

DEPARTMENT OF HEALTH

DOH is the primary government agency tasked to develop, implement, and deliver public health services. It is responsible for ensuring access to basic public health services to all Filipinos through the provision of quality health care and regulation of providers of health goods and services.



Given the mandate, DOH is both a stakeholder in the health sector and a policy and regulatory body for health. As a major player, DOH is a technical resource, a catalyst for health policy and a political sponsor and advocate for health issues in behalf of the health sector.



GOVERNMENT PROCUREMENT POLICY BOARD

It is a government agency composed of top-level public officials primarily mandated to foster public procurement reform agenda through the exercise of its quasi-legislative powers such as policy formulation, development of sustained training programs, and implementing as well as monitoring public procurement reforms. GPPB was established by virtue of Section 63 of Republic Act 9184 or the Government Procurement Reform Act of 2003.

As an inter-agency body, GPPB relies upon the research, technical, and administrative support provided by its Technical Support Office.



VOLUME 1

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

**DEPARTMENT OF HEALTH
CUSTOMIZED PROCUREMENT MANUAL**

FIRST EDITION

**DEPARTMENT OF HEALTH
CUSTOMIZED PROCUREMENT MANUAL**

VOLUME 1

**GUIDELINES ON THE ESTABLISHMENT
OF PROCUREMENT SYSTEMS AND
ORGANIZATIONS**

DOH PROCUREMENT SERVICE

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DOH Customized Procurement Manuals (Volumes 1 to 4)

These Procurement Manuals are customized for the use of the Department of Health based on the GENERIC PROCUREMENT MANUALS published by the Government Procurement Policy Board (GPPB), through Technical Support Office. The Manuals must be reviewed and updated periodically by the DOH as the GPPB introduces changes in the original Manuals (2006) to ensure its applicability to existing conditions. The DOH shall submit to the GPPB its recommendations for specific revisions to the original Manual. Any such revisions must be approved by the GPPB and must be consistent with existing procurement law, rules, regulations, and policies. This edition has been approved by the GPPB on 25 June 2010.

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This customization of the generic procurement manuals, issued by the GPPB, was made possible with the technical inputs from various DOH procurement practitioners, committee members and other stakeholders from the Hospitals, Centers for Health Development, Services and Bureaus in the Central Office especially the Procurement Service/COBAC Secretariat, the Inter-agency Technical Working Group, and the GPPB Technical Support Office. The process has been initially facilitated by a Procurement Specialist, hired by the TSO through the financial support of the World Bank.

The GPPB in October 2007 approved the DOH Customized Procurement Manual. However, it was not published. With the issuance of the Revised Implementing Rules and Regulations of RA 9184, the DOH updated the Customized Manuals and submitted for GPPB's approval on March 2010.

DOH Secretary's Message



Public procurement is not a novel concept here in the Philippines. It plays a central role in effective good governance by promoting equitable and fair competition among prospective bidders through an efficient, effective, and transparent procurement process. The objective is always to deliver procured goods and services promptly with the best value for money and most advantageous conditions on behalf of the Government of the Philippines. Throughout the years, this has been an evolving and dynamic field. Procurement reforms have been spearheaded collectively by government agencies through the enactment of Republic Act 9184, its Implementing Rules and Regulations, and various procurement initiatives.

With great pride, I pronounce that the Department of Health has been a constant forerunner and active trailblazer in implementing procurement reforms. The years have borne witness to the many innovative programs this Department have conceptualized, developed, and ultimately executed in favor of a better and more efficient procurement process. These include, among others, the establishment of a reliable registry system, updated price reporting system, the most recent procurement monitoring system and the creation, as well as subsequent revisions, of these Procurement Manuals. A rewarding reality borne out of the zealous dedication, marked professionalism, and evident hard-work of procurement practitioners and others involved in the procurement process.

As we forge ahead to a new era of renewed and invigorated interest in public procurement, let us always keep in mind our duties as public servants and public health service providers in serving the needs of this Department, the Government of the Philippines, and the general public at large. Let us work together to arrive at proactive solutions on procurement issues and concerns which impede the judicious delivery of health services in the different level of public health care.

We, the DOH officials and personnel, should take the challenge of being steadfast advocates of the principles of public procurement and the ideals of good governance now and in the years to come.

A handwritten signature in black ink, appearing to read 'E. Ona'.

ENRIQUE T. ONA, MD

Secretary of Health

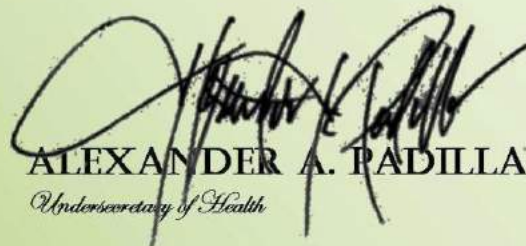
COBAC Chairperson's Message

As Chairperson of the Department of Health's Central Office Bids and Awards Committee, it is with conviction that I say that public procurement is as dynamic and challenging now as when it was first implemented following the enactment of Republic Act 9184, otherwise referred to as the Government Procurement Reform Act of 2003. With the revised guidelines on the procurement process as approved on 02 September 2009, the IRR harmonizes the procurement process of both locally funded and foreign assisted projects in the hopes of establishing a more than adequate and standardized public procurement system. These new provisions shall hopefully answer pressing procurement problems, address inefficiencies in the procurement policies/practices, promote fair and equitable competition, enhance established procurement system, and improve transparency in furthering the principle of good governance.

Due to the nature, complexity or peculiarity of the DOH's procurement, these Customized Procurement Manuals are being issued to present a clear discussion on the substantive and procedural provisions of R.A. 9184 and its Implementing Rules and Regulations, as accompanied by relevant procurement-related laws, GPPB and DOH issuances. The objective thereof is to give DOH procurement practitioners' sufficient help in tracking any procurement activity on hand. It is, therefore, my fervent hope that the gap between a successful DOH project/policy implementation and the delivery of timely but quality public health service is accomplished through an efficient, effective and transparent process.

Once again, a challenge is put before us – DOH procurement practitioners – as interest in public procurement is renewed, to judiciously perform the duties delegated to us, strictly but reasonably adhere to the principles and provisions of the procurement law, and maintain a positive and sustained conviction to always promote the ideals of good governance and how dedicated public servants are committed to it.




ALEXANDER A. PADILLA
Undersecretary of Health

Foreword

It is fundamental that we purchase the needed goods, services and works in the right quantity and quality at the right time and price to better support the implementation of health programs and delivery of health services.

We need to plan our procurements better, improve our systems, use better tools and produce a cadre of committed and trustworthy procurement professionals. We need to better manage our procurements to have significant impacts of lowering costs, generating substantial savings, and ensuring that quality goods and services are available for health program at all cost and in service delivery points. We need to make our transactions more transparent, competitive, faster, and to comply with existing laws that relates to purchasing of health goods, services and works. It is also essential that we have procurement reform activists and a core group of highly competent and honest professionals and support staff.

The procurement reform is an essential component of our health sector reform agenda. The Government Procurement Reform Act or Republic Act 9184 of 2002 and its Implementing Rules and Regulations gives us a legal basis for conducting our procurements. In addition, the Government Procurement Policy Board wherein the Department is an active member has been issuing standard bid documents and forms, various resolutions, circulars, opinions and the generic manuals to support compliance, facilitate the procurement processes and make it more efficient and effective.

With the variations in procurement practices in each of the DOH procuring entities and special requirements of health goods, services and works, the generic procurement manuals have been customized to minimize variations and ensure that all concerned follow the procurement law and related laws. For your reference and guidance are the four (4) customized volumes: Volume I: Guidelines on the Establishment of Procurement Systems and Organizations; Volume II: Guidelines on the Procurement Goods; Volume III: Guidelines on the Procurement of Civil Works and Volume IV: Guidelines on the Procurement of Consulting Services .

With these, we hope to improve the efficiency and effectiveness of our procurement systems, practices and processes.



ENRIQUE T. ONA, MD

Secretary of Health

Executive Summary

The role of public procurement in any government worldwide has changed drastically over the years. Once a matter exclusive only to experts has now become subject to public scrutiny. **TRANSPARENCY** and **GOOD GOVERNANCE** – these were the principal motivating factors, among others, which facilitated the legislation of comprehensive procurement law to govern the acquisition of goods and services in the government. Anchored on the understanding that public procurement is at the heart of delivering public service, sound procurement policies and procedure is fundamental to any government operations.

In the Philippines, a comprehensive procurement act was enacted in 2003. On 26 January 2003, Republic Act 9184 or the Government Procurement Reform Act took effect. It established a systematic and standardized procurement process for all government agencies, bureaus, departments, government-owned, and government-controlled corporations. The conduct of procurement shall be governed by the principle of transparency in all procurement transactions, fair and equitable competition among prospective bidders/suppliers, streamlined procurement process, system of accountability for both procurement practitioners and prospective bidders/suppliers, and public monitoring to ascertain compliance with the provisions of RA 9184, its Implementing Rules and Regulations and other procurement-related governmental issuances. The procurement framework covers the procurement process from planning to contract implementation and termination. A procurement policy-making body referred to as the Government Procurement Policy Board was also established by virtue of the same statute.

On 08 October 2003, the Implementing Rules and Regulations Part-A of RA 9184 was approved. It covered only all domestically funded procurement but not those involving Foreign Assisted Projects. Competitive bidding is established as the principal mode of procurement but the existence of certain procurement conditions warrants the use of alternative mode of procurement such as Negotiated Procurement, Shopping, Limited Source Bidding, Repeat Order, and Direct Contracting. For those procurement projects undertaken through competitive bidding, procurement tenders/invitations must be publicized in the prescribed media and locations. Submission of eligibility documents forms a crucial role in the public bidding.

The GPPB, pursuant to its mandate to formulate and amend public procurement policies, practices, rules and regulations, formulated the Revised Implementing Rules and Regulations which took effect on the 2 September 2009. The revised IRR now shall cover all domestically funded and foreign assisted projects. Major amendments in the procurement guidelines include a more detailed procurement planning align with the Agency's budget allocation, the change of procurement procedure for Infrastructure projects from two-stage bidding process to a single-stage, the introduction of the two-envelope system, the additional instances or conditions for the use of alternative mode of procurement such as Negotiated Procurement, increase threshold for the conduct of Shopping and Small Value Procurement and longer procurement timelines, among others.

The Philippine Bidding Documents, standard forms, and the Generic Procurement Manual are prepared and harmonized to reflect the amendment contained in the revised IRR of RA 9184. The mandatory usage of the abovementioned documents will promote a systematized procurement process, avoid confusion, and ultimately ensure transparency.

Since the agency is given the prerogative to customize the GPM to suit the needs, peculiarity, nature, or complexity of its procurement by virtue of Section 6.2 of the revised IRR, the following Manuals are being issued by the Department of Health to address procurement concerns of DOH procurement practitioners: Volume I: Guidelines on the Establishment of Procurement Systems and Organizations; Volume II: Guidelines on the Procurement Goods; Volume III: Guidelines on the Procurement of Civil Works; and Volume IV: Guidelines on the Procurement of Consulting Services.

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SECTION 1

**GENERAL
PROVISIONS**

LEGAL BASIS OF THE PROCUREMENT MANUAL

1. **LEGAL REFERENCE**

Section 6 of the Revised IRR is the legal source for the development of the Customized Procurement Manual.

Explicitly provided therefrom is the mandatory usage of the Generic Procurement Manuals, Philippine Bidding Documents and other standard forms as developed, approved and subsequently amended by the Government Procurement Policy Board. However, as dictated by the necessity and peculiar needs of the procuring entity, particularly on major and specialized procurement, modifications shall be made subject to the approval of the GPPB. Therefore, any modification to the GPMs, PBDs, and other standard procurement forms are permissible only if approved by the GPPB on the condition of necessity and peculiarity. It is in this regard that the DOH is issuing this manual to specifically answer for the peculiarities encountered by the Department in its procurement activities, particularly in the DOH Hospitals, in conformity with Section 6 of the revised IRR.

2. **PURPOSE**

The primary purpose of the GPM issued by the GPPB is to systematize, clarify, avoid confusion and ensure transparency in the procurement process pursuant to the provisions of the revised IRR. While the Customized Procurement Manual is issued for the same reason, but more importantly it is issued to suit the needs of the Department.

3. **DELETED PROVISION ON THE REQUIRED PERIOD**

Section 6.3 of IRR-A provides that the GPPB shall formulate, approve, or disseminate the GPMs, PBDs, and other standard procurement forms not later than thirty (30) days after the approval of IRR-A. This shall be followed with the CPM.

However, in the revised IRR such provision is deleted. The subsequent revision and apparent silence of the law as to the time allotted for the formulation, approval and dissemination of the revised GPMs, PBDs, and other procurement standard forms will not entail a definite period but for the purpose of public policy it should mean that reasonable time will be considered. Thus, it would seem logical that GPPB be allowed reasonable time to formulate, approve and disseminate the GPMs, PBDs, and other standard procurement forms. Likewise, the procuring entity is afforded the same leniency in the development of its CPM.

4. **PERIODIC REVIEW**

Since the GPM is subject to periodic review and revision by the GPPB to ensure applicability with existing conditions, in the same manner the DOH will also conduct periodic review and updates in the CPM to conform with the GPPB review and revision.

5. CONFLICT ARISING IN THE MANUAL WITH RA 9184 AND/OR THE REVISED IRR

If conflict arises in this manual against RA 9184 or the revised IRR, the latter shall prevail on the premise that it is the legal basis of the CPM R.A. 9184 and the revised IRR. The procurement process, rights, responsibilities, obligations and sanctions discussed in this manual is based on the provision of R.A. 9184 and the revised IRR. In no instance will the manual be superior than the governing statute it seeks to expound.

COVERAGE, SCOPE AND APPLICATION

1. **LEGAL REFERENCE**

Sections 1, 4 and 5 of the revised IRR are the legal basis for the coverage, scope and application of this Manual.

2. **COVERAGE**

Section 4.1 of the revised IRR explicitly provide that the implementing rules and regulations applies to all procurement activities of any branch, agency, department, bureau, office, or instrumentality of the Government of the Philippines, including government owned and/ or controlled corporations, government financial institutions, state universities and colleges and local government units .

As a duly constituted department of GOP, DOH is covered by the said law and is required to procure goods and services, infrastructure, and consulting services through public bidding pursuant to the mandate of R.A. 9184 and the revised IRR. Such is the subject of this manual, which shall cover all procurement activity of the Department regardless of source, whether locally-funded or foreign-assisted, in all DOH Central Offices, Centers for Health Development, DOH Hospitals and Attached Agencies.

3. **SCOPE**

Regardless of source, whether locally-funded or foreign-assisted, the provision of the R.A. 9184 shall apply to all procurement of goods, infrastructure and consulting service.

Before the issuance of the revised IRR, the general rule is that foreign funded procurement follows the procedure specified in the loan or grant agreement. With the exception that in the absence of such procurement guidelines or if the guidelines set are silent on a specific procurement procedure, the procurement process or procedure prescribed by R.A. 9184 and the IRR-A will apply suppletory. But this is not the case in the revised IRR. Under Section 4.3 therefore, it is provided that “unless the Treaty or International or Executive Agreement provides use of foreign government/foreign or international financing institution procurement procedures and guidelines, the revised IRR shall apply to Foreign-funded Procurement for Goods, Infrastructure Projects, and Consulting Services by the GOP.”

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

Now, the reverse rule applies, the procurement procedure prescribed in the revised IRR will be followed in foreign-funded procurement unless the treaty or international or executive agreement provides otherwise.

Consistent with the policies and principles set forth in Sections 2 and 3 of the revised IRR, the GOP negotiating panels shall adopt, as its default position, use of the revised IRR or at the very least selection through competitive bidding in all Foreign-funded Procurement. If the Treaty or International or Executive Agreement states otherwise, then the negotiating panels shall explain in writing the reasons.

4. RATIONALE

The previous IRR-A does not apply to foreign-assisted project which was supposedly the subject of a subsequent GPPB issuance.

In a Resolution numbered 03-2009 dated 22 July 2009, which later on took effect on 02 September 2009, the GPPB moved towards the issuance of a single set of guiding rules and regulations on both locally-funded and foreign-assisted project seeing that both essentially raise similar procurement issues and concerns.

According to the GPPB, the revised IRR was brought about due to the following reasons:

- a.** It is part of the harmonization effort of GOP to align with international procurement standards and/or practice,
- b.** It is a definitive answer to the growing concerns of procuring entities in the application of the Domestic Preference Rule as prescribed in Commonwealth Act of No. 138 or the “Flag Law” and Administrative Order 227, and
- c.** It is a resolution on the pressing procurement concerns raised by procurement practitioners, bidders, and foreign development partners.

5. RESPONSIBILITY OF THE GOP NEGOTIATING PANEL

GOP Negotiating Panels, pursuant to Section 4.3 of the revised IRR, shall have the following responsibilities:

- a.** To adopt as their default position the use of the R.A. 9184 and the revised IRR; or
- b.** At the very least, selection through competitive bidding, in all foreign-funded procurement if use of RA 9184 and the revised IRR is not feasible.

Whenever negotiating with foreign government or foreign/international financing institutions, the GOP Negotiating Panel must promote at all times the use of R.A. 9184 and the revised IRR. If such desired outcome cannot be achieved, for whatever reason, the GOP Negotiating Panel must at least promote the use of competitive bidding in all foreign- funded procurement.

However, if it cannot do so, and the treaty or international or executive agreement provides for a particular procurement procedure other than the revised IRR or Competitive Bidding, the GOP Negotiating Panel must explain in writing the reasons therefore.

6. APPLICATION

This Manual provides for the procurement of the following:

6.1 GOODS

As defined in Section 5.r of the revised IRR, Goods refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services, such as, the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. The term “related” or “analogous services” shall include, but not be limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the procuring entity.

6.2 INFRASTRUCTURE PROJECTS

Include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government. For purposes of, and throughout the revised IRR, the term “Infrastructure Projects” shall have the same meaning as, and shall be used interchangeably with, “civil works” or “works” (**Section 5.u of the revised IRR**).

6.3 CONSULTING SERVICES

Refer to services for infrastructure projects and other types of projects or activities of the GOP requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the GOP to undertake such as, but not limited to: (i) advisory and review services; (ii) pre investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies. General principles on consulting services are provided for in Annex “B” (**Section 5.i of the revised IRR**).

7. NOT COVERED BY APPLICATION

The revised IRR does not apply to the following activities:

- 7.1** Procurement for goods, infrastructure projects, and consulting services funded from Foreign Grants covered by R.A. 8182, as amended by R.A. 8555, entitled “An Act Excluding Official Development Assistance from the Foreign Debt Limit in order to Facilitate the Absorption and Optimize the Utilization of ODA Resources, Amending for the Purpose Paragraph 1, Section 2 of Republic Act No. 4860, As Amended”, unless the GOP and the foreign grantor/foreign or international financing institution agree otherwise;
- 7.2** Acquisition of real property which shall be governed by R.A. 8974, entitled “An Act to Facilitate the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects and for Other Purposes,” and other applicable laws; and
- 7.3** Public-Private sector infrastructure or development projects and other procurement covered by R.A. 6957, as amended by R.A. 7718, entitled “An Act Authorizing the Financing, Construction, Operation and Maintenance of Infrastructure Projects by the Private Sector, and for Other Purposes,” as amended: Provided, however, that for the portions financed by the GOP, regardless of source of funds, whether local or foreign, the provisions of the revised IRR shall apply (**Section 4.4 of the revised IRR**.)

GOVERNING PRINCIPLES OF PUBLIC PROCUREMENT

1. **LEGAL REFERENCE**

Section 3 of the revised IRR is the legal basis on the governing principle of public procurement.

2. **GOVERNING PRINCIPLE**

At every stage of the procurement activity, the GOP shall be guided by the following principles:

2.1 **TRANSPARENCY**

Consistent with the declared policy of the State to adhere to the principles of good governance, the GOP must at all times be transparent in its procurement process and the implementation of procurement contract. For this reason, the GOP must ensure the widest dissemination of bid opportunities and the participation of pertinent non-government observers.

Towards this end, certain measures are incorporated in the revised IRR to guarantee that there is transparency in the procurement process of any Procuring Entity.

Posting, is one of these measures, in the following medium: (1) conspicuous place in the premise of the procuring entity, (2) the Philippine Government Electronic Procurement Systems and procuring entity's website (if available). More importantly, bidding opportunities, subject to applicable threshold, are advertised in a newspaper of general nationwide circulation. Furthermore, since the revised IRR now covers foreign-funded procurement, posting in the website prescribed by the foreign government/international or foreign financing institutions is required. Awarded contracts are also required to be posted to apprise the public of the completed status of the procurement projects.

Observers duly registered under the proper authorities like the Securities and Exchange Commission and Cooperative Development Authority (**Section 13.2 of the revised IRR**), such as non-government organizations, cooperatives and duly recognized private sector associations should be invited to observe in all stages of the procurement process. In addition, each procurement transaction must be properly documented and these records must be maintained and made available to proper parties.

2.2 COMPETITIVENESS

Public procurement must be competitive and, as a rule, be conducted through public bidding, except as otherwise provided for under R.A. 9184, the revised IRR and this Manual. A competitive bidding process treats bidders equitably and provides fair grounds for competition among themselves, thereby ensuring that no single bidder significantly influences the outcome of the bidding. Competition among proponents will urge them to offer lower prices and in more beneficial terms to the government. Hence, the alternative methods of procurement must only be resorted to when competitive bidding is not a feasible option, in accordance with the conditions laid down in R.A. 9184, the revised IRR and this Manual.

2.3 STREAMLINING

A streamlined procurement process that will uniformly apply to all government procurement must be adopted. The procurement process must be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method. The GPPB conducts a periodic review of government procurement procedures, and whenever necessary, formulates and implements changes thereto.

2.4 SYSTEM OF ACCOUNTABILITIES

A system of accountability must be established. Thus, both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts, and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

In relation to this, the heads of the procuring entities are responsible for establishing and maintaining a transparent, effective, and efficient procurement system in their respective agencies. The responsibilities of each official involved in the procurement process must be clear and legally identifiable.

For this purpose, bidders are likewise obliged to disclose familial relationship up to the third degree of consanguinity or affinity to any of the following procurement practitioner: Head of the Procuring Entity; members of the Bids and Awards Committee, the Technical Working Group and the BAC Secretariat; the head of the Project Management Office or the end-user unit; and the project consultants.

2.5 PUBLIC MONITORING

Public monitoring of the procurement process and the implementation of awarded contracts are provided in R.A. 9184, with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of R.A. 9184 and the revised IRR, and that all these contracts are performed strictly according to specifications. A system of reporting to the GPPB is provided for, while eligible and qualified Civil Society

Organizations such as NGOs, PAs, academic institutions, and religious groups are allowed to observe and monitor the procurement process and contract implementation.

To fully abide by these principles, procuring entities shall consistently follow the procedures prescribed in this Manual and the guidelines continuously promulgated and issued by the GPPB.

SECTION 2

**PROCUREMENT
ORGANIZATIONS**

FIGURE 1. DOH PROCUREMENT ORGANIZATIONAL STRUCTURE

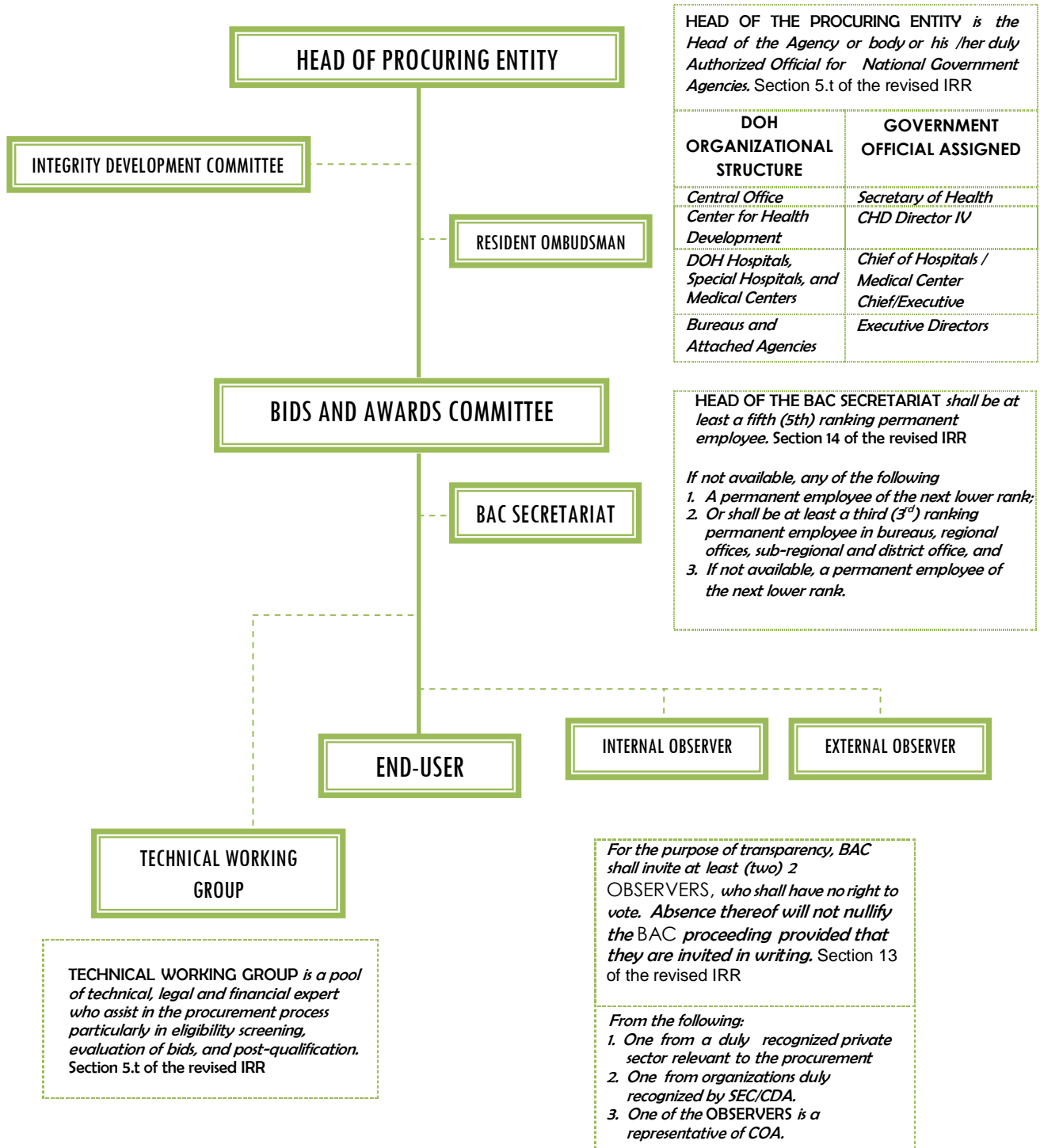
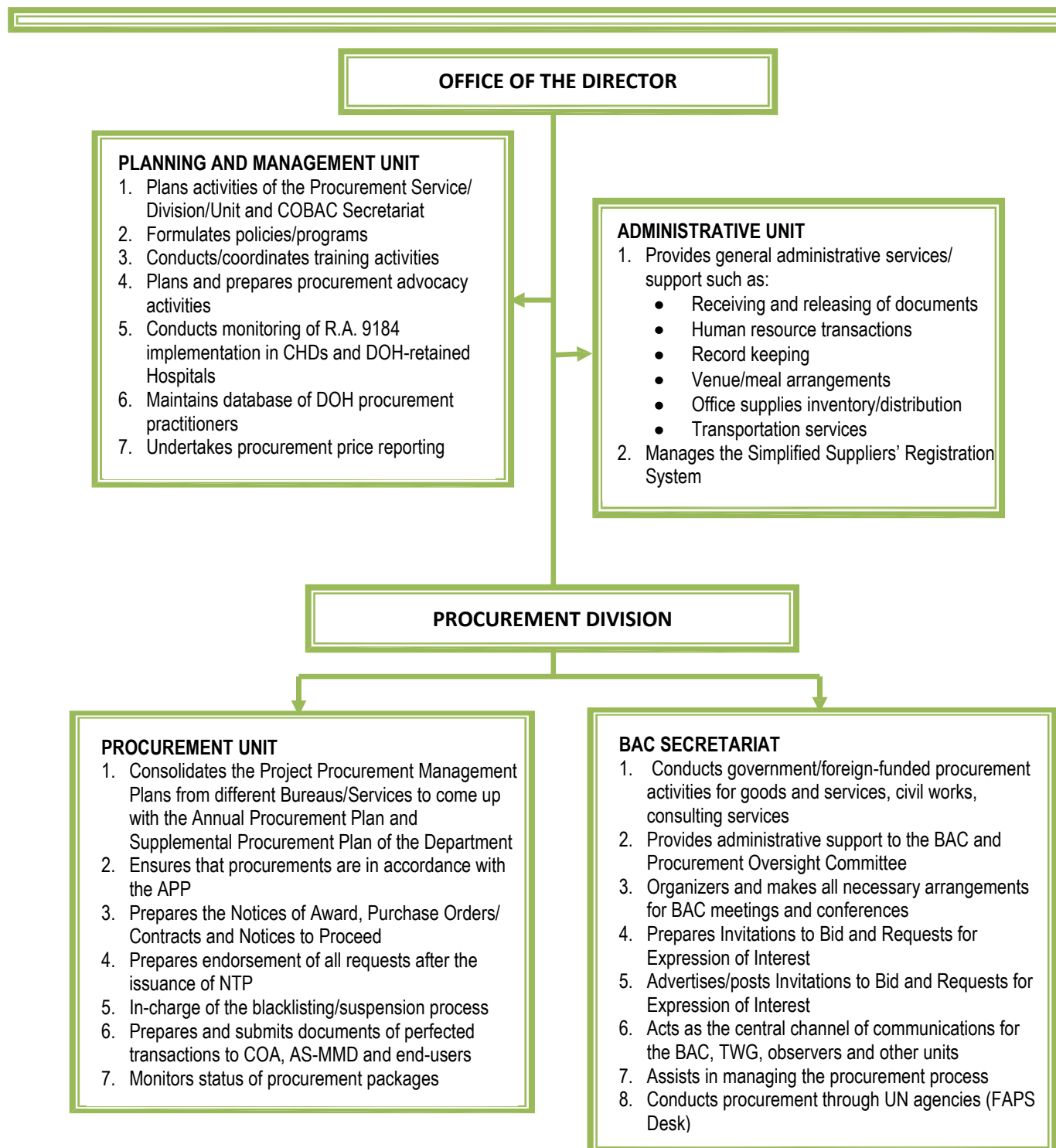


FIGURE 2. CURRENT DOH CENTRAL OFFICE PROCUREMENT SERVICE ORGANOGRAM



ORGANIZATIONAL STRUCTURE

1. **LEGAL REFERENCE**

Sections 5.bb, 11, 12, 13 and 14 of the revised IRR are the legal bases for the organizational structure.

2. **PROCURING ENTITY AND THE PROCUREMENT UNIT**

2.1 **PROCURING ENTITY DEFINED**

Procuring Entity, as defined in Section 5.o of R.A. 9184 and Section 5.bb of the revised IRR, is any branch, department, office, agency, or instrumentality of the government, including state universities and colleges, government-owned and/or - controlled corporations, government financial institutions, and local government units procuring Goods, Consulting Services and Infrastructure Projects.

In view of the foregoing, the DOH procuring entities include the nineteen (19) Services and Bureaus in the Central Office, sixteen (16) Centers for Health Development as DOH regional offices, seventy (70) DOH hospitals and six (6) attached agencies which are administratively independent and geographically distant from the central office such as the Food and Drugs Administration and the Bureau of Quarantine.

2.2 **PROFILE OF DOH PROCURING ENTITIES**

As the principal health care agency of the Philippines, the DOH is legally mandated to ensure that every Filipino has access to basic public health services.

Under the DOH are various offices, hospitals and attached agencies that promote the mandate and mission of the Department for accessible and quality health care services.

2.2.1 **CENTRAL OFFICE**

The central office is composed of the Office of the Secretary and six (6) major function clusters:

a. **Office of the Secretary**

The following comprise the staff support services to the Secretary of Health: Legal Service and Internal Audit Service, the Media Relations Group and the Public Assistance Group including 3 major Zonal Offices of the DOH located in Luzon, Visayas and Mindanao. These Zonal Offices are headed by an Undersecretary and supported by an Assistant Secretary. These offices are mandated to coordinate and

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monitor the implementation the Health Sector Reform Agenda, the National Health Objectives and the Local Government Code with the various Centers for Health Development. The Procurement Service is also under the Office of the Secretary.

b. Policy and Standards Development for Service Delivery Cluster

It is composed of National Center for Disease Prevention and Control, National Epidemiology Center, National Center for Health Facilities and Services, National Center for Health Promotion, Philippine National Aids Council, and Health Emergency Service.

c. Sectoral Management and Coordinating Team Cluster

It is composed of the Bureau of International Health Cooperation, Health Human Resource Development Bureau, Health Policy Development Planning Bureau, Bureau of Local Health Development and Information Management Service.

d. Policy Standards Development for Health Regulation Cluster

It is composed of the Food and Drug Administration, Bureau of Health Facilities and Services, Bureau of Health Devices and Technology, Bureau of Quarantine and National Center for Pharmaceutical Access and Management.

e. Special Concerns and Project

It includes Philippine Institute for Traditional and Alternative Healthcare.

f. Internal Management Support

It is composed of Administrative Service and Finance Service.

