DPWH Intranet to serve as an advance copy.
4. The Head of IO shall assign representative/s whose main function is to serve as the point person/s for all concerns relative to Blacklisting of Contractors. The focal person shall be as follows: for Central Offices, one (1) personnel directly involved in the implementation of the project; for Regional Offices, one (1) personnel from the Construction Division and one (1) from the Legal Division; for District Engineering Offices, one (1) personnel from the Construction Section. The contact details of said representatives, including the name, position, contact number, and email shall be submitted to the BOC. Likewise, one (1) personnel shall also be authorized from the Office of the Secretary, Undersecretaries for Operations, Assistant Secretaries for Operations, Bureau of Construction, Legal Service, and the Procurement Service.
5. Within two (2) calendar days after uploading the scanned copy to the Blacklisting Portal or upon receipt of the Secretary of the actual documents, whichever comes first, the BOC shall prepare a memorandum addressed to the Secretary and Undersecretary for Operations concerned through the Legal

Service stating its recommendation for the Blacklisting of the Contractor together with the draft Department Order and Blacklisting Order (in the format prescribed by GPPB) for Secretary's signature. Upon receipt of the BOC memorandum, the Legal Service shall, within two (2) calendar days, prepare and submit a memorandum addressed to the Undersecretary for Operations concerned stating its recommendation for the Blacklisting of the Contractor.

6. The Undersecretary for Operations concerned shall, in turn, recommend to the Secretary the approval or disapproval of the imposition of Blacklisting within one (1) calendar day after receipt of the memorandum from the Legal Service.
7. The Secretary, upon receipt of the recommendation to Blacklist from the Undersecretary concerned and within one (1) calendar day thereafter, shall approve the same thru the issuance of the corresponding Department Order and Blacklisting Order.
8. After issuance of the Department Order and Blacklisting Order, the HRAS, through its Records Division, shall post the copy of the Department Order at the Department's website. A copy of the Blacklisting Order (in the format prescribed by GPPB) shall also be forwarded by the Records Division to the Procurement Service for its posting at the GPPB Online Blacklisting Portal within three (3) calendar days from the date of its issuance.

Failure of the concerned DPWH personnel to implement the provisions of this Order shall, after due process, make them liable to the penalties prescribed for violation of reasonable office rules and regulation in Rule 10, Administrative Offenses and Penalties of the 2017 Rules on Administrative Cases in the Civil Service dated 03 July 2017.

This Order shall take effect immediately and only supersedes or amends issuances to the contrary.


MANUEL M. BONOAN
Secretary

6.1.2 LLM/JCD/RMC/TCA

Department of Public Works and Highways
Office of the Secretary



WIN2W02204

APPENDIX "1"

<PROCURING ENTITY'S LETTERHEAD>

BLACKLISTING ORDER No. ___, series of 2020

Pursuant to [state legal basis] and upon the findings and recommendation/s of [name of committee or body which made the recommendation] in its [insert name of document], the undersigned, under [Department/Office Order / Board Resolution] dated [Date], hereby issues this Blacklisting Order to the entity/ies hereafter stated:

1. [Complete Registered Business Name of Blacklisted Entity] with [License number ____, if applicable] and PhilGEPS Registration No. ____ having [business/principal] address at [business or principal address of the Blacklisted Person/Entity] {Include if necessary: together with [Name of Blacklisted Person/Entity]}, is/are hereby **SUSPENDED/DISQUALIFIED** from participating in all government procurement –

[Select one]:

- ☐ for [Choose: 1 year or 2 years starting from indicate start date until indicate end date]
- ☐ permanently/in perpetuity

2. Specific ground/offense committed:

(Please choose the applicable offense committed by the bidder/contractor)

