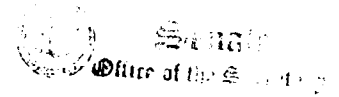



**NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)**



23 OCT 12 P5:05

**SENATE
S. B. No. 2466**

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

**AN ACT
REVISING REPUBLIC ACT NO. 9184 OTHERWISE KNOWN AS THE
"GOVERNMENT PROCUREMENT REFORM ACT" AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

This bill seeks to strengthen and enhance government procurement by revising Republic Act (RA) No. 9184, otherwise known as the Government Procurement Reform Act (GPRA).

RA No. 9184, enacted in 2003, was crafted to unify and institutionalize the fragmented policies, rules and regulations pertaining to government procurement. The primary goal was to guarantee transparency and competitiveness in the selection of bidders, leading to a more efficient and effective procurement and ultimately, public service. Since then, it has become the single regulatory framework for the procurement activities of the government, earning recognition from both local and international institutions as an effective tool against graft and corruption. Over the course of the 20 years from its enactment, some challenges have been identified and linked with the procurement process. Reports from the Department of Budget and Management point out that several government entities attribute the low utilization or the underspending of budgets, prolonged delays and tedious processes in procuring goods, services, and infrastructure projects to the procurement law.

This measure is intended to address the current challenges and assist procuring entities to cope with the implementation of vast, complex and intricate government projects. The proposed amendments embody a shift towards a fit-for-purpose procurement approach developed to meet the specific needs of procuring entities. In particular, the proposed bill will bolster government procurement by emphasizing strategic procurement planning and preparations through the conduct of relevant market scoping, supply positioning, analysis of available procurement modalities, and risk management. These efforts will be complemented by reliable strategies to design and prepare procurement projects, such as Early Procurement Activities, Green Public Procurement, Socially Responsible Procurement, Design and Build Scheme, Engagement of a Procurement Agent, Use of Framework Agreement, and Use of Life-Cycle Assessment and Life-Cycle Cost Analysis.

To ensure transparency and accuracy in the utilization of funds, the proposed bill also provides that funds transfers between NGAs, or by NGAs to GOCCs and vice

versa, or by NGAs to LGUs, are not to be considered as disbursed until the transferred amounts are actually utilized within the validity period. This clause also aims to ensure accountability and efficient use of government resources. The bill also underscores strategic procurement by electronic means to promote greater transparency, accountability, operational efficiency, and value for money, which covers all procurement activities from planning to payment of contracts, while leveraging on emerging technologies and innovative solutions.

This measure likewise puts primacy in the establishment of a proficient cadre of public procurement professionals. This would entail the development of a competency framework to delineate the necessary skills, knowledge, and attributes for each procurement role; a certification framework to elevate competencies and ensure ongoing professional growth; a code of ethics for ethical conduct; and an inclusive capacity development program.

To ramp up these initiatives, the GPPB, as the central procurement policy arm of the government, can tap Inter-Agency Technical Working Group/s from various sectoral groups to provide subject matter expertise in the formulation and review of policies, rules and regulations on government procurement, to promote inclusivity and good governance. The GPPB shall continue to be assisted by a Technical Support Office that provides legal, technical and administrative support to the Board in the performance of its functions under the new GPRA.

The bill also institutionally strengthens the Philippine Government Electronic Procurement System to serve as the single electronic portal for government procurement which shall maintain an integrated system that covers procurement planning until payment. It shall serve as the primary channel and source of information for procuring entities in the conduct of their procurement activities.

Finally, to address challenges in the available modalities of procurement and in furtherance of the principles of efficiency and proportionality, the measure also introduces new modes of procurement, such as competitive dialogue, unsolicited offer with bid matching, and direct acquisition, among other innovative provisions and pronouncements.

The innovations introduced in this measure aim to create a more agile, transparent, competitive, accountable, and efficient government procurement system, enabling the new GPRA to effectively respond to the changing times and evolving demands of public service.

In view of the foregoing, approval of this Bill is urgently sought.



SONNY ANGARA
7P

23 OCT 12 P5:05

SENATE
S. B. No. 2466

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

AN ACT
REVISING REPUBLIC ACT NO. 9184 OTHERWISE KNOWN AS THE
"GOVERNMENT PROCUREMENT REFORM ACT" AND FOR OTHER PURPOSES

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

ARTICLE I

GENERAL PROVISIONS

1
2
3 **SECTION 1.** *Short Title.* – This Act shall be known as the "Revised Government
4 Procurement Reform Act."

5 **SEC. 2.** *Declaration of Policy.* – It is the declared policy of the State to promote
6 the ideals of good governance with a view to transparency, competitiveness,
7 efficiency, proportionality, accountability, public monitoring, procurement
8 professionalization, and sustainability in government procurement.

9 **SEC. 3.** *Governing Principles on Government Procurement.* – All procurement
10 of the national government, its departments, bureaus, offices and agencies, including
11 state universities and colleges, government-owned and/or -controlled corporations,
12 government financial institutions, and local government units, shall, in all cases, be
13 governed by these principles:

14 (a) Transparency in the procurement process and in the
15 implementation of procurement contracts to ensure disclosure of, and
16 open access to, procurement process and information consistent with
17 open contracting practice.

1 (b) Competitiveness by extending equal opportunity to enable
2 contracting parties that are eligible and qualified to participate in public
3 bidding.

4 (c) Efficient process that shall be applied uniformly to all
5 government procurement. The procurement process shall be simple
6 and shall take advantage of emerging technologies and innovative
7 solutions in order to ensure an effective and efficient method.

8 (d) proportionality, such that the conditions and parameters in the
9 development of requirements, choice of procurement modality, and
10 implementation of contracts shall be reasonably proportional to the
11 needs of the procuring entity and the nature of the contract or project
12 to be procured.

13 (e) A system of accountability where both public officials directly or
14 indirectly involved in the procurement process as well as in the
15 implementation of procurement contracts, and the private parties that
16 deal with government are, when warranted by circumstances,
17 investigated and held liable for their actions relative thereto.

18 (f) Participatory procurement through public monitoring of the
19 procurement process and the implementation of contracts to ensure
20 prudent and judicious use of government resources with the end in view
21 of guaranteeing that these contracts are awarded pursuant to the
22 provisions of this act and its implementing rules and regulations (IRR),
23 and that all these contracts are strictly implemented.

24 (g) A sustainable procurement process that will ensure value for
25 money covering a whole life cycle from acquisition to disposal, but with
26 minimal impact to the environment while generating maximum benefits
27 to the society and the economy.

28 (h) Professionalization of public procurement through the
29 development of specialized qualification standards, competency and
30 certification framework, and a code of ethics for public procurement
31 professionals.

1 **SEC. 4. *Scope and Application.*** – This Act shall apply to the Procurement of
2 Infrastructure Projects, Goods, and Consulting Services, including disposal as may be
3 applicable, regardless of source of funds, whether local or foreign, by all branches and
4 instrumentalities of the government, its departments, offices and agencies, including
5 State Colleges and Universities (SUCs), Government-Owned and/or -Controlled
6 Corporations (GOCCs), Government Financial Institutions (GFIs) and Local
7 Government Units (LGUs), subject to the provisions of Commonwealth Act No. 138.
8 Any treaty, or international or executive agreement affecting the subject matter of this
9 Act to which the Philippine government is a signatory shall be observed.

10 **SEC. 5. *Definition of Terms.*** – For purposes of this Act, the following terms or
11 words and phrases shall mean or be understood as follows:

12 (a) *Approved Budget for the Contract (ABC)* – refers to the budget for
13 the contract duly approved by the Head of the Procuring Entity, as
14 provided for in the General Appropriations Act or other authorized
15 funding, in the case of National Government Agencies (NGAs); the
16 Corporate Budget for the contract approved by the governing Boards,
17 pursuant to Executive Order (EO) No. 518, series of 1979, in the case
18 of GOCCS, GFIs and SUCs; and the Budget for the contract approved
19 by the respective Sanggunian, in the case of LGUs. For multi-year
20 contracts, for which a Multi-year Contractual Authority (MYCA) or an
21 equivalent document is required, the project cost reflected in the MYCA
22 or equivalent document shall be the basis or reference for the ABC.

23 (b) *BAC* – refers to the Bids and Awards Committee established in
24 accordance with Article IV of this Act.

25 (c) *Bidding Documents* – refer to documents issued by the Procuring
26 Entity as the basis for Bids, furnishing all information necessary for a
27 prospective bidder to prepare a bid for the Goods, Infrastructure
28 Projects, and Consulting Services to be provided.

29 (d) *Bid* – refers to a signed offer or proposal submitted by a supplier,
30 manufacturer, distributor, contractor or consultant in response to the
31 Bidding Documents.

1 (e) *Common-use Supplies and Equipment (CSE)* – refers to goods,
2 materials, and equipment that are used in the day-to-day operations of
3 agencies in the performance of their functions. CSEs shall be those
4 included in the electronic catalogue of the PhilGEPS.

5 (f) *Competitive Bidding* - refers to a method of procurement which is
6 open to participation by any interested party and which consists of the
7 following processes: advertisement, pre-bid conference, eligibility
8 screening of prospective bidders, receipt and opening of bids,
9 evaluation of bids, post-qualification, and award of contract, the specific
10 requirements and mechanics of which shall be defined in the IRR to be
11 promulgated under this Act.

12 (g) *Consulting Services* - refer to services for Infrastructure Projects
13 and other types of projects or activities of the Government requiring
14 adequate external technical and professional expertise that are beyond
15 the capability and/or capacity of the government to undertake such as,
16 but not limited to: (i) advisory and review services; (ii) pre-investment
17 or feasibility studies; (iii) design; (iv) construction supervision; (v)
18 management and related services; and (vi) other technical services or
19 special studies.