2.2.2 CENTERS FOR HEALTH DEVELOPMENT

CHDs are responsible for field operations of the Department in its administrative region and for providing catchment area with efficient and effective medical services. It is tasked to implement laws, regulations, policies and programs. It is also tasked to coordinate with regional offices of the other Departments, offices and agencies as well as with the local governments.

2.2.3 DOH HOSPITALS

They provide hospital-based care, whether specialized or general services, which include the conduct of research on clinical priorities and training hospitals for

medical specialization. Inclusive hereof are the Regional Hospitals, Special/Specialty Hospitals, Medical Centers and Regional Hospitals.

2.2.4 ATTACHED AGENCIES

There are at least six (6) identified government agencies attached to the DOH all of which foster a better health care service to the general public. Without prejudice to the creation and/or attachment of other government agencies in the future, the DOH attached agencies include the Philippine Health Insurance Corporation National Nutrition Council, Philippine Institute of Traditional and Alternative Health Care, Philippine National AIDS Council, Commission on Population, and the Local Water Utilities Administration.

These attached agencies have the following mandates: PhilHealth is implementing the national health insurance law, administers the Medicare program for both public and private sectors; NNC, on the other hand, is another DOH attached agency primarily responsible for creating a conducive policy environment for national and local nutrition planning, implementation, monitoring and evaluation, and surveillance using state-of-the art technology and approaches; PITAHC is legally mandated to develop and promote the alternative health care system; and PNAC is the central advisory, planning and policy-making body for the comprehensive and integrated HIV/AIDS prevention and control program in the Philippines.

Moreover, very recently the administrative supervision over Commission on Population and Local Water Utilities Administration was transferred and attached to the DOH by virtue of Executive Order No. 188 dated 24 March 2003 and Executive Order No. 738 dated 14 July 2008, respectively. The former functions as the central coordinating and policy making body of the government in the field of population and the latter is a government-owned and controlled corporation mandated by law to promote and oversee the development of water supply systems in provincial cities and municipalities outside of Metropolitan Manila.

2.3 ESTABLISHMENT OF THE PROCUREMENT UNIT

Section 11 of RA 9184 and the revised IRR provides that each Procuring Entity shall establish a single BAC. Such that all DOH Procuring Entities identified above is mandated to establish a single BAC in its head office. In order for the BAC to properly and efficiently carry-out its responsibilities, it must be supported by a single Procurement Unit capable of performing various tasks prescribed by the governing statute. It shall play a vital role in procurement planning and purchasing, contract implementation and management, and monitoring of procurement milestones.

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Two (2) known determinants are considered when establishing the organizational level of a Procurement Unit. One is the average procurement budget based on preceding three (3) years of historical data, while the other pertains to the organizational level of the Procuring Entity.

For such purpose, procurement budget, as defined in Section 5.1 of the National Budget Circular No. 517 issued by the Department of Budget and Management which is the basis Of This Said Section, Refer To The Sum Of Allocations Of The Central Office, Service Bureaus, Regional Offices of the agency for repair and maintenance; supplies and material; rents; professional service; building and structural outlay; office equipment, furniture and fixtures; transportation equipment; machineries and equipment; public infrastructure; and other expense items subject of procurement, as reflected in the Annual Procurement Plan.

Table 1. Establishment of Procurement Units

Annual Procurement Budget*	Department	Bureau	GOCC/GFI
P 5B and above	Service	Division	Department
P 1B to less than P 5B	Division	Section	Division
Less than P 1B	Section	Unit	Section
*Average for the past three (3) years			

The average value of the Annual Procurement Budget over the past three (3) years is the Average Procurement Budget of the Procuring Entity.

Furthermore, Section 5.2 of NBC No. 517 provides for a tabular presentation (left inset) of the establishment in the organizational of a Procurement Unit according to the agency category of the Procuring Entity and its average procurement budget.

As illustrated clearly in the table above, the nomenclature of a Procuring Unit, or the name given to the Procuring Unit created, depends upon the kind of government agency concern – such as a department, bureau, or GOCCs/ government financial institutions – and the annual procurement budget averaged over the last three (3) years.

In the DOH, the Procuring Unit of the Central Office is aptly referred to as Procurement Service.

2.3.1 ORGANIZATIONAL STRUCTURE AND FUNCTIONS OF PROCUREMENT UNITS

The term “Procurement Unit” shall refer to the organic office of the Procuring Entity that carries out the procurement function.

An organizational structure is an important facet of corporative government or political system. Setting up an organizational structure and identifying functions within such structure creates a system that is efficient and effective, eliminates overlapping of responsibilities, and encourages awareness among employees within the DOH of the roles they play in the proper execution of department’s legal mandate. So that if each person in the DOH knows what he or she is supposed to be doing, there is less room for confusion and poor judgment.

NBC No. 517 provides for the organizational structure and functions of procurement units created by the Procuring Entity.

In reference to Table 1, if the annual procurement budget of a procuring entity for the past three (3) years amounts to Five Billion Philippine Pesos (PhP 5,000,000,000.00) and above, the Procurement Unit created should be Procurement Service.

Procurement Service shall be composed of the following offices with their corresponding functions:

a. OFFICE OF THE DIRECTOR

Office of the Director shall direct the over-all procurement activities of the agencies pertaining to the four (4) main functions of a Procuring Unit namely procurement planning, purchasing, contract management, and monitoring.

b. PROCUREMENT PLANNING AND MANAGEMENT DIVISION

Procurement Planning and Management Division is primarily responsible for all planning and procurement activities of the procuring entity and concurrently functions as the BAC Secretariat.

Specifically, this division shall perform the following functions:

- i.* Coordinates and monitor all procurement activities;
- ii.* Creates and maintains a price monitoring list and a registry of suppliers, contractors, and consultants;
- iii.* As BAC Secretariat, assist in the consolidation of the Project Procurement Management Plan and prepare the Annual Procurement Plan; and
- iv.* As BAC Secretariat, provides technical support and recommend appropriate procurement method to the BAC.

c. CONTRACT MANAGEMENT DIVISION

The Contract Management Division is responsible for all post- award contract management activities.

It shall perform the following specific functions:

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- i.* Monitor compliance with the terms and condition of the procurement contract;
- ii.* Coordinate with the end-users for acceptance for deliverables of a procurement contract;
- iii.* Coordinates with the Finance Unit for the payment of procurement contract;
- iv.* Initiate sanctions against erring suppliers, contractors, and consultants, including the forfeiture of performance security and blacklisting; and
- v.* Oversee contract management activities of the regional offices and provide technical support.

However, it is different when the annual procurement budget of a procuring entity for the past three (3) years is more than One Billion Philippine Pesos (PhP 1,000,000,000.00) but less than Five Billion Philippine Pesos (PhP 5,000,000,000.00) since the Procurement Unit to be established should be named as Procurement Division. This division shall be created under the Administrative Service or the Financial and Administrative Service in the agency, whichever is applicable. It shall be responsible for the performance of the functions as listed above in a smaller scale.

For those procuring entity with an annual procurement budget of less than One Billion Philippine Pesos (PhP 1,000,000,000.00) for the past three (3) years, the Procurement Unit established should be dubbed as Procurement Section. This section shall be created under the General Service Division or Administrative Service Division or in a similar unit of agency. It shall be responsible for the handling of the functions discussed above in a smaller scale.

Therefore, the annual procurement budget is crucial in the establishment of Procurement Unit.

2.4 STAFFING OF PROCUREMENT UNITS

Table 2. Plantilla Position of the Head of Each Procurement Service/Division/Section

Procurement Unit	Office of Administration	Highest Position
Procurement Service		Director IV, SG-28
Office of the Director		
Procurement Planning and Management Division		Administrative Assistant III, SG-9 (Support Staff)
Contract Management Division		Chief Administrative Officer, SG-24
Procurement Division	Administrative Service or Financial Administrative Service	Chief Administrative Officer, SG-24
Procurement Unit	General Services Division or Administrative Service Division	Administrative Officer, SG-24

In Section 5.4 of NBC No.517, the highest *plantilla* position and the corresponding salary-grade level are provided as qualification for the government official who shall head the Procurement Unit as established above.

The following are additional guidelines in the staffing of the Procurement Unit:

- a. In order to preserve the hierarchy of positions, there should be no duplication in the level of positions from SG-22 and above for each of the divisions under the Procurement Service, and for Procurement Division under the Administrative Service or Financial and Administrative Service, and SG-18 under Procurement Section for General Service Division.
- b. In the creation and staffing of the Procurement Unit, agencies shall adopt the “scrap and build” policy. This pertains to the scrapping or abolishment of vacant funded positions to create appropriate positions within the funding limitations. Agencies should see to it that the full requirements of its staffing should be covered by the positions proposed for abolition.
- c. Where there are no existing vacant funded positions, the agency may resort to the transfer/deployment of positions from other units. The transfer/deployment of positions may involve the reclassification of filled positions or the conversion of vacant items (as discussed in the preceding number) in conformity with the staffing requirement of the Procurement Unit. The incumbents of the positions should meet the qualification requirement of the new positions.
- d. The upward reclassification of positions would only be allowed if the agency offers the abolition of vacant funded position/s to support the attendant increase in Personal Services.

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- e. Priority shall be given to the creation of positions in the professional category rather than in the clerical or non-professional positions. Agencies shall endeavor the greater use of information technology in the accomplishment of clerical or routine administrative tasks.

In view of the foregoing, the HOPE shall consider the following factors in selecting the personnel who will be assigned to the Procurement Unit, among others:

- i. Integrity
- ii. Procurement proficiency, as shown by experience and trainings attended
- iii. Satisfactory completion in a certification program conducted by the GPPB-Technical Support Office or its accredited institutions, if any
- iv. The appropriate Civil Service qualification standards

In designating members of the Procurement Unit and the BAC Secretariat, the HOPE must ensure that check and balance is maintained and procurement personnel are not given assignments that may conflict with their designation.

2.5 PROCUREMENT UNIT FOR OTHER DOH PROCURING ENTITY

The HOPE may create or designate an existing organic office that will serve as its Procurement Division/Section/Unit, which will concurrently serve as the BAC Secretariat. The purpose for the dual function of this Office is to ensure continuity of the process and facilitate in the professionalization of the procurement personnel.

At the Central Office, the Procurement Unit and BAC Secretariat is the Procurement Service. For the other DOH Procurement Entities, the procurement unit and BAC Secretariat may be a branch composed of a few personnel. The size of the unit and the number of personnel are dictated by the volume of transactions done and the level of expertise required from the procurement officers.

To facilitate a more efficient internal control system as well as promote the principles of an effective check and balance mechanism, procurement units shall be independent of the CHD and hospital property and supply section and/or personnel responsible for proper acceptance of deliveries, handling and storage; or those who are responsible for the adequate and timely distribution of drugs, medicines, medical supplies, health equipment and other general office supplies and materials to the end-user representatives; and those who maintains and updates inventory of goods. Procurement unit personnel may, however, come from other units of the DOH procuring entity in an ad hoc position as designated by the HOPE or employed in a permanent *plantilla* position.

3. HEAD OF THE PROCURING ENTITY

The revised IRR defined HOPE, according to Section 5.t therefore, as any of the following public official:

- a. The head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions or offices, and branches of government;
- b. The governing board or its duly authorized official, for GOCCs, GFIs and SUCs; or
- c. The local chief executive, for LGUs.

Furthermore, the law provides that in an agency, department, or office where the procurement is decentralized, the head of each decentralized unit shall be considered as the HOPE, subject to the limitations and authority delegated by the head of the agency, department, or office.

In view of the foregoing and the organizational set-up of the DOH, the following, for all intents and purpose, are considered HOPE:

- a. Secretary of Health as the head of the agency of the DOH;
- b. Director IV of the Center for Health Development as head of the agency;
- c. Chief of Hospital/Medical Center Chief/Executive Directors for each DOH Hospitals, Medical Center, or Special Hospitals, respectively; and
- d. Executive Director as head of the attached agencies.

4. BIDS AND AWARDS COMMITTEE

Section 11.1.1 of the revised IRR of RA 9184 provides that each procuring entity shall establish in its head office a single BAC in order to facilitate the professionalization and harmonization of procedures and standards. It shall undertake the functions specified in Section 12 of the revised IRR.

However, the HOPE is given the prerogative to create a separate BAC where the number and complexity of the items to be procured so warrants.

Accordingly, separate BACs may be organized in the following:

- a. Geographical location of the Project Management Officer or end-user units
- b. Nature of the procurement.

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Thus, it is not uncommon for Procuring Entities to have more than one BAC. The rationale behind this provision is to expedite the procurement process. However, the creation or organization of a separate BAC falls under the discretion of the HOPE. For instance, a Procuring Entity may have separate BAC in its regional or decentralized offices (whenever warranted according to the above conditions); or separate BACs in the head office for procurement of highly technical or specialized projects requiring materials, services or expertise beyond the capability of existing government offices or employees under the Procuring Entity concerned such as procurement of Information, Communication and Technology resources or infrastructure projects; or the geographical location of an end-user unit requires the creation of separate BAC.

However, the HOPE must limit the creation of separate BACs in order to facilitate professionalization and harmonization of procedures and standards. For that matter, it would seem unnecessary to create a separate BAC for complex procurement because the designation of provisional members (technical and end-user unit representative) and TWG members, who are technically skilled and knowledgeable, would adequately respond to the needs at hand.

4.1 BAC COMPOSITION

The HOPE must designate the members of the BAC in accordance with the rules prescribed in Section 11.2 of the revised IRR on the BAC Composition.

The following are the delegated and identified BACs in each DOH Procuring Entity:

- a.** In the Central Office, there are two (2) BACs. It is aptly designated as the Central Office Bids and Awards Committee. The COBAC members are government officials from the Services and Bureaus of the DOH Central Office located at San Lazaro Compound where most of the offices share the same internal management units. These BACs shall perform all the functions incumbent upon them for the procurement of goods/services, infrastructure projects and consulting services according to the procurement needs of the Central Office, pursuant to Section 12.1 of the revised IRR.
- b.** Regional BAC is established in the DOH Centers for Health Development. CHDs are DOH field offices. There are about sixteen (16) CHDs nationwide all representing identified regions in the Philippines.
- c.** Bureau BACs are those designated under existing DOH Bureaus. These Bureaus have their own internal management support office and are located outside the San Lazaro Compound. Bureau of Quarantine is one of these bureaus; also, included is the Bureau of Food and Drugs which is now renamed as the Food and Drugs Administration by virtue of Republic Act No. 9711 enacted on 18 August 2009.



IMPORTANT POINTS TO PONDER

In designating the provisional members, the HOPE shall consider the type of procurement normally undertaken by them, and identify the relevant technical experts. For example, in procuring janitorial services, the technical member should be an officer of the Building Maintenance Unit or the General Services Division/ Section.

Provisional members will actively participate in the deliberations of the BAC for procurement over which they have a direct interest. For example, in the procurement of computers, the technical member for Information and Communications Technology will participate in BAC deliberations together with the representative of the Project Management Office/ end-user unit.

- d. Hospital BACs are those established in all seventy (70) DOH hospitals nationwide. Generally there is only one HBAC for each hospital. However, due to the nature and complexity of various procurement project, third- level hospitals or those with bed-capacity above three hundred, such as Jose R. Reyes Memorial Medical Center, created separate BAC for the procurement of goods/services, infrastructure and consulting services. These BACs are organized by taking into consideration such factors like physical location of hospital buildings or nature of the needs and services to be delivered particularly in the procurement of drugs and medicines, laboratory supplies, reagents and equipments, and medical or dental supplies or equipment.

In the DOH, the designation of BAC members in each procuring entity is governed by the following rules and regulations:

4.1.1 CENTRAL OFFICE

Under Section 11.2.1 of the revised IRR, it is provided that the HOPE must designate at least five (5) but not more than seven (7) members to the BAC of unquestionable integrity and procurement proficiency. Of the five (5) members, three (3) must be regular members, and two (2) must be provisional members. Should the HOPE desire to create a seven-membered BAC, he/she may designate two (2) additional regular members, or two (2) additional provisional members or one (1) additional regular and provisional member.

a. DELEGATION AS CHAIRPERSON/ VICE CHAIRPERSON

The Head of the Procuring Entity must designate the BAC Chairperson, and may likewise designate the Vice-Chairperson from the remaining regular members. Both must be regular members of the BAC. BAC members must occupy plantilla position in the procuring entity.

b. CHAIRPERSON

According to Section 11.2.2.a of the revised IRR, the Chairperson must be at least a third (3rd) ranking permanent official of the Procuring Entity.

Consequently, in the DOH Central Office, s/he must occupy the position of at least an Assistant Secretary of the DOH.



IMPORTANT POINTS TO PONDER

The HOPE must designate Alternate BAC members who are qualified pursuant to Section 11.2.2(b) and (c) of the Revised IRR which provides that s/he must be an officer holding at least a fifth (5th) [or third (3rd) ranking permanent plantilla position, in case of bureaus, regional offices, and sub-district offices] ranking permanent plantilla position who is proficient in procurement representing the administrative, legal, or financial area of the Procuring Entity.

There can be alternate member for all principal BAC members including the BAC Chairperson and Vice-Chairperson.

The alternate BAC members must exercise the same degree of diligence as the principal when dealing with procurement activities because they can be held criminally, civilly or administrative liable for any misfeasance or malfeasance as prescribed by the Revised IRR. Meaning, the "jury duty" expected of a regular member is also expected of the alternate member.

c. REGULAR MEMBERS

Section 11.2.2.b of the revised IRR, further, provides that a regular member of the BAC is an officer, who holds at least a fifth (5th) ranking permanent plantilla position, with knowledge, experience and/or expertise in procurement who, represents the legal or administrative area of the Procuring Entity.

A regular member of the BAC may also be an officer, who holds at least a fifth (5th) ranking permanent plantilla position, with knowledge, experience and/or expertise in procurement who, represents the finance area of the Procuring Entity, pursuant to Section 11.2.2 (c) of the revised IRR.

In this regard, government officials occupying the Director III position and above can be designated as regular members of the BAC.

d. PROVISIONAL MEMBERS

The following are considered provisional members:

- i.* Officers who has technical expertise relevant to the procurement at hand, who has knowledge, experience and/or expertise in procurement; **(Section 11.2.2.d of the revised IRR)**
- ii.* Representatives from the end-user unit who has knowledge of procurement laws and procedures **(Section 11.2.2.e of the revised IRR).**

e. ALTERNATE MEMBER

The revised IRR, unlike its predecessor – IRR-A, explicitly provides in Section 11.2.4 that the HOPE may designate alternate members to the BAC.

These alternate members must have the same qualifications and term as their principals.

In the absence of their principal, they shall perform the following responsibilities and obligations:

- i.* Attend BAC meetings;
- ii.* Perform the functions of the principal as regular BAC members required of the procurement activity; and
- iii.* Receive corresponding honoraria.

It is provided in the same Section of the revised IRR that the accountability of the principal and the alternate member shall be limited to their respective acts and decisions.

Significantly, since these alternate BAC members shall perform the functions of a regular member, they are held accountable for their actions and decisions. For instance, when an Alternate BAC member attends the Bid Opening of a certain procurement project in the absence of the principal BAC member then it is s/he who shall affix his/her signature in the Abstract of Bids, and it is s/he who shall take responsibility on the said transaction/document. Likewise, the prohibitions and liabilities of the principals shall apply to designated alternate BAC members.

In a way, it addressed the question on quorum and the availability of BAC members.

f. TERM OF MEMBER

It is provided in Section 11.2.6 of the revised IRR that unless sooner remove from cause, the members of the BAC shall have a fixed term of one (1) year reckoned from the date of appointment, renewable at the discretion of the HOPE.

After the termination of the one-year term, the HOPE is given the prerogative to renew the BAC members.

It is noted that appointment to the BAC is in the nature of a designation, in addition to the regular duties of the subject official, and is not an appointment contemplated under the Civil Service rules.

g. TERMINATION, REPLACEMENT AND SUCCESSION

Section 11.2.6 of the revised IRR provides that upon expiration of the terms of the current members, they shall continue to exercise their functions until new BAC members are designated.

In the transition period following the end of the terms of BAC members, the outgoing BAC members shall continue discharging their functions until the new BAC members shall take over.

Furthermore, in case of resignation, retirement, separation, transfer, re-assignment, removal, or death, the HOPE may designate a replacement which shall possess the same qualifications or ranking as the one replaced. The replacement shall serve only for the unexpired term.

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However, in case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.

The HOPE may suspend or remove a member of the BAC for justifiable causes, including, but not limited to, violations of the provisions of the RA 9184 or the revised IRR.

Under Section 11.2.5 of the revised IRR, the following are disqualified from BAC membership:

- i.* HOPE
- ii.* Appointing/Approving Authority
- iii.* Chief Accountants or the Head of the Accounting Department and his/her staff, unless the Accounting Department is the end-user unit, in which case the Chief Accountant and the Head of the Accounting Department or his/her staff may be designated as the provisional BAC member – representative from the end-user who has knowledge of procurement laws and procedures.

To avoid conflict of interest and eliminate breeding ground for corrupt practices, government officials who approve procurement transactions and the Chief Accountants or the Head of the Accounting Department shall be disqualified from BAC membership. However, the Head of the Accounting Department or the Chief Accountant may still be designated as BAC member only in a provisional capacity as end-user representative. This happens when it is the Accounting Department which is the end-user unit for a particular procurement project.

4.1.2 CENTERS FOR HEALTH DEVELOPMENT, BUREAUS, ATTACHED AGENCIES AND DOH HOSPITALS

The other DOH Procuring Entities are the following:

- a.* Its sixteen (16) regional offices aptly referred to as Centers for Health Development;
- b.* The seventy (70) DOH Hospitals nationwide; and
- c.* Six (6) attached agencies and bureaus.

**IMPORTANT POINTS TO PONDER**

It must be noted that Assistant Regional Director (ARD) or Chief of Clinics (COC), in the absence of the Regional Director or the Chief of Hospital/Medical Center, are usually designated as Officer-in-Charge of Centers for Health Development or DOH Hospitals, respectively. In no case shall these ARDs or COCs be the Head of Procuring Entity and BAC Chairperson specifically the approving authority of procurement transactions based on Section 11.2.5.

Such circumstances shall be avoided at all times and therefore the Head of Procuring Entity who designate the members of the BAC or Regional Director or EXECOM member who appoints the Officer-in Charge of a field office or hospitals take note of this prohibition in R.A. 9184.

It is advisable that these officials are not appointed Chairperson of the BAC with the likely occurrence that they also become the HOPE or approving authority.

Under Section 11.2.1 of the revised IRR, it is provided that the HOPE must designate at least five (5) but not more than seven (7) members to the BAC of unquestionable integrity and procurement proficiency. Of the five (5) members, three (3) must be regular members, and two (2) must be provisional members. Should the HOPE desire to create a seven (7) member BAC, s/he may designate two (2) additional regular members, or two (2) additional provisional members, or one (1) additional regular and provisional member.

a. DELEGATION AS CHAIRPERSON/ VICE- CHAIRPERSON

The HOPE must designate the BAC Chairperson, and may likewise designate the Vice-Chairperson from the remaining regular members. Both must be regular members of the BAC.

BAC members must occupy *plantilla* position in the procuring entity.

b. CHAIRMAN/CHAIRPERSON

Section 11.2.2 (a) of the revised IRR provides that the Chairman/ Chairperson of the BAC shall be at least a third (3rd) ranking permanent official of the Procuring Entity.

For the DOH Procuring Entities, the third (3rd) ranking permanent official pertains to the following:

- i.* Centers for Health Development – at least Division Chief
- ii.* DOH Hospitals – at least Division Head or its equivalent third

c. REGULAR MEMBERS

The revised IRR provides in Section 11.2.2 (b) and (c) that the following officials shall composed the BAC:

1. A fifth (5th) ranking permanent official with knowledge, experience, and/or expertise in procurement who, to the extent possible, represents the legal and administrative area of the Procuring Entity; and
2. A fifth (5th) ranking permanent official with knowledge, experience, and/or expertise in procurement who, to the extent possible, represents the financial area of the Procuring Entity.



IMPORTANT POINTS TO PONDER

The HOPE must designate Alternate BAC members who are qualified pursuant to Section 11.2.2(b) and (c) of the Revised IRR which provides that s/he must be an officer holding at least a fifth ranking permanent plantilla position who is proficient in procurement representing the administrative, legal, or financial area of the Procuring Entity.

There can be alternate member for all principal BAC members including the BAC Chairperson and Vice-Chairperson.

The alternate BAC members must exercise the same degree of diligence as the principal when dealing with procurement activities because they can be held criminally, civilly or administrative liable for any misfeasance or malfeasance as prescribed by the Revised IRR. Meaning, the "jury duty" expected of a regular member is also expected of the alternate member.

Just as discussed in the preceding Section on the qualification of a BAC Chairperson, the BAC regular members of all DOH Procuring Entities must at least be Division Chiefs or Section Heads of the said Procuring Entity from the legal, administrative, and financial area.

d. PROVISIONAL MEMBERS

The following are considered provisional member:

- i.* Officers who has technical expertise relevant to the procurement at hand, who has knowledge, experience and/or expertise in procurement (**Section 11.2.2.d of the revised IRR**);
- ii.* End-user Representatives, who has knowledge, experience and/or expertise in procurement (**Section 11.2.2.d of the revised IRR**);

e. ALTERNATE MEMBER

The revised IRR, unlike its predecessor – IRR-A, explicitly provides in Section 11.2.4 that the HOPE may designate alternate members of the BAC.

These alternate members must have the same qualifications and term as their principals.

In the absence of their principal, they shall perform the following responsibilities:

- i.* Attend BAC meetings;
- ii.* Perform the functions of the principal as regular BAC members required of the procurement activity; and
- iii.* Receive corresponding honoraria.

It is provided in the same Section of the revised IRR that the accountability of the principal and the alternate member shall be limited to their respective acts and decisions.

Significantly, since these alternate BAC members shall perform the functions of a regular member, they are held accountable for their actions and decisions. For instance, when an Alternate BAC member attends the Bid Opening of a certain procurement project in the absence of the principal BAC member then it is s/he who shall affix his/her signature in the Abstract of Bids, and it is s/he who shall take

IMPORTANT POINTS TO PONDER

It is provided in the revised IRR that the HOPE may designate alternate members to the BAC. Meaning, in the temporary absence of the principal BAC members, the alternate members shall perform the functions of the principal BAC members and are held accountable thereof.

Subsequently, a provision on replacement subsisted. Provided therein was the prerogative of the HOPE to designate replacement of BAC members in cases where the latter is permanently incapacitated – such as death, removal, resignation, re-assignment, retirement, separation, and transfer – or temporary incapacitated (due to leave or suspension) to perform their functions or responsibilities.

From the foregoing, it would seem that a conflict exist between the provision on Alternate Members and Replacements. For instance, the permanent or temporary incapacity of the principal BAC members, in a Procuring Entity which availed of the provision on Alternate members, warrants the designation of replacement by the HOPE. In such cases, what happens to the Alternate BAC members? Should they be considered as automatic replacements? Or if it is the Alternate BAC members who are permanently or temporary incapacitated, are replacement legally permissible?

The revised IRR of RA 9184 is silent as to these matters and the topic should be the subject of subsequent GPPB Circular. But a logical, harmonized, and reconciled interpretation to these two provisions would seem to point towards automatic replacement by Alternate BAC members as most advantageous for the Procuring Entity. This is because they are already exercising the functions of the replaced BAC members (and are even held accountable for it) and they are in a better position than the new counterparts because of intensive experience and training on procurement. Also, the provision on replacement must also apply to Alternate Members.

responsibility on the said transaction/document. Likewise, the prohibitions and liabilities of the principals shall apply to designated alternate BAC members.

In a way, it addressed the question on quorum and the availability of BAC members.

f. **TERM OF MEMBER**

It is provided in Section 11.2.6 of the revised IRR that unless sooner remove from cause, the members of the BAC shall have a fixed term of one (1) year reckoned from the date of appointment, renewable at the discretion of the HOPE.

After the termination of the one-year term, the HOPE is given the prerogative to renew the BAC members.

It is noted that appointment to the BAC is in the nature of a designation, in addition to the regular duties of the subject official, and is not an appointment contemplated under the Civil Service rules.

g. **TERMINATION, REPLACEMENT AND SUCCESSION**

It is provided in Section 11.2.6 of the revised IRR that upon expiration of the terms of the current members, they shall continue to exercise their functions until new BAC members are designated.

In the transition period following the end of the terms of BAC members, the outgoing BAC members shall continue discharging their functions until the new BAC members shall take over.

Furthermore, in case of resignation, retirement, separation, transfer, re-assignment, removal, or death, the HOPE may designate a replacement which shall possess the same qualifications or ranking as the one replaced. The replacement shall serve only for the unexpired term. However, in case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension.

The HOPE may suspend or remove a member of the BAC for justifiable causes, including, but not limited to, violations of the provisions of the R.A. 9184 or the revised IRR.

h. DISQUALIFICATION FROM BAC MEMBERSHIP

Under Section 11.2.5 of the revised IRR, the following are disqualified from BAC membership:

- i.*** HOPE
- ii.*** Appointing/Approving Authority
- iii.*** Chief Accountants or the Head of the Accounting Department and his/her staff, unless the Accounting Department is the end-user unit, in which case the chief Accountant and the Head of the Accounting Department or his/her staff may be designated as the provisional BAC member – representative from the end-user who has knowledge of procurement laws and procedures.

To avoid conflict of interest and eliminate breeding ground for corrupt practices, government officials who approve procurement transactions and the Chief Accountants or the Head of the Accounting Department shall be disqualified from BAC membership.

5. BAC SECRETARIAT

As the legal basis for the creation of a BAC Secretariat, Section 14 of the revised IRR provides that it is the responsibility of the HOPE to create a BAC Secretariat which will serve as the main support unit of the BAC. Furthermore, it is provided that an existing organic unit in the Procuring Entity may very well be designated as the BAC Secretariat. The said provision went even further by stating that the HOPE may create Procurement Units that may serve concurrently as BAC Secretariat in accordance with the guidelines issued by the DBM. This is aimed to strengthen and promote the professionalization of procurement practitioners knowing how cost-effective and advantageous this would be to the government as prolonged exposure to the procurement process bred material, firsthand experience and procurement insights tantamount to cultivated skill which will naturally and necessarily facilitate in the promotion of procurement professionalization.

The creation of a BAC Secretariat is as much needed in carrying out successfully the mandate of R.A. 9184 on public procurement as the creation of the BAC itself. The administrative support and technical assistance required of the BAC Secretariat in procurement activities of the Procuring Entity is its significant contribution to the procurement process as recognized under R.A. 9184 and the revised IRR.

As was discussed erstwhile in this manual, the DBM recently issued National Budget Circular No. 517 where the subject therein covered the creation of a single procurement unit in a Procuring Entity.

5.1 **CENTRAL OFFICE**

According to Section 14.2 of the revised IRR, the Head of the BAC Secretariat in Central Office shall be at least a fifth (5th) ranking permanent employee or, if not available, a permanent official of the next lower rank.

5.2 **CENTERS FOR HEALTH DEVELOPMENT, BUREAUS, ATTACHED AGENCIES AND DOH HOSPITALS.**

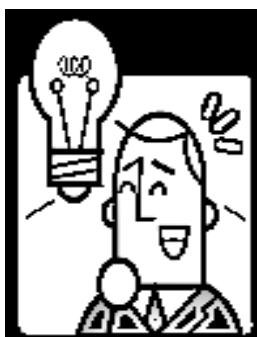
The Head of the Secretariat in the CHDs, Bureaus, Attached Agencies, and DOH Hospitals are expected to be at least a third (3rd) ranking permanent or if not available, a permanent employee of the next lower rank.

6. **TECHNICAL WORKING GROUP**

One of the identified functions of the BAC according to Section 12.1 of the revised IRR is to perform other procurement-related function such as the creation of TWG. The TWG is a pool of technical, financial, and/or legal expert to assist in the procurement process particularly in the eligibility screening, evaluation of bids, and post-qualification. Meaning, the TWG member must possess certain qualifications such as skills, educational background, or extensive training in a particular field to be referred to as experts.

6.1 **TWG QUALIFICATION**

The nature of procurement and expertise needed are primal considerations in the creation of TWG.



