



**MEMORANDUM**

**TO :** **THE DIRECTORS**  
Administrative Service  
Financial and Management Service  
Legal Affairs Service  
Policy and Planning Service  
Climate Change Service  
Foreign Assisted and Special Projects Service

**THE BUREAU DIRECTORS**  
Environmental Management Bureau  
Forest Management Bureau  
Biodiversity Management Bureau  
Land Management Bureau  
Ecosystem Research Development Bureau

**THE OFFICER-IN-CHARGE**  
Mines and Geosciences Bureau

**FROM :** **THE DIRECTOR**  
Legislative Liaison Office

**SUBJECT :** **INVITATION AND REQUEST FOR COMMENTS/  
RECOMMENDATIONS ON HOUSE BILL NO 7944 "ANG  
BAGONG PILIPINAS GOVERNMENT PROCUREMENT REFORM  
ACT" BY REP. AURELIO "DONG" D. GONZALES, JR. FROM THE  
COMMITTEE ON REVISION OF LAWS OF THE HOUSE OF  
REPRESENTATIVES**

**DATE :** **12 MAY 2023**

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The Committee on Revision of Laws of the House of Representatives will conduct its 8<sup>th</sup> Regular Meeting regarding **House Bill No. 7944** entitled, "*Ang Bagong Pilipinas Government Procurement Reform Act*" by Rep. Aurelio "Dong" D. Gonzales, Jr. **18 May 2023 (Thursday) at 1:00 P.M.** at the **Conference Room Nos. 1 & 2 of the R.V. Mitra Building, House of Representatives.**

In this regard, may we respectfully invite you or your representative to attend the committee meeting and request your **comments/recommendations**. Kindly provide us with the **name/s of the attendees** and your **comments/recommendations** on or before **16 May 2023, 4:30PM**, via email at [denrilo@denr.gov.ph](mailto:denrilo@denr.gov.ph). The copy of the invitation and the mentioned legislative measure can be accessed through this link <https://bit.ly/42Qxy7p>

  
**ROMIROSE B. PADIN**



Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Committee on Revision of Laws

11 May 2023

**HON. MARIA ANTONIA YULO LOYZAGA**

*Secretary*

**Department of Environment and Natural Resources**

DENR Building, Visayas Avenue, Diliman, Quezon City

Tel Nos.: 8926-3011; 8920-4301

Email Address: [osec@denr.gov.ph](mailto:osec@denr.gov.ph)

**Dear Secretary Loyzaga:**

The Committee on Revision of Laws will hold a regular meeting to initially deliberate on House Bill No. 7944 entitled, "An Act Prescribing Policies, Guidelines, Rules And Regulations For Government Contracts To Be Known As "Ang Bagong Pilipinas Government Procurement Reform Act", Repealing For This Purpose Republic Act No. 9184, or The Government Procurement Reform Act" authored By Rep. Aurelio "Dong" D. Gonzales Jr. on **18 May 2023, Thursday, 1:00 PM at Conference Room Nos. 1 & 2 of the R.V. Mitra Building, House of Representatives.**

In this regard, we are respectfully inviting you or your authorized representative/s to this face-to-face meeting to give your initial comments on the measure, if any. For your reference and guidance, please find the attached e-copy of HB No. 7944.

Additionally, in view of the House of Representatives' Health Protocols, may we request that the name/s and contact detail/s of the particular person/s who will physically attend the meeting be furnished to the Committee Secretariat **on or before 16 May 2023**. This will be submitted to the Office of the Secretary General so that we can coordinate with them to allow said person/s to be nominated for the House Pass and to avail of the on-site free antigen testing before the regular meeting.

For queries, confirmation of attendance, and other concerns, kindly get in touch with the Committee Secretariat at this email address: [committee.revisionoflaws@house.gov.ph](mailto:committee.revisionoflaws@house.gov.ph) or via telephone numbers 8932.0217 (direct line) or 8931.5001 local 7160.

Thank you and we look forward to your invaluable participation in this meeting.

Very truly yours,

**HON. EDWARD VERA PEREZ MACEDA**

*Chairperson*

**FOR THE CHAIRPERSON:**

  
**ATTY. JEAN CELZO-DAPULA**  
*Committee Secretary*



Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Committee on Revision of Laws

11 May 2023

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*Secretary*

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*Chairperson*

**FOR THE CHAIRPERSON:**

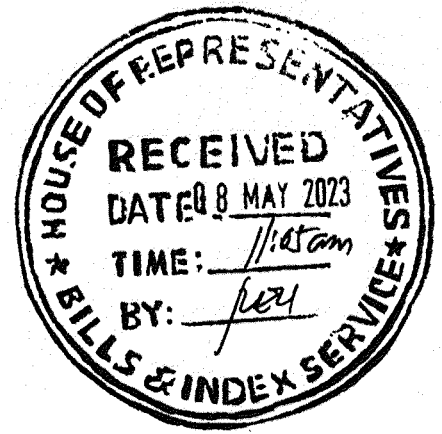
  
**ATTY. JEAN CELZO-DAPULA**  
*Committee Secretary*



Republic of the Philippines  
House of Representatives  
Quezon City, Metro Manila

NINETEENTH CONGRESS  
First Regular Session

HOUSE BILL NO. 7944



Introduced by REPRESENTATIVE AURELIO "DONG" D. GONZALES, JR.