20 (h) *Goods* - refer to all items, supplies, materials and general support
21 services, except consulting services and infrastructure projects, which
22 may be needed in the transaction of public businesses or in the pursuit
23 of any government undertaking, project or activity, whether in the
24 nature of equipment, furniture, stationery, materials for construction,
25 or personal property of any kind, including non-personal or contractual
26 services such as the repair and maintenance of equipment and
27 furniture, as well as trucking, hauling, janitorial, security, and related
28 or analogous services, as well as procurement of materials and supplies
29 provided by the procuring entity for such services.

30 (i) *GPPB* - refers to the Government Procurement Policy Board
31 established in accordance with Article XVII of this Act.

1 (j) *Head of Procuring Entity* - refers to: (i) the head of the agency or
2 his duly authorized official, for national government agencies; (ii) the
3 governing board or its duly authorized official, for government-owned
4 and/or -controlled corporations; or (iii) the local chief executive, for
5 local government units. *Provided*, That in a department, office or
6 agency where the procurement is decentralized, the Head of each
7 decentralized unit shall be considered as the Head of the Procuring
8 Entity subject to the limitations and authority delegated by the head of
9 the department, office or agency.

10 (k) *Infrastructure Projects* – include the construction, improvement,
11 rehabilitation, demolition, repair, restoration, or maintenance of roads
12 and bridges, railways, airports, seaports, communication facilities, civil
13 works components of information technology projects, irrigation, flood
14 control and drainage, water supply, sanitation, sewerage and solid
15 waste management systems, shore protection, shipbuilding and ship
16 repair, energy/power and electrification facilities, national buildings,
17 school buildings, hospital buildings, and other related construction
18 projects of the government.

19 (l) *IRR* - refers to the implementing rules and regulations to be
20 promulgated in accordance with Section 79 of this Act.

21 (m) *Philippine Government Electronic Procurement System (PhilGEPS)*
22 – refers to the single electronic portal as provided in Section 19 of this
23 Act.

24 (n) *Portal* - refers to a website that aggregates a wide variety of content
25 for the purpose of attracting a large number of users.

26 (o) *Procurement* - refers to the acquisition of Goods, Consulting
27 Services, and the contracting for Infrastructure Projects by the
28 Procuring Entity. Procurement shall also include the lease of goods and
29 real estate. With respect to real property, its procurement shall be
30 governed by the provisions of Republic Act No. 8974, entitled "An Act
31 to Facilitate the Acquisition of Right-of-Way Site or Location for National

1 Government Infrastructure Projects and for Other Purposes”, and other
2 applicable laws, rules and regulations.

3 (p) *Procuring Entity* - refers to any branch, department, office, agency,
4 or instrumentality of the government, including state universities and
5 colleges, government-owned and/or -controlled corporations,
6 government financial institutions, and local government units procuring
7 Goods, Consulting Services and Infrastructure Projects.

8 **SEC. 6. *Standardization of Procurement Process and Forms.*** – To systematize
9 the procurement process, avoid confusion, and ensure transparency, the procurement
10 process, including the forms to be used, shall be standardized insofar as practicable.

11 For this purpose, the GPPB shall pursue the development of generic
12 procurement manuals and standard bidding forms, the use of which once issued shall
13 be mandatory upon all Procuring Entities.

14 **ARTICLE II**

15 **STRATEGIC PROCUREMENT PLANNING**

16 **SEC. 7. *Strategic Procurement Planning.*** – All procurement shall be undertaken
17 only upon proper and sufficient planning and preparations to arrive at sound
18 procurement decisions. This includes the conduct of a relevant market scoping, supply
19 positioning, analysis of available procurement modalities, and risk management.

20 Procuring entities shall likewise adopt a procurement strategy that will help
21 ensure fit-for-purpose and proportional procurement approaches, and with due
22 consideration to the whole life cycle of a procurement project in order to achieve value
23 for money. During the planning stage, the procuring entity shall ensure that the project
24 has minimal economic, social, and environmental risks or negative impact during its
25 life cycle, and that the goods and services are procured alongside responsible
26 consumption and production practices in accordance with national policy. Measures,
27 such as, but not limited to, take-back, recycling, repurchase, destruction, auction,
28 barter, or direct donation to public or private persons shall be considered by the
29 procuring entity in the development of its requirements for purposes of disposal at the
30 end of the useful life of the property.

31 **SEC. 8. *Mandatory Market Scoping.*** – To ensure proper and strategic
32 procurement planning, procuring entities shall conduct market scoping to support the

1 submission of their project procurement plan. Market scoping enables the procuring
2 entity to gather all related information on the procurement at hand, including engaging
3 with the market operators to get the right information on project costing, technical
4 specifications, availability, delivery lead time, storage or warehousing, and all other
5 procurement-related information.

6 **SEC. 9. *Procurement Planning and Budgeting Linkage.*** – All procurement
7 should be within the approved budget of the Procuring Entity and meticulously and
8 judiciously planned by the Procuring Entity concerned. Consistent with government
9 fiscal discipline measures, only those considered crucial to the efficient discharge of
10 governmental functions shall be included in the Annual Procurement Plan (APP) to be
11 specified in the IRR. Multi-year procurements shall be within the approved MYCA or
12 any similar document issued by the Department of Budget and Management (DBM)
13 for NGAs, or its equivalent document for GOCCs, GFIs, and LGUs.

14 No government procurement shall be undertaken unless it is in accordance with
15 the approved APP or indicative APP of the Procuring Entity, as the case may be. The
16 APP shall be approved by the Head of the Procuring Entity and must be consistent
17 with its duly approved yearly budget or proposed budget in the case of the indicative
18 APP. The APP shall be formulated and revised only in accordance with the guidelines
19 set forth in the IRR. In the case of Infrastructure Projects, the plan shall include
20 detailed architectural and engineering design, and acquisition of right-of-way.

21 **SEC. 10. *Specifications.*** – Specifications for the procurement of goods, as well
22 as the goods component of infrastructure projects and consulting services, shall be
23 based on any or a combination of the following: relevant characteristics; performance
24 or functionality requirements; or product or service standards specified by appropriate
25 government entities or similar international bodies.

26 Reference to a brand name shall not be allowed except for reasons of technical
27 compatibility, servicing, maintenance, or preservation of warranty in order to keep the
28 performance, functionality, and useful life of the equipment, in which case, the
29 procuring entity shall indicate the reasons or justifications for availing of the exception.

30 **SEC. 11. *Early Procurement Activities.*** – In order to ensure the timely
31 implementation of projects, procuring entities are authorized to undertake early
32 procurement activities even pending approval of the funding thereof.

1 The conduct of early procurement activities shall be made only upon approval
2 of the indicative app by the Head of Procuring Entity. No award of contract shall be
3 made until the approval and effectivity of the appropriate funding.

4 In case of projects requiring acquisition of right-of-way, no award of contract
5 shall likewise be made until an authority or permit to enter is issued by the property
6 owner; or a notarized deed of sale or deed of donation is executed in favor of the
7 government; or a writ of execution is issued by a court of competent jurisdiction, as
8 the case may be.

9 The GPPB shall issue the guidelines in the conduct of early procurement
10 activities.

11 **SEC. 12. *Green Public Procurement Strategy.*** – Green Public Procurement
12 (GPP) is an approach whereby procuring entities seek to procure goods, infrastructure
13 projects, and consulting services with reduced environmental impact through their life
14 cycle.

15 As part of strategic procurement planning and in support of the Philippines’
16 commitment to accelerate climate action and strengthen disaster resilience by
17 transitioning into a low carbon economy, procuring entities shall integrate green
18 practices, as well as environmentally relevant criteria or requirements, in the design
19 of their procurement projects in order to achieve broader policy objectives on energy,
20 water and material efficiency, waste reduction, pollution and emission prevention,
21 climate change mitigation, local and rural development, greening supply chains,
22 greening infrastructure and work, industry productivity, innovation and
23 competitiveness, inclusive business models, green jobs, and circular economy.

24 **SEC. 13. *Development of a Green Local Market.*** – The Department of Trade
25 and Industry (DTI), in consultation with relevant government agencies and the private
26 sector shall develop a cost-efficient validation and certification program for green
27 products to attract green investments and improve the competition in government
28 procurement.

29 **SEC. 14. *Socially Responsible Procurement Strategy.*** – Sustainable public
30 procurement incorporates social considerations, such as gender parity and women’s
31 empowerment in the procurement of goods, infrastructure projects, and consulting
32 services. A gender responsive procurement strategy is a mechanism to integrate

1 gender dimensions in the design of procurement projects through a gender-based
2 needs and impact assessment.

3 The GPPB shall develop procurement policies that engender an enabling
4 environment for meaningful competition across all bidders; implement an inclusive
5 capacity development program; and provide greater access to markets through
6 digitalization. It shall also issue the policy guidelines on how procuring entities can
7 implement gender responsive approaches in public procurement in relation to project
8 planning, eligibility and selection criteria, contract performance, and grounds for
9 exclusion/suspension/debarment.

10 **SEC. 15. *Procurement of Second-Hand Goods.*** – Procurement of second-hand
11 goods and equipment may be allowed under any of the applicable modes of
12 procurement enumerated in Article III of this Act, subject to considerations as to
13 durability, remaining useful life, sustainability, maintenance cost, warranty, price, and
14 such other relevant factors in order to secure a contract that is most advantageous to
15 the government. Procurement of second-hand motor vehicles shall be in accordance
16 with the guidelines and circulars issued by the Department of Budget and
17 Management.

18 **SEC. 16. *Life-Cycle Assessment and Life-Cycle Cost Analysis.*** – To further
19 support strategic procurement management and ensure smart and prudent use of
20 government resources, procuring entities shall apply Life-Cycle Assessment (LCA) and
21 Life-Cycle Cost Analysis (LCCA) in project planning, eligibility and selection criteria, or
22 contract implementation, as may be applicable.

