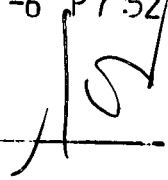


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

24 MAR -6 P7:52

RECEIVED BY: 

SENATE

COMMITTEE REPORT NO. 214

Prepared and submitted by the Committees on Finance; Sustainable Development Goals, Innovation and Futures Thinking; National Defense and Security, Peace, Unification and Reconciliation; Local Government; and Civil Service, Government Reorganization and Professional Regulation on MAR - 6 2024.

Re: **Senate Bill No. 2593**

Recommending its approval in substitution of Senate Bill Nos. 556, 590, 618, 619, 692, 1023, 1123, 1802, 1803, 2272, 2466, and 2527, taking into consideration House Bill No. 9648.

Sponsor: **Senator Sonny Angara**

MR. PRESIDENT:

The Committees on Finance; Sustainable Development Goals, Innovation and Futures Thinking; National Defense and Security, Peace, Unification and Reconciliation; Local Government; and Civil Service, Government Reorganization and Professional Regulation, to which were referred **Senate Bill No. 556**, introduced by **Senator P. Cayetano**, entitled:

**"AN ACT
ESTABLISHING A SUSTAINABLE PROCUREMENT PROGRAM
FOR ALL DEPARTMENTS, BUREAUS, OFFICES, AND AGENCIES
OF THE GOVERNMENT"**

Senate Bill No. 590, introduced by **Senator Hontiveros**, entitled:

**"AN ACT
PRIORITIZING DOMESTICALLY MANUFACTURED VEHICLES IN
PUBLIC PROCUREMENT"**

Senate Bill No. 618, introduced by **Senator Tolentino**, entitled:

**"AN ACT
PROVIDING FOR A UNIFORM WAREHOUSING AND INVENTORY
SYSTEM FOR ALL GOVERNMENT PROCURING ENTITIES,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9184,
OTHERWISE KNOWN AS THE 'GOVERNMENT PROCUREMENT
REFORM ACT'"**

Senate Bill No. 619, introduced by **Senator Tolentino**, entitled:

**"AN ACT
AMENDING SECTION 53 OF REPUBLIC ACT NO. 9184,
OTHERWISE KNOWN AS THE 'GOVERNMENT PROCUREMENT
REFORM ACT'"**

Senate Bill No. 692, introduced by **Senator Revilla, Jr.**, entitled:

**"AN ACT
TO PURSUE THE ARMED FORCES OF THE PHILIPPINES
MODERNIZATION PROGRAM, AMENDING FOR THIS PURPOSE**

**REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE
GOVERNMENT PROCUREMENT REFORM ACT"**

Senate Bill No. 1023, introduced by **Senator Estrada**, entitled:

**"AN ACT
AMENDING REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS
THE GOVERNMENT PROCUREMENT REFORM ACT,
WITHDRAWING FROM ITS APPLICATION ALL REFERENCES TO
THE LOCAL GOVERNMENT UNITS"**

Senate Bill No. 1123, introduced by **Senator Marcos**, entitled:

**"AN ACT
ABOLISHING THE DEPARTMENT OF BUDGET AND
MANAGEMENT – PROCUREMENT SERVICE (DBM-PS), AND FOR
OTHER PURPOSES"**

Senate Bill No. 1802, introduced by **Senator Tolentino**, entitled:

**"AN ACT
ABOLISHING THE PROCUREMENT SERVICE OF THE DEPARTMENT OF
BUDGET AND MANAGEMENT (PS-DBM) AND FOR OTHER PURPOSES"**

Senate Bill No. 1803, introduced by **Senator Tolentino**, entitled:

**"AN ACT
AMENDING SECTION 23 OF REPUBLIC ACT NO. 9184,
OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT
REFORM ACT, PROVIDING FOR ELIGIBILITY OF BIDDERS IN
THE PROCUREMENT OF GOODS AND INFRASTRUCTURE
PROJECTS AND FOR OTHER PURPOSES"**

Senate Bill No. 2272, introduced by **Senator Tolentino**, entitled:

"AN ACT

AMENDING SECTIONS 3, 17, AND 43 OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT, PROVIDING FOR THE REQUIREMENTS OF FULL TRANSPARENCY AND FULL DISCLOSURE IN THE SUPPLY AGREEMENTS OR PURCHASE IN CONTRACTS ENTERED INTO BY THE GOVERNMENT OF THE PHILIPPINES (GOP), AND FOR OTHER PURPOSES"

Senate Bill No. 2466, introduced by **Senators Angara, Villanueva, Gatchalian, M. Villar, Marcos, and Legarda**, entitled:

"AN ACT

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

Senate Bill No. 2527, introduced by **Senator Pimentel**, entitled:

"AN ACT

PROVIDING FOR A VALUE FOR MONEY PROCUREMENT, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE GOVERNMENT PROCUREMENT REFORM ACT, AND FOR OTHER PURPOSES"

taking into consideration **House Bill No. 9648**, introduced by **Representatives Romualdez, Maceda, Gonzalez, et al.**, entitled:

**"AN ACT
PROVIDING FOR COST-EFFECTIVE, TRANSPARENT,
COMPETITIVE, STREAMLINED, SUSTAINABLE, ACTIVE, AND
INCLUSIVE PROCUREMENT ACTIVITIES OF THE
GOVERNMENT, REPEALING FOR THE PURPOSE REPUBLIC ACT
NO. 9184, OTHERWISE KNOWN AS THE GOVERNMENT
PROCUREMENT REFORM ACT"**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached **Senate Bill No. ~~2593~~** prepared by the Committees, entitled:

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

be approved in substitution of **Senate Bill Nos. 556, 590, 618, 619, 692, 1023, 1123, 1802, 1803, 2272, 2466 and 2527**, taking into consideration **House Bill No. 9648** with Senators P. Cayetano, Hontiveros, Tolentino, Revilla, Jr., Estrada, Marcos, Angara, Pimentel, Villanueva, Gatchalian, M. Villar, and Legarda as authors thereof.

Respectfully submitted:

Chairpersons:



SEN. SONNY M. ANGARA

Committee on Finance

Member, Committees on National Defense and Security, Peace, Unification and Reconciliation; and Local Government

SEN. PIA S. CAYETANO

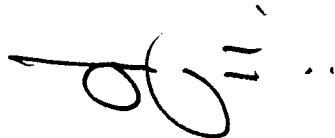
Committee on Sustainable Development Goals, Innovation and Futures Thinking; Senior Vice Chairperson, Committee on Finance;

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Vice Chairperson, Committee on Finance Member, Committees on Local Government; and Civil Service, Government Reorganization and Professional Regulation



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Committee on Local Government; Vice Chairperson, Committees on Finance; and National Defense and Security, Peace, Unification and Reconciliation

Member, Committees on Sustainable Development Goals, Innovation and Futures Thinking; and Civil Service, Government Reorganization and Professional Regulation

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Committee on Civil Service, Government Reorganization and Professional Regulation; Vice Chairperson, Committee on National Defense and Security, Peace, Unification and Reconciliation

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Vice-Chairpersons:

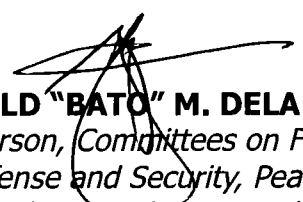
SEN. IMEE R. MARCOS

Senior Vice Chairperson, Committee on Finance
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Vice Chairperson, Committees on Finance; National Defense and Security, Peace, Unification and Reconciliation; and Local Government;



SEN. WIN GATCHALIAN

Vice Chairperson, Committee on Finance
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SEN. CHRISTOPHER BONG GO

Vice Chairperson, Committees on Finance; and National Defense and Security, Peace, Unification and Reconciliation
Member, Committee on Local Government



SEN. RISA HONTIVEROS

Vice Chairperson, Committee on Finance
Member, Committees on Sustainable Development Goals, Innovation and Futures Thinking; National Defense and Security, Peace, Unification and Reconciliation; Local Government; and Civil Service, Government Reorganization and Professional Regulation

may interpellate / propose amendments.



SEN. MARIA LOURDES NANCY S. BINAY

*Vice Chairperson, Committee on Finance
Member, Committees on National Defense
and Security, Peace, Unification and
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SEN. GRACE POE

*Vice Chairperson, Committee on Finance
Member, Committees on Sustainable
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Thinking; and National Defense and
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Reconciliation*



SEN. FRANCIS "Tol" N. TOLENTINO

*Vice Chairperson, Committees on Finance;
and National Defense and Security, Peace,
Unification and Reconciliation
Member, Committee on Local Government*

SEN. MARK VILLAR

*Vice Chairperson, Committee on Finance
Member, Committees on Sustainable
Development Goals, Innovation and Futures
Thinking; National Defense and Security,
Peace, Unification and Reconciliation; Local
Government; and Civil Service, Government
Reorganization and Professional Regulation*

SEN. ROBINHOOD C. PADILLA

*Vice Chairperson, Committee on National
Defense and Security, Peace, Unification
and Reconciliation
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Sustainable Development Goals,
Innovation and Futures Thinking; and
Local Government*

Members:

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*Member, Committees on Finance;
Sustainable Development Goals,
Innovation and Futures Thinking; and
National Defense and Security, Peace,
Unification and Reconciliation*

SEN. FRANCIS "Chiz" G. ESCUDERO

*Member, Committees on Finance; and
National Defense and Security, Peace,
Unification and Reconciliation*



SEN. MARIA LOURDES NANCY S. BINAY

*Vice Chairperson, Committee on Finance
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and Security, Peace, Unification and
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SEN. GRACE POE

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Reconciliation*



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Member, Committee on Local Government*

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Defense and Security, Peace, Unification
and Reconciliation
Member, Committees on Finance;
Sustainable Development Goals,
Innovation and Futures Thinking; and
Local Government*

*will Interpellate & propose
Amendment*

Members:

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and Professional Regulation*

Ex-Officio Members:



SEN. LOREN LEGARDA
Senate President Pro-Tempore

with interpellate



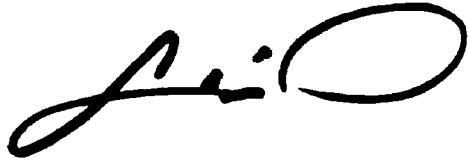
SEN. JOEL VILLANUEVA
Majority Floor Leader



SEN. AQUILINO "KOKO" PIMENTEL III
Minority Floor Leader



HON. JUAN MIGUEL "MIGZ" F. ZUBIRI
Senate President



SEN. MANUEL "LITO" M. LAPID
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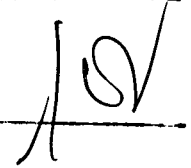


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

24 MAR -6 P7:52

SENATE
S.B. No. 2593

RECEIVED BY:



Prepared and submitted jointly by the Committees on Finance; Sustainable Development Goals, Innovation and Futures Thinking; National Defense and Security, Peace, Unification and Reconciliation; Local Government; and Civil Service, Government Reorganization and Professional Regulation with Senators P. Cayetano, Hontiveros, Tolentino, Revilla, Jr., Estrada, Marcos, Angara, Pimentel, Villanueva, Gatchalian, M. Villar, and Legarda as authors thereof

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 "New Government
4 Procurement Act."

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

9 **Sec. 3. *Governing Principles on Government Procurement.*** –
10 Procurements by all branches and instrumentalities of the national government, its
11 departments, bureaus, offices and agencies, including state universities and colleges
12 (SUCs), government-owned and/or -controlled corporations (GOCCs), government
13 financial institutions (GFIs), and local government units (LGUs), shall, in all cases, be
14 governed by these principles:

- 1 (a) Transparency in the procurement process by providing access to all related
2 information in accordance with open contracting practice that enables the
3 disclosure of data and facilitates information sharing related to all stages
4 of procurement.
- 5 (b) Competitiveness through ensuring equal opportunity for all eligible and
6 qualified suppliers, manufacturers, distributors, contractors, consultants,
7 and service providers.
- 8 (c) Efficiency by implementing an organized, uniform, and straightforward
9 government procurement process through the use of emerging
10 technologies and innovative solutions.
- 11 (d) Proportionality by ensuring that the conditions and parameters in the
12 development of requirements, choice of procurement modality, and
13 implementation of contracts shall be reasonably proportional to the needs
14 of the Procuring Entity and the nature of the contract or project to be
15 procured.
- 16 (e) Accountability where all public officials and personnel directly or indirectly
17 involved in the procurement process and in the implementation of contracts
18 are investigated and held accountable for their actions when necessary.
- 19 (f) Participatory procurement through public monitoring of the procurement
20 process and the implementation of contracts to guarantee that every step
21 is in accordance with the provisions of this Act and its implementing rules
22 and regulations, and to ensure prudent and judicious use of government
23 resources.
- 24 (g) Sustainability in the procurement process which covers the whole lifecycle
25 of a property, ensures value for money and maximum benefits to society
26 and the economy, and engenders minimal impact to the environment.
- 27 (h) Professionalism in procurement through the development of qualification
28 standards, a competency and certification framework, and a code of ethics
29 that shall be observed by public procurement professionals.

30 **Sec. 4. Scope and Application.** – This Act shall apply to the Procurement of
31 Goods, Infrastructure Projects, and Consulting Services, regardless of source of funds,
32 whether local or foreign, by all branches and instrumentalities of the national

1 government, its departments, bureaus, offices and agencies, including SUCs, GOCCs,
2 GFIs, and LGUs: *Provided*, That, foreign assisted projects under a treaty or
3 international or executive agreement that expressly provides for different procurement
4 rules or procedures other than the provisions of this Act shall be observed.

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

7 (a) *Approved Budget for the Contract (ABC)* – refers to the budget for the
8 contract duly approved by the Head of the Procuring Entity, as provided
9 for in the General Appropriations Act or other authorized source of funds,
10 in the case of National Government Agencies (NGAs); the Corporate Budget
11 for the contract approved by the governing Boards, pursuant to Executive
12 Order (E.O.) No. 518, series of 1979, in the case of GOCCs, GFIs, and
13 SUCs; and the budget for the contract approved by the respective
14 Sanggunian, in the case of LGUs.

15 (b) *Bids and Awards Committee (BAC)* – refers to the Committee established
16 in accordance with Article V of this Act.