It is highly recommended that the TWG members include representative/s from the end-user unit and expert of various disciplines who can handle the different aspect of the procurement at hand, namely, the technical, financial, legal, and in certain cases, the project management aspects.

The presence and diversity of those abovementioned TWG members will ensure the transparency and efficiency of the procurement process such that bid documents reflect with accuracy the requirement of the Procuring Entity. Also the bid proposal will be scrutinized or evaluated rigorously with experienced eye - weighing the merits therein or lack thereof.

In this manner, TWG members will provide important additional manpower in successfully carrying out procurement activities.

To be able to effectively study the requirements and evaluate the bids submitted, the BAC may create several TWGs to handle different procurement, for example:

TWG for Infrastructure Projects, whose membership shall include experts in civil works like civil engineers, an architect, an accountant or finance expert to handle the financial aspect of the procurement, etc.;

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TWG for Information and Communications Technology Projects, whose membership shall include experts like a computer engineer, a systems analyst, a programmer, etc.; or

The BAC may also create a TWG for a specific procurement, particularly if the procurement at hand is highly technical or is a major or priority project of the government.



The Procuring Entity may, in highly meritorious cases, engage the service of independent consultants to provide assistance to the TWG and the BAC in the procurement at hand. Provided, that the acquisition of such service is in accordance with the prescribed procurement process in the revised IRR and the Volume 4 of this Manual. These consultants, however, shall only have an advisory capacity, and may not vote during deliberations.

Furthermore, where there is a need to secure the services of external experts for a highly technical or complex procurement, the Procuring Entity may seek advice from appropriate authority within the Department. For instance, in case of highly complex medical or diagnostic of laboratory equipment or supplies, the hospital have to consult the Bureau of Health Devices and Technology for the specification development, bid evaluation or even their acceptance.

7. **OBSERVER**

The provision on observer is covered by Section 13 of the revised IRR. Provisions under this section enumerate the purpose, extent of participation, qualification, and responsibilities of an observer to the procurement process of the Procuring Entity.

7.1 **PURPOSE**

As explicitly provided in Section 13 of R.A. 9184 and Section 13.1 of the revised IRR, to enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings.

Gleaned from the legislative intent of the foregoing provisions, enhance transparency of the process is the sole and primary purpose of inviting observers.

7.2 **EXTENT OF PARTICIPATION**

These observers shall be invited to sit in the proceedings involving all stages of the procurement process of the Procuring Entity concern. In consideration for sound principle of statutory construction, the operative words '*all stages of the procurement process*' denote that the observers shall be invited to observe in the following procurement stages:

- a. Pre-Procurement Conference;
- b. Pre-bid Conference;
- c. Opening of Bids;
- d. Bid Evaluation;
- e. Post-qualification; and
- f. Contract Award.

7.3 **QUALIFICATION**

According to R.A. 9184 and the revised IRR, the BAC shall invite, as observers, two (2) representatives of the following:

- a. At least one (1) shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand (**Section 13.1.a of the revised IRR**), to wit:

For Infrastructure projects

National Constructors Associations duly recognized by the Construction Industry Authority of the Philippines, such as, but not limited to the following:

1. Philippine Constructors Association, Inc.;
2. National Constructors Association of the Philippines; and
3. Philippine Institute of Civil Engineers.

For Goods

A specific relevant chamber-member of the Philippine Chamber of Commerce and Industry.

For Consulting Services

A project-related professional organization accredited or duly recognized by the Professional Regulation Commission or the Supreme Court, such as, but not limited to:

1. Philippine Institute of Civil Engineer;
2. Philippine Institute of Certified Public Accountants; and
3. Confederation of Filipino Consulting Organizations.

- b.** The other observer shall come from a Non-government Organization (NGO). These observers shall be duly registered under the Securities and Exchanges Commission or the Cooperative Development Authority (**Section 13.1.b of the revised IRR**).

Representative from the Commission on Audit shall likewise be invited to participate as internal observer.

7.4 CRITERIA

According to Section 13.2 of the revised IRR, observers from the private sector (e.g. organization of experts or NGO) shall meet the following criteria:

- a.** Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
- b.** Absence of actual or potential conflict of interest in the contract to be bid; and
- c.** Any other relevant criteria that may be determined by the BAC.

In the previous IRR-A, only organizations duly registered under the SEC are permitted to be observers. However, the belated insertion of the CDA in Section 13.2 of the revised IRR, in addition to the SEC, relatively increases the coverage of the provision on observer to include the participation of duly registered Cooperative.

DOH-NAMFREL AGREEMENT

The DOH signed in September 2004 an agreement with the National Citizens' Movement for Free Elections officially designating, through the Coalition Against Corruption Program, as one of the two (2) Observers in the Central Office Bids and Awards Committee and in the BAC of all CHDs and Hospitals that will monitor the agency's procurement and delivery of pharmaceutical products. This was amended in March 23, 2003 through a revised MOA based on Executive Committee Resolution 31-11 series 2006 continuing and expanding the role of NAMFREL (*Reference A*).

In August 2005, a letter of partnership/involvement with the Transparency and Accountability Network was also signed (*Reference B*). The DOH hospitals and the CHDs may also forge an agreement with other civil society organizations in their areas.

Other civil society organizations with the Procurement Transparency Group are invited from time to time.



ROLES AND RESPONSIBILITIES

1. **LEGAL REFERENCE**

The multitudes of roles and responsibilities required of the HOPE, BAC, BAC Secretariat, TWG and observers are laid down in Section 12, 13, and 14 of the revised IRR as well as various administrative issuances of the DOH and other procurement-related guidelines issued by other government agencies like the DBM and GPPB.

2. **HOPE**

The HOPE, or his/her authorized representative, shall perform the following functions or responsibilities as sanctioned by the R.A. 9184 and the revised IRR:

- a. S/he must establish a single BAC and the BAC Secretariat according to the guidelines discussed earlier. However, s/he may also create separate BAC according to number and complexity of the items to be procured, geographical location of PMO or end-user units of the procuring entity, or nature of procurement (**Section 11.1.2 of the revised IRR**).
- b. S/he must ensure that the BAC and the BAC Secretariat gives utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the said assignments at hand are completed (**Section 14.3 of the revised IRR**).
- c. S/he shall foster adherence to the provisions of R.A. 9184 and the revised IRR such as, but not limited to, the regular preparation, review, and updating of the individual PPMP as well as the consolidation of the APP since no procurement shall be undertaken unless it is in accordance with the approved APP of the procuring entity.
- d. S/he, or his duly authorized representative – like a designated second ranking official, shall approve procurement transactions and procurement documents such as APP.
- e. S/he must ensure that the staff of the Procurement Unit/Office and the members of the BAC, BAC Secretariat and TWG are given ample training on procurement and related matters, with the end in view of professionalizing the procurement organization of the Procuring Entity.
- f. S/he must impose the necessary administrative sanctions on errant members of the BAC /BAC Secretariat /TWG, in accordance with Section 70 of the revised IRR.
- g. S/he must ensure that the members of the BAC and the TWG shall receive their incentives.

3. **BIDS AND AWARD COMMITTEE**

It is the responsibility of the BAC to perform the following functions according to the pertinent provisions of the revised IRR of R.A. 9184, to wit:

- a. Ensure that the procuring entity abides by the standards set forth in RA 91894 and the revised IRR (**Section 12.2 of the revised IRR**);
- b. Recommend to the HOPE the appropriate method of procurement of the goods, services, infrastructure projects included in the APP, *i.e.* whether to use public bidding, or the use any of the Alternative Methods of Procurement as provided for in **Rule XVI – Section 12.1.j of the revised IRR**;
- c. Advertise and/or post the Invitation to Bid/Request for Expressions of Interest (**Section 12.1.a**);
- d. Conduct pre-procurement and pre-bid conference (**Section 12.1.b of the revised IRR**);
- e. Sole authority to receive (**Section 12.1.d of the revised IRR**) and open bids (**Section 29 of the revised IRR**);
- f. Determine the eligibility of prospective bidders in accordance with the guidelines set forth in R.A. 9184 and the revised IRR (**Section 12.2.c of the revised IRR**);
- g. Conduct the evaluation of bids (**Section 12.2.e of the revised IRR**);
- h. Undertake post-qualification proceedings (**Section 12.2.f of the revised IRR**);
- i. Resolve motions for reconsideration (**Section 12.2.g and 55 of the revised IRR**);
- j. Recommend award of contracts to the HOPE or his duly authorized representative (**Section 12.2.h of the revised IRR**);
- k. Recommend the imposition of sanctions in accordance with Rule XXIII (**Section 12.2.i of the revised IRR**);
- l. Prepare a procurement monitoring report that shall be approved and submitted by the HOPE to the GPPB in printed and electronic format within fourteen (14) calendar days after the end of each semester (**Section 12.1 of the revised IRR**);
- m. Issue Supplemental Bid Bulletins either on its own initiative to clarify or modify any provision of the Bidding Document (**Section 22.5.2 of the revised IRR**) or in response to a bidder's written request for clarification or interpretation of any provision of the Bidding (**Section 22.5.1 of the revised IRR**);
- n. For each procurement transaction, accomplish a checklist showing its compliance with

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R.A. 9184, the revised IRR and this Manual. This will be submitted to the HOPE and made a part of the transaction record;

Invite the observers required by law to be present during all stages of the procurement process, in accordance with the guidelines stipulated in R.A. 9184, the revised IRR and this Manual (**Section 13.1 of the revised IRR**);

Furnish the observers, upon signing of the confidentiality agreement, with the following documents:

- i.* Minutes of the proceedings of BAC meetings;
- ii.* Abstract of bids;
- iii.* Post-qualification summary report;
- iv.* APP and related PPMP; and
- v.* Copies of “opened” proposals

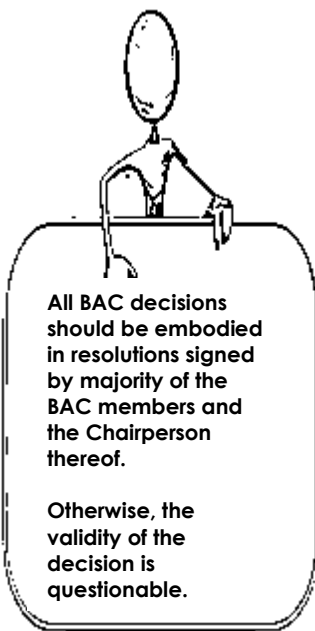
Conduct due diligence review or verification of the qualifications of Observers;

- r.* Give utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the procurement at hand are completed (Jury Duty);
- s.* Perform such other related functions as may be necessary, including the creation of a TWG from a pool of technical, financial, and/or legal experts to assist in the procurement process, particularly in the eligibility screening, evaluation of bids, and post-qualification (**Section 12.2.k of the revised IRR**).

3.1 **ADDITIONAL FUNCTIONS/RESPONSIBILITIES OF COBAC IN THE CENTRAL OFFICE**

Aside from the foregoing responsibilities that a BAC member must perform pursuant to the provision of R.A. 9184 and the revised IRR, COBAC is expected to perform additional responsibilities through the issuance of Department Personnel Order 2009-2462 (**Reference C**) dated 17 June 2009. Furthermore, other functions of a COBAC member under DPO 2006-1427 (**Reference D**) issued last 10 May 2006 still subsist. Identified below are the following additional responsibilities of a COBAC member:

- a.* Supervise the COBAC Secretariat in its procurement monitoring role until the issuance of the Notice to Proceed (DPO 2009-2462).
- b.* Ensure that the process from the opening of bids until the awards of contract shall not exceed three (3) months.
- c.* Ensure that procurement systems and processes in all DOH CHDs and Hospitals shall be in accordance to the provisions of RA 9184 and the revised IRR.



- d. Ensure that procurement systems and processes in all DOH CHDs and hospitals are in accordance of RA 9184 and the revised IRR.
- e. Chairperson of the COBAC is hereby given the authority to oversee the monitoring, assessment and evaluation of the procurement activities in all CHDs and DOH hospitals and recommend impositions of sanctions for those offices/individuals proven to have violated any of the provisions of RA 9184 and the revised IRR.

3.2 BAC QUORUM

Some stages of the procurement process, such as but not limited to pre-procurement conference, bid opening, bid evaluation, post-qualification or ordinary BAC meeting, requires that there be quorum among BAC members. Quorum in ordinary parlance pertains to the number of officers or members of a body that when duly assembled is legally competent to transact business.

According to Section 12.3 of the revised IRR, majority or one-half plus one, of the BAC Composition shall constitute quorum for the transaction of business, provided that the presence of the Chairperson or the Vice- Chairperson is required. It is important that the BAC Chairperson, or in his/her absence the Vice-Chairperson, be present to constitute quorum and validate any actuations that the BAC may perform. Such that even if majority of the BAC members are present but both the BAC Chairperson and Vice Chairperson are absent to preside the activity then quorum is not achieved. In cases where both the principal Chairperson and Vice- Chairperson are not available, their respective alternate members may attend.

3.3 BAC MEETING

Under Section 12.4 of the revised IRR, the Chairperson or in his/her absence, the Vice Chairperson shall preside over the meetings. The decision of at least a majority of those present at a meeting at which there is quorum shall be valid and binding as an act of the BAC: Provided, however, that the Chairperson or, in his/her absence, the Vice Chairperson, shall vote only in case of a tie.

In the absence of both the principal Chairperson and Vice Chairperson, the alternate Chairperson shall preside over any BAC meeting. If not available, it would be the alternate Vice-Chairperson. Any decision arrived in the meeting presided by the alternate Chairperson or Vice Chairperson shall likewise be valid and binding provided that a majority vote of those present and a quorum is achieved.

4. PROCUREMENT UNIT

The roles and responsibilities that each component of the Procurement Unit undertakes is the subject matter covered not only by certain provision of the revised IRR but also of governmental administrative issuances.

These governmental issuances include the NBC No. 517 issued by DBM and other DOH Department Personnel Orders which identify and provide additional roles and responsibilities of the BAC, Procurement Unit/BAC Secretariat and TWG members, as well as, the observers.

Each component of the Procurement Unit, whether composed of neophyte or experienced procurement practitioners, as BAC, BAC Secretariat or TWG member, shall perform their responsibilities with due diligence to effectuate with efficiency and effectiveness the procurement process laid down in R.A. 9184 and the revised IRR.

4.1 DUTIES/FUNCTIONS/RESPONSIBILITIES OF PROCUREMENT UNIT

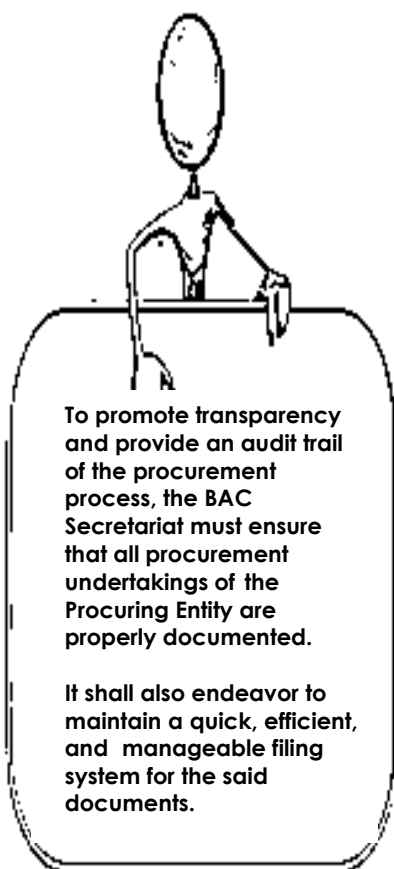
From the foregoing, the cumulative responsibilities of the Procurement Unit are as follows:

- a. Coordinates and monitors all procurement activities (NBC No.517);
- b. Creates and maintains a price monitoring list and a registry of suppliers, contractors, and consultants (NBC No.517);
- c. Administers the PhilGEPS, as the counterpart of the service provider, if the Procuring Entity has outsourced the PhilGEPS for non-common use items. Depending on the Service Level Agreement covering the contract, such administration may be limited to registration of suppliers and other users, assigning access levels, and updating of data;
- d. Transacts with PS-DBM in behalf of the Procuring Entity;
- e. Undertakes the posting requirements as prescribed in the PhilGEPS website;
- f. Manages and undertakes procurement using the alternative methods of procurement through a resolution, when not included in the approved APP or if changed from public bidding when the latter is not feasible, of the BAC subject to the approval of the HOPE;
- g. Acts as the BAC Secretariat which shall perform the following functions such as the consolidation of the Project Procurement Management Plan and preparation of the Annual Procurement Plan. Also, as BAC Secretariat it shall provide technical support and recommend appropriate procurement method to the BAC (NBC No.517).

4.1.1 **PROCUREMENT UNIT AS THE BAC SECRETARIAT**

As the main support unit of the BAC, the BAC Secretariat shall perform the following functions and responsibility in accordance with Section 14 of the revised IRR:

- a. Provide administrative support to the BAC;
- b. Organize and make all necessary arrangements for BAC meetings and conferences;
- c. Prepare minutes of meetings and resolutions of the BAC;
- d. Take custody of procurement documents and other records;
- e. Manage the sale and distribution of Bidding Documents to interested bidders;
- f. Advertise and/or post bidding opportunities, including Bidding Documents, and notices of awards;
- g. Assist in managing the procurement processes;
- h. Monitor procurement activities and milestones for proper reporting to relevant agencies when required;
- i. Consolidate PPMPs from various units of the procuring entity to make them available for review as indicated in Section 7 of the revised IRR; and
- j. Act as the central channel of communications for the BAC with end users, PMOs, other units of the line agency, other government agencies, providers of goods, infrastructure projects, and consulting services, observers, and the general public.



5. **TECHNICAL WORKING GROUP**

The TWG shall provide assistance to the BAC in terms of the technical, financial, legal and other aspects of the procurement at hand. It shall have the following responsibilities:

- a. Assist the BAC in the preparation of the bidding documents, ensuring that the same properly reflects the requirements of the Procuring Entity and that these conform to the standards set forth by R.A. 9184, the revised IRR and the PBDs prescribed by the GPPB.
- b. Assist the BAC in the conduct of eligibility screening of prospective bidders, and in the short listing of prospective bidders in case of biddings for consulting services.

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- c. Assist the BAC in the evaluation of bids and prepare the accompanying reports for the BAC's consideration and approval.
- d. Assist the BAC in the conduct of post-qualification activities and prepare the post-qualification summary report for the BAC's approval.
- e. Assist the BAC and BAC Secretariat in preparing the resolution recommending award, with regard to the technical aspect, if necessary.
- f. Provide utmost priority to BAC assignments over all other duties and responsibilities, until the requirements for the procurement at hand are completed (Jury Duty).

6. OBSERVERS

The attendance of observers ensures the transparency of the procurement process. They represent the public, the taxpayers who are interested in seeing to it that procurement laws are observed and irregularities are averted. According to Section 13.4 of the revised IRR, the observers shall have the following responsibilities:

- a. Immediately inhibit and notify in writing the Procuring Entity concern of any actual or potential interest in the contract to bid.
- b. Preparation of the Procurement Observation Report either jointly or separately, indicating their observations made on the bidding activity conducted by the BAC.

In the said report, they shall indicate:

- i. Assessment of the extent of the BAC's compliance with the substantive and procedural requirements of R.A. 9184, the revised IRR and this Manual;
 - ii. Areas of improvement in the BAC's proceedings.
- c. Submission of the Procurement Observation Report to the Procuring Entity and furnish a copy to the GPPB and Office of the Ombudsman or Resident Ombudsman. If the observer does not submit any report, then it is understood that the bidding activity conducted by the BAC followed the correct procedure.



In the previous IRR-A, it is provided that Observers will sign the Abstract of Bids or the Post-qualification Report if in their independent observation the bidding process was complied in accordance with RA 9184 and the revised IRR. However, the revised IRR of RA 9184 made no mention of such provision. The deliberate elimination of the questioned provision may lead to the conclusion that Observers are no longer obligated to sign the Abstract of Bids or Post-qualification Report.

However, it would seem a sound and logical practice to allow Observers to sign the Abstract of Bids and Post-qualification Report so as to promote transparency in the procurement process. But the absence of such signature should not affect the outcome.

ACCESS TO PROCUREMENT DOCUMENTS

Under the revised IRR, the observer upon request is permitted access to following procurement documents subject to the signing of a Confidentiality Agreement:

- a. Minutes of BAC meetings;
- b. Abstract of Bids;
- c. Post-qualification summary report;
- d. APP and related PPMP; and
- e. Opened proposals.

This is not a new provision. The previous IRR-A also speak of the same liberties afforded the observers in the understanding that they shall use the information gathered in these procurement documents for the preparation of the Procurement Observation Report. However, this provision is slightly modified in the revised IRR.

Now, the observers are furnished a copy of the aforementioned documents only upon agreeing and signing a Confidentiality Agreement. Plausible rationale is to protect the interest of the Procuring Entity and bidders such that sensitive information pertaining to an on-going procurement will not be divulged indiscriminately which will ultimately affect the outcome of the bidding.

It is apparent that the preparation and submission of the Procurement Observation Report pertains to situations where irregularities in the procurement process observed is prevalent.

If the BAC fully complied with the R.A. 9184, the revised IRR, and this Manual, a Procurement Observation Report is no longer necessary. The absence thereof will be understood as such.

7. CLEARING HOUSES

In the Central Office, initiatives are pursued to increase the level of efficiency and better facilitate the procurement process such as the creation of Clearing Houses. Goods, works and services requiring technical expertise are cleared by concerned technical offices pursuant to a department issuance. Given the complex nature of most health goods, works, services and health services specialization, clearing of specifications and scope of works is done by technical offices/personnel to ensure comprehension of technical details, to limit duplication and ensure complementation of efforts especially for contractual services, ensure conformity to DOH plans, standards and maintenance and technical support requirements among others. This is practiced at the Central Office and should be followed by the CHDs and DOH Hospitals. It will be most beneficial to the procurement activities of CHDs and DOH Hospitals.

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DPO 2006-1427 (**Reference D**) provides for the responsibilities of the Clearing Houses established:

- a. Review, approve, and issue certificate of clearance for supplies and equipment specifications or repair and maintenance specifications or construction specifications as well as TOR for consulting services;
- b. Perform required industry testing based on industry standards before acceptance of goods by Service/Program end-users;
- c. Ensure that purchase of goods and services are within the technical standards and plan of the DOH; and
- d. Where expertise is needed, assist in the (a) preparation of Special Provisions and Conditions for the bidding to be included in the bidding documents, and (b) inspection and acceptance of the goods and services.

8. **APPROVING AUTHORITIES**

Procurement transactions require approval from appropriate authorities recognized under R.A. 9184 and the revised IRR. Until countered by any recent issuance regarding the matter, Administrative Order 2006-0034 remains the source that pinpoints accountabilities, clarifies the roles and responsibilities, and delineates the power to recommend and approve transactions between officials and key personnel in various DOH transactions including procurement.

However, recently DOH issued Administrative Order 2006-0034-A (**Reference E**) last 17 December 2009, "Delegation of Authorities for Certain Transactions in the Offices under the Department of Health," which amended Administrative Order 2006-0034 on the delegation of authorities for procurement in the Central Office.

GRANT OF HONORARIA AND OVERTIME PAY

1. **LEGAL REFERENCE**

The legal reference for the granting of honoraria to BAC, BAC Secretariat, and TWG Members is Section 15 of the revised IRR.

2. **GUIDELINES**

By virtue of Section 15 of the revised IRR, the Procuring Entity is authorized to grant honoraria to BAC, BAC Secretariat, and TWG members subject to the following conditions:

- i.* The amount so granted does not exceed twenty-five percent (25%) of their respective basic monthly salary;
- ii.* Funds are available for the purpose; and
- iii.* The grant of honoraria conforms to the guidelines promulgated by the DBM.

Under the revised IRR, honorarium is now expressly granted to the BAC Secretariat subject to relevant DBM rules and regulations. This was different from the previous IRR-A because no express grant was contained thereof.

2.1 **RULES AND PROCEDURE**

DBM guidelines on the grant of honoraria for government procurement practitioners are embodied in Budget Circular No. 2004-5 issued on March 23, 2004 and in two (2) subsequent amendments elucidated in BC No. 2004-5A and BC No. 2007-3, issued last October 7, 2005 and November 29, 2007, respectively. BC No. 2004-5 issued by the DBM provides the guidelines on the grant of honoraria to government personnel involved in government procurement; while, BC No, 2004-5A and 2007-3 provide for amendments and clarifications of issues unresolved in the previous circular.

2.1.1 **BUDGET CIRCULAR NO. 2004-5**

This Budget Circular defined honoraria as a form of compensation granted to individuals owing to the performance of task(s) and/or involvement activity(ies) beyond their regular functions. The grant is based on equity and propriety. As explained in Section 3 of the Budget Circular No.2004-5, equity calls for equal compensation of substantially similar duties – with substantially similar degrees of responsibility and accountability – and propriety dictates that only persons who have successfully completed their task(s) and/or participated in accomplished activity(ies) ought to be compensated.

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Working on this premise, the guidelines on the grant of honoraria to government procurement practitioners as set forth in Section 4 are as follows:

The Chairperson and members of the BAC and TWG may be paid honoraria only for successfully completed procurement projects. The honoraria shall not exceed the rates indicated below per procurement projects:

Table 3. MAXIMUM HONORARIUM RATE FOR PROCUREMENT

PROCUREMENT DESIGNATION	HONORARIUM RATE PER PROCUREMENT PROJECT
BAC Chair	P 3, 000.00
BAC Member	P 2, 500.00
TWG Chair and Member	P 2, 000.00

The average amount of honoraria per month over one year shall not exceed twenty-five percent (25%) of the basic monthly salary.

To be entitled to honoraria, personnel should be duly designated as members of the BAC or the TWG by the Head of the Department/Agency concerned.

The members of the BAC Secretariat who perform the attendant functions on an ad hoc basis – those who are performing non-procurement duties or functions according to their plantilla position - may likewise be paid honoraria at the same rate as the TWG Chairperson/Members, subject to the same regulations.

The members of the BAC Secretariat whose positions are in the Procurement Unit of the agency shall not be entitled to honoraria. The payment of overtime services may be allowed however, subject to the latest guidelines issued by the Department of Budget and Management and Office of the President.

Heads of government entities are prohibited from paying honoraria to personnel involved in procurement activities outside of those covered herein.

By reason of jurisprudence, a Department Undersecretary or Assistant Secretary who concurrently serves in the BAC, in whatever capacity, shall not be entitled to honoraria.

In lieu of honoraria, the payment of overtime services may be allowed for the administrative staff such as clerks, messengers and drivers supporting the BAC,

the TWG and the Secretariat for procurement activities rendered in excess of official working hours.

The payment of overtime services of these personnel shall be in accordance with the guidelines under Budget Circular No. 10.

Those who are receiving honoraria for their participation in procurement activities shall no longer be paid overtime pay for procurement activities rendered in excess of official working hours.

Furthermore, Section 5 of the Budget Circular 2004-5 enumerated the allowable funding source for the grant of honoraria such that Agencies may retain fifty percent (50%) of their collections from: (a) Sale of bid documents; (b) Fees from contractor/supplier registry; (c) Fees charged for copies of minutes of bid openings, BAC resolutions and other BAC documents; (d) Protest fees; (e) Liquidated damages; and (f) Proceeds from bid/performance security forfeiture. It is provided that the amount is exclusively retained for the payment of the honoraria or overtime pays to those procurement practitioners entitled.

2.1.2 BUDGET CIRCULAR NO. 2004-5A

Budget Circular No. 2004-5A superseded BC 2004-5 and remains to be the recognized rule on the grant of honoraria for government procurement practitioner. It is essentially a reproduction of BC 2004-5 but certain provisions were clarified and amended particularly on the topic of entitlement to honoraria when alternative modes of procurement are used, the definition of a “successful procurement project”, and the funding source for payment of honoraria.

The following amendments were reflected in Section 5 and 6 of BC No. 2004-5A:

- a.** The chairperson and members of the BAC and the TWG may be paid honoraria only for successfully completed procurement projects. In accordance with Section 7 of the revised IRR, a procurement project refers to the entire project identified, described, detailed, scheduled and budgeted for in the PPMP prepared by the agency. Furthermore, a procurement project shall be considered successfully completed once the contract has been awarded to the winning bidder (Section 5.1, BC No.2004-5A)
- b.** The payment of honoraria shall be limited to successfully completed procurement projects of the following: Competitive Bidding, Limited Source Bidding, Negotiated Procurement 53.1 (Two-Failed Bidding) and 53.2 (Emergency Case).

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Conversely, honoraria will not be paid when procurement is thru:

- i.* Direct contracting;
 - ii.* Repeat order;
 - iii.* Shopping;
 - iv.* Negotiated procurement under Section 53.3 to 53.13 of the revised IRR.
- c.** The amount necessary for the payment of the honoraria and overtime pay authorized herein shall be sourced only from the following:
- i.* Proceeds from sale of bid documents;
 - ii.* Fees from contractor/supplier registry;
 - iii.* Fees charged for copies of minutes of bid openings, BAC resolutions and other BAC documents;
 - iv.* Protest Fees;
 - v.* Liquidated Damages; and
 - vi.* Proceeds from bid/performance security forfeiture.

Pursuant to the DOF-DBM-COA Permanent Committee Resolution No. 2005-2 dated June 2005, all agencies are authorized to treat the collections from the sources identified above as trust receipts to be used exclusively for the payment of honoraria and overtime pay duly authorized. Agencies may utilize up to one hundred percent (100%) of the said collections for the payment of honoraria and overtime pay subject to the guidelines in the Budget Circular. Any excess in the amount collected shall be remitted to the Bureau of the Treasury.

Also see Appendix 12 of the revised IRR on the Guidelines for Legal Assistance and Indemnification of BAC Members and its Support Staff, which provide the general conditions, procedures and funding source for free legal assistance, liability insurance and medical assistance.

2.1.3 BUDGET CIRCULAR NO. 2007-3

Budget Circular No. 2007-3 clarified and expounded certain provision of BC No. 2004-5A particularly on the source of fund for the payment of honoraria to government procurement practitioner. As now provided in BC No. 2007-3, additional funding sources were identified to satisfy the monetary benefit afforded the members of the BAC, BAC Secretariat, and TWG.

Section 3 of BC No. 2007-3 contained the amendments that now form part of the guidelines, which were discussed in the previous sections, on the grant of honoraria to government procurement practitioner. These amendments include the following:

Collections from successfully completed projects limited, however, to activities prior to the awarding of contract to winning bidders:

- a. Proceed from the sale of bid documents;
- b. Fees from the contract/supplier registry;
- c. Fees charged for copies of minutes of bid opening, BAC Resolution, and other BAC document;
- d. Protest fees; and
- e. Proceeds from bid security forfeiture.

Savings realized from the current year specific budget of the agency under the General Appropriations Act (***Budget Circular No. 2007-3 Section 3.1.2 of the revised IRR***).

Savings referred to portion or balance of the agencies' budget free from any obligations and encumbrances which are:

1. Still available after the completion or final discontinuance of the work or abandonment of the work, activity or purpose for which the appropriation is authorized (***Budget Circular No. 2007-3 Section 3.2.1 of the revised IRR***);
2. Arising from the unpaid compensation and related cost pertaining to vacant positions and leaves of absence without pay (***Budget Circular No. 2007-3 Section 3.2.2 of the revised IRR***); and
3. Realized from the implementation of collected negotiation agreements which resulted in improved systems and efficiencies and thus enabled an agency to meet the required and planned target, programs, and services at lesser cost (***Budget Circular No. 2007-3 Section 3.2.3 of the revised IRR***).

In the use of the savings, the priority shall be given of the augmentation of the amounts set aside for mandatory expenditure items provide under the General Provisions of the General Appropriations Act. It is understood that the use of agency savings for the payment of honoraria and overtime pay for procurement activities shall be made only after satisfying said

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mandatory expenditure items.

The manner of payment of honoraria and overtime pay to entitled government personnel to be charged against collections from successfully completed procurement projects (activities prior to awarding of contract to winning bidders) enumerated in BC No. 2007-3 shall be in accordance with the guidelines set forth in item 6.2 of BC No. 2004-5A, except for use of savings in national government agencies which shall follow the General Provisions of the GAA on the disbursement of funds, i.e., through the National Treasury and/or authorized serving banks under the Modified Disbursement Scheme.

In case of deficiency in collection from procurement activities and non-availability of agency's savings, the amount of honoraria and overtime pay shall be adjusted proportionately from all those entitled thereto.



The guidelines set forth in BC No. 2004-5 which was reiterated, although slightly modified, by the issuance of BC No. 2004-5A and was lately amended through the BC 2007-3 remained the rule on the grant of honoraria to government procurement practitioners.

Steadfast efforts must be maintained to keep abreast with recent and/or amendatory issuances from DBM regarding the grant of the honoraria to government procurement practitioners in conformity with the revised IRR of R.A. 9184.