23 The GPPB shall issue the guidelines on the use of LCA and LCCA in the proper
24 planning, determination of eligibility and selection criteria, and implementation of
25 procurement projects.

26 **SEC. 17. *Design and Build Scheme for Government Building Construction***
27 ***Projects.*** – In preparing for a procurement project, procuring entities may consider
28 employing the Design and Build Scheme as a procurement approach whereby a single
29 contractor is responsible for both design and construction of the government building,
30 thus, allowing for quality assurance and effective cost and schedule management.

31 **SEC. 18. *Engagement of a Procurement Agent.*** – As part of strategic
32 procurement planning, the Head of Procuring Entity may authorize the engagement

1 of a procurement agent if the procuring entity does not have the capability or
2 proficiency to undertake a particular procurement, subject to the guidelines of the
3 GPPB.

4 All funds transferred between NGAs, or by NGAs to GOCCs and vice versa, or
5 by NGAs to LGUs shall not be considered disbursed until the transferred amounts have
6 been actually utilized to pay for completed construction, goods delivered and services
7 rendered, inspected and accepted, within the validity period. It is understood that
8 transfer of funds shall strictly be in accordance with pertinent budgeting, accounting,
9 auditing, and procurement laws, rules, and regulations.

10 **SEC. 19. *Use of Framework Agreement.*** – Procuring Entities may use a
11 framework agreement as a procurement strategy that may be utilized in government
12 procurement in order to expand the pool of prospective bidders, take advantage of
13 economies of scale, minimize the administrative burden of conducting separate
14 procurement activities, and generate time and money savings. The framework
15 agreement is in the nature of an option contract between the procuring entity and the
16 bidder(s) that stipulates the terms and conditions that would be applied in subsequent
17 contracts for the procurement of goods, infrastructure projects, and consulting
18 services with a single or multiple contractor, manufacturer, supplier, distributor,
19 and/or consultant. The GPPB shall issue the guidelines in the use of framework
20 agreement.

21 **SEC. 20. *Procurement by Electronic Means.*** – To promote greater
22 transparency, accountability, operational efficiency, and value for money, the
23 PhilGEPS, managed by the Procurement Service (PS) – DBM, shall be the single
24 electronic portal that shall serve as the primary channel and source of information in
25 the conduct of all procurement activities by the government for the acquisition of
26 goods, infrastructure projects and consulting services. The PhilGEPS shall maintain an
27 integrated system that covers procurement planning until payment.

28 To take advantage of the significant built-in efficiencies of the PhilGEPS and
29 the volume discounts inherent in bulk purchasing, through the centralized
30 procurement undertaken by the PS-DBM, all procuring entities may utilize the
31 PhilGEPS virtual store for the procurement of common-use supplies and equipment
32 (CSE) in accordance with the rules and procedures to be established by the GPPB.

1 The PhilGEPS shall include additional innovative features and solutions, such as but
2 not limited to electronic reverse auction, electronic marketplace, and electronic
3 shopping/electronic small value procurement.

4 The GPPB is authorized to approve changes in the procurement process to
5 adapt to improvements in modern and emerging technologies, provided that such
6 modifications are consistent with the provisions of Section 3 of this Act.

7 **SEC. 21. *Security, Integrity and Confidentiality.*** – The PhilGEPS shall ensure
8 the security, integrity, and confidentiality of documents submitted, stored, and
9 managed through the system. It shall include a feature that provides for an audit trail
10 of electronic transactions and allow the Commission on Audit to verify the security
11 and integrity of the system at any time.

12 **ARTICLE III**

13 **MODES OF PROCUREMENT**

14 **SEC. 22. *Modes of Procurement.*** – The Procuring Entity shall adopt any of the
15 following modes of procurement consistent with the fit-for-purpose procurement
16 approach:

- 17 1. *Competitive Bidding* – refers to a mode of procurement which is open
18 to participation by any eligible bidder. Notwithstanding the
19 applicability of the other modes of procurement defined in the
20 succeeding items, the Procuring Entity may adopt competitive bidding
21 in its procurement activity.
- 22 2. *Limited Source Bidding* – a mode of procurement that involves direct
23 invitation to bid by the Procuring Entity to a set of pre-selected
24 suppliers or consultants with known experience and proven capability
25 relative to the requirements of a particular contract. Limited Source
26 Bidding may only be resorted to in any of the following conditions:
 - 27 a. Procurement of highly specialized types of Goods and
28 Consulting Services which are known to be obtainable only from
29 a limited number of sources; or
 - 30 b. Procurement of major plant components where it is deemed
31 advantageous to limit the bidding to known eligible bidders in

1 order to maintain an optimum and uniform level of quality and
2 performance of the plant as a whole.

3 3. *Competitive Dialogue* – a mode of procurement where the Procuring
4 Entity invites suppliers, contractors, or consultants to a dialogue to
5 propose solutions to address its needs and requirements. Competitive
6 Dialogue may be resorted to if any of the following conditions is
7 present:

- 8 a. The procurement includes innovative design or solutions
9 involving procurement of complex purchases, such as but not
10 limited to, sophisticated products, intellectual services, or major
11 information and communications technology projects;
- 12 b. The contract requires prior negotiations with the supplier,
13 contractor, or consultant because of specific circumstances
14 related to the nature, complexity, legal and financial issues, or
15 risks attached to the procurement; or
- 16 c. The technical specifications cannot be sufficiently established
17 or precisely defined by the Procuring Entity.

18 4. *Unsolicited Offer with Bid Matching* – the Procuring Entity may
19 consider unsolicited offers on a negotiated basis for Goods and
20 Consulting Services *Provided*, That the following conditions are met:

- 21 a. The procurement involves a new concept or technology as
22 determined by the head of Procuring Entity; and
- 23 b. The Procuring Entity has invited comparative or competitive
24 bids. The procedure for bid matching shall be provided in the
25 IRR.

26 The contract shall be awarded to the original proponent
27 if: (i) no comparative or competitive bid is received within the
28 period prescribed in the IRR; (ii) the bids submitted by the
29 comparative proponents failed at bid opening; or (iii) the
30 original proponent matched or submits a lower price proposal
31 against the comparative or competitive bid.

1 For purposes of this mode of procurement, and when
2 the new concept or technology is acceptable, the Procuring
3 Entity may secure funds from available sources, subject to
4 government budgeting, accounting, and auditing rules.

- 5 5. *Direct Contracting* – a mode of procurement that does not require
6 elaborate bidding documents because the supplier is simply asked to
7 submit a price quotation or a pro-forma invoice together with the
8 conditions of sale, which may be accepted immediately or after some
9 negotiations.

10 Direct Contracting, or Single Source Procurement, may only be
11 resorted to in any of the following conditions:

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

- 24 6. *Direct Acquisition* – due to the need of the Procuring Entity, subject to
25 compliance with the identified legal, technical and financial
26 requirements, a Procuring Entity may procure directly from any known
27 and reputable source, its required goods and services for the
28 procurement of Non Common-Use Supplies and Equipment (Non-CSE)
29 with an ABC not exceeding One Hundred Thousand Pesos (PhP
30 100,000.00). The threshold amount can be adjusted as may be
31 deemed appropriate by the GPPB to reflect changes in economic
32 conditions and for other justifiable reasons.

1 7. *Repeat Order* – when provided for in the APP, Repeat Order may be
2 allowed wherein the Procuring Entity directly procures Goods from the
3 previous winning bidder whenever there arises a need to replenish
4 goods procured under a contract previously awarded through
5 Competitive Bidding, subject to post-qualification process prescribed
6 in the Bidding Documents and provided all the following conditions are
7 present:

- 8 a. The unit price must be equal to or lower than that provided in
9 the original contract;
- 10 b. Except in special circumstances defined in the IRR, the repeat
11 order shall be availed of only within six (6) months from the
12 date of the notice to proceed arising from the original contract;
13 and
- 14 c. The repeat order shall not exceed twenty-five percent (25%)
15 of the quantity of each item in the original contract.

16 8. *Shopping* – a mode of procurement whereby the Procuring Entity
17 requests for the submission of price quotations for readily available
18 off-the-shelf goods or ordinary/regular equipment to be procured
19 directly from suppliers of known qualifications. Shopping may be
20 resorted to under any of the following instances:

- 21 a. When there is an unforeseen contingency requiring immediate
22 purchase: *Provided, however,* that the amount shall not exceed
23 Two Million Pesos (PhP 2,000,000.00); or
- 24 b. Procurement of ordinary or regular office supplies and
25 equipment not available in the PS-DBM involving an amount not
26 exceeding Two Million Pesos (PhP 2,000,000.00): *Provided,*
27 *however,* that at least three (3) price quotations from bona fide
28 suppliers shall be obtained.

29 The above amounts shall be subject to a periodic review
30 by the GPPB. For this purpose, the GPPB shall be authorized to
31 adjust the said amount in order to reflect changes in economic
32 conditions and for other justifiable reasons.

1 9. *Small Value Procurement* – a mode of procurement whereby the
2 Procuring Entity requests for the submission of at least three (3) price
3 quotations, and receipt of one (1) quotation is sufficient to proceed
4 with the evaluation of bidders for Goods, Infrastructure Projects and
5 Consulting Services where the amount involved does not exceed Two
6 Million Pesos (PhP 2,000,000.00): *Provided*, that in case of goods, the
7 procurement does not fall under Shopping in the preceding item,
8 subject to threshold amount adjustments as may be deemed
9 appropriate by the GPPB.