17 (c) *Beneficial Owner* - refers to a natural person who: (1) ultimately owns or
18 dominantly influences the management or policies of the juridical entity;
19 or (2) exercises ultimate effective control over the juridical entity.

20 (d) *Bid* – refers to a signed offer or proposal submitted by a supplier,
21 manufacturer, distributor, contractor, consultant, and service provider in
22 response to the bidding documents.

23 (e) *Bidder* - refers to a supplier, manufacturer, distributor, contractor,
24 consultant, and service provider who submits a bid in response to the
25 requirements of the bidding documents.

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

30 (g) *Blacklisting* - refers to an administrative penalty imposed by the Head of
31 the Procuring Entity which prohibits a person or an entity including its
32 affiliates from participating in all government procurement activities.

- 1 (h) *Common-Use Supplies and Equipment (CSE)* – refer to goods, materials,
2 and equipment included in the electronic catalogue of the Philippine
3 Government Electronic Procurement System (PhilGEPS).
- 4 (i) *Consulting Services* – refer to services for Infrastructure Projects and other
5 types of projects or activities of the government requiring adequate
6 external technical and professional expertise that are beyond the capability
7 and/or capacity of the government to undertake such as, but not limited
8 to: (i) advisory and review services; (ii) pre-investment or feasibility
9 studies; (iii) design; (iv) construction supervision; (v) management and
10 related services; and (vi) other technical services or special studies.
- 11 (j) *End-User or Implementing Unit* – refers to the employee or organic office
12 within the organization of the Procuring Entity that identifies, plans,
13 prepares, designs, and implements the procurement project based on the
14 requirements or needs of the agency in accordance with its mandate.
- 15 (k) *Goods* – refer to all items, supplies, materials, and general support
16 services, except Consulting Services and Infrastructure Projects, which may
17 be needed in the transaction of public businesses or in the pursuit of any
18 government undertaking, project or activity, whether in the nature of
19 equipment, furniture, stationery, materials for construction, or personal
20 property of any kind, including non-personal or contractual services such
21 as the repair and maintenance of equipment and furniture, as well as
22 trucking, hauling, janitorial, security, and related or analogous services, as
23 well as procurement of materials and supplies provided by the Procuring
24 Entity for such services.
- 25 (l) *GPPB* – refers to the Government Procurement Policy Board established in
26 accordance with Article XIX of this Act.
- 27 (m) *Head of the Procuring Entity (HoPE)* – refers to: (i) the head of the agency
28 or the duly authorized official, for NGAs; (ii) the governing board or its duly
29 authorized official, for GOCCs, SUCs, and GFIs; or (iii) the local chief
30 executive, for LGUs: *Provided, That*, in a department, bureau, office, or
31 agency where the procurement is decentralized, the Head of each
32 decentralized unit shall be considered as the HoPE subject to the limitations

1 and authority delegated by the head of the department, bureau, office or
2 agency.

3 (n) *Infrastructure Projects* – include the construction, improvement,
4 rehabilitation, demolition, repair, restoration, or maintenance of roads and
5 bridges, railways, airports, seaports, communication facilities, civil works
6 components of information technology projects, irrigation, flood control
7 and drainage, water supply, sanitation, sewerage and solid waste
8 management systems, shore protection, energy/power and electrification
9 facilities, national buildings, school buildings, hospital buildings, and other
10 related construction projects of the government.

11 (o) *Jury Duty* – refers to a responsibility in which the BAC, Technical Working
12 Group (TWG), and Secretariat members, including end-users, give utmost
13 priority to procurement assignments over all the other duties and
14 responsibilities until the requirements for the procurement at hand are
15 completed.

16 (p) *Lifecycle Cost* – refers to the total cost of ownership over the entire life
17 span of an asset from its acquisition, operation, maintenance, and disposal.

18 (q) *Multi-Year Contractual Authority (MYCA)* – refers to the authority given to
19 the Procuring Entity to procure multi-year projects in accordance with the
20 form and conditions set by the Department of Budget and Management
21 (DBM).

22 (r) *Philippine Government Electronic Procurement System (PhilGEPS)* – refers
23 to the single electronic procurement portal managed by the Procurement
24 Service (PS-DBM) as provided in Section 18 of this Act.

25 (s) *Philippine Products and Services* – refer to local goods, articles, materials,
26 supplies, services, and intangible products which may be:

27 (i) unmanufactured goods, articles, materials, or supplies wholly
28 obtained or produced in the Philippines;

29 (ii) any good, article, material, and supplies produced, manufactured,
30 or assembled in the Philippines which has a minimum local content
31 as may be determined by the Department of Trade and Industry
32 (DTI);

- 1 (iii) services, which refer to the delivery of value or intangible acts or
2 uses through high-level skills, expertise, labor, or some form of
3 knowledge, technology- or process-intensive activities; or
4 (iv) intangible products, which refer to properties without physical
5 existence including, but not limited to, computer software and
6 products of the creative industry.
- 7 (t) *Portal* – refers to a website that aggregates a wide variety of content for
8 the purpose of attracting a large number of users.
- 9 (u) *Procurement* – refers to the acquisition of Goods and Consulting Services,
10 and the contracting for Infrastructure Projects by the Procuring Entity.
11 Procurement shall also include the lease of goods and real estate. With
12 respect to real property, its procurement shall be governed by the
13 provisions of Republic Act No. 10752, entitled “The Right-of-Way Act”, and
14 other applicable laws, rules, and regulations.
- 15 (v) *Procuring Entity* – refers to any branch, department, bureau, office,
16 agency, or instrumentality of the government, including SUCs, GOCCs,
17 GFIs, and LGUs procuring Goods, Infrastructure Projects, and Consulting
18 Services.

19 **Sec. 6. *Standardization of Procurement Process and Forms.*** – To
20 systematize the procurement process, avoid confusion, and ensure transparency, the
21 procurement process, including the forms to be used, shall be standardized insofar as
22 practicable.

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

26 **ARTICLE II**

27 **STRATEGIC PROCUREMENT PLANNING**

28 **Sec. 7. *Strategic Procurement Planning and Budgeting Linkage.*** – All
29 procurement shall be undertaken with proper and sufficient planning and preparation
30 to ensure sound procurement decisions. This includes the conduct of relevant market
31 scoping, supply positioning, analysis of available procurement modalities, risk
32 management, and disposal procedures as may be applicable.

1 Procuring Entities shall likewise adopt a procurement strategy that includes fit-
2 for-purpose and proportional approaches, considers the whole lifecycle of a
3 procurement project, and aims to achieve value for money.

4 During the planning stage, the Procuring Entity shall ensure that the project
5 has minimal economic, social, and environmental risks or negative impact during its
6 lifecycle, and that the goods and services are procured with due consideration for
7 responsible consumption and production practices, and the national policy.

8 Measures, such as, but not limited to, condemnation/destruction of properties,
9 transfer of properties to other government agencies, barter, donation, return to
10 supplier/vendor, trade-in, sale to government officials/employees of the agency,
11 public auction, negotiated sale, sale of junk or scrap and/or recycling, and direct
12 negotiation shall be considered by the Procuring Entity in the development of its
13 requirements for purposes of disposal at the end of the useful life of the property.

14 All procurement should be within the approved budget of the Procuring Entity.
15 Consistent with government fiscal discipline measures, only those considered crucial
16 to the efficient discharge of governmental functions shall be included in the Annual
17 Procurement Plan (APP) to be specified in the IRR.

18 No government procurement shall be undertaken unless it is in accordance with
19 the approved APP or Indicative APP of the Procuring Entity, as the case may be. The
20 APP shall be approved by the HoPE and must be consistent with its duly approved
21 yearly budget or proposed budget in the case of the Indicative APP. The APP shall be
22 formulated and revised only in accordance with the guidelines set forth in the IRR.

23 **Sec. 8. Detailed Engineering for the Procurement of Infrastructure**
24 **Projects.** – With the exception of an Infrastructure Project under a design-and-build
25 scheme, no bidding and award of contract for Infrastructure Projects shall be made
26 unless the detailed engineering investigations, surveys, and designs for the project
27 have been sufficiently carried out and duly approved in accordance with the standards
28 and specifications prescribed by the HoPE concerned or the duly authorized
29 representative, and the acquisition of right-of-way pursuant to Republic Act No. 10752
30 has been accomplished.

31 **Sec. 9. Multi-Year Contracting.** – NGAs, constitutional offices, and SUCs,
32 implementing multi-year programs, projects, or activities shall request the DBM for

1 the issuance of a MYCA prior to entering into contracts covering the full contract cost
2 for the procurement of multi-year projects.

3 In the case of GOCCs and GFIs, they shall secure prior authority from their
4 respective governing boards before entering into contracts for multi-year projects and
5 proceeding with their procurement. For LGUs, they shall secure any equivalent
6 document issued by their respective Sanggunian authorizing them to enter into multi-
7 year contracts: *Provided, That, the total project cost reflected in the MYCA or its*
8 *equivalent document shall be the basis or reference for the ABC of the procurement*
9 *contract.*

10 **Sec. 10. Market Scoping.** – To ensure proper and strategic procurement
11 planning, a Procuring Entity shall conduct market scoping as a preliminary undertaking
12 in preparing its Project Procurement Management Plan (PPMP), which covers the
13 proper cost estimation, project design and specifications, technical and selection
14 criteria, delivery lead time, storage or warehousing requirements, related industry
15 practices, and other relevant market information.

16 Market scoping may include the following activities: consultations with
17 suppliers, contractors or consultants, professional associations or groups; participation
18 in summits, fora or conferences; evaluation of market reviews; review of product or
19 service brochures and marketing materials, industry journals and publications, and
20 other related materials and publications; price sourcing for quotations or cost
21 estimates from suppliers, contractors or consultants; use of relevant data from the
22 PhilGEPS or agency websites to serve as a guide or reference; or any analogous
23 activity for the purpose of gathering relevant market information.

24 **Sec. 11. Specifications.** – Specifications for the procurement of goods, as
25 well as the goods component of Infrastructure Projects and Consulting Services, shall
26 be based on any or a combination of the following: relevant characteristics;
27 performance or functionality requirements; or product or service standards specified
28 by appropriate government entities or similar international bodies.

29 Reference to a brand name shall not be allowed except for reasons of technical
30 compatibility, interoperability, servicing, maintenance, or preservation of warranty in
31 order to keep the performance, functionality, and useful life of the equipment, in which

1 case, the Procuring Entity shall indicate the reasons or justifications for availing of the
2 exception.

3 **Sec. 12. Early Procurement Activities.** – In order to ensure the timely
4 implementation of projects, Procuring Entities are authorized to undertake early
5 procurement activities pending the approval of the funding thereof.

6 The conduct of early procurement activities shall be made only upon approval
7 of the Indicative APP by the HoPE. No award of contract shall be made until the
8 approval and effectivity of the appropriate funding.

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

14 **Sec. 13. Lifecycle Assessment and Lifecycle Cost Analysis.** – To further
15 support strategic procurement management and ensure smart and prudent use of
16 government resources, Procuring Entities shall apply Lifecycle Assessment (LCA) and
17 Lifecycle Cost Analysis (LCCA) in project planning, eligibility and selection criteria, or
18 contract implementation, as may be applicable.

19 **Sec. 14. Design-and-Build Scheme for Infrastructure Projects.** – In
20 preparing for a procurement project, Procuring Entities may consider employing the
21 design-and-build scheme as a procurement approach whereby a single contractor is
22 responsible for both design and construction of the government building, which allows
23 quality assurance and effective cost and schedule management.

24 **Sec. 15. Engagement of a Procurement Agent.** – As part of strategic
25 procurement planning, the HoPE may authorize the engagement of a government
26 procurement agent, which shall undertake the functions of the BAC, if the Procuring
27 Entity does not have the capability or proficiency to undertake a particular
28 procurement: *Provided*, That, the Procuring Entity cannot delegate the award of
29 contract to the procurement agent and there shall be no transfer of funds to the
30 procurement agent, except for the payment of service fee, if applicable.

31 The engagement of a procurement agent shall be further subject to the
32 following conditions:

- 1 (a) Made on a per procurement project basis;
- 2 (b) Limited to procurement undertaken through competitive bidding: *Provided*,
3 That, in instances where the Procuring Entity lacks sufficient qualified
4 personnel to constitute its own BAC, the Procuring Entity may engage a
5 procurement agent to undertake other modes of procurement;
- 6 (c) Have at least one representative from the Procuring Entity to be designated
7 as a member of the TWG of the procurement agent to ensure that technical
8 specifications or terms of reference of the Procuring Entity are properly
9 reflected in the bidding documents;
- 10 (d) Have a representative from the Procuring Entity designated as a provisional
11 member of the BAC of the procurement agent; and
- 12 (e) Covered by a Memorandum of Agreement (MOA) that is executed between
13 the Procuring Entity and the procurement agent, and details the
14 procurement project to be procured; the accountabilities and obligations of
15 the two parties; the ABC; services fees, if applicable; and such other details
16 as may be necessary. The MOA shall be in effect at least six (6) months
17 before the end of the validity of the relevant appropriations as authorized
18 in the relevant General Appropriations Act, or in the corporate operating
19 budgets or appropriations ordinances, in the case of GOCCs, GFIs, and
20 LGUS respectively. In no case shall the undertakings of the MOA
21 contravene this provision and its IRR to be issued by the GPPB.

22 Procuring Entities with existing MOAs with a procurement agent which have not
23 yet been implemented upon effectivity of this Act are encouraged to revisit the same
24 and amend as may be necessary to conform with this provision.

25 **Sec. 16. Use of Framework Agreement.** – Procuring Entities may use a
26 framework agreement as a procurement strategy to expand the pool of prospective
27 bidders, take advantage of economies of scale, minimize the administrative burden of
28 conducting separate procurement activities, and generate time and money savings.

29 The framework agreement shall be in the nature of an option contract between
30 the Procuring Entity and the bidder that stipulates the terms and conditions that would
31 be applied in subsequent contracts for the procurement of Goods, Infrastructure
32 Projects, and Consulting Services with a single or multiple contractor, manufacturer,

1 supplier, distributor, and/or consultant.

2 **Sec. 17. *Warehousing and Inventory System.*** – For efficient planning for
3 the storage and tracking of procured goods, Procuring Entities shall adopt a general
4 system of warehousing and cloud-based inventory of procured items, as may be
5 necessary depending on the type, nature and volume of procurement undertaken by
6 the Procuring Entity and subject to the availability of funds in accordance with
7 applicable budgeting, accounting and auditing rules and regulations.

