



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, 1106 Quezon City
☎ (632) 929-6626 to 29; 929-6252; 929-6633 to 35; 929-7041 to 43
E-mail: web@denr.gov.ph; Website: www.denr.gov.ph

MEMORANDUM

FOR/TO : **CENTRAL OFFICE OFFICIALS**

- Undersecretaries, Assistant Secretaries, and Service Directors

EXECUTIVE DIRECTORS

- MBCO, RBCO, and PRCMO

BUREAU DIRECTORS

- BMB, FMB, LMB, ERDB, EMB, and MGB

REGIONAL EXECUTIVE DIRECTORS

- Region 1 to 13, CAR, and NCR

PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICERS (PENRO)

- Region 1 to 13, CAR

HEADS OF ATTACHED AGENCIES

- NAMRIA, NWRB, and PCSDS

FROM : **THE OIC-UNDERSECRETARY**
Finance, Information Systems, and Climate Change

SUBJECT : **CONDUCT OF EARLY PROCUREMENT ACTIVITIES (EPA) UNDER FY 2023 NATIONAL EXPENDITURE PROGRAM (NEP) BUDGET LEVEL**

DATE : 22 September 2022

For the conduct of Early Procurement Activities (EPA), Section 20 of the General Provisions under FY 2023 National Expenditure Program (NEP) is quoted in full as follows:

“Notwithstanding the mandatory procurement timelines under R.A. No. 9184 and its IRR, agencies are authorized to undertake early procurement activities as soon as the proposed national budget is submitted to Congress. However, agencies may only proceed with the issuance of notice of award of contract upon approval or enactment of their respective appropriations and issuance of budget authorization document and based on the amount authorized therein.”

For foreign-assisted projects, agencies may undertake early procurement activities, subject to the guidelines prescribed under GPPB Circular No. 06-2019, dated July 17, 2019, and such other guidelines issued thereon.”

In a letter of Undersecretary Tina Rose Marie L. Canda, and Officer-in-Charge of the DBM dated 01 April 2022 informed the Department on their assessment and result of the FY 2021 APR and recommended, among others, the following:

- i. To revisit and reassess the performance indicators, **applying the SMART** (Specific, Measurable, Attainable, Realistic and Time Bound) principle, to reflect key indicators of major programs that have a significant impact on the DENR’s stakeholders/beneficiaries;

- ii. To ensure a **tighter linkage** between strategic and operational planning and budgeting to meet the agency's physical and financial targets for the period; and
- iii. To adopt sound **procurement strategy** incorporating **time-bound** concepts for the execution, in accordance with the procurement procedures of the Government Procurement Act (R.A. 9184), and the Government Procurement Policy Board-issued policies and guidelines. Strictly enforce procurement rules and regulations.

Further, in the CY 2021 Consolidated Annual Audit Report (CAAR), COA recommended therein to prepare a detailed **remedial action plan** to reflect the specific measures to be undertaken **to resolve** the identified issues to ensure attainment of physical and financial targets.

In this regard, all DENR Offices are hereby directed to undertake early procurement activities, **short of award** pursuant to Government Procurement Policy Board (GPPB) Resolution No. 14-2019 dated July 17, 2019. This will facilitate the awarding of procurement contracts after the approval of the FY 2023 General Appropriations Act, enabling the timely implementation and completion of planned programs and projects to achieve the full utilization of our resources within the fiscal budget year.

For your information and compliance.


ENGR. NONITA S. CAGUIOA

- (d) Issuance of Forward Obligational Authority (FOA) by the DBM for project loans or issuance of a DBCC resolution covering the full amount in the case of program loans, and an equivalent document for those undertaken by GOCCs. In the issuance of a FOA, the DBM shall consider the budgetary implications of foreign-assisted projects.

The Monetary Board shall, within thirty (30) days from the end of every quarter, submit to the Congress a report of its decisions on applications for loans to be contracted or guaranteed by the government or GOCCs which have the effect of increasing the foreign debt.