<i>During the Procurement Stage:</i>	
<input type="checkbox"/>	Submission of eligibility requirements containing false information or falsified documents.
<input type="checkbox"/>	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.
<input type="checkbox"/>	Allowing the use of one's name, or using the name of another for purpose of public bidding.
<input type="checkbox"/>	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.
<input type="checkbox"/>	Refusal or failure to post the required performance security within the prescribed time.
<input type="checkbox"/>	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.
<input type="checkbox"/>	Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
<input type="checkbox"/>	Refusal to enter into, or withdrawal from, a joint venture in the event of a contract award without justifiable reason.
<input type="checkbox"/>	Refusal to submit post-qualification requirements on time without justifiable reason or a finding against the veracity of such post-qualification requirements.
<input type="checkbox"/>	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.
<input type="checkbox"/>	Withdrawal, without justifiable reason, of bid during the period of bid validity required in the bidding documents.
<input type="checkbox"/>	Failure or refusal, without justifiable reason, to accept the award and enter into contract or perform any and all acts necessary to the execution of the contract, in accordance with the bidding documents, after having been duly notified of the acceptance.
<i>During Contract Implementation</i>	
<input type="checkbox"/>	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").
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	Poor performance by the consultant of his services arising from his fault or negligence - Defective design resulting in substantial corrective works in design and/or construction.
<input type="checkbox"/>	Poor performance by the consultant of his services arising from his fault or negligence - Failure to deliver critical outputs due to consultant's fault or negligence.
<input type="checkbox"/>	Poor performance by the consultant of his services arising from his fault or negligence - Specifying materials which are inappropriate, substandard, or way above acceptable standards.
<input type="checkbox"/>	Poor performance by the consultant of his services arising from his fault or negligence - Allowing defective workmanship or works by the contractor being supervised by the consultant.
<input type="checkbox"/>	Poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the CPES rating sheet - Negative slippage of 15%.
<input type="checkbox"/>	Poor performance by the contractor or unsatisfactory quality and/or progress of work arising from his fault or negligence as reflected in the CPES rating sheet - Quality of materials and workmanship not complying with the approved specifications.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<i>During Warranty Period</i>	
<input type="checkbox"/>	Failure of contractor to repair works, at his own expense, of any defect or damage to the infrastructure projects on account of the use of materials of inferior quality within ninety (90) days from the time the HoPE has issued an order to undertake repair.
<i>Other Violations</i>	
<input type="checkbox"/>	Violation of Sec. 65(a) of R.A. No. 9184 - Opening of sealed bid prior to scheduled time of bid opening.
<input type="checkbox"/>	Violation of Sec. 65(a) of R.A. No. 9184 - Delaying, without justifiable cause, the

	screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action.
<input type="checkbox"/>	Violation of Sec. 65(a) of R.A. No. 9184 - Unduly influencing or exerting undue pressure on any member of the BAC or any officer or employee of the procuring entity to take a particular action which favors, or tends to favor a particular bidder.
<input type="checkbox"/>	Violation of Sec. 65(a) of R.A. No. 9184 - Splitting of Contracts.
<input type="checkbox"/>	Violation of Sec. 65(a) in relation to Sec. 47 of R.A. No. 9184 - Abuse of Reservation Clause with manifest preference to relatives.
<input type="checkbox"/>	Violation of Sec. 65(b) of R.A. No. 9184 - Collusion among bidder.
<input type="checkbox"/>	Violation of Sec. 65(b) of R.A. No. 9184 - Maliciously submitting different bids through two or more persons, corporations, partnerships or any other business entity in which he has interest to create the appearance of competition.
<input type="checkbox"/>	Violation of Sec. 65(b) of R.A. No. 9184 - Agreeing to refrain from submitting, or withdrawal of bids.
<input type="checkbox"/>	Violation of Sec. 65(b) of R.A. No. 9184 - Employment of schemes to suppress competition.
<input type="checkbox"/>	Other violation: (Specify) State the violation and the legal basis

3. The penalty is being imposed in connection with the following procurement details:
 - a. [Name of the Project/Contract]
 - b. [Location of Project]
 - c. [ABC for offenses committed during procurement stage or Contract Amount for offenses committed during implementation stage]
4. In addition to the foregoing, the following sanctions are also imposed:
[Please check other applicable sanctions]
 - ☐ Forfeiture of Bid Security in the amount of PhP [amount of Bid Security].
 - ☐ Forfeiture of Performance Security in the amount of PhP [Bid Security amount].
 - ☐ Suspension of account in the PhilGEPS website.
 - ☐ Cancellation of account in the PhilGEPS website.
 - ☐ Denial of registration with PhilGEPS.
5. Additional information, if any: [Please specify]

The name/s of the foregoing persons and/or entities shall be posted within three (3) calendar days from the date of effectivity of this Blacklisting Order in the Consolidated Blacklisting Report (CBR) through the Online Blacklisting Portal pursuant to Section 10 of the "Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants", *as amended by GPPB Resolution No. 14-2020 dated 25 June 2020*. The names of the Blacklisted Persons/Entity/ies shall be removed upon the lapse of the period of penalty.

Issued this [date of issuance], in [place of issuance].

SO ORDERED.

Name of HoPE/Appellate Authority

Received by: (Name of Blacklisted Entity's Representative)

Designation: _____

Date Received: _____

In case of concerns/clarifications, you may contact the agency through:

Address: _____

Contact Person: _____

Telephone No.: _____

E-mail Address: _____

Posted on:

Date & time: _____

Name: _____

Position.: _____



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

Date

C E R T I F I C A T I O N

This is to certify that the approved contract termination for the project _____ which took effect on _____, complied with the procedures stipulated in Department Order No. 90, series of 2020 and Annex I of the revised IRR of RA 9184 "Guidelines on Termination of Contracts" and due process was afforded to _____.

This certification is issued to support the Blacklisting of the Contractor.

NAME

Head of Implementing Office