



HOUSE OF REPRESENTATIVES

H. No. 9648

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**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'**

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. Short Title. – This Act shall be known as the “New Government Procurement Reform Act.”

SEC. 2. Declaration of Policy. – It is the declared policy of the State to promote the ideals of good governance in all its branches, departments, bureaus, offices, subdivisions, instrumentalities, and agencies of the national government, including state universities and colleges (SUCs), government-owned and/or -controlled corporations (GOCCs), government financial institutions (GFIs), constitutional offices, and local government units (LGUs) with a view to transparency, competitiveness, efficiency, proportionality, accountability, public monitoring, procurement professionalization, and sustainability in government procurement. Towards this end, the Philippine procurement shall be governed by the following principles:

1 (a) Transparency in the procurement process and implementation of procurement
2 contracts to ensure disclosure of, and open access to, procurement process and
3 information consistent with open contracting practice;

4 (b) Competitiveness by extending equal opportunity to enable contracting parties
5 that are eligible and qualified to participate in public bidding;

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

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

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

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

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

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

33 **SEC. 3. Scope and Application.** – This Act shall apply to the procurement of
34 infrastructure projects, goods, and consulting services, regardless of source of funds,
35 whether local or foreign, by all branches, departments, bureaus, offices, subdivisions,
36 instrumentalities, and agencies of the national government including SUCs, GOCCs,
37 GFIs, constitutional offices, and LGUs: *Provided*, That foreign funded projects under
38 a treaty or international or executive agreement that expressly provides for different
39 procurement rules or procedures other than the provisions of this Act shall be
40 observed.

41 **SEC. 4. Definition of Terms.** – For purposes of this Act:

42 (a) *Approved Budget for the Contract (ABC)* refers to the budget for the contract duly
43 approved by the head of the procuring entity, as provided for in the General
44 Appropriations Act or other authorized funding, in the case of National Government
45 Agencies (NGAs); the corporate budget for the contract approved by the governing
46 boards, pursuant to Executive Order (EO) No. 518, series of 1979, entitled
47 "Establishing a Procedure for The Preparation and Approval of the Operating

1 Budgets of Government Owned or Controlled Corporations”, in the case of GOCCs,
2 GFIs and SUCs; and the budget for the contract approved by the respective
3 Sanggunian, in the case of LGUs. For multi-year contracts, for which a multi-year
4 contractual authority (MYCA) or an equivalent document is required, the project cost
5 reflected in the MYCA or equivalent document shall be the basis or reference for the
6 ABC;

7 (b) *Beneficial owner* refers to a natural person who:

8 (1) ultimately owns or dominantly influences the management or policies of the
9 juridical entity; or

10 (2) exercises ultimate effective control over the juridical entity;

11 (c) *Bid* refers to a signed offer or proposal submitted either in paper or electronic
12 form, by a supplier, manufacturer, distributor, contractor or consultant in response to
13 the bidding documents;

14 (d) *Bidder* refers to a contractor, manufacturer, supplier, distributor, and/or consultant
15 who submits a bid in response to the requirements of the bidding documents or
16 participates in the disposal of equipment or property;

17 (e) *Bidding Documents* refer to documents, either in paper or electronic form, issued
18 by the procuring entity as the basis for bids, furnishing all information necessary for a
19 prospective bidder to prepare a responsive bid for the goods, infrastructure projects,
20 and consulting services to be provided;

21 (f) *Blacklisting* refers to an administrative penalty imposed by the BAC or head of
22 procuring entity which prohibits a person or an entity including its affiliates from
23 participating in all government procurement activities;

24 (g) *Common-use Supplies and Equipment (CSE)* refer to goods, materials, and
25 equipment that are used in the day-to-day operations of agencies in the performance
26 of their functions. CSE shall be those included in the electronic catalogue of the
27 Philippine Government Electronic Procurement System;

28 (h) *Competitive bidding* refers to a method of procurement which is open to
29 participation by any interested party and which consists of the following processes:
30 advertisement, pre-bid conference, eligibility screening of prospective bidders,
31 receipt and opening of bids, evaluation of bids, post-qualification, and award of
32 contract, the specific requirements and mechanics of which shall be defined in the
33 implementing rules and regulations be promulgated under this Act;

34 (i) *Consulting services* refer to services for infrastructure projects and other types of
35 projects or activities of the government requiring adequate external, technical and
36 professional expertise that are beyond the capability and/or capacity of the
37 government to undertake such as, but not limited to: (i) advisory and review services;
38 (ii) pre-investment or feasibility studies; (iii) design; (iv) construction supervision; (v)
39 management and related services; and (vi) other technical services or special
40 studies;

41 (j) *Cooperatives* refer to any association duly registered with the Cooperative
42 Development Authority (CDA) and defined as such by Republic Act No. 6938,

- 1 otherwise known as the Cooperative Code of the Philippines, as amended;
- 2 (k) *End-user or Implementing Unit* refers to the employee or organic office within the
3 organization of the procuring entity that identifies, prepares, and designs the
4 procurement project based on the requirements or needs of the agency in
5 accordance with its mandate;
- 6 (l) *Goods* refer to all items, supplies, materials and general support services, except
7 consulting services and infrastructure projects, which may be needed in the
8 transaction of public businesses or in the pursuit of any government undertaking,
9 project or activity, whether in the nature of equipment, furniture, stationery, materials
10 for construction, or personal property of any kind, including non-personal or
11 contractual services such as the repair and maintenance of equipment and furniture,
12 as well as trucking, hauling, janitorial, security, and related or analogous services, as
13 well as procurement of materials and supplies provided by the procuring entity for
14 such services;
- 15 (m) *Head of the Procuring Entity (HoPE)* refers to: (i) the head of the agency or the
16 duly authorized official, for national government agencies; (ii) the governing board or
17 its duly authorized official, for government-owned and/or -controlled corporations; or
18 (iii) the local chief executive, for local government units: *Provided*, That in a
19 department, office or agency where the procurement or disposal is decentralized, the
20 head of each decentralized unit shall be considered as the HoPE subject to the
21 limitations and authority delegated by the head of the department, office or agency;
- 22 (n) *Infrastructure Projects* include the construction, improvement, rehabilitation,
23 demolition, repair, restoration, or maintenance of roads and bridges, railways,
24 airports, seaports, communication facilities, civil works components of information
25 technology projects, irrigation, flood control and drainage, water supply, sanitation,
26 sewerage and solid waste management systems, shore protection, shipbuilding and
27 ship repair, energy or power and electrification facilities, national buildings, school
28 buildings, hospital buildings, and other related construction projects of the
29 government;
- 30 (o) *Jury duty* refers to a responsibility to which the members give utmost priority to
31 BAC assignment over all the other duties and responsibilities until the requirements
32 for the said assignments at hand are completed;
- 33 (p) *Life-cycle cost* refers to the total cost of ownership over the entire life span of an
34 asset from its acquisition, operation, maintenance and disposal;
- 35 (q) *Micro, Small and Medium Enterprise (MSME)* refers to any business or enterprise
36 defined and found eligible as such under Republic Act No. 6977, otherwise known as
37 the Magna Carta for Small Enterprises, as amended;
- 38 (r) *Multi-year Contractual Authority (MYCA)* refers to the authorization for multi-year
39 projects or those that will take more than one year to complete and will require multi-
40 year appropriations;
- 41 (s) *Multi-year Project (MYP)* refers to the projects, activities or programs that take
42 more than one year to complete;

1 (t) *National Security* refers to the requirements and conditions necessary to ensure
2 the territorial integrity of the country and the safety, security, and well-being of
3 Filipino citizens;

4 (u) *Open contracting* refers to a system which enables disclosure of data and
5 documents as well as facilitates publication and analysis of information related to all
6 stages of an integrated procurement process;

7 (v) *Persons with Disabilities (PWD)* refer to any person described as such under
8 Republic Act No. 7277, otherwise known as the Magna Carta for Disabled Persons,
9 as amended;

10 (w) *Procurement* refers to the acquisition of goods, consulting services, and the
11 contracting for infrastructure projects by the procuring entity. Procurement shall also
12 include the lease of goods and real estate. With respect to real property, its
13 procurement shall be governed by the provisions of Republic Act No. 10752, entitled
14 "*An Act to Facilitate the Acquisition of Right-of-Way Site or Location of National*
15 *Government Infrastructure Projects and for Other Purposes,*" and other applicable
16 laws, rules and regulations;

17 (x) *Procuring entity (PE)* refers to any department, bureau, office and agency of the
18 national government including state university and college, government-owned
19 and/or -controlled corporation, government financial institution and local government
20 unit procuring goods, consulting services and infrastructure projects; and

21 (y) *Suspension* refers to an administrative penalty imposed by the BAC or HoPE for
22 infractions committed by a bidder during the procurement stage, whereby such
23 bidder is prohibited from further participation in all procurement activities of the
24 agency.

25 **SEC. 5. *Standardization of Procurement Process and Forms.*** – To systematize
26 the procurement process, avoid confusion and ensure transparency, the procurement
27 process, including the forms to be used, shall be standardized insofar as practicable.

28 For this purpose, the GPPB shall pursue the development of standard procurement
29 manuals and standard bidding forms, the use of which, once issued, shall be
30 mandatory upon all procuring entities.

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ARTICLE II

33

ELECTRONIC PROCUREMENT SYSTEM

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35 **SEC. 6. *Adoption of an Electronic Procurement System.*** – To promote greater
36 transparency, accountability, operational efficiency, and value for money, the
37 Philippine Government Electronic Procurement System (PhilGEPS) shall be the
38 single electronic portal that shall serve as the primary channel and source of
39 information in the conduct of all procurement activities by the government for the
40 acquisition of goods, infrastructure projects and consulting services. PhilGEPS shall
41 maintain an integrated system that covers procurement planning until payment.

1 To take advantage of the significant built-in efficiencies of the PhilGEPS and the
2 volume discounts inherent in bulk purchasing, through the centralized procurement
3 undertaken by the Procurement Service-Department of Budget and Management
4 (PS-DBM), all procuring entities shall utilize the PhilGEPS virtual store for the
5 procurement of CSEs including its additional innovative features and solutions in
6 accordance with the rules and procedures issued by the Government Procurement
7 Policy Board (GPPB) established under Article XIII of this Act.

8 **SEC. 7. PhilGEPS Features.** – To standardize and ease the process of government
9 procurement and to take advantage of the significant built-in efficiencies of the
10 PhilGEPS, the system shall include the following features, subject to the approval of
11 the GPPB:

12 (a) **Electronic Bulletin Board:** The PhilGEPS shall have a centralized electronic
13 bulletin board for posting procurement opportunities, notices, awards and reasons for
14 award. All procuring entities are required to post all procurement opportunities,
15 results of bidding and related information in the PhilGEPS bulletin board;

16 (b) **Registry of Manufacturers, Suppliers, Distributors, Contractors and Consultants:**
17 The PhilGEPS shall have a centralized electronic database of all manufacturers,
18 suppliers, distributors, contractors and consultants registered under the system;

19 (c) **The Electronic Catalogue:** The PhilGEPS shall have a centralized electronic
20 catalogue of common use goods, supplies, materials and equipment;

21 (d) **Virtual Store:** The PhilGEPS shall have a feature that will enable the ordering of
22 common-use items online called a virtual store. The virtual store shall be open only
23 to registered procuring entities and may not be accessed by suppliers;

24 (e) **Electronic Marketplace:** An electronic online platform which allows procuring
25 entities to search, view, compare, select and procure common use and non-common
26 use supplies and equipment from legally, technically and financially capable
27 suppliers. For non-common use goods, the electronic marketplace allows suppliers
28 to present their goods and inventory on consignment basis, from which procuring
29 entities may choose either the lowest complying bid or the most economically
30 advantageous bid based on their needs and requirements;

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32 (f) **Electronic Reverse Auction:** An online auction where a procuring entity issues an
33 invitation to suppliers to submit bids on a specific date and time duration, relative to
34 specific goods and services, based on defined specifications for design, quantity,
35 quality, delivery, and related terms and conditions, and compete by outbidding each
36 other through lower offers or amounts they are willing to accept. At the close of the
37 reverse auction duration, to be defined by the procuring entity, the procurement
38 contract shall be awarded to the last complying bid;

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40 (g) **Electronic Small Value Procurement:** An electronic facility that allows procuring
41 entities to resort to shopping or small value procurement, in accordance with
42 Article VIII of this Act;

1 (h) Electronic or Digital Payment: The PhilGEPS shall support an inclusive digital
2 payment system, offering various methods using electronic channels such as stored
3 money credits in an electronic wallet and direct electronic payment, and the use of
4 credit card for government purchases of CSEs or payments of the bidder for bidding
5 documents, bid securities;

6 (i) Electronic Bidding: The PhilGEPS shall have an electronic bidding facility that will
7 allow the submission of annual procurement plan, conduct of pre-bid conference,
8 submission, receipt, and opening of bids electronically; and

9 (j) Procurement Process: The PhilGEPS shall have an electronic procurement
10 system that covers the entire procurement process from procurement planning,
11 posting of bid opportunities and bidding documents, pre-bid conference, receipt and
12 opening of bids, evaluation of bids, post qualification, recommendation and award of
13 contract, contract management and implementation including contract terminations,
14 and payment which shall be applicable to goods, infrastructure and consulting
15 services.