EXPENDITURE

Sec. 17. Use of Government Funds. Government funds shall be utilized in accordance with the appropriations authorized for the purpose and comply with applicable laws, rules and regulations, such as, but not limited to the following:

- (a) Purchase of goods, infrastructure projects, and consulting services, including common-use supplies, shall be made in accordance with the provisions of R.A. No. 9184, its IRR and GPPB guidelines;
- (b) Purchase of motor vehicles shall be made pursuant to A.O. No. 14, s. 2018, Office of the President M.C. No. 9 dated December 14, 2010, GPPB Resolution No. 20-2019 dated September 5, 2019, Budget Circular (B.C.) No. 2022-1 dated February 11, 2022, and such other pertinent guidelines issued by agencies concerned;
- (c) Payment of foreign travel expenses of any government official and employee for training, seminar or conference abroad when the foreign mission cannot effectively represent our country or travels necessitated by authorized international commitments, in accordance with E.O. No. 77, s. 2019, and such other issuances as may be issued thereon: PROVIDED, That no official or employee may be sent to foreign training when they are due to retire within one (1) year after the said foreign travel; and
- (d) Provisions for fuel, parts, repair and maintenance of government vehicles. In case of transport crisis, such as that occasioned by street demonstrations, *welgang bayan*, floods, typhoons and other emergencies, government vehicles of any type may be made available to meet the emergency and may be utilized to transport, for free, commuters on a round-the-clock basis.

Sec. 18. Prohibition on the Display and/or Affixture of the Name, Image, and Likeness of Public Officials on Government Projects. The display and/or affixture of the name, picture, image, motto, logo, color motif, initials, or other symbol or graphic representation associated with any public official, whether elected or appointed, on signboards for all programs, activities, and projects funded under this Act shall be considered as unnecessary pursuant to COA Circular No. 2013-004 dated January 30, 2013, as amended, and therefore, prohibited.

Sec. 19. Strict Adherence to Procurement Laws, Rules and Regulations. All agencies of the government shall strictly adhere to the provisions of R.A. No. 9184, its IRR and GPPB guidelines in the procurement of goods, infrastructure projects and consulting services.

To promote transparency and achieve efficiency in the procurement process, the Philippine Government Electronic Procurement System shall be the primary source and repository of information on government procurement.

~~Sec. 20. Early Procurement Activities.~~ Notwithstanding the mandatory procurement timelines under R.A. No. 9184 and its IRR, agencies are authorized to undertake early procurement activities as soon as the proposed national budget is submitted to Congress. However, agencies may only proceed with the issuance of notice of award of contract upon approval or enactment of their respective appropriations and issuance of budget authorization document and based on the amount authorized therein.

For foreign-assisted projects, agencies may undertake early procurement activities, subject to the guidelines prescribed under GPPB Circular No. 06-2019, dated July 17, 2019, and such other guidelines issued thereon.

Sec. 21. Procurement of Common-Use Supplies. All national government agencies shall purchase its common-use supplies requirements from the Procurement Service (PS) as mandated under L.O.I. No. 755 dated October 18, 1978, E.O. No. 359, s. 1989, A.O. No. 17, s. 2011, and such other guidelines issued

The 2016 Revised Implementing Rules and Regulations

budget, appropriations ordinance, corporate budget, or loan agreement, as the case may be.^{9 (n)}

7.6. To facilitate the immediate implementation of procurement of Goods, Infrastructure Projects or Consulting Services, even pending approval of the GAA, corporate budget, appropriations ordinance or loan agreements in the case of FAPs, as the case may be, and notwithstanding Section 7.2 hereof, the Procuring Entity may undertake EPA.^{10 (a)}

Procuring Entities are encouraged to undertake EPA to ensure the timely delivery of goods, implementation of infrastructure projects and rendition of consultancy services. The conduct of EPA for nationally-funded procurement projects may commence as early as the submission of the NEP to Congress, usually in July. No EPA may be conducted without an indicative APP duly approved by the HoPE and the MYCA issued by the DBM, in the case of multi-year projects. This will facilitate the awarding of procurement contracts upon approval and effectivity of their respective funding sources or the reenactment of the previous year's budget which constitutes the current year's authorized budget, when authorized by the Constitution, law or rules.^{11 (a)}

For EPA, the indicative APP shall be based on the ABC in the proposed national budget submitted by the President to Congress; for GOCCs, on budget levels as proposed to the governing board; for LGUs, on budget levels as proposed in the executive budget submitted to the Sanggunian; and for foreign-assisted projects (FAPS), on the document issued by the foreign donor or financing institution explicitly stating that a loan is to be made available to the Philippines or any of its agencies or instrumentalities with borrowing authority.^{12 (n)}