8 **ARTICLE III**

9 **PROCUREMENT BY ELECTRONIC MEANS**

10 **Sec. 18. *Procurement by Electronic Means.*** – To promote greater
11 transparency, accountability, operational efficiency, and value for money, the
12 PhilGEPS shall be the single electronic portal that shall serve as the primary source of
13 information and channel in the conduct of all procurement activities of the
14 government. The PhilGEPS shall maintain an integrated system that covers
15 procurement planning until payment.

16 To take advantage of the significant built-in efficiencies of the PhilGEPS and the
17 volume discounts inherent in bulk purchasing, through the centralized procurement
18 undertaken by the PS-DBM, all Procuring Entities shall utilize the PhilGEPS for the
19 procurement of CSEs in accordance with the rules and procedures to be established
20 by the GPPB, in consultation with the PS-DBM. The PhilGEPS shall include the following
21 innovative features and solutions: electronic bulletin board; registry of suppliers,
22 manufacturers, distributors, contractors, consultants, and service providers; electronic
23 catalogue; virtual store; electronic marketplace; electronic reverse auction; electronic
24 small value procurement; electronic payment; and electronic bidding.

25 All Procuring Entities shall register with the PhilGEPS and ensure their access
26 to an online network to facilitate open, speedy, and efficient online transmission,
27 conveyance, and use of electronic data messages or electronic documents.

28 Procuring Entities with established electronic procurement systems shall
29 provide for the seamless interface of systems with the PhilGEPS to ensure efficient
30 sharing of procurement information.

31 **Sec. 19. *Electronic Payment.*** – The electronic and uniform payment system
32 to be used by the Procuring Entity and suppliers, manufacturers, distributors,

1 contractors, or consultants shall be defined in the context of the Integrated Financial
2 Management Information System to be developed by the DBM, Commission on Audit
3 (COA), and Department of Finance (DOF).

4 **Sec. 20. Security, Integrity and Confidentiality.** – The PhilGEPS shall
5 ensure the security, integrity, and confidentiality of documents submitted, stored, and
6 managed through the system. It shall include features that provide for an audit trail
7 of electronic transactions and allow the COA to verify the security and integrity of the
8 system at any time.

9 **Sec. 21. Systems Interconnectivity between Government Agencies.** –
10 Notwithstanding the provisions of Republic Act No. 10173, otherwise known as the
11 “Data Privacy Act of 2012”, the GPPB is hereby authorized to promulgate rules to
12 ensure the interconnectivity of the following government databases:

- 13 (a) PhilGEPS in relation to the Government of the Philippines Official
14 Merchants Registry (GoP-OMR);
- 15 (b) DTI on its database relating to business registration, list of all ongoing
16 projects in public and private sector, and records of priority domestic goods
17 and services;
- 18 (c) Construction Industry Authority of the Philippines (CIAP) on the
19 Contractor’s Performance Evaluation System (CPES) and the Philippine
20 Contractors’ Association Board (PCAB) on the licensing of contractors;
- 21 (d) All LGUs on their issuance of permits and licenses;
- 22 (e) Bureau of Internal Revenue (BIR) on tax returns and clearance;
- 23 (f) Securities and Exchange Commission (SEC) and Cooperative Development
24 Authority (CDA) on mandatory submissions of all registered enterprises and
25 beneficial ownership information;
- 26 (g) Insurance Commission (IC) on the list of identified surety companies
27 providing callable-on-demand surety contracts;
- 28 (h) Procuring Entities with established electronic procurement systems and
29 websites on the status of projects, contracts, and performance of its
30 respective winning bidders; and,
- 31 (i) Other relevant government agencies, as may be determined by the GPPB;
32 *Provided, That, the GPPB shall coordinate with the Department of Information*

1 and Communications Technology (DICT), PS-DBM, DTI, CIAP, LGUs, BIR, SEC, CDA,
2 IC, and other relevant government agencies to ensure the implementation of this
3 section: *Provided, Further*, That at all times, the sharing of information between and
4 among government agencies and instrumentalities shall protect trade secrets and
5 promote competition.

6 **Sec. 22. Procurement Data Analytics.** – The GPPB, through its Technical
7 Support Office (TSO), shall analyze the data obtained from the PhilGEPS and
8 submitted procurement reports to ensure disclosure of information related to the
9 procurement process. The GPPB shall publish an annual report on its website for the
10 following purposes:

- 11 (a) Assist Procuring Entities in the strategic planning of their procurement
12 projects;
- 13 (b) Assist oversight bodies in formulating and implementing data-driven
14 effective procurement policies and rules pursuant to the State policy under
15 Section 2 of this Act;
- 16 (c) Assist government agencies in identifying and detecting patterns that could
17 help deter or mitigate fraud and non-competitive practices; and
- 18 (d) Facilitate public awareness, active participation, and monitoring of
19 government procurement processes.

20 **Sec. 23. Maintenance, Update, and Backup.** – The PhilGEPS shall
21 undertake periodic maintenance and upgrading of all its systems. It shall formulate a
22 business continuity plan which shall include features such as, but not limited to, the
23 establishment of backup sites, and regular backup of all information to maintain the
24 integrity of the system and minimize risks of halts or interruptions in operations.

25 **ARTICLE IV**

26 **MODES OF PROCUREMENT**

27 **Sec. 24. Modes of Procurement.** – The Procuring Entity shall adopt any of
28 the following modes of procurement consistent with the fit-for-purpose procurement
29 approach:

- 1 (a) Competitive Bidding;
- 2 (b) Limited Source Bidding;
- 3 (c) Competitive Dialogue;
- 4 (d) Unsolicited Offer with Bid Matching;
- 5 (e) Direct Contracting;
- 6 (f) Direct Acquisition;
- 7 (g) Repeat Order;
- 8 (h) Small Value Procurement;
- 9 (i) Negotiated Procurement;
- 10 (j) Direct Sales; and
- 11 (k) Direct Procurement for Science, Technology and Innovation

12 *Provided*, That, the GPPB is authorized to approve changes in the procurement
13 process to adapt to improvements in modern and emerging technologies: *Provided*,
14 *further*, That such modifications are consistent with the provisions of Section 3 of this
15 Act.

16 **Sec. 25. Competitive Bidding.** – A mode of procurement which is open to
17 participation by any eligible bidder and which consists of the following processes:

- 18 (a) Publication;
- 19 (b) Pre-bid conference;
- 20 (c) Eligibility screening of prospective bidders;
- 21 (d) Receipt and opening of bids;
- 22 (e) Evaluation of bids;
- 23 (f) Post-qualification; and
- 24 (g) Award of contract.

25 The specific requirements and mechanics of which shall be defined in the IRR.

26 Notwithstanding the applicability of the other modes of procurement defined
27 herein, the Procuring Entity may adopt competitive bidding in its procurement activity.

28 **Sec. 26. Limited Source Bidding.** – A mode of procurement that involves
29 direct invitation to bid by the Procuring Entity to a set of pre-selected suppliers or
30 consultants with known experience and proven capability relative to the requirements
31 of a particular contract.

1 Limited source bidding may only be resorted to in any of the following
2 conditions:

- 3 (a) Procurement of highly specialized types of Goods and Consulting Services
4 which are known to be obtainable only from a limited number of sources;
5 or
- 6 (b) Procurement of major plant components where it is deemed advantageous
7 to limit the bidding to known eligible bidders in order to maintain an
8 optimum and uniform level of quality and performance of the plant as a
9 whole.

10 **Sec. 27. *Competitive Dialogue.*** – A mode of procurement where the
11 Procuring Entity invites suppliers, manufacturers, distributors, contractors,
12 consultants, and service providers to a dialogue to propose solutions to address its
13 needs and requirements. Competitive dialogue may be resorted to if any of the
14 following conditions are present:

- 15 (a) The procurement includes innovative design or solutions involving
16 procurement of complex purchases such as, but not limited to,
17 sophisticated products, intellectual services, or major information and
18 communications technology projects;
- 19 (b) The contract requires prior negotiations with the suppliers, manufacturers,
20 distributors, contractors, consultants, and service providers because of
21 specific circumstances related to the nature, complexity, legal and financial
22 issues, or risks attached to the procurement; or
- 23 (c) The technical specifications cannot be sufficiently established or precisely
24 defined by the Procuring Entity.

25 **Sec. 28. *Unsolicited Offer with Bid Matching.*** – A mode of procurement
26 wherein the Procuring Entity may consider unsolicited offers on a negotiated basis for
27 Goods and Consulting Services: *Provided,* That, the following conditions are met:

- 28 (a) The procurement involves a new concept or technology as determined by
29 the HoPE; and
 - 30 (b) The Procuring Entity has invited comparative or competitive bids.
- 31 The procedure for bid matching shall be provided in the IRR.

1 The contract shall be awarded to the original offeror if: (i) no comparative or
2 competitive bid is received within the period prescribed in the IRR; (ii) the bids
3 submitted by the comparative offerors failed at bid opening; or (iii) the original offeror
4 matched or submits a lower price proposal against the comparative or competitive bid.

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

8 **Sec. 29. Direct Contracting.** – A mode of procurement wherein the supplier
9 is required to submit a price quotation or a pro-forma invoice together with the
10 conditions of sale, which may be accepted immediately or after some negotiations.
11 Direct contracting, or single source procurement, may only be resorted to in any of
12 the following conditions:

13 (a) When the goods are of proprietary nature, which can be obtained only from
14 the proprietary source, or when patents, trade secrets, and copyrights
15 prohibit others from manufacturing the same item;

16 (b) When the procurement of critical components from a specific
17 manufacturer, supplier, or distributor is a condition precedent to hold a
18 contractor to guarantee its project performance, in accordance with the
19 provisions of the contract; or

20 (c) When it is sold by an exclusive dealer or manufacturer which does not have
21 sub-dealers selling at lower prices and for which no suitable substitute can
22 be obtained at more advantageous terms to the government.

23 **Sec. 30. Direct Acquisition.** – A mode of procurement wherein, subject to
24 compliance with the identified legal, technical and financial requirements, a Procuring
25 Entity may procure directly from any known and reputable source, its required non-
26 CSEs and services with an ABC not exceeding Two hundred thousand pesos
27 (P200,000.00). The threshold amount can be adjusted as may be deemed appropriate
28 by the GPPB to reflect changes in economic conditions and for other justifiable
29 reasons.

30 **Sec. 31. Repeat Order.** – A mode of procurement wherein, when provided
31 for in the APP, the Procuring Entity may procure goods from the previous winning
32 bidder whenever there arises a need to replenish the goods procured under a contract

1 previously awarded through competitive bidding. Repeat order shall be subject to the
2 post-qualification process prescribed in the bidding documents and all the following
3 conditions:

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

11 **Sec. 32. Small Value Procurement.** – A mode of procurement whereby the
12 Procuring Entity requests for the submission of at least three (3) price quotations for
13 goods not available in the PS-DBM, Infrastructure Projects, and Consulting Services.
14 The receipt of one (1) quotation is sufficient to proceed with the evaluation of bidders:
15 *Provided, That,* the amount involved does not exceed Two million pesos
16 (P2,000,000.00) subject to the periodic review of the threshold amount and
17 adjustments as may be deemed appropriate by the GPPB.

18 In the case of LGUs, the GPPB is authorized to adjust the threshold amount
19 based on the LGU income classification.

20 **Sec. 33. Negotiated Procurement.** – Negotiated procurement shall be
21 allowed only in the following instances:

- 22 (a) Two Failed Biddings. In case of two (2) failed biddings, as provided in
23 Section 62 hereof;
- 24 (b) Emergency Cases. In case of imminent danger to life or property during a
25 state of calamity, or when time is of the essence arising from natural or
26 man-made calamities or other causes where immediate action is necessary
27 to prevent damage to or loss of life or property, or to restore vital public
28 services, infrastructure facilities and other public utilities;
- 29 (c) Take-over of Contracts. Take-over of contracts which have been rescinded
30 or terminated for causes provided for in the contract and existing laws,
31 where immediate action is necessary to prevent damage to or loss of life

1 or property, or to restore vital public services, infrastructure facilities and
2 other public utilities;

3 (d) Adjacent or Contiguous. Where the subject contract is adjacent or
4 contiguous to an ongoing Infrastructure Project: *Provided*, That, the
5 original contract is the result of a competitive bidding; the subject contract
6 to be negotiated has similar or related scopes of work; it is within the
7 contracting capacity of the contractor; the contractor uses the same prices
8 or lower unit prices as in the original contract less mobilization cost; the
9 amount involved does not exceed the amount of the ongoing project; and
10 the contractor has no negative slippage: *Provided, Further*, That
11 negotiations for the procurement are commenced before the expiry of the
12 original contract. Whenever applicable, this principle shall also govern
13 consultancy contracts, where the consultants have unique experience and
14 expertise to deliver the required service;

15 (e) Agency-to-Agency. Purchases of goods from another agency of the
16 government, such as the PS-DBM, which is tasked with the centralized
17 procurement of CSE for the government in accordance with Letter of
18 Instructions (LOI) No. 755, E.O. No. 359, series of 1989, and Administrative
19 Order No. 17, series of 2011;

20 (f) Scientific, Scholarly or Artistic Work, Exclusive Technology and Media
21 Services. Where Goods, Infrastructure Projects and Consulting Services can
22 be contracted to a particular supplier, contractor or consultant and as
23 determined by the HoPE, for any of the following:

24 i. Work of art; commissioned work or services of an artist for a
25 specific artist skill;

26 ii. Scientific, academic, scholarly work or research, or legal services;

27 iii. Highly-specialized life-saving medical and biotech equipment and
28 devices, medicine, supplies, materials, tools and consumables, as
29 certified by the DOH;

30 iv. Scientific, technical, economic, business, trade or legal journal,
31 magazine, paper, subscription, or other exclusive statistical
32 publications and references; or

1 v. Media documentation, advertisement, or announcement through
2 television, radio, newspaper, internet, and other communication
3 media.