10 10. *Negotiated Procurement* – negotiated procurement shall be allowed
11 only in the following instances:

- 12 a. In cases of two (2) failed biddings, as provided in Section 48
13 hereof;
- 14 b. In case of imminent danger to life or property during a state of
15 calamity, or when time is of the essence arising from natural or
16 man-made calamities or other causes where immediate action
17 is necessary to prevent damage to or loss of life or property, or
18 to restore vital public services, infrastructure facilities and other
19 public utilities;
- 20 c. Take-over of contracts which have been rescinded or
21 terminated for causes provided for in the contract and existing
22 laws, where immediate action is necessary to prevent damage
23 to or loss of life or property, or to restore vital public services,
24 infrastructure facilities and other public utilities;
- 25 d. Where the subject contract is adjacent or contiguous to an
26 ongoing infrastructure project, as defined in the IRR: *Provided*,
27 *however*, That the original contract is the result of a
28 Competitive Bidding; the subject contract to be negotiated has
29 similar or related scopes of work; it is within the contracting
30 capacity of the contractor; the contractor uses the same prices
31 or lower unit prices as in the original contract less mobilization
32 cost; the amount involved does not exceed the amount of the

1 ongoing project; and, the contractor has no negative slippage:
2 *Provided, further,* That negotiations for the procurement are
3 commenced before the expiry of the original contract.
4 Whenever applicable, this principle shall also govern
5 consultancy contracts, where the consultants have unique
6 experience and expertise to deliver the required service;

7 e. Subject to the guidelines specified in the IRR, purchases of
8 Goods from another agency of the government, such as the PS-
9 DBM, which is tasked with the centralized procurement of CSE
10 for the government in accordance with Letter of Instructions
11 No. 755, EO No. 359, series of 1989, and Administrative Order
12 No. 17, series of 2011; or

13 f. In the case of individual consultants hired to do work that is (i)
14 highly technical or proprietary; or (ii) primarily confidential or
15 policy determining: *Provided,* That in both instances, trust and
16 confidence are the primary consideration for the hiring of the
17 consultant: *Provided, however,* That the term of the individual
18 consultants shall, at the most, be on a six month basis,
19 renewable at the option of the appointing head of Procuring
20 Entity, but in no case shall exceed the term of the latter; or

21 g. Other instances that may be allowed by the GPPB in the IRR.

22 **SEC. 23. Prohibition on Splitting of Government Contracts.** – In using any of
23 the modes of procurement under Section 22 of this Act, the Procuring Entity shall
24 ensure that this does not result in splitting of government contracts, which involves
25 dividing or breaking up of contracts into smaller quantities and amounts, or dividing
26 contract implementation into artificial phases or sub-contracts for the purpose of
27 evading or circumventing the requirements of this Act and its IRR.

28 **SEC. 24. Procurement of CSE.** - All NGAs, GOCCs, GFIs, SUCs, and LGUs shall
29 procure their CSE from PS-DBM.

30 Due to the efficiency and economy of bulk purchasing, the PS-DBM may deal
31 directly with manufacturers or exclusive distributors subject to defined legal, technical
32 and financial requirements ensuring that products are obtained from reliable sources,

1 of the best quality, and at the most advantageous price for the whole of government.
2 Access to goods and equipment in economic lot sizes may likewise be achieved by PS-
3 DBM through consignment or any appropriate contractual arrangement.

4 PS-DBM shall develop the parameters in the identification, and the definition
5 of requirements and specifications of CSEs through the conduct of market scoping,
6 survey and market availability.

7 **ARTICLE IV**

8 **BIDS AND AWARDS COMMITTEE**

9 **SEC. 25.** *The BAC and its Composition.* – Each Procuring Entity shall establish
10 one or several Bids and Awards Committees (BACs) as warranted by the volume and
11 complexity of the procurement projects and to ensure the efficient and effective
12 conduct of its procurement, as determined by the Head of the Procuring Entity. Each
13 BAC shall have at least five (5) members, but not more than seven (7) members. It
14 shall be chaired by at least a third ranking permanent official of the Procuring Entity
15 or in the absence thereof, a permanent official of the next lower rank other than the
16 duly authorized representative of the Head of the Procuring Entity. The members of
17 the BAC shall be designated by the Head of the Procuring Entity. However, in no case
18 shall the Head of the Procuring Entity or the approving authority be a member of the
19 BAC.

20 Unless sooner removed for a cause, the members of the BAC shall have a fixed
21 term of one (1) year reckoned from the date of designation, subject to reappointment
22 by the Head of the Procuring Entity: *Provided*, That no member of the BAC shall serve
23 for more than three (3) consecutive terms.

24 In case of resignation, retirement, separation, transfer, reassignment, or
25 removal, the replacement shall serve only for the unexpired term: *Provided*, That in
26 case of leave or suspension, the replacement shall serve only for the duration of the
27 leave or suspension. For justifiable causes, a member shall be suspended or removed
28 by the Head of the Procuring Entity. For transfer of knowledge and experience,
29 membership in the BAC shall allow for staggered designations, to be identified in the
30 IRR.

31 **SEC. 26.** *Functions of the BAC.* – The BAC shall have the following functions:
32 conduct the bidding process, recommend award of contracts to the Head of Procuring

1 Entity or his duly authorized representative: *Provided*, That in the event the Head of
2 Procuring Entity shall disapprove such recommendation, such disapproval shall be
3 based only on valid, reasonable, and justifiable grounds to be expressed in writing,
4 copy furnished the BAC; recommend the imposition of sanctions in accordance with
5 Article XX, and perform such other related functions as may be necessary, including
6 the creation of a Technical Working Group (TWG) from a pool of technical, financial,
7 and/or legal experts to assist in the procurement process.

8 In proper cases, the BAC shall also recommend to the Head of the Procuring
9 Entity the use of any of the Modes of Procurement as provided in Article III of this
10 Act.

11 The BAC shall prepare a procurement monitoring report that shall be approved
12 and submitted by the Head of the Procuring Entity to the GPPB on a semestral basis.
13 The contents and coverage of this report shall be provided in the IRR.

14 **SEC. 27. Observers.** – To enhance the transparency of the process, the BAC
15 shall, in all stages of the procurement process, invite, in addition to the representative
16 of the Commission on Audit, at least two (2) observers to sit in its proceedings, one
17 (1) from a duly recognized private group in a sector or discipline relevant to the
18 procurement at hand, and the other from a civil society organization or people’s
19 organization, as the case may be: *Provided*, however, That they do not have any direct
20 or indirect interest in the contract to be bid out. The observers should be duly
21 registered with the Securities and Exchange Commission and should meet the criteria
22 for observers as set forth in the IRR.

23 **SEC. 28. Procurement Support for the BAC.** – There shall be a procurement
24 unit, division, or office in each procuring entity which shall serve as secretariat to the
25 BAC and perform other procurement-related functions as may be delegated by the
26 BAC. the creation of the procurement unit, division, or office shall be subject to the
27 standards and guidelines prescribed by the DBM.

28 **SEC. 29. Honoraria.** – The Procuring Entity may grant payment of honoraria to
29 all members of the BAC regardless of position, TWG, and ad hoc secretariat, in an
30 amount not to exceed thirty percent (30%) of their respective basic monthly salaries,
31 subject to availability of funds. The DBM shall promulgate the necessary guidelines for
32 this purpose.

1 **SEC. 30.** *Professionalization of Government Procurement Practitioners.* – In
2 order to build a cadre of public procurement professionals, the DBM shall create
3 procurement positions in the government based on the qualification standards
4 recommended by the GPPB and approved by the Civil Service Commission (CSC).
5 Further, the GPPB, in collaboration with the Professional Regulation Commission
6 (PRC), shall provide comprehensive guidelines aimed at establishing and maintaining
7 effective regulation for the practice of the procurement profession.

8 The GPPB shall develop the following:

- 9 a. a competency framework to identify the skills, knowledge, and
10 attribute of each of the procurement positions;
11 b. a certification framework to upscale procurement competencies and
12 ensure continued professional development;
13 c. a code of ethics for public procurement professionals; and
14 d. an inclusive capacity development program in order to enhance
15 accountability of all procurement practitioners, both from the public
16 and private sectors, promote supplier diversity, promote competition
17 and optimize efficiency, and value for money.

18 **ARTICLE V**

19 **PREPARATION OF BIDDING DOCUMENTS**

20 **SEC. 31.** *Form and Content of Bidding Documents.* – The Bidding Documents
21 shall be prepared by the Procuring Entity following the standard forms and manuals
22 prescribed by the GPPB. The Bidding Documents shall include the following:

- 23 a. Approved Budget for the Contract;
24 b. Instructions to Bidders, including criteria for eligibility, bid evaluation
25 and post-qualification, The weight assigned to each criteria and the
26 quality-price ratio if awarded to the most economically advantageous
27 responsive bid under Section 45, as well as the date, time and place
28 of the pre-bid conference (where applicable), submission of bids and
29 opening of bids;
30 c. Terms of Reference;
31 d. Eligibility Requirements;
32 e. Plans and Technical Specifications;

- 1 f. Form of Bid, Price Form, and List of Goods or Bill of Quantities;
- 2 g. Delivery Time or Completion Schedule;
- 3 h. Form and Amount of Bid Security;
- 4 i. Form and Amount of Performance Security and Warranty;
- 5 j. Form of Contract, and General and Special Conditions of Contract; and
- 6 k. Additional documentary requirements or specifications necessary to
- 7 complete the information required for the bidders to prepare and
- 8 submit their respective bids.

9 Based on specific needs, the end-user unit or implementing unit of the
10 procuring entity shall be responsible for the preparation of all documents necessary
11 for the procurement activity, including but shall not be limited to, the technical
12 specifications, scope of work, or terms of reference.

13 **SEC. 32. Access to Information.** – In all stages of the preparation of the bidding
14 documents, the Procuring Entity shall ensure equal access to information. Prior to their
15 official release, no aspect of the bidding documents shall be divulged or released to
16 any prospective bidder or person having direct or indirect interest in the project to be
17 procured, or to any party, except those officially authorized in the handling of the
18 documents.

19 *Provided,* That, in procurements involving and affecting national security, the
20 disclosure of the specific components of the procurement documents, such as, the
21 technical specifications, requirements, and components, shall be dependent upon the
22 head of procuring entity, having due regard to the nature, classification, sensitivity,
23 and confidentiality of the relevant documents vis-a-vis the purpose and reason for the
24 request.