No award of contract shall be made until the approval and effectivity of the GAA, corporate budget, appropriations ordinance or the loan agreement in the case of FAPs.^{13 (a)}

Notwithstanding the approval and effectivity of the GAA, reenacted budget, appropriations ordinance, corporate budget or loan agreement, Procuring Entities shall not award contracts for procurement projects requiring Special Allotment Release Order or Sub-Allotment Release Order until the same has been issued, secured or released.^{14 (n)}

7.7. For procurement projects subject to Framework Agreement as provided in the Guidelines on the use of Framework Agreement by all Procuring Entities, the end-user unit shall ensure that the Framework Agreement List must be attached to the APP submitted to the BAC to be approved by the HoPE.^{15 (n)}

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ As amended by GPPB Resolution No. 27-2019, dated 10 December 2019, published in the Official Gazette on 30 December 2019.

The 2016 Revised Implementing Rules and Regulations

Section 18. Reference to Brand Names

Specifications for the procurement of Goods shall be based on relevant characteristics, functionality and/or performance requirements. Reference to brand names shall not be allowed except for items or parts that are compatible with the existing fleet or equipment of the same make and brand, and to maintain the performance, functionality and useful life of the equipment.

This Section shall also apply to the goods component of Infrastructure Projects and Consulting Services. ^(a)

Section 19. Access to Information

In all stages of the preparation of the Bidding Documents, the Procuring Entity shall ensure equal access to information. Prior to their official release to prospective bidders, no aspect or part of the Bidding Documents shall be divulged or released to any prospective bidder or person having direct or indirect interest in the project to be procured, or to any party, except those officially authorized in the handling of the documents. ^(a)

However, in procurements involving and affecting national security, the disclosure of the specific components of the procurement documents, such as, the technical specifications, requirements and components, shall be dependent upon the HoPE having due regard to the nature, classification, sensitivity and confidentiality of the relevant documents vis-à-vis the purpose and reason for the request. ^{35 (n)}

RULE VII – INVITATION TO BID

Section 20. Pre-procurement Conference

~~20.1~~ Prior to the advertisement or the issuance of the Invitation to Bid/Request for Expression of Interest for each procurement undertaken through a competitive bidding, the BAC, through its Secretariat, shall call for a pre-procurement conference. The pre-procurement conference shall be attended by the BAC, the Secretariat, the unit or officials, including consultants hired by the Procuring Entity, who prepared the Bidding Documents and the draft Invitation to Bid/Request for Expression of Interest for each procurement. During this conference, the participants, led by the BAC, shall:

- a) Confirm the description and scope of the contract, the ABC, and contract duration;
- b) Ensure that the procurement is in accordance with the PPMP and APP;
- c) Determine the readiness of the procurement at hand, including, among other aspects, the following:
 - i) The availability of appropriations. In the case of EPA, the inclusion of the procurement project in the proposed funding source, i.e., the GAA, appropriations ordinance, corporate budget, or loan agreement, as the case may be. ^{36 (n)}

³⁵ As amended by GPPB Resolution No. 21-2017, dated 30 May 2017, published in the Philippine Daily Inquirer on 20 November 2017.

³⁶ As amended by GPPB Resolution No. 14-2019, dated 17 July 2019, published in the Official Gazette on 26 August 2019.

The 2016 Revised Implementing Rules and Regulations

- ii) completeness of the Bidding Documents and their adherence to relevant general procurement guidelines;
 - iii) completion of the detailed engineering according to the prescribed standards in the case of Infrastructure Projects; and
 - iv) confirmation of the availability of right-of-way site or location, and the possession of affected properties, subject to Section 17.6 of this IRR.
- d) Review, modify and agree on the criteria for eligibility screening, evaluation, and post-qualification;
 - e) Review and adopt the procurement schedule, including deadlines and timeframes, for the different activities; and
 - f) Reiterate and emphasize the importance of confidentiality, in accordance with Section 19 of this IRR, and the applicable sanctions and penalties, as well as agree on measures to ensure compliance with the foregoing. ^(a)

20.2 The holding of a pre-procurement conference may not be required for small procurements, *i.e.*, procurement of Goods costing Two Million Pesos (₱2,000,000.00) and below, procurement of Infrastructure Projects costing Five Million Pesos (₱5,000,000.00) and below, and procurement of Consulting Services costing One Million Pesos (₱1,000,000.00) and below.