4 (g) Highly Technical Consultants. In the case of individual consultants hired to
5 do work that is (i) highly technical or proprietary; or (ii) primarily
6 confidential or policy determining: *Provided*, That, in both instances, trust
7 and confidence are the primary consideration for the hiring of the
8 consultant: *Provided, however*, That the term of the individual consultants
9 shall, at the most, be on a yearly basis, renewable at the option of the
10 appointing HoPE, but in no case shall exceed the term of the latter;

11 (h) Defense Cooperation Agreements and Inventory-Based Items. The
12 Secretary of National Defense may directly negotiate with an agency or
13 instrumentality of another country with which the Philippines has entered
14 into a defense cooperation agreement or otherwise maintains diplomatic
15 relations when the procurement involves major defense equipment or
16 materiel and/or defense-related consultancy services subject to the
17 following conditions:

18 i. The Secretary of National Defense has deemed it necessary in
19 order to protect the interest of the country;

20 ii. The expertise or capability required is not locally available; and

21 iii. The defense equipment or materiel and/or defense-related
22 consultancy services to be procured under this modality is
23 included in the Armed Forces of the Philippines Modernization
24 Program previously approved by the President of the Philippines.

25 In the interest of national security, the Secretary of National
26 Defense may also directly negotiate with a supplier or manufacturer in
27 procuring inventory based items, pertaining to major defense equipment
28 or materiel, subject to the following conditions:

29 i. Direct negotiation will address compatibility, interoperability, and
30 sustainability;

31 ii. The supplier or manufacturer had fully and satisfactorily
32 implemented a contract of the same item with the Department of

1 National Defense (DND) or any of its bureaus or attached
2 agencies; and

3 iii. The supplier or manufacturer shall provide a performance security
4 in accordance with this Act.

5 Law enforcement agencies may utilize this mode when the
6 aforementioned conditions are met. These agencies are the Philippine
7 National Police (PNP), including the PNP Maritime Group (PNP-MG) and
8 the PNP Aviation Security Group (PNP-AVSEGROUP), Philippine Drug
9 Enforcement Agency (PDEA), Bureau of Immigration (BI), Office for
10 Transportation Security (OTS), Bureau of Fire Protection (BFP), National
11 Bureau of Investigation (NBI), Presidential Security Group (PSG),
12 National Police Commission (NAPOLCOM), Bureau of Jail Management
13 and Penology (BJMP), Bureau of Corrections (BuCor), and Philippine
14 Coast Guard (PCG).

15 (i) Lease of Real Property and Venue. Lease of real property and venue for
16 official use which shall be in accordance with the IRR;

17 (j) NGO Participation. When an appropriation law or ordinance earmarks an
18 amount to be specifically contracted out to non-governmental
19 organizations (NGOs), the Procuring Entity may enter into a MOA with an
20 NGO, subject to the guidelines as provided for in the IRR;

21 (k) Community Participation. The Procuring Entity may directly purchase
22 agricultural and fishery products from local farmers and fisherfolk and
23 directly negotiate simple Infrastructure Projects from local communities or
24 social group or members thereof, subject to the guidelines as provided for
25 in the IRR; For this purpose, community or social groups may be classified
26 as organized or unorganized. Organized community or social group (OCSG)
27 shall refer to a community or social group that has a defined organizational
28 structure, identified membership and leadership, and adopts a principle of
29 shared responsibility for their actions and shall be registered with the
30 appropriate regulatory bodies. It shall include Microenterprises.
31 Unorganized community or social group (UCSG) shall refer to a community
32 or social group that is not registered in any government regulatory body or

1 a member of a duly recognized private organization, which include, but are
2 not limited to, community labor groups or "pakyaw" groups, social
3 enterprises, associations of barangay health workers, farmers, fisherfolk,
4 women, elderly, indigenous peoples, parent-teacher associations, solo
5 parents, and persons with disabilities;

6 (l) United Nations Agencies, International Organizations or International
7 Financing Institutions. Procurement from specialized agencies of the UN,
8 international organizations or international financing institutions, of any of
9 the following:

10 i. Small quantities of off-the-shelf goods, exclusively used in
11 education and health;

12 ii. Specialized products where the number of suppliers is limited,
13 such as vaccines; or

14 iii. Goods and Consulting Services involving advanced technologies,
15 techniques and innovations not locally available as certified by the
16 DTI, when it is most advantageous to the Procuring Entity;

17 (m) Direct Retail Purchase of Petroleum Fuel, Oil and Lubricant (POL) Products,
18 and Online Subscriptions. Direct retail purchase of petroleum fuel, oil and
19 lubricant (POL) products; and online subscriptions may be made by end-
20 users delegated to procure the same from identified direct suppliers or
21 service providers, where goods and services are required by a Procuring
22 Entity for the efficient discharge of its principal functions or day-to-day
23 operations. Online subscription includes (i) airline tickets; (ii) electronic
24 publications, reference materials and journals; (iii) off-the-shelf software
25 and applications, except internet and cloud computing services; and (iv)
26 web-based services.

27 The GPPB, through the IRR, may provide an amendment on the above
28 enumeration or make an additional type of negotiated procurement subject to the
29 following conditions:

30 i. The Procuring Entity has requested the GPPB for the use of
31 negotiated procurement of Goods, Infrastructure Projects or
32 Consulting Services with utmost necessity and justification;

- 1 ii. The GPPB shall have findings that any of the existing modes of
- 2 procurement will be impossible or defeats the purpose of the
- 3 procurement;
- 4 iii. The Goods, Infrastructure Projects or Consulting Services are
- 5 better identified by the Procuring Entity on its distinctiveness and
- 6 uniqueness to a procurement program, activity or project; and
- 7 iv. Other circumstances that may be identified by the GPPB.

8 **Sec. 34. Direct Sales.** – A mode of procurement of non-CSEs where a
9 Procuring Entity directly purchases from a supplier that has satisfactorily delivered
10 non-CSEs to another government agency under a completed contract. Direct sales
11 may only be resorted to when all of the following conditions are met:

- 12 (a) The procurement contract by the original government agency that
- 13 procured the non-CSEs was awarded through competitive bidding;
- 14 (b) The government agency that originally procured the non-CSEs has
- 15 inspected and accepted the same, and has issued a certification that the
- 16 supplier has satisfactorily performed its obligations under the contract;
- 17 (c) The procurement for the same non-CSEs by the Procuring Entity shall
- 18 only be initiated once within six (6) months from the acceptance of the
- 19 non-CSEs by the original government agency;
- 20 (d) The contract to be executed between the Procuring Entity and the
- 21 supplier must be within the amount of the contract executed with the
- 22 original government agency, and that the supplier must offer the non-
- 23 CSEs to the Procuring Entity at the same or lower unit price offered to
- 24 the original government agency; and
- 25 (e) The supplier agreed to the terms offered by the Procuring Entity and
- 26 remains legally, technically, and financially capable to undertake the
- 27 contract with the Procuring Entity.

28 For purposes of this provision, the original government agency shall share the
29 relevant procurement documents and papers with the Procuring Entity for
30 procurement, budgeting, accounting and auditing purposes.

31 **Sec. 35. Direct Procurement for Science, Technology and Innovation.**

32 – A mode of procurement where the Procuring Entity may procure the following goods

1 and services directly from a legally, technically and financially capable manufacturer
2 or supplier, or from a qualified startup business:

3 (a) Supplies, materials, equipment, and related services to be used actually,
4 exclusively, and directly in the conduct of research and development
5 projects or activities;

6 (b) Goods that are the product of a commissioned task by a Procuring Entity
7 which was processed, developed, and manufactured in satisfaction of its
8 needs and requirements. These include: (i) pre-commercial goods and
9 services that involve early market engagement to stimulate the
10 development of new goods and services that meet specific government
11 needs; and (ii) goods to be manufactured by qualified startup businesses
12 alongside the thrust to develop and support new and startup businesses.

13 The intellectual property rights and ownership over the
14 commissioned goods developed and manufactured pursuant to this
15 provision shall belong to the Procuring Entity, and no manufacturing or sale
16 thereof can be performed by the supplier without the written consent of
17 the Procuring Entity;

18 (c) Other analogous goods to the foregoing.

19 Relevant government agencies shall expedite the release of goods used in and
20 documents necessary for science, technology, and innovation.

21 **Sec. 36. Video Recording of All Procurement-Related Conferences for**
22 **Competitive Bidding.** – To enhance the transparency of the procurement process,
23 the Procuring Entity shall keep a video recording of all procurement-related
24 conferences for Competitive Bidding, which includes pre-procurement conference,
25 pre-bid conference, bid opening, and other meetings of the BAC. All procurement-
26 related conferences for Competitive Bidding shall not commence without a video
27 recording initiated by the BAC. The Procuring Entity shall also livestream the
28 preliminary examination of the bids and the opening of the bids to the public on its
29 website, social media account, or any other forms of livestreaming services.

30 The mandatory video recording shall only apply for the procurement of Goods
31 costing above Twenty million pesos (P20,000,000.00), Infrastructure Projects costing
32 above Fifty million pesos (P50,000,000.00), and Consulting Services costing above

1 Ten million pesos (P10,000,000.00) using Competitive Bidding as the mode of
2 procurement.

3 The Procuring Entity shall ensure that copies of the video recording shall be
4 stored for not less than five (5) years and shall be made available to the public upon
5 request and payment of a fee.

6 When national security is involved, the HoPE shall decide whether or not to
7 video record all procurement related conferences taking into consideration the nature,
8 classification, sensitivity, and confidentiality thereof.

9 The GPPB is authorized to adjust the threshold amounts and the storage period
10 as may be deemed appropriate.

11 **Sec. 37. Prohibition on Splitting of Government Contracts.** – In using
12 any of the modes of procurement under Article IV of this Act, the Procuring Entity
13 shall ensure that this does not result in splitting of government contracts, which
14 involves dividing or breaking up of contracts into smaller quantities and amounts, or
15 dividing contract implementation into artificial phases or sub-contracts for the purpose
16 of evading or circumventing the requirements of this Act and its IRR: *Provided, That,*
17 procurement per unit, by lot or package, is allowed subject to the available budget,
18 required quantity, product availability, delivery sites, geographical location and market
19 capacity.

20 **Sec. 38. Procurement of CSE.** – All NGAs, GOCCs, GFIs, SUCs, and LGUs
21 shall only procure their CSE from PS-DBM, subject to its availability.

22 Due to the efficiency and economy of bulk purchasing, the PS-DBM may deal
23 directly with manufacturers or exclusive distributors subject to legal, technical and
24 financial requirements ensuring that products are obtained from reliable sources, of
25 the best quality, and at the most advantageous price for the whole of government.
26 Access to goods and equipment in economic lot sizes may likewise be achieved by PS-
27 DBM through consignment or any appropriate contractual arrangement.

28 For purposes of this section, consignment shall refer to an arrangement
29 whereby the consignor gives actual or constructive possession of goods, equipment
30 and services to the consignee without transfer of ownership and disbursement of
31 government funds between consignee and consignor, and such goods, equipment and
32 services are to be sold by the consignee for and on account of the consignor at terms

1 advantageous to the government. The consignee shall remit the proceeds of the sale
2 to the consignor, net of service fees, if applicable. The PhilGEPS innovative features,
3 such as the virtual store and electronic marketplace, may be used as consignment
4 platforms for goods and equipment.

5 PS-DBM shall develop the parameters in the identification, expansion, and the
6 definition of requirements and specifications of CSEs through the conduct of market
7 scoping, market survey and market availability, pursuant to its mandate under
8 Administrative Order No. 17, series of 2011.

9 **ARTICLE V**

10 **BIDS AND AWARDS COMMITTEE**

11 **Sec. 39. *The BAC and its Composition.*** – Each Procuring Entity shall
12 establish one or several Bids and Awards Committees (BACs) as warranted by the
13 volume and complexity of the procurement projects and to ensure the efficient and
14 effective conduct of its procurement, as determined by the HoPE.

15 Each BAC shall have at least five (5) members, but not more than seven (7)
16 members. It shall be chaired by at least a third ranking permanent official of the
17 Procuring Entity or in the absence thereof, a permanent official of the next lower rank
18 other than the duly authorized representative of the HoPE. The members of the BAC
19 shall be designated by the HoPE. However, in no case shall the HoPE or the approving
20 authority be a member of the BAC.

21 Unless sooner removed for a cause, the members of the BAC shall have a fixed
22 term of one (1) year reckoned from the date of designation, renewable at the
23 discretion of the HoPE: *Provided*, That, no member of the BAC shall serve for more
24 than three (3) consecutive terms, except when allowed by the HoPE. In case of
25 resignation, retirement, separation, transfer, re-assignment, or removal, the
26 replacement shall serve only for the unexpired term: *Provided*, That, in case of leave
27 or suspension, the replacement shall serve only for the duration of the leave or
28 suspension. For justifiable causes to be expressed in writing, a member shall be
29 suspended or removed by the HoPE. For transfer of knowledge and experience,
30 membership in the BAC shall allow for staggered designations, to be identified in the
31 IRR.

32 **Sec. 40. *Functions of the BAC.*** – The BAC shall have the following functions:

- 1 (a) Publish and/or post the invitation to bid;
- 2 (b) Conduct pre-procurement and pre-bid conferences;
- 3 (c) Determine the eligibility of prospective bidders;
- 4 (d) Receive bids;
- 5 (e) Conduct the evaluation of bids;
- 6 (f) Undertake post-qualification proceedings; and
- 7 (g) Recommend award of contracts to the HoPE or the duly authorized
- 8 representative

9 *Provided, That, in the event the HoPE shall disapprove such recommendation,*
10 *such disapproval shall be based only on valid, reasonable, and justifiable grounds to*
11 *be expressed in writing, copy furnished the BAC; recommend the imposition of*
12 *sanctions in accordance with Article XX, and perform such other related functions as*
13 *may be necessary, including the creation of a TWG from a pool of technical, financial,*
14 *and/or legal experts to assist in the procurement process.*

15 In proper cases, the BAC shall also recommend to the HoPE the use of any of
16 the modes of procurement as provided in Article IV of this Act.

17 The BAC shall prepare a procurement monitoring report that shall be approved
18 and submitted by the HoPE to the GPPB on a semestral basis. The contents and
19 coverage of this report shall be provided in the IRR.