**AN ACT PRESCRIBING POLICIES, GUIDELINES, RULES AND REGULATIONS FOR GOVERNMENT CONTRACTS TO BE KNOWN AS "ANG BAGONG PILIPINAS GOVERNMENT PROCUREMENT REFORM ACT", REPEALING FOR THIS PURPOSE REPUBLIC ACT NO. 9184 OR THE GOVERNMENT PROCUREMENT REFORM ACT**

**EXPLANATORY NOTE**

*"If justice delayed is justice denied, then by analogy, government procurement delay is inefficiency to the max (maximum)."*

This bill seeks to introduce a new, innovative and simplified government procurement process to be known as "Ang Bagong Pilipinas Government Procurement Reform Act."

It's been two decades since Republic Act No. 9184 or the Government Procurement Reform Act (GPRA) was passed into law to modernize, standardize and streamline the procurement process across government agencies. It was envisioned to be a powerful tool to promote transparency and competition, eradicate graft and corruption, and lessen the delays in the procurement process. However, despite legislative reform interventions in the GPRA, several issues still beset the implementation of the law, especially on delays on project implementation and underspending by government agencies.

The volume of public expenditure passing through the public procurement system has increased rapidly in the last few years. Procurement expenditure jumped to P824 billion<sup>1</sup> when the former administration's Build, Build, Build Program kicked off in 2016. It was increased further to P1.311 trillion<sup>2</sup> in 2023 to achieve the Marcos administration's Agenda for Prosperity. The increased budgetary allocation for procurement expenditure is focused on extending infrastructure networks and providing more services to the public.

Public funds must be spent in a timely and predictable manner in order to bring greater benefit to the people. However, the perennial problem of weak absorptive capacity of some government agencies causes delays in carrying out crucial projects. In a 2014 and 2015 reports<sup>3</sup> by the Department of Budget and Management, procurement is cited as a reason for underspending. Likewise, government agencies with major underspending concerns noted "public procurement issues" as a recurring reason for the low disbursement outturn.

<sup>1</sup> <https://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2016/B1.pdf>

<sup>2</sup> <https://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2023/B1.pdf>

<sup>3</sup> <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1716.pdf>

While the GPRA did much to push the government's anti-corruption agenda forward, big challenges remain in the implementation and monitoring of compliance with the law. Clearly, the objective of GPRA have not been fully achieved. Likewise, it is no longer adequate to keep up with the rate of the projects being undertaken by the government.

This representation sees that it is now the right time to create a new government procurement law that is both effective and timely to keep up with the global standards and further pave the way for economic growth and prosperity of the country.

The proposed "Ang Bagong Pilipinas Government Procurement Reform Act" (ABPGPRA) is structured around the principles of economic efficiency, transparency, competitiveness and fairness. At the core of this bill is the simplified process of procurement: to avoid delay, streamline the process, and facilitate remarkable improvement in project delivery/completion timeline.

Salient provisions of the ABPGPRA include:

1. Shorten the conduct of bidding to twenty seven (27) calendar days starting from the first day of the publication of the invitation to prospective bidders up to the posting of the Notice of Award and Notice to Proceed with approved contract; Removed the post-qualification requirements
2. Creation of a full-time, five (5) member Prequalification, Bids and Awards Committee (PBAC);
3. Permit the PBAC Secretariat to receive bids and other procurement documents;
4. Lone bid may be considered for award of contract provided the bidder's bid price is below the allotted funds for the contract;
5. Invitation of select number of contractors possessing adequate financial resources and technical experience during fortuitous events;
6. Reference to brand names in special cases;
7. Exemption from competitive bidding procurement involving defense materials and related purchases;
8. Exemption of all procurement from public bidding during Pandemic as declared by the President of the Republic of the Philippines
9. Creation of Ang Bagong Pilipinas Procurement Bureau under the direct supervision and control of the Secretary of the Department of Budget and Management.

When approved, the foregoing measures will have a huge impact in addressing the delays in the entire procurement process. Most importantly, it will further improve the timeliness of project delivery of the entire government.

In view of the foregoing, the immediate approval of this bill is earnestly sought.