Section 21. Advertising and Contents of the Invitation to Bid/Request for Expression of Interest

21.1 Contents of the Invitation to Bid/Request for Expression of Interest

The Invitation to Bid/Request for Expression of Interest shall provide prospective bidders the following information, among others:

- a) For the procurement of:
 - i) Goods, the name of the contract to be bid and a brief description of the goods to be procured;
 - ii) Infrastructure Projects, the name and location of the contract to be bid, the project background and other relevant information regarding the proposed contract works, including a brief description of the type, size, major items, and other important or relevant features of the works; and
 - iii) Consulting services, the name of the contract to be bid, a general description of the project and other important or relevant information;
- b) The name of the project, identification and number of lots or items specific to the bidding, as well as the basis of evaluation of the project, lots, or items, where applicable;
- c) A general statement on the criteria to be used by the Procuring Entity for the eligibility check, the short listing of prospective bidders, in the case of the



Unit 2506 Raffles Corporate Center,
F. Ortigas Jr. Road, Ortigas Center,
Pasig City, Philippines 1605

CIRCULAR 06-2019
17 July 2019

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

SUBJECT : Guidelines on the Implementation of Early Procurement Activities (EPA)

1. SCOPE AND APPLICATION

- 1.1 The Guidelines on Early Procurement Activities shall apply to Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government-owned and/or Controlled Corporations (GOCCs), Government Financial Institutions, and Local Government Units (LGUs).
- 1.2 This Guidelines shall cover all types of procurement for goods, infrastructure projects and consulting services funded out of or by the General Appropriations Act (GAA), appropriations ordinance, corporate budget, or loan agreement in case of Foreign-Assisted Projects (FAPs).
- 1.3 A Procurement Project shall refer to a specific or identified procurement covering goods, infrastructure project or consulting services. A Procurement Project shall be described, detailed, and scheduled in the Project Procurement Management Plan prepared by the agency which shall be consolidated in the procuring entity's Annual Procurement Plan (APP).
- 1.4 EPA is applicable for Procurement Projects undertaken through Competitive Bidding and Alternative Methods of Procurement, **except** for the following:
 - 1.4.1 Repeat Order (Sec. 51);
 - 1.4.2 Shopping (Sec. 52);
 - 1.4.3 Negotiated Procurement- Emergency Cases (Sec. 53.2);
 - 1.4.4 Negotiated Procurement- Take-Over of Contracts (Section 53.3); and
 - 1.4.5 Negotiated Procurement - Small Value Procurement (Sec. 53.9).
- 1.5 Procurement Projects to be funded from lump-sum funds in the National Expenditure Program (NEP) wherein the recipients and the corresponding amounts have not been identified or approved, such as contingent funds, are **excluded** from the conduct of EPA, except those to be funded from:

- 1.5.1 the Local Government Support Fund administered by the Department of Interior and Local Government; and
- 1.5.2 the Budgetary Support to Government Corporations administered by the Department of Budget and Management (DBM).

2. PREPARATORY ACTIVITIES

- 2.1 The procuring entity (PE) shall complete all the appropriate preparatory activities such as, but not limited to, cost-benefit analysis, feasibility studies, market research, and detailed engineering designs, regulatory clearances and right of way acquisitions for civil works projects prior to the approval of the indicative APP.
- 2.2 The indicative APP must be duly approved by the Head of the Procuring Entity (HoPE) and submitted to:
 - 2.2.1 the DBM in case of national government agencies and GOCCs;
 - 2.2.2 the respective governing boards for further approval in case of GOCCs under the Governance Commission for GOCCs(GCG) and submission to the latter; or
 - 2.2.3 the *Sanggunian* in case of LGUs.
- 2.3 The indicative APP shall be posted on the agency's Transparency Seal pursuant to DBM Circular Letter No. 2018- 8 dated 30 July 2018.
- 2.4 As clarified under Government Procurement Policy Board (GPPB) Circular 05-2018 dated 18 May 2018, the Certificate of Availability of Funds shall not be required prior to the commencement of EPA.
- 2.5 The PE shall expressly provide in the bidding documents and through PhilGEPS posting that the Procurement Project is undertaken through EPA. The PE shall likewise ensure that the prospective bidders are properly informed, through the bidding documents and during the pre-bid conference, of all the implications of a Procurement Project undertaken through EPA. This shall include, but not limited to the:
 - 2.5.1 rules and procedure of EPA;
 - 2.5.2 fixed price rule in procurement;
 - 2.5.3 extension of the bid validity and security;
 - 2.5.4 validity of the eligibility requirements prior to the award of contract;
 - 2.5.5 conditions of award; and
 - 2.5.6 date of earliest delivery.