PROFESSIONALIZATION OF PROCUREMENT PRACTITIONERS

1. **LEGAL REFERENCE**

Section 16 of the revised IRR provides the legal basis for the professionalization of BAC, BAC Secretariat, and TWG members.

2. **RULES AND PROCEDURES**

The GPPB-TSO has established, in coordination with qualified organizations and training institutions, a sustainable training program to develop the capability of the BACs, BAC Secretariats, TWGs and the Procurement Units/Offices of the Procuring Entities, and professionalize the same. This professionalization program will address the continuing education needs of a procurement practitioner. Ultimately, its primary aim is to enhance the capacity and career path of procurement officers in government, including the development of *plantilla* positions for procurement officers.

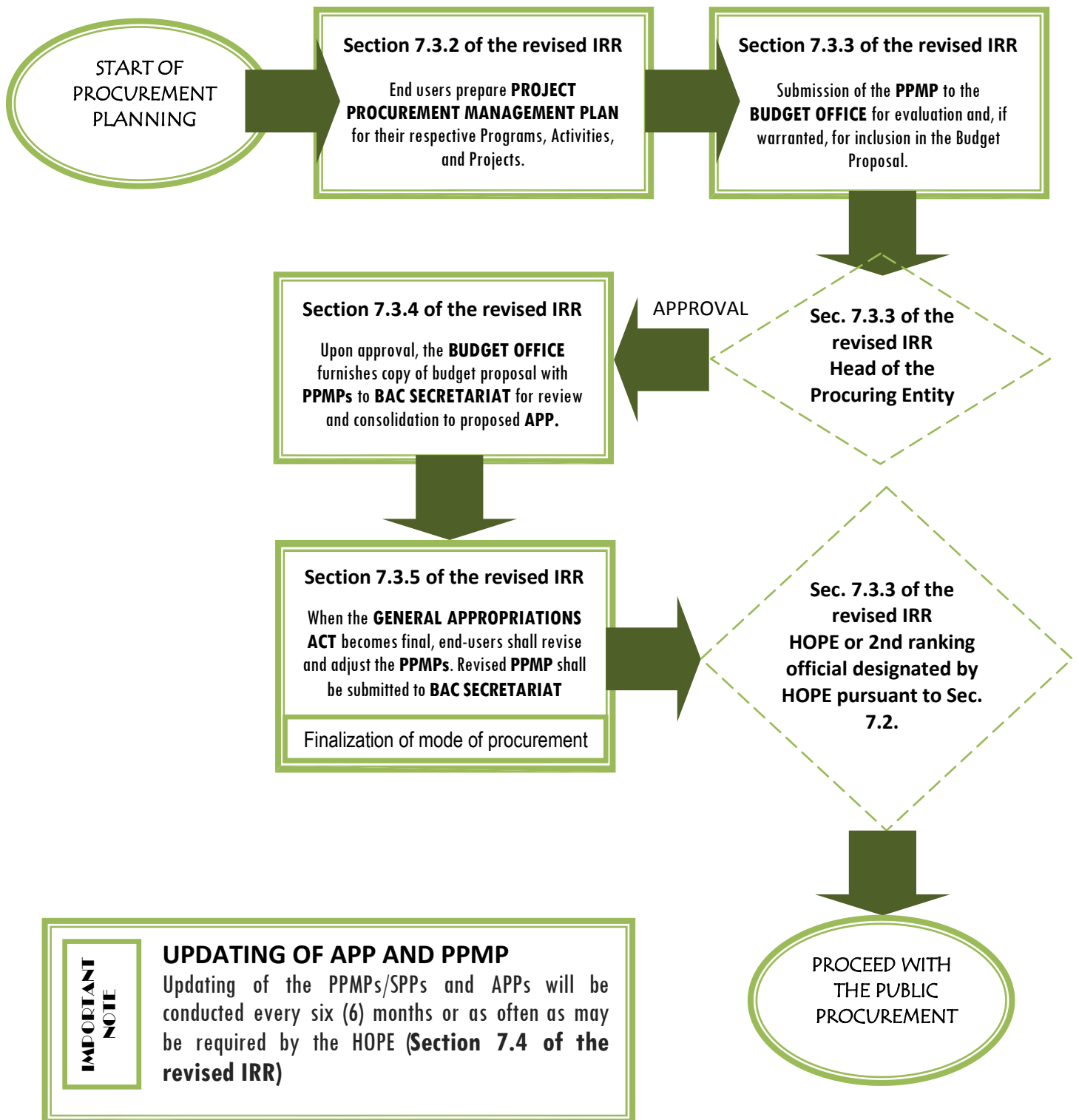
It is the responsibility of the HOPE to ensure that all officials and employees involved in the procurement process will avail of the procurement training conducted by the GPPB and other GPPB accredited bodies offering the different modules on procurement-related training. For this reason, it is advised that the DOH Procuring Entities must regularly visit the official website of the GPPB – www.gppb.gov.ph – for training updates and other procurement related concern. The procuring entities must also develop and implement their own in-house training programs in accordance with the guidelines and standards prescribed by the GPPB-TSO. For this purpose, they ought to include provisions for such training in their annual budget proposals submitted to the DBM and Congress.

Moreover, the HOPE must regularly monitor the work quality of the procurement organization, through a review of the procurement monitoring reports regularly submitted by the BAC as mentioned previously in this Manual. Management meetings may likewise be conducted for this purpose. In line with the standardization of the procurement procedures and the thrust towards strengthening the procurement function to increase operational efficiency and effectiveness, the HOPE must aim to consolidate or unify all procurement activities of the organization, whether locally funded or foreign assisted, and whether pertaining to goods, infrastructure projects or consulting services, subject to the provision of Sec 11.1 of the revised IRR, which allows for the creation of several BACs.

SECTION 3

**PROCUREMENT
PLANNING**

FIGURE 3. PROCUREMENT PLANNING FLOW CHART



PROCUREMENT PLANNING AND BUDGET LINKAGES

1. **LEGAL REFERENCE**

In the procurement framework of the DOH, Section 7 of the revised IRR shall be the legal foundation of procurement planning and linkages.

2. **PURPOSE**

The enactment of R.A. 9184 revolutionized the procurement system of the Philippine Government in the hopes of eradicating graft and corrupt practices and creating a transparent, accountable, responsive, efficient and effective procurement processes in the acquisition of Goods and Services, Infrastructure, and Consulting Services regardless of the source of funds, whether it be domestic or foreign-assisted. However, the proper execution of the governing statute depends largely on the meticulous planning of the Annual Procurement Plan.

It is the mandate of the law that each DOH Procuring Entity must judiciously plan its procurement for the whole year. An adequately planned procurement results to better allocation of resources which ultimately lowers the procurement costs creating substantial savings for DOH. Thereby, quality health goods and services are accessible at service delivery points whenever needed. Also, effective procurement planning plays a vital role in the institutionalization and effective implementation of various progressive and ground-breaking health sector reforms. Critical reform initiative in the health sector aimed at the delivery of better health outcomes, responsive health system and equitable healthcare financing, is brought about by well-planned procurement activities which creates a milieu wherein resources matches the expected health outcomes through better scheduling of procurement activities, better cash allocation, and expenditure management.

To date, various projects of DOH are engaged in the utilization of foreign funds which has a separate set of procurement rules and regulations. With the advent of the Revised IRR, a standardized and more simplified procurement system is created involving the harmonization of rules and regulation for both locally-funded and foreign-assisted projects. Now, procurement planning becomes an invariable tool in achieving the desired objective of the revised IRR.

3. **RULES**

Planning, as defined in Merriam-Webster's Collegiate Dictionary (2001), is the "act or process of making or carrying out plans; the establishment of goals, policies, and procedures for a social or economic unit." Plans conceptualized could be in varying period of implementation such as short-term, medium-term or long-term. Its scope could be small-scale or large-scale. But in all cases, a plan involves resource allocation and scheduling. Plans ensure that the overall goal of

the particular project will be achieved effectively and efficiently. The same is true for procurement planning which is a critical component of the Procuring Entity's Budget.

The Procuring Entity's Budget Proposal embodies the agency's thrust and the resources needed to produce the key services being delivered to the public. Procurement planning should be within the Procuring Entity's Budget Proposal reflecting its priorities and objectives for the budget period. Procurement planning therefore entails two levels: (1) the preparation of the over-all strategic plan and (2) the preparation of the organizational plan containing the detailed manner in which to carry out the strategic plan. In the context of budget preparation, the WFP reflects the Agency's operational plan for each Programs, Activities and Projects.

4. PROCUREMENT PLANNING PROCEDURE

Annually, upon the issuance of the Budget Call from the DBM, the Procuring Entity prepares the Agency Budget Proposal for the succeeding calendar year which must always be aligned with the budgetary framework of that year. At this stage, the PMO, end-user units and different operating units of the Procuring Entity prepare their respective Work Financial Plans for their different Programs, Activities, and Projects using the authorized forms provided by the DBM annexed to the Budget Call.

The WFP contains the detailed list of projects and their corresponding budgetary allocation. To coincide with the submission of their respective budget proposal, each PM or end-user unit must submit their respective WFP to the Procuring Entity's Budget Office on or before May of each year. These WFPs will be evaluated and, if warranted, included in the Procuring Entity's Budget Proposal. The WFPs will support the Budget Proposal submitted to DBM. WFP of each end-user unit of the Procuring Entity becomes the basis for the proposed PPMP.

The end-user units of the Procuring Entity shall prepare their respective PPMP for their proposed PAPs in the required form prescribed in the revised IRR. Then, the PPMPs shall be submitted to the Procuring Entity's Budget Office for evaluation and if warranted, inclusion in the Budget Proposal for approval by the HOPE (**Section 7.3.3 of the revised IRR**). After the approval by the HOPE and/or other oversight bodies of the budget proposal, the Budget Office shall furnish a copy of the Procuring Entity's Budget Proposal as well as the corresponding PPMPs to the BAC Secretariat for review and consolidation with the proposed Annual Procurement Plan which shall be consistent with the Budget Proposal submitted (**Section 7.3.4 of the revised IRR**).

As soon as the GAA becomes final, which is usually around November to December, the end-user units shall revise and adjust the PPMP to reflect the budgetary allocation of their respective PAPs (**Section 7.3.4 of the revised IRR**), in conformity with the guidelines set forth in the revised IRR. The revised PPMP shall be submitted to the BAC, through its Secretariat, for the

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finalization of the modes of procurement under the proposed APP (**Section 7.3.5 of the revised IRR**); the APP shall be approved by the Head of the Procuring Entity or the second-ranking official designated by the Head of the Procuring Entity to act on his behalf (**Section 7.2 of the revised IRR**).

PROJECT PROCUREMENT MANAGEMENT PLAN

1. **LEGAL REFERENCE**

Section 7 of revised IRR is the legal basis for the preparation of the PPMP.

2. **PPMP DEFINED**

The PPMP is a document prepared by the end-user units/PMOs which reflects the different PAPs as well as the mode of procurement to be undertaken for the succeeding calendar year, in consideration of the budgetary framework proposed in the Budget Proposal of DOH. It is the basis from which the Annual Procurement Plan is derived from. According to the statutory provision, specifically **Section 7.3.2 of the revised IRR**, a PPMP shall contain the following information:

- a. Whether PAPs will be contracted out, implemented by the administration in accordance with the guidelines issued by the GPPB, or consigned;
- b. The type and objective of the contract to be employed;
- c. The extent or size of contract scope and packages;
- d. The procurement method to be adopted, indicating if the procurement is to be outsourced, when the proficiency or capability to undertake a particular procurement is wanting as determined by the HOPE concerned, through another Agency of GOP or through the recruitment of competent consultants, at the option of the end-user (**Section 53.6 of the revised IRR**).
- e. The time schedule for each procurement activity and for the contract implementation; and
- f. The estimated budget for the general components of the contract.

For purposes of the revised IRR, Consignment, as a novel provision, refers to the agreement wherein a natural person or juridical entity, referred to as consignor, enters into an agreement with the Procuring Entity (consignee) to consign goods for a particular period of time without disbursement of government funds such that the only responsibility of the consignee is to sell the goods and remit whatever proceeds of sale therefrom to the consignor.

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Under consignment, the concurrence of the following requisites must be present:

- a.** Delivery of goods by the consignor, without sale, to the consignee;
- b.** Consignee must try to sell the goods and remit the price of sold goods to the consignor;
- c.** Consignee accepts the goods without any liability expect as to reasonably protect them from damages;
- d.** There is no disbursement of government funds; and lastly,
- e.** Terms and conditions of the agreement are not prejudicial and disadvantageous to the interest of GOP.

3. **PURPOSE**

Primarily, the PPMP deals with the following:

- a.** Procurement planning for various project requirements,
- b.** Bidding and procurement strategy,
- c.** Source selection,
- d.** Delivery and payment schedule,
- e.** Contract administration,
- f.** Contract termination, and
- g.** Other milestones.

The PPMP is an invariable tool in procurement planning guide document during procurement and contract implementation and contract implementation, and a vital reference in procurement monitoring.

The PPMP as a major component of procurement planning, the Procuring Entity is directed to take a particular course of action and employ a definite mode of procurement thereby ensuring strict adherence to the provisions of the governing statute and significantly reducing, if not eradicating altogether, the breeding ground of graft and corrupt practices committed by procurement personnel. Also, a well-planned PPMP minimize the practice of doing short-cuts ensuring therefore the acquisition and delivery of cost-effective yet quality health goods and services. Moreover, the Procuring Entity is allowed with the flexibility to optimize the utilization of scarce resources since the PPMP, as a resource and financial management tool, makes certain allowances in the procurement of project requirements to cater to the specification needed while staying within the financial boundary prescribed in the Budget Proposal.

4. RULES AND PROCEDURES IN PPMP PREPARATION

4.1 DEVELOPING THE PROJECT REQUIREMENTS

The development of Project Requirement should coincide with the preparation of the proposed PPMP. At this stage, the PMOs and End-user units may perform the following:

- a.** Identify the needs
 - i.* What are the prevailing needs or problems needed to be addressed?
 - ii.* Will procurement satisfy these needs?
 - iii.* What is the purpose of procurement?

- b.** Identify the method of procurement
 - i.* What mode of procurement will be advantageous in satisfying the needs identified?
 - ii.* What procurement strategy will be adopted?
 - iii.* Will contracting out be necessary or is the employment of the procurement procedure prescribed by the R.A. 9184 and the revised IRR enough to meet the needs identified? Or will consignment be the best solution to the problem presented?

- c.** Identify the alternative solution
 - i.* What alternative solutions in satisfying the needs are available in the market?
 - ii.* Are these alternative solutions attainable?
 - iii.* How much is the cost of each alternative?
 - iv.* What is the profile of the supply market?
 - v.* What are the sources of these products and services?
 - vi.* Are the products and services readily available?

d. Compare the Alternative Solutions

There is a need to weigh the advantages vis-à-vis the disadvantages of using a particular alternative solution through qualitative and quantitative factors.

Listed below are several determinants which could accurately assess the effectivity of an alternative solution. It is highly recommended that the PMO or End-user units rate the alternative solution identified accordingly in the following manner:

i. Best Value for Money

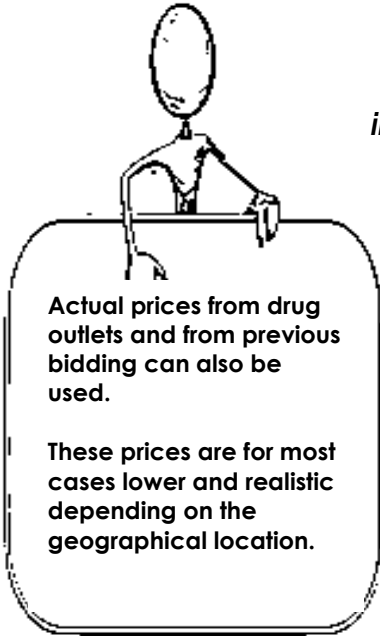
Best Value for Money is a concept which takes into consideration, not only the monetary cost or price of a particular commodity or goods and services, infrastructure cost or consultancy fee, but includes the non-cost factors such as the quality or suitability of the solution to the purpose cited for procurement. In comparing the cost, all relevant cost should be considered. For instance, the acquisition cost, the life-cycle costs (including the maintenance and operating costs of the goods and infrastructure, etc.

ii. Risk Assessment and Management

As an inevitable component of any undertaking, risk comes in many different forms such as the rapid technological advancement resulting to the obsolescence of some medical equipment, the rise of intra-corporate disputes affecting the services rendered by a supplier, the sudden incapacity of an awarded bidder to perform its obligation under the contract, and many other similar predicaments. As foresight dictates, in order to attain relief from future inconvenience, as part of a proactive approach in procurement planning, the PMOs or the end-user units must identify the possible attending risks involved in the alternative solutions being considered. The PMOs or the end-user units can come up with its own Risk Management Plan or require bidders to submit a Risk Assessment or Risk Management Plan as part of their technical document.

The PMOs or end-user units may evaluate the usefulness of these alternative solutions despite the risk involved by answering the following questions:

- Will the benefit derived from the use of the alternative solution outweigh the risk involved?



- Will the creation of a Risk Management Plan fundamentally reduce or minimize the risk exposure?

iii. Government Policies Affecting Procurement

When evaluating a particular alternative solution, the PMOs or end-user units must look into the prevailing statutes that might have a significant impact in the procurement contemplated for the successful implementations of the Procuring Entity's PAPs.

The following questions might help in addressing this issue:

- Are there legal restrictions on the procurement contemplated?
- What relevant statute aside from RA 9184 and the revised IRR should be considered in procurement?

iv. Other Relevant Factors Identified

- v.* The PMOs or End-user units must choose from among the alternative solution one that is most beneficial to the Procuring Entity and make the necessary recommendation to the Approving Authority.

4.2 APPROVED BUDGET FOR THE CONTRACT

a. ABC DEFINED

Pursuant to R.A. 9184, the revised IRR defined the term ABC as the budget for the contract duly approved by the HOPE as provided in the General Appropriations Act, continuing and automatic appropriation. It also pertains to the estimated contract cost for Foreign-funded procurement.

The terms 'ABC', 'Approved Budget for the Contract' and 'Approved Budget' shall have the same meaning and shall be used interchangeably (**Section 5.b of the revised IRR**). For Foreign-funded procurement, the same section provides that the estimated contract cost refers to the cost estimate prepared by the procuring entity and approved by the Foreign Government or Foreign/International Financing Institution as specified in the Treaty, International or Executive Agreement.

b. ABC DETERMINED

The end-user units or the PMOs shall take into consideration the following factors:

- i.* Budgetary constraints embodied in the Budget Proposal as well as the APP;

- ii.* Appropriation for the project or procurement reflected in the APP;
- iii.* Market price of the goods to be procured or the value of the services to be rendered;
- iv.* Inflation or the cost of money which is related to the process of procurement; or
- v.* Mode of procurement sought to be enforced.

A specific and detailed discussion in the determination of the ABC for each type of procurement will be discussed in Volume 2 (Manual of Procurement of Goods and Services), Volume 3 (Manual of Procurement for Infrastructure Projects), and Volume 4 (Manual of Procurement for Consultancy Services), respectively.

For updated market price valuation, various sources for price monitoring data are available. The COBAC, National Center for Pharmaceutical Access and Management and Food and Drug Administration are good sources of price monitoring data for drugs and medicines. Also, pursuant to Administrative Order 2006-009, in consideration of RA 6675 (Generics Act of 1988), R.A. 7581 (Price Act) and R.A. 8792 (Electronic Commerce Act), the Essential Drug Monitoring System is a web-based system which also provides valuable data on prices of regularly used drugs and medicines.

4.3 WRITING THE TECHNICAL SPECIFICATION, SCOPE OF WORK AND TERMS OF REFERENCE

The Technical Specification (for the Procurement of Goods), Scope of Work (for the Services and Infrastructure Projects) or Terms of Reference (for Consulting Services) is the document prepared by the Procuring Entity that provides the detailed description of the goods or services deliverable by the Supplier, Contractor or Consultant. For instance, in the procurement of goods, the term technical specification refers to the physical description of the goods and services, as well as the functional description, performance description, environmental interface, and design standard requirement of the goods to be manufactured or the services to be rendered as required by the contract entered into with the Procuring Entity.

A comprehensive, thorough, and detailed discussion of the TS, SOW, and TOR can be found in Volumes 2, 3, and 4, respectively. However, the following guidelines are considered helpful in writing TS, SOW, and TOR:

a. PRODUCT QUALITY

At this stage, it is vital that the quality, defined as the degree of excellence or desirability of the product as measured against subsisting standards, of the goods or services, whether civil works or consultancy, is determined and set forth in writing. Quality Assurance is an important tool which actually begins at this stage of the procurement cycle considering that the products to be procured are decided at this point in time.

b. PRODUCT DESCRIPTION

Product Description is the technical description of the product to be procured. It should be generic and not brand or product specific. Unless, the procurement involves products that have intellectual property right attached to it, or are exclusively offered by a single source, or there are no suitable substitute products.

To avoid confusion and to facilitate a better evaluation process, the product description must be clear and unambiguous. It is duly noted that the TS, SOW, or TOR is the basis of evaluation and, when applicable, sets the testing parameters.

Considerable foresight should be taken in procurement, since procurement planning is conducted prior to actual procurement and project implementation, technological advancements should already be taken into account when writing the TS, SOW, or TOR so as to maximize available resources and reduce wastage due to non-use of equipment because of relative obsolescence. Allowing the Procuring Entity to procure only the latest, up-to-date and cost-effective products or services available in the market; thus, accurately writing the TS, SOW or TOR in the procurement planning is such an important stage of the whole procurement process.



PROCUREMENT TIPS

In writing TS for the procurement of drugs and medicine, reference to the Philippine National Drug Formulary is strongly recommended for the updated list of drugs and medicines.

For Civil works in Health Facilities, the standard set by the National Center for Health Facilities and Development may be conferred upon.

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Due to the complexity and highly technical nature of some procurement, of which the Procuring Entity lacks necessary technical proficiency, it is prudent to engage as consultants a pool of technical experts to assist in the preparation of TS, SOW, and TOR. Their engagement shall be in accordance with the procedure for procurement of consultancy as laid down in Volume 4 of these Manuals. To avoid conflict of interest, due care should be taken that in-house consultants are not connected with the prospective bidders and are barred from participating to the procurement at hand.

4.3.1 CLEARANCE FROM CLEARING HOUSES

In the milieu of the central office pursuant to DPO 2006-1427, technical specifications in the procurement of goods and other related services, infrastructure, and consulting services requiring technical expertise shall be cleared with clearing houses having such expertise or the mandate to perform such activity.

A recent DOH issuance superseded, amended DPO 2006-1427 (Reference D) through the designation of several DOH Services/ Divisions/Bureaus as clearing houses which shall review and evaluate the procurement requirement of the different End-user Offices/PMOs based on the (a) needs, (b) specifications and (c) cost.

As indicated in this manual and in the specific sections on the manuals for goods, consulting service and civil work, the following offices provide technical specifications assistance and clearance to end-user units and various DOH Procuring Entities and Committees:

Table 4. Designated Clearing Houses and the Corresponding Items to be Cleared for Procurement

DESIGNATED CLEARING HOUSES	ITEMS
Administrative Service	<ul style="list-style-type: none"> • Office equipment and supplies • Housekeeping repair and maintenance • Vehicle supplies and repairs • Construction supplies • Security, janitorial and messengerial services • Brokerage and distribution services • Minimal repair of building and other facilities
Bureau of Health Devices and Technology	<ul style="list-style-type: none"> • Health care equipment and devices • X-ray and other related radiation emitting equipment and devices

Information Management Service	<ul style="list-style-type: none"> • Information and Communication Technology goods • Contractual services such as Internet Service provider • Lease/rent of ICT equipment • ICT services • Information systems design development and related services
Health Policy Development and Planning Bureau	Consulting services
National Center for Health Facilities Development - Health Infrastructure Division	<ul style="list-style-type: none"> • Major repairs that require re-planning and re-design and civil works • Construction design and supervision
National Center for Health Promotion	<ul style="list-style-type: none"> • Printing and audio visual supplies and equipment • Tri-media placements or advertisements
National Center for Pharmaceutical Access and Management	<ul style="list-style-type: none"> • Drugs and medicines • Pharmaceutical products
National Reference Laboratory for Environmental and Occupational Health, Toxicology and Micronutrient Assay	<ul style="list-style-type: none"> • Laboratory supplies and reagents
Procurement Service	<ul style="list-style-type: none"> • All other procurement

- a.** The description should be generic and flexible, not product-specific or seemingly tailored for a particular brand, product, contractor or consultant, unless the procurement involves products or services that have intellectual property rights attached to it, or are exclusively offered by a single source, and there are no suitable substitute products or services.
- b.** The description should be clear and unambiguous, to avoid confusion and to facilitate the evaluation process. It is noted that the TS/SOW/TOR is also the basis of the evaluation or, when applicable, the testing parameters.
- c.** Considering that planning is done sometime before actual procurement and even farther from the date of actual delivery or project implementation, changes in technology or changes in the concerned industry or field of expertise should already be taken into account in

writing the TS/SOW/TOR. This will allow the Procuring Entity to procure the latest products and/or services available in the market.

In the case of drugs and medicines, one has to refer to the latest version of the PPDF when writing the specifications or for health facilities civil works, the standards of the National Center for Health Facilities and Development.

4.4 PROCUREMENT MILESTONES

The PPMP, like any plan, is not complete without including therein the schedule of significant activities. The procurement milestones referred to are the following: pre-procurement conference (if required or necessary), publication and/or posting of the opportunity, pre-bid conference, submission of eligibility and bid requirements (for procurement of goods and infra, submission of eligibility requirements and bids are done simultaneously, while for consulting services the eligibility requirements are submitted prior to bid submission), bid evaluation, determination of LCRB or HRRB, issuance of NOA, contract approval and execution, issuance of NTP, delivery dates or commencement of project implementation. For details on the specific activities for each type of procurement, please refer to Volumes 2 (for Goods), 3 (for Infrastructure Projects) and 4 (for Consulting Services). Each of these significant activities should be scheduled so as to provide the PMO or end-user unit with a guide on the procurement to be undertaken by the Procuring Entity. This will ensure that logistical support and other requirements of the Procuring Entity are promptly addressed, hence contributing to more efficient and effective delivery of public service. The Procurement Milestones may be laid down in a GANNT chart.

4.5 METHOD OF PROCUREMENT

As a general rule, all procurement should be through public bidding. This is the policy of the state as laid down in RA 9184. However, the law recognizes that certain unique circumstances require the use of other methods of procurement. The selection of the method of procurement is dependent on the presence or absence of specific conditions that justify the use of a particular method (e.g., if a product is patented, direct contracting is the preferred mode instead of public bidding). These are discussed in Section 5 in this Volume, and in Volumes 2, 3 and 4, when applicable to the type of procurement.

ANNUAL PROCUREMENT PLAN

1. **LEGAL REFERENCE**

Section 7 of revised IRR is the legal basis for the preparation of the APP.

2. **PURPOSE**

The APP is the document that consolidates the various PPMPs submitted by the various PMOs and end-user units within the Procuring Entity. It reflects the entirety of the procurement activities that will be undertaken by the Procuring Entity within the calendar year.

The APP shall be formulated and revised only in accordance with the following guidelines:

- 2.1 At the start of every budget period, the procuring entity shall prepare its proposed budget for the succeeding calendar year, taking into consideration the budget framework for that year in order to reflect its priorities and objectives for the budget period.
- 2.2 The end-user units of the procuring entity shall prepare their respective PPMP for their different PAPs. The PPMP shall include:
 - a. Information on whether PAPs will be contracted out, implemented by administration in accordance with the guidelines issued by the GPPB, or consigned;
 - b. Type and objective of contract to be employed;
 - c. Extent/size of contract scopes/packages;
 - d. Procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 53.6 of the revised IRR;
 - e. Time schedule for each procurement activity and for the contract implementation; and
 - f. Estimated budget for the general components of the contract.
- 2.3 The PPMP shall then be submitted to the procuring entity's Budget Office. The procuring entity's Budget Office shall evaluate each end-user's submitted PPMP and, if warranted, include it in the procuring entity's budget proposal for approval by the HOPE.
- 2.4 After the budget proposal has been approved by the HOPE and/or other oversight bodies, the procuring entity's budget office shall furnish a copy of the procuring entity's budget proposal as well as the corresponding PPMPs to the BAC Secretariat for its review and consolidation into the proposed APP. The proposed APP shall be consistent with the

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procuring entity's budget proposal.

- 2.5** As soon as the GAA, corporate budget, or appropriation ordinance, as the case may be, becomes final, the end-user units shall revise and adjust the PPMP to reflect the budgetary allocation for their respective PAPs. The revised PPMPs shall be submitted to the BAC, through its Secretariat, for the finalization of the modes of procurement under the proposed APP. The APP shall then be approved in accordance with Section 7.2 of the revised IRR.

In preparing the APP, the BAC shall take into consideration the following factors:

- a.** The APP should include all procurement activities planned for the year. The approved APP shall be the basis for the Procuring Entity's procurement, and only those projects / procurement included therein shall be undertaken.
- b.** The APP shall include only those procurements that are considered crucial to the efficient discharge of governmental functions. The revised IRR considers procurement crucial to the efficient discharge of governmental functions if:
 - i.** It is required for the day-to-day operations of the Procuring Entity; or
 - ii.** It is in pursuit of the principal mandate of the procuring entity concerned.
- c.** The APP shall include provisions for foreseeable emergencies based on historical records. The BAC, through the BAC Secretariat, shall include therein a lump sum to cover for these emergencies or contingencies, which amount shall not be more than four percent (4%) of the Procuring Entity's total appropriations for Maintenance, Operating and Other Expenses.
- d.** Scheduling of procurement activities should be done in such a manner that the BAC and the other offices/units in the Procuring Entity that are involved in the procurement process are able to efficiently manage the conduct of procurement transactions. Moreover, it is paramount that project implementation timelines are met.

A review and updating of the individual PPMPs and the APP shall be done regularly, at least once every six (6) months or as often as necessary. The review and updating of the PPMPs will be done by the PMOs and the end-user units. These units may avail of the services of technical experts to review the individual PPMPs. The updated PPMPs will then be submitted to the BAC Secretariat for subsequent inclusion in the updated APP. For flexibility and to encourage advance procurement actions, the APP and PMPP should also be based on proposed budget to allow for advance planning for the succeeding budget year.

The APPs of decentralized procuring entities would have to be submitted to the central office for information and monitoring purposes.

3. RULES AND PROCESURES

3.1 PROCUREMENT STRATEGY

The procurement strategy refers to the approach that will be adopted by the BAC in the procurement of the goods, infrastructure projects and consulting services included in the APP.

In the review and consolidation of the PPMPs, the BAC will be able to determine the extent of diversity, quantities, quality, cost, the supply market, and other characteristics of the procuring entity's requirements for the year. The profile of the procurement is a major determinant in the choice of procurement strategy to be employed, as well as in the scheduling of procurement activities.

There may be common requirements for the various PPMPs. For example, three (3) projects require the purchase of five (5) units of laptop computers for each project office, or a total of fifteen (15) laptop computers. Obviously, it will be more cost effective and efficient if the BAC will procure the fifteen (15) laptop computers in one bidding exercise and as one bid lot.

The individual PPMPs sometimes reflect mixed procurement, for example, an information technology project might involve the procurement of goods (e.g., workstations, network equipment and peripherals), procurement of civil works (e.g., the installation of cables might involve the repair of some offices and other related civil works) and procurement of consulting services (e.g., design and development of information systems). In similar cases, the BAC will have to exercise judgment in determining the bid lots and contract package. There are two approaches to this case – the project could be bid out as one package, or it could be divided into several bid lots (i.e., supply of hardware, supply and installation of cables, design and development of information systems, and repair of facilities). There are advantages and disadvantages to either approach and the BAC, through the help of the TWG and the Secretariat, shall determine which is the best option for the Procuring Entity.

In determining the nature of a project with goods, civil works and consulting components, or any combination of the three (3), the purpose of the procurement shall govern. In the example given, it seems that the purpose is actually to computerize the internal operations of the Procuring Entity; hence the single most important component of the project is the design and development of information systems. This being the case, the project could be bid out as a consulting service.

3.2 *FORMAT*

The BAC Secretariat shall consolidate the PPMPs into the APP which shall contain the following information:

- a.** Name of the project/procurement;
- b.** PMO or end-user unit;
- c.** General description of the project/procurement (general description of requirements and quantities, where applicable);
- d.** Procurement methods to be adopted, and indicating if the procurement tasks are to be outsourced as provided in Section 53(e) of the revised IRR;
- e.** Time schedule for each procurement activity; and,
- f.** ABC.

SECTION 4

**VARIOUS METHODS
OF PROCUREMENT**

COMPETITIVE BIDDING

1. **LEGAL REFERENCE**

Section 10, Rule IV of the revised IRR is the legal basis for competitive bidding.