  
REP. AURELIO "DONG" D. GONZALES, JR.  
3<sup>rd</sup> District, Pampanga



HOUSE BILL NO. 7944

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Introduced by REPRESENTATIVE AURELIO "DONG" D. GONZALES, JR.

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**AN ACT PRESCRIBING POLICIES, GUIDELINES, RULES AND REGULATIONS FOR GOVERNMENT CONTRACTS TO BE KNOWN AS "ANG BAGONG PILIPINAS GOVERNMENT PROCUREMENT REFORM ACT", REPEALING FOR THIS PURPOSE REPUBLIC ACT NO. 9184 OR THE GOVERNMENT PROCUREMENT REFORM ACT**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**Section 1. Short Title.** – This Act shall be known as "Ang Bagong Pilipinas Government Procurement Reform Act."

**Section 2. Declaration of Policy.** – It is the declared policy of the State to maintain honesty and integrity in public service and take positive and effective measures against graft and corruption. Towards this end, the State shall adopt and prescribe policies and guidelines covering government contracts for infrastructure, goods and services, and consultancy service which shall:

- a. bring about maximum efficiency in project implementation and minimize project cost and contract variations through sound practices in contract management;
- b. promote a healthy partnership between the government and the private sector in furthering national development;
- c. enhance the growth of the local construction industry and optimize the use of indigenous manpower, materials and other resources;
- d. ensure economic efficiency, transparency, competitiveness and fairness; and
- e. promote the highest ethical standards among government officials in the procurement and implementation of government contracts which are intended to provide the basic services to the people

**Section 3. Scope of Application and Coverage.** – This Act shall apply to the procurement and implementation of all government infrastructure contracts, consultancy services, lease contract of privately-owned building or space for a period exceeding six (6) months, and goods funded with entirely local funds, by all branches, departments, agencies and offices of the national government, including local government units, State universities and colleges and government owned and controlled corporations.

Foreign funded procurements, unless otherwise expressly provided or allowed in the loan agreement or the lending institution's procurement guidelines, shall be exempt from the scope of operation and application of this Act.



*Provided*, during Pandemic, as declared by the President of the Republic of the Philippines, all procurement in response to such pandemic shall be exempt from this Act.

**Section 4. General Rule on Procurement of Government Contracts.** – To ensure that the government secures contracts which are not only financially but technically the most beneficial and advantageous as well to the government, government contracts shall be procured through competitive bidding wherein prospective bidders are invited in writing published in a newspaper of general circulation, the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the implementing office, agency or instrumentality, and to submit bids based on common terms and conditions which shall reference in the preparation of the technical and financial components of bids.

In case of infrastructure contracts not exceeding One Hundred Million Pesos (P100,000,000.00), the invitation to bid may be disseminated to prospective bidder through the posting thereof in the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the implementing office, agency or instrumentality.

**Section 5. Reference to Brand Names.** – Specifications for the procurement of goods projects shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

*Provided*, That if such relevant characteristics and/or performance requirements are exclusively and notoriously known to belong with a certain brand name, reference to a brand name maybe permitted.

**Section 6. Definition of Infrastructure Projects.** – Shall 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, dams, water supply, sanitation, sewerage, and solid waste management systems, shore protection, landslide or soil erosion protection works, energy/power and electrification facilities, buildings and other related or similar structures.

**Section 7. Definition of Consultant.** – A person or group of person who have organized themselves into a juridical entity and who possess a high degree of professional competence and expertise in a particular field which are not possessed by the regular officials of an office or agency, such as detailed architectural and engineering designs, pre-investment and feasibility studies, research, advisory and review services, construction supervision and management and other related or similar services.

**Section 8. Definition of Goods.** – Shall refer to all items, supplies, materials and general support services which are necessary in the transaction of public businesses or the pursuit of any government undertaking, project or activity, including lease of real and tangible or intangible personal properties, whether in the nature of equipment, furniture, stationery, materials for construction, repair or restoration of damaged government property, including trucking, hauling, or similar transport services as well as janitorial and security services.

**Section 9. Exemptions from the Requirement of Competitive Bidding.** – Procurements involving infrastructures and goods for defense, as they involve national security and advance technology, therefore in utmost confidentiality, are hereby declared exempt from competitive public bidding and are left to the sound discretion of the responsible and competent officials of the national defense and public order and security agencies. *Provided*, That the Implementing Rules and Regulations (IRR) pursuant to this provision shall be formulated and promulgated in consultation with the Department of National Defense (DND, Department of Interior and Local Government (DILG), Department of Justice (DOJ), National Security Council (NSC), Armed Forces of the Philippines (AFP), Philippine National Police (PNP), National

Intelligence Coordinating Agency (NICA), and National Bureau of Investigation (NBI). *Provided*, further, that the Commission on Audit (COA) shall conduct periodic audits on these procurements.

