



**REPUBLIC OF THE PHILIPPINES
COMMISSION ON AUDIT
GOVERNMENT PROCUREMENT POLICY BOARD**

**JOINT MEMORANDUM CIRCULAR No. 1
26 March 2020**

TO : ALL PROCURING ENTITIES

**SUBJECT : EMERGENCY PROCUREMENT BY THE GOVERNMENT DURING
A STATE OF PUBLIC HEALTH EMERGENCY ARISING FROM THE
CORONAVIRUS DISEASE 2019 (COVID-19)**

1.0 LEGAL BASES

- 1.1** Section 2(1), Article IX (D) of the 1987 Constitution provides, among others, that the Commission on Audit (COA) has the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government.
- 1.2** Section 2(2), Article IX (D) of the 1987 Constitution provides that the COA shall have exclusive authority to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures or uses of government funds and properties.
- 1.3** Republic Act (RA) No. 9184, otherwise known as the "Government Procurement Reform Act," took effect on 26 January 2003, while its 2016 revised Implementing Rules and Regulations (IRR) took effect on 28 October 2016.
- 1.4** Section 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary.
- 1.5** Section 4(k) of RA No. 11469 "An Act Declaring the Existence of a National Emergency Arising from the Coronavirus Disease 2019 (COVID-19) Situation and a National Policy in connection therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Restrictions, to Exercise Powers Necessary and Proper to Carry out the

Declared National Policy and for Other Purposes," otherwise known as the "Bayanihan to Heal as One Act," authorizes the President to adopt and implement measures needed to respond to the crisis brought by COVID-19, particularly under Section 4(11) thereof with respect to the procurement of the following, as the need arises, in the most expeditious manner, as exemptions from the provisions of RA No. 9184 and other relevant laws:

"(1) Goods, which may include personal protective equipment such as gloves, gowns, masks, goggles, face shields; surgical equipment and supplies; laboratory equipment and its reagents; medical equipment and devices; support and maintenance for laboratory and medical equipment, surgical equipment and supplies; medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hydrochloride, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension); testing kits, and such other supplies or equipment as may be determined by the DOH and other relevant government agencies:"

2.0 BACKGROUND

On 9 March 2020, the President signed Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines and the Code Alert System for COVID-19 was raised to Code Red Sublevel two (2) in accordance with the recommendation of the Department of Health and the Inter-Agency Task Force for the Management of Emerging Infectious Diseases.

Under the State of Public Health Emergency, the relevant government entities shall be capacitated to facilitate the sufficient and immediate access to funding, particularly for all concerned government agencies and local government units, intensify government response and measures such as easing procurement process, mandatory reporting, and enforcing quarantine and disease control prevention measures.

Further, on 16 March 2020, the President signed Proclamation No. 929 declaring a State of Calamity throughout the Philippines due to COVID-19 and imposed an Enhanced Community Quarantine throughout Luzon.


In view of the continuing rise of confirmed cases of COVID-19, the serious threat to the health, safety, security, and lives of our countrymen, the long-term adverse on their means of livelihood, and the severe disruption of economic activities, a State of National Emergency is declared over the entire country under Section 2 of RA No. 11469.

3.0 GENERAL PROVISIONS

- 3.1 To further support the government's efforts to mitigate, if not contain the transmission of COVID-19 in the country, the GPPB issued Resolution Nos. 03-2020¹ and 05-2020² to simplify and streamline the Rules on Negotiated Procurement (Emergency Cases) modality embodied in Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 IRR, as an exemption to Public Bidding under RA No. 9184, and enable Procuring Entities to efficiently and expediently undertake procurement during a State of Public Health Emergency.
- 3.2 During the State of Public Health Emergency declared by the President, Procuring Entities are allowed to resort to Negotiated Procurement (Emergency Cases) under Section 53(b) of RA No. 9184, Section 53.2 of its 2016 IRR and associated issuances for the procurement of Goods, Infrastructure Projects and Consulting Services that are directly related to the mitigation and containment of the transmission of COVID-19, in order for Procuring Entities to properly and timely respond to this Public Health Emergency.

4.0 EFFECTIVITY

This Joint Memorandum Circular shall take effect immediately.


MICHAEL G. AGUINALDO
Chairperson
Commission on Audit


WENDEL E. AVISADO
Chairperson
Government Procurement Policy Board



¹ Dated 10 March and published in the Philippine Daily Inquirer on 13 March 2020.

² Dated 20 March 2020 published in the Philippine Daily Inquirer on 24 March 2020.

PROCEDURE IN NEGOTIATED PROCUREMENT UNDER EMERGENCY CASES

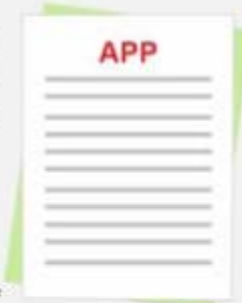
Allowable Instances for Emergency Procurement:

- (a) in case of imminent danger to life or property during a state of calamity;
- (b) when time is of the essence arising from natural or man-made calamities; or
- (c) other causes where immediate action is necessary to prevent damage to or loss of life property, or to restore vital public services, infrastructure facilities and other public utilities.



STEP 1

Check if the procurement project (based on Technical Specifications or Terms of Reference) is subject to Negotiated Procurement (Emergency Cases) and if there is budget for the purpose. If yes, have the APP covering the said procurement project approved by the HoPE.



Note that approval of APP is confirmation of the existence and veracity of the ground(s) relied upon in resorting to Negotiated

STEP 2

The BAC or authorized person/unit to directly negotiate or procure from a legally, technically, and financially capable supplier, distributor, manufacturer, contractor or consultant.

Mandatory documentary requirements are as follow:

- Mayor's Business Permit
- Business OR Income Tax Returns (ABC above 500K)
- Omnibus Sworn Statement (ABC above 500K)
- PCAB License (for infrastructure projects)
- NFCC (for infrastructure projects w/ ABC above 500K)



STEP 3

HoPE or authorized person/unit to award contract to the legally, technically, and financially capable supplier, distributor, manufacturer, contractor or consultant.

This includes a foreign bidder determined to satisfy any of the legal, technical and financial requirements of the PE.



STEP 4

The BAC Secretariat shall post for information purposes the Notice of Award, contract or purchase order, including the Notice to Proceed, if required, in (i) the PhilGEPs website; (ii) the website of the PE or its electronic procurement service provider, if any; and (iii) any conspicuous place in the premises of the PE.