25 **ARTICLE VI**
26 **INVITATION TO BID**

27 **SEC. 33. Pre-Procurement Conference.** – Prior to the issuance of the Invitation
28 to Bid, the BAC is mandated to hold a pre-procurement conference on each and every
29 procurement, except those contracts below a certain level or amount specified in the
30 IRR, in which case, the pre-procurement conference is optional.

31 The pre-procurement conference shall assess the readiness of the procurement
32 in terms of confirming the certification of availability of funds, as well as reviewing all

1 relevant documents in relation to their adherence to the law. this shall be attended by
2 the BAC, end-user unit or implementing unit, or officials who prepared the bidding
3 documents and the draft invitation to bid. consultants, if any, may likewise attend the
4 pre-procurement conference, as necessary.

5 For the procurement of goods and infrastructure projects, the BAC, based on
6 the recommendation of the end-user unit, shall determine whether the contract will
7 be awarded to the lowest calculated responsive bid or the most economically
8 advantageous responsive bid as defined in Section 45 of this Act.

9 The most economically advantageous responsive bid, as an award criterion,
10 may be used where the consideration of assigning weights for the technical and
11 financial aspects of the project is more appropriate to recognize both the qualitative
12 and economic values of the bid.

13 **SEC. 34. *Publication and Contents of the Invitation to Bid.*** – In line with the
14 principle of transparency and competitiveness and to ensure the widest possible
15 dissemination thereof, all Invitations to Bid for contracts under competitive bidding
16 shall be published by the Procuring Entity, in the PhilGEPS, in any conspicuous place
17 in the premises of the procuring entity, and in the website or social media platforms
18 of the Procuring Entity, if available or such other channels as may be authorized by
19 the GPPB.

20 For justifiable reasons, procuring entities that cannot publish procurement
21 opportunities in its website, social media platform, or such other channels authorized
22 by the GPPB shall publish its invitation to bid, at least once, in a newspaper of general
23 nationwide circulation. The details and mechanics of implementation shall be provided
24 in the IRR.

25 The Invitation to Bid shall contain, among others:

- 26 a. A brief description of the subject matter of the Procurement;
- 27 b. A general statement on the criteria to be used by the Procuring Entity
28 for the eligibility check, the examination and evaluation of Bids, and
29 post-qualification: *Provided, That*, in the case of procurement of
30 consulting services, the invitation to bid shall also contain the criteria
31 for the shortlisting of prospective bidders;

- 1 c. For the procurement of goods and infrastructure projects, whether the
- 2 contract will be awarded to the lowest calculated responsive bid or the
- 3 most economically advantageous responsive bid;
- 4 d. If the contract is to be awarded to the most economically
- 5 advantageous responsive bid, the criteria to be used in assessing the
- 6 bid, the weight or score assigned by the procuring entity to each
- 7 criteria, and the quality-price ratio to determine the award;
- 8 e. The date, time and place of the deadline for the submission and
- 9 receipt of the eligibility requirements, the pre-bid conference if any,
- 10 the submission and receipt of bids, and the opening of bids;
- 11 f. The Approved Budget for the Contract to be bid;
- 12 g. The source of funds;
- 13 h. The period of availability of the Bidding Documents, and the place
- 14 where these may be secured;
- 15 i. The contract duration; and
- 16 j. Such other necessary information deemed relevant by the Procuring
- 17 Entity.

18 **SEC. 35. *Pre-bid Conference.*** – At least one pre-bid conference shall be
19 conducted for each procurement, unless otherwise provided in the IRR. Subject to the
20 approval of the BAC, a pre-bid conference may also be conducted upon the written
21 request of any prospective bidder. The pre-bid conference(s) shall be held within a
22 reasonable period before the deadline for receipt of bids to allow prospective bidders
23 to adequately prepare their bids, which shall be specified in the IRR.

24 For purposes of transparency, efficiency, and competitiveness, procuring
25 entities may guide prospective bidders in the understanding and accomplishment of
26 the necessary documents to support their participation in the procurement process.

27 **ARTICLE VII**

28 **RECEIPT AND OPENING OF BIDS**

29 **SEC. 36. *Eligibility Requirements for the Procurement of Goods, Infrastructure***
30 ***Projects, and Consulting Services.*** – The BAC or, under special circumstances specified
31 in the IRR, its duly designated organic office shall require the submission of the
32 prospective bidder's valid and updated PhilGEPS Certificate of Registration and

1 Membership to ensure that the bidder is technically, legally, and financially capable to
2 undertake the proposed project for the procurement of goods, infrastructure projects,
3 and consulting services within the period set forth in the Invitation to Bid.

4 The documents submitted to support the issuance of the PhilGEPS Certificate
5 of Registration and Membership shall be subject to validation by the BAC during post-
6 qualification.

7 A prospective bidder may be allowed to submit its eligibility requirements
8 electronically. However, said bidder shall later on certify under oath as to the
9 correctness of the statements made and the completeness and authenticity of the
10 documents submitted.

11 **SEC. 37. *Short-Listing for Consulting Services.*** – The eligible prospective
12 bidders for the procurement of consulting services shall be evaluated using numerical
13 ratings on the basis of the short-listing requirements prescribed for the Competitive
14 Bidding concerned, within the period stated in the Invitation to Bid to determine the
15 short-list of bidders that shall be allowed to submit their respective bids.

16 **SEC. 38. *Submission and Receipt of Bids.*** – A bid shall have two (2)
17 components, namely the technical and financial components which should be in
18 separate sealed envelopes, and which shall be submitted simultaneously. The bids
19 shall be received by the BAC on such date, time, and place specified in the Invitation
20 to Bid. The deadline for the receipt of bids shall be fixed by the BAC, providing
21 sufficient time to complete the bidding process and giving the prospective bidders
22 sufficient time to study and prepare their bids. The deadline shall also consider the
23 urgency of the procurement involved. Bids submitted after the deadline shall not be
24 accepted.

25 Notwithstanding the provisions of this Section and Section 39 of this Act, the
26 GPPB shall adopt technological advances to enhance the procurement process, and
27 leverage emerging technologies and innovative procedures for the submission,
28 receipt, and opening of bids through the PhilGEPS.

29 **SEC. 39. *Modification and Withdrawal of Bids.*** – A bidder may modify his bid,
30 provided that this is done before the deadline for the receipt of bids. The modification
31 shall be submitted in a sealed envelope duly identified as a modification of the original
32 bid and stamped received by the BAC.

1 A bidder may, through a letter, withdraw his bid or express his intention not to
2 participate in the bidding before the deadline for the receipt of bids. In such case, he
3 shall no longer be allowed to submit another Bid for the same contract either directly
4 or indirectly.

5 **SEC. 40. Bid Security.** – All Bids shall be accompanied by a Bid security, which
6 shall serve as a guarantee that, after receipt of the Notice of Award, the winning
7 bidder shall enter into contract with the Procuring Entity within the stipulated time
8 and furnish the required performance security. The specific amounts and allowable
9 forms of the Bid security shall be prescribed in the IRR.

10 **SEC. 41. Bid Validity.** – Bids and Bid securities shall be valid for such
11 reasonable period of time indicated in the Bidding Documents. The duration for each
12 undertaking shall take into account the time involved in the process of Bid evaluation
13 and award of contract.

14 **SEC. 42. Bid Opening.** – The BAC shall publicly open all bids at the time, date,
15 and place specified in the bidding documents. The minutes of the bid opening shall
16 be made available to the public upon written request and payment of a specified fee.

17 **ARTICLE VIII**

18 **BID EVALUATION**

19 **SEC. 43. Preliminary Examination of Bids.** – Prior to Bid evaluation, the BAC
20 shall examine first the technical components of the bids using “pass/fail” criteria to
21 determine whether all required documents are present. Only bids that are determined
22 to contain all the bid requirements of the technical component shall be considered for
23 opening and evaluation of their financial component.

24 **SEC. 44. Ceiling for Bid Prices.** – The ABC shall be the upper limit or ceiling for
25 the Bid prices. Bid prices that exceed this ceiling shall be disqualified outright from
26 further participating in the bidding. There shall be no lower limit to the amount of the
27 award.

28 **SEC. 45. Bid for the Procurement of Goods and Infrastructure Projects.** – For
29 the procurement of Goods and Infrastructure Projects, the BAC shall evaluate the
30 financial component of the bids.

31 For contracts to be awarded to the Lowest Calculated Responsive Bid, the bids
32 that passed the preliminary examination shall be ranked from lowest to highest in

1 terms of their corresponding calculated prices. The bid with the lowest calculated price
2 shall be referred to as the "Lowest Calculated Bid."

3 For contracts to be awarded to the Most Economically Advantageous
4 Responsive Bid, the BAC shall evaluate the bid using a predetermined quality-price
5 ratio. The quality component shall be assessed on the basis of criteria that may
6 include qualitative, environmental and/or social aspects linked to the subject matter
7 of the contract. The price component shall be rated based on the Lowest Calculated
8 Bid not exceeding the ABC.

9 The BAC shall specify in the Invitation to Bid the quality-price ratio and the
10 criteria for assessing the quality component. The bidder with the best overall score
11 using the quality-price ratio shall be referred to as the "Most Economically
12 Advantageous Bid."