16 All procuring entities shall register with the PhilGEPS and shall undertake measures
17 to ensure their access to an on-line network to facilitate the open, speedy and
18 efficient on-line transmission, conveyance and use of electronic data messages or
19 electronic documents.

20 Procuring entities with established electronic procurement systems shall provide for
21 the seamless interface of systems with the PhilGEPS to ensure efficient sharing of
22 procurement information.

23 **SEC. 8. Adoption of Emerging Technologies and Innovative Solutions.** – The
24 PhilGEPS shall continuously adopt emerging technologies and innovative solutions
25 which shall have the minimum features of real-time updates, traceability of all
26 transactions, accessibility to a large pool of users at any given time and large
27 capacity of storage data. Such system shall be dynamic, robust and agile.

28 **SEC. 9. Systems Integration between Government Agencies.** – Notwithstanding
29 the provisions of Republic Act No. 10173, otherwise known as the “Data Privacy Act”,
30 the GPPB is hereby authorized to promulgate rules to ensure the interconnectivity of
31 the following government databases:

32 (a) Department of Trade and Industry (DTI) on its database relating to business
33 registration, list of all ongoing projects in public and private sector; and records of
34 priority domestic goods;

35 (b) Construction Industry Authority of the Philippines (CIAP) on the contractor's
36 performance evaluation system (CPES) and the Philippine Contractors' Association
37 Board (PCAB) on the licensing of contractors;

38 (c) All LGUs on their issuance of permits and licenses;

39 (d) Bureau of Internal Revenue (BIR) on tax returns and clearance;

40 (e) Securities and Exchange Commission (SEC) and CDA on the mandatory
41 submission of all registered enterprises and beneficial ownership information;

1 (f) Procuring entities with established electronic procurement system and website on
2 the status of projects, contracts and performance of its respective winning bidders;
3 and

4 (g) Other relevant government agencies as may be determined by the GPPB;

5 *Provided, That, the GPPB shall coordinate with the Department of Information and*
6 *Communications Technology (DICT), DTI, CIAP, LGUs, BIR, and SEC to ensure the*
7 *implementation of this section: *Provided, however, That at all times, the sharing of**
8 *information between and among the above government agencies and*
9 *instrumentalities shall protect trade secrets and promote competition.*

10 **SEC. 10. Procurement Data Analytics.** – The GPPB, through its Technical Service
11 Office, shall analyze data obtained from the PhilGEPS and submitted procurement
12 reports to ensure disclosure of information related to procurement process as well as
13 to facilitate the publication of the same for the purpose of:

14 (a) Assisting procuring entities in the strategic planning of their procurement
15 projects;

16 (b) Formulating and implementing data-driven effective procurement policies
17 and rules pursuant to the State policy under Section 2 of this Act;

18 (c) Identifying and detecting patterns that could help deter or mitigate fraud and
19 non-competitive practices in order to enhance the integrity and efficiency of the
20 procurement process; and

21 (d) Facilitating public awareness, active participation and monitoring of the
22 government procurement process.

23 **SEC. 11. Electronic Payment.** – The DBM and the Bureau of Treasury (BTr) shall
24 devise an electronic and uniform payment system to be used by the procuring entity
25 and suppliers, manufacturers, distributors, contractors or consultants.

26 **SEC. 12. Security, Integrity and Confidentiality.** – The PhilGEPS shall ensure the
27 security, integrity, and confidentiality of documents submitted through the system. It
28 shall include features that provide for an audit trail for all electronic transactions and
29 allow the Commission on Audit (COA) to verify the security and integrity of the
30 systems at any time.

31 **SEC. 13. Maintenance, Update, and Back Up.** – The PhilGEPS, in coordination
32 with the DICT, shall undertake periodic maintenance of all its systems to ensure that
33 these are running smoothly. The PhilGEPS shall periodically upgrade the electronic
34 bidding system that facilitates the submission of bids, quotation, documents and
35 payment to the BAC through an electronic device.

36 The PhilGEPS shall formulate a disaster recovery plan/business continuity plan that
37 shall include features such as, but not limited to, establishing backup sites, and
38 scheduling regular backup of all information to maintain integrity of the system and
39 minimize risks of the halt in operations in case of interruptions.

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ARTICLE III

BIDS AND AWARDS COMMITTEE (BAC)

SEC. 14. *Bids and Awards Committee and its Composition.* – Each procuring entity shall establish one or several bids and awards committees (BACs) as warranted by the volume and complexity of the procurement projects and to ensure the efficient and effective conduct of its procurement, as determined by the HoPE. Each BAC shall have at least five (5) members, but not more than seven (7) members. It shall be chaired by at least a third ranking permanent official of the procuring entity or in the absence thereof, a permanent official of the next lower rank other than the duly authorized representative of the HoPE. The members of the BAC shall be designated by the HoPE. However, in no case shall the HoPE or the approving authority be a member of the BAC. Unless sooner removed for a cause, the members of the BAC shall have a fixed term of one (1) year reckoned from the date of designation, renewable at the discretion of the HoPE. In case of resignation, retirement, separation, transfer, reassignment, or removal, the replacement shall serve only for the unexpired term: *Provided*, That in case of leave or suspension, the replacement shall serve only for the duration of the leave or suspension. For justifiable causes, a member shall be suspended or removed by the HoPE.

SEC. 15. *Functions of the BAC.* – The BAC shall have the following functions: advertise and/or post the invitation to bid, conduct pre-procurement and pre-bid conferences, determine the eligibility of prospective bidders, receive bids, conduct the evaluation of bids, undertake post-qualification proceedings, recommend award of contracts to the HoPE or the duly authorized representative: *Provided*, That in the event the HoPE shall disapprove such recommendation, such disapproval shall be based only on valid, reasonable and justifiable grounds to be expressed in writing, copy furnished the BAC; recommend the imposition of sanctions in accordance with Article XVI of this Act and perform such other related functions as may be necessary, including the creation of a technical working group (TWG) from a pool of technical, financial and/or legal experts to assist in the procurement process.

In proper cases, the BAC shall also recommend to the HoPE the use of any of the modes of procurement as provided for in Article VIII hereof.

The BAC shall prepare a procurement monitoring report that shall be approved and submitted by the HoPE to the GPPB on a semestral basis.

SEC. 16. *Observers.* – To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the COA, at least two (2) observers to sit in its proceedings, one (1) from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and the other from a civil society organization (CSO) or people's organization (PO), as the case may be: *Provided, however*, That they do not have any direct or indirect interest in the contract to be bid out. The observers shall be duly registered with the SEC and shall meet the criteria for observers as set forth in the IRR of this Act. The private group or CSO or POs shall be duly registered with the SEC or the CDA, as the case may be, and the observers therefrom shall meet the following

1 qualifications: (1) Knowledge, experience or expertise in procurement or in the
2 subject matter of the contract bid; (2) Absence of actual or potential conflict of
3 interest in the contract to be bid out; and (3) Any other relevant criteria that may be
4 determined by the GPPB under the IRR: *Provided*, That an observer must be a
5 member in good standing of the sector, discipline or CSO he or she represents as
6 duly certified by the head of the sector, discipline or organization to which he or she
7 belongs. Each observer shall make a separate report, either in paper or electronic
8 form, on the conduct of the public bidding, its procedures, conditions and problems, if
9 any, which shall be submitted to the HoPE, PhilGEPS and COA. The GPPB shall
10 maintain a registry or roster of qualified observers for the benefit of the procuring
11 entities and shall have the authority to determine additional qualifications of the
12 observers.

13 **SEC. 17. Procurement Support for the BAC.** – There shall be a procurement unit,
14 division, or office in each procuring entity which shall serve as secretariat to the BAC
15 and perform other procurement-related functions. The creation of the procurement
16 unit, division, bureau, or office shall be subject to the standards and guidelines
17 prescribed by the DBM.

18 **SEC. 18. Honoraria.** – The procuring entity shall grant payment of *honoraria* to all
19 members of the BAC, regardless of position, TWG, and Ad Hoc Secretariat in an
20 amount not to exceed thirty percent (30%) of their respective basic monthly salaries,
21 subject to the availability of funds. The DBM shall promulgate the necessary
22 guidelines for this purpose and shall conduct a yearly review of the rates of *honoraria*
23 for authorized BAC procurement-related activities.

24 **SEC. 19. Private Legal Assistance.** – All the 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
27 action, suit or proceeding is filed against them. The lawyer's fee shall be part of the
28 indemnification package for the BAC members, TWG members, and secretariat
29 support staff, subject to the provisions of the succeeding section hereof.

30 **SEC. 20. Indemnification of BAC Members.** – The GPPB shall establish an
31 equitable indemnification package for public officials providing services to the BAC,
32 TWG and Secretariat. The package may be in the form of free legal assistance,
33 liability insurance, and other forms of protection and indemnification for reasonable
34 fees. This is to cover the cost and expenses in connection with any administrative,
35 civil or criminal action, to which the BAC, TWG and Secretariat may be, or have been
36 made, a party, by reason of the lawful performance of their official functions and
37 duties unless such BAC member and its support staff has been finally held liable or
38 guilty of the complaints or charges. The members of the BAC, the TWG and the
39 Secretariat shall also be entitled to medical assistance for injuries incurred in the
40 performance of their functions.

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ARTICLE IV

PROCUREMENT PROCESS

A. STRATEGIC PLANNING

5 **SEC. 21. *Procurement Planning.*** – No government procurement shall be
6 undertaken unless it is in accordance with the approved Annual Procurement Plan
7 (APP) or Indicative APP of the procuring entity, as the case may be. The APP shall
8 be approved by the HoPE and must be consistent with its duly approved yearly
9 budget or proposed budget in the case of the Indicative APP. The APP shall be
10 formulated and revised only in accordance with the guidelines set forth in the IRR.

11 All procurement shall be within the approved budget of the procuring entity and shall
12 be meticulously and judiciously planned by the procuring entity consistent with
13 government fiscal discipline measures. This includes the conduct of a relevant
14 market scoping, supply positioning, analysis of available procurement modalities, and
15 risk management.

16 Procuring entities shall likewise adopt a procurement strategy that shall help ensure
17 fit-for-purpose and proportional procurement approaches, and with due consideration
18 to the whole life cycle of a procurement project in order to achieve value for money.
19 During the planning stage, the procuring entity shall ensure that the project has
20 minimal economic, social, and environmental risks or negative impact during its life
21 cycle, and that the goods and services are procured alongside responsible
22 consumption and production practices in accordance with national policy. Towards
23 this end, procuring entities may consider disposal requirements in the project design
24 or incorporate the same in the procurement projects. Disposal may include take-
25 back, recycling, repurchase, destruction and such other instances as may be
26 determined by the GPPB.

27 **SEC. 22. *Detailed Engineering for the Procurement of Infrastructure Projects.*** –
28 With the exception of an infrastructure project under a design-and-build scheme, no
29 bidding and award of contract for infrastructure projects shall be made unless the
30 detailed engineering investigations, surveys and designs, including the acquisition of
31 the right-of-way (ROW), for the project have been sufficiently carried out and duly
32 approved in accordance with the standards and specifications prescribed by the
33 HoPE concerned or the duly authorized representative.

34 **SEC. 23. *Multi-year Contracting.*** – National government agencies, local
35 government units, constitutional offices, and state universities and colleges,
36 implementing multi-year programs, projects, or activities shall request the DBM for
37 the issuance of a MYCA prior to entering into contracts covering the full contract cost
38 for the procurement of multi-year projects, whether locally-funded projects (LFPs) or
39 foreign-funded projects (FFPs). In the case of government-owned and/or -controlled
40 corporations, they shall secure prior authority from their respective governing boards
41 before entering into contracts for multi-year projects and proceeding with their
42 procurement: *Provided,* That the total project cost reflected in the MYCA or its
43 equivalent document shall be the basis or reference for the ABC of the procurement
44 contract.

1 **SEC. 24. Estimate of the Total Monetary Value of a Procurement.** – To further
2 support strategic procurement management and ensure smart and prudent use of
3 government resources, procuring entities shall apply life-cycle assessment (LCA)
4 and life-cycle cost analysis (LCCA) in project planning, eligibility and selection
5 criteria, or contract implementation, as may be applicable.

6 The GPPB shall issue the guidelines on the use of LCA and LCCA in the proper
7 planning, determination of eligibility, bid evaluation and selection criteria, and
8 implementation of procurement projects.

9 The LCA is applied to evaluate the environmental impact of a procurement project
10 over its whole life cycle, while LCCA is used to calculate the total cost of ownership,
11 acquisition, operation, maintenance, and disposal of a procurement project. Both
12 tools are utilized to determine the most economically and environmentally
13 sustainable approach or strategy in the procurement, management, implementation
14 and disposal of a procurement project.