Likewise, exempt from the requirements of public bidding are contracts which are absolutely and reasonably necessary to prevent imminent loss of lives or properties; or to prevent further aggravation of damage to vital infrastructure facilities which are damaged by reason of force majeure or fortuitous events.

Under these circumstances, the concerned office or agency shall invite in writing not less than three (3) but not more than five (5) contractors which have been determined as possessing adequate financial resources, technical experience of the company and technical personnel as well as equipment which are suited and readily available for the purpose.

**Section 10. Detailed Architectural and Engineering Design.** – No bidding and/or award of contracts for government infrastructure projects shall be made unless the detailed engineering investigation, surveys, and design for the project have been sufficiently carried out in accordance with the rules and regulations to be promulgated in accordance with this Act to minimize quantity and cost overruns and underruns, change orders and extra work orders.

**Section 11. Prohibition on Advertisement and Bidding of Government Infrastructure Contracts.** – All offices and agencies are strictly prohibited from including in their annual request for operating expenses of their office funds for procurement of infrastructure contracts unless possession of the Site for the contracts had been fully acquired.

Site is defined as the piece of land designated in the plans where all the activities related to the works for the implementation of the project shall be undertaken.

**Section 12. Prequalification of Prospective Bidders/Contractors.** – A prospective bidder/contractor for government infrastructure projects shall be allowed to participate in the bidding and implementation thereof if prospective bidder/contractor meets the following:

a. *Legal Requirements* –

1. Must have a license issued by the Philippine Contractors Accreditation Board (PCAB) pursuant to Republic Act No. 4566 as amended by Republic Act No. 11711 otherwise known as the Contractors' License Law;
2. Must be registered with the Bureau of Internal Revenue (BIR), Social Security System (SSS), Philippine Health Corporation (Philhealth) and the Home Development Mutual Fund (HDMF);
3. Filipino citizen in case of sole proprietorship and one person corporations;
4. In case of corporations and partnerships, at least seventy five percent (75%) of their authorized and paid up capital must be owned by Filipino citizens; and
5. Mayor's Permit in the place or locality where the head office is located.

- b. *Technical Requirements* – Must have completed a similar contract wherein the major scope of work thereof is similar in complexity to the scope of work of the contract to be bid and the cost of which is at least equal to fifty percent (50%) of the cost estimate of the contract to be bid adjusted to current cost using the available price indices of the Philippine Statistics Authority.

In addition prospective bidders must satisfactorily establish their capability to fully and faithfully fulfill their obligations their obligations called for in the contracts in terms of:

1. Competence and experience of the bidder in managing and implementing a project similar in scope to the contract to be bid;
  2. Competence and skill of the bidder's key technical personnel to be assigned to the project; and
  3. Availability and commitment of the bidder's equipment to be used in the project until full completion
- c. *Financial Requirements* – Must have a net worth based on the bidder's Audited Financial Statements for the last two (2) preceding years submitted to the Bureau of Internal Revenue (BIR) equal to the estimated cost of the contract to be bid as established by the concerned project implementing office, agency or instrumentality. In case of deficient net worth, the bidder shall supplement said deficient net worth/financial resources committed for the contract to be bid by a credit line commitment issued by a reputable commercial bank or other lending institution/financial intermediaries.

**Section 13. *Prequalification of Bidders for Consultancy Service Contracts.*** – Prospective bidders for procurement of consultancy services contracts must meet the following requirements:

- a. Must be Filipino citizen in case of sole proprietorship or one person corporation;
- b. In case of corporations and partnership, must be registered with the Securities and Exchange Commission (SEC) and at least seventy five percent (75%) of the authorized and paid up capital must be owned by Filipino citizens;
- c. In case of sole proprietorship, must be registered with the Bureau of Domestic Trade;
- d. Must be registered with the Bureau of Internal Revenue, the Social Security System, Philippine Health Insurance Corporation and the Home Development Mutual Fund;
- e. Must have a mayor's permit in the locality where its head office is located;
- f. In case of corporations or partnerships, must have the required technical experience for the scope or nature of services called for in the contract to be procured. The nominated or pledged key technical services and support staff must likewise possess the required formal education, professional license, competence, proficiency and skill required for the position; and
- g. Must have the financial capabilities to finance the operating and other activities for required for the consultancy services for at least two (2) months based on the net worth declared in the audited financial statement for the preceding year.