20 **Sec. 41. Observers.** – To enhance the transparency of the process, the BAC
21 shall, in all stages of the procurement process, invite, in addition to the representative
22 of the COA, at least two (2) observers to sit in its proceedings, one (1) from a duly
23 recognized private group in a sector or discipline relevant to the procurement at hand,
24 and the other from a civil society organization (CSO) or people’s organization (PO), as
25 the case may be: *Provided, That, they do not have any direct or indirect interest in*
26 *the contract to be bid out. The private group or CSO or PO shall be duly registered*
27 *with the SEC or the CDA, as the case may be, and the observers therefrom shall meet*
28 *the following qualifications:*

- 29 (a) Knowledge, experience or expertise in procurement or in the subject
- 30 matter of the contract bid;
- 31 (b) Absence of actual or potential conflict of interest in the contract to be bid
- 32 out; and

1 (c) Any other relevant criteria that may be determined by the GPPB under the
2 IRR.

3 *Provided, further,* That, the head of the sector, discipline or organization duly
4 certifies that the observer is a member in good standing. Each observer shall make a
5 separate report on the conduct of the public bidding, its procedures, conditions and
6 problems, if any, which shall be submitted to the HoPE, PhilGEPS and COA. The GPPB
7 shall prescribe the form of the report.

8 The GPPB shall maintain a registry or roster of qualified observers for the
9 benefit of the Procuring Entities and shall have the authority to determine additional
10 qualifications of the observers.

11 **SEC. 42. Procurement Unit.** – There shall be a procurement unit, division,
12 or office in each Procuring Entity which shall serve as Secretariat to the BAC and
13 perform other functions related to procurement as may be delegated by the HoPE.
14 The creation of the procurement unit, division, or office shall be subject to the
15 standards and guidelines prescribed by the DBM.

16 **Sec. 43. Honoraria.** – The Procuring Entity may grant payment of honoraria
17 to all members of the BAC regardless of position, TWG, and ad hoc Secretariat, in an
18 amount not to exceed thirty percent (30%) of their respective basic monthly salaries,
19 subject to availability of funds. The DBM shall promulgate the necessary guidelines
20 for this purpose.

21 **Sec. 44. Professionalization of Government Procurement**
22 **Practitioners.** – In order to build a cadre of public procurement professionals, the
23 DBM shall create procurement positions in the government based on the qualification
24 standards recommended by the GPPB and approved by the Civil Service Commission
25 (CSC). The GPPB shall ensure the professionalization of procurement and for this
26 purpose, it shall develop the following:

- 27 (a) A competency framework to identify the skills, knowledge, and attribute of
28 each of the procurement positions;
- 29 (b) A certification framework to upscale procurement competencies and ensure
30 continued professional development;
- 31 (c) A code of ethics for public procurement professionals; and
- 32 (d) An inclusive capacity development program in order to enhance

1 accountability of all procurement practitioners, both from the public and
2 private sectors, promote supplier diversity, promote competition and
3 optimize efficiency, and value for money.

4 Moreover, the Professional Regulation Commission (PRC), in consultation with
5 the GPPB, shall establish, administer, and regulate a professional licensing program
6 and the continuing education of public procurement professionals as a requirement
7 for the holding of a procurement position in government.

8 **ARTICLE VI**

9 **PREPARATION OF BIDDING DOCUMENTS**

10 **Sec. 45. *Form and Content of Bidding Documents.*** – The Bidding
11 Documents shall be prepared by the Procuring Entity following the standard forms and
12 manuals prescribed by the GPPB. The Bidding Documents shall include the following:

- 13 (a) Approved Budget for the Contract;
- 14 (b) Invitation to bid/request for expression of interest;
- 15 (c) Instructions to Bidders, including criteria for eligibility, bid evaluation and
16 post-qualification, the weight assigned to each criterion and the quality-
17 price ratio if awarded to the most economically advantageous responsive
18 bid (MEARB), as well as the date, time and place of the pre-bid conference
19 (where applicable), submission of bids and opening of bids;
- 20 (d) Terms of Reference;
- 21 (e) Scope of work, where applicable;
- 22 (f) Eligibility Requirements;
- 23 (g) Plans and Technical Specifications;
- 24 (h) Form of Bid, Price Form, and List of Goods or Bill of Quantities;
- 25 (i) Delivery Time or Completion Schedule;
- 26 (j) Form and Amount of Bid Security;
- 27 (k) Form and Amount of Performance Security and Warranty;
- 28 (l) Form of Contract, and General and Special Conditions of Contract; and
- 29 (m) Additional documentary requirements or specifications necessary to
30 complete the information required for the bidders to prepare and submit
31 their respective bids.

32 Based on specific needs, the end-user unit or implementing unit of the

1 Procuring Entity shall be responsible for the preparation of all documents necessary
2 for the procurement activity including, but shall not be limited to, the technical
3 specifications, scope of work, or terms of reference.

4 **Sec. 46. Access to Information.** – In all stages of the preparation of the
5 Bidding Documents, the Procuring Entity shall ensure equal access to information.
6 Prior to their official release, no aspect of the Bidding Documents shall be divulged or
7 released to any prospective bidder or person having direct or indirect interest in the
8 project to be procured, or to any party, except those officially authorized in the
9 handling of the documents.

10 In procurements involving and affecting national security, the disclosure of the
11 specific components of the procurement documents, such as, the technical
12 specifications, requirements, and components, shall be dependent upon the HoPE,
13 having due regard to the nature, classification, sensitivity, and confidentiality of the
14 relevant documents vis-a-vis the purpose and reason for the request.

15 **ARTICLE VII**

16 **INVITATION TO BID**

17 **Sec. 47. Pre-Procurement Conference.** – Prior to the issuance of the
18 invitation to Bid, the BAC is mandated to hold a pre-procurement conference on each
19 and every procurement, except those contracts below a certain level or amount
20 specified in the IRR, in which case, the pre-procurement conference is optional.

21 In procurements involving and affecting national security, the pre-procurement
22 conference shall be dependent upon the HoPE, having due regard to the nature,
23 classification, sensitivity, and confidentiality of the Goods, Infrastructure Projects, and
24 Consulting Services being procured.

25 The pre-procurement conference shall assess the readiness of the procurement
26 in terms of confirming the certification of availability of funds, as well as reviewing all
27 relevant documents in relation to their adherence to the law. This shall be attended
28 by the BAC, the end-user unit or implementing unit, or officials who prepared the
29 bidding documents and the draft invitation to Bid. Consultants, if any, may likewise
30 attend the pre-procurement conference, as necessary.

31 For the procurement of Goods and Infrastructure Projects, the BAC, based on
32 the recommendation of the end-user unit, shall determine whether the contract will

1 be awarded to the Lowest Calculated Responsive Bid (LCRB) or the MEARB.

2 The MEARB, as an award criterion, may be used where the consideration of
3 assigning weights for the technical and financial aspects of the project is more
4 appropriate to recognize both the qualitative and economic values of the bid.

5 The period for the conduct of pre-procurement conference shall be provided in
6 the IRR.

7 **Sec. 48. Publication and Contents of the Invitation to Bid.** – In line with
8 the principle of transparency and competitiveness and to ensure the widest possible
9 dissemination thereof, all invitations to Bid for contracts under competitive bidding
10 shall be published continuously by the Procuring Entity, for seven (7) calendar days in
11 the PhilGEPS, in any conspicuous place in the premises of the Procuring Entity, and in
12 the website or social media platforms of the Procuring Entity, if available or such other
13 channels as may be authorized by the GPPB. For justifiable reasons, Procuring Entities
14 that cannot publish procurement opportunities in its website, social media platform,
15 or such other channels authorized by the GPPB shall publish its invitation to bid, at
16 least once, in a newspaper of general nationwide circulation.

17 In procurements involving and affecting national security, publication shall be
18 dependent upon the HoPE, having due regard to the nature, classification, sensitivity,
19 and confidentiality of the Goods, Infrastructure Projects, and Consulting Services being
20 procured.

21 The details and mechanics of implementation shall be provided in the IRR.

22 The Invitation to Bid shall contain, among others:

23 (a) A brief description of the subject matter of the Procurement;

24 (b) A general statement on the criteria to be used by the Procuring Entity
25 for the eligibility check, the examination and evaluation of Bids, and
26 post-qualification: *Provided*, That, in the case of procurement of
27 consulting services, the invitation to bid shall also contain the criteria for
28 the shortlisting of prospective bidders;

29 (c) For the procurement of Goods and Infrastructure Projects, whether the
30 contract will be awarded to the LCRB or the MEARB;

31 (d) If the contract is to be awarded to the MEARB, the criteria to be used in
32 assessing the bid, the weight or score assigned by the Procuring Entity

- 1 to each criteria, and the quality-price ratio to determine the award;
- 2 (e) The date, time and place of the deadline for the submission and receipt
- 3 of the eligibility requirements, the pre-bid conference if any, the
- 4 submission and receipt of bids, and the opening of bids;
- 5 (f) The Approved Budget for the Contract to be bid;
- 6 (g) The source of funds;
- 7 (h) The period of availability of the Bidding Documents, and the place where
- 8 these may be secured;
- 9 (i) The contract duration; and
- 10 (j) Such other necessary information deemed relevant by the Procuring
- 11 Entity.

12 **Sec. 49. Pre-bid Conference.** – At least one (1) pre-bid conference shall be

13 conducted for each procurement, unless otherwise provided in the IRR. Subject to the

14 approval of the BAC, a pre-bid conference may also be conducted upon the written

15 request of any prospective bidder.

16 The pre-bid conference(s) shall be held within twelve (12) calendar days before

17 the deadline for receipt of bids to allow prospective bidders to adequately prepare

18 their bids, which shall be specified in the IRR.

19 For purposes of transparency, efficiency, and competitiveness, Procuring

20 Entities may guide prospective bidders in the understanding and accomplishment of

21 the necessary documents to support their participation in the procurement process:

22 *Provided, That, in procurements involving and affecting national security, pre-bid*

23 *conference shall be dependent upon the HoPE, having due regard to the nature,*

24 *classification, sensitivity, and confidentiality of the Goods, Infrastructure Projects, and*

25 *Consulting Services being procured.*

26 **ARTICLE VIII**

27 **RECEIPT AND OPENING OF BIDS**

28 **Sec. 50. Eligibility Requirements for the Procurement of Goods,**

29 **Infrastructure Projects, and Consulting Services.** – The BAC or, under special

30 circumstances specified in the IRR, its duly designated organic office shall require the

31 submission of the prospective bidder's valid and updated PhilGEPS Certificate of

32 Registration and Membership to ensure that the bidder is technically, legally, and

1 financially capable to undertake the proposed project for the procurement of Goods,
2 Infrastructure Projects, and Consulting Services within the period set forth in the
3 Invitation to Bid.

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

8 For procurement of Goods and Infrastructure Projects, joint ventures may
9 participate: *Provided*, That, the primary purpose of each member of the joint venture
10 must be similar or related to the requirement of the project to be bidden out; *Provided*,
11 *further*, That each member of the joint venture shall be jointly and severally liable to
12 the Procuring Entity in cases of breach or failure to comply with the requirements of
13 the project.

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

17 The bidder shall ensure that its Certificate of Registration and Membership are
18 current and updated. The failure to update its Certificate with the current and updated
19 supporting documents shall result in the automatic suspension of the bidder's
20 certificate.

21 **Sec. 51. Short-Listing for Consulting Services.** – The eligible prospective
22 bidders for the procurement of consulting services shall be evaluated using numerical
23 ratings on the basis of the short-listing requirements prescribed for the Competitive
24 Bidding concerned, within the period stated in the Invitation to Bid to determine the
25 short-list of bidders that shall be allowed to submit their respective bids.

26 **Sec. 52. Submission and Receipt of Bids.** – A bid shall have two (2)
27 components, namely the technical and financial components which should be in
28 separate sealed envelopes, and which shall be submitted simultaneously. The bids
29 shall be received by the BAC on such date, time, and place specified in the Invitation
30 to Bid. The deadline for the receipt of bids shall be fixed by the BAC, providing
31 sufficient time to complete the bidding process and giving the prospective bidders

1 sufficient time to study and prepare their bids. The deadline shall also consider the
2 urgency of the procurement involved.

3 Bids submitted after the deadline shall not be accepted.

4 Notwithstanding the provisions of this Section and Section 53 of this Act, the
5 GPPB shall adopt technological advances to enhance the procurement process, and
6 leverage emerging technologies and innovative procedures for the submission,
7 receipt, and opening of bids through the PhilGEPS.

8 **Sec. 53. Modification and Withdrawal of Bids.** – Bidders may modify their
9 bids: *Provided*, That, this is done before the deadline for the receipt of bids. The
10 modification shall be submitted in a sealed envelope duly identified as a modification
11 of the original bid and stamped received by the BAC.

12 Bidders may, through a letter, withdraw their bids or express their intention not
13 to participate in the bidding before the deadline for the receipt of bids. In such case,
14 they shall no longer be allowed to submit another bid for the same contract either
15 directly or indirectly.

16 **Sec. 54. Bid Security.** – All Bids shall be accompanied by a Bid security, which
17 shall serve as a guarantee that, after receipt of the Notice of Award, the winning
18 bidder shall enter into contract with Procuring Entity within the stipulated time and
19 furnish the required performance security. The specific amounts and allowable forms
20 of the Bid security shall be prescribed in the IRR.

21 **Sec. 55. Bid Validity.** – Bids and Bid securities shall be valid for such
22 reasonable period of time indicated in the Bidding Documents. The duration for each
23 undertaking shall take into account the time involved in the process of Bid evaluation
24 and award of contract.

25 **Sec. 56. Bid Opening.** – The BAC shall publicly open all bids at the time, date,
26 and place specified in the bidding documents: *Provided*, That, it shall be held not later
27 than one (1) calendar day after the deadline for the submission and receipt of Bids.
28 The minutes of the bid opening shall be made available to the public upon written
29 request and payment of a specified fee.

30 **ARTICLE IX**
31 **BID EVALUATION**

1 **Sec. 57. Preliminary Examination of Bids.** – Prior to Bid evaluation, the
2 BAC shall examine first the technical components of the bids using “pass/fail” criteria
3 to determine whether all required documents are present. Only bids that are
4 determined to contain all the bid requirements of the technical component shall be
5 considered for opening and evaluation of their financial component.