15 **SEC. 25. Early Procurement Activities.** – In order to ensure the timely
16 implementation of projects, procuring entities are authorized to undertake early
17 procurement activities even pending approval of the funding thereof.

18 The conduct of early procurement activities shall be made only upon approval of the
19 indicative APP by the HoPE. No award of contract shall be made until the approval
20 and effectivity of the appropriate funding.

21 In case of projects requiring acquisition of ROW, no award of contract shall likewise
22 be made until an authority or permit to enter is issued by the property owner; or a
23 notarized deed of sale or deed of donation is executed in favor of the government; or
24 a writ of execution is issued by a court of competent jurisdiction, as the case may be.

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

26 **SEC. 26. Framework Agreement.** – Procuring entities may use a framework
27 agreement as a procurement strategy that may be utilized in government
28 procurement in order to expand the pool of prospective bidders, take advantage of
29 economies of scale, minimize the administrative burden of conducting separate
30 procurement activities, and generate time and money savings. The framework
31 agreement as the foundational agreement and in the nature of an option contract
32 between the procuring entity and the bidder or bidders that stipulates the terms and
33 conditions that would be applied in subsequent contracts for the procurement of
34 goods, infrastructure projects, and consulting services with a single or multiple
35 contractors, manufacturer, supplier, distributor, or consultant.

36 The GPPB shall issue the guidelines on the use of framework agreement.

37 **SEC. 27. Engagement of a Procurement Agent.** – As part of strategic procurement
38 planning, the HoPE may authorize the engagement of a procurement agent if the
39 procuring entity lacks sufficient qualified personnel to form its own BAC or when the
40 existing BAC does not have the proficiency or expertise for a particular procurement.
41 The procurement agent shall perform the functions of a BAC and may receive
42 reasonable service fee. The procuring entity shall remain accountable in the

1 implementation of its procurement project and not transfer funds to the procurement
2 agent. The procedure and requirements shall be subject to the guidelines of the
3 GPPB.
4

5 **B. MARKET SCOPING**

6 **SEC. 28. *Mandatory Market Scoping.*** – To ensure proper and strategic
7 procurement planning, procuring entities shall conduct market scoping as an integral
8 part of preparing the project procurement management plan (PPMP) which is the
9 basis of the budget proposal submitted to the DBM. Market scoping enables the
10 procuring entity to gather all related information on the procurement at hand,
11 including engaging with the market operators to get the right information on project
12 costing, technical specifications, availability, delivery lead time, storage or
13 warehousing, and all other procurement-related information. Upon approval of the
14 budget, each procuring entity shall review the details of the procurement project in
15 order to align with its respective needs and market availability.
16

17 **C. PREPARATION OF BIDDING DOCUMENTS**

18 **SEC. 29. *Specifications.*** – Specifications for the procurement of goods, as well as
19 the goods component of infrastructure projects and consulting services, shall be
20 based on any or a combination of the following: relevant characteristics; and
21 performance or functionality requirements.

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

27 For goods component of infrastructure projects, the specification shall be in clear and
28 unambiguous terms and in accordance with the minimum standards set forth by the
29 procuring entity to meet the functional or performance requirements of the project.

30 **SEC. 30. *Access to Information.*** – In all stages of the preparation of the bidding
31 documents, the procuring entity shall ensure equal access to information by posting
32 the said documents in the PhilGEPS portal and in the website of the procuring entity
33 and making them available to the concerned offices. Prior to their official release, no
34 aspect of the bidding documents shall be divulged or released to any prospective
35 bidder or bidder having direct or indirect interest in the project to be procured, or to
36 any party, except those officially authorized in the handling of the documents:
37 *Provided, however,* That when national security is involved, the HoPE shall decide
38 whether or not to disclose the specific components of the documents taking into
39 consideration the nature, classification, sensitivity, and confidentiality thereof.

40 **SEC. 31. *Form and Contents of Bidding Documents.*** – The bidding documents
41 shall be prepared by the procuring entity following the standard forms and manuals
42 prescribed by the GPPB. The bidding documents shall include the following:

- 43 (a) Approved Budget for the Contract;

- 1 (b) Invitation to Bid/Request for Expression of Interest;
- 2 (c) Valid and Updated PhilGEPS Certificate of Registration and Membership
3 of the Bidders and Other Eligibility Requirements;
- 4 (d) Instructions to Bidders, including criteria for eligibility, bid evaluation and
5 post-qualification, the weight assigned to each criterion and the quality-price
6 ratio if awarded to the most economically advantageous and responsive bid
7 under Section 42 of this Act, as well as the date, time and place of the pre-bid
8 conference, where applicable, submission of bids and opening of bids;
- 9 (e) Terms of Reference, for consulting services;
- 10 (f) Scope of Work, where applicable;
- 11 (g) Plans and Technical Specifications;
- 12 (h) Form of Bid, Price Form, and List of Goods or Bill of Quantities;
- 13 (i) Delivery Time or Completion Schedule;
- 14 (j) Form and Amount of Bid Security;
- 15 (k) Form and Amount of Performance Security and Warranty;
- 16 (l) Form of Contract, and General and Special Conditions of Contract; and
- 17 (m) Additional documentary requirements or specifications necessary to complete
18 the information required for the bidders to prepare and submit their respective
19 bids.

20 Based on specific needs, the end-user unit or implementing unit of the procuring
21 entity shall be responsible for the preparation of the technical specifications, scope of
22 work, or terms of reference for its procurement project to be submitted to the BAC.

23 **D. INVITATION TO BID**

24 **SEC. 32. *Pre-Procurement Conference.*** – Prior to the issuance of the invitation to
25 bid, the BAC is mandated to hold a pre-procurement conference on each and every
26 procurement, except those contracts below a certain level or amount specified in the
27 IRR of this Act, in which case, the pre-procurement conference is optional.

28

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

35

36 For the procurement of goods and infrastructure projects, the BAC shall, based on
37 the recommendation of the end-user unit, determine whether the contract will be
38 awarded to the lowest calculated responsive bid or the most economically
39 advantageous responsive bid as defined in Section 42 of this Act.

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

5
6 **SEC. 33. *Publication and Contents of the Invitation to Bid.*** – In line with the
7 principle of transparency and competitiveness and to ensure the widest possible
8 dissemination thereof, all invitations to bid for contracts under competitive bidding
9 shall be published by the procuring entity within seven (7) calendar days before the
10 deadline for submission of bids, in the PhilGEPS, in any conspicuous place in the
11 premises of the procuring entity, and in the website or social media platforms of the
12 procuring entity, if available or such other channels as may be authorized by
13 the GPPB.

14
15 For justifiable reasons, procuring entities that cannot publish procurement
16 opportunities in its website, social media platform, or such other channels authorized
17 by the GPPB shall publish its invitation to bid, at least once, in a newspaper of
18 general nationwide circulation. The details and mechanics of implementation shall be
19 provided in the IRR of this Act.

20
21 The Invitation to Bid shall contain, among others:

- 22
23 (a) A brief description of the subject matter of the procurement;
24
25 (b) A general statement on the criteria to be used by the procuring entity for the
26 eligibility check, the short-listing of prospective bidders, in the case of the
27 procurement of consulting services, the examination and evaluation of bids,
28 and post-qualification;
29
30 (c) For the procurement of goods and infrastructure projects, whether the
31 contract will be awarded to the lowest calculated responsive bid or the most
32 economically advantageous responsive bid;
33
34 (d) If the contract is to be awarded to the most economically advantageous
35 responsive bid, the criteria to be used in assessing the bid, the weight or
36 score assigned by the procuring entity to each criterion and the quality-price
37 ratio to determine the award;
38
39 (e) The date, time and place of the deadline for the submission and receipt of
40 the eligibility requirements, the pre-bid conference if any, the submission and
41 receipt of bids, and the opening of bids;
42
43 (f) The ABC to be bid;
44
45 (g) The source of funds;

1 (h) The period of availability of the bidding documents, and the place where
2 these may be secured;

3
4 (i) The contract duration; and

5
6 (j) Such other necessary information deemed relevant by the procuring entity.
7

8 **SEC. 34. Pre-bid Conference.** – At least one in person or online pre-bid conference
9 shall be conducted for each procurement, unless otherwise provided in the IRR of
10 this Act. Subject to the approval of the BAC, a pre-bid conference may also be
11 conducted upon the written request of any bidder.

12 The pre-bid conference shall be held at least twelve (12) calendar days before the
13 deadline for the submission and receipt of bids, but not earlier than seven (7) days
14 from the posting in the PhilGEPS of the invitation to bid or bidding documents for
15 procurement of infrastructure and goods.

16 The pre-bid conference for consulting services shall be held within a reasonable
17 period before the deadline for receipt of the bids to allow prospective bidders to
18 adequately prepare their bids, which shall be specified in the IRR: *Provided*, That to
19 facilitate a fair and well-informed participation of all interested bidders, the procuring
20 entity shall allow any bidder to further seek clarifications regarding the bidding
21 requirements prior to the set deadline for receipt of the bids.
22

23 **E. VIDEO RECORDS OF ALL BIDDING CONFERENCES**

24
25 **SEC. 35. Video Recording of All Procurement-Related Conferences.** – To
26 enhance the transparency of the procurement process, the procuring entity shall
27 keep a video recording of all procurement-related conferences including
28 pre-advertisement conference, pre-bid conference, bid opening, and all meetings of
29 the bids and BAC.

30 The preliminary examination of the bids and the opening of the bids shall be
31 livestreamed to the public on the website of the procuring entity, if applicable.

32 All procurement related conferences shall not commence without a video recording
33 initiated by the chair of the BAC: *Provided, however*, That when national security is
34 involved, the HoPE shall decide whether or not to video record all procurement-
35 related conferences including pre-advertisement conference, pre-bid conference, bid
36 opening, and all meetings of the bids and BAC taking into consideration the nature,
37 classification, sensitivity, and confidentiality thereof.
38

39 **SEC. 36. Copies of the Video Recording.** – Three (3) copies of the video recording
40 shall be made and individual copies shall be distributed to the BAC or HoPE,
41 PhilGEPS and COA. Subject to Republic Act No. 8792, otherwise known as the
42 “E-Commerce Act of 2000” and other relevant laws, copies of the video recordings
43 shall be made available to the public upon request and payment of a fee.

1 **SEC. 37. Storage, Maintenance, and Preservation of the Video Recording.** – The
2 BAC or HoPE, PhilGEPS and COA shall store the video records for not less than
3 twelve (12) years and may dispose of them thereafter.

4 The PhilGEPS shall maintain the integrity and preserve all video recordings
5 submitted to it.

6 **F. RECEIPT AND OPENING OF BIDS**

7
8 **SEC. 38. Eligibility Requirements for the Procurement of Goods and**
9 **Infrastructure Projects, and Consulting Services.** – The BAC shall require the
10 submission of prospective bidders' valid and updated PhilGEPS Certificate of
11 Registration and Membership to ensure that the bidder is technically, legally, and
12 financially capable to undertake the proposed procurement of goods, infrastructure
13 projects, and consulting services within the period set forth in the invitation to bid.

14 The PhilGEPS shall validate the documentary requirements submitted for purposes
15 of issuing the Certificate of Registration and Membership.

16 The BAC shall undertake the post-qualification to determine the legal, technical and
17 financial capacity of the bidder in accordance with Section 50 of this Act.

18 **SEC. 39. Short-Listing for Consulting Services.** – The eligible prospective bidders
19 for the procurement of consulting services shall then be evaluated using numerical
20 ratings on the basis of the short-listing requirements prescribed for the competitive
21 bidding concerned, within the period stated in the invitation to bid to determine the
22 short-list of bidders that shall be allowed to submit their respective bids.

23
24 **SEC. 40. Disclosure of Relations.** – All bidding documents shall be accompanied
25 by a sworn affidavit stating that the bidder, or any member of the board, officer, or a
26 substantial stockholder of their corporation, is not related to the HoPE, members of
27 the BAC, TWG, BAC secretariat, head of Procurement Management Office (PMO) or
28 end-user or implementing unit, and project consultants, by consanguinity or affinity
29 up to the third civil degree.

30 Failure to comply with the aforementioned provision shall be a ground for the
31 automatic disqualification of the bid. For this reason, relation to the aforementioned
32 persons within the third civil degree of consanguinity or affinity shall automatically
33 disqualify the bidder from participating in the procurement of contracts of the
34 procuring entity notwithstanding the act of such persons inhibiting themselves from
35 the procurement process.

36
37 **SEC. 41. Submission and Receipt of Bids.** – A bid shall have two (2) components,
38 namely: (1) the technical and legal, including eligibility requirements; and (2) the
39 financial components which shall be in separate electronic folders and sealed
40 envelopes, and which shall be submitted simultaneously. The bids shall be received
41 by the BAC on or before such date, time and place specified in the invitation to bid.
42 The deadline for the receipt of bids shall be fixed by the BAC, giving the prospective
43 bidders sufficient time to study and prepare their bids. The deadline shall also

1 consider the urgency of the procurement involved.