13 **SEC. 46. Bid Evaluation of Short Listed Bidders for Consulting Services.** – For
14 the procurement of Consulting Services under a quality-based evaluation procedure,
15 the Bids of the short-listed bidders shall be evaluated and ranked using numerical
16 ratings in accordance with the evaluation criteria stated in the Bidding Documents,
17 which shall include factors such as, but not limited to, experience, performance,
18 quality of personnel, price and methodology. The Bids shall be ranked from highest
19 to lowest in terms of their corresponding calculated ratings. The Bid with the highest
20 calculated rating shall be the "Highest Rated Bid." The BAC shall invite the bidder
21 concerned for negotiation and/or clarification on the following items: financial
22 proposal submitted by the bidder, terms of reference, scope of services, methodology
23 and work program, personnel to be assigned to the job, services/facilities/data to be
24 provided by the Procuring Entity concerned, and provisions of the contract. When
25 negotiations with the first-in-rank bidder fails, the financial proposal of the second
26 rank bidder shall be opened for negotiations: *Provided*, That the amount indicated in
27 the financial envelope shall be made as the basis for negotiations and the total
28 contract amount shall not exceed the amount indicated in the envelope and the ABC.
29 Whenever necessary, the same process shall be repeated until the bid is awarded to
30 the winning bidder.

31 For quality-cost based evaluation procedure, the rules shall be defined in the
32 IRR.

1 **ARTICLE IX**
2 **POST-QUALIFICATION**

3 **SEC. 47. *Objective and Process of Post-qualification.*** – Post-qualification is the
4 stage where the bidder with the Lowest Calculated Bid, or the Most Economically
5 Advantageous Bid, in the case of Goods and Infrastructure Projects, or the Highest
6 Rated Bid, in the case of Consulting Services, undergoes verification and validation
7 whether it has passed all the requirements and conditions as specified in the Bidding
8 Documents.

9 If the bidder with the Lowest Calculated Bid or Highest Rated Bid passes all the
10 criteria for post-qualification, its Bid shall be considered the “Lowest Calculated
11 Responsive Bid,” in the case of Goods and Infrastructure projects or the “Highest
12 Rated Responsive Bid,” in the case of Consulting Services.

13 If the bidder with the Most Economically Advantageous Bid passes the
14 verification and validation by the BAC and TWG of each bid component, to which any
15 weight or score is given during evaluation, as well as all the criteria for post-
16 qualification, its bid shall be considered the “Most Economically Advantageous
17 Responsive Bid.” The quality and price components, the corresponding numerical
18 weights, and the procedures for the determination of the most economically
19 advantageous responsive bid shall be provided in the IRR.

20 However, if a bidder fails to meet any of the requirements or conditions, it shall
21 be “post-disqualified” and the BAC shall conduct the post-qualification on the bidder
22 with the second Lowest Calculated Bid or Highest Rated Bid, or the Most Economically
23 Advantageous Bid with the second highest score. The same procedure shall be
24 repeated until the Lowest Calculated Responsive Bid, Highest Rated Responsive Bid,
25 or the Most Economically Advantageous Responsive Bid, as the case may be, is finally
26 determined.

27 In all cases, the contract shall be awarded only to the bidder with the Lowest
28 Calculated Responsive Bid, Highest Rated Responsive Bid, or Most Economically
29 Advantageous Responsive Bid, as the case may be.

30 **SEC. 48. *Failure of Bidding.*** – There shall be a failure of bidding if:

- 31 a. No bids are received; or

- 1 b. No bid qualifies as the lowest calculated responsive Bid,
2 highest rated responsive bid, or most economically
3 advantageous responsive bid; or
- 4 c. Whenever the bidder with the lowest calculated responsive
5 bid, highest rated responsive bid, or most economically
6 advantageous responsive bid, as the case may be, refuses,
7 without justifiable cause, to accept the award of contract.

8 Under any of the above instances, the contract shall be re-advertised or
9 reposted and re-bid. The BAC shall observe the same process and set the new periods
10 according to the same rules followed during the first bidding. After the second failed
11 bidding, however, the BAC may resort to negotiated procurement as provided for in
12 Section 22 of this Act.

13 **SEC. 49. *Single Calculated/Rated and Responsive Bid Submission.*** – A Single
14 Calculated/Rated/Most Economically Advantageous Responsive Bid shall be
15 considered for award if it falls under any of the following circumstances:

- 16 a. If after advertisement, only one prospective bidder applies for
17 eligibility check, and meets the eligibility requirements or criteria,
18 after which it submits a bid, which is found to be responsive to the
19 bidding requirements;
- 20 b. If after the advertisement, more than one prospective bidder
21 applies for eligibility check, but only one bidder meets the eligibility
22 requirements or criteria, after which it submits a bid which is found
23 to be responsive to the bidding requirements; or
- 24 c. If after the eligibility check, more than one bidder meets the
25 eligibility requirements, but only one bidder submits a bid, and its
26 bid is found to be responsive to the bidding requirements.

27 In all instances, the Procuring Entity shall ensure that the ABC reflects the most
28 advantageous prevailing price for the government.

29 **ARTICLE X**

30 **AWARD, IMPLEMENTATION AND TERMINATION OF THE CONTRACT**

31 **SEC. 50. *Notice and Execution of Award.*** – Within a period not exceeding ten
32 (10) calendar days from the determination and declaration by the BAC of the Lowest

1 Calculated Responsive Bid, Highest Rated Responsive Bid, or Most Economically
2 Advantageous Responsive Bid, as the case may be, and the recommendation of the
3 award, the Head of the Procuring Entity or his duly authorized representative shall
4 approve or disapprove the said recommendation. In case of approval, the Head of the
5 Procuring Entity or his duly authorized representative shall immediately issue the
6 Notice of Award to the bidder with the Lowest Calculated Responsive Bid, Highest
7 Rated Responsive Bid, or Most Economically Advantageous Responsive Bid.

8 The winning bidder shall formally enter into contract with the Procuring Entity
9 within ten (10) calendar days from award of the contract. When further approval of
10 higher authority is required, the approving authority for the contract shall be given a
11 maximum period of fifteen (15) calendar days from receipt of the contract to approve
12 or disapprove it. In the case of GOCCs, the concerned board shall take action on the
13 said recommendation within twenty (20) calendar days from receipt thereof. The
14 prescribed periods for execution and/or approval of contracts may be extended for
15 reasons beyond the control of the Procuring Entity or the Approving Authority, or for
16 other justifiable causes.

17 The Procuring Entity shall issue the Notice to Proceed to the winning bidder
18 not later than three (3) calendar days from the date of approval of the contract by
19 the appropriate authority. All notices called for by the terms of the contract shall be
20 effective only at the time of receipt thereof by the contractor.

21 **SEC. 51. *Period of Action on Procurement Activities.*** – The procurement
22 process from the opening of bids up to the award of contract shall not exceed three
23 (3) months, or a shorter period to be determined by the Procuring Entity in accordance
24 with the timelines prescribed in the IRR. Without prejudice to the provisions of the
25 preceding Section, the different procurement activities shall be completed within
26 reasonable periods to be specified in the IRR.

27 If no action on the contract is taken by the Head of the Procuring Entity, or by
28 his duly authorized representative, or by the concerned board, in the case of
29 government-owned and/or -controlled corporations, within the periods specified in the
30 preceding paragraph, the contract concerned shall be deemed approved.

31 **SEC. 52. *Performance Security.*** – Prior to the signing of the contract, the
32 winning bidder shall, as a measure of guarantee for the faithful performance of and

1 compliance with its obligations under the contract prepared in accordance with the
2 Bidding Documents, be required to post a performance security in such form and
3 amount as may be specified by the GPPB.

4 The Insurance Commission (IC) shall identify the surety companies that may
5 be tapped to issue surety and/or performance bonds. The list of surety companies
6 identified by IC shall include only those whose surety business is ready to provide
7 callable-on-demand surety contracts, where the procuring entity can claim outright
8 on the surety contract and receive the proceeds thereof upon default of the bidder.
9 The performance security posted by the winning bidder must remain effective until
10 final acceptance by the procuring entity.

11 **SEC. 53. *Failure to Enter into Contract and Post Performance Security.*** – If for
12 justifiable causes, the bidder with the Lowest Calculated Responsive Bid, Highest
13 Rated Responsive Bid, or Most Economically Advantageous Responsive Bid, as the
14 case may be, fails, refuses, or is otherwise unable to enter into contract with the
15 Procuring Entity, or if the bidder fails to post the required performance security within
16 the period stipulated in the Bidding Documents, the BAC shall disqualify the said
17 bidder and shall undertake post-qualification for the next-ranked Lowest Calculated
18 Bid, Highest Rated Bid, or Most Economically Advantageous Bid. This procedure shall
19 be repeated until an award is made. However, if no award is possible, the contract
20 shall be subjected to a new bidding.

21 In the case of failure to post the required performance security, the bid security
22 shall be forfeited without prejudice to the imposition of sanctions prescribed under
23 Article XX.

24 **SEC. 54. *Reservation Clause.*** – The invitation to bid is simply an invitation to
25 make proposals, and the Head of the Procuring Entity is not bound to accept the
26 highest or lowest bid.

27 The Head of Procuring Entity reserves the right to reject any and all Bids,
28 declare a failure of bidding, or not award the contract in the following situations:

- 29 a. If there is prima facie evidence of collusion between appropriate
30 public officers or employees of the Procuring Entity, or between
31 the BAC and any of the bidders, or if the collusion is between or
32 among the bidders themselves, or between a bidder and a third

1 party, including any act which restricts, suppresses or nullifies or
2 tends to restrict, suppress or nullify competition;

3 b. If the BAC is found to have failed in following the prescribed
4 bidding procedures; or

5 c. For any justifiable and reasonable ground where the award of the
6 contract will not redound to the benefit of the government as
7 defined in the IRR.

8 **SEC. 55. *Contract Implementation and Termination.*** – The rules and guidelines
9 for the implementation and termination of contracts awarded pursuant to the
10 provisions of this Act shall be prescribed in the IRR. The rules and guidelines for
11 implementation shall include general and special conditions of contract.