2. **COMPETITIVE BIDDING DEFINED**

Competitive Bidding as defined in R.A. 9184 and the revised IRR refer to the method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, receipt, submission and opening of bids, bid evaluation, post-qualification, and award of contract, the specific requirements and mechanics of which shall be defined in the revised IRR to be promulgated under this Act.

Competitive Bidding takes a preferential position as the main mode in public procurement because it fosters competition among qualified bidders. It opens up the procurement opportunity to a greater number of suppliers or contractors who compete among themselves in providing the best goods or services to the Government for the best value. This enables the Government to obtain goods and services, infrastructure projects, and consulting services at lower prices and better terms, thus optimizing the use of scarce resources. In addition, it allows for greater transparency of the procurement process. Such is the reason why Section 10 of the revised IRR provides that all procurement shall be done through competitive bidding.

Competitive bidding is discussed in detail in Volumes 2, 3 and 4 of these Manuals.

It is conceded, however, that there are instances when resorting to any of the alternative modes of procurement is necessary.

ALTERNATIVE MODE OF PROCUREMENT

1. **LEGAL REFERENCE**

The different alternative modes of procurement available are discussed under Section 48 to 54 of the revised IRR.

2. **RULES AND PROCEDURE**

2.1 **CONDITIONS FOR THE USE OF ALTERNATIVE MODE OF PROCUREMENT**

In highly exceptional cases provided for in Article XVI of R.A. 9184 and Rule XVI of the revised IRR, the Procuring Entity is allowed to resort to the alternative methods of procurement in order to promote economy and efficiency, subject to the following conditions:

- a. The BAC shall recommend to the HOPE the use of alternative methods of procurement in cases where public bidding is not feasible, to be indicated in the APP;
- b. The HOPE or his duly authorized representative has given prior approval of the use of any of the alternative methods of procurement;
- c. The conditions surrounding the procurement at hand justify the use of any of the alternative methods of procurement, as provided for in Sec.48-54, Art. XVI of the R.A. 9184 and Sections 48-54, Rule XVI of the revised IRR.
- d. In cases where public bidding was the mode of procurement indicated in the approved APP, but it cannot be ultimately pursued and conditions arises justifying the use of alternative mode of procurement, the APP may be amended. This can be done after a BAC Resolution recommending the use of the alternative method is approved by the Head of the Procuring Entity.

3. **DIFFERENT ALTERNATIVE MODES OF PROCUREMENT**

- 3.1 Limited Source Bidding, otherwise known as selective bidding, is a method of procurement of goods and consulting services that involves direct invitation to bid by the concerned entity of all pre-selected suppliers or consultants with known experience or proven capability on the requirements of the particular contract. The pre-selected suppliers or consultants shall be all those appearing in the list maintained by the relevant Government authority (e.g. FDA for medicines, NTC for telecommunication equipment, etc.) that has expertise and experience in the type of procurement concerned, which list should have been submitted to, maintained and updated with, the GPPB. For highly specialized goods and consulting services, where no such list is being maintained by a relevant Government authority, competitive bidding shall be conducted. It is noted that the purpose of the list is

to regulate the quality of goods being offered and the qualifications of consultants in the particular field of expertise. The particular conditions under which this alternative method of procurement may be used are outlined in Section 2, Part 2, Volume 2 (for procurement of goods, and Section 3, Part 2, Vol. 4 (for procurement of consulting services), of this Manual.

- 3.2** Direct Contracting or Single Source Procurement is a method of procurement of goods that does not require elaborate bidding documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. The particular conditions under which this alternative method of procurement may be used are outlined in Section 2, Part 2, Vol. 2 of this Manual.
- 3.3** Repeat Order is a method of procurement of goods from the previous winning bidder, whenever there is a need to replenish goods procured under a contract previously awarded through Competitive Bidding. The particular conditions under which this alternative method of procurement may be used are outlined in Section 2, Part 2, Vol. 2 of this Manual.
- 3.4** Shopping is a method of procurement of goods whereby the procuring entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. The particular conditions under which this alternative method of procurement may be used are outlined in Section 2, Part 2, Vol. 2 of this Manual.
- 3.5** Negotiated procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant only in the cases provided for in Sec. 53 of R.A. 9184 and Sec. 53, Rule XVI of the revised IRR. The particular conditions under which this alternative method of procurement may be used are outlined in Section 2, Part 2, Vol. 2, Section 3, Part 2, Vol. 3 and Section 3, Part 2, Vol. 4 of this Manual.

SPECIAL PROVISION IN THE DOH BUDGET RELATED TO PROCUREMENT

1. Authority to undertake Bulk Purchases

The DOH, including regional hospitals, medical centers and special/specialty hospitals are authorized, subject to auditing laws, rules and regulations, to undertake bulk procurement of drugs, medicines, medical and dental supplies, equipment and instrument for all the agencies and field units under its supervision: provided, that funds for purchase of drugs and medicines shall be equitably allocated by region: provided further, that the share hospitals and medical centers in the appropriation authorized for this purpose shall be released directly to them: provided finally, drugs, medicines, medical; and dental supplies, equipment and materials so purchased shall be equitably distributed by disease patterns.

2. Advance Payment for Vaccines and Drugs not Locally Available

The DOH is authorized to deposit and pay in advance the amount necessary for the procurement of vaccines and drugs from the World Health Organizations, the United Nations International Children's Emergency Fund, and the United Nations Development Program: PROVIDED, that said drugs and vaccine are not locally available.

3. Conditions for Emergency Purchases

Notwithstanding Section 22 of the General Appropriation Act, emergency purchases by the DOH shall only be resorted to in case of force majeure, such as but not limited to war, calamities, whether natural or man-made, epidemics, or when a needed product is in short supply or cannot be held in storage for a long period. Products or goods bought during an emergency should be delivered and distributed for the duration of the emergency. Any emergency purchase shall be subject to pertinent accounting and auditing rules and regulations.

The procurement process in case of natural or man-made calamities Section 52.a (Shopping) and Section 53.2 (Negotiated Procurement – Emergency Cases).

SECTION 5

**PROCUREMENT BY
ELECTRONIC MEANS
AND THE PHILGEPS**

PROCUREMENT BY ELECTRONIC MEANS AND PHILIPPINE GOVERNMENT ELECTRONIC PROCUREMENT SYSTEM

1. **LEGAL REFERENCE**

Section 8 of the revised IRR provides the legal reference for the procurement by electronic means and the Philippine Government Electronic Procurement System.

2. **PHILGEPS**

Consistent with the policies of transparency and streamlining of the procurement process, and to achieve efficiency, Information and Communications Technology shall be utilized in the conduct of government procurement. A two-pronged approach has been adopted to achieve this:

- a. Institutionalization of the PhilGEPS, which will be used for procurement of common-use items and as repository of all Government procurement information; and
- b. Use or engagement of electronic procurement service providers by the individual Procuring Entities for procurement of non-common use items.

The DBM-Procurement Service manages the PhilGEPS under the supervision of the GPPB. The PhilGEPS serves as the single portal and primary source of information on all government procurement.

All Procuring Entities shall utilize the PhilGEPS, through its Electronic Catalogue facility, for the procurement of common-use supplies. Moreover, all Invitations to Bid, notices of award, and all other procurement-related notices shall be posted in the PhilGEPS, regardless of the method of procurement used by the Procuring Entity.

The GPPB shall issue the necessary procedural guidelines covering procurement through the PhilGEPS.

2.1 **FEATURES OF PHILGEPS**

2.1.1 **ELECTRONIC BULLETIN BOARD**

The PhilGEPS shall have a centralized electronic bulletin board.

Procuring Entities are required to post the following in the PhilGEPS electronic bulletin board:

- a. Invitation to Bid for competitive bidding and notices of other procurement opportunities using the alternative methods of procurement;

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- b.** Supplemental/Bid bulletins;
- c.** Contract awards, the corresponding Notices of Award, including the reasons for award of contract;
- d.** Results of bidding and related information; and
- e.** Other notices, announcements, information for interested parties.

Failure to post a procurement opportunity will render the resulting contract null and void.

Failure to post a Notice of Award shall render the erring government official/s administratively liable in accordance with R.A. 6713, otherwise referred to as "Code of Conduct and Ethical Standards for Public Officials and Employees," and other pertinent laws, rules and regulations, and appropriate sanctions shall be imposed.



Posting of notices and other transactions with the PhilGEPS shall be done through duly authorized personnel of the Procuring Entity. In accordance with Section 8.2.3 of the revised IRR, the Procuring Entity shall be required to designate its personnel who will be authorized to transact with the PhilGEPS. The internal procedures of PhilGEPS require that a Procuring Entity shall have at least one (1) but not more than two (2) such authorized personnel. For purposes of the consistency with the prescribed procurement procedures, the Procuring Entity shall designate such personnel who is a member of the BAC Secretariat or assigned to the Procurement Unit/Office. (Please refer also to Section 3, Volume 2 of this Manual for the procedures for transacting with the PS-DBM.

Posting of the IB shall follow the guidelines in Section 21 of the revised IRR, Section 2, Part 1, Vol.2, Section 3, Part 1, Vol.3, and Section 3, Part 1, Vol. 4 of this Manual.

2.1.2 REGISTRY SYSTEM OF MANUFACTURER, SUPPLIERS, DISTRIBUTORS, CONTRACTORS, AND CONSULTANTS

The PhilGEPS shall have a centralized electronic database of all manufacturers, suppliers, distributors, contractors and consultants registered under the system.

Registration shall entail the submission of the requirements specified by the PS-DBM. Details of the requirements may be obtained from the PS-DBM website (procurementervice.org), or the PhilGEPS website (procurementervice.net). Submission of these requirements may be done on-line at the PHILGEPS website or physically at the PHILGEPS office. Registration shall be effective for one year and may be renewed, provided that the manufacturer, supplier, distributor, contractor or consultant concerned maintains its registration current and updated

at least once a year, or more frequently when needed.

Manufacturers, suppliers, distributors, contractors and consultants applying for registration must also indicate their account number with a bank duly licensed by the *Bangko Sentral ng Pilipinas* to facilitate payment as well as the posting of bid and performance security, when applicable.

The PhilGEPS shall deny registration to or exclude from the registry any party that is found to have willfully misrepresented any of the information provided in the application for registration or who is in the “blacklist” of the Government or any of its procuring entities from participating in any of its procurement opportunities.

A manufacturer, supplier, distributor, contractor or consultant applying for registration shall be required to provide an e-mail address to which all communications from the BAC and the procuring entity shall be sent. The e-mail address provided shall be considered as such applicant’s information system for purposes of reckoning the date of sending or receipt of electronic messages or documents.

Once the PhilGEPS allows electronic bid submission and other on-line transactions requiring digital signatures, registered manufacturers, suppliers, distributors, contractors and consultants shall secure a digital certificate from the appropriate certification authority to be able to participate in the procurement activities of the PhilGEPS.

Registration with the PhilGEPS is not tantamount to a finding of eligibility, nor it is a guarantee that a manufacturer, supplier, distributor, contractor or consultant may participate in a public bidding without first being determined to be eligible for that particular public bidding.

2.1.2.1 DOH SIMPLIFIED SUPPLIERS’ REGISTRATION SYSTEM

To promote expediency in the bid opening and evaluation process, the DOH issued on 23 February 2004 Administrative Order No. 138 s. 2004 which adopted the Simplified Suppliers’ Registration System. Prospective bidders/suppliers are enjoined to apply in the SSRS. Each interested supplier shall submit particular documentary requirements, i.e. certified true copy of the business from the DTI or SEC, under public procurement to be recorded and maintain updated in the registry system established. Approval of the application shall be contingent on the completeness and correctness of the documents submitted.

By virtue thereof, a SSRS Certificate shall be given to the supplier-applicant which shall clearly indicate the document submitted and the

expiration date, when so applicable, of each document. It shall be signed by the BAC Chairperson.

This SSRS Certificate shall be submitted in lieu of eligibility documents.

AO No. 138 s. 2004, as amended by AO No. 180 s. 2004 dated 07 December 2004, shall apply to all procurement, whether locally funded or foreign funded, conducted within and by the Department of Health, including all Centers for Health Development, Attached Agencies, Medical Centers, Special/Specialty Hospitals, and other DOH Hospitals. Thus, SSRS certificate secured by prospective bidders shall be honored by all DOH procuring entities.

2.1.3 ELECTRONIC CATALOGUE

The PhilGEPS features a centralized electronic catalogue of common and non-common use goods, supplies, materials and equipment.

Procuring Entities are required to procure common-use goods, supplies, materials and equipment from the PS-DBM through the Electronic Catalogue in the PhilGEPS. Once the PhilGEPS is fully operational, the procedures for transacting with the PhilGEPS shall be provided for in detail in the websites of the PhilGEPS (www.PhilGEPS.net) and the PS- DBM (www.procurementervice.org).

The Electronic Catalogue may also feature non-common use items that may be procured directly and without public bidding by procuring entities from suppliers: *Provided, however,* that for an item to be carried in the Electronic Catalogue for this purpose, the supplier thereof must have been determined as the LCRB in a previous bidding conducted by PS-DBM or by a Procuring Entity for PS-DBM: *Provided, further,* that such item will be featured in the Electronic Catalogue for a maximum period of six (6) months unless another supplier offers a price lower by at least five percent (5%) and such supplier is determined by the Procuring Entity that conducted the previous bidding to meet the eligibility and bidding requirements for the item, in which case the item from the latter supplier will be that featured in the Electronic Catalogue for the remainder of the six (6)-month period.

Procuring entities without internet access may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila.

2.1.4 ADDITIONAL FEATURES

The PhilGEPS will also feature the following:

- a. A Virtual Store that will enable the ordering of common-use and non-common use items online called a virtual store. This virtual store shall be open only to registered Procuring Entities and may not be accessed by suppliers.
- b. An Electronic Payment function that will allow the system to manage the generation of purchase orders and the payment of bids processed through the system. The focus of this feature is to facilitate the electronic transfer of funds from PS-DBM to and from Procuring Entities and suppliers, and from Procuring

Entities to suppliers for bids managed directly by the Procuring Entity. This system will:

- 1. Generate purchase orders from a bid notice, award notice or contract;
 - 2. Support approval process for purchase orders before any payment or fund transfer is processed;
 - 3. Have a process to submit request for payment upon delivery of goods and/or services and the completion of the approval process; and
 - 4. Have the ability to interface with the designated bank of the Procuring Entity and suppliers to support the electronic transfer of funds.
- c. An Electronic Bid Submission that will support the implementation of e-Bid submission processes, which includes creation of electronic bid forms, creation of bid box, delivery of bid submissions, notification to supplier of receipt of bids, bid receiving and electronic bid evaluation. This facility will cover all types of procurement for goods, infrastructure projects and consulting services.
 - d. Other features that may be developed in the future under the policy guidance of the GPPB.

The PhilGEPS will also feature a Virtual Store, Electronic Payment, Electronic Bid Submission, and such other features that may be

developed in the future. Procedures for the use of these features will be published once these become operational.

2.1.5 USE OF PHILGEPS

All Procuring Entities are mandated to fully use the PhilGEPS in accordance with the policies, rules, regulations, and procedures adopted by the GPPB and embodied in the revised IRR. In this connection, all Procuring Entities shall register with the PhilGEPS and shall undertake measures to ensure their access to an on-line network to facilitate the open, speedy and efficient on-line transmission, conveyance and use of electronic data messages or electronic documents. The PS-DBM shall assist Procuring Entities to ensure their on-line connectivity and help in training their personnel responsible for the operation of the PhilGEPS from their terminals.

2.1.5.1 PRE-BID CONFERENCE AND NOTICES UNDER THE PHILGEPS

Whenever the rule on use of PhilGEPS is silent, the rules and regulations governing the manual method of procurement shall apply. Further, the GPPB is authorized to approve changes in the procurement process to adapt to improvements in modern technology, provided that such modifications are consistent with the provisions of Section 3 of the R.A. 9184 and the revised IRR.

The conduct of pre-bid conference under the PhilGEPS shall be conducted in accordance with Section 22 of the revised IRR. Provided, however, that the requirement for face-to-face bidding conference may be replaced once videoconferencing, webcasting, or similar technology becomes the norm in business transactions in the country. Procuring Entities with videoconferencing capabilities that have manufacturers, suppliers, distributors, contractors and/or consultants that also have video conferencing capabilities may conduct their pre-bidding conferences electronically.

Requests for clarification from bidders may be sent electronically to the BAC. To be binding on bidders, clarifications and amendments to the Invitation to Bid/Request for Expression of Interest and to the Bidding Documents shall be in the form of Supplemental/Bid Bulletins which shall be posted in the PhilGEPS bulletin board.

The Supplemental/Bid Bulletins mentioned in the immediately preceding Subsection as well as all other notices to be made by the BAC to the bidders or prospective bidders shall be posted in the PhilGEPS bulletin

board and sent electronically to the e-mail address indicated in the bidders' registration.

2.1.5.2 REGISTRATION, ELIGIBILITY REQUIREMENTS, AND SUBMISSION OF BIDS UNDER THE PHILGEPS

To ensure the widest dissemination of the IB, manufacturers, suppliers, distributors, contractors and/or consultants shall register with the PhilGEPS. All Procuring Entities already maintaining an electronic registry upon the effectivity of the revised IRR shall integrate the same with that of the PhilGEPS. A manufacturer, supplier, distributor, contractor or consultant duly registered with the PhilGEPS may participate in a procurement undertaken by any procuring entity, provided that the said manufacturer, supplier, distributor, contractor or consultant maintains its registration current and updated in accordance with the provisions of the revised IRR, and its registration is proper and relevant to the particular type of procurement.

Eligibility requirements may be sent electronically to a procuring entity through the PhilGEPS. Provided, however, that the prospective bidder concerned shall submit a certification to the BAC at least seven (7) calendar days before the deadline for the submission and opening of the technical and financial envelopes that the documents submitted are authentic copies of the original, complete, and all statements and information provided therein are true and correct: Provided, further, that the PhilGEPS shall allow manual submission of eligibility requirements. The PhilGEPS shall generate and send an acknowledgement of any eligibility requirement received by it.

Registered bidders determined to be eligible may submit their bids at any time before the closing date specified in the Bidding Documents. The PhilGEPS shall bar all incoming bids after such date.

The PhilGEPS shall have a feature that allows the electronic submission of eligibility requirements and bids.

Upon receipt of a bid, the PhilGEPS shall generate and send a message to the bidder acknowledging such receipt.

2.1.5.3 OPENING OF BIDS UNDER THE PHILGEPS

The BAC shall have the sole authority to open the bids. Only the financial proposals of bidders whose technical proposals meet the minimum

technical requirements shall be opened or decrypted.

An update of all procurement contracts, regardless of whether procurement is done electronically or manually, shall be posted on the PhilGEPS bulletin board. The update shall include, but shall not be limited to, the status of procurement contracts, including the names of contract awardees and the amount of the contract.

2.1.6 LIABILITIES OF PROCUREMENT PRACTITIONERS RELATED TO THE USE OF PHILGEPS

Without prejudice to criminal prosecution under the applicable provisions of the Act and the revised IRR, R.A. 8792, R.A. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act,” and other applicable penal laws, public officials and employees who commit any of the following acts shall be deemed to have committed grave misconduct and shall be sanctioned and/or penalized in accordance with the applicable Civil Service rules and regulations:

- a.** Opening or decryption, by whatever means, of bids submitted through the PhilGEPS ahead of the appointed time for the opening or decryption of such bids;
- b.** Causing the unauthorized disclosure of any information or document submitted through the PhilGEPS;
- c.** Hacking into or cracking the PhilGEPS, or aiding another person to hack into or crack the same; or
- d.** Any other act that breaches or violates the security, integrity, and confidentiality of the PhilGEPS.

When any of the foregoing acts is done by the administrator(s) or employee(s) of a service provider hired by a procuring entity, or in collusion with, or by a private party who is a participant in the bidding process, said administrator(s), employee(s) or private party shall be imposed the corresponding sanctions and/or penalties under the revised IRR.

2.1.7 OBSERVERS

The PhilGEPS shall allow observers, duly authorized by the BAC, to monitor the procurement proceedings on-line.

However, these observers must not have any actual or potential conflict of interest in the contract to be bid as prescribed in Section 13 of the revised IRR.

USE OF PROCUREMENT SERVICE PROVIDER

1. **LEGAL REFERENCE**

Section 8 of the revised IRR provides the legal reference for the use of procurement service providers.


Procuring Entities may hire service providers who will provide electronic procurement systems and/or services for the procurement of non-common use supplies, infrastructure projects and consulting services. The Procuring Entity shall conduct a public bidding for this service.

2. **MINIMUM REQUIREMENTS FOR SERVICE PROVIDERS**

Electronic procurement service providers must meet the following minimum requirements to qualify as a service provider to a Procuring Entity:

- a.** The system must comply with the provisions of R.A. 9184, the revised IRR, R.A. 8792 (Electronic Commerce Act) and the revised IRR;
- b.** The system must be linked to the PhilGEPS, particularly with regard to the posting of all bid opportunities and awards;
- c.** The system must allow parallel manual submission of bids to the procuring entity;
- d.** The system must ensure that the BAC shall have complete control of the bidding process, and that the BAC's sole authority to open bids is strictly observed;
- e.** The system must be virus-resilient and the infrastructure must provide sufficient security which is at least equivalent to that employed by the PhilGEPS, such as, but not limited to, firewall and encryption devices;
- f.** It must provide for use of electronic signatures and other current electronic authentication devices;
- g.** The service provider must have sufficient redundant back-up facilities;
- h.** the system must have provisions for linkage to the Procuring Entity's Financial Management Information System, Logistics Management System, and other internal information systems that may interact with the procurement process; and
- i.** Electronic payment facilities, if used, shall comply with all laws, rules and regulations issued by the Government.

The GPPB shall determine and certify compliance with the above requirements. However, it may delegate this task to technically capable agencies/offices of the Government. For this purpose, it shall issue the necessary Guidelines.



SECTION 6

**FOREIGN-ASSISTED
PROJECTS**

FOREIGN-ASSISTED PROJECTS

R.A. 9184 adopts international best practices in public procurement processes, and institutionalizes the need for a procurement manual, standard bidding documents and forms.

The Revised IRR is the product of the harmonization of the GOP's procurement rules and various foreign government/ international or foreign financing institutions. The activities on harmonization were further seen with Asian Development Bank, Japan Bank for International Cooperation and the World Bank, through the issuance of harmonized standard bidding documents. It should be noted that these harmonized standard bidding documents only affect the procurement guidelines of the aforementioned IFIs for national or local competitive bidding procedures, and that ICB procedures would have to use the standard documents of the IFI concerned. Appendix 3 shows the major procurement harmonization points normally captured in the loan or grant agreement.

The harmonization of ICB procedures is currently on-going among the IFIs, and this would naturally be a continuing process. In any case, even if procurement harmonization in the Philippines began on the level of national/local competitive bidding procedures, the entire activity also opened the doors for the possible harmonization of ICB procedures. Since the IFIs' guidelines focus primarily on procurement procedures, evaluation and review processes, this leaves much room for readily adopting the provisions of R.A. 9184 and the revised IRR, except those rules that are not acceptable to the IFIs which are normally identified in the loan or grant agreement, the bidding documents or appropriately addressed in these Manuals. These pertain to the following areas:

1. The review procedures of the IFI concerned, including thresholds for prior review, if any
2. Thresholds for national/local competitive bidding
3. The posting of the ABC as the ceiling of bid prices
4. The timelines for the preparation of bids
5. The allowance of pre-qualification for complex or large projects
6. Eligibility criteria, which includes the participation of foreign bidders
7. Currency requirements
8. Domestic and provincial preferences

** Based on Loan Agreements or Grant Agreement and international on disease-specific prevention or reduction such as those under the Global Drug Fund, the DOH may procure from UN agencies such as the World Health Organization, UNICEF or use procurement service agents or conduct direct solicitation from manufacturers given certain conditions. Such mechanisms are discussed in detail in the Project Operation/Implementation Manuals mutually agreed upon. Such procurements are guided by the specific provisions in the loan agreement, bilateral treaties and/or the General Appropriation Act. This type of procurement is currently done only at the central office which conducts bulk procurement of drugs, vaccines and related health goods of needed for disease of international and/or national public health importance.*

SECTION 7

**PENAL, CIVIL AND
ADMINISTRATIVE
LIABILITIES AND
SANCTIONS**

STANDARD OF ETHICS

1. ***CORRUPT, FRAUDULENT, COLLUSIVE AND COERCIVE PRACTICES DEFINED***

Procuring entities and bidders, manufacturers, suppliers or distributors are required to observe the highest standard of ethics during the procurement and execution of contract. Bidders determined to have committed corrupt, fraudulent, collusive and coercive practices by the government will not be eligible to bid in its projects¹. For this purpose:

- a.** “Corrupt practice” means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contracting execution; entering, on behalf of the government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.
- b.** “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
- c.** “Collusive practice” means a scheme or arrangement between two (2) or more bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-competitive levels.
- d.** “Coercive practice means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.

The pertinent provisions of the Anti-Graft and Corrupt Practices Act, or R.A. 3019, shall also be applied in determining the existence of “corrupt or fraudulent practice”.

¹ A firm declared ineligible by an IFI for engaging in corrupt, fraudulent, collusive and/or coercive practice/s, shall be ineligible to be awarded an IFI-financed contract during the period of time determined by the IFI concerned.

2. *APPLICABLE PENALTY FOR FRAUD, MISREPRESENTATION AND COLLUSION*

If a bidder is found to have committed an act that constitutes fraud or misrepresentation or to have colluded with others for the purpose of influencing the outcome of the bidding, it will be disqualified by the BAC, its bid security will be forfeited, and, upon conviction, it will suffer the penalty of imprisonment of not less than six (6) years and one (1) day and not more than fifteen (15) years. Likewise, it will suffer the administrative penalties of suspension for one (1) year from participation in government procurement for the first offense, and suspension for two (2) years for the second offense.

NORMS OF CONDUCT

1. **LEGAL REFERENCE**

There are four (4) orders recently issued with regards to the manner by which officials and employees of the DOH should conduct themselves. These espouse promotion of high standard of ethics, honesty and integrity as well as in effectively and proactively fight graft and corruption in all their undertakings in addition to doing duties and responsibilities with excellence, professionalism, utmost efficiency and commitment fidelity and due diligence.

Each official and employee is expected to abide by these rules and guidelines:

- a. Administrative Order No. 2009-004 “Adoption of the Revised DOH Code of Conduct” (**Reference F**);
- b. Administrative Order No. 2007-0042 “Norms of Behavior for Officials and Employees of DOH” (**Reference G**);
- c. Administrative Order No. 2007-0045. “DOH Rules on Gift Giving” (**Reference H**);
- d. Department Order No. 2008-0016. “DOH Rules on Public Disclosure” (**Reference I**); and
- e. Department Order No. 2008-0017 “Rules on Internal Whistle blowing and Reporting” (**Reference J**)

2. **DOH CODE OF CONDUCT**

Administrative Order No. 2009-004 dated March 4, 2009 is the most recent DOH administrative issuance governing the conduct of a DOH personnel/official in ensuring efficiency, transparency, and accountability in government service. The objective of the said issuance is to set the guidelines and parameter for the DOH officials and employees in the conduct of their functions as civil servants, to serve as deterrent against corruption and other malpractice, to specify applicable administrative penalties, and to establish a system of incentives and rewards for exemplary conduct/practice of a DOH employee.

Simply put, this administrative issuance seeks to serve as a moral compass, a creed that shall govern the conduct of each DOH employee.

2.1. **CONFLICT OF INTEREST**

Conflict of Interest, as defined in Administrative Order 2009-004 “Adoption of the Revised DOH Code of Conduct”, refers to institutional and personal interests that interferes with the performance of a duty, or an interest that may affect the objectivity or independence of judgment by any DOH official or employees.

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In view of the foregoing, officials or employees shall not engage, directly or indirectly, in any of the following or similar acts:

- a.** Enter into a contract with the DOH for the supply of drugs/medicine, equipment, supplies and other related items, services, and lease or sale of property;
- b.** Participate in any official action which either s/he or any of his relative is applying for a possible position;
- c.** Recommend for employment in the same office any of his relatives;
- d.** Recommend any person for employment to any supplier, or any other person doing business with the DOH; and
- e.** Give undue advantage or privilege to anyone to further the personal/private interests and the one who benefitted therefrom.

Conflict of Interest is a fertile ground for corruption to thrive. The rule on conflict of interest involves disclosure of relationships and inhibition from participation in a given transaction. In that way, the integrity of the process is preserved.

Evidently, the DOH recognizes how vulnerable procurement is to graft and corruption when it prohibits any DOH officials/employees to enter into a contract with the DOH for the supply of drugs/medicine, equipment, supplies and other related items, services, and lease or sale of property.

2.1.1 RESPONSIBILITY OF BIDDER

A bidder that has a conflict of interest shall be disqualified to participate in the procurement at hand. A Bidder would be considered as having a conflict of interest with another bidder in any of the events described in paragraphs (a) through (c) below and a general conflict of interest in any of the circumstances set out in paragraphs (d) through (f) below:

- a.** If the bidder is a corporation or a partnership and it has officers, directors, controlling shareholders, partners or members in common with another bidder; or if the bidder is an individual or a sole proprietorship and he is the proprietor of another bidder, or an officer, director or a controlling shareholder of another bidder; or if the bidder is a joint venture and it or any of its members has officers, directors, controlling shareholders or members in common with another bidder, or any of its members is a bidder;

- b.** A bidder receives or has received any direct or indirect subsidy from another bidder;
- c.** A bidder has the same legal representative as any other bidder for purposes of the bidding at hand.
- d.** A bidder has a relationship directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another bidder, or influence the decisions of the Procuring Entity regarding the bidding process. This will include a firm or an organization that lends, or temporarily seconds, its personnel to firms or organizations which are engaged in consulting services for the preparation related to procurement for or implementation of the project, if the personnel would be involved in any capacity on the same project;
- e.** A bidder submits more than one bid in the bidding process. However, this does not limit the participation of subcontractors in more than one bid; or
- f.** A bidder who participated as a consultant in the preparation of the design or technical specifications of the goods and related services that are the subject of the bid.

In accordance with Section 47 of the revised IRR, the bidder should not be related to the HOPE by consanguinity or affinity up to the third (3rd) civil degree or any of the Procuring Entity's officers or employees having direct access to information that may substantially affect the result of the bidding, such as, but not limited to, the members of the BAC, the members of the TWG, the BAC Secretariat, head of the PMO or the end- user unit, and project consultants. This prohibition shall apply to the following persons:

- a.** If the bidder is an individual or a sole proprietorship, to the bidder himself;
- b.** If the bidder is a partnership, to all its officers and members;
- c.** If the bidder is a corporation, to all its officers, directors and controlling stockholders; and
- d.** If the bidder is a joint venture, the provisions of (a), (b), and (c) shall correspondingly apply to each of the members of the joint venture agreement, as may be appropriate.

2.1.2 RESPONSIBILITY OF PROCUREMENT PRACTITIONERS

A conflict of interest may also occur with DOH personnel involved in procurement. This occurs when competing professional, business or personal interests exist which may render the BAC/TWG member impartial in performing their assigned tasks. That is, those in a position may exploit their professional or official capacity in some way for their personal (directly or indirectly) interest or the interest of their close relatives or friends' gain or business advantage or benefit. Examples of Conflict of Interest situations involving procurement practitioners include, but is not limited to, the following: (1) engaging in self-dealing activities relating to procurement; (2) practicing one's profession, when so permitted, outside office hours and being employed by prospective suppliers/contractors/consultants; (3) giving undue advantage to a particular suppliers/contractors/consultants over others because a close relative and/or friend has a controlling interests in the said company (suppliers/contractors/consultants); (4) product endorsements; (5) accepting gifts or donations from the supplier, firm or individual such that there is sense of obligation to return the favor; and (6) possible existence of circumstances promoting revolving door syndrome such that prospective bidders are the previous or future employer of DOH procurement personnel or that of their relatives.

There is conflict of interest even if there is no unethical or inappropriate or dishonest or unlawful outcome. Conflict of Interest can create an appearance of impropriety, indiscretion or even irregularity and wrongdoing that can undermine or challenge the competitiveness or transparency of the procurement processes, neutrality and objectivity of personnel involved and even the outcome of the bidding process. Thus, it is always best to mitigate Conflict of Interest. The best way is to avoid Conflict of Interest completely. An example is for political appointee and DOH official or staff to sell owned corporate stocks or move these to special trust or resign from corporate boards before accepting the appointment or designation.

The DOH code of conduct/ethics as issued through Administrative Order 2007-042 (**Reference G**) also prohibits conflicts of interest and each DOH personnel is expected to adhere to this Code of Ethics. Adhering to this Code makes you aware of improper or unethical behavior. As provided for in this AO, each DOH personnel shall confirm understanding and faithful observance to this Code of Conduct.