2 Bids submitted after the deadline shall not be accepted.

3 The GPPB shall leverage emerging technologies to continuously adopt innovative
4 procedures for the submission, receipt, and opening of bids through the PhilGEPS.

5 **SEC. 42. Bid Evaluation for the Procurement of Goods and Infrastructure. –**
6 **Projects.** – For the procurement of goods and infrastructure projects, the BAC shall
7 evaluate the financial component of the bids.

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

12 For contracts to be awarded to the most economically advantageous responsive bid
13 (MEARB), the BAC shall evaluate the bid using a predetermined quality-price ratio.
14 The quality component shall be assessed on the basis of criteria that may include
15 qualitative, environmental, and/or social aspects linked to the subject matter of the
16 contract. These may comprise the following:

17 (a) Quality and technical merit;

18

19 (b) Aesthetic and functional characteristics;

20

21 (c) Approach and methodology;

22

23 (d) Accessibility;

24

25 (e) Tools and equipment;

26

27 (f) Social, environmental, economic, and innovative characteristics;

28

29 (g) Organization, qualification, and experience of employees or staff assigned to
30 perform the contract;

31

32 (h) On-going contracts and work commitments;

33

34 (i) After-sales service and technical assistance;

35

36 (j) Delivery conditions, such as delivery period and delivery process;

37

38 (k) Disposal measures; or

39

40 (l) Other relevant criteria in relation to the subject goods or infrastructure
41 projects to be procured.

42

43 The BAC shall specify in the invitation to bid the quality-price ratio and the criteria for
44 assessing the quality component. These criteria should allow for a comparative
45 assessment of the level of performance offered by each bidder in accordance with

1 the technical specifications of the contract, and allow the information provided by the
2 bidders to be effectively verified and rated by the BAC: *Provided*, That such criteria
3 shall be objective with no room for discretion and shall not have the effect of
4 conferring an unrestricted freedom of choice on the procuring entity, and shall
5 ensure the possibility of free and effective competition. In no case shall the quality
6 component be lower than fifty percent (50%) of the total quality-price ratio.

7 The price component shall be rated based on its ranking among the other financial
8 bids from lowest to highest, and using the assigned weight: *Provided*, That the
9 financial bid as calculated does not exceed the ABC.

10 The bidder with the best highest score using the quality-price ratio shall be referred
11 to as the "Most Economically Advantageous Bid (MEAB)."

12 **SEC. 43. Bid Evaluation of Short-Listed Bidders for Consulting Services.** – For
13 the procurement of consulting services, the detailed evaluation of bids of short-listed
14 bidders shall undergo numerical rating based on either the quality-based evaluation
15 or quality-based cost evaluation.

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

32 For quality-cost based evaluation procedure, the rules shall be defined in the IRR of
33 this Act.

34 **SEC. 44. Modification and Withdrawal of Bids.** – A bidder may modify the bid:
35 *Provided*, That it is done before the deadline for the receipt of bids. The modification
36 shall be submitted in an electronic folder or sealed envelope duly identified as a
37 modification of the original bid and stamped received by the BAC.

38 A bidder may, through an electronic mail or a letter with stamp received by the BAC,
39 withdraw the bid or express the intention not to participate in the bidding before the
40 deadline for the receipt of bids. In such a case, the bidder shall no longer be allowed
41 to submit another bid on the same contract either directly or indirectly.

42 **SEC. 45. Bid Security.** – All bids shall be accompanied by a bid security, which shall
43 serve as a guarantee that, after receipt of the notice of award (NOA), the winning
44 bidder shall enter into contract with the procuring entity within the stipulated time and

1 furnish the required performance security. The specific amounts and allowable forms
2 of the bid security shall be prescribed in the IRR of this Act.

3 **SEC. 46. Bid Validity.** – Bids and bid securities shall be valid for such reasonable
4 period of time indicated in the bidding documents, but in no case shall the period
5 exceed one hundred twenty (120) calendar days from the date of the opening of bids.
6 The duration for each undertaking shall take into account the time involved in the
7 process of bid evaluation and award of contract.

8 **SEC. 47. Bid Opening.** – The BAC shall publicly open the bids immediately after the
9 deadline for the submission and receipt of bids. The time, date, and place of the
10 opening of bids shall be specified in the bidding documents.

11 The minutes of the bid opening shall be made available to the public upon written
12 request subject to the rules and regulations provided for in the IRR of this Act.

13 **G. BID EVALUATION**

14 **SEC. 48. Preliminary Examination of Bids.** – Prior to bid evaluation, the BAC
15 shall examine first the technical and legal components of the bids. Using a
16 non-discretionary pass or fail criteria, the BAC shall determine whether all required
17 documents are present. Only bids that are determined to contain all the bid
18 requirements of the technical and legal components shall be considered for opening
19 and evaluation of their financial component.

20 **SEC. 49. Ceiling for Bid Prices.** – The ABC shall be the upper limit or ceiling for the
21 bid prices. Bid prices that exceed this ceiling shall be disqualified outright from further
22 participating in the bidding. There shall be no lower limit to the amount of the award.

23 24 **H. POST-QUALIFICATION**

25 **SEC. 50. Objective and Process of Post-qualification.** – Post-qualification is the
26 stage where the bidder with the LCB, MEAB or HRB, as the case may be, undergoes
27 verification and validation to determine whether the bidder has passed all the
28 requirements and conditions as specified in the bidding documents.

29 If the bidder with the LCB, MEAB or HRB passes all the criteria for post-qualification,
30 the bid shall be considered the LCRB, MEARB or HRRB.

31 However, if a bidder fails to meet any of the requirements or conditions, the bidder
32 shall be post-disqualified and the BAC shall conduct the post-qualification on the
33 bidder with the second LCB, MEAB or HRB, as the case may be. If the bidder with
34 the second LCB, MEAB or HRB, as the case may be, is also post-disqualified, the
35 same procedure shall be repeated until the LCRB, MEARB or HRRB, as the case
36 may be, is finally determined.

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

39 **SEC. 51. Failure of Bidding.** – There shall be a failure of bidding if:

40 (a) No bids are received; or

1 (b) No bid qualifies as the LCRB, MEARB, or HRRB; or

2 (c) Whenever the bidder with LCRB, MEARB, or HRRB, as the case may be,
3 refuses, without justifiable cause, to accept the award of contract.

4 Under any of the above instances, the contract shall be re-advertised or reposted
5 and re-bid. The BAC shall observe the same process and set the new periods
6 according to the same rules followed during the first bidding. After the second failed
7 bidding, however, the BAC may resort to negotiated procurement as provided for in
8 Section 72 of this Act.

9 **SEC. 52. *Single Calculated/Rated Responsive Bid Submission.*** – A Single
10 Calculated and Responsive Bid (SCRB), Single Economically Advantageous
11 Responsive Bid (SEARB), or a Single Rated and Responsive Bid (SRRB) shall be
12 considered for award if it falls under any of the following circumstances:

13 (a) If after advertisement, only one prospective bidder meets the eligibility
14 requirements or criteria, after which it submits a bid which is found to be
15 responsive to the bidding requirements;

16 (b) If after advertisement, more than one prospective bidder participates but
17 only one bidder meets the eligibility requirements or criteria, after which it
18 submits a bid which is found to be responsive to the bidding requirements; or

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

22 In all instances, the procuring entity shall ensure that the ABC reflects the most
23 advantageous prevailing price for the government.

24 ARTICLE V

25 IMPLEMENTATION STAGE

26
27 **SEC. 53. *Notice and Execution of Award.*** – The BAC shall recommend to the
28 HoPE the award of contract to the bidder with the LCRB, MEARB, HRRB, SCRБ, SEARB,
29 or SRRB, after the post qualification process has been completed and after
30 submission of the supporting documents required under the IRR of this Act by the
31 BAC to the HoPE immediately from the issuance of the resolution recommending
32 award of the contract. The BAC shall notify all other bidders, in writing, of its
33 recommendation.

34 Within a period not exceeding ten (10) calendar days from the determination and
35 declaration by the BAC of the LCRB, MEARB, HRRB, SCRБ, SEARB, or SRRB, and
36 the recommendation to award the contract, the HoPE or the duly authorized
37 representative shall approve or disapprove the said recommendation. In case of
38 approval, the HoPE or the duly authorized representative shall immediately issue the
39 NOA to the bidder with the LCRB, MEARB, HRRB, SCRБ, SEARB, or SRRB. In the
40 event of a disapproval, which shall be based only on valid, reasonable and justifiable
41 grounds as provided for under Section 60 of this Act, the HoPE shall immediately
42 notify the BAC and the bidder in writing of such decision.

1 When applicable, the BAC shall conduct a post qualification of the bidder with the
2 next LCB, MEAB or HRB as provided in the IRR of this Act.

3 Within ten (10) days from receipt of the NOA by the winning bidder, the latter shall
4 enter into contract with the procuring entity.

5 When further approval of higher authority is required, the approving authority for the
6 bidder or the duly authorized representative shall be given a maximum of fifteen (15)
7 calendar days from receipt thereof to approve or disapprove it.

8 In the case of government-owned and/or -controlled corporations, the concerned
9 board or its duly authorized representative shall be given a maximum of twenty (20)
10 calendar days from receipt thereof to approve or disapprove it.

11 The concerned procuring entity shall issue the Notice to Proceed (NTP), together
12 with a copy or copies of the approved contract, to the successful bidder within seven
13 (7) calendar days from the date of approval of the contract. All notices called for by
14 the terms of the contract shall be effective only at the time of receipt thereof by the
15 successful bidder.

16 The procuring entity, through the BAC Secretariat, shall post a copy of the NOA, NTP
17 and the approved contract in the websites of PhilGEPS and the procuring entity
18 within three (3) calendar days from the issuance of the NTP.

19

20 **SEC. 54. Declaration of Beneficial Ownership.** – Notwithstanding the provisions of
21 Republic Act No. 10173, legal entities like corporations, partnerships, private sector
22 organization, foundations, and associations, that participate in procurement projects
23 shall safeguard the government from all acts that undermine a transparent, fair and
24 competitive procurement process. As such, the beneficial ownership information of
25 the suppliers, manufacturers, distributors, contractors or consultants shall be a
26 requirement to participate in government procurement. The GPPB shall maintain a
27 registry of beneficial ownership information established for government procurement.

28 For this purpose, the SEC shall share the beneficial ownership information submitted
29 by a certain juridical entity with the GPPB.

30 **SEC. 55. Contract Prices.** – For the given scope of work in the contract as awarded,
31 all bid prices shall be considered as fixed prices, and therefore not subject to price
32 escalation during contract implementation.

33 In the event of an extraordinary increase in prices of specific components of the
34 infrastructure project, price escalation may be considered, subject to prior approval of
35 the GPPB.

36 If the cost of construction components increases by more than ten percent (10%) of
37 the unit price of work items, as determined against the prevailing price indices of the
38 Philippine Statistics Authority (PSA), a price escalation may be authorized at a no-
39 loss, no-gain basis, using the appropriate formula prescribed by the GPPB.

1 For the purpose of this section, the PSA shall ensure that its price indices are region-
2 specific and updated on a monthly basis.

3
4 **SEC. 56. *Period of Action on Procurement Activities.*** – The period from the
5 opening of bids up to the award of contract shall not exceed sixty (60) days. This
6 period shall be subject to an annual review by the GPPB and may be shortened in
7 consideration of technological advances and procurement proficiency of procurement
8 officers. All members of the BAC shall be on a jury duty type of assignment until the
9 NOA is issued by the HoPE in order to complete the entire procurement process at
10 the earliest possible time.

11 The maximum periods and the recommended earliest possible time for action on
12 specific procurement activities shall be provided for in the IRR of this Act.

13 The period of action on procurement activities may only be tolled or suspended
14 under the following conditions:

15 (a) For EPA pending approval and effectivity of the GAA, corporate budget
16 or appropriations ordinance, or the loan agreement in the case of FAPs;

17 (b) During the suspension of the conduct of procurement activities due to
18 grounds indicated in the IRR, as determined by the BAC; or

19 (c) Such other instances as may be authorized by the GPPB.

20 The period of action on procurement activities which has been tolled or suspended
21 shall begin to run again once the basis of such tolling or suspension no longer exists.
22 Such period shall not commence anew but rather, grants the procuring entity the
23 balance of the remaining period available for the conduct of procurement activities
24 which has been tolled or suspended.

25
26 **SEC. 57. *Performance Security.*** – To guarantee the faithful performance by the
27 winning bidder of its obligations under the contract, it shall post a performance
28 security prior to the signing of the contract.

29 The performance security shall be in an amount not less than the required
30 percentage of the total contract price in accordance with the schedule which shall be
31 provided in the IRR of this Act.

32 The performance security shall remain valid after the issuance of the Certificate of
33 Final Acceptance, and may be released thereafter subject to the conditions which
34 shall be prescribed in the IRR of this Act.