12 **ARTICLE XI**

13 **DOMESTIC AND FOREIGN PROCUREMENT**

14 **SEC. 56. *Procurement of Domestic and Foreign Goods.*** – Consistent with the
15 country's obligations under international treaties or agreements, goods may be
16 obtained from domestic or foreign sources and the procurement thereof shall be open
17 to all eligible suppliers, manufacturers and distributors. However, in the interest of
18 availability, efficiency and timely delivery of Goods, the Procuring Entity may give
19 preference to the purchase of domestically-produced and manufactured goods,
20 supplies and materials that meet the specified or desired quality.

21 **ARTICLE XII**

22 **LEASE OF COMPUTERS, COMMUNICATIONS, INFORMATION AND OTHER**
23 **EQUIPMENT**

24 **SEC. 57. *Lease Contracts.*** – Lease of construction and office equipment,
25 including computers, communication and information technology equipment are
26 subject to the same public bidding and to the processes prescribed under this Act.

1 **ARTICLE XIII**

2 **DISCLOSURE OF RELATIONS**

3 **SEC. 58. *Disclosure of Relations.*** – In addition to the proposed contents of the
4 Invitation to Bid as mentioned under Section 34 of this Act, all bidding documents
5 shall be accompanied by a sworn affidavit of the bidder that he or she, any director,
6 or any corporate officer of their corporation is not related to the Head of Procuring
7 Entity; the members of the BAC, the TWG, and the BAC Secretariat, the head of the
8 PMO or the end-user unit or implementing unit, and the project consultants of the
9 Procuring Entity, or of the Procurement Agent, whichever is applicable, by
10 consanguinity or affinity up to the third civil degree. In order to determine the ultimate
11 beneficiary and prevent collusion, the ultimate beneficial ownership of an entity shall
12 be disclosed by the bidder. Failure to comply with the aforementioned provision shall
13 be a ground for the automatic disqualification of the bid in consonance with Section
14 43 of this Act.

15 **ARTICLE XIV**

16 **PROTEST MECHANISM**

17 **SEC. 59. *Protests on Decisions of the BAC.*** – Decisions of the BAC in all stages
18 of procurement may be protested to the Head of the Procuring Entity and shall be in
19 writing. Decisions of the BAC may be protested by filing a verified position paper and
20 paying a non-refundable protest fee. The amount of the protest fee and the periods
21 during which the protests may be filed and resolved shall be specified in the IRR.

22 **SEC. 60. *Resolution of Protests.*** – The protests shall be resolved strictly on the
23 basis of records of the BAC. Subject to the provisions of existing laws on the authority
24 of Department Secretaries and the Heads of agencies, branches, constitutional
25 commissions, or instrumentalities of the government to approve contracts, the
26 decisions of the head of the procuring entity shall be final up to the limit of his contract
27 approving authority. With respect to LGUs, the decision of the Local Chief Executive
28 shall be final.

29 **SEC. 61. *Non-interruption of the Bidding Process.*** – In no case shall any protest
30 taken from any decision treated in this Article stay or delay the bidding process.
31 Protests must first be resolved before any award is made.

1 **SEC. 62.** *Report to Regular Courts; Certiorari.* – Court action may be resorted
2 to only after the protests contemplated in this Article shall have been completed. Cases
3 that are filed in violation of the process specified in this Article shall be dismissed for
4 lack of jurisdiction. The Regional Trial Court shall have jurisdiction over final decisions
5 of the Head of the Procuring Entity. Court actions shall be governed by Rule 65 of
6 Revised Rules of Civil Procedure.

7 **SEC. 63.** *Prohibition on the Issuance of Temporary Restraining Orders,*
8 *Preliminary Mandatory Injunctions.* – No court, except the Supreme Court, shall issue
9 any temporary restraining order, preliminary injunction, or preliminary mandatory
10 injunction against the government, or any of its subdivisions, officials, or any person
11 or entity, whether public or private acting under the government direction, to restrain,
12 prohibit or compel the procurement, bidding or awarding of contracts for goods,
13 infrastructure projects, and consulting services of the government; commencement,
14 execution, implementation, operation of any such contract; termination or rescission
15 of any such contract; and the undertaking or authorization of any other lawful activity
16 necessary for such contract.

17 This prohibition shall apply in all cases, disputes or controversies instituted by
18 a private party, including but not limited to cases filed by bidders or those claiming to
19 have rights through such bidders involving such contract. This prohibition shall not
20 apply when the matter is of extreme urgency involving a constitutional issue, such
21 that unless a temporary restraining order is issued, grave injustice and irreparable
22 injury will arise. the applicant shall file a bond, in an amount to be fixed by the court,
23 which bond shall accrue in favor of the government if the court should finally decide
24 that the applicant was not entitled to the relief sought.

25 **ARTICLE XV**

26 **SETTLEMENT OF DISPUTES**

27 **SEC. 64.** *Dispute Resolution.* – Any and all disputes arising from the
28 implementation of a contract covered by this Act may be submitted to arbitration or
29 other forms of Alternative Dispute Resolution in the Philippines according to the
30 provisions of RA No. 9285, otherwise known as the "Alternative Dispute Resolution
31 Act of 2004": *Provided, However,* that, disputes that are within the competence of the
32 Construction Industry Arbitration Commission to resolve shall be referred thereto.

1 **ARTICLE XVI**

2 **CONTRACT PRICES AND WARRANTIES**

3 **SEC. 65. *Contract Prices.*** – For the given scope of work in the contract as
4 awarded, all bid prices shall be considered as fixed prices, and therefore not subject
5 to price escalation during contract implementation, except under extraordinary
6 circumstances and upon prior approval of the GPPB.

7 For purposes of this Section, “extraordinary circumstances” shall refer to events
8 that may be determined by the National Economic and Development Authority in
9 accordance with the Civil Code of the Philippines, and upon the recommendation of
10 the Procuring Entity concerned.

11 **SEC. 66. *Warranty.*** – (a) For the procurement of Goods, in order to assure
12 that manufacturing defects shall be corrected by the supplier, manufacturer, or
13 distributor, as the case maybe, for a specific time after performance of the contract,
14 a warranty shall be required from the contract awardee for such period of time as may
15 be provided in the IRR, the obligation for which shall be covered by either retention
16 money in the amount equivalent to a percentage of every progress payment, or a
17 special bank guarantee equivalent to a percentage of the total contract price, to be
18 provided in the IRR. The said amounts shall only be released after the lapse of the
19 warranty period, provided that the Goods supplied are free from defects and all the
20 conditions imposed under the contract have been fully met.

21 (b) For the procurement of infrastructure projects, the contractor shall assume
22 full responsibility for the contract work from the time project construction commenced
23 up to a reasonable period as defined in the IRR, taking into consideration the scale
24 and coverage of the project from its final acceptance by the government, and shall be
25 held responsible for any damage or construction of works except those occasioned by
26 force majeure. The contractor shall be fully responsible for the safety, protection,
27 security, and convenience of his personnel, third parties, and the public at large, as
28 well as the works, equipment, installation and the like to be affected by his
29 construction work, and shall be required to put up a warranty security in the form of
30 cash, bank guarantee, letter of credit, Government Service Insurance System bond,
31 or callable surety bond.

1 The contractor shall undertake the repair works, at his own expense, of any
2 defect or damage to the infrastructure projects on account of the use of materials of
3 inferior quality within ninety (90) days from the time the Head of the Procuring Entity
4 has issued an order to undertake repair. In case of failure or refusal to comply with
5 this mandate, the government shall undertake such repair works and shall be entitled
6 to full reimbursement of expenses incurred therein upon demand.

7 Any contractor who fails to comply with the preceding paragraph shall suffer
8 perpetual disqualification from participating in any public bidding and his property or
9 properties shall be subject to attachment or garnishment proceedings to recover the
10 costs. All payables of the government in his favor shall be offset to recover the costs.

11 **ARTICLE XVII**

12 **THE GOVERNMENT PROCUREMENT POLICY BOARD**

13 **SEC. 67. *Organization and Functions.*** – The GPPB shall be the central body
14 that sets strategic directions and makes policy decisions regarding all matters affecting
15 public procurement, having due regard to the country's regional and international
16 obligations, and is tasked to lead the nation's efforts in advancing public procurement
17 reforms in accordance with this act. the board shall: (a) formulate and amend,
18 whenever necessary, the IRR, associated issuances and government procurement
19 manuals, Philippine bidding documents and standard forms for procurement, and
20 issue policy papers to ensure that the procurement process is streamlined and
21 responsive to the needs of the government; (b) establish and implement the
22 professionalization program provided in this act; and (c) establish and implement a
23 strategic procurement monitoring program that uses data analytics to enhance
24 procurement planning and evidence-based policymaking.

25 The GPPB shall be composed of the Secretary of the Department of Budget and
26 Management as Chairperson; the Director-General of the National Economic and
27 Development Authority as Alternate Chairperson; with the following as members:
28 Secretaries of the Departments of Finance, Public Works and Highways, Trade and
29 Industry, Interior and Local Government, or their duly designated representatives,
30 and a representative from the private sector to be appointed by the President of the
31 Republic of the Philippines upon the recommendation of the GPPB. The GPPB may call
32 upon secretaries/heads of agencies or their duly designated representatives to assist

1 them in policy determination.

2 The GPPB shall be supported by a Technical Support Office (TSO) in the
3 performance of its functions under this act. The TSO shall be headed by an Executive
4 Director equivalent to the rank of an Undersecretary and supported by two (2) Deputy
5 Executive Directors equivalent to the rank of an Assistant Secretary, of good moral
6 character, honesty, probity, and unquestionable integrity, to be appointed by the
7 President of the Republic of the Philippines, as recommended by the Chairperson of
8 the GPPB. The GPPB shall determine the organizational structure and staffing pattern
9 of the TSO, subject to the evaluation and approval of the DBM.

10 In addition to the powers granted under this act, the GPPB shall absorb all the
11 powers, functions and responsibilities of the Procurement Policy Board created under
12 EO No. 359, series of 1989. All affected functions of the infrastructure committee of
13 the National Economic and Development Authority board are hereby transferred to
14 the GPPB.