6 **Sec. 58. Ceiling for Bid Prices.** – The ABC shall be the upper limit or ceiling
7 for the Bid prices. Bid prices that exceed this ceiling shall be disqualified outright from
8 further participating in the bidding. There shall be no lower limit to the amount of the
9 award.

10 **Sec. 59. Bid Evaluation for the Procurement of Goods and**
11 **Infrastructure Projects.** – For the procurement of Goods and Infrastructure
12 Projects, the BAC shall evaluate the financial component of the bids.

13 For contracts to be awarded to the LCRB, the bids that passed the preliminary
14 examination shall be ranked from lowest to highest in terms of their corresponding
15 calculated prices. The bid with the lowest calculated price shall be referred to as the
16 Lowest Calculated Bid (LCB).

17 For contracts to be awarded to the MEARB, the BAC shall evaluate the bid using
18 a predetermined quality-price ratio. The quality component shall be assessed on the
19 basis of criteria that may include qualitative, environmental, and/or social aspects
20 linked to the subject matter of the contract. These may comprise the following:

- 21 (a) Quality and technical merit;
- 22 (b) Aesthetic and functional characteristics;
- 23 (c) Approach and methodology;
- 24 (d) Accessibility;
- 25 (e) Tools and equipment;
- 26 (f) Social, environmental, economic, and innovative characteristics;
- 27 (g) Organization, qualification, and experience of employees or staff assigned
28 to perform the contract;
- 29 (h) On-going contracts and work commitments;
- 30 (i) After-sales service and technical assistance;
- 31 (j) Delivery conditions, such as delivery period and delivery process;
- 32 (k) Disposal measures; or

1 (I) Other relevant criteria in relation to the subject Goods or Infrastructure
2 Projects to be procured.

3 The BAC shall specify in the invitation to bid the quality-price ratio and the
4 criteria for assessing the quality component. The bidder with the best overall score
5 using the quality-price ratio shall be referred to as the Most Economically
6 Advantageous Bid (MEAB). The quality and price proposals shall be given
7 corresponding weights. The price proposal shall be given a minimum weight of fifteen
8 percent (15%) up to a maximum of forty percent (40%).

9 The entire evaluation process for the procurement of Goods and Infrastructure
10 Projects shall be completed within seven (7) calendar days from the deadline for
11 receipt of proposals.

12 **Sec. 60. Bid Evaluation of Short Listed Bidders for Consulting**
13 **Services.** – For the procurement of Consulting Services under a quality-based
14 evaluation procedure, the Bids of the short-listed bidders shall be evaluated and
15 ranked using numerical ratings in accordance with the evaluation criteria stated in the
16 bidding documents, which shall include factors such as, but not limited to, experience,
17 performance, quality of personnel, price and methodology. The Bids shall be ranked
18 from highest to lowest in terms of their corresponding calculated ratings. The Bid with
19 the highest calculated rating shall be the Highest Rated Bid (HRB). The BAC shall invite
20 the bidder concerned for negotiation and/or clarification on the following items:
21 financial proposal submitted by the bidder, terms of reference, scope of services,
22 methodology and work program, personnel to be assigned to the job,
23 services/facilities/data to be provided by the Procuring Entity concerned, and
24 provisions of the contract. When negotiations with the first-in-rank bidder fails, the
25 financial proposal of the second rank bidder shall be opened for negotiations:
26 *Provided*, That the amount indicated in the financial envelope shall be made as the
27 basis for negotiations and the total contract amount shall not exceed the amount
28 indicated in the envelope and the ABC. Whenever necessary, the same process shall
29 be repeated until the bid is awarded to the winning bidder.

30 **ARTICLE X**
31 **POST-QUALIFICATION**

1 **Sec. 61. Objective and Process of Post-qualification.** – Post-qualification
2 is the stage where the bidder with the LCB, or the MEAB, in the case of Goods and
3 Infrastructure Projects, or the HRB, in the case of Consulting Services, undergoes
4 verification and validation whether it has passed all the requirements and conditions
5 as specified in the bidding documents.

6 If the bidder with the LCB or HRB passes all the criteria for post-qualification,
7 its Bid shall be considered the LCRB, in the case of Goods and Infrastructure projects
8 or the Highest Rated Responsive Bid (HRRB), in the case of Consulting Services.

9 If the bidder with the MEAB passes the verification and validation by the BAC
10 and TWG of each bid component, to which any weight or score is given during
11 evaluation, as well as all the criteria for post-qualification, its bid shall be considered
12 the MEARB. The quality and price components, the corresponding numerical weights,
13 and the procedures for the determination of the MEARB shall be provided in the IRR.

14 However, if a bidder fails to meet any of the requirements or conditions, it shall
15 be post-disqualified and the BAC shall conduct the post-qualification on the bidder
16 with the second LCB or HRB, or the MEAB with the second highest score. The same
17 procedure shall be repeated until the LCRB, HRRB, or the MEARB, as the case may
18 be, is finally determined.

19 In all cases, the contract shall be awarded only to the bidder with the LCRB,
20 HRRB, or MEARB, as the case may be.

21 The post-qualification process shall be completed in not more than twelve (12)
22 calendar days from the determination of the LCB/HRB/MEAB. In exceptional cases,
23 the post-qualification period may be extended by the HoPE.

24 **Sec. 62. Failure of Bidding.** – There shall be a failure of bidding if:

- 25 (a) No bids are received; or
26 (b) No bid qualifies as the LCRB, HRRB, or MEARB; or
27 (c) Whenever the bidder with the LCRB, HRRB, or MEARB, as the case may
28 be, refuses, without justifiable cause, to accept the award of contract.

29 Under any of the above instances, the contract shall be re-published or
30 reposted and re-bid. The BAC shall observe the same process and set the new periods
31 according to the same rules followed during the first bidding. After the second failed

1 bidding, however, the BAC may resort to negotiated procurement as provided for in
2 Section 33 of this Act.

3 **Sec. 63. *Single Calculated/Rated/Economically Advantageous and***
4 ***Responsive Bid Submission.*** – A Single Calculated/Rated/Economically
5 Advantageous Responsive Bid shall be considered for award if it falls under any of the
6 following circumstances:

7 (a) If after publication, only one prospective bidder applies for eligibility check,
8 and meets the eligibility requirements or criteria, after which it submits a
9 bid, which is found to be responsive to the bidding requirements;

10 (b) If after the publication, more than one prospective bidder applies for
11 eligibility check, but only one bidder meets the eligibility requirements or
12 criteria, after which it submits a bid which is found to be responsive to the
13 bidding requirements; or

14 (c) If after the eligibility check, more than one bidder meets the eligibility
15 requirements, but only one bidder submits a bid, and its bid is found to be
16 responsive to the bidding requirements.

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

19 **ARTICLE XI**

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

21 **Sec. 64. *Notice and Execution of Award.*** – Within a period not exceeding
22 ten (10) calendar days from the determination and declaration by the BAC of the
23 LCRB, HRRB, or MEARB, as the case may be, and the recommendation of the award,
24 the HoPE or the duly authorized representative shall approve or disapprove the said
25 recommendation. In case of approval, the HoPE or the duly authorized representative
26 shall immediately issue the Notice of Award to the bidder with the LCRB, HRRB, or
27 MEARB.

28 The winning bidder shall formally enter into contract with the Procuring Entity
29 within ten (10) calendar days from award of the contract. When further approval of
30 higher authority is required, the approving authority for the contract shall be given a
31 maximum period of fifteen (15) calendar days from receipt of the contract to approve
32 or disapprove it.

1 In the case of GOCCs, the concerned board shall take action on the said
2 recommendation within twenty (20) calendar days from receipt thereof. The
3 prescribed periods for execution and/or approval of contracts may be extended for
4 reasons beyond the control of the Procuring Entity or the approving authority, or for
5 other justifiable causes.

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

10 **Sec. 65. Period of Action on Procurement Activities.** – The period from
11 the opening of bids up to the award of contract shall not exceed sixty (60) days.

12 The GPPB is authorized to adjust the period as may be deemed appropriate:
13 *provided, further,* that such adjustment shall not exceed ninety (90) days.

14 All members of the BAC shall be on a jury duty type of assignment until the
15 Notice of Award is issued by the HoPE in order to complete the entire procurement
16 process at the earliest possible time.

17 If no action on the contract is taken by the HoPE, or by its duly authorized
18 representative, or by the concerned board, in the case of GOCCs, within the periods
19 specified in the preceding paragraph, the contract concerned shall be deemed
20 approved.

21 **Sec. 66. Performance Security.** – Prior to the signing of the contract, the
22 winning bidder shall, as a measure of guarantee for the faithful performance of and
23 compliance with its obligations under the contract prepared in accordance with the
24 bidding documents, be required to post a performance security in such form and
25 amount as may be specified by the GPPB.

26 The IC shall identify the surety companies that may be tapped to issue surety
27 and/or performance bonds. The list of surety companies identified by the IC shall
28 include only those whose surety business is ready to provide callable-on-demand
29 surety contracts, where the Procuring Entity can claim outright on the surety contract
30 and receive the proceeds thereof upon default of the bidder. The performance security
31 posted by the winning bidder must remain effective until final acceptance by the
32 Procuring Entity.

1 **Sec. 67. Failure to Enter into Contract and Post Performance Security.**

2 – If for justifiable causes, the bidder with the LCRB, HRRB, or MEARB, as the case
3 may be, fails, refuses, or is otherwise unable to enter into contract with the Procuring
4 Entity, or if the bidder fails to post the required performance security within the period
5 stipulated in the bidding documents, the BAC shall disqualify the said bidder and shall
6 undertake post-qualification for the next-ranked LCB, HRB, or MEAB. This procedure
7 shall be repeated until an award is made. However, if no award is possible, the
8 contract shall be subjected to a new bidding.

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

12 **Sec. 68. Reservation Clause.** – The HoPE reserves the right to reject any
13 and all Bids, declare a failure of bidding, or not award the contract in the following
14 situations:

- 15 (a) If there is *prima facie* evidence of collusion between appropriate public
16 officers or employees of the Procuring Entity, or between the BAC and any
17 of the bidders, or if the collusion is between or among the bidders
18 themselves, or between a bidder and a third party, including any act which
19 restricts, suppresses or nullifies or tends to restrict, suppress or nullify
20 competition;
- 21 (b) If the BAC is found to have failed in following the prescribed bidding
22 procedures; or
- 23 (c) For any justifiable and reasonable ground where the award of the contract
24 will not redound to the benefit of the government in the following
25 instances: (i) if the physical and economic conditions have significantly
26 changed so as to render the project no longer economically, financially, or
27 technically feasible, as determined by the HoPE; (ii) if the project is no
28 longer necessary as determined by the HoPE; or (iii) if the source of funds
29 for the project has been withheld or reduced through no fault of the
30 Procuring Entity.

1 **Sec. 69. *Contract Implementation and Termination.*** – The rules and
2 guidelines for the implementation and termination of contracts awarded pursuant to
3 the provisions of this Act shall be prescribed in the IRR.

4 **ARTICLE XII**

5 **SUSTAINABLE PUBLIC PROCUREMENT**

6 **Sec. 70. *Sustainable Public Procurement.*** – All Procuring Entities shall
7 establish a sustainable public procurement program to achieve value for money on a
8 whole life basis not only to meet their specific organizational needs but for the benefit
9 of the society and the economy, while reducing adverse environmental impact.

10 **Sec. 71. *Green Public Procurement Strategy.*** – Green Public Procurement
11 is an approach whereby Procuring Entities seek to procure Goods, Infrastructure
12 Projects, and Consulting Services with reduced environmental impact through their
13 lifecycle.

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

23 To further promote Green Public Procurement, sustainability of products,
24 materials or structures with green specifications shall be given greater weight in the
25 evaluation of bids.

26 **Sec. 72. *Development of a Green Local Market.*** – The DTI, in consultation
27 with relevant government agencies and the private sector, shall develop a cost-
28 efficient validation and certification program for green products to attract green
29 investments and improve the competition in government procurement.

30 **Sec. 73. *Inclusive Procurement Program.*** – To provide equal opportunities
31 to the vulnerable and marginalized sectors, as well as microenterprises, social
32 enterprises, and startups, Procuring Entities shall encourage active participation of the

1 registered sectors in all procurement activities, giving weight to inclusivity in programs
2 involving gender and ethnic equity, poverty reduction and respect to fundamental
3 labor standards.

4 The GPPB shall develop procurement policies that engender an enabling
5 environment for meaningful competition across all bidders and incorporate social
6 considerations and gender parity in the procurement of Goods, Infrastructure Projects,
7 and Consulting Services. It shall also issue the policy guidelines on how Procuring
8 Entities can implement gender responsive approaches in public procurement in
9 relation to project planning, eligibility and selection criteria, contract performance, and
10 grounds for exclusion/suspension/debarment.

11 **Sec. 74. Registration of Certain Sectors.** – The GPPB shall maintain a
12 registry of entities belonging to the following sectors:

- 13 (a) Farmers as certified by the Department of Agriculture (DA);
- 14 (b) Fisherfolk as certified by the Bureau of Fisheries and Aquatic Resources
15 (BFAR);
- 16 (c) Persons with disabilities as certified by the National Council for Disability
17 Affairs (NCDA) pursuant to Republic Act No. 7277 otherwise known as the
18 Magna Carta for Disabled Persons, as amended;
- 19 (d) Solo parents as certified by the Department of Social Welfare and
20 Development (DSWD);
- 21 (e) Microenterprises and Social Enterprises as certified by the Micro, Small and
22 Medium Enterprises Development Council (MSMED Council);
- 23 (f) Startups, spin-offs and other form of entity involved in science, technology,
24 and innovation activities as certified by the DTI, DICT, National Innovation
25 Council (NIC) or the Department of Science and Technology (DOST), as
26 may be applicable;
- 27 (g) Cooperatives duly registered with the CDA pursuant to Republic Act No.
28 6938 otherwise known as the Cooperative Code of the Philippines, as
29 amended; and
- 30 (h) Other relevant sectors as may be determined by the GPPB to ensure
31 inclusivity and diversity in the procurement process.

1 **Sec. 75. Exemptions and Other Forms of Support.** – The GPPB, after due
2 consultation with the DA, BFAR, NCDA, DSWD, MSMED Council, DTI, DICT, NIC,
3 DOST, and CDA shall prescribe instances for outright exemption and other forms of
4 support for the sectors mentioned in the preceding section as may be provided for in
5 the IRR.