35 For the procurement of infrastructure projects, the winning bidder shall post an
36 additional performance security to cover any cumulative increase of more than ten
37 percent (10%) over the original value of the contract as a result of any amendment or
38 supplemental agreement, as the case may be.

39 In case of a reduction in the contract value, or, in the case of procurement of
40 infrastructure projects, for partially completed works under the contract and the use
41 of which will not affect the structural integrity of the entire project, the procuring entity
42 shall allow a proportional reduction in the original performance security: *Provided,*

1 That any reduction in the contract value is at least ten percent (10%). The total
2 reduction of the original performance security shall not be more than fifty percent
3 (50%) of the same.

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

9 The performance security posted by the winning bidder must remain effective until
10 final acceptance by the procuring entity.

11

12 **SEC. 58. Warranty.** – (a) For the procurement of goods, in order to ensure that
13 manufacturing defects shall be corrected by the supplier, manufacturer, or distributor,
14 as the case maybe, a warranty shall be required from the winning bidder in an
15 amount and period which shall be provided for in the IRR of this Act.

16 The said amount shall only be released after the lapse of the warranty period:
17 *Provided*, That the goods supplied are free from defects and all the conditions
18 imposed under the contract have been fully met.

19 (b) For the procurement of infrastructure projects, the winning bidder shall assume
20 full responsibility for the contract work from the time the project construction
21 commenced up to a reasonable period as defined in the IRR of this Act taking into
22 consideration the scale and coverage of the project from its final acceptance by the
23 procuring entity and shall be held responsible for any damage or construction of
24 works except in cases of *force majeure*. The winning bidder shall be fully responsible
25 for the safety, protection, security, and convenience of personnel, third parties, and
26 the public, as well as the works, equipment, installation and other similar items to be
27 affected by the construction work and shall be required to put up a warranty security.

28 The winning bidder shall undertake the repair works, at winning bidder's own
29 expense, of any defect or damage to the infrastructure projects on account of failure
30 to comply with specifications provided in the program of works within ninety (90) days
31 from the time the HoPE has issued an order to undertake repair. In case of failure of
32 the winning bidder to undertake such repair works, the HoPE shall undertake
33 measures to repair such defects and shall be entitled to full reimbursement of
34 expenses incurred therein upon demand.

35

36 **SEC. 59. Effect of Failure of the Winning Bidder to Enter into Contract and Post**
37 **Performance Security.** – If the bidder with the LCRB, MEARB or HRRB, fails,
38 refuses or is unable to submit the documents required under the IRR of this Act or to
39 make good its bid by entering into a contract with the procuring entity or post the
40 required performance security within the period which shall be stipulated in the IRR
41 of this Act or in the bidding documents, the BAC shall initiate and complete the post-
42 qualification process on the bidder with the second LCB, MEAB, or HRB: *Provided*,
43 *however*, That in the case of consulting services, the second HRB has successfully
44 undergone the negotiation stage in accordance with the IRR of this Act. This

1 procedure shall be repeated until the LCRB, MEARB, or HRRB is determined for
2 award. However, if no bidder passes post-qualification, the BAC shall declare the
3 bidding a failure and conduct a re-bidding with re-advertisement. Should there occur
4 another failure of bidding after the conduct of the contract's re-bidding, the procuring
5 entity concerned may enter into a negotiated procurement.

6 In the case of failure, refusal or inability of the bidder with the SCRB, SEARB, or
7 SRRB to submit the documents required which shall be provided in the IRR of this
8 Act or to enter into contract and post the required performance security, as provided
9 in the IRR of this Act, the BAC shall likewise disqualify the said bidder, declare the
10 bidding a failure and conduct a re-bidding with re-advertisement and/or posting.
11 Thereafter, should there occur another failure of bidding, the procuring entity
12 concerned may enter into a negotiated procurement.

13
14 **SEC. 60. Reservation Clause.** – The HoPE reserves the right to reject any and
15 all bids, declare a failure of bidding, or not award the contract in the following
16 situations:

17 (a) If there is *prima facie* evidence of collusion between appropriate public
18 officers or employees of the procuring entity, or between the BAC and any of
19 the bidders, or if the collusion is between or among the bidders themselves,
20 or between a bidder and a third party, including any act which restricts,
21 suppresses or nullifies or tends to restrict, suppress or nullify competition;

22 (b) If the BAC is found to have failed in following the prescribed bidding
23 procedures; or

24 (c) For any justifiable and reasonable ground where the award of the
25 contract will not redound to the benefit of the Government of the Philippines,
26 in the following instances: (i) if the physical and economic conditions have
27 significantly changed so as to render the project no longer economically,
28 financially, or technically feasible, as determined by the HoPE or head of the
29 procuring entity; (ii) if the project is no longer necessary as determined by the
30 HoPE; or (iii) if the source of funds for the project has been withheld or
31 reduced through no fault of the procuring entity.

32
33 The HoPE must take action within ten (10) days from the receipt of the
34 recommendations of the BAC, or when further approval of a higher authority is
35 required, the approving authority shall be given a maximum of twenty (20) days from
36 receipt of the contract for his action. In case of failure to take action, the HoPE or the
37 appropriate approving authority shall report to the GPPB within five (5) days the
38 reason for the delay or inaction to ensure proper monitoring of the procurement
39 process, then declare a failure of bidding within the same period.

40
41 **SEC. 61. Contract Implementation and Termination.** – The rules and guidelines
42 for the implementation and termination of contracts awarded pursuant to the
43 provisions of this Act shall be prescribed in the IRR of this Act. The rules and
44 guidelines shall include general and special conditions of contracts. These conditions

1 shall include, among others, liquidated damages for delayed project completion.
2 The implementing units shall make periodic updates on the compliance of the
3 winning bidder not longer than three (3) months apart.
4
5

6 **ARTICLE VI**

7 **WAREHOUSING AND INVENTORY**
8

9 **SEC. 62. *Warehousing and Inventory System.*** – In pursuit of an efficient
10 planning for the storage and tracking of procured goods, procuring entities shall
11 adopt a general system of warehousing and cloud-based inventory of procured
12 items and goods, as may be necessary depending on the type, nature and volume
13 of procurement undertaken by the procuring entity and subject to availability of
14 funds in accordance with applicable budgeting, accounting and auditing rules
15 and regulations.

16 **ARTICLE VII**
17

18 **PERFORMANCE EVALUATION**
19

20 **SEC. 63. *Performance Evaluation.*** – The GPPB shall formulate a metric as basis
21 for the rating of performance of the winning bidder and the procuring entity. There
22 shall be three (3) metrics: for the procurement of goods, consulting services and
23 infrastructure project.
24

25 **SEC. 64. *Rating on the Winning Bidder.*** – The procuring entity shall rate the
26 performance of the winning bidder before a contract is terminated using the metric
27 to be formulated by the GPPB, accompanied by detailed observations that shall be
28 reflected in the profile of the bidder in the PhilGEPS.
29

30 **SEC. 65. *Rating on the Procuring Entity.*** – The winning bidder shall be given the
31 opportunity to rate the procuring entity after the termination of the contract using a
32 metric to be formulated by the GPPB, accompanied by detailed observations that
33 shall be reflected in the profile of the procuring entity in the PhilGEPS.
34
35

36 **ARTICLE VIII**
37

38 **MODES OF PROCUREMENT**
39

40 **SEC. 66. *Modes of Procurement.*** – The procuring entity shall adopt any of the
41 following modes of procurement consistent with the fit-for-purpose approach in public
42 procurement:

- 43 (a) Competitive Bidding;
44 (b) Limited Source Bidding;
45 (c) Direct Contracting;

- 1 (d) Repeat Order;
- 2 (e) Small Value Procurement;
- 3 (f) Negotiated Procurement;
- 4 (g) Competitive Dialogue;
- 5 (h) Direct Negotiations for Innovative Solutions;
- 6 (i) Direct Acquisition; and
- 7 (j) Design and Build Procurement.

8 **SEC. 67. *Competitive Bidding.*** – It is a mode of procurement open to all eligible
9 bidder. Notwithstanding the applicability of the other modes of procurement defined
10 in the succeeding items, the procuring entity may adopt competitive bidding in its
11 procurement activity.

12 **SEC. 68. *Limited Source Bidding.*** – Otherwise known as selective bidding, is a
13 mode of procurement of goods and consulting services that involves direct invitation
14 to bid by the procuring entity from the list of pre-selected suppliers or consultants
15 with known experience and proven capability on the requirements of the particular
16 contract. This mode of procurement may be employed under any of the following
17 conditions:

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

24
25 **SEC. 69. *Direct Contracting.*** – Otherwise known as single source procurement is a
26 mode of procurement that does not require elaborate bidding documents because
27 the supplier is simply asked to submit a price quotation or a pro-forma invoice
28 together with the conditions of sale, which offer may be accepted immediately or
29 after some negotiations. Direct contracting may be resorted to under any of the
30 following conditions:

- 31 (a) Procurement of goods of a proprietary nature which can be obtained only
32 from a single source protected by patents, trade secrets, and copyrights;
- 33 (b) When the procurement of critical components from a specific supplier is a
34 condition precedent to hold such supplier to guarantee its project
35 performance, in accordance with the provisions of its contract; or
- 36 (c) Those sold by an exclusive dealer or manufacturer which does not have
37 sub-dealers selling at lower prices and for which no suitable substitute can be
38 obtained at more advantageous terms to the procuring entity.

1 **SEC. 70. Repeat Order.** – When provided for in the APP, a mode of procurement
2 that involves a direct procurement of goods from the previous winning bidder,
3 whenever there is a need to replenish goods procured under a contract previously
4 awarded through competitive bidding. Repeat orders shall be subject to the following
5 conditions:

6 (a) Unit prices of the repeat order must be the same as or lower than those in
7 the original contract: *Provided*, That such prices are still the most
8 advantageous to the procuring entity after price verification;

9 (b) The repeat order will not result in splitting of contracts, requisitions, or
10 purchase orders;

11 (c) Except in cases duly approved by the GPPB, the repeat orders shall be
12 availed of only within six (6) months from the date of the NTP arising from the
13 original contract: *Provided*, That there has been a partial delivery, inspection
14 and acceptance of the goods within the same 6-month period; and

15 (d) Repeat orders shall not exceed twenty-five percent (25%) of the quantity
16 of each item in the original contract. In order not to exceed the 25%
17 threshold, the goods under the original contract must be:

18 (i) Quantifiable;

19 (ii) Divisible; and

20 (iii) Consisting of at least four (4) units per item.

21
22 **SEC. 71. Small Value Procurement.** – A mode of procurement whereby the
23 procuring entity requests for the submission of at least three (3) price quotations for
24 non-CSEs and CSEs not available in the PS-DBM, and receipt of one (1) quotation
25 is sufficient to proceed with the evaluation of bidders for goods, infrastructure
26 projects and consulting services where the amount involved does not exceed Two
27 million pesos (P2,000,000.00) subject to the periodic review of the threshold amount
28 and adjustments as may be deemed appropriate by the GPPB.

29 **SEC. 72. Negotiated Procurement.** – A mode of procurement of goods,
30 infrastructure projects and consulting services whereby the procuring entity directly
31 negotiates a contract with a technical, legal and financially capable supplier,
32 contractor or consultant in any of the following cases:

33 (a) Two Failed Biddings. Where there has been failure of competitive bidding
34 or limited source bidding for the second time as provided for in this Act;

35 (b) Emergency Cases. In case of imminent danger to life or property during a
36 state of calamity declared by a competent authority, or when time is of the
37 essence arising from natural or man-made calamities or other causes where
38 immediate action is necessary to prevent damage to or loss of life or
39 property, or to restore vital public services, infrastructure facilities and other
40 public utilities: *Provided*, That the instances or situation where the foregoing
41 conditions may be applied include the provision of immediate response and

1 initial recovery steps to avoid loss of life, injury, disease and other negative
2 effects on human, physical, mental and social well-being, together with
3 damage to property, destruction to assets, loss of services, social and
4 economic disruption and environmental degradation;
5

6 (c) Take-Over of Contracts. Take-over of contracts, which have been
7 rescinded or terminated for causes provided for in the contract and existing
8 laws, where immediate action is necessary to prevent damage to or loss of
9 life or property, or to restore vital public services, infrastructure facilities and
10 other public utilities;

11 (d) Adjacent or Contiguous. Where the subject of the contract is adjacent or
12 contiguous to an ongoing infrastructure project, as defined in the IRR:
13 *Provided, however,* That (1) the original contract is the result of competitive
14 bidding; (2) the subject contract to be negotiated has similar or related
15 scopes of work; (3) it is within the contracting capacity of the winning bidder;
16 (4) the winning bidder uses the same prices or lower unit prices as in the
17 original contract less mobilization cost; (5) the amount of the adjacent or
18 contiguous work involved does not exceed the amount of the ongoing project;
19 and (6) the winning bidder has no negative slippage: *Provided, further,* That
20 negotiations for the procurement are commenced before the expiration of the
21 original contract.