15 The GPPB may establish Inter-Agency Technical Working Group/s (IATWG/S)
16 to provide subject matter expertise to the GPPB in the formulation and review of
17 policies, rules, and regulations related to government procurement. The IATWG/S, in
18 particular, shall endorse policy recommendations for the GPPB's consideration and
19 approval. The IATWG/S shall consist of representatives from the sectoral groups, such
20 as economic services, social services, agriculture, health, education, construction,
21 energy, environment, information and communications technology, research and
22 development, and others as determined by the GPPB, to guarantee that the
23 procurement policies are inclusive and promote good governance.

24 **ARTICLE XVIII**

25 **PENAL CLAUSE**

26 **SEC. 68. *Offenses and Penalties.*** – (a) Without prejudice to the provisions of
27 RA No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act” and other
28 penal laws, public officers who commit any of the following acts shall suffer the penalty
29 of imprisonment of not less than six (6) years and one (1) day, but not more than
30 fifteen (15) years:

- 31 1. Opening any sealed Bid including but not limited to Bids that may have
32 been submitted through the electronic system and any and all

1 documents required to be sealed or divulging their contents, prior to
2 the appointed time for the public opening of Bids or other documents.

- 3 2. Delaying, without justifiable cause, the screening for eligibility,
4 opening of bids, evaluation and post evaluation of bids, and awarding
5 of contracts beyond the prescribed periods of action provided for in
6 the IRR.
- 7 3. Unduly influencing or exerting undue pressure on any member of the
8 BAC or any officer or employee of the procuring entity to take a
9 particular bidder.
- 10 4. Splitting of contracts which exceed procedural purchase limits and
11 competitive bidding.
- 12 5. When the head of the agency abuses the exercise of his power to
13 reject any and all bids as mentioned under Section 54 of this Act with
14 manifest preference to any bidder who is closely related to him in
15 accordance with Section 58 of this Act.

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

18 In addition, the public officer involved shall also suffer the penalty of temporary
19 disqualification from public office, while the private individual shall be permanently
20 disqualified from transacting business with the government.

21 (b) Private individuals who commit any of the following acts, including any public
22 officer, who conspires with them, shall suffer the penalty of imprisonment of not less
23 than six (6) years and one (1) day but not more than fifteen (15) years:

- 24 1. When two or more bidders agree and submit different Bids as if they
25 were bona fide, when they knew that one or more of them was so
26 much higher than the other that it could not be honestly accepted and
27 that the contract will surely be awarded to the pre-arranged lowest
28 Bid
- 29 2. When a bidder maliciously submits different Bids through two or more
30 persons, corporations, partnerships or any other business entity in
31 which he has interest to create the appearance of competition that
32 does not in fact exist so as to be adjudged as the winning bidder.

- 1 3. When two or more bidders enter into an agreement which call upon
2 one to refrain from bidding for Procurement contracts, or which call
3 for withdrawal of Bids already submitted, or which are otherwise
4 intended to secure an undue advantage to any one of them.
- 5 4. When a bidder, by himself or in connivance with others, employ
6 schemes which tend to restrain the natural rivalry of the parties or
7 operates to stifle or suppress competition and thus produce a result
8 disadvantageous to the public.

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

12 (c) Private individuals who commit any of the following acts, and any public officer
13 conspiring with them, shall suffer the penalty of imprisonment of not less than six (6)
14 years and one (1) day but not more than fifteen (15) years:

- 15 1. Submit eligibility requirements of whatever kind and nature that
16 contain false information or falsified documents calculated to
17 influence the outcome of the eligibility screening process or conceal
18 such information in the eligibility requirements when the information
19 will lead to a declaration of ineligibility from participating in public
20 bidding.
- 21 2. Submit Bidding Documents of whatever kind and nature that contain
22 false information or falsified documents or conceal such information
23 in the Bidding Documents, in order to influence the outcome of the
24 public bidding.
- 25 3. Participate in a public bidding using the name of another or allow
26 another to use one's name for the purpose of participating in a public
27 bidding.
- 28 4. Withdraw a Bid, after it shall have qualified as the Lowest Calculated
29 Bid/Highest Rated Bid/Most Economically Advantageous Bid, or
30 refuse to accept an award, without just cause or for the purpose of
31 forcing the Procuring Entity to award the contract to another bidder.
32 This shall include the non-submission within the prescribed time, or

1 delaying the submission of requirements such as, but not limited to,
2 performance security, preparatory to the final award of the contract.
3 (d) When the bidder is a juridical entity, criminal liability and the accessory penalties
4 shall be imposed on its directors, officers or employees who actually commit any of
5 the foregoing acts.

6 **SEC. 69. Jurisdiction.** – Jurisdiction over the offenses defined under this Article
7 shall belong to the appropriate courts, according to laws existing at the time of the
8 commission of the offenses.

9 **ARTICLE XIX**
10 **CIVIL LIABILITY**

11 **SEC. 70. Civil Liability in Case of Conviction.** – Without prejudice to
12 administrative sanctions that may be imposed in proper cases, a conviction under this
13 Act or RA No. 3019 shall carry with it civil liability, which may either consist of
14 restitution for the damage done or the forfeiture in favor of the government of any
15 unwarranted benefit derived from the act or acts in question or both, at the discretion
16 of the courts.

17 **SEC. 71. Liquidated Damages.** – All contracts executed in accordance with this
18 Act shall contain a provision on liquidated damages which shall be payable in case of
19 breach thereof. The amount thereof shall be specified in the IRR.

20 **ARTICLE XX**
21 **ADMINISTRATIVE SANCTIONS**

22 **SEC. 72. Imposition of Administrative Penalties.** – (a) In addition to the
23 provisions of Articles XVIII and XIX of this Act, the Head of the Procuring Entity,
24 subject to the authority delegated to the BAC, if any, shall impose on bidders or
25 prospective bidders, the administrative penalty of suspension for one (1) year for the
26 first offense, and suspension of two (2) years for the second offense from participating
27 in the public bidding process, for the following violations:

- 28 1. Submission of eligibility requirements containing false information or
29 falsified documents.
30 2. Submission of bids that contain false information or falsified
31 documents, or the concealment of such information in the Bids in

1 order to influence the outcome of eligibility screening or any other
2 stage of the public bidding.

- 3 3. Allowing the use of one's name, or using the name of another for
4 purposes of public bidding.
- 5 4. Withdrawal of a Bid, or refusal to accept an award, or enter into
6 contract with the government without justifiable cause, after he had
7 been adjudged as having submitted the Lowest Calculated Responsive
8 Bid/Highest Rated Responsive Bid/Most Economically Advantageous
9 Responsive Bid.
- 10 5. Refusal or failure to post the required performance security within the
11 prescribed time.
- 12 6. Termination of the contract due to the default of the bidder.
- 13 7. Refusal to clarify or validate in writing its Bid during post-qualification
14 within a period of seven (7) calendar days from receipt of the request
15 for clarification.
- 16 8. Any documented unsolicited attempt by a bidder to unduly influence
17 the outcome of the bidding in his favor.
- 18 9. All other acts that tend to defeat the purpose of the Competitive
19 Bidding.

20 (b) In addition to the penalty of suspension, the Bid security or the performance
21 security posted by the concerned bidder or prospective bidder shall also be
22 forfeited.

23 (c) The Head of the Procuring Entity may delegate to the BAC the authority to
24 impose the aforementioned administrative penalties.

25 **SEC. 73. Preventive Suspension.** – The Head of the Procuring Entity may
26 preventively suspend any member of the TWG or the Secretariat, or the BAC if there
27 are strong reasons or prima facie evidence showing that the officials or employees
28 concerned are guilty of the charges filed against them under Articles XVIII and XIX of
29 this Act or for dishonesty as defined by the Civil Service Laws. In all cases, procedural
30 and substantive due process as mandated by the Constitution and Civil Service laws,
31 rules, and regulations, shall be strictly observed.

1 **ARTICLE XXII**

2 **FINAL PROVISIONS**

3 **SEC. 77. Oversight Committee.** – There is hereby created a Joint
4 Congressional Oversight Committee to oversee the implementation of this Act for a
5 period not exceeding five (5) years from the effectivity of this Act. The Committee
6 shall be composed of the Chairman of the appropriate Senate and House Committees
7 and two (2) members thereof appointed by the Senate President and the Speaker of
8 the House of Representatives, respectively.

9 **SEC. 78. Implementing Rules and Regulations and Standard Forms.** – Within
10 one hundred eighty (180) days from the promulgation of this Act, the necessary rules
11 and regulations for the proper implementation of its provisions shall be formulated by
12 the GPPB. For a period not later than ninety (90) days upon the approval of the IRR,
13 the standard forms for procurement shall be formulated and approved.

14 **SEC. 79. Reportorial Requirements.** – The GPPB shall, upon approval of the
15 IRR and the Standard Procurement Forms, effect the publication of the same, in
16 accordance with existing laws, rules, and regulations. Upon approval, the same shall
17 also be posted on the website of the GPPB.

18 Thereafter, the GPPB, through its TSO, shall send written notices when the said
19 documents have been posted on its website to the Office of the President, the Senate
20 of the Philippines, and the House of Representatives.

21 **SEC. 80. Repealing Clause.** – Republic Act No. 9184 otherwise known as
22 “Government Procurement Reform Act” is hereby repealed. All other laws, acts,
23 presidential decrees, executive orders, presidential proclamations, issuances, rules
24 and regulations, or parts thereof which are contrary to or inconsistent with any of the
25 provisions of this Act are hereby repealed, amended, or modified accordingly.

26 **SEC. 81. Separability Clause.** – If any portion or provision of this Act is
27 subsequently declared invalid or unconstitutional, other provisions hereof which are
28 not affected thereby shall remain in full force and effect.

29 **SEC. 82. Effectivity.** – This Act shall take effect fifteen (15) days following its
30 publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,