**Section 14. *Prequalification Requirements for Bidders for Procurement of Contract for Goods.***  
– To be qualified to participate in the procurement of contracts for goods, the bidders must:

- a. In case of sole proprietorship, must be Filipino citizen, registered with the Bureau of Domestic Trade;

- b. For corporations and partnerships, must be registered with the Securities and Exchange Commission (SEC) and at least seventy five percent (75%) of the authorized and paid up capital must be owned by Filipino citizens;
- c. Must be registered with the Bureau of Internal Revenue, Social Security System, Philippine Health Insurance Corporation and Home Development Mutual Fund;
- d. Must have a Mayor's permit in the place or locality where the head office is located

**Section 15. *Prequalification, Bids and Awards Committee (PBAC).*** – Each department, office, agency or instrumentality of the national and local government units, State universities and colleges, government owned and controlled corporations shall each establish a prequalification, bids and awards committee composed of at least five (5) officials with a rank not lower than a division chief, *Provided, that* the assistant division chief or section chief, or its equivalent position, may be designated to the PBAC as either chairman, vice chairman and members, as the case may require.

The members of the PBAC shall be entitled to honoraria not exceeding 30 percent (30%) of their annual salary.

The PBAC shall come from the legal, financial and technical professions with proven competence, proficiency and integrity. The chairman, vice chairman and members of the committee shall be designated for said position for a period not exceeding five (5) years unless sooner removed for cause.

During said period, they shall not be assigned to any duty or responsibility except as chairman, vice chairman and members of the PBAC, respectively, to enable them to strictly adhere to the jury duty principle in the performance of their functions.

**Section 16. *Functions of the Prequalification, Bids and Awards Committee (PBAC).*** The PBAC shall be charged solely and exclusively with the performance of the following functions:

- a. Preparation of bidding documents
- b. Post or advertisement of the invitation to bid
- c. Conduct the pre-procurement and pre-bid conference, as may be necessary
- d. Issuance of bidding documents
- e. Conduct of pre-qualification evaluation of prospective bidders
- f. Receive and open bids
- g. Conduct detailed bid evaluation of the lowest bid as read
- h. Recommend award of the contract to the head of the agency

**Section 17. *Prequalification, Bids and Awards Committee (PBAC) Secretariat*** – A PBAC Secretariat, with its corresponding plantilla position, shall be established and created to provide support and assistance to the PBAC in the performance of its functions.

The PBAC Secretariat shall be authorized to receive bids and other procurement documents.

**Section 18. *Maximum Number of Days Allowed for Conduct of Bidding.*** – The bidding process shall not exceed twenty-seven (27) calendar days starting from the first day of the publication of the invitation to prospective bidders up to the posting of the Notice of Award and Notice to Proceed with approved contract.

The Notice of Award shall be issued by the PBAC on the same day as the award of contract by the head of office or agency.

The Head of Agency, through the PBAC, shall post a copy of the Notice of Award together with the Notice to Proceed with corresponding executed written contract and related documents, respectively, in the Philippine Government Electronic Procurement System (PhilGEPS) and the website of the implementing office, agency or instrumentality.

**Section 19. *Submission and Receipt of Bids.*** – Bids shall have two (2) components, namely the technical and financial components which shall be submitted simultaneously. The bids shall be submitted to the PBAC on the date, time and place specified in the invitation to bid.

Late bids or those bids submitted after the deadline regardless of the cause or reason thereof shall not be accepted. No request for reconsideration of the non-acceptance of bids submitted late shall be allowed. Instead the bidder shall be required to explain its late submission and why it should be sanctioned administratively.

**Section 20. *Lone Bidder.*** – Lone bid may be considered for award of contract provided the bidder's bid price is below the allotted funds for the contract and the bidder satisfies all the technical, legal and financial requirements provided under existing law, rules and regulations and the bidding documents.

**Section 21. *Pre-Bid Conference.*** – Pre bid-conference shall be mandatory for bidding of contracts involving new construction projects as well as improvement, widening, repair and maintenance projects costing more than Three Hundred Million Pesos (P300,000,000) and with a contract duration of at least one year.

Any issue or question raised by the prospective bidders in the pre-bid conference must be addressed by the PBAC in the said pre-bid conference furnishing prospective bidders copy of the minutes of the pre-bid conference and posting copies thereof in the website of the procuring office or agency.

**Section 22. *Bidder's Responsibility.*** – It is the sole and exclusive responsibility of the bidder to determine and satisfy himself as to all matters pertaining to the contract to be bid, including the location and nature of the work, climatic conditions, nature and condition of the terrain, geological conditions at the site, transportation and communication facilities, availability of materials, labor, water, electric power, access to the site and other factors that may affect the cost and duration of the works.

**Section 23. *Failure to a Bidder to Quote a Bid Price.*** – Failure of a bidder to quote in its bid a bid price in an item or scope of work or deleting an item of work in the bidding documents whether for infrastructure, consultancy, goods or lease contract shall mean that the bidder shall provide or execute the item or scope of work for free.