3. IMPLEMENTING GUIDELINES

- 3.1 EPA shall refer to the conduct of procurement activities, from posting of the procurement opportunity, if required, until recommendation of the Bids and Awards Committee (BAC) to the HoPE as to the award of the contract, for goods to be delivered, infrastructure projects to be implemented and consulting services to be rendered in the following fiscal year, pending approval of their respective funding sources.

- 3.2 The award of contract for Procurement Projects undertaken through EPA may be made only upon:
- 3.2.1 approval and effectivity of their respective funding sources, to wit: (i) GAA; (ii) Corporate Budget; (iii) Appropriations Ordinance; or (iv) loan agreement in the case of FAPs; or
 - 3.2.2 the reenactment of the previous year's budget which constitutes the current year's authorized budget, when authorized by the Constitution, law or rules.
- 3.3 PEs are encouraged to undertake EPA to ensure the timely delivery of goods, implementation of infrastructure projects and rendition of consultancy services.
- 3.3.1 The conduct of EPA for nationally-funded Procurement Projects may commence as early as the submission of the NEP to Congress, usually in July. No EPA may be conducted without an indicative APP duly approved by the HoPE and the Multi-Year Contracting Authority (MYCA) issued by the DBM, in the case of multi-year projects.
 - 3.3.2 For Procurement Projects funded by corporate and local funds, the EPA may be undertaken from the time the proposed corporate or local budget has been submitted to the approving authority.
 - 3.3.3 In the case of Foreign-Assisted Projects, the same may commence:
 - 3.3.3.1 from the approval of the National Economic and Development Authority (NEDA) Board as evidenced by the official notice of approval issued by the NEDA Secretariat to the implementing agency; or
 - 3.3.3.2 upon issuance of a document or instrument issued by the foreign donor or financing institution explicitly stating that a loan is to be made available to the Philippines, usually through the Department of Finance, or any of its agencies or instrumentalities with borrowing authority pending final approval of the loan.
- 3.4 Rules for Procurement Projects to be funded from a Source Agency and Implemented by a Recipient Agency.
- 3.4.1 For Procurement Projects that are included in the budget of an agency (source agency) but shall be released directly to another agency (recipient agency) pursuant to a special provision in the NEP, the special provision shall be the basis of the recipient agency to conduct EPA.

Such projects shall be included in the indicative APP of the recipient agency.

For example:

Funds for the Basic Educational Facilities project under the Department of Education (DepEd) but is directly released to the Department of Public Works and Highways (DPWH), which shall implement the project.
Funds for the Farm-to-Market Road Projects of the Department of Agriculture also directly released to the DPWH, which shall implement the project.

3.4.2 For Procurement Projects funded in the budget of an agency (source agency) but to be implemented by another agency (recipient agency), a Memorandum of Understanding (MOU) between them shall be the basis of the recipient agency for the conduct of EPA. The MOU shall state that the source agency:

3.4.2.1 has proposed funds in the NEP for a Procurement Project;

3.4.2.2 identifies the recipient agency as the implementing unit for the said Procurement Project; and

3.4.2.3 authorizes the recipient agency to undertake EPA for the said Procurement Project.

Such Procurement Projects shall be included in the indicative APP of the recipient agency.

The MOU required above is limited to the conduct of EPA and is different from the Memorandum of Agreement that may be required for the actual implementation of the Procurement Project under a special or general provision in the GAA, rules of the source or recipient agency, or budgeting, accounting and auditing rules and regulations.