6 **Sec. 76. Procurement of Second-hand Goods.** – Procurement of second-
7 hand, refurbished, or reconditioned goods and equipment, including military, defense,
8 or law enforcement equipment or materiel, may be allowed under any of the applicable
9 modes of procurement enumerated in Article IV of this Act, subject to considerations
10 as to durability, remaining useful life, sustainability, maintenance cost, warranty, price,
11 and such other relevant factors in order to secure a contract that is most advantageous
12 to the government. Procurement of second-hand motor vehicles shall be in accordance
13 with the guidelines and circulars issued by the DBM.

14 **ARTICLE XIII**

15 **DOMESTIC AND FOREIGN PROCUREMENT**

16 **Sec. 77. Procurement of Domestic and Foreign Goods.** – Consistent with
17 the country’s obligations under international treaties or agreements, goods may be
18 obtained from domestic or foreign sources and the procurement thereof shall be open
19 to all eligible suppliers, manufacturers and distributors.

20 **Sec. 78. Domestic Preference.** – Subject to the provisions of Republic Act
21 No. 11981 or the Tatak Pinoy (Proudly Filipino) Act, the Procuring Entity shall give
22 priority and preference to Philippine products and services: *Provided, That,* the
23 preference and priority for Philippine products shall be guaranteed upon all levels of
24 the procurement process, including raw materials, ingredients, supplies or fixtures.

25 The Procuring Entity shall award to the domestic bidder if the bid is not more
26 than twenty-five percent (25%) in excess of the lowest foreign bid. The margin of
27 preference provided herein shall be subject to a periodic review and adjustment by
28 the GPPB, as may be necessary.

29 The priority and preference established herein may be waived should any of
30 the following conditions be present:

- 31 (a) when domestic production is insufficient or unavailable in the required
32 commercial quantities;

- 1 (b) when the specific or desired quality is not met;
2 (c) when the priority and preference will result in inconsistencies with the
3 Philippines' obligations under international agreements;and
4 (d) other analogous circumstances.

5 **ARTICLE XIV**

6 **LEASE OF MOVABLE PROPERTIES**

7 **Section 79. Lease Contracts.** – The lease of movable properties is subject
8 to the guidelines which shall be provided for in the IRR of this Act. Movable properties
9 refer to those properties defined under Articles 416, 417, and 418 of the New Civil
10 Code of the Philippines.

11 **ARTICLE XV**

12 **DISCLOSURE OF RELATIONS**

13 **Sec. 80. Disclosure of Relations.** – In addition to the proposed contents of
14 the Invitation to Bid as mentioned under Section 48 of this Act, all bidding documents
15 shall be accompanied by a sworn affidavit of the bidder that he or she, any director,
16 or any corporate officer of their corporation is not related to the HoPE; the members
17 of the BAC, the TWG, and the BAC Secretariat, the head of the Project Management
18 Office or the end-user unit or implementing unit, and the project consultants of the
19 Procuring Entity, or of the procurement agent, whichever is applicable, by
20 consanguinity or affinity up to the third civil degree. In order to determine the ultimate
21 beneficiary and prevent collusion, the ultimate beneficial ownership of an entity shall
22 be disclosed by the bidder. Failure to comply with the aforementioned provision shall
23 be a ground for the automatic disqualification of the bid in consonance with Section
24 57 of this Act. For this reason, relation to the aforementioned persons within the third
25 civil degree of consanguinity or affinity shall automatically disqualify the bidder from
26 participating in the procurement of contracts of the Procuring Entity notwithstanding
27 the act of such persons inhibiting themselves from the procurement process.

28 **Sec. 81. Declaration of Beneficial Ownership.** – Notwithstanding the
29 provisions of Republic Act No. 10173, otherwise known as the Data Privacy Act of
30 2012, legal entities like corporations, partnerships, private sector organizations,
31 foundations, and associations that participate in procurement projects shall safeguard
32 the government from all acts that undermine a transparent, fair and competitive

1 procurement process. The beneficial ownership information of the suppliers,
2 manufacturers, distributors, contractors or consultants shall be a requirement to
3 participate in government procurement. The GPPB shall maintain a registry of
4 beneficial ownership information established for government procurement.

5 **ARTICLE XVI**

6 **PROTEST MECHANISM**

7 **Sec. 82. *Protests on Decisions of the BAC.*** – Decisions of the BAC in all
8 stages of procurement may be protested to the HoPE by filing a verified position paper
9 and paying a non-refundable protest fee. The amount of the protest fee and the
10 periods during which the protests may be filed and resolved shall be specified in the
11 IRR.

12 **Sec. 83. *Resolution of Protests.*** – The protests shall be resolved strictly on
13 the basis of records of the BAC.

14 The decision of the HoPE shall be final and executory for small procurements:
15 procurement of Goods costing Twenty million pesos (P20,000,000.00) and below,
16 procurement of Infrastructure Projects costing Fifty million pesos (P50,000,000.00)
17 and below, and procurement of Consulting Services costing Ten million pesos
18 (P10,000,000.00) and below.

19 In all other cases, the decisions or final orders of the HoPE shall become final
20 and executory ten (10) days after receipt of a copy thereof by the parties unless,
21 within the same period, an appeal to the Government Procurement Adjudication
22 Tribunal has been perfected.

23 **Sec. 84. *Non-interruption of the Bidding Process.*** – In no case shall any
24 protest taken from any decision treated in this Article stay or delay the bidding process.
25 Protests must first be resolved before any award is made.

26 **SEC. 85. *The Government Procurement Adjudication Tribunal.*** – An
27 independent quasi-judicial body is hereby created under the Office of the President,
28 to be known as the Government Procurement Adjudication Tribunal which shall
29 exercise exclusive jurisdiction over all decisions of the HoPE on protest cases, as well
30 as matters related to blacklisting. The decision of the Tribunal shall be rendered within
31 thirty (30) days from the date the case is submitted for resolution, and shall be
32 appealable to the Court of Appeals.

1 **SEC. 86. Prohibition on the Issuance of Temporary Restraining**
2 **Orders, Preliminary Mandatory Injunctions.** – No court, except the Supreme
3 Court, shall issue any temporary restraining order, preliminary injunction, or
4 preliminary mandatory injunction against the government, or any of its subdivisions,
5 officials, or any person or entity, whether public or private acting under the
6 government direction, to restrain, prohibit or compel the procurement, bidding or
7 awarding of contracts for Goods, Infrastructure Projects, and Consulting Services of
8 the government; commencement, execution, implementation, operation of any such
9 contract; termination or rescission of any such contract; and the undertaking or
10 authorization of any other lawful activity necessary for such contract.

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

19 **ARTICLE XVII**

20 **SETTLEMENT OF DISPUTES**

21 **Sec. 87. Dispute Resolution.** – Any and all disputes arising from the
22 implementation of a contract covered by this Act may be submitted to arbitration or
23 other forms of alternative dispute resolution in the Philippines according to the
24 provisions of Republic Act No. 9285, otherwise known as the Alternative Dispute
25 Resolution Act of 2004: *Provided, That,* disputes that are within the competence of
26 the Construction Industry Arbitration Commission to resolve shall be referred thereto.

27 **ARTICLE XVIII**

28 **CONTRACT PRICES AND WARRANTIES**

29 **Sec. 88. Contract Prices.** – For the given scope of work in the contract as
30 awarded, all bid prices shall be considered as fixed prices, and therefore not subject
31 to price escalation during contract implementation. In the event of an extraordinary
32 increase in prices of specific components of the Infrastructure Project, price escalation

1 may be considered, subject to prior approval of the GPPB. If the cost of construction
2 components increases by more than ten percent (10%) of the unit price of work items,
3 as determined against the prevailing price indices of the Philippine Statistics Authority
4 (PSA), a price escalation may be authorized at a no loss, no-gain basis, using the
5 appropriate formula prescribed by the GPPB. For the purpose of this section, the PSA
6 shall ensure that its price indices are region specific and updated on a monthly basis.

7 **Sec. 89. Warranty.** – (a) For the procurement of goods, in order to assure
8 that manufacturing defects shall be corrected by the supplier, manufacturer, or
9 distributor, as the case may be, for a specific time after performance of the contract,
10 a warranty shall be required from the contract awardee for such period of time as may
11 be provided in the IRR, the obligation for which shall be covered by either retention
12 money in the amount equivalent to a percentage of every progress payment, or a
13 special bank guarantee equivalent to a percentage of the total contract price, to be
14 provided in the IRR. The said amounts shall only be released after the lapse of the
15 warranty period: *Provided*, That, the goods supplied are free from defects and all the
16 conditions imposed under the contract have been fully met.

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

28 The contractor shall undertake the repair works, at its own expense, of any
29 defect or damage to the Infrastructure Projects on account of the use of materials of
30 inferior quality within ninety (90) days from the time the HoPE has issued an order to
31 undertake repair. In case of failure or refusal to comply with this mandate, the

1 government shall undertake such repair works and shall be entitled to full
2 reimbursement of expenses incurred therein upon demand.

3 Any contractor who fails to comply with the preceding paragraph shall suffer
4 perpetual disqualification from participating in any public bidding and its property or
5 properties shall be subject to attachment or garnishment proceedings to recover the
6 costs. All payables of government in its favor shall be offset to recover the costs.

7 **ARTICLE XIX**

8 **THE GOVERNMENT PROCUREMENT POLICY BOARD**

9 **Sec. 90. *Organization and Functions.*** – The GPPB shall be composed of
10 the: Secretary of the DBM as Chairperson, and the Secretary of the National Economic
11 and Development Authority (NEDA) as Alternate Chairperson, with the following as
12 members: the Secretaries of the Departments, Heads of Agencies, or their duly
13 authorized representatives: Finance, Public Works and Highways, Trade and Industry,
14 Interior and Local Government, PS-DBM, and a representative from the private sector
15 to be appointed by the President of the Republic of the Philippines upon the
16 recommendation of the GPPB.

17 The GPPB may call upon Secretaries/Heads of Agencies or their duly designated
18 representatives to assist them in policy determination.

19 The GPPB shall be supported by a TSO in the performance of its functions under
20 this Act. The TSO shall be headed by an Executive Director equivalent to the rank of
21 an Undersecretary and supported by Deputy Executive Directors equivalent to the rank
22 of an Assistant Secretary, of good moral character, honesty, probity, and
23 unquestionable integrity, to be appointed by the President of the Republic of the
24 Philippines, as recommended by the Chairperson of the GPPB. The GPPB shall
25 determine the organizational structure and staffing pattern of the TSO, subject to the
26 evaluation and approval of the DBM.

27 In addition to the powers granted under this Act, the GPPB shall absorb all the
28 powers, function and responsibilities of the Procurement Policy Board created under
29 E.O. No. 359, series of 1989. All affected functions of the Infrastructure Committee of
30 the NEDA Board are hereby transferred to the GPPB.

31 The GPPB may establish an Inter-agency Technical Working Group/s (IATWG/s)
32 to provide subject matter expertise to the GPPB in the formulation and review of

1 policies, rules, and regulations related to government procurement. The IATWG/s, in
2 particular, shall endorse policy recommendations for the GPPB'S consideration and
3 approval. The IATWG/s shall consist of representatives from the sectoral groups, such
4 as economic services, social services, agriculture, health, education, construction,
5 energy, environment, information and communications technology, research and
6 development, and others as determined by the GPPB, to guarantee that the
7 procurement policies are inclusive and promote good governance.

8 **ARTICLE XX**

9 **CRIMINAL AND CIVIL LIABILITY**

10 **Sec. 91. Prohibited Acts.** – (a) Without prejudice to the provisions of
11 Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act
12 and other penal laws, public officers who commit any of the following acts shall suffer
13 the penalty of imprisonment of not less than six (6) years and one (1) day, but not
14 more than fifteen (15) years:

- 15 i. Open any sealed bid including but not limited to bids that may have been
16 submitted through the electronic system and any and all documents
17 required to be sealed or divulging their contents, prior to the appointed
18 time for the public opening of bids or other documents.
- 19 ii. Delaying, without justifiable cause, the screening for eligibility, opening of
20 bids, evaluation and post evaluation of bids, and awarding of contracts
21 beyond the prescribed periods of action provided for in the IRR.
- 22 iii. Unduly influencing or exerting undue pressure on any member of the BAC
23 or any officer or employee of the procuring entity to take a particular action
24 which favors, or tends to favor a particular bidder.
- 25 iv. Splitting of contracts which exceed procedural purchase limits and
26 competitive bidding.
- 27 v. When the head of the agency abuses the exercise of his power to reject
28 any and all bids as mentioned under Section 68 of this Act with manifest
29 preference to any bidder who is closely related to him in accordance with
30 Section 80 of this Act.

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

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

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

- 7 i. When two or more bidders agree and submit different bids as if they were
8 *bona fide*, when they knew that one or more of them was so much higher
9 than the other that it could not be honestly accepted and that the contract
10 will surely be awarded to the pre-arranged lowest bid.
- 11 ii. When a bidder maliciously submits different bids through two or more
12 persons, corporations, partnerships or any other business entity in which
13 he has interest to create the appearance of competition that does not in
14 fact exist so as to be adjudged as the winning bidder.
- 15 iii. When two or more bidders enter into an agreement which call upon one to
16 refrain from bidding for procurement contracts, or which call for withdrawal
17 of bids already submitted, or which are otherwise intended to secure an
18 undue advantage to any one of them.
- 19 iv. When a bidder, by himself or in connivance with others, employs schemes
20 which tend to restrain the natural rivalry of the parties or operates to stifle
21 or suppress competition and thus produce a result disadvantageous to the
22 public.

23 In addition, the persons involved shall also suffer the penalty of temporary or
24 perpetual disqualification from public office and be permanently disqualified from
25 transacting business with the Government.

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

- 29 i. Submit eligibility requirements of whatever kind and nature that contain
30 false information or falsified documents calculated to influence the
31 outcome of the eligibility screening process or conceal such information in
32 the eligibility requirements when the information will lead to a declaration

1 of ineligibility from participating in public bidding.