**Section 24. *Failure to Declare an Ongoing or Completed Contract.*** – Failure of a bidder to disclose in its bid documents an ongoing contract or completed which is within the actual knowledge of the office or agency because the office or agency is the implementor of the contract, conducting the procurement process shall not disqualify the bidder for award of contract.

**Section 25. *Bid Security.*** – To guarantee that the bidder which has been awarded the contract shall enter into contract with the concerned office, agency or instrumentality, prospective bidders shall accompany their bid with a bid security either in the form of cash, surety bond or any instrument issued by a bank in an amount equal to or at least two and a half percent (2.5%) of the bidder's bid price.

**Section 26. *Award of Contract.*** – The contract shall be awarded to the bidder which submitted the lowest bid price and whose bid complies in all aspects with the legal, technical and

financial requirements of the contract. However, in case of procurement for consultancy contracts, the awarding of contract shall take into primary consideration the technical capability of the bidder in terms of quality of personnel, experience and capability of the firm and plan of approach and methodology.

The ceiling of contract shall not exceed the amount appropriated under the General Appropriations Act.

**Section 27. Contractor to Start Work at His Own Risk.** – The bidder shall have the option to start works on the project on the day following the bidder's receipt and acceptance of the notice of award without necessarily waiting for the perfection of the contract and notice to commence work. *Provided*, said winning bidder shall communicate his intention in writing to the authorized official of the project implementing agency, office or instrumentality.

**Section 28. Performance Security.** – To guarantee the full and faithful performance of the winning bidder's obligations under the contract, the winning bidder shall submit a performance security in the form and amount prescribed herein:

- a. Surety bond – thirty percent (30%) of the total contract cost;
- b. Cash, manager's check, cashier's check – ten percent (10%) of the total contract cost; and
- c. Bank guarantee – fifteen percent (15%) of the total contract.

The performance bond shall be callable on demand and shall be valid and effective up to the issuance of the certificate of acceptance of the project and shall likewise answer for any obligation of the bidder/contractor for any monetary claim of third parties arising from the implementation of the project.

**Section 29. Assignment and Subcontracting.** – The contractor shall not assign, sublet, transfer or subcontract any portion of the project without prior written approval of the head of the office, agency or instrumentality implementing the project. Those classified as specialty works may be assigned or subcontracted to contractors who likewise satisfy the legal, technical and financial requirements of the portion of the contract to be subcontracted

**Section 30. Alternative Methods.** – Subject to the prior approval of the head of the office or agency or his duly authorized representative, and whenever justified by the conditions provided in this Act, the office or agency may, in order to promote economy and efficiency, resort to any of the following alternative methods of Procurement of consultancy services and goods:

- a. *Limited Source Bidding, otherwise known as Selective Bidding* – a method of procurement that involves direct invitation to bid by the office or agency from a set of pre-selected suppliers or consultants, not less than three (3) but not more than five (5), with known experience and proven capability relative to the requirements of a particular contract;
- b. *Direct Contracting, otherwise known as Single Source Procurement* – a method of procurement that does not require elaborate bidding documents because the supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale based on the specification of office or agency

- c. *Repeat Order* – a method of procurement that involves a direct 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;
- d. *Shopping* – a method of procurement whereby the office or agency 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 qualification.

In all instances, the office or agency shall ensure that the most advantageous price for the government is obtained.

**Section 31. *Limited Source Bidding.*** – Limited Source Bidding may be resorted to only in any of the following conditions:

- a. Procurement of highly specialized types of goods and consulting services which are known to be obtainable only from a limited number of sources; or
- b. Procurement of major plant components where it is deemed advantageous to limit the bidding to known eligible bidders in order to maintain an optimum and uniform level of quality and performance of the plant as a whole.

**Section 32. *Direct Contracting.*** – Direct Contracting may be resorted to only in any of the following conditions:

- a. Procurement of goods of proprietary nature, which can be obtained only from the proprietary source, i.e. when patents, trade secrets and copyrights prohibit others from manufacturing the same item;
- b. When the procurement of critical components from a specific manufacturer, supplier or distributor is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of his contract; or,
- c. Those sold by an exclusive dealer or manufacturer, which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government.

**Section 33. *Repeat Order.*** – When provided for in the annual procurement plan, Repeat Order may be allowed wherein the office or agency directly procures goods from the previous winning bidder whenever there arises a need to replenish goods procured under a contract previously awarded through competitive bidding, subject to post-qualification process prescribed in the bidding documents and provided all the following conditions are present:

- a. The unit price must be equal to or lower than that provided in the original contract; and
- b. The repeat order does not result in splitting of requisitions or purchase orders;

**Section 34. *Shopping.*** – Shopping may be resorted to under any of the following instances:

- a. When there is an unforeseen contingency requiring immediate purchase: Provided, however, That the amount shall not exceed Five Hundred Thousand Pesos (P500,000.00); or
- b. Procurement of ordinary or regular office supplies and equipment not available in the procurement service involving an amount not exceeding One Million Pesos

(P1,000,000.00): *Provided*, however, That the procurement does not result in splitting of contracts: *Provided*, further, That at least three (3) price quotations from bona fide suppliers shall be obtained.