3.4.3 For Procurement Projects funded by forthcoming sub-allotments from the Central Office (CO) or Centrally-Managed Items, the written approval, in whatever form, from the CO identifying the implementing unit therefor with the corresponding amount and authorizing the conduct EPA shall be the basis for the conduct of said activity.

3.5 The source and recipient agencies shall ensure that any and all conditions or documents required to be met or submitted as a prerequisite for the release of funds or sub-allotment thereof shall be timely prepared to enable the implementing agency to award the contract within the prescribed period.

4. BID VALIDITY

The PE may request the bidders to extend the validity of their bid securities beyond one hundred twenty (120) calendar days, prior to their expiration, if the funding source for the Procurement Project has yet to be approved and made effective.

A change in the form of the bid security is allowed if this is made prior to the expiration of the bid validity sought to be extended.

If the bidder refuses to extend the bid validity, the PE shall reject the bid submitted by said bidder.

5. PROCUREMENT TIMELINES

The conduct of EPA from posting to recommendation of the BAC to the HoPE as to the award of the contract shall observe the mandatory timelines set forth in the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act No. (RA) No. 9184, including the period for re-bidding which shall be within fifteen (15) days after each

declaration of failure of bidding, which may be extended up to thirty (30) days upon approval of the HoPE.

6. REVISION OF THE INDICATIVE APP BEFORE AWARD OF CONTRACT

6.1. As soon as the funding source for the Procurement Project has been approved, regardless of the stage of the EPA, the indicative APP shall be revised and approved in accordance with Section 7.2 of the 2016 revised IRR of RA No. 9184.

6.2. Upon approval of the APP and the commencement of the running of the period to award the contract and complete the procurement process, the HoPE may approve or disapprove the recommendation of the BAC.

In case of approval, the HoPE shall issue the Notice of Award to the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, as the case may be, and thereafter sign the contract.

In case of disapproval, the HoPE shall notify the BAC and the bidder in writing of such decision and the grounds thereof which shall be any of the grounds provided for under Section 41 of the 2016 revised IRR of RA No. 9184.

6.3. The final approved APP shall be submitted to the GPPB on or before the end of January of the budget year, and shall be posted in accordance with Executive Order No. 662, series of 2007, as amended (refer to Appendix 1 for the revised APP form for the conduct of EPA).

7. AWARD OF CONTRACT

7.1. Notwithstanding the mandatory procurement timelines provided in Section 37 of RA No. 9184, Procurement Projects undertaken through EPA may be awarded upon approval and effectivity of the GAA, reenacted budget, appropriations ordinance, corporate budget or loan agreement, as the case may be.

For example:

Agency A's Approved Budget for the Contract (ABC) for its procurement of heavy duty shredders is 1 Million Pesos as authorized in the NEP and after undertaking EPA the contract price to be awarded amounts to 1 Million Pesos, Agency A may award the contract upon approval and effectivity of the GAA.

However, in the case of a reenacted budget, the PE may only award the contract for Recurring Procurement Projects and not for new Procurement Projects. Recurring Procurement Projects shall refer to Procurement Projects included in the previous year's budget which has been reenacted in or for the current year.

7.2. If the amount authorized for a Procurement Project has been reduced, the PE may still make an award if the contract price to be awarded is within the amount

authorized in the GAA, reenacted budget, appropriations ordinance, corporate budget, or loan agreement regardless of the posted ABC.

For example:

Agency A's ABC for its procurement of printers is 1.2 Million Pesos as authorized in the NEP and after undertaking EPA the contract price to be awarded is 1 Million Pesos. If the budget is reduced to 1 Million Pesos, Agency A may award the contract because the contract price to be awarded is within the amount authorized.

- 7.3. The HoPE shall not award any Procurement Project if the amount therefor has been withdrawn or in the event the amount authorized in the GAA, reenacted budget, appropriations ordinance, corporate budget, or loan agreement is lower than the amount of contract to be awarded.