- 2 ii. Submit bidding documents of whatever kind and nature that contain false
3 information or falsified documents or conceal such information in the
4 bidding documents, in order to influence the outcome of the public bidding.
- 5 iii. Participate in a public bidding using the name of another or allow another
6 to use one's name for the purpose of participating in a public bidding.
- 7 iv. Withdraw a bid, after it shall have qualified as the LCB/HRB/MEAB, or
8 refuse to accept an award, without just cause or for the purpose of forcing
9 the Procuring Entity to award the contract to another bidder. This shall
10 include the non-submission within the prescribed time, or delaying the
11 submission of requirements such as, but not limited to, performance
12 security, preparatory to the final award of the contract.
- 13 v. When the bidder is a juridical entity, criminal liability and the accessory
14 penalties shall be imposed on its directors, officers, or employees who
15 actually commit any of the foregoing acts.

16 **Sec. 92. Jurisdiction.** – Jurisdiction over the offenses defined under this
17 Article shall belong to the appropriate courts, according to laws existing at the time of
18 the commission of the offenses.

19 **Sec. 93. Preventive Suspension.** - The HoPE may preventively suspend any
20 member of the TWG or the Secretariat, or the BAC if there are strong reasons or *prima*
21 *facie* evidence showing that the officials or employees concerned are guilty of the
22 charges filed against them under Article XX of this Act or for dishonesty as defined by
23 the Civil Service Laws. In all cases, procedural and substantive due process as
24 mandated by the Constitution and Civil Service Laws, rules and regulations, shall be
25 strictly observed.

26 **Sec. 94. Lifting of Suspension and Removal of Administrative**
27 **Disabilities.** - Lifting of preventive suspension pending administrative investigation,
28 as well as removal of administrative investigation, as well as removal of administrative
29 penalties and disabilities shall be in accordance with the provisions of Sections 52 and
30 53, Chapter 7 (Civil Service Commission), Book V of E.O. No. 292 otherwise known as
31 the Administrative Code of 1987.

32 **Sec. 95. Civil Liability in Case of Conviction.** – Without prejudice to

1 administrative sanctions that may be imposed in proper cases, a conviction under this
2 Act or Republic Act No. 3019 shall carry with it civil liability, which may either consist
3 of restitution for the damage done or the forfeiture in favor of the government of any
4 unwarranted benefit derived from the act or acts in question or both, at the discretion
5 of the courts.

6 **Sec. 96. Liquidated Damages.** – All contracts executed in accordance with
7 this Act shall contain a provision on liquidated damages which shall be payable in case
8 of breach thereof. The amount thereof shall be specified in the IRR.

9 **ARTICLE XXI**

10 **SUSPENSION AND BLACKLISTING**

11 **Sec. 97. Imposition of Suspension.** – (a) In addition to the provisions of
12 Articles XX of this Act, the HoPE, subject to the authority delegated to the BAC, if any,
13 shall impose on bidders or prospective bidders, the administrative penalty of
14 suspension for one (1) year for the first offense, and suspension of two (2) years for
15 the second offense from participating in the public bidding process, for the following
16 violations:

- 17 (i) Submission of eligibility requirements containing false information or
18 falsified documents.
- 19 (ii) Submission of bids that contain false information or falsified documents, or
20 the concealment of such information in the bids in order to influence the
21 outcome of eligibility screening or any other stage of the public bidding.
- 22 (iii) Allowing the use of one's name, or using the name of another for purposes
23 of public bidding.
- 24 (iv) Withdrawal of a bid, or refusal to accept an award, or enter into contract
25 with the government without justifiable cause, after he had been adjudged
26 as having submitted the LCRB, HRRB, or MEARB.
- 27 (v) Refusal or failure to post the required performance security within the
28 prescribed time.
- 29 (vi) Termination of the contract due to the default of the bidder.

30 Refusal to clarify or validate in writing its bid during post-qualification within a
31 period of seven (7) calendar days from receipt of the request for clarification.

32 Any documented unsolicited attempt by a bidder to unduly influence the

1 outcome of the bidding in his favor.

2 All other acts that tend to defeat the purpose of the competitive bidding.

3 (b) In addition to the penalty of suspension, the bid security or the performance
4 security posted by the concerned bidder or prospective bidder shall also be forfeited.

5 (c) The HoPE may delegate to the BAC the authority to impose the
6 aforementioned administrative penalties.

7 **Sec. 98. Imposition of Blacklisting.** – Without prejudice to any criminal or
8 civil liabilities under applicable laws, the HoPE may impose on bidders or prospective
9 bidders the penalty of blacklisting at any stage of the integrated procurement process.
10 Blacklisting perpetually prohibits them from participating in all government
11 procurement activities, unless otherwise lifted based on reasonable and justifiable
12 grounds.

13 Blacklisting shall be imposed against any of the bidders based on any of the
14 following grounds:

15 (a) Committing any of the acts provided under Section 97 of this Act three
16 times or more;

17 (b) Submitting eligibility requirements and bids containing false information or
18 falsified documents or the concealment of such information will materially
19 alter the outcome of eligibility screening or any stage of the competitive
20 bidding;

21 (c) Submission of beneficial ownership information containing false entries;

22 (d) Unauthorized accessing of the contents of any bid submitted to the
23 Procuring Entity before the opening of bids;

24 (e) Using force, fraudulent machinations, coercion, undue influence or
25 pressure on any member of the BAC or any officer or employee of the
26 Procuring Entity to take a particular action for its own favor or gain, or to
27 the disadvantage of a particular bidder;

28 (f) Agreeing with two or more bidders and submitting different bids as if they
29 were *bona fide*, when they knew that one or more of them was so much
30 higher than the other that it could not be honestly accepted and that the
31 contract will surely be awarded to the pre-arranged lowest bid;

- 1 (g) Maliciously submitting different bids through two or more persons,
2 corporations, partnerships or any other business entity in which it has
3 interest to create the appearance of competition that does not in fact exist
4 so as to be declared as the winning bidder;
- 5 (h) Entering into an agreement with other bidder/s which call upon one to
6 refrain from bidding for procurement contracts, or which call for withdrawal
7 of bids already submitted, or which are otherwise intended to secure an
8 undue advantage to any of the bidders;
- 9 (i) Employing schemes which stifle or suppress competitive bidding;
- 10 (j) Failing to faithfully disclose its relationship, regardless of the time of its
11 discovery, with any of the members of the BAC, Secretariat, TWG, or HoPE
12 in accordance with Section 80 of this Act on disclosure of relations;
- 13 (k) Assigning or subcontracting of the contract or any part thereof or
14 substitution of key personnel named in the proposal without prior written
15 approval by the Procuring Entity;
- 16 (l) Willful or deliberate abandonment or non-performance of the project or
17 contract by the winning bidder resulting to substantial breach thereof
18 without lawful and/or just cause;
- 19 (m) In case it is determined *prima facie* that the winning bidder has engaged,
20 before or during implementation of the contract, in the following unlawful
21 deeds and behaviors relative to contract acquisition and implementation:
22 i. Corrupt, fraudulent, collusive and coercive practices;
23 ii. Drawing up or using forged documents;
24 iii. Using adulterated materials, means or methods, or engaging in
25 production contrary to rules of science or the trade; and
26 iv. Any other act analogous to the foregoing;
- 27 (n) Unsatisfactory performance record of contract obligation with three (3) or
28 more Procuring Entities in terms of quality of goods or materials, and/or
29 implementation of contract of service and work progress: *Provided, That,*
30 all of the foregoing unsatisfactory performance record be solely due to the
31 fault of the bidder.

1 **Sec. 99. Status of Blacklisted Person.** – Before the issuance of a
2 blacklisting order, the erring bidder may participate in the procurement of any
3 government project except in the Procuring Entities where it is suspended: *Provided,*
4 That, if the blacklisting order is issued prior to the date of the Notice of Award, the
5 blacklisted person shall not be qualified for award and such contract shall be awarded
6 to another bidder.

7 The issuance of a blacklisting order shall not prejudice any contract awarded
8 prior thereto: *Provided,* That, the offenses which brought about the blacklisting are
9 not connected to the awarded contract.

10 **Sec. 100. Initiation of Action.** – The BAC or the HoPE may, *motu proprio,*
11 commence the proceedings upon *prima facie* determination that a bidder or
12 prospective bidder has committed any of the grounds provided for in Sections 97 and
13 98 of this Act. Any bidder/prospective bidder may initiate the suspension or blacklisting
14 proceedings.

15 At the option of the Procuring Entities, a reasonable fee may be required for
16 initiating the suspension and blacklisting proceedings.

17 **Sec. 101. Extent of Administrative Sanctions.** – The penalties of
18 suspension and blacklisting shall be applied against (a) any entity to which the
19 suspended or blacklisted person has a controlling interest; and (b) against any
20 beneficial owner of the suspended or blacklisted person.

21 **ARTICLE XXII**

22 **LEGAL ASSISTANCE AND INDEMNIFICATION PACKAGE FOR BAC**
23 **MEMBERS AND SUPPORT STAFF**

24 **Sec. 102. Private Legal Assistance.** – All members of the BAC, TWG, and
25 Secretariat, are hereby authorized to engage the services of private lawyers or
26 external counsel immediately upon receipt of court notice that a civil or criminal action,
27 suit or proceeding is filed against them in connection with the performance of their
28 functions and duties. The lawyer's fee shall be part of the indemnification package for
29 the members of the BAC, TWG, and Secretariat, subject to the provisions of Section
30 103 hereof.

31 **Sec. 103. Indemnification Package.** – The GPPB shall establish an
32 equitable indemnification package for public officials providing services in the BAC,

1 TWG, and Secretariat, which may be in the form of free legal assistance, liability
2 insurance, and other forms of protection and indemnification for all costs and expenses
3 reasonably incurred by such persons in connection with any civil or criminal action,
4 suit or proceeding to which they may be, or have been made, a party by reason of
5 the performance of their functions or duties, unless they are finally adjudged in such
6 action or proceeding to be liable for gross negligence or misconduct or grave abuse
7 of discretion.

8 In the event of a settlement or compromise, indemnification shall be confined
9 only on matters covered by the settlement, *Provided, That*, the public officials to be
10 indemnified have not committed gross negligence or misconduct in the performance
11 of their functions and duties.

12 The members of the BAC, TWG, and Secretariat shall also be entitled to medical
13 assistance for injuries incurred in the performance of their functions.

14 **ARTICLE XXIII**

15 **FINAL PROVISIONS**

16 **Sec. 104. Appropriations.** – The amount necessary for the initial
17 implementation of this Act shall be charged against the current year's available
18 appropriations. Thereafter, such sums as may be necessary for the implementation of
19 this Act shall be included in the annual General Appropriations Act.

20 **Sec. 105. Whole-of-Government Approach.** - In order to effectively
21 achieve the objectives of this Act and to scale up professionalization of government
22 procurement practitioners, the GPPB shall provide sustained training, capacity-
23 building, and support to stakeholders in the government procurement process in areas
24 such as modes of procurement, streamlined processes, and digitalization.

25 Pursuant thereto, all branches and instrumentalities of the government, its
26 departments, offices and agencies, including SUCs, GOCCS, GFIs, and LGUs shall
27 allocate a portion of their capacity development funds to send their BAC members,
28 BAC Secretariats, and TWGs of Procuring Entities to training.

29 The GPPB may establish partnerships with SUCs or other educational
30 institutions in providing training programs. It shall establish standards for accreditation
31 of said institutions

1 The Procuring Entity, through the HoPE, shall submit periodic progress reports
2 to the GPPB on the status of its capacity development. Reportorial requirements
3 prescribed under this Act shall take into consideration reports required under other
4 laws related to procurement, with the view to harmonizing and achieving efficiencies
5 in the preparation of these reports.

6 **Sec. 106. Oversight Committee.** – There is hereby created a Joint
7 Congressional Oversight Committee to oversee the implementation of this Act for a
8 period not exceeding five (5) years from the effectivity of this Act. The Committee
9 shall be composed of the Chairperson of the Senate Committee on Finance,
10 Chairperson of the Senate Committee on Constitutional Amendments and Revision of
11 Laws, and two (2) members thereof appointed by the Senate President, and the
12 Chairperson of the House Committee on Appropriations, the Chairperson of the House
13 Committee on Revision of Laws and two (2) members thereof to be appointed by the
14 Speaker of the House of Representatives. It shall submit its report and
15 recommendation to the Senate President and the Speaker of the House of
16 Representatives within five (5) years from its organization.

17 **Sec. 107. Mandatory Review.** – The Congress shall conduct a mandatory
18 review of this Act at least once every five (5) years and as often as it may deem
19 necessary.

20 **Sec. 108. Implementing Rules and Regulations and Standard Forms.**
21 – Within one hundred eighty (180) days from the promulgation of this Act, the
22 necessary rules and regulations for the proper implementation of its provisions shall
23 be formulated by the GPPB for a period not later than ninety (90) days upon the
24 approval of the IRR, the standard forms for procurement shall be formulated and
25 approved.

26 **Sec. 109. Transitory Provision.** – Prior to the effectivity of the IRR of this
27 Act, the provisions of Republic Act no. 9184 and its IRR shall remain in force and effect
28 in order to ensure the continued implementation of programs, activities, and projects.

29 The GPPB and all HoPE, Procuring Entities and the BACs, affected by this Act
30 shall be given three-year (3) transitory period from the effectivity of the IRR, to fully
31 comply with the requirements of this Act.

32 **Sec. 110. Reportorial Requirements.** – The GPPB shall, upon approval of

1 the IRR and the standard procurement forms, effect the publication of the same, in
2 accordance with existing laws, rules, and regulations. Upon approval, the same shall
3 also be posted on the website of the GPPB.

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

7 **Sec. 111. *Repealing Clause.*** – Republic Act No. 9184 otherwise known as
8 the Government Procurement Reform Act and Commonwealth Act No. 138 are hereby
9 repealed. All other laws, acts, presidential decrees, executive orders, presidential
10 proclamations, issuances, rules and regulations, or parts thereof which are contrary
11 to or inconsistent with any of the provisions of this Act are hereby repealed, amended,
12 or modified accordingly.

13 **Sec. 112. *Separability Clause.*** – If any portion or provision of this Act is
14 subsequently declared invalid or unconstitutional, other provisions hereof which are
15 not affected thereby shall remain in full force and effect.

16 **Sec. 113. *Effectivity.*** – This Act shall take effect fifteen (15) days following
17 its publication in the Official Gazette or in two (2) newspapers of general circulation.

18
19 *Approved,*