Further, another mitigation mechanism is disclosure of its existence and consequently recusal. Those with Conflict of Interest are to abstain from participating in the decision-making process particularly in the discussions and deliberations at any stage of the procurement process when the Conflict of Interest is discovered. For example, when the DOH personnel has a close relative or friend in the board of a prospective consulting firm being considered for technical task

during the short listing or when a close associate or relative is among proposed core teammembers by the consulting firm during the technical proposal evaluation, or during the post qualification of pharmaceutical firms or eligibility check of contractors. The DOH personnel by common sense and propriety shall declare verbally and/or in writing their Conflict of Interest and desists in participating further in procurement activities of that particular package being bid out. Such declaration of Conflict of Interest shall be recorded in the minutes of BAC/TWG meetings.

2.2 POLICY ON GIFT GIVING AND ACCEPTANCE OF GIFTS, DONATIONS, SPONSORSHIP

Rule IV of AO 2009-004 "Adoption of the Revised DOH Code of Conduct" is the administrative repository of DOH's policy on gift giving which has always been "NO GIFT GIVING."

This is to ensure that procurement activities are not tainted with any form of coercion, influence, or pressure brought about by material or monetary considerations received by any DOH procuring entity and procurement practitioners.

In the said administrative issuance, AO 2009-004 defined Gift as the any money or material object in whatever form given to a recipient, and shall include a simulated sale or disposition of any material object/s or property onerous to the giver and/or unduly beneficial to the recipient or donations of any kind gratuitous to the donor and unduly beneficial to the donee.

The following guidelines as embodied in the foregoing administrative issuances will direct the conduct of procurement practitioners on gift giving:

- a.** Officials and employees shall not solicit, directly or indirectly, any gift, donations, in cash or in kind and sponsorship for themselves or for others, regardless of the amount, unless approved by the Head of the Agency.
- b.** Officials and employees shall not accept or receive, directly or indirectly, any gift, donations and sponsorship, regardless of the amount, where this may be influenced, or may reasonably be seen to influence or to have influenced past, present, future performance of their official functions.
- c.** In the course of the performance of their official functions, DOH officials, and employees shall not accept any fee or remunerations beyond what they are legally entitled to receive in accordance with the law.
- d.** Officials and employees shall not accept or receive any gift, donation and sponsorship, directly or indirectly, regardless of the amount from any of the following:

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- i.* Any tobacco, milk, and pharmaceutical companies and organizations/entities associates with or related to these industries.
 - ii.* Any bidder, supplier, contractor, or entity including their agent with contract/s with the DOH.
 - iii.* Any individual or party applying for any form of DOH authorization (e.g. license permit, product registration, accreditation).
 - iv.* Any individual, counsel, witness, or their agent undergoing any fact-finding/formal investigations being conducted by them,
 - v.* Any respondent, counsel, witness, or their agent in any case before the DOH.
 - vi.* Any CHD/Hospital officials and employees bringing “pasalubongs”, whether for superior or subordinates, upon their travel to/from the regions and hospital.
 - vii.* Any person or company transacting business with the DOH.
- e.* Officials and employees may accept gifts, donations, partnerships and sponsorships from companies or individuals and their agents provided that the gifts, donations, partnerships, and sponsorships received/given in the work place and valued at Ten Thousand Philippine Pesos (PhP 10, 000.00) or more shall be recorded in the Registry Books of Gifts to be maintained and kept by the Administrative Officer concerned for the CO and by the Chief Administrative Officer for the other DOH hospitals and agencies.
- f.* Officials and employees may give and/or receive to/from their fellow officials and employees, clients/patients and inter-agency committee members appropriate to the occasion, provided that the gift received valued at the Ten Thousand Philippine Pesos (PhP10,000.00) or more shall be recorded by the Administrative Officer concerned for the CO, and by the Chief Administrative Officer for the other DOH Hospitals and agencies.

PENAL LIABILITIES AND SANCTIONS

1. **PENAL LIABILITIES**

1.1 **PUBLIC OFFICERS**

Without prejudice to the provisions of R.A. 3019 and other penal laws, public officers who commit any of the following acts shall be criminally liable:

- a. Opening any sealed Bid including but not limited to Bids that may have been submitted through the electronic system and any and all documents required to be sealed or divulging their contents, prior to the appointed time for the public opening of Bids or other documents.
- b. 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 provided for in the revised IRR.
- c. 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.
- d. Splitting of contracts which exceed procedural purchase limits to avoid competitive bidding or to circumvent the limits of approving or procurement authority.
- e. Abuse by the Head of the Procuring Entity of his power to reject any and all bids as mentioned under Section 41 of R.A. 9184 and the revised IRR, with manifest preference to any bidder who is closely related to him in accordance with Section 47 of R.A. 9184 and the revised IRR.

When any of the foregoing acts is done in collusion with a private individual, the private individual shall likewise be liable for the offense.

1.2 **PRIVATE INDIVIDUAL**

Private individuals, who commit any of the following acts, shall be criminally liable:

- a. When two or more bidders agree and submit different bids as bona fide, bidders, all the while knowing that the bid(s) of one or more of them was so much higher than the other that the latter could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest bid.
- b. When a bidder maliciously submits different bids through two (2) or more persons, corporations, partnerships or any other business entity in which he has an interest

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to create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder.

- c.** When two or more bidders enter into an agreement which calls upon one or more of them to refrain from bidding for procurement contracts, or which requires one or more of them to withdraw Bids already submitted, in order to secure an undue advantage to any one of them.
- d.** When a bidder, by himself or in connivance with others, employs schemes which tend to restrain the natural rivalry of the parties or operates to stifle or suppress competition and thus produce a result disadvantageous to the public.
- e.** Submitting eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.
- f.** Submitting Bidding Documents of whatever kind and nature that contain false information or falsified documents or conceal such information in the Bidding Documents, in order to influence the outcome of the public bidding.
- g.** Participating in a public bidding using the name of another or allow another to use one's name for the purpose of participating in a public bidding.
- h.** Withdrawing a Bid, after it shall have qualified as the LCB/HRB or refuse to accept an award, without just cause or for the purpose of forcing the Procuring Entity to award the contract to another bidder. This shall include the non-submission within the prescribed time, or delaying the submission of requirements such as, but not limited to, performance security, preparatory to the final award of the contract.
- i.** When any of the foregoing acts is done in conspiracy with a public officer, the public officer shall likewise be liable for the offense.

2. PENAL SANCTIONS

2.1 PUBLIC OFFICERS

Without prejudice to the provisions of R.A. 3019 and other penal laws, public officers who commit any of the above acts shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years. In addition, the public officer shall also suffer the penalty of temporary disqualification from

public office, while any private individual found to have colluded with him shall be permanently disqualified from transacting business with the government.

The above penalties and offenses shall cover all types of procurement whether done manually or electronically.

When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts. If a person previously held liable or found guilty under the provisions of R.A. 9184 and the revised IRR has a controlling interest in a prospective bidder-entity the said bidder-entity shall be disqualified to participate in any procurement activity being conducted by the Government.

2.2 PRIVATE INDIVIDUAL

Private individuals who commit any of the above acts and any public officer conspiring with them shall, upon conviction, suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years. In addition, the public officer involved shall also suffer the penalty of temporary or perpetual disqualification from public office and the private individual shall be permanently disqualified from transacting business with the Government.

The above penalties and offenses shall cover all types of procurement whether done manually or electronically.

When the bidder is a juridical entity, criminal liability and the accessory penalties shall be imposed on its directors, officers or employees who actually commit any of the foregoing acts. If a person previously held liable or found guilty under the provisions of R.A. 9184 and the revised IRR has a controlling interest in a prospective bidder-entity the said bidder-entity shall be disqualified to participate in any procurement activity being conducted by the Government.

3. CIVIL LIABILITIES

3.1 IN CASE OF CONVICTION

Without prejudice to administrative sanctions that may be imposed in proper cases, a conviction under R.A. 9184 and the revised IRR or R.A. 3019 shall carry with it civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the act or acts in question or both, at the discretion of the courts.

3.2 LIQUIDATED DAMAGES

All contracts executed in accordance with R.A. 9184 and the revised IRR shall contain a provision on liquidated damages which shall be payable in case of breach thereof. For the procurement of goods, infrastructure projects and consulting services, the amount of the liquidated damages shall be at least equal to one-tenth of one percent (0.1%) of the cost of the unperformed portion for every day of delay. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract, the Procuring Entity shall rescind the contract, without prejudice to other courses of action and remedies open to it.

4. ADMINISTRATIVE LIABILITIES

The following violations shall warrant administrative sanctions:

- 4.1** Submission of eligibility requirements containing false information or falsified documents.
- 4.2** 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.
- 4.3** Allowing the use of one's name, or using the name of another for purposes of public bidding.
- 4.4** 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 LCRB or HRRB.
- 4.5** Refusal or failure to post the required performance security within the prescribed time.
- 4.6** Termination of the contract due to the default of the bidder.
- 4.7** 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.
- 4.8** Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- 4.9** All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.

5. ADMINISTRATIVE SANCTIONS

Without prejudice to the imposition of criminal sanctions or the effects of civil liability, the HOPE

shall impose on bidders or prospective bidders, the administrative penalty of suspension for one (1) year for the first (1st) offense, and suspension of two (2) years for the second (2nd) offense from participating in the public bidding process, as well as disqualification from further participating in the public bidding being undertaken by the Procuring Entity concerned, where applicable, for any of the above violations. In addition to the penalty of suspension, the Bid Security or the Performance Security posted by the concerned bidder or prospective bidder shall also be forfeited.

The HOPE may delegate to the BAC the authority to impose the administrative penalties.

The HOPE may preventively suspend any member of the TWG, the BAC Secretariat, or the BAC if there are strong reasons or *prima facie* evidence showing that the officials or employees concerned are guilty of committing any of the acts constituting criminal or civil liability, or for dishonesty as defined by the Civil Service Laws. For uniformed personnel of the AFP, the substantive and procedural due process under its justice system shall be applied. In all cases, due process as mandated by the Constitution and Civil Service laws, rules and regulations, shall be strictly observed.

Lifting of preventive suspension pending administrative investigation, as well as removal of administrative penalties and disabilities shall be in accordance with the provisions of Sections 52 and 53, Chapter 6, Subtitle A (Civil Service Commission), Title I, Book V of Executive Order No. 292, otherwise known as the Administrative Code of 1987.

BLACKLISTING

1. **LEGAL REFERENCE**

The Uniform Guidelines for Blacklisting GPPB Resolution 09-2004, attached to the revised IRR as Appendix 11 in the Handbook on Philippine Government Procurement Fifth (5th) Edition, provides the guidelines that govern the blacklisting of manufacturers, suppliers, distributors, contractors and consultants involved in government procurement for offenses or violations committed during competitive bidding and contract implementation, in accordance with Section 69.4 of revised IRR of R.A. 9184.

2. **PROHIBITION ON BLACKLISTED PERSONS**

A person/entity that is blacklisted by a Procuring Entity and/or included in the 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.

A 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.

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. **BLACKLISTING GROUNDS AND SANCTIONS**

3.1 **BLACKLISTING STAGE**

During the competitive bidding stage, pursuant to Section 69 of R.A. 9184, the Procuring Entity shall impose on bidders or prospective bidders the penalty of suspension for one (1) year for the first (1st) offense, suspension for two (2) years for the second (2nd) offense from participating in the public bidding process, 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, for the following violations:

3.1.1 Submission of eligibility requirements containing false information or falsified documents.

- 3.1.2 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.
- 3.1.1. Unauthorized use of one's name, or using the name of the name of another for purpose of public bidding.
- 3.1.2. 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 LCRB or HRRB.
- 3.1.3. Refusal or failure to post the required performance security within the prescribed time.
- 3.1.4. 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.
- 3.1.5. Any documented attempt by a bidder to unduly influence the outcome of the bidding in his favor.
- 3.1.6. All other acts that tend to defeat the purpose of the competitive bidding, such as habitually withdrawing from bidding, submitting late bids or patently insufficient bid, for at least three (3) times within a year, except for valid reasons.

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

3.2 CONTRACT IMPLEMENTATION STAGE

During 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 suspension for one (1) year for the first (1st) offense, suspension for two (2) years for the second (2nd) offense from participating in the public bidding process, for violations committed during the contract implementation stage, which include but not limited to the following:

- 3.2.1 Failure of the contractor, due solely to his fault or negligence, to mobilize and start work or performance within the specified period in the NTP;
- 3.2.2 Failure by the contractor to fully and faithfully comply with its contractual

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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:

- a.** Employment of competent technical personnel, competent engineers and/or work supervisors;
- b.** Provision of warning signs and barricades in accordance with approved plans and specifications and contract provisions;
- c.** 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;
- d.** Deployment of committed equipment, facilities, support staff and manpower; and
- e.** Renewal of the effectivity dates of the performance security after its expiration during the course of contract implementation.

3.2.3 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.

3.2.4 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;

3.2.5 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:

- a.** Defective design resulting in substantial corrective works in design and/or construction;
- b.** Failure to deliver critical outputs due to consultant's fault or negligence; and
- c.** Specifying materials which are inappropriate, substandard, or way above acceptable standards.
- d.** 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 rating sheet. In the absence of the Constructor's Performance Evaluation System 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 fifteen percent (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.

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

4. PROCEDURES FOR SUSPENSION AND BLACKLISTING

4.1 DURING THE COMPETITIVE BIDDING STAGE

Any bidder/prospective bidder or duly authorized observer may initiate the suspension and blacklisting proceeding by filing a written complaint with the BAC. The BAC may also *motu proprio* (by itself) commence the proceeding 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 competitive bidding stage.

At the option of the procuring entity, a reasonable fee may be required for initiating the suspension and blacklisting proceeding.

4.1.1 NOTIFICATION

Upon the 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 suspension and blacklisting has been filed against him, or he has been considered by the BAC for suspension and blacklisting, stating the grounds for such;

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- b.** He has the opportunity to show causes 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 consequence of being suspended and blacklisted.

Within five (5) calendar days from receipt of notification, the contractor shall submit its written answer with the 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 HOPE the immediate suspension of the contractor from participating in any bidding process of the agency and the forfeiture of his bid security.

4.1.2 CONDUCT OF HEARING

If a hearing is requested, the BAC shall immediately set the date and time for the 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 HOPE the suspension of the contractor from participating in any bidding process of the agency and the forfeiture of his bid security.

4.2 DECISION

The HOPE shall, within fifteen (15) days from the receipt of the resolution and the records of the BAC proceeding, determine whether reasonable cause exists for the suspension of the contractor and the forfeiture of the latter's bid security. If the HOPE 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 be 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 HOPE may delegate to the BAC the authority to impose the corresponding sanction(s) provided for in the guideline.

In case a contractor commits more than one offense or a combination of offenses for the same projects/contract in a particular agency, each violation shall be meted the corresponding penalty.

4.2.1 NOTICE OF DECISION

The HOPE shall furnish the suspended contractor a copy of the decision immediately from its promulgation.

4.2.2 EFFECTS OF DECISION

A contractor is suspended upon the 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 of reconsideration and protest and shall terminate only upon a reversal of the decision by the HOPE or appellate authority.

If no motion for reconsideration or protest is filed, the decision shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision. Thereafter, the Head of Procuring Entity shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

4.3 MOTION FOR RECONSIDERATION

A Motion for Reconsideration may be filed by the suspended person/entity within seven (7) 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 could 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 fifteen (15) calendar days from the filing thereof and furnish suspended contractor a copy of the resolution immediately from its promulgation.

4.4 PROTESTS FROM DECISION

A protest may be filed under Section 55 of the revised IRR by the suspended contractor with the appellate authority within seven (7) calendar days from receipt of the resolution on the Motion for Reconsideration.

4.5 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 a protest 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 suspending the contractor, the HOPE or appellate authority shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

4.6 PROCEDURE FOR BLACKLISTING DURING THE CONTRACT IMPLEMENTATION STAGE

Upon termination of contract due to default of the contractor, the Head of the Procuring Entity shall immediately issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects. The performance security of said contractor shall also be forfeited.

4.7 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, 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 the revised 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.

4.8 DELISTING

A blacklisted person/entity shall be automatically delisted after the period for the penalty shall have elapsed, unless the blacklisting agency requests the GPPB to maintain the

blacklisted person/entity in the GPPB Consolidated Blacklisting Report due to justifiable reasons. In the latter case, the blacklisted person/entity shall be delisted only upon the backlisting agency's issuance of a Delisting Order.

4.9 METHODOLOGY FOR NOTIFICATION TO THE GPPB

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 HOPE/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, name project/contract and location/amount, specific ground(s)/offense(s) committed as provided, sanction imposed and its date of start and completion, date of issuance of the order to blacklist, and other conditions which can extend duration of sanctions in Sections 4.
- 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.

The GPPB shall prepare the Consolidated Blacklisting Report every quarter, based on the submitted Blacklisting Orders as provided for in Section 9.1(a) and disseminate the same to procuring entities and the Commission on Audit. The report shall be further posted in the GPPB website and the Government Electronic Procurement System 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 8.1 and those whose sanctions are lifted through the issuance of Delisting Orders.

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 for license suspension/revocation, it shall submit to PCAB a copy of the decision accompanied with supporting documents.

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 revised IRR, are hereby adopted and made part of the GPPB Consolidated Blacklisting Report upon the issuance of these guidelines.

SECTION 8

**LEGAL ASSISTANCE
AND
INDEMNIFICATION**

GENERAL CONDITIONS

1. **LEGAL REFERENCE**

Pursuant to and in accordance with Section 73 of R.A. 9184 and the revised IRR, the GPPB issued the Guidelines on Legal Assistance and Indemnification of BAC Members and its Support Staff² for the following purposes:

- a. To prescribe the rule and procedures in granting legal assistance and indemnification of the BAC members and BAC Support Staff³.
- b. To ensure that the mandate to insulate government procurement personnel from the unnecessary loss, damage or injury arising from the lawful exercise of their functions is implemented in accordance with the provisions of R.A. 9184.
- c. To establish the legal parameters for the effective implementation of the legal assistance and indemnification provided for BAC members and BAC Support Staff.

The funds to be used for the grant of the free legal assistance, liability insurance or medical assistance shall be taken from the agency's annual appropriation. Protest fees, proceeds from the sale of bidding documents, and any other additional funds derived from other income-generating activities of the agency may be used to augment the funds.

2. **FREE LEGAL ASSISTANCE**

In order for a member of the BAC or its Support Staff to avail of the free legal assistance, the following considerations shall be met:

- a. The Procuring Entity shall, to the fullest extent permitted by the, indemnify a BAC member and/or any of the BAC Support Staff who was or is a party to a pending or completed action, suit or proceeding whether civil, criminal or administrative in nature brought against him in the performance of his official functions as BAC member or as BAC Support Staff.
- b. The BAC member or BAC Support Staff concerned shall have engaged the services of a private lawyer or external counsel.

² Approved and adopted by GPPB through its Resolution 021-2005, dated 07 October 2005, published at the Official Gazette on 09 January 2006. Subsequently attached to the revised IRR as Appendix 12 in the Handbook on Philippine Government Procurement Fifth Edition.

³ Refers to the members of the BAC Secretariat and the Technical Working Group duly designated by the Procuring Entity pursuant to the provisions of Rule V of the revised IRR of R.A. 9184.

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- c.** The BAC member or BAC Support Staff shall have not been adjudged as guilty of gross negligence, misconduct, or grave abuse of discretion.
- d.** The free legal assistance shall cover actual cost of suit and attorney's fees. The attorney representing the BAC member or BAC Support Staff shall be entitled to a maximum of Five Thousand Philippine Pesos (PhP 5,000.00) per appearance which shall be paid by the Procuring Entity.
- e.** The free legal assistance shall not cover:
 - i.** Any action or suit initiated by a BAC member or BAC Support Staff in his personal capacity or in behalf of the Procuring Entity, unless such action, proceeding, or claim was authorized by the Head of the Procuring Entity or the approving authority therein; or
 - ii.** Any action or suit initiated by the Government against the BAC members or BAC Support Staff.
- f.** The BAC member or BAC Support Staff shall be entitled to actual, moral, and exemplary damages when awarded by the court. Likewise, the attorney representing the BAC member or BAC Support Staff shall be entitled to attorney's fees awarded by the court.

3. LIABILITY INSURANCE

Following are the general conditions pertaining to the liability insurance for members of the BAC and the BAC Support Staff:

- a.** The Procuring Entity shall have the responsibility to procure and maintain adequate liability insurance for and in behalf of its BAC members or BAC Support Staff.
- b.** The liability insurance policy shall cover only those liabilities asserted against the public official and incurred by him in his capacity as such BAC members or BAC Support Staff as the case may be.
- c.** In order to avail of the liability insurance, the BAC members or BAC Support Staff should not be adjudged in such action or proceeding to be guilty of gross negligence, misconduct, or grave abuse of discretion or guilty of any other complaint or charges.
- d.** In the event of settlement or compromise, indemnification shall be confined only to matters covered by the settlement, and to which the Procuring Entity had been advised by counsel that the person to be indemnified have not committed gross negligence, misconduct, or grave abuse of discretion in the performance of their duties and functions.

- e. The insurer shall pay for the loss arising from the claim or suit made against the BAC members or BAC Support Staff during the policy period where they serve in such capacity. For this purpose, the term “loss” shall include judgments, expenses for settlement or compromise, as well as all reasonable fees and other expenses incurred by such persons in connection with any administrative, civil, or criminal action, suit or proceeding to which they may be or have been made a party by reason of the lawful performance of their official functions and duties in such capacity.

4. MEDICAL ASSISTANCE

Medical assistance should be provided to BAC members and BAC Support Staff for injuries/disabilities incurred in the lawful performance of their official functions and duties. The medical assistance consists of indemnification for medicines, laboratory and hospitalization expenses and granted to the claimant as a matter of right and subject to the conditions mandated by law.

Following are the general considerations pertaining to the medical assistance:

- a. The claimant(s) should be entitled to indemnification for any injury or disability resulting from the performance of their official functions as defined by law and without any contributory negligence on their part; provided that they exercised due diligence to prevent harm or injury to themselves.
- b. The claimant(s) or his/her relatives shall notify the Head of the Procuring Entity within seven (7) calendar days from the occurrence of the injury or disability.
- c. The amount claimed shall not exceed the actual amount incurred, substantiated by receipts and other supporting documents. Indemnification shall only be made upon presentation of the proof of payment in connection with the injury or disability suffered.

LEGAL ASSISTANCE AND INDEMNIFICATION

1. The claimant(s) should file their respective claim(s) for legal assistance, liability insurance, or medical assistance as the case may be, with the HOPE; and shall secure the approval of the latter on the terms and conditions of the engagement of counsel.
2. The HOPE should be given at least fifteen (15) to thirty (30) calendar days to examine, review, verify and validate the authenticity of the documents presented by the claimant.
3. Upon finding that all the requirements have been duly complied with and that all the necessary documents submitted are genuine, it should then order the processing of the claims and the subsequent release of funds for the approved claims.
4. Any expense incurred in advance by the claimant arising from the performance of his official functions in such capacity shall be subject to reimbursement upon submission of the necessary documents and approval thereof by the HOPE.
5. If the BAC member or its support staff is found to be not guilty for gross negligence, misconduct, or grave abuse of discretion, he shall liquidate his cash advances by presenting receipts of payment and other necessary documents. On the other hand, if the BAC member or its support staff is found to be guilty for gross negligence, misconduct, or grave abuse of discretion, he shall pay the cash advances made through salary deductions or reimbursement.
6. It is now a recognized policy of the DOH that the HOPE of regional offices and DOH hospitals shall be entitled to the special legal assistance explicitly provided in R.A. 9184 and the revised IRR on the engagement of private counsels when court litigation ensues. Relative to the Guidelines for Legal Assistance and Indemnification of BAC and its Support Staff as stipulated in Appendix 12, Paragraph 4.1 of the revised IRR of R.A. 9184, the DOH recognizing the role and function of the HOPE approving as a matter of course, of most of the procurement contracts, and further considering that special legal assistance through the use of private legal counsel is explicitly made available to the members of BAC, its Secretariat, Technical Working Group Members, or those directly related to procurement activities, and by virtue of the equal protection clause of the Constitution, it is therefore the policy to extend the same privilege already provided to others.
7. Thus, the heads of the different CHDs as well as the Chief of the various DOH hospitals when acting as HOPE shall also enjoy the privilege extended under Sections 72 and 73 of R.A. 9184 and its Revised Implementing Rules and Regulations in case of any suit, criminal or civil, is filed against them, whether or not it is alleged to be in the performance of their official duties.

- 8.** In hiring private legal counsel, the maximum allowable amount of Five Thousand Philippine Pesos (PhP 5,000.00) as legal fees shall be based on a "per hearing" attendance or should no hearing be conducted, then on the basis of per submission of a responsive pleading as defined under the Rules of Court. Postponements, when initiated by respondent's counsel and subsequently approved shall not be compensated; however, those initiated by complaining counsel may be compensated when respondent's counsel still make an appearance, not knowing that the same had already been earlier extended.
- 9.** The compensation of the private counsel shall immediately be paid after every hearing and/or submission of a responsive pleading, not later than three (3) working days therefrom, which fund shall be taken from any available moneys of the CHD or hospital concerned.
- 10.** In the event that the charges against the procuring official are proven and/or the official convicted and that they are made liable for gross negligence or misconduct or grave abuse of discretion or otherwise held guilty of the complaint or charges", then said official shall immediately return all the moneys expended earlier and/or if unable or unwilling to, shall be with whatever amounts that may still be due in his favor.

The image features a title card for 'SECTION 9 CASE STUDIES'. The text is centered within a white rectangular area, which is framed by a thin green border. This white area is itself set within a larger, thick green rectangular border. The overall design is clean and professional.

SECTION 9

CASE STUDIES

CASE STUDY: PROCUREMENT OF INFRASTRUCTURE PROJECTS

A concrete road project with ABC of Ten Million Philippine Pesos (PhP10,000,000.00) was advertised for bidding. Twenty (20) contractors submitted their respective eligibility and bid requirements. On the opening of the first bid envelopes, only ten (10) were found to be eligible.

The second envelope was opened and their financial envelopes were likewise complying. After reading all the financial bids, Contractor A, which submitted a bid Eight Million Five Hundred Thousand Philippine Pesos (PhP 8,500,000.00), was declared the bidder with the LCB. The second (2nd) lowest bid was Nine Million One Hundred Thousand Philippine Pesos (PhP 9,100,000.00), submitted by Contractor B.

During the Bid Evaluation, the bid of Contractor A was corrected for arithmetical errors. The recalculated bid of Contractor A went up to Ten Million Philippine Pesos (PhP 10,000,000.00).

During the Post-Qualification, Contractor B wrote the BAC Chairman and informed him that Contractor A has an on-going project with outstanding works of about Forty Million Philippine Pesos (PhP 40,000,000.00). This project was apparently not taken into consideration in Contractor A's submitted calculation of its NFCC, a requirement for eligibility.

The BAC called the attention of Contractor A on the matter of the deficient NFCC. In reply, Contractor A posted a credit line in an amount which is more than enough to cover for the difference between its real NFCC and the ABC. The bid of Contractor A seemed to be responsive, especially since it has all the required personnel and equipment needed for the project, and has done all its previous projects satisfactorily with no negative slippage at all. Further, there is political pressure on the BAC to award the contract to Contractor A as it is being endorsed by the Congressman in the locality of the project.

The BAC will meet to deliberate whether to award the project to Contractor A.

ANALYSIS

The BAC should not award the contract to Contractor A, primarily because Contractor A is not eligible.

While the eligibility requirements submitted passed the Eligibility Check, information that the BAC gathered during Post-Qualification shows that Contractor A misrepresented itself by not reporting its on-going project, whose outstanding works would have a negative impact on its NFCC.

Section 23.7 of the revised IRR says: *“Notwithstanding the eligibility of a prospective bidder, the Procuring Entity concerned reserves the right to review its qualification at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said prospective bidder, or that there has been a change in the prospective bidder’s capability to undertake the project from the time it submitted its eligibility requirements. Should such review uncover any misrepresentation made in the eligibility requirements, statements or documents, or any changes in the situation of the prospective bidder which will affect the capability of the bidder to undertake the project so that it fails the preset eligibility criteria, the Procuring Entity shall consider the said prospective bidder as ineligible and shall disqualify it from submitting a bid or from obtaining an award or contract.”*

Further, even if Contractor A posted a credit line enough to compensate for the difference in its NFCC and the project’s ABC; in the first place, the BAC should not have accepted the credit line as this is tantamount to an improvement in the qualification/bid of Contractor A. Corollary to this, it should be noted that the eligibility requirement from a bidder as proof of its capacity to absorb additional obligations in connection with the contract and to finance its implementation and completion is a choice among the NFCC, a credit line, or a cash deposit certificate, not a combination of the three.

In fact, Contractor A should be penalized in accordance with Section 65.3 (a) of the revised IRR for submitting false information. This section penalizes the act of submitting eligibility requirements of whatever kind and nature that contain false information or falsified documents calculated to influence the outcome of the eligibility screening process or conceal such information in the eligibility requirements when the information will lead to a declaration of ineligibility from participating in public bidding.

If proven to be guilty of the above, the bidder may be penalized with imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years.

At this point, the BAC should have disqualified Contractor A despite: (a) its apparent capability to undertake the contract as is shown by its other submitted requirements such as lists of personnel and equipment and its good track record; (b) its bid being the lowest; and (c) its closeness to the Congressman, which does not have a bearing on the bidding process.

It must be clear in the minds of the BAC that the reason for having an Eligibility Check/Screening prior to the submission of Bids is to allow the BAC to sift among the many interested bidders and deal only with those who are eligible, based on some pre-set criteria.

Thus, if a bidder is not eligible, the BAC should not think twice about disqualifying it even if it appears to be capable based on its technical and/or financial envelopes. The advantage of having this step-by-step procedure is that it minimizes discretion of the BAC and saves/protects it from having to face dilemmas of this sort. In view of the foregoing, the BAC should proceed with the evaluation of the bid proposal submitted by the second lowest bid.

CASE STUDY: PROCUREMENT OF CONSULTING SERVICE

A government agency wanted to engage the services of a consultant for the detailed improvement of the agency's website. During the pre-procurement conference, it was agreed upon by the BAC and other participants that the use of the Quality-Based Evaluation procedure would be recommended in the selection of a prospective consultant. The head of the agency approved the use of the said evaluation procedure.

The project, which has an ABC of PhP 3,000,000.00, was advertised on 03 and 09 January 2010 in a newspaper of nationwide circulation, the agency's website, the PhilGEPS, and on conspicuous places within the agency's premises. Fifteen (15) firms responded by submitting their respective eligibility documents on or before the deadline specified in the Request for Expression of Interest.

During the eligibility check conducted by the BAC on 25 January 2010, the BAC declared eight (8) firms as ineligible due to lacking eligibility requirements in their submission. The eight (8) ineligible firms received their notice of ineligibility before the meeting adjourned. The seven (7) other firms were declared by the BAC as eligible for shortlisting. One of the eight (8) ineligible firms, Company X, filed a request for reconsideration to the BAC on 01 February 2010. After an assessment of the justification provided by the said ineligible bidder, the BAC decided on 05 February 2010 to grant its request for reconsideration and declared Company X as eligible.

After evaluating the eligibility documents submitted by the eight (8) eligible bidders based on the criteria specified in the REI and Terms of Reference, the BAC determined the ratings of the eight (8) bidders as follows:

1. Company A – 90.5 points
2. Company B – 85.5 points
3. Company C – 75.5 points
4. Company D – 69.5 points
5. Company E – 69.0 points
6. Company F – 68.5 points
7. Company G – 61.5 points
8. Company X – 49.5 points

The BAC deliberated on the number of firms to be included in the shortlist and agreed to have a shortlist of six (6) firms. All six (6) firms were informed of their inclusion in the shortlist and requested them to submit the technical and financial proposals through a letter dated 17 February 2010 and signed by the BAC Chairperson.

A pre-bid conference was scheduled on 22 February 2010, while the deadline for submission of technical and financial proposals was set on 03 March 2010, 10:00 A.M. at the BAC Conference Room, ground floor of the agency's building.

The BAC specified that the attendance of the firms in the pre-bid conference is mandatory, and that failure to attend would be considered as a ground for disqualification. All six (6) firms attended the pre-bid conference and the minutes of the same were issued to the six (6) bidders on 26 February 2010.

Five (5) of the six (6) firms submitted their technical and financial proposals on or before 03 March 2010, 10:00 A.M. at the BAC Conference Room, ground floor of the agency's building. The sixth firm (Company F) arrived at the Conference Room at 10:05 A.M. and insisted that its technical and financial proposals should be accepted as the representatives were in the building at 9:45 A.M., as recorded in the security guard's logbook. The BAC decided to accept the technical and financial proposals of Company F.

The BAC started opening the technical envelopes of the six (6) firms at the time indicated in the letter to determine the presence of the required technical documents. All the firms, except Company F, submitted all the required technical documents. Company F was declared disqualified by the BAC for not submitting all the technical requirements. After agreeing with the declaration of the BAC on its disqualification, Company F accepted its financial proposal that was returned unopened by the BAC.