22 Whenever applicable, this principle shall also govern consultancy contracts,
23 where the consultants have unique experience and expertise to deliver the
24 required service;

25 (e) Agency-To-Agency. Subject to the guidelines specified in the IRR, an
26 agency may purchase goods from another agency. Any agency shall also
27 purchase from the PS-DBM, which is tasked with a centralized procurement
28 of commonly used goods for the government in accordance with Letters of
29 Instruction No. 755 and Executive Order No.359, Series of 1989;

30 (f) Scientific, Scholarly or Artistic Work, Exclusive Technology and Media
31 Services. Where goods, infrastructure projects and consulting services can
32 be contracted to a particular supplier, contractor or consultant and as
33 determined by the HoPE, for any of the following:

34 (1) Work of art; commissioned work or services of an artist for a specific
35 artist skill;

36 (2) Scientific, academic, scholarly work or research, or legal services;

37 (3) Highly-specialized life-saving medical equipment and devices,
38 supplies, materials, tools and consumables, as certified by the DOH;

39 (4) Scientific, technical, economic, business, trade or legal journal,
40 magazine, paper, subscription, or other exclusive statistical publications
41 and references; or

1 (5) Media documentation, advertisement, or announcement through
2 television, radio, newspaper, internet, and other communication media.

3 (g) Highly Technical Consultants. In the case of individual consultants hired
4 to do work that is (i) highly technical or proprietary; or (ii) primarily confidential
5 or policy determining, where trust and confidence are the primary
6 consideration for the hiring of the consultant: *Provided*, That the term of the
7 individual consultants shall not be more than six (6) months, renewable at the
8 option of the appointing HoPE, but in no case shall exceed the latter's term;

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

15 (1) The Secretary of National Defense has deemed it necessary in
16 order to protect the interest of the country;

17 (2) The expertise or capability required is not locally available; and

18 (3) The defense equipment or materiel and/or defense-related
19 consultancy services to be procured under this modality is included in
20 the Armed Forces of the Philippines Modernization Program previously
21 approved by the President of the Philippines.

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

26 (i) Direct negotiation will address compatibility, interoperability and
27 sustainability;

28 (ii) The supplier or manufacturer had fully and satisfactorily
29 implemented a contract of the same item with the DND or any of its
30 bureaus or attached agencies; and

31 (iii) The supplier or manufacturer shall provide a performance security in
32 accordance with this Act.

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

35 (j) Non-Governmental Organization (NGO) Participation. When an
36 appropriation law or ordinance earmarks an amount to be specifically
37 contracted out to Non-Governmental Organizations (NGOs), the procuring
38 entity may enter into a Memorandum of Agreement with an NGO, subject to
39 the guidelines as provided for in the IRR;

1 (k) Community Participation. The procuring entity may directly purchase
2 agricultural and fishery products from local farmers and fisherfolk and directly
3 negotiate simple infrastructure projects from local communities through
4 communities or social group or members thereof, subject to the guidelines as
5 provided for in the IRR;

6 For this purpose, community or social groups may be classified as organized
7 or unorganized. Organized Community or Social Group (OCSG) shall refer to
8 a community or social group that has a defined organizational structure,
9 identified membership and leadership, and adopts a principle of shared
10 responsibility for their actions and shall be registered with the appropriate
11 regulatory bodies. It shall include micro, small and medium-sized enterprises
12 (MSMEs). Unorganized Community or Social Group (UCSG) shall refer to a
13 community social group that is not registered in any government regulatory
14 body or a member of a duly recognized private organization, which include
15 but are not limited to community labor groups or “pakyaw” groups,
16 associations of barangay health workers, farmers, fisherfolk, women, elderly,
17 indigenous peoples, parent-teacher associations, solo parents, and persons
18 with disabilities;

19 (l) United Nations Agencies, International Organizations or International
20 Financing Institutions. Upon approval of the President, through the
21 recommendation of the respective Department Secretary, procurement from
22 specialized agencies of the United Nations, International Organizations or
23 International Financing Institutions, of any of the following: (1) small quantities
24 of off-the-shelf goods, exclusively used in education and health; (2)
25 specialized products where the number of suppliers is limited, such as
26 vaccines; or (3) goods and consulting services, involving advanced
27 technologies, techniques and innovations not locally available as certified by
28 the DTI, when it is most advantageous to the procuring entity;

29 (m) Direct Retail Purchase of Petroleum Fuel, Oil and Lubricant (POL)
30 Products and Online Subscription. Direct retail purchase of (1) petroleum fuel,
31 oil and lubricant (POL) products; and (2) online subscriptions may be made
32 by end-users delegated to procure the same from identified direct suppliers or
33 service providers, where goods and services are required by a procuring
34 entity for the efficient discharge of its principal functions or day-to-day
35 operations.

36 Online subscription includes (i) airline tickets; (ii) electronic publications,
37 reference materials and journals; (iii) off-the-shelf software and applications,
38 except internet and cloud computing services; and (iii) web-based services.

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

- 42 (1) The procuring entity has requested the GPPB for the use of
43 negotiated procurement of goods, infrastructure projects or consulting
44 services with utmost necessity and justification;

1 (2) 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 (3) The goods, infrastructure projects or consulting services are better
5 identified by the procuring entity on its distinctiveness and uniqueness
6 to a procurement program, activity or project; and

7 (4) Other circumstances that may be identified by the GPPB.
8

9 **SEC. 73. *Competitive Dialogue.*** – A mode of procurement where the procuring
10 entity invites suppliers, contractors or consultants to a dialogue to propose solutions
11 to address its needs and requirements. Among the suppliers, consultants or
12 contractors who submitted their intent to participate, the procuring entity will select
13 only those who meet the criteria stated in the invitation to bid. The selected
14 participants shall join the dialogue and shall be invited to submit their final bids on
15 the basis of the identified solutions specified during the dialogue. The contract shall
16 be awarded to the participant that submitted the LCRB or the MEARB following the
17 bid evaluation and post-qualification processes under Sections 42 and 50,
18 respectively, of this Act. Competitive Dialogue may be resorted to if any of the
19 following conditions is present:

20 (a) The procurement includes innovative design or solutions involving
21 procurement of complex purchases, such as but not limited to,
22 sophisticated products, intellectual services, or major information and
23 communications technology projects;

24 (b) The contract requires prior negotiations with the supplier, contractor,
25 or consultant because of specific circumstances related to the nature,
26 complexity, legal and financial issues, or risks attached to the
27 procurement; or

28 (c) The technical specifications cannot be sufficiently established or
29 precisely defined by the procuring entity.

30 **SEC. 74. *Direct Negotiations for Innovative Solutions.*** – The procuring entity
31 may consider unsolicited offers on a negotiated basis for goods and consulting
32 services provided that the following conditions are met:

33 (a) The procurement involves a new concept or technology as
34 determined by the HoPE; and

35 (b) The procuring entity has invited comparative or competitive bids.
36 The procedure for bid matching shall be provided in the IRR.

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

1 For purposes of this mode of procurement, the procedure and requirements
2 shall be subject to GPPB guidelines and applicable government budgeting,
3 accounting and auditing rules.

4 **SEC. 75. Direct Acquisition.** – In accordance with the need and justified
5 preference, subject to compliance with the identified legal, technical, and financial
6 requirements, a procuring entity may procure directly from any known and
7 reputable source, its required goods and services for the procurement of non-
8 common-use supplies and equipment (Non-CSE) with an ABC not exceeding
9 One hundred thousand pesos (P100,000.00). The threshold amount can be
10 adjusted as may be deemed appropriate by the GPPB to reflect changes in
11 economic conditions and for other justifiable reasons.

12
13 **SEC. 76. Design and Build Procurement and Use of Project and Contract**
14 **Management Tools for Government Infrastructure Projects.** – Procuring
15 entities may employ the design and build method whereby a single contractor is
16 responsible for both design and construction of the government infrastructure
17 projects, which shall comply with the minimum performance standards and
18 specifications (MPSS) set by the procuring entity, thus, allowing the use and
19 adoption of advance engineering and construction methods, as well as innovative
20 construction technologies and solutions that would achieve value engineering,
21 cost-effective implementation, and efficient project management, subject to the
22 guidelines of the GPPB.

23
24 Procuring entities shall encourage the use of building information modeling (BIM)
25 or similar tool to plan, design, and manage infrastructure projects and contracts.

26
27 **SEC. 77. Prohibition on Splitting of Government Contracts.** – In using any of
28 the modes of procurement in this Act, the procuring entity shall ensure that this
29 does not result in splitting of government contracts, which involves dividing or
30 breaking up of contracts into smaller quantities and amounts, or dividing contract
31 implementation into artificial phases or sub-contracts for the purpose of evading
32 or circumventing the requirements of this Act and its IRR: *Provided*, That
33 procuring from several sources, if no supplier is able to provide the required
34 quantity, shall not be considered as splitting of contracts.

35 36 **ARTICLE IX**

37 **DOMESTIC AND FOREIGN PROCUREMENT**

38
39
40 **SEC. 78. Procurement of Domestic and Foreign Goods.** – Consistent with the
41 country's obligations under international treaties or agreements, goods may be
42 obtained from domestic or foreign sources and the procurement thereof shall be
43 open to all eligible suppliers, manufacturers and distributors. However, in the
44 interest of availability, efficiency and timely delivery of goods, the procuring entity
45 shall give preference to the purchase of domestically-produced and
46 manufactured goods, supplies and materials that meet the specified or desired
47 quality.

1 **SEC. 79. *Prioritization of and Preference to Domestically Produced Goods.*** – In
2 the interest of availability, efficient and timely delivery of goods, the procuring entity
3 shall give priority and preference to the domestic bid that shall offer goods, articles,
4 supplies and materials substantially grown, produced, made or manufactured in the
5 Philippines, as supported by a certification issued by the DTI.

6 The procuring entity shall award to the domestic bid, subject to the following
7 conditions and guidelines provided for in the IRR of this Act:

8 (a) Both domestic and foreign bids are responsive to the minimum
9 requirements as specified in the bidding document;

10 (b) The lowest foreign bid is lower than the lowest domestic bid;

11 (c) The lowest domestic bid is within the twenty-five percent (25%) margin of
12 preference from the lowest foreign bid; and

13 (d) The lowest domestic bid is able to match the amount of the lowest foreign
14 bid.

15
16 **SEC. 80. *Participation of Foreign Bids.*** – In the procurement of goods, foreign bids
17 may be allowed under any of the following circumstances:

18 (a) When the goods sought to be procured are not available from local
19 suppliers;

20 (b) When the foreign supplier, manufacturer or distributor is a citizen,
21 corporation or association of a country the laws or regulations of which grant
22 reciprocal rights or privileges to citizens, corporations or associations of the
23 Philippines, irrespective of the availability of goods from local suppliers;

24 (c) The participation of foreign bids is provided for under any treaty or
25 international or executive agreement; or

26
27 (d) There is a need to prevent situations that defeat competition or restrain
28 trade.

29
30 **ARTICLE X**

31 **SUSTAINABLE PUBLIC PROCUREMENT**

32
33
34 **SEC. 81. *Sustainable Public Procurement.*** – All procuring entities shall strive to
35 implement a viable balance across all three pillars of sustainable development in its
36 procurement processes. Sustainable public procurement shall be used by procuring
37 entities in goods, infrastructure, and consulting services to achieve value for money
38 on a whole life basis not only to meet their specific needs but for the benefit of the
39 society and the economy, while reducing adverse environmental impact.

40 **SEC. 82. *Green Public Procurement.*** – As part of strategic procurement planning
41 and in support of the Philippines' commitment to accelerate climate action and
42 strengthen disaster resilience by transitioning into a low carbon economy, procuring

1 entities shall integrate green practices, as well as environmentally relevant criteria or
2 requirements, in the design of their procurement projects in order to achieve broader
3 policy objectives on energy, water, and material efficiency, waste reduction, pollution
4 and emission prevention, climate change mitigation, local and rural development,
5 greening supply chains, greening infrastructure and work, industry productivity,
6 innovation and competitiveness, inclusive business models, green jobs, and circular
7 economy.

8 To further promote green public procurement, sustainability of materials to be
9 procured shall be given greater weight in the evaluation of bids. All procuring entities
10 shall submit their respective sustainable procurement programs to the GPPB within
11 six (6) months and be fully implemented from the issuance of the IRR.

12
13 **SEC. 83. *Development of a Green Local Market.*** – The DTI, in consultation with
14 relevant government agencies and the private sector, shall develop a cost-efficient
15 validation and certification program for green products to attract green investments
16 and improve the competition in government procurement.
17

18 **SEC. 84. *Promotion of Certified Sustainable Products.*** – A list of certified
19 sustainable goods shall be published in the PhilGEPS.

20 The GPPB shall provide and regularly update a list of all certified sustainable goods
21 taking into consideration the criteria provided for under the IRR of this Act.