**Section 35. *Negotiated Procurement for Infrastructure Contracts.*** – Negotiated Procurement for infrastructure contracts shall be allowed only in the following instances:

- a. In cases of two failed biddings;
- b. In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;
- c. Take-over of contracts, which have been rescinded or terminated for causes provided for in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;
- d. Where the subject contract is adjacent or contiguous to an on-going infrastructure project. *Provided*, however, That the original contract is the result of a competitive bidding; the subject contract to be negotiated has similar or related scopes of work; it is within the contracting capacity of the contractor; the contractor uses the same prices or lower unit prices as in the original contract less mobilization cost; the amount involved does not exceed the amount of the ongoing project; and, the contractor has no negative slippage.

**Section 36. *Responsibility of the Contractor.*** – The contractor shall be fully responsible for the entire works under the contract until the final acceptance of the project for any defect arising from the use of inferior or substandard construction materials or failure to comply with the technical specifications for any of the item or scope of work under the contract.

Except likewise for force majeure, the contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel as well as the general public including the works, tools and equipment which are brought to the project site and necessary for the implementation of the works under the contract.

**Section 37. *Insurance of the Works Against all Risks.*** – The contractor, prior to commencement of the works which shall be turned over to the government after completion, shall insure or cause to be insured in the name of the contractor and the project owner against all perils or risks which are allowed under existing laws to be insured against said risk in such amount as to afford protection to the contractor and the project arising from any loss or damage from the risks insured against.

**Section 38. *Advance Payment.*** – As and by way of financial assistance to the contractor, the contractor shall be entitled to an advance payment not exceeding fifteen percent (15%) of the total contract cost to be used by the contractor for the implementation of the contracted works upon perfection of the contract and submission of the relevant security to answer for the recoupment of the said amount in case of default or breach of the contractor. Should the contractor use the said advance payment for any purpose other than that which is related to or connected with the project implementation, such diversion in use shall subject the contractor for the crime of Estafa (swindling) as defined and penalized under the Revised Penal Code.

**Section 39. *Change Order and Extra Work Order.*** – To afford the project implementing office, agency or instrumentality sufficient elbow room to address any defect, deficiency or error in



the project detailed engineering design which are not due to the fault or negligence of the designer, the implementing office, agency or instrumentality of a government infrastructure project shall issue any amendment to the contract as bid out in the form of a change order or extra work order as they are commonly practiced and understood in the construction industry.

**Section 40. *Inspection of the Contract Works.*** – To ensure that the contracted works are being done in strict, full and faithful compliance to the project plans and specifications, the concerned officials of the project implementing office, agency or instrumentality shall create a team of technical personnel of proven competence and integrity, with representative from the Commission on Audit and a duly accredited non-governmental organization, to conduct periodic inspection, audit and validation of the works while in progress.

**Section 41. *Arbitration.*** – Any and all disputes arising from the implementation of a contract covered by this Act shall be submitted to arbitration in the Philippines according to the provisions of Republic Act No. 876, otherwise known as the "Arbitration Law", Executive Order No. 1008 otherwise known as the "Construction Industry Arbitration Law", and Republic Act No. 9285 otherwise known as the "Alternative Dispute Resolution Act of 2004."

**Section 42. *Additional Functions of the Department of Budget and Management (DBM) Secretary.*** – The Government Procurement Policy Board (GPPB) and its Technical Support Office (TSO) are hereby abolished.

In addition to the mandate of the Secretary of Budget and Management, all affected functions, duties and responsibilities of the GPPB are hereby transferred to the DBM Secretary:

- a. protect national interest in all matters affecting procurement, having due regard to the country's regional and international obligations;
- b. prepare a generic procurement manual and the standard bidding forms for procurement;
- c. ensure that heads of office, agency or institution regularly conduct procurement training programs; and
- d. conduct an annual review of the effectiveness of this Act and recommend to the IRR Committee any amendments as may be necessary

**Section 43. *Ang Bagong Pilipinas Procurement Bureau.*** – Ang Bagong Pilipinas Procurement Bureau (ABPPB) is hereby established and created under the Department of Budget and Management (DBM), and under the direct supervision and control of the DBM Secretary.