Prior to the detailed evaluation of the technical documents submitted by the five (5) technically-complying firms, the BAC deliberated on the sub-criteria and the corresponding weights. To more appropriately consider the requirements of the project, the general criteria were further subdivided. Based on the approved criteria, the BAC rated the five (5) firms, resulting in the following rankings:

1. Company A – 88.5 points
2. Company B – 81.5 points
3. Company C – 71.5 points
4. Company D – 68.0 points
5. Company E – 65.5 points

The BAC sent a letter to Company A dated 22 March 2010, informing the firm that it submitted the highest rated bid, thus, inviting it for the contract and financial negotiations on 26 March 2010 at 9:00 A.M. The authorized representative of Company A met with the BAC and discussed, among others, its financial proposal. Upon opening of the financial proposal of Company A, the submitted bid price was read as PhP3,300,000.00, exceeding the ABC by PhP300,000.00. The BAC checked the calculation of Company A and it determined the correct bid price to be PhP 3,050,000.00, still exceeding the ABC by PhP 50,000.00. Company A offered a discount of PhP50,000.00 so that the cost of its financial proposal would not exceed the ABC. Satisfied with the high technical score obtained by Company A, the BAC accepted the discount offered.

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Negotiations were successfully completed on 05 April 2010. Company A was considered to have submitted the Highest Rated and Responsive Bid (HRRB) after its successful post-qualification on 13 April 2010.

The BAC deliberated and decided to award the contract to Company A. What steps, if any, are not consistent with the provisions of the revised IRR relating to the procurement of consulting services?

ANALYSIS

1. While the REI was published twice in a newspaper of general nationwide circulation, Section 21.2.1.b of the revised IRR provides that the REI must be advertised for at least seven (7) calendar days. The BAC had a shorter period of six (6) days for disseminating the procurement opportunity for consulting services.
2. The request for reconsideration by Company X, which was declared by the BAC to be ineligible, should not have been favorably considered by the BAC as it was filed seven (7) days after it received the notice of ineligibility. Section 55.1 provides that decisions of the BAC at any stage of the procurement process may be questioned by filing a request for consideration within three (3) calendar days upon receipt of the written notice or upon verbal notification.
3. During the pre-procurement conference, the BAC should have already determined the number of shortlist of consultants, as provided in Section 24.5.2. This section further provides that “should less that the required number applies for eligibility and shortlisting, pass the eligibility check, and/or pass the minimum score required in the shortlisting, the BAC shall consider the same.” Determining the number of shortlist and the minimum score during the actual shortlisting gives the BAC the opportunity to have a lesser or larger number of shortlist from three (3) to seven (7), to favor a preferred firm.
4. The BAC is a recommendatory body. It should have obtained the approval of the Head of the Procuring Entity for its recommended shortlist before inviting all the firms in the shortlist to submit proposals, as provided in Section 24.5.4.
5. Section 22.2 provides that the pre-bid conference shall be held at least twelve (12) calendar days before the deadline for the submission and receipt of bids. Moreover, Section 22.3 provides that the attendance to the pre-bid conference should not be mandatory. Conducting the pre-bid conference nine (9) days before the deadline may not give the shortlisted bidders enough time to revise their proposals if these are to be affected by agreements discussed during the pre-bid conference. To be binding on both parties, any agreements discussed during the pre-bid conference that will affect the provisions in the bidding documents shall be stated in writing and issued as Supplemental/Bid Bulletin.
6. The technical and financial proposals of Company F should not have been accepted by the BAC as these were submitted at the designated venue beyond the deadline. Section 25.5 of the revised IRR provides that bids, including the eligibility requirements, submitted after the deadline shall not be accepted by the BAC.

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- 7.** The evaluation criteria for the technical proposals should also have been agreed upon by the BAC during the pre-procurement conference. Although the BAC has not yet started evaluating the technical proposals when it finalized the evaluation criteria and could claim that they did not skew the criteria to favor a particular bidder, a losing bidder might exploit the situation and complain otherwise.

- 8.** When the BAC calculated the cost of the financial proposal of Company A and determined that it exceeded the ABC, it should have disqualified Company A automatically as provided in Section 31.1 that the ABC shall be the upper limit or ceiling for acceptable bid prices. The discount offered by Company A should not have been accepted as this is tantamount to an improvement of its bid. Since Company A should have been disqualified, Company B should be invited by the BAC for negotiation as it has the second highest technical score. If negotiation and post-qualification were successful, Company B would be determined to have submitted the Highest Rated and Responsive Bid, and recommended for award of contract.

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SECTION 10
ANNEXES

A. ABBREVIATIONS AND ACRONYMS

ABC	Approved Budget for the Contract	CIP	Carriage and Insurance Paid to (named place of destination)
ABM	Agency Budget Matrix	CLC	Credit Line Certification
ADB	Asian Development Bank	COA	Commission on Audit
AFP	Armed Forces of the Philippines	COBAC	Central Office Bids and Awards Committee
AFS	Audited Financial Statement	COFILCO	Confederation of Filipino Consulting Organizations
AO	Administrative Order	CPES	Contractors Performance Evaluation System
APP	Annual Procurement Plan	CPESIU	Contractors Performance Evaluation System Implementing Unit
APR	Annual Procurement Report	CPM	Customized Procurement Manual
BAC	Bids and Awards Committee	CSC	Civil Service Commission
BC	Budget Circular	CSO	Civic Society Organization
BDS	Bid Data Sheet	DBCC	Development Budget Coordination Committee
BIR	Bureau of Internal Revenue	DBM	Department of Budget and Management
BRS	Bureau of Research and Standards	DBM-PS /PS-DBM	Department of Budget and Management-Procurement Service
BSP	Bangko Sentral ng Pilipinas	DOH	Department of Health
CAF	Certificate of Availability of Funds	DTI	Department of Trade and Industry
CDA	Cooperatives Development Authority	DV	Delivery Voucher
CHD	Center for Health Development	E.O.	Executive Order
CIAP	Construction Industry Authority of the Philippines	ESAO	Engineering Supervision and Administration Overhead
CIF	Cost, Insurance and Freight	EXW	Ex Works, Ex Factory or Off- the-Shelf

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FAPs	Foreign-Assisted Projects	ITB	Instructions to Bidders
FDA	Food and Drug Administration	ITR	Income Tax Return
FMIS	Financial Management Information System	JBIC	Japan Bank for International Cooperation
GAA	General Appropriations Act	JVA	Joint Venture Agreement
GCC	General Conditions of Contract	LC	Letter of Credit
GFI	Government Financial Institution	LCB	Lowest Calculated Bid
GOCC	Government-Owned or – Controlled Corporation	LCRB	Lowest Calculated and Responsive Bid
GOP	Government of the Philippines	LGU	Local Government Unit
GPM	Generic Procurement Manual	MOOE	Maintenance and Other Operating Expenses
GPPB	Government Procurement Policy Board	NACAP	National Constructors Association of the Philippines
GPPB-TSO	Government Procurement Policy Board – Technical Support Office	NBC	National Budget Circular
GPRA	Government Procurement Reform Act of 2003	NCB	National Competitive Bidding
HOPE	Head of Procuring Entity	NFCC	Net Financial Contracting Capacity
HRB	Highest Rated Bid	NGA	National Government Agency
HRRB	Highest Rated and Responsive Bid	NGO	Non-Government Organization
IB	Invitation to Bid	NOA	Notice of Awards
ICB	International Competitive Bidding	NSO	National Statistics Office
ICT	Information and Communications Technology	NTP	Notice to Proceed
IFI	International Financing Institution	OS	Obligation Slip
IPR	Intellectual Property Rights	PA	Professionals' Association
IRR	Revised Implementing Rules and Regulations	PAPs	Program, Activities and Programs

IRR-A	Implementing Rules and Regulations Part-A of RA 9184	PBDs	Philippine Bidding Documents
PCA	Philippine Constructors Association, Incorporated	ROW	Right-of-Way
PCAB	Philippine Contractors Accreditation Board	SARO	Special Allotment Release Order
PCCI	Philippine Chamber of Commerce and Industry	SBD	Standard Bidding Documents
PERT/CPM	Project Evaluation Review Technique / Critical Path Method	SCC	Special Conditions of Contract
PhilGEPS/ GEPS	Philippine Government Electronic Procurement System	SEC	Securities and Exchange Commission
PICE	Philippine Institute of Civil Engineers	SME	Small and Medium Enterprises
PICPA	Philippine Institute of Certified Public Accountants	SOW	Scope of Work
PMO	Project Management Office	SRRB	Single Rated and Responsive Bid
PNDF	Philippine National Drug Formulary	SSRS	Simplified Supplier's Registration System
PNP	Philippine National Police	SUC	State Universities and Colleges
PPMP	Project Procurement Management Plan	SWA	Statement of Work Accomplished
PR	Procurement Request	TACT	Technical Assistance Coordinating Team
PRC	Professional Regulation Commission	TOR	Terms of Reference
PWI	Procurement Watch Incorporated	TSO	Technical Support Office
R.A.	Republic Act	TWG	Technical Working Group
R.A. 9184	Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act"	UNDB	United Nations Development Business
REI	Request for Expression of Interest	VAT	Value-Added Tax
RFP	Request for Proposal	WB	The World Bank
RFQ	Request for Quotation	WFP	Work and Financial Plan

B. GLOSSARY

Abstract of Bids	The corresponding document prepared by the BAC after all bids have been received, opened, examined, evaluated and ranked.
Abstract of Bidding Documents	A summary containing general information on the procurement at hand that is posted in the PhilGEPS.
Advance payment	Refers to any payment made prior to the delivery and acceptance of Goods, Works, or Consulting Services.
Approved Budget for the Contract	The budget for the contract duly approved by the head of the procuring entity, as provided for in the General Appropriations Act and/or continuing appropriations, in the case of national government agencies; the corporate budget for the contract approved by the governing board, pursuant to Executive Order No. 518, series of 1979 ("E.O. 518"), in the case of GOCCs and GFIs, and Republic Act No. 8292 in the case of SUCs; and the budget approved by the <i>Sanggunian</i> in the case of LGUs.
Bids and Awards Committee	It is also referred to as the BAC which is established in accordance with Rule V of the revised IRR of R.A. 9184. It primarily perform the following functions: (a) advertise and/or post the invitation to bid/request for expressions of interest; (b) conduct pre-procurement and pre-bid conferences; (c) determine the eligibility of prospective bidders; (d) receive bids; (e) conduct the evaluation of bids; (f) undertake post-qualification proceedings; (g) resolve motions for reconsideration; (h) recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative; (i) recommend the imposition of sanctions in accordance with Rule XXIII; (j) recommend to the Head of the Procuring Entity the use of Alternative Methods of Procurement as provided for in Rule XVI hereof; and (k) perform such other related functions as may be necessary, including the creation of a Technical Working Group from a pool of technical, financial, and/or legal experts to assist in the procurement process, particularly in the eligibility screening, evaluation of bids, and post-qualification.
Bid	A signed offer or proposal to undertake a contract submitted by a bidder in response to and in consonance with the requirements of the bidding documents. Also referred to as <i>Proposal</i> and <i>Tender</i> , particularly when referring to the procurement of consulting services.
Bid Evaluation	The process of determining the Bidder with the Lowest Calculated Bid or the Highest Rated Bid.
Bid Opening Date	The date specified in the IB for the opening of bids.

Bid Security	Cash, check, bank draft, letter of credit, bank guarantee, surety bond or a foreign government guarantee that serves as a guarantee that the successful bidder shall not default on his offer, and shall enter into contract with the Procuring Entity and furnish the performance security.
Bid Validity	A reasonable period determined by the head of the Procuring Entity concerned, but in no case shall exceed one hundred twenty (120) calendar days from the date of the opening of bids, wherein a Bid Security is considered valid.
Bidder	An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives. More specifically, a contractor, manufacturer, supplier, distributor and/or consultant competing for the award of a contract in any government procurement. See <i>Eligible bidder</i> , <i>Prospective bidder</i> .
Bidding Documents	The documents issued by the procuring entity as the bases for bids, furnishing all information necessary for a prospective bidder to prepare a bid for the infrastructure projects, goods and/or consulting services required by the procuring entity.
Blacklisting	To place on, or as if on, a list of persons or organizations that have incurred disapproval or suspicion or are to be boycotted or otherwise penalized.
Brand Name	A trade name or product name, which identifies a product as having been made by a particular manufacturer.
Calculated Bid Price	The price of a bid, after taking into account minor arithmetical corrections to consider computational errors, omissions and discounts, if allowed.
Civil Works	See <i>Infrastructure Projects</i> .
Collusion	An agreement between two or more persons, to commit acts to accomplish a fraudulent or deceitful purpose.
Common-Use Supplies	Goods, materials and equipment that are repetitively used in the day-to-day operations of procuring entities in the performance of their functions, which are included in the Price List of the Procurement Service of the Department of Budget and Management.
Competitiveness	A principle in Government procurement that allows broad participation by eligible and qualified suppliers, contractors, consultants to put forward offers for a project.

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Competitive Bidding	Use interchangeably with term Public Bidding: It is a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract.
Communication costs	Mail and fax costs, plus cost of advertising, meetings, internet/web posting and other costs incurred for the dissemination of information about the bidding.
Conference Notice	A formal written communication sent to the participants of the conference (such as the Pre-procurement, Pre-bid and Post- Award Conference) informing them when and where the conference will be held.
Conflict of Interest	Refers to a clash between public interest and the private pecuniary interest of the individual concerned (Black's law Dictionary, 5th ed.)
Consulting Services	Refer to services for Infrastructure Projects and other types of projects or activities of the Government requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the Government to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies (Sec. 5 i of the revised IRR).
Consolidated Blacklisting Report	A report issued by the GPPB that contains a list of people and/or organizations that are barred from participating in any Government procurement project.
Consulting Services	Services for Infrastructure Projects and other types of projects or activities of the Government requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the Government to undertake such as, but not limited to: (i) advisory and review services; (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v) management and related services; and (vi) other technical services or special studies.
Contract Completion	Project sign-off or acceptance of the project/goods by the end- user.
Contract Implementation	The execution of a contract, covering the following milestones: effectivity of the contract; contractor's performance of his contractual obligations; procuring entity's performance of its contractual obligations, as specified in the Contract; final acceptance or project sign-off; all other related activities; and payment by the Procuring Entity.

Contractor	One who undertakes to perform a work or service, or supply goods for a public or private entity.
Contract Termination	Ending of a contract prior to its completion.
Corrupt practice	The offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution. Compare <i>fraudulent practice</i> .
Cost Recovery Component	Direct and indirect costs accounted for in determining the price of Bidding Documents to be sold to interested suppliers/contractors.
Demand Regulation Component	A positive (+) or negative (-) unit amount allocated to the bidding activity for the purpose of regulating the participation of bidders
Development Cost	Costs incurred in developing the original content of the documents, designs, plans and specifications. The design cost may be excluded if the same is to be included in the capitalized cost of the project which is to be recovered from the usage of the completed project facility.
Direct Costs	Costs directly incurred such as development, reproduction, and communication costs allocated to the bidding activity. See <i>Communication Cost</i> , <i>Development Cost</i> , <i>Reproduction Cost</i> . Compare <i>Indirect Costs</i> .
Disclosure	The act of disclosing, uncovering, or revealing
Disqualification	The act of barring a bidder from further participation in the procurement at hand, even if, in some instances, it has initially been declared eligible or post-qualified.
Domestic Bid	Any offer of unmanufactured articles, materials, or supplies of the growth or production of the Philippines, or manufactured articles, materials or supplies manufactured or to be manufactured in the Philippines, substantially from articles, materials or supplies of the growth, production or manufacture, as the case may be, of the Philippines.
Eligible Bidder	A contractor, manufacturer, supplier, distributor or consultant who meets all the eligibility requirements issued by the procuring entity.
Eligibility	Refers to the status of a Bidder in relation to its legal, technical and financial competence to comply with the requirements of the contract to be bid, as shown by eligibility documents submitted to and checked by the BAC.

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Eligibility Check	The process of determining the compliance of Prospective Bidders with the eligibility requirements prescribed, using a non-discretionary, “passed/failed” criteria.
Eligibility Screening	(see) <i>Eligibility Check</i> .
Financial Bid	One of two components comprising a bid, the other being the <i>Technical Bid</i> .
Force Majeure	(see) <i>Fortuitous events</i> .
Foreign Bid	Any offer of articles, materials or supplies not manufactured or to be manufactured in the Philippines, substantially from articles, materials or supplies of the growth, production, or manufacture, as the case may be, of the Philippines.
Foreign Supplier	A supplier who is not a local supplier.
Fortuitous events	It is an event which could not be foreseen, or which though foreseen, was inevitable. (Art. 1174, Civil Code)
Fraudulent practice	Misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity. Compare <i>corrupt practice</i> .
Goods	Refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non- personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services. The term “related” or “analogous services” shall include, but not be limited to, lease or purchase of office space, media advertisements, health maintenance services, and other services essential to the operation of the procuring entity (Sec. 5 r of the revised IRR).
Head of the Procuring Entity	(i) the head of the agency or body, or his duly authorized official, for NGAs and the constitutional commissions or offices, and branches of government; (ii) the governing board or its duly authorized official, for GOCCs, GFIs and SUCs; or (iii) the local chief executive, for LGUs: Provided, however, that in an agency, department, or office where the procurement is decentralized, the Head of each decentralized unit shall be considered as the head of the procuring entity subject to the limitations and authority delegated by the head of the agency, department, or office.

Invitation to Bid	This serves as the notice to the public and all interested parties of the procurement opportunity.
Incidental Services	This are services ancillary to the supply of the Goods, such as transportation and insurance; installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the contract, RFP, TOR, and/or bidding documents.
Indirect Costs	Costs indirectly incurred such as overhead, supervision, and administrative costs allocated to the bidding activity. Compare <i>Direct Costs</i> .
Ineligible Bidder	A contractor, manufacturer, supplier, distributor or consultant who fails to meet any or all of the eligibility requirements issued by the procuring entity.
Infrastructure Projects	Include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government. Referred also as <i>civil works (Sec. 5.u of the revised IRR)</i> .
Inspection	Examination and/or testing of merchandise to determine whether it has been received in the proper quantity and condition and to verify that it conforms to the applicable specifications.
Latent Defect	A defect that is not apparent to the buyer by reasonable observation. A latent defect is “hidden” or one that is not immediately determinable.
Liquidated Damages	Damages agreed upon by the parties to a contract, to be paid in case of breach thereof.
Request for Reconsideration	In procurement, it is an application made to the BAC for the purpose of obtaining a rule or order setting aside a previous decision.
Negotiated Procurement	An alternative method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant.

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Notice of Award	The document issued by the HOPE to the bidder to whom the contract is awarded.
Notice of Eligibility	The document issued by the BAC to the eligible bidder/s formally informing the same that he/she/they met the eligibility requirements issued by the procuring entity.
Notice of Ineligibility	The document issued by the BAC to the bidder/s who failed to meet any or all of the eligibility requirements issued by the procuring entity.
Notice of Post-qualification	The document issued by the BAC to the bidder with LCB whose bid is found responsive.
Notice to Proceed	The document issued by the Head of the Procuring Entity to the winning bidder to proceed with the implementation of the contract.
Observer	One who is invited to attend and observe all stages of the procurement, especially: the pre-bid conference; opening of bids; bid evaluation; post-qualification; contract award; and special meetings of the BAC.
Patent Defect	A defect that is apparent to the buyer on normal observation. An apparent or obvious defect.
Performance Security	A security posted by the winning bidder to guarantee the faithful performance by the same of its obligations under the contract prepared in accordance with the bidding documents.
Portal	A website that integrates a wide variety of contents for the purpose of attracting and aggregating multiple users together in a central virtual space.
Post-qualification	The process of validating and verifying the documents, information and statements made in the Eligibility Documents by the Bidder who submitted the Lowest Calculated Bid, as well as ascertaining the said Bidder's compliance with the legal, financial and technical requirements of the bid.
Post-qualification Report	The report prepared by the TWG containing the findings/results of the post-qualification conducted on the bidder with the LCB or HRB, as the case may be.
Pre-bid Conference	It is the forum where the Procuring Entity's representatives and the Prospective Bidders discuss the different aspects of the procurement at hand.

Pre-procurement Conference	It is the forum called by the BAC for procurements undertaken through public bidding, where all officials involved in the procurement meet and discuss all aspects of the transaction, including the technical specifications, the Approved Budget for the Contract, the applicability and appropriateness of the recommended method of procurement and the milestones, the bidding documents, availability of the pertinent budget release for the project / contract, among others.
Procurement	The acquisition of Goods, Consulting Services, and the contracting for Infrastructure Projects by the Procuring Entity. Procurement shall also include the lease of goods and real estate. With respect to real property, its procurement shall be governed by the provisions of R.A. 8974 and other applicable laws, rules and regulations.
Procurement Observation Report	The report submitted by the Observer to the Head of the Procuring Entity based on the procurement checklist.
Procurement Unit	Refers to the organic office of the Procuring Entity that carries out the procurement function.
Procuring Entity	Any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of the Government, including GOCC, GFI, SUC and LGU procuring Goods, Consulting Services and Infrastructure Projects.
Project Management Office	The unit/office/department of the procuring entity that is primarily responsible for implementing and managing a project.
Proposal	(see) <i>Bid</i> .
Protest	A formal declaration made by a person interested or concerned in some acts to be done, or already performed, whereby he expresses his dissent or disapproval, or affirms the act against his will. The object of such declaration is usually to save some right which would be lost to him if his implied assent could be made nil, or to exonerate himself from some responsibility which would attach to him unless he expressly negate his assent. (Black's Law Dictionary, 5th Ed.)
Provincial bidder	A contractor who participates in the bidding of provincial priority programs and infrastructure projects as defined in Section 44 of the revised IRR of R.A. 9184, and whose principal office is within the same province.
Public Bidding	(see) <i>Competitive Bidding</i> .

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Public Monitoring	It is one of the governing principles of public procurement which seeks to ascertain compliance of a procuring entity to the provisions of R.A. 9184 and its revised IRR.
Reproduction cost	It is the labor, supplies and equipment rental costs incurred in the reproduction of the documents.
Request for Clarification	A written request submitted by the bidder to the BAC, asking the latter to clarify a particular provision of the Bidding Documents.
Request for Proposal	A written request for proposals concerning goods or services the government intends to acquire by means of alternative method of procurement such as Shopping or Negotiated Procurement (Small-value Procurement). The solicitation document used in acquiring quotations. The procedure allows changes to be made after other proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.
Spare parts	Refer to extra components, equipment, tools, instruments or parts of machinery or apparatus that replace the ones that are damaged or worn out.
Specification	A description of what the purchaser requires and what a bidder must offer.
Splitting of Contracts	Splitting of Government Contracts means the division or breaking up of GOP contracts into smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the requirements of law and the revised IRR, especially the necessity of public bidding and the requirements for the alternative methods of procurement (Section of the revised IRR 54.1)
Standard	The established and fixed measure used in assessing quality or performance.
Subcontractor	One who takes a specific part of the work undertaken by the principal contractor (Black's Law Dictionary, 5th Ed.)
Submitted bid price	The bid price as indicated in the financial proposal submitted by the bidder.
Supplemental/Bid bulletin	A notice issued by the Procuring Entity to Prospective Bidders with respect to any clarifications or modifications in the Bidding Documents, including those affecting the technical specifications, eligibility requirements, procurement schedule, and other similar matters.
Technical Bid	One of two components comprising a bid, the other being the <i>Financial Bid</i> .

Tender

(see) *Bid*.

Warranty

An undertaking by the supplier, manufacturer or distributor to guarantee that it will correct any manufacturing defects of the goods procured by the government.

C. PERIOD OF ACTION ON PROCUREMENT ACTIVITIES

MAXIMUM PROCUREMENT PERIOD

LATEST ALLOWABLE TIME						
STAGE	ACTIVITIES	DEADLINE	GOODS	INFRASTRUCTURE PROJECTS		CONSULTING SERVICES
				FOR ABC 50M AND BELOW	FOR ABC ABOVE 50M	
1	Advertisement/Posting of Invitation to Bid/Request for Expression of Interest		7 cd	7cd	7cd	7cd
2	Eligibility Check (and Short Listing, in case of Consulting Service)		Refer to Stage 5	Refer to Stage 5	Refer to Stage 5	20 cd
3	Issuance and availability of Bidding Documents	From 1st day of Stage 1 until Stage 5				
4	Pre-bid Conference	12 cd before Stage 5	1cd	1cd	1cd	1cd
	Request for Clarification	10 cd before Stage 5				
	Supplemental/ Bid Bulletin	7cd before Stage 5				
5	Submission and Receipt of Bids	45 cd from last day of Stage 1 for Goods 50/65 cd from last day of Stage 1 for Infrastructure Projects 75 cd from the last day of Stage 1 for Consulting Services.	1 cd (includes opening of bids and eligibility check)	1 cd (includes opening of bids and eligibility check)	1 cd (includes opening of bids and eligibility check)	1 cd (includes opening of bids and eligibility check)
	Submission of additional requirements	3 cd after Stage 5				

6	Bid Evaluation		7 cd	5cd	7cd	21 cd + 2cd for approval of ranking
7	Notification for Negotiation		n/a	n/a	n/a	3cd
8	Negotiation		n/a	n/a	n/a	10cd
9	Post-qualification		30cd	30cd	30cd	30cd
10	Approval of Resolution/Issuance of Notice of Awards		7 cd	4cd	7cd	7cd
11	Contract preparation and signing		10cd	10cd	10cd	10cd
12	Approval of Contract by higher authority		15cd	5cd	15cd	15cd
13	Issuance of Notice to Proceed		3cd	2cd	3cd	3cd
TOTAL			124cd	113cd	144cd	170cd

C. PERIOD OF ACTION ON PROCUREMENT ACTIVITIES

MINIMUM PROCUREMENT PERIOD

EARLIEST POSSIBLE TIME					
STAGE	ACTIVITIES	DEADLINE	GOODS	INFRASTRUCTURE PROJECTS	CONSULTING SERVICES
1	Advertisement/Posting of Invitation to Bid/Request for Expression of Interest		7 cd	7cd	7cd
2	Eligibility Check (and Short Listing, in case of Consulting Service)		Refer to Stage 5	Refer to Stage 5	20 cd
3	Issuance and availability of Bidding Documents	From 1st day of Stage 1 until Stage 5			
4	Pre-bid Conference	12 cd before Stage 5	1cd	1cd	1cd
	Request for Clarification	10 cd before Stage 5			
	Supplemental/Bid Bulletin	7cd before Stage 5			
5	Submission and Receipt of Bids		1 cd (includes opening of bids and eligibility check)	1 cd (includes opening of bids and eligibility check)	1 cd (includes opening of bids and eligibility check)
	Submission of additional requirements	3 cd after Stage 5			

6	Bid Evaluation		1 cd	1cd	1cd + 1cd for approval of ranking
7	Notification for Negotiation		n/a	n/a	1cd
8	Negotiation		n/a	n/a	1cd
9	Post-qualification		1cd	1cd	1cd
10	Approval of Resolution/Issuance of Notice of Awards		2cd (1 cd for BAC Resolution and 1 cd for NOA)	2cd (1 cd for BAC Resolution and 1 cd for NOA)	2cd (1 cd for BAC Resolution and 1 cd for NOA)
11	Contract preparation and signing		2cd (1 cd for Contract Preparation and 1 cd for Contract Signing)	2cd (1 cd for Contract Preparation and 1 cd for Contract Signing)	2cd (1 cd for Contract Preparation and 1 cd for Contract Signing)
12	Approval of Contract by higher authority		1cd	1cd	1cd
TOTAL			28cd	28cd	34cd

Note: 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 head of the procuring entity in order to complete the entire procurement process at the earliest possible time.

SECTION 11

**PROPOSED GPPB BASIC
PROCUREMENT SUPPLY
CHAIN ORGANIZATION
STRUCTURE**

FIGURE 4. BASIC PROCUREMENT ORGANOGRAM

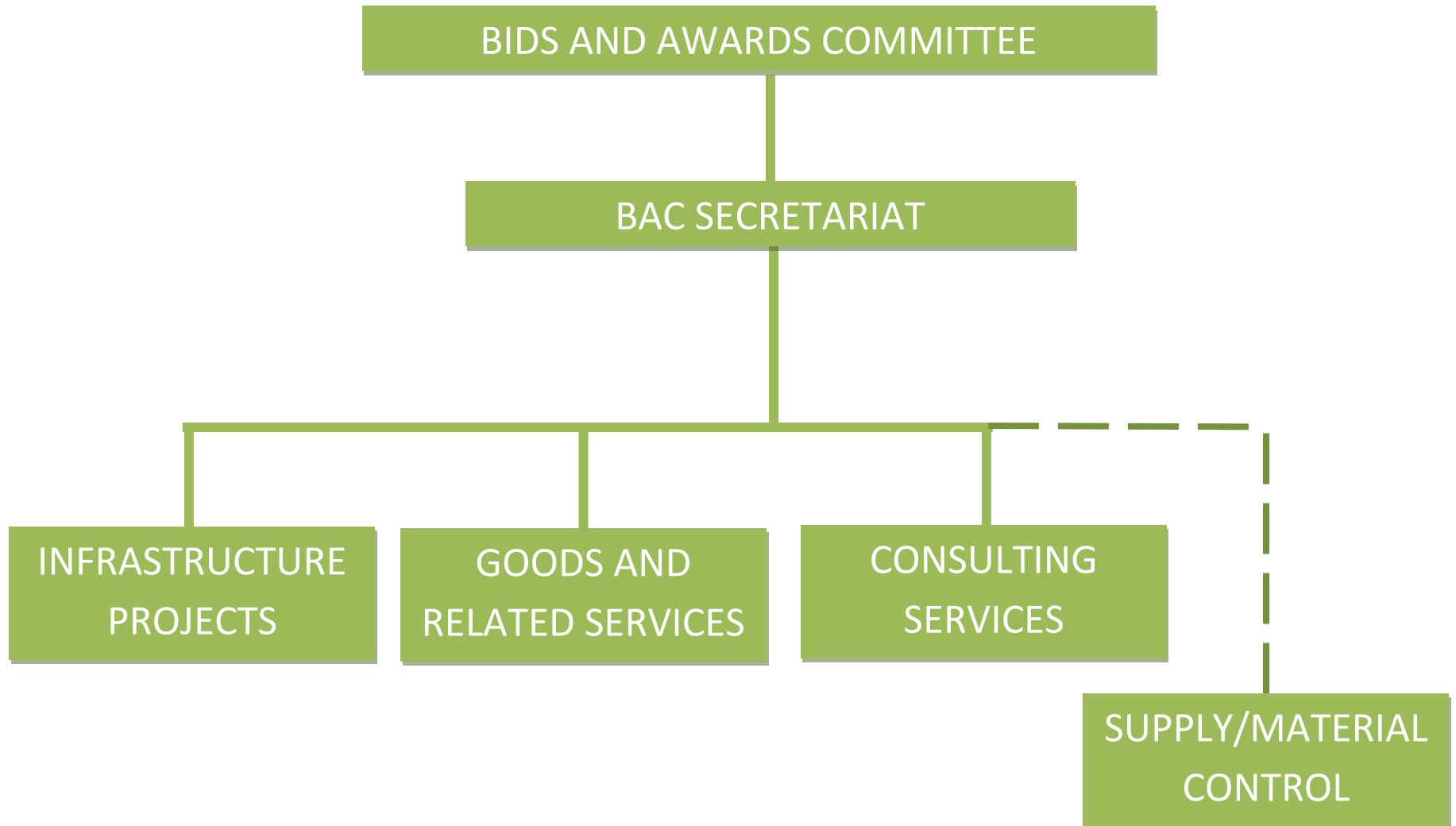


TABLE 5. PROPOSED PROCUREMENT STAFFING

PROCUREMENT PRACTITIONERS	SERVICE	DIVISION	SECTION
OVERALL SUPERVISION	Directorate : Director III	Procurement Management Officer (PMO) IV	PMO III
SUPERVISION OF SUB-UNITS	PMO IV (Number dependent on the procurement size and degree of specialization)	PMO III (Number dependent on the procurement size and degree of specialization)	
STAFFING	PMO III PMO II PMO I Administrative Assistant Aide	PMO II PMO I Administrative Assistant Aide	PMO II PMO I Administrative Assistant Aide

**TABLE 6. CORRELATION OF PROPOSED POSITION TITLES,
QUALIFICATION STANDARDS AND CERTIFICATION
PROGRAM MODULES**

POSITION TITLE	SALARY GRADE	KEY TASK	QUALIFICATION STANDARDS	PROGRAM MODULES
Director III	SG (27)	<p>Manages operations of Directorate through Division Heads</p> <p>Addresses broader strategic issues in procurement for the agency or department</p>	<p>Master's degree 5 years of relevant experience</p> <p>Career Service</p> <p>Executive Eligibility</p> <p>Certified Procurement Manager (equivalent to 560 training hours)</p>	<p>Completed these modules</p> <p><i>Module10:</i> Procurement strategies</p> <p><i>Module11:</i> The legal and administrative environment</p> <p><i>Module12:</i> Stock management, warehousing and logistics</p>
Procurement Management Officer (PMO) IV (Division Head)	SG (24)	Supervises all supply chain management functions of a division	<p>Bachelor's degree 3 years of relevant experience</p> <p>Career Service (Professional)</p> <p>Certified Procurement Professional (additional 320 training hours)</p>	Completed all 7 modules from Modules 3 to 9 and passed certification examinations

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

POSITION TITLE	SALARY GRADE	KEY TASK	QUALIFICATION STANDARDS	PROGRAM MODULES
PMO III (Section Head)	SG(22)	Handles broader aspects of procurement; May be assigned to supervise all the supply chain management functions for goods, services, or works depending on procurement size	Bachelor's degree 3 years of relevant experience Career Service (Professional) Certified Procurement Practitioner in any two of area of specialization (additional 60 training hours depending on module)	Same as above but modules taken are dependent on area of specialization
PMO II (Specialist Position)	SG (18)	Handles several related procurement functions: PMO II (Planning & Financial Reporting) PMO II (Bids and Awards) PMO II (Contract Management & Distribution)	Bachelor's degree 1 year of relevant experience Career Service (Professional) Certified Procurement Practitioner in any one: <ul style="list-style-type: none"> - Planning & Financial Management - Bids and Awards - Contract Management & Distribution (equivalent to 160 training hours depending on module)	For Planning & Financial Management <i>Module 3:</i> Procurement Planning, Budgeting and Reporting <i>Module 4:</i> Financial Management and Accounting for Procurement For Bids and Awards <i>Module 5:</i> Drafting bidding documents, proposals & contracts <i>Module 6:</i> The evaluation of bids & proposals for Contract Management and Distribution <i>Module 7:</i> Contract Administration and Management <i>Module 8:</i> Multi- and Bilateral Agencies <i>Module 9:</i> Warehousing and Distribution

POSITION TITLE	SALARY GRADE	KEY TASK	QUALIFICATION STANDARDS	PROGRAM MODULES
PMO I (Specialist Position)	SG (15)	<p>May be assigned to handle any <i>one</i> of these key tasks:</p> <ul style="list-style-type: none"> Procurement Planning Writing specifications for goods, civil works, or services Drafting contracts Financial reporting 	<ul style="list-style-type: none"> Bachelor's degree 1 year of relevant experience Career Service (Professional) Completed the Foundation Certificate of the Professional Public Procurement Certification Program (equivalent to 80 training hours) 	<p><i>Module 1: Principles of Procurement Best Practice</i></p> <p><i>Module 2: RA 9184 and IRR</i></p>

The page features a central rectangular area with a white background. This area is enclosed by a double-line border: an inner thin green line and an outer thick green line. The text is centered within the white space.