22 23 ARTICLE XI

24 25 INCLUSIVE PUBLIC PROCUREMENT

26
27 **SEC. 85. *Inclusive Procurement Program.*** – To provide equal opportunities to the
28 vulnerable and marginalized sectors, as well as micro and small-scale enterprises,
29 procuring entities shall encourage active participation of the registered sectors in all
30 procurement activities, giving weight to inclusivity in programs involving gender and
31 ethnic equity, poverty reduction and respect to fundamental labor standards.
32

33 **SEC. 86. *Registration of Certain Sectors.*** – The GPPB shall maintain a registry of
34 CSOs belonging to the following sectors:

- 35 (a) Farmers as certified by the Department of Agriculture (DA);
36 (b) Fisherfolk as certified by the Bureau of Fisheries and Aquatic Resources
37 (BFAR);
38 (c) Persons with Disabilities as certified by the National Council for Disability
39 Affairs (NCDCA);
40 (d) Solo Parents as certified by the Department of Social Welfare and
41 Development (DSWD);
42 (e) MSMEs as certified by the Micro, Small and Medium Enterprises
43 Development Council (MSMEsDC);

1 (f) Cooperatives as certified by the Cooperative Development Authority
2 (CDA); and
3

4 (g) Other relevant sectors as may be determined by the GPPB to ensure
5 inclusivity and diversity in the procurement process.
6

7 **SEC. 87. *Ceilings, Reductions, or Exemptions on Bid and Performance***
8 ***Securities, Warranties, and Other Guarantees.*** – The GPPB, after due
9 consultation with the DA, BFAR, NCDA, DSWD, MSMEsDC and CDA shall prescribe
10 instances for outright exemption from bidding document fees and other forms of
11 support for the above-mentioned sectors as may be provided for in the IRR.
12

13 **SEC. 88. *Gender Responsive Procurement Strategy.*** – Sustainable public
14 procurement incorporates social considerations, such as gender parity and women's
15 empowerment in the procurement of goods, infrastructure projects, and consulting
16 services. A gender responsive procurement strategy is a mechanism to integrate
17 gender dimensions in the design of procurement projects through a gender-based
18 needs and impact assessment.

19 The GPPB shall develop procurement policies that engender an enabling
20 environment for meaningful competition across all bidders; implement an inclusive
21 capacity development program; and provide greater access to markets through
22 digitalization. It shall also issue the policy guidelines on how procuring entities can
23 implement gender responsive approaches in public procurement in relation to project
24 planning, eligibility and selection criteria, contract performance, and grounds for
25 suspension or blacklisting, as the case may be.
26

27 **ARTICLE XII**

28 **LEASE CONTRACTS**

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31 **SEC. 89. *Lease Contracts.*** – The lease of movable properties is subject to the
32 guidelines which shall be provided for in the IRR of this Act.

33 Movable properties refer to those properties defined under Articles 416, 417, and 418
34 of the New Civil Code of the Philippines.
35

36 **ARTICLE XIII**

37 **THE GOVERNMENT PROCUREMENT POLICY BOARD**

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41 **SEC. 90. *Functions and Organizational Structure.*** – A Government Procurement
42 Policy Board (GPPB) is hereby established as the central body that sets strategic
43 directions and makes policy decisions regarding all matters affecting public
44 procurement, having due regard to the country's regional and international
45 obligations, and is tasked to lead the nation's efforts in advancing public procurement
46 reforms in accordance with this Act. The Board shall:

1 (a) formulate and amend, whenever necessary, the IRR of this Act, associated
2 issuances and government procurement manuals, Philippine bidding
3 documents and standard forms for procurement, and issue policy papers to
4 ensure that the procurement process is streamlined and responsive to the
5 needs of the government. In line with its digitalization efforts, the GPPB shall
6 establish an online automated process to provide timely responses to inquiries
7 related to the implementation of this Act;

8 (b) establish and implement the professionalization program provided in this
9 Act; and

10 (c) establish and implement a strategic procurement monitoring program that
11 uses data analytics to enhance procurement planning and evidence-based
12 policymaking.

13 The GPPB shall be composed of the Secretary of Budget and Management, as
14 Chairperson, the Secretary of National Economic and Development Authority, as
15 alternate chairperson, with the following as members: the Secretaries, or their duly
16 authorized representatives, of NEDA, Finance, Public Works and Highways,
17 Environment and Natural Resources, Science and Technology, Agrarian Reform,
18 Agriculture, Education, Energy, Foreign Affairs, Health, Human Settlements and
19 Urban Development, Information and Communications Technology, Interior and Local
20 Government, Justice, Labor and Employment, National Defense, Social Welfare and
21 Development, Tourism, Trade and Industry, Transportation, Anti-Red Tape Authority,
22 the Philippine Space Agency and a representative from the private sector to be
23 appointed by the President upon recommendation of the GPPB.

24 The GPPB shall be supported by a Technical Support Office (TSO) in the
25 performance of its functions under this Act. In line with the commitment to enhance
26 efficiency and ensure effective policy development and implementation, the capacity
27 and organization of the TSO shall be strengthened to implement the government
28 procurement policy reforms. The TSO shall be headed by an Executive Director
29 equivalent to the rank of an Undersecretary and supported by at least three (3)
30 Deputy Executive Directors equivalent to the rank of an Assistant Secretary, to be
31 appointed by the President of the Republic of the Philippines, as recommended by
32 the Chairperson of the GPPB. The TSO shall further have at least four (4) directors
33 who will oversee specific domains related to government procurement. All appointed
34 officials shall possess good moral character, honesty, probity, and unquestionable
35 integrity, to be appointed by the President of the Republic of the Philippines, as
36 recommended by the Chairperson of the GPPB. The GPPB shall determine the
37 TSO's organizational structure and staffing pattern, subject to the evaluation and
38 approval of the DBM.

39
40 In addition to the powers granted under this Act, the GPPB shall absorb all the
41 powers, functions and responsibilities of the Procurement Policy Board created under
42 EO No. 359, series of 1989. All affected functions of the Infrastructure Committee of
43 the National Economic and Development Authority Board are hereby transferred to
44 the GPPB.

1 The GPPB may establish Inter-Agency Technical Working Group or groups
2 (IATWG/s) to provide subject matter expertise to the GPPB in the formulation and
3 review of policies, rules, and regulations related to government procurement. The
4 IATWG, in particular, shall endorse policy recommendations for the consideration
5 and approval of the GPPB. The IATWG shall consist of representatives from the
6 sectoral groups, such as economic services, social services, agriculture, health,
7 education, construction, energy, environment, information and communications
8 technology, research and development, and others as determined by the GPPB, to
9 guarantee that the procurement policies are inclusive and promote good governance.

10 **SEC. 91. Professionalization of Government Procurement.** – In order to build a
11 cadre of public procurement professionals, the DBM shall create procurement
12 positions in the government based on the qualification standards recommended by
13 the GPPB and approved by the Civil Service Commission (CSC).

14 The GPPB shall ensure the professionalization of procurement in the Philippines and
15 for this purpose, the GPPB shall develop the following:

16 (a) A competency framework to identify the skills, knowledge, and attribute
17 of each of the procurement positions;

18 (b) A certification framework to upscale procurement competencies and
19 ensure continued professional development;

20 (c) A code of ethics for public procurement professionals; and

21 (d) An inclusive capacity development program in order to enhance
22 accountability of all procurement practitioners, both from the public and
23 private sectors, promote supplier diversity, promote competition and optimize
24 efficiency, and value for money.

25
26 Moreover, the GPPB shall establish a professional licensing program as a
27 requirement for the holding of a procurement position in government. It shall
28 likewise administer and regulate the professional licensing program and the
29 continuing education of public procurement professionals.

30
31 **SEC. 92. Procurement Academy.** – The GPPB shall establish a sustained training
32 program for developing the capacity of the BACs, BAC secretariats, and TWGs of
33 procuring entities, and professionalize the same.

34 For this purpose, the GPPB shall establish a procurement academy that shall provide
35 the needs for education, training, seminars, and workshops of all government
36 procurement personnel and practitioners.

37 The GPPB may establish partnerships with state universities and colleges or other
38 educational institutions in providing training programs. It shall establish standards for
39 accreditation of said institutions.

40 The HoPE, members of the BAC and TWG shall undergo an executive course on
41 procurement while BAC secretariat shall undergo annual training programs at the
42 Academy.

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ARTICLE XIV
GRIEVANCE MECHANISM

SEC. 93. *Decisions of the BAC.* – Decisions of the BAC, at any stage of the procurement process, may be questioned by any aggrieved party through the filing of a verified motion for reconsideration within twenty-four (24) hours from notice to the prospective bidder or bidders. The BAC shall resolve the motion for reconsideration within three (3) calendar days from receipt thereof. The bidder shall not be allowed to submit additional documents to correct any defects in the bid submitted.

In the event that the motion for reconsideration is denied, the movant may file a protest before the HoPE on the ground of legal and/or factual errors.

In the event that the request for reconsideration is granted, the BAC shall set aside its own decision and issue a resolution thereof. Any aggrieved party may file a verified motion for reconsideration questioning such resolution of the BAC. The other aggrieved parties shall file its corresponding comments within twenty-four (24) hours from notice of the filing of the motion for reconsideration after which the BAC shall resolve within three (3) calendar days. Such supervening resolution of the BAC shall be final unless a protest is filed before the HoPE.

A protest must be filed within forty-eight hours (48) hours from receipt by the party concerned of the resolution or supervening resolution of the BAC denying its motion for reconsideration. A protest shall be made by filing a verified position paper with the HoPE concerned accompanied by the payment of a non-refundable protest fee. Any interested party may file its corresponding comment on the protest within forty-eight (48) from notice of the protest after which the HoPE shall decide within three (3) calendar days thereof.

SEC. 94. *Decisions of the HoPE.* – Decisions of the HoPE, in its original jurisdiction, may be questioned by any aggrieved party through the filing of a verified motion for reconsideration within twenty-four (24) hours from notice to the bidders and any interested party. The HoPE shall resolve on the motion for reconsideration within three (3) calendar days from receipt thereof.

In the event that the motion for reconsideration is denied, the movant may file an appeal with the regular courts.

In the event that the motion for reconsideration is granted, the HoPE shall set aside its own decision. Any aggrieved party may file a verified motion for reconsideration questioning such resolution of the HoPE. The other aggrieved parties shall file its corresponding comments within twenty-four (24) hours from notice of the filing of the motion for reconsideration after which the HoPE shall resolve within three (3) calendar days. Such supervening resolution of the HoPE shall be final unless a request for an administrative procurement review is filed with the GPPB.

SEC. 95. *Administrative Procurement Review.* – To ensure fairness and efficiency in resolving procurement-related cases, the GPPB shall be authorized to create an adjudication panel, which shall conduct administrative procurement reviews of the

1 decision of the HoPE on protest cases, as well as matters related to blacklisting,
2 subject to the guidelines issued by the GPPB.

3
4 **SEC. 96. *Electronic Legal Process.*** – The GPPB shall establish an electronic
5 system for filed motions for reconsideration, protests and appeals for the timely
6 resolution of cases. These shall include all pleadings, notices and other legal
7 processes, resolutions, orders or decisions which shall be posted in this portal and
8 made accessible to the public.

9
10 **SEC. 97. *Non-Interruption of the Bidding Process.*** – In no case shall any protest
11 or request for motion for reconsideration taken from any decision treated in this
12 Article stay or delay the bidding process. Protests must first be resolved before any
13 award is made.

14
15 **SEC. 98. *Resort to Regular Courts; Certiorari.*** – Court action may be resorted to
16 only after the protests contemplated in this Article shall have been completed. Cases
17 that are filed in violation of the process specified in this Article shall be dismissed for
18 lack of jurisdiction. The Regional Trial Court shall have jurisdiction over final
19 decisions of the HoPE. Court actions shall be governed by Rule 65 of the Revised
20 Rules of Civil Procedure.

21 **SEC. 99. *Prohibition on the Issuance of Temporary Restraining Orders,***
22 ***Preliminary Mandatory Injunctions.*** – No court, except the Supreme Court, shall
23 issue any Temporary Restraining Order, Preliminary Injunction or Preliminary
24 Mandatory Injunction against the government, or any of its subdivisions, officials or
25 any person or entity, whether public or private acting under the government direction,
26 to restrain, prohibit or compel the procurement, bidding or awarding of contracts for
27 goods, infrastructure projects, and consulting services of the government;
28 commencement, execution, implementation, operation of any such contract;
29 termination or rescission of any such contract; and the undertaking or authorization
30 of any other lawful activity necessary for such contract.

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

39
40 **ARTICLE XV**

41 **SETTLEMENT OF DISPUTES**

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44 **SEC. 100. *Arbitration.*** – Any and all disputes arising from the implementation of a
45 contract covered by this Act shall be submitted to arbitration in the Philippines

1 according to the provisions of Republic Act No. 876, otherwise known as the
2 "Arbitration Law": *Provided*, That disputes that are within the competence of the
3 Construction Industry Arbitration Commission (CIAC) to resolve shall be referred
4 thereto. The process of arbitration shall be incorporated as a provision in the contract
5 that will be executed pursuant to the provisions of this Act: *Provided, further*, That by
6 mutual agreement, the parties may agree to resort to alternative modes of dispute
7 resolution, in accordance with Republic Act No. 9285, otherwise known as
8 "Alternative Dispute Resolution Act of 2004".