The ABPPB shall assist and provide support to the Secretary of Budget and Management including:

- a. recommendation of research-based procurement policies, rules and regulations, and modification, whenever necessary, the IRR;
- b. development and updating generic procurement manuals and standard bidding forms;
- c. management, conduct and evaluation of procurement training programs; and
- d. Secretariat support.

The officials and employees of the GPPB shall be absorbed by the ABPPB under the DBM with equal rank, pay grade, without loss of seniority rights and same entitlements and privileges.

The ABPPB may propose amendments to the IRR thru the DBM Secretary pursuant to Section 47 of this Act.

*Provided*, That any recommendation by the ABPPB, upon approval the Secretary of Budget and Management, may cause the Committee on the IRR to reconvene and consider such amendments.

**Section 44. Offenses and Penalties. –**

- a. Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:
1. Open 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.
  2. 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 under this Act.
  3. Unduly influencing or exerting undue pressure on any member of the PBAC or any officer or employee of the office or agency to take a particular action which favors, or tends to favor a particular bidder.
  4. Splitting of contracts which exceed procedural purchase limits and competitive bidding.

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

In addition, the private individual shall be permanently disqualified from transacting business with the government.

- b. Private individuals who commit any of the following acts, including any public officer, who conspires with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:
1. When two or more bidders agree and submit different bids as if they were bona fide, when they knew that one or more of them was so much higher than the other that it could not be honestly accepted and that the contract will surely be awarded to the pre-arranged lowest bid.
  2. When a bidder submits different bids through two or more persons, corporations, partnerships or any other business entity in which he has interest to create the appearance of competition that does not in fact exist so as to be adjudged as the winning bidder .
  3. When two or more bidders enter into an agreement which call upon one to refrain from bidding for procurement contracts, or which call for withdrawal of bids already submitted, or which are otherwise intended to secure an undue advantage to any one of them.

4. When a bidder, by himself or in connivance with others, employ 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.

In addition, the persons involved shall also suffer the penalty of perpetual disqualification from public office and be permanently disqualified from transacting business with the government.

- c. Private individuals who commit any of the following acts, and any public officer conspiring with them, shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than fifteen (15) years:
  1. Submit 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
  2. Participate 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.
  3. Withdraw a bid, after it shall have qualified as the lowest calculated bid/highest rated bid, or refuse to accept an award, without just cause or for the purpose of forcing the office or agency to award the contract to another bidder. this shall include the non-submission within the prescribed time of the requirements or contract execution.
- d. 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.

**Section 45. Imposition of Administrative Penalties. –**

- a. The administrative penalty of suspension for one (1) year for the first offense, suspension of two (2) years for the second offense, and perpetual suspension for the third offense from participating in the public bidding process for the following violations, shall be imposed by the head of agency, as recommended by PBAC:
  1. Submission of eligibility requirements containing false information or falsified documents.
  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. Allowing the use of one's name, or using the name of another for purposes of public bidding.
  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 lowest calculated responsive bid or highest rated responsive bid.
  5. Refusal or failure to post the required performance security within the prescribed time.

6. Termination of the contract due to the default of the bidder.

Any documented unsolicited attempt by a bidder to unduly influence the outcome of the bidding in his favor.

- b. 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.

**Section 46. Oversight Committee.** – A Joint Congressional Oversight Committee is hereby created to oversee the implementation of this Act. The Committee shall be composed of the Chairperson of the Senate Committee on Finance and two members thereof appointed by the Senate President, and the Chairperson of the House Committee on Appropriations, and two members thereof to be appointed by the Speaker of the House of Representatives.

**Section 47. Implementing Rules and Regulations.** – A committee composed of the Secretary of the Department of Public Works and Highways as Chairman, the Secretary of Transportation, Secretary of Interior and Local Government, Secretary of Finance, Secretary of Budget and Management, Secretary of Housing and Urban Development, and Secretary of Energy as members is hereby created to issue and promulgate the rules and regulations of this of this Act, proforma bidding documents and conditions of contract for infrastructure, consultancy and goods within sixty (60) days from effectivity of this Act.

*Provided,* That said Committee may reconvene to amend the IRR as the need arises.

**Section 48. Transitory Provision.** – Pending promulgation of the implementing rules and regulations of this Act and the Bidding Documents for Procurement of Infrastructure Projects, all procurement of government infrastructure, goods and consultancy contracts and their implementation shall continue to be governed by Republic Act No. 9184 and its Implementing Rules and Regulations, its Annexes and Appendices as well as the Philippine Bidding Documents for Procurement of Contract for Infrastructure Projects, Consultancy and goods.

**Section 49. Repealing Clause.** – Republic Act No. 9184, including its Implementing Rules and Regulations, is hereby repealed.

**Section 50. Separability Clause.** – If, for any reason, any part or provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

**Section 51. Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

*Approved,*