SECTION 12

FORMS

GGPB RECOMMENDED FORMAT

A. PROJECT PROCUREMENT MANAGEMENT PLAN

END-USER/UNIT: Name

CODE	GENERAL DESCRIPTION	QUANTIT/SI ZE	ESTIMATED BUDGET	SCHEDULE/MILESTONE OF ACTIVITIES											
				Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec

NOTE: Technical Specifications for each Item/Project being proposed shall be submitted as part of the PPMP

Prepared By:

Submitted By:

Subordinate

Head

DOH RECOMMENDED FORMAT

B. PROJECT PROCUREMENT MANAGEMENT PLAN

Date _____

OFFICE _____

Item No.	Item Description/general Specification	Total Quantity	Unit	Total Amount	First Semester				Second Semester				Recommended Procurement Method	Source of Funding
					Q1 Qty	Q1 Cost	Q2 Qty	Q2 Cost	Q3 Qty	Q3 Cost	Q4 Qty	Q4 Cost		

PREPARED/SUBMITTED BY: _____

RECOMMENDING APPROVAL: _____

APPROVED: _____

D. ANNUAL PROCUREMENT PLAN

Annual Procurement Plan for FY																				
Code (PAP)	Procurement Program/Project	PMO/End-User	Mode of Procurement	Schedule for Each Procurement Activity												Source of Funds	Estimated Budget (PhP)			Remarks (brief description of P/P)
				Pre-Proc Conference	Ads/Post of IAEB	Pre-bid Conf	Eligibility Check	Sub/Open of Bids	Bid Evaluation	Post Qual	NOA	Contract Signing	NTP	Delivery/Completion	Acceptance/Turnover		Total	MOOE	CO	

PREPARED/SUBMITTED BY:

 Designation

RECOMMENDED BY:

 Designation

APPROVED BY:

 Designation

Remarks

Programs and projects should be aligned with budget documents, and especially those posted at the PhilGEPS.

Breakdown into mooe and co for tracking purposes; aligned with budget documents

Any remark that will help GPPB track programs and projects.

DEFINITION

1. **PROGRAM (BESF)**– A homogeneous group of activities necessary for the performance of a major purpose for which a government agency is established, for the basic maintenance of the agency’s administrative operations or for the provisions of staff support
2. **PROJECT (BESF)**– Special agency undertakings which are to be carried out within a definite time frame and which are intended to result in some pre-determined measure of goods and services.
3. **PMO/End User** - Unit as proponent of program or project
4. **Mode of Procurement** - Competitive Bidding and Alternative Methods including: selective bidding, direct contracting, repeat order, shopping, and negotiated procurement.
5. **Schedule for Each Procurement Activity** - Major procurement activities (pre-procurement conference; advertising/posting; pre- bid conference; eligibility screening; submission and receipt of bids; bid evaluation; post qualification; award of contract; co
6. **Source of Funds** - Whether GOP, Foreign Assisted or Special Purpose Fund
7. **Estimated Budget** - Agency approved estimate of project/program costs
8. **Remarks** - brief description of program or project

E. PROCUREMENT MONITORING REPORT

Date: _____

Procurement Monitoring Report as of month/day/year																
Code (PAP)	Procurement Program/ Project	PMO/ End-User	Mode of Procurement	Pre-Proc Conference	Actual Procurement Activity										Source of Funds	
					Ads/Post of IAEB	Pre-bid	Eligibility Acceptance/ Conf Completion	Sub/Open of Conf	Bid Check Turnover	Post Bids	NOA Evaluation	Contract	NTP Qual	Delivery/ Signing		

ABC (PhP)			Contract Cost (PhP)			List of Invited Observers	Date of Receipt of Invitation							Remarks (Explaining changes from the APP)	
Total	MOOE	CO	Total	MOOE	CO		Pre-Proc Signing	Pre-bid Delivery/ Conf	Eligibility Check Conf	Sub/Open of Conf Accept	Bid Evaluation Bids	Post	NOA Qual		Contract

PREPARED/SUBMITTED BY:

Designation

RECOMMENDED BY:

Designation

APPROVED BY:

Designation

F. PROCUREMENT MONITORING REPORT ATTACHMENT

DBM-PMR Attachment 1 as of month/day/year

No.	Organization	Contact Person	Telephone	Mobile	Address

G. ANNUAL PROCUREMENT REPORT

GOVERNMENT PROCUREMENT POLICY BOARD ANNUAL PROCUREMENT REPORT

Please accomplish one form each for locally funded and foreign assisted projects and for each type of procurement

Name of Agency:

Period Covered:

_____ Locally Funded Projects/Activities

_____ Foreign-Assisted Projects

PART A: PROCUREMENT PROFILE

Types and Methods of Procurement (Specify specific types of procurement)	No. of Contracts (Contract Volume)	Total Contract Amount (Contract Value)	No. of Invitation to Bid Posted in PhilGEPS	No. of Invitation to Bid Posted Through Other Prescribed Means	No. of Contract Awards Posted in PhilGEPS	Average No. of Bidders Buying Bid Documents	Average No. of Bidders Submitting Bids	Average No. of Bidders Disqualified	Average No. of Failed Bids	No. of Contracts Awarded With Only One Bidder	No. of Contracts with Observers Attending
1. Public Bidding											
Goods											
Works											
Consulting											
2. Shopping (Goods and Services)											
3. Direct Contracting (Goods and											

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

4. Limited Source Bidding (Goods and Services)											
5. Negotiation (Goods and Works)											
6. Administration (for Works only)											
Others, Specify											
TOTAL											

Prepared by:

Reviewed by:

Approved by:

Designation

Designation

Designation

PART B: COMPLIANCE WITH PROCUREMENT TIME FRAMES

Types and Methods of Procurement	Average No. of Days to Post Invitation to Bid	Average No. of Days to Issue Bid Documents	Average No. of Days to Conduct Eligibility Check	Average No. of Days for Submission and Opening of Bids	Average No. of Days for Bid Evaluation	Average No. of Days for Post-qualification	Average No. of Days for Issuance of Notice of Award	Average No. of Days for Contract Signing and Approval	Average No. of Days for Issuance of Notice to Proceed	Average No. of Days from Posting of Invitation to Bid to Contract Signing and Approval
1. Public Bidding										
Goods										
Works										
Consulting Services										

PART C: ANNUAL PROCUREMENT PLAN: Please provide a copy of the Annual Procurement Plans

Prepared by:

Reviewed by:

Approved by:

Designation

Designation

Designation

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

NOTES FOR FILLING FORM: THIS FORM NEEDS TO BE FILLED BY THE HEAD OF THE BAC SECRETARIAT AS WELL AS THE STAFF RESPONSIBLE FOR THE PROCUREMENT OF GOODS, CIVIL WORKS AND CONSULTING SERVICES (CURRENT REPORTING PERIOD)

PART A: PROCUREMENT PROFILE

Column 1: Identify the general type of procurement (goods, services, infra projects, consulting services by method of procurement) by method of procurement as specified in the form or prepare one form for each type of procurement.

Column 2: Provide the total number of contracts awarded/procured by method of procurement: e.g. number of goods contracts procured through Public Bidding for goods, another form for civil works and another for consulting services

Column 3: Provide the total value of contracts awarded/procured by method of procurement: e.g. total value of contracts procured through Public Bidding for goods, another form for civil works and another for consulting services

Column 4: Provide the total number of Invitation to Bid Posted at the PhilG-EPS website as required by law by method of procurement for goods, another form for civil works and another for consulting services

Column 5: Provide the total number of Invitation to Bid Posted in other authorized means outside of the PhilG-EPS website such as the agency website, bulletin board, newspaper, radio, etc. for goods, another form for civil works and another for consulting services

Column 6: Provide the total number of awarded contracts posted at the PhilG-EPS website as prescribed by law for goods, another form for civil works and another for consulting services

Information for Columns (7, 8, 9, 10 and 12) are generally for contracts awarded through Public Bidding only. Please provide information in Column 11 for public bidding and alternative forms of procurement

Column 7: Provide information on the average number of bidders buying bid documents (the average number is calculated by adding the number of bidders buying bid documents for all sampled cases and dividing by the number of cases sampled).

Column 8: Provide information on the average number of bidders submitting bids

Column 9: Provide information on the average number of bidders disqualified for each contract awarded

Column 10: Provide information on the number of failed bids for all types of procurement (goods, works, consulting services) Column 11: Provide information on the number of contracts awarded with only one bidder

Column 12: Provide information on the number of contracts with observers attending and participating in the bidding process (whether from civil society or professional associations)

PART B: COMPLIANCE WITH PROCUREMENT TIMEFRAMES

Ideally, this data should cover all procurement **but if this cannot be done**, a sample of cases can be used to provide information on time frames. The average number is calculated by adding the number of days in the specified column by the number of cases sampled or used for this report: e.g. for a sample of five contracts, add the data for the required column and divide by the number of cases sampled.

Column 1: Identify the general type of procurement (goods, services, infra projects, consulting services by method of procurement) by method of procurement as specified in the form or prepare one form for each type of procurement.

Column 2: Provide the average no. of days for posting of the Invitation to Bid with the PhilG-EPs or with other authorized means outside the PhilG-EPs

Column 3: Provide the average no. of days for issuance of bid documents

Column 4: Provide the average no. of days for the conduct of eligibility check if applicable

Column 5: Provide the average no. of days for submission and opening of bids

Column 6: Provide the average no. of days for bid evaluation

Column 7: Provide the average no. of days for post qualification

Column 8: Provide the average no. of days from the preparation of the BAC Resolution for Award to the Issuance of the Notice of Award

Column 9: Provide the average no. of days for contract signing and approval by the Head of Procuring Entity

Column 10: Provide the average no. of days for the issuance of Notice to Proceed

Column 11: Provide the average no. of days from posting of Invitation to Bid to Contract Award

PART C: PROVIDE COPIES OF THE CURRENT ANNUAL PROCUREMENT

H. AGENCY COMPLIANCE PERFORMANCE INDICATOR

**GOVERNMENT PROCUREMENT POLICY BOARD
AGENCY PROCUREMENT COMPLIANCE AND PERFORMANCE INDICATORS EVALUATION FORM
(Form 1)**

Name of Agency:

Date of Evaluation:

Name of Evaluator:

Position:

ACPI No.	Compliance and Performance Indicator	Assessment Conditions	Supporting Information	Results
PILLAR I. COMPLIANCE WITH LEGISLATIVE AND REGULATORY FRAMEWORK				
INDICATOR 1. AGENCY COMPLIANCE WITH THE PROCUREMENT LAW				
1	Procurement Through Competitive Bidding	(a) Ratio of contracts procured through public bidding in terms of value with overall procurement contracts	PhilGEPS; Procurement Report	
		(b) Ratio of contracts procured through public bidding in terms of volume with overall procurement contracts	PhilGEPS; Procurement Report	
2	Procurement Through Alternative Methods	(a) Alternative methods are generally in the approved APP	Approved APPs	
		(b) Ratio of contracts procured through alternative means in terms of value and with overall procurement contracts	PhilGEPS; Procurement Report	
		(c) Ratio of contracts procured through Shopping in terms of value with overall procurement contracts	PhilGEPS; Procurement Report	
		(d) Ratio of contracts procured through Direct Contracting in terms of value with overall procurement contracts	PhilGEPS; Procurement Report	
		(e) Ratio of contracts procured through Limited Source Bidding in terms of value with overall procurement contracts	PhilGEPS; Procurement Report	
		(f) Ratio of contracts procured through Negotiation in terms of value with overall procurement contracts	PhilGEPS; Procurement Report	
		(g) Compliance with prerequisite conditions for the use of alternative methods of procurement	Copies of BAC Resolutions (Only for highest AMP)	

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

3	Advertising Rules and Time Limits	(a) All Invitation to Bid advertised and posted as mandated by law in terms of location and time frame	Check sample cases APP/PMR vs. PhilGEPS	
		(b) Contract award results are posted as mandated by law for public bidding, Shopping, Small Value contracts, Limited Source Bidding and Negotiation	Check with PhilG-EPS	
4	Rules on participation	(a) Number of bidders who bought bidding documents	Check sample cases (Abstract of Bids, PhilGEPS)	
		(b) Number of bidders who downloaded bid documents from PhilGeps website		
		(c) Number of bidders who submitted bids		
		(d) Number of bidders declared ineligible or disqualified		
		(e) Number of failed biddings		
		(f) Number of contracts awarded with only one bidder participating		
INDICATOR 2. AGENCY COMPLIANCE WITH IMPLEMENTING RULES AND DOCUMENTATION				
5	Procurement Planning Activities	(a) APP is prepared for all types of procurement and used as basis for annual procurement;	Approved APP	
		(b) Number of times APP has been updated	Ask agency respondent	
		(c) Ratio of actual procurement with the APP	Check APP with Procurement Report	
PILLAR II. AGENCY INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY				
INDICATOR 4. EXISTENCE OF REQUIRED PROCUREMENT ORGANIZATIONS				
6	Presence of Procurement Organizations	(a) Presence and number of BAC, TWG, BAC Secretariat, as applicable	Copy of Order creating BAC, TWG , Secretariat	
		(b) Ratio of number of successful projects completed with number of meetings	Ask agency respondent	
7	Procurement Unit	(a) Presence of Procurement Unit whether permanent or ad hoc	Copy of organizational chart	
		(b) Procurement Unit functions as BAC Secretariat	Ask agency respondent	
INDICATOR 5. EXISTENCE OF AGENCY INSTITUTIONAL DEVELOPMENT CAPACITY				
8	Phil-GEPs Registration and Posting of Information	(a) Agency registered with PhilGEPS	Verify with Phil-GEPs	
		(b) Percentage of bid opportunities posted	PhilGEPS vs. APP/PMR	
		(c) Percentage of contract award information posted	PhilGEPS vs. APP/PMR	

9	System of disseminating procurement information through website	(a) Presence of website that provides minimum, up-to-date procurement information easily accessible at no cost	Physical check of website	
10	Systems and procedures for monitoring and analyzing procurement information	(a) Availability and submission of Procurement Monitoring Reports	Ask agency respondent	
11	Sustainable training program for procurement personnel	(a) Number of procurement staff trained through national training program with total number of procurement staff	Ask agency respondent	
		(b) Presence of in-house training program on procurement cascaded to the lowest level	Copy of training program	
		(c) Presence of budget for procurement training	Ask agency respondent	
PILLAR III. PROCUREMENT OPERATIONS AND MARKET PRACTICES				
INDICATOR 6. EFFICIENCY OF AGENCY PROCUREMENT OPERATIONS AND PRACTICES				
12	Compliance with Established Procurement Timeframes	Compliance with timeframes in the following activities:	Check sample cases (PhilGEPS, PMR)	
		(a) Posting of Invitation to Bid/Advertisement		
		(b) Issuance of Bid Documents		
		(c) Conduct of Eligibility Check		
		(d) Submission/Opening of Bids		
		(e) Bid Evaluation		
		(f) Postqualification		
		(g) Issuance of Notice of Award		
		(h) Contract Signing and Approval		
		(i) Issuance of Notice to Proceed		
		(j) Posting of Invitation to Bid to Contract Award		
INDICATOR 7. PRIVATE SECTOR PARTICIPATION IN AGENCY PROCUREMENT				

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

13	Sufficiency of Bidders Participating in Bidding Processes	Average number of eligible bidders	Check sample cases	
14	Participation of Civil Society Organizations and Professional Associations as BAC Observers	(a) Civil society organizations or professional associations are invited for every public bidding activity	Check Minutes of BAC Meetings/ Ask agency respondent	
PILLAR IV. INTEGRITY AND TRANSPARENCY OF THE AGENCY PROCUREMENT SYSTEM				
INDICATOR 9. EFFECTIVENESS OF CONTROL AND AUDIT SYSTEMS				
15	Existence of Internal Control and Audit Unit	(a) Presence of internal control unit as prescribed	Ask agency respondent	
		(b) Conduct of regular audit of procurement processes and transactions by internal audit unit	Ask Internal Audit Unit	
		(c) Review of internal audit unit covers entire agency operations	Ask Internal Audit Unit	
INDICATOR 10. EFFICIENCY OF PROCUREMENT BLACKLISTING AND COMPLAINTS MECHANISM				
17	Use of Blacklisting Procedures	(a) Number of bidders/contractors blacklisted	GPPB website	
		(b) Number of days to conduct blacklisting procedures	Ask agency respondent	
18	Capacity to Handle Procurement Related Complaints	(a) Average number of Motions for Recosideration filed with the BAC	Ask agency respondent	
		(b) Action taken by the BAC on Motions for Reconsideration	Ask agency respondent	
		(c) Actual number of days to resolve protests	Ask agency respondent	

Prepared by:

Reviewed by:

Approved by:

Designation

Designation

Designation

SECTION 13

REFERENCES

REFERENCE NO.	NAME OF ADMINISTRATIVE ISSUANCE	DATE OF EFFECTIVITY
REFERENCE A	Memorandum of Agreements/ Letter of Partnership with National Citizens' Movement for Free Elections (NAMFREL) Transparency and Accountability Network (TAN), respectively including DOH Executive Committee Resolution.	23 MARCH 2006
REFERENCE B	Letter of Partnership/Involvement with Transparency and Accounting Network	23 AUGUST 2005
REFERENCE C	Department Personnel Order No. 2009-2462: Delegation of Authorities for Certain Transactions in the Offices under the Department of Health (http://home.doh.gov.ph/dp/dpo2009-2462.pdf)	17 JUNE 2009
REFERENCE D	Department Personnel Order No. 2006-1427: Reconstitution of Various Procurement Committees in the DOH Central Office and Definition of Functions and Responsibilities (http://home.doh.gov.ph/dp/dpo2006-1427.pdf)	10 MAY 2006
REFERENCE E	Administrative Order No. 2006-0034-A: Amendment of Administrative Order No. 2006-0034 "Delegation of Authorities for Certain Transactions in the Offices under the Department of Health" dated October 10, 2006 (http://home.doh.gov.ph/ao/ao2006-0034-a.pdf)	07 DECEMBER 2009
REFERENCE F	Administrative Order No. 2009-004 "Adoption of the Revised DOH Conduct of Conduct" (http://home.doh.gov.ph/ao/ao2009-0004.pdf)	04 MARCH 2009
REFERENCE G	Administrative Order No. 2007-0042 "Norms of Behavior for Officials and Employees of DOH (Code of Conduct)" (http://home.doh.gov.ph/ao/ao2007-0042.pdf)	27 DECEMBER 2007
REFERENCE H	Administrative Order No. 2007-0043. "DOH Rules on Gift Giving" (http://home.doh.gov.ph/ao/ao2007-0043.pdf)	27 DECEMBER 2007
REFERENCE I	Department Order 2008-0016. "DOH Rules on Public Disclosure" (http://home.doh.gov.ph/do/do2008-0016.pdf)	7 FEBRUARY 2008
REFERENCE J	Department Order 2008-0017. "DOH Rules on Internal Whistleblowing and Reporting" (http://home.doh.gov.ph/do/do2008-0017.pdf)	7 FEBRUARY 2008

MEMORANDUM OF AGREEMENTS/ LETTER OF PARTNERSHIP WITH NATIONAL CITIZENS' MOVEMENT FOR FREE ELECTIONS INCLUDING DOH EXECUTIVE COMMITTEE RESOLUTION

Eric Jude O. Alv
ERIC JUDE O. ALV
Secretary-General

COMMITMENT OF SUPPORT AND COOPERATION BETWEEN
THE DEPARTMENT OF HEALTH AND
THE NATIONAL CITIZENS' MOVEMENT FOR FREE
ELECTIONS

The DEPARTMENT OF HEALTH (DOH),
represented by the Secretary, Hon. ENRIQUE T. ONA

-and-

The NATIONAL CITIZENS' MOVEMENT FOR FREE ELECTIONS (NAMFREL),
represented by the Chairman, JOSE L. CUISIA, JR.

Paulyn Jean B. Rosell-Ubial
PAULYN JEAN B. ROSELL-UBIAL, MD, MPH, CESO II
Assistant Secretary of Health and IDC Chairperson

Hereby agree and jointly manifest the commitment to uphold and advance the principles of good and effective governance in the procurement, delivery, and inventory of pharmaceutical products, supplies, equipment and infrastructure projects of the DOH and all its retained hospitals and regional offices.

WHEREAS, the DOH manifests an open-door policy by directly engaging civil society organizations in program implementation in line with the DOH Health Sector Reform with emphasis on good governance "transparency, integrity and accountability".

WHEREAS, the DOH Executive Committee Resolution No. 31-11 series 2006 reiterates the DOH's resolves to fight corruption and support the proposed Memorandum of Agreement with certain amendments;

WHEREAS, the DOH officially designates NAMFREL through the **Coalition Against Corruption Program (CACP)**, as one (1) of the two (2) observers in the composition of the Bids and Awards Committee (BAC) of the DOH and All its retained hospitals and regional offices that will monitor the agency's procurement and delivery of the pharmaceutical products;

WHEREAS, NAMFREL through the **CACP**, has developed a framework for monitoring government performance by engaging government, business and civil society in developing and institutionalizing systems for monitoring, evaluating and managing government performance in the implementation of key program components;

Jose S. Cuisia, Jr.
JOSE S. CUISIA, JR.
Chairman

WHEREAS, the **CACP** seeks to institutionalize people's participation in government program monitoring, as well as to assist government agencies in identifying operational problems;

WHEREAS, both the DOH and NAMFREL recognize the need to empower citizens' groups in the monitoring and evaluation of programs for the purpose of improving the implementation and to acknowledge exemplary performance of the agency;

NOW, THEREFORE, for and in consideration of the above commitments, all parties agree to recognize the following responsibilities:

The DOH shall:

- conduct seminars on drugs, medical supplies and equipment procurement, delivery and inventory as well as infrastructure procurement to NAMFREL volunteers at the latter's expense;
- assign a point-person who shall act as liaison with the NAMFREL Project Team;
- provide all relevant information to the NAMFREL Project Team and make available for interviews all DOH personnel concerned with the programs that will be monitored;
- make available all officers and project personnel concerned with the programs for reporting of the monitoring results; and
- provide written action, feedback and comments on the report submitted by NAMFREL.

UET. ONA
UET. ONA, MD, FPCS, FACS
y

ERIC JUDE O. ALVIA
Secretary General

PAULYN JEAN B. ROSELL-UBIAL, MD, MPH, CESO II
Assistant Secretary of Health and IDC Chairperson

JOSE S. CUISIA, JR.
Chairman

E.T. ONA, MD, FPCCS, FACS

The Coalition Against Corruption Program, through NAMFREL shall:


- develop the tool and framework for monitoring;
- recommend one (1) of its members to sit as observers in the Bids and Awards Committee (BAC) of the DOH and all its involved offices;
- strictly monitor the movement of distributed drugs three (3) months after delivery date;
- present to the DOH the preliminary report (i.e., findings recommendations) prior to a public presentation and engage DOH in dialogues regarding issues/concerns/problems uncovered in the monitoring;
- provide training to the citizens' group in the use of the monitoring tool and framework;
- organize a public forum where the findings of the monitoring will be presented.

Signed this _____ day of August 2010 in Metro Manila.


DEPARTMENT OF HEALTH

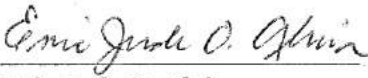
**NATIONAL CITIZENS' MOVEMENT
FOR FREE ELECTIONS (NAMFREL)**


Hon. ENRIQUE T. ONA
Secretary


JOSE S. CUISIA, JR.
Chairman

WITNESSES


Hon. Paulyn Jean B. Rosell-Ubial
Assistant Secretary of Health ,
and IDC Chairperson


Eric Jude O. Alvia
Secretary General

MEMORANDUM OF AGREEMENTS/ LETTER OF PARTNERSHIP WITH TRANSPARENCY AND
ACCOUNTABILITY NETWORK AND DOH EXECUTIVE COMMITTEE

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Memorandum of Agreement entered into and executed on 5 April 2005 at Malacañan Palace, Manila, by and between:

The **OFFICE OF THE OMBUDSMAN (OMB)**, an independent Constitutional Office existing by virtue of law and the Constitution of the Republic of the Philippines, with office address at Agham Road, North Triangle, Diliman, Quezon City and herein represented by Tanodbayan (Ombudsman) **SIMEON V. MARCELO**;

The **PRESIDENTIAL ANTI-GRAFT COMMISSION (PAGC)**, a Presidential Commission existing by virtue of Executive Order No. 12, with office address at 2/F Watson Building, 1610 J.P. Laurel Street, San Miguel, Manila and herein represented by Chairperson **CONSTANCIA P. DE GUZMAN**;

The **TRANSPARENCY AND ACCOUNTABILITY NETWORK (TAN)**, a coalition of civil society organizations engaged in anticorruption initiatives, with office address at Room 103, Ateneo Center for Social Policy and Public Affairs, Ateneo de Manila University, Katipunan Avenue, Loyola Heights, Quezon City, represented by Chairman **VINCENT T. LAZATIN**

and

The **DEPARTMENT OF HEALTH**, herein represented by Secretary **MANUEL M. DAYRIT**

hereinafter referred to as "the Parties",

WITNESSETH:

WHEREAS, the Parties recognize that graft and corruption in any form, and at whatever extent, has deleterious effects on the individual citizens of the nation causing them, especially the poor, untold sufferings and stripping them of dignity;

WHEREAS, for years, the existence and prevalence of graft and corruption have seriously diminished the efficient, economical and effective operations of government as a whole, and its delivery of basic services to the People;

WHEREAS, combating corruption should equally give strategic focus on prevention through systems/process improvements and institutional reforms in order to cut the lifeline and structural/systemic roots of corruption;

WHEREAS, there is urgency to effectively implement the Corruption Prevention Reform Programs of the various agencies of government, as well as the Government Procurement Reform Act in order to give greater flesh to the thrust of the President for transparency and accountability in government service;

WHEREAS, combating corruption cannot be successfully waged by government alone, but requires a multi-sectoral/multi-stakeholder partnership among civil, society organizations and the Government;

NOW, THEREFORE, for and in consideration of the foregoing premises, the Parties herein express their sincere and unwavering commitment to pursue and support programs and projects geared towards the institutionalization of the Corruption Prevention Reform Program and to undertake and assume the following responsibilities:

A. PAGC and OMB, representing the government sector, shall facilitate the crafting and implementation of agency-specific corruption prevention programs (CPRP) and shall undertake the following tasks:

1. Strengthen coordination efforts with the different

GUIDELINES ON THE ESTABLISHMENT OF PROCUREMENT SYSTEMS AND ORGANIZATIONS

2. Provide technical support in the institutionalization and implementation of DOH's CPRP with special focus on institutional and systems/process reforms;
3. Assist in the establishment of an Integrity/Corruption Prevention Committee composed of a senior official-internal champion of the participating agency, OMB, PAGC, TAN and a major external stakeholder to be identified by TAN which will serve as a monitoring and evaluating office and shall submit periodic reports / recommendations to the Parties relative to the implementation of programs/projects/activities embodied in the CPRP;
4. Receive and maintain records of monitoring / evaluation reports and other pertinent information and documents;
5. Act on complaints from the Integrity/Corruption Prevention Committee/monitoring groups and graft cases arising from non-compliance with program implementation and/or transmit such complaints/cases to proper bodies for appropriate action;
6. Initiate researches/studies or conduct lectures which may serve as inputs for early detection of graft and corruption and devise strategic methods to eliminate them;
7. Facilitate access to anticorruption trainings or projects to help develop the competence of government agencies in preventing corruption; and
8. Help institutionalize the CPRP to ensure its sustainability regardless of the head of the participating government agency.

B. TAN shall act as the primary civil society link and shall provide coordination assistance between government and civil society.

1. Disseminate information to the clients and stakeholders of the participating government agency;
2. Assist the Integrity/Corruption Prevention Committee in the discharge of its monitoring and evaluating functions;
3. Submit to the Integrity/Corruption Prevention Committee monitoring reports and other pertinent information;
4. Identify/document "best practices" from among the participating agencies for further enhancement of CPRPs; and
5. Provide continuing technical assistance for the refinement of the CPRP.

C. The DOH, as the Implementing/Participating Government Agency, shall perform the following tasks:

1. Design and implement short and long-term institutional systems and process reforms within the organization toward a graft-free agency;
2. Ensure the institutionalization of the Integrity / Corruption Prevention Committee in the agency, composed of a senior official-internal CPRP champion of the participating agency, OMB, PAGC, TAN and a major external stakeholder to be identified by TAN, which will serve as a monitoring and evaluating office and shall submit periodic reports/recommendations to the Parties relative to the implementation/refinement of the CPRP. The Integrity/Corruption Prevention Committee shall ensure that the CPRP is a work-in-progress document by engaging in a continuing effort to identify agency systems and processes that are vulnerable to corruption and to come up with effective and adequate preventive measures;
3. Ensure sustainability of its CPRP without prejudice to the future programs and thrust of succeeding administrations to

4. Prepare and submit to JAGC, OMB and TAN bi-annual monitoring reports relative to the implementation of the CPRP;
5. Adopt and fully implement R.A. No. 9184, also known as the Government Procurement Reform Act; and
6. Support and assist its Integrity/Corruption Prevention Committee in the discharge of its monitoring and evaluation functions.

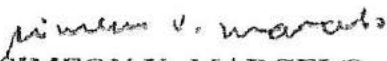
IN WITNESS WHEREOF, the Parties have hereunder affixed their signatures at the place and on the date first written above.


OFFICE OF THE OMBUDSMAN

PRESIDENTIAL ANTI-GRAFT COMMISSION

By:

By:


SIMEON V. MARCELO
Tanodbayan

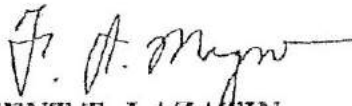

CONSTANCIA P. DE GUZMAN
Chairman

TRANSPARENCY AND
ACCOUNTABILITY NETWORK

DEPARTMENT OF HEALTH

By:

By:


VINCENT T. LAZATIN
Chairman


MANUEL M. DAYRIT
Secretary