For example:

- a. Agency A's ABC for its procurement of LED lighting system for its auditorium is 1.5 Million Pesos as authorized in the NEP and after undertaking EPA the contract price to be awarded is 1.3 Million Pesos. If the budget is withdrawn, Agency A shall NOT award the contract pursuant to Sec. 41(c) (iii) of the 2016 revised IRR of RA No. 9184.
- b. Agency A's ABC for its procurement of desktop computers is 1 Million Pesos as authorized in the NEP and after undertaking EPA the contract price to be awarded is PhP 900,000. If the budget is reduced to PhP 800,000, Agency A shall NOT award the contract pursuant to Sec. 41(c) (iii) of the 2016 revised IRR of RA No. 9184.

- 7.4. In all instances, the HoPE has the authority to exercise the reservation clause under Section 41 of RA No. 9184, which grants the HoPE the right not to award the contract if, for any justifiable and reasonable ground, the award of the contract will not redound to the benefit of the government.
- 7.5. Notwithstanding the approval and effectivity of the GAA, reenacted budget, appropriations ordinance, corporate budget or loan agreement, as the case may be, PEs shall not award contracts for Procurement Projects requiring Special Allotment Release Order or Sub-Allotment Release Order until the same has been issued, secured or released.

8. TOLLING OR SUSPENSION OF THE PERIOD

- 8.1. Pursuant to Section 85 of Presidential Decree No. 1445 or the State Audit Code, no contract involving the expenditure of public funds shall be entered into unless there is an appropriation. Accordingly, pending approval and effectivity of the GAA, corporate budget or appropriations ordinance, or the loan agreement in the case of FAPs, the following periods shall be tolled or suspended:

- 8.1.1 the fifteen-day (15 day) period for the HoPE to approve the Resolution of the BAC and to issue the Notice of Award provided under Section 37; and
 - 8.1.2 the three-month (3-month) period within which to complete the procurement process, from the opening of bids up to the award of contract, under Section 38 of RA No. 9184.
- 8.2. The period of time for the award of contract and termination of the procurement process, as the case may be, shall begin to run again upon the approval and effectivity of the GAA, reenacted budget, appropriations ordinance, corporate budget or loan agreement, as the case may be.

It shall not commence anew but rather, grants the HoPE the balance of the remaining period to award the contract or terminate the procurement process.

For example:

The BAC conducted the Bid Opening on 30 July and the BAC issued a Resolution recommending award of the contract on **11 October**.

The 3-month period to complete the procurement process and the 15-day period for the HoPE to approve the contract are suspended beginning **12 October**.

The HoPE has **seventeen (17) days** to complete the procurement process from the approval and effectivity of the funding source. This is the period remaining from the 3-month period to complete the procurement process, i.e., 90 days less 73 days (or the period covering July 30 to October 11).

If the approval and effectivity of the GAA is 1 January, the 3-month period to complete the procurement process and the 15-day period for the HoPE to approve the contract shall run again and the HoPE has (i) **15 days or until 16 January** to award; and (ii) **17 days or until 18 January** to complete the procurement process.

9. MONITORING

9.1 Annual Procurement Plan.

Projects undertaken through EPA shall be reported in the APP under a column separate from the regular procurement activities (refer to Appendix 1 for the revised APP form for the conduct of EPA).

9.2 Procurement Monitoring Report.

Awards made under EPA shall be reported in the Procurement Monitoring Report (PMR) under a column separate from the regular procurement activities (refer to Appendix 2 for the revised PMR form for the conduct of EPA).

9.3 Agency Procurement Compliance and Performance Indicators (APCPI).

Under Indicator 9 on Compliance with Procurement Timeframes under Pillar III of the APCPI, the PE's compliance shall be adjusted considering the tolling of the periods as allowed.

10. EFFECTIVITY

This Circular shall take effect immediately.

SGD
LAURA B. PASCUA
GPPB Chairperson Alternate

**APPENDIX 1
REVISED ANNUAL PROCUREMENT PLAN**

(Name of Agency) Annual Procurement Plan for FY _____

Code (PAP)	Procurement Project	PMD/ End-User	Is this an Early Procurement Activity? (Yes/No)	Mode of Procurement	Schedule for Each Procurement Activity			Source of Funds	Estimated Budget (PHP)			Remarks (brief description of Project)
					Advertisement/ Posting of IB/B/E	Submission/ Opening of Bids	Notice of Award		Contract Signing	Total	MOOE	
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			
				Competitive Bidding	Indicate Date	Indicate Date	Indicate Date		0			