9
10 **SEC. 101. Appeals.** – The arbitral award and any decision rendered in accordance
11 with the foregoing Section shall be appealable by way of a petition for review to the
12 Court of Appeals. The petition shall be governed by the Rules of Court.

13 **ARTICLE XVI**

14 **Administrative Sanctions**

15
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17 **SEC. 102. Imposition of Suspension.** – (a) In addition to the provisions of Article
18 XVII of this Act, the HoPE or the BAC shall impose suspension of one (1) year for the
19 first offense, or suspension of two (2) years for the second offense from participating
20 in all government procurement activities in a specific procuring entity: *Provided*, That
21 notwithstanding this provision, the BAC or the HoPE may impose the penalty of
22 blacklisting based on any of the following:

23 (a) Track record of the bidder; or

24 (b) Number of violations or offenses committed.

25 The following are the grounds for suspension:

26 (1) Causing to use or using the name of another for purposes of competitive
27 bidding;

28
29 (2) Withdrawing a bid, or refusing to accept an award, or refusing or failing to
30 enter into contract with the procuring entity without justifiable cause, after the
31 approval of the HoPE for having been the declared lowest calculated
32 responsive bid or highest rated responsive bid as the case may be;

33
34 (3) Causing the delay, without justifiable cause, of the screening for eligibility,
35 opening of bids, evaluation and post evaluation of bids, and awarding of
36 contracts;

37
38 (4) Delivering of goods of unsatisfactory or inferior quality as may be provided in
39 the contract;

40
41 (5) Rendering poor performance by the consultant of one's service. Poor
42 performance shall be as follows:
43

1 (i) defective design resulting in substantial corrective works in design and/or
2 construction;

3 (ii) failure to deliver critical outputs due to fault or negligence of the consultant;

4 (iii) specifying materials which are inappropriate, substandard, or way above
5 acceptable standards; and

6 (iv) allowing defective workmanship or works by the winning bidder being
7 supervised by the consultant;

8 (6) Rendering poor performance by the winning bidder or unsatisfactory quality
9 and/or progress of work. Poor performance shall be as follows:

10 (i) Negative slippage of 15% and above within the critical path of the project
11 due entirely to the fault or negligence of the winning bidder; and

12 (ii) Quality of materials and workmanship not complying with the approved
13 specifications arising from the fault or negligence of the winning bidder;

14
15 (7) For the renewal of contracts for regular and recurring services, refusal of the
16 service provider to accept the notice of renewal or failure to submit its updated
17 documentary requirements for the renewal of contract without any justifiable
18 reason; and

19
20 (8) Failing to comply with the provisions of Section 58 of this Act on Warranty.

21
22 In addition to the penalty of suspension, the bid security or the performance security
23 posted by the concerned bidder or prospective bidder shall also be forfeited:
24 *Provided, however,* That if the suspension order is issued after award of a contract to
25 the suspended person, the awarded contract shall not be prejudiced by the said
26 order but the said offense(s) committed by the suspended person should not be
27 connected with the awarded contract.

28
29 **SEC. 103. *Initiation of Action.*** – Any bidder/prospective bidder may initiate the
30 suspension proceedings. The BAC may, *motu proprio*, commence the proceedings
31 upon *prima facie* determination that a bidder or prospective bidder has committed
32 any of the grounds provided for in the preceding section. At the option of the
33 procuring entities, a reasonable fee may be required for initiating the suspension
34 proceedings.

35
36 **SEC. 104. *Preventive Suspension.*** – The HoPE may preventively suspend any
37 member of the technical working group or the secretariat, or the BAC if there are
38 strong reasons or *prima facie* evidence showing that the officials or employees
39 concerned are guilty of the charges filed against them under Section 109 of this Act
40 or for dishonesty as defined by the Civil Service laws.

41 **SEC. 105. *Lifting of Suspension and Removal of Administrative Disabilities.*** –
42 Lifting of preventive suspension pending administrative investigation, as well as

1 removal of administrative penalties and disabilities shall be in accordance with the
2 provisions of Sections 52 and 53, Chapter 6 (Civil Service Commission), Book V of
3 Executive Order No. 292, the Administrative Code of 1987.

4
5 **SEC. 106. Imposition of Blacklisting.** – At any stage of the integrated procurement
6 process, the HoPE or BAC may impose on bidders or prospective bidders the
7 penalty of blacklisting which perpetually prohibits the said bidder or prospective
8 bidder from participating in all government procurement activities in any procuring
9 entity without prejudice to any criminal or civil liabilities as may be provided by
10 applicable laws.

11 Blacklisting shall be imposed against any of the bidders based on any of the
12 following grounds:

- 13 (a) Committing any of the acts provided under Section 102 of this Article three
14 times or more;
- 15
16 (b) Submitting eligibility requirements and bids containing false information or
17 falsified documents or the concealment of such information will materially alter
18 the outcome of eligibility screening or any stage of the competitive bidding;
- 19
20 (c) Submission of beneficial ownership information containing false entries;
- 21
22 (d) Unauthorized accessing of the contents of any bid submitted to the procuring
23 entity before the opening of bids;
- 24
25 (e) Using force, fraudulent machinations, coercion, undue influence or pressure
26 on any member of the BAC or any officer or employee of the procuring entity
27 to take a particular action for its own favor or gain, or to the disadvantage of a
28 particular bidder;
- 29
30 (f) Agreeing with two or more bidders and submitting different bids as if they were
31 *bonafide*, when they knew that one or more of them was so much higher than
32 the other that it could not be honestly accepted and that the contract will
33 surely be awarded to the pre-arranged lowest bid;
- 34
35 (g) Maliciously submitting different bids through two or more persons,
36 corporations, partnerships or any other business entity in which it has interest
37 to create the appearance of competition that does not in fact exist so as to be
38 declared as the winning bidder;
- 39
40 (h) Entering into an agreement with other bidder/s which call upon one to refrain
41 from bidding for procurement contracts, or which call for withdrawal of bids
42 already submitted, or which are otherwise intended to secure an undue
43 advantage to any of the bidders;
- (i) Employing schemes which stifle or suppress competitive bidding;

- 1 (j) Failing to faithfully disclose its relationship, regardless of the time of its
2 discovery, with any of the members of the BAC, secretariat, TWG, or HoPE in
3 accordance with Section 40 of this Act on Disclosure of Relations;
4
- 5 (k) Assigning or subcontracting of the contract or any part thereof or substitution
6 of key personnel named in the proposal without prior written approval by the
7 procuring entity;
- 8 (l) Willful or deliberate abandonment or non-performance of the project or
9 contract by the winning bidder resulting to substantial breach thereof without
10 lawful and/or just cause;
- 11 (m) In case it is determined *prima facie* that the winning bidder has engaged,
12 before or during implementation of the contract, in the following unlawful
13 deeds and behaviors relative to contract acquisition and implementation:
- 14 (1) corrupt, fraudulent, collusive and coercive practices;
15 (2) drawing up or using forged documents;
16 (3) using adulterated materials, means or methods, or engaging in
17 production contrary to rules of science or the trade; and
18 (4) any other act analogous to the foregoing; and
- 19 (n) Unsatisfactory performance record of contract obligation with at least three (3)
20 or more procuring entities in terms of quality of goods or materials, and/or
21 implementation of contract of service and work progress: *Provided*, That all of the
22 foregoing be solely due to the fault of the bidder.

23 **SEC. 107. Status of Blacklisted Person.** – Before the issuance of a blacklisting
24 order, the erring bidder may participate in the procurement of any government project
25 except in the procuring entities where it is suspended: *Provided*, That if the
26 blacklisting order is issued prior to the date of the NOA, the blacklisted person shall
27 not be qualified for award and such contract shall be awarded to another bidder:
28 *Provided, however*, That if the blacklisting order is issued after award of a contract to
29 the blacklisted person, the awarded contract shall not be prejudiced by the said order
30 but the said offense(s) committed by the blacklisted person should not be connected
31 with the awarded contract.
32

33 **SEC. 108. Extent of Administrative Sanctions.** – The penalties of suspension and
34 blacklisting shall be applied against (a) any entity to which the suspended or
35 blacklisted person has a controlling interest; (b) against any beneficial owner of the
36 suspended or blacklisted person.
37

38 ARTICLE XVII

39 OFFENSES AND PENALTIES

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42 **SEC. 109. Offenses Committed by a Public Officer or Employee and its**
43 **Penalties.** – Without prejudice to the provisions of Republic Act No. 3019, otherwise

1 known as the "Anti-Graft and Corrupt Practices Act" and other penal laws, public
2 officers or employees who commit any of the following acts shall suffer the penalty of
3 imprisonment of six (6) years and one (1) day but not more than fifteen (15) years:

4 (a) Unauthorized accessing of the contents of any bid submitted to the
5 procuring entity before the opening of bids;

6 (b) Delaying, without justifiable cause, the screening for eligibility, opening of
7 bids, evaluation and post qualification of bids, and awarding of contracts;

8 (c) Using of force, fraudulent machinations, coercion, undue influence or
9 pressure on any member of the BAC or any officer or employee of the
10 procuring entity to take a particular action which favors, or tends to favor a
11 particular bidder;

12 (d) Splitting of contracts which exceed procedural purchase limits to avoid
13 competitive bidding or to circumvent the limits of approving or procurement
14 authority;

15 (e) Abusing the exercise of power to reject any and all bids as mentioned
16 under Section 60 of this Act with manifest preference to any bidder who is
17 closely related to the public officer or employee or who has an agent or
18 shareholder related to the said public officer or employee in accordance with
19 Section 40 of this Act on Disclosure of Relations;

20 (f) Maliciously failing to video record, tampering with the video recording or
21 maliciously failing to store and preserve the video recording of all
22 procurement-related conferences;

23 (g) Outright excluding or limiting the participation of registered sectors, as
24 provided for in Section 86 of this Act, in the integrated procurement process;

25 (h) Entering into, influencing, facilitating, favoring, approving, or brokering, a
26 contract under this Act where such public officer or employee is a member of
27 the board, an officer, or a substantial stockholder of a private corporation
28 winning the bid, or owner or has a substantial interest in the bidder, whether
29 directly or indirectly.

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

32 In addition, the public officer involved shall also suffer the penalty of perpetual
33 disqualification from public office, while the private individual shall be permanently
34 disqualified from transacting business with the government.

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36 **SEC. 110. Jurisdiction.** – Jurisdiction over the offenses defined under this Article
37 shall belong to the appropriate courts, according to laws existing at the time of the
38 commission of the offenses.

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ARTICLE XVIII
CIVIL LIABILITY

SEC. 111. *Civil Liability in Case of Conviction.* – Without prejudice to administrative sanctions, a conviction under this Act or Republic Act No. 3019 shall carry with it a civil liability, which may either consist of restitution for the damage done or the forfeiture in favor of the government of any unwarranted benefit derived from the act or acts in question or both, at the discretion of the courts.

SEC. 112. *Liquidated Damages.* – All contracts executed in accordance with this Act shall contain a provision on liquidated damages which shall be payable in case of breach thereof. The amount thereof shall be specified in the IRR.

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ARTICLE XIX
FINAL PROVISIONS

SEC. 113. *Oversight Committee.* – A Joint Congressional Oversight Committee shall be composed of the Chairperson of the Senate Committee on Finance and three (3) members thereof appointed by the Senate President, the Chairperson of the House Committee on Appropriations, the Chairperson of the House Committee on Revision of Laws and three (3) members thereof to be appointed by the Speaker of the House of Representatives.

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The Oversight Committee is hereby mandated to oversee the implementation of this Act. For this purpose, the Oversight Committee shall set the guidelines and overall framework for the monitoring of the implementation of this Act and shall adopt its internal rules of procedure.

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SEC. 114. *Appropriations.* – The amount necessary to carry out the provisions of this Act shall be included in the annual General Appropriations Act.

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SEC. 115. *implementing Rules and Regulations.* – The GPPB, in consultation with other relevant government agencies, shall formulate the IRR of this Act within one hundred eighty (180) days from its promulgation.

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SEC. 116. *Transitory Provision.* – To ensure the continued implementation of projects, activities and programs, procurement transactions commenced before the effectivity of this Act shall continue to be governed by Republic Act No. 9184.

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The GPPB and all HoPE, procuring entities and the BACs, affected by this Act shall be given five (5) years transitory period to fully comply with the requirements of this Act.

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SEC. 117. *Separability Clause.* – If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full force and effect.

1 **SEC. 118. *Repealing Clause.*** – Republic Act No. 9184 is hereby repealed. All other
2 laws, presidential decrees, executive orders, administrative orders, rules and
3 regulations inconsistent with or contrary to the provisions of this Act are deemed
4 amended, modified or repealed accordingly.

5

6 **SEC. 119. *Effectivity.*** – This Act shall take effect after fifteen (15) days upon its
7 publication in the *Official Gazette* or in at least one (1) newspaper of general
8 circulation.

Approved,