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CIRCULAR 04-2012

23 November 2012

TO : Heads of Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units

SUBJECT : Clarification on Conduct of Procurement Activities in relation to the May 13, 2013 National and Local Elections

1.0 PURPOSE

- 1.1** This Circular is issued to clarify the conduct of procurement activities of the government agencies from March 29 to May 13, 2013 (*hereinafter referred to as “Election Period”*) and to advise government agencies on the procurement activities it may or may not undertake under Section 261(v) and (w) of the Omnibus Election Code.
- 1.2** This also serves to remind agencies that the election ban is not designed to paralyze the operations of the government, but to insulate government procurement from political partisan activities, usually in the form of new projects, which are designed to influence the public during the upcoming May 13, 2013 National and Local Elections.

2.0 SCOPE

All Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units.

3.0 DEFINITION OF TERMS

- 3.1 Public Works** - This refers to “**infrastructure projects**” as defined under Section 5(k) of Republic Act No. 9184 (Government Procurement Reform Act). It shall refer to the construction, improvement, rehabilitation, repair, restoration, or maintenance of roads and bridges, railways, airports, seaports, communication facilities, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification

facilities, national buildings, school buildings, hospitals buildings, and other related construction projects of the government.

- 3.2 Social Projects** - This refers to activities undertaken by the Department of Social Welfare and Development (DSWD) and other agencies performing similar functions.
- 3.3 Housing Related Projects** - This refers to activities undertaken by the Housing and Urban Development Coordinating Council (HUDCC) and other agencies performing similar functions.
- 3.4 Routine and Normal/Administrative Expenses** – This refers to expenses required for the day-to-day operations of the agency, such as salaries, light, heat, and power.

4.0 GENERAL CONSIDERATIONS

- 4.1** Procuring entities may proceed with the commencement and completion of procurement activities during the Election Period. However, issuance of a Notice of Award or the release, disbursement and expenditure of public funds, shall be prohibited in the following instances:

- 4.1.1 *Social Projects.*** No Notice of Award, whether through public bidding or any of the alternative modes of procurement, may be issued for social projects by the DSWD and any other departments performing functions similar to DSWD, during the Election Period, except in the following cases:

- (a)** *Routine and normal expenses.* Routine and normal expenses of the department.
 - (b)** *COMELEC Exemption.* Such other expenses authorized by COMELEC after due notice and hearing.

- 4.1.2 *Housing-related Projects.*** No Notice of Award, whether through public bidding or any of the alternative modes of procurement, may be made for housing-related projects by the HUDCC and any other agency of the government performing similar functions, during the Election Period, except in the following cases:

- (a)** *Administrative expenses.* Such other necessary administrative expenses.
 - (b)** *COMELEC Exemption.* Such other expenses authorized by COMELEC after due notice and hearing.

- 4.1.3 *Public Works.*** No Notices of Award, whether through public bidding or any of the alternative modes of procurement, may be issued for public works during the Election Period.

While public bidding for public works may be conducted, the Procuring Entity should withhold the issuance of the Notice of Award during the Election Period.

However, procurement for any of the following public works is allowed:

- (a) *Maintenance Work.* Maintenance of existing and/or completed public works projects; *provided* that no additional laborers shall be employed. Only the average number of laborers or employees employed during the six (6) month period immediately prior to March 29, 2013 shall be permitted to work during such time.
- (b) *Contract entered into or awarded before election ban.* Notices of award, whether through public bidding or any of the alternative modes of procurement, issued before March 29, 2013, *provided* that such award was reported to the Commission on Elections (COMELEC) in accordance with Section 5 below.
- (c) *Preparatory works.* Preparation for working drawings, specifications, bills of materials, estimates, and other procedures preparatory to actual construction including the purchase of materials and equipment and all incidental expenses for wages of watchmen and other laborers employed for such work in the central office and filed storehouses before March 29, 2013.
- (d) *Calamity.* Emergency works necessitated by the occurrence of a public calamity, but such work shall be limited to the restoration of the damaged facility.
- (e) *Ongoing projects.* Ongoing public works commenced before March 29, 2013, *provided* that such project was reported to the COMELEC in accordance with Section 5 below.
- (f) *Similar projects under foreign agreements.* Ongoing foreign assisted projects commenced before March 29, 2013 are likewise allowed, *provided* that such project was reported to COMELEC in accordance with Section 5 below.

5.0 REPORTORIAL REQUIREMENTS

5.1 COMELEC

On or before March 29, 2013, the Head of the Procuring Entity shall submit to the COMELEC through its regional election directors/provincial election supervisors/election officers concerned certified lists of the following:

- (i) All ongoing public works projects commenced before March 29, 2013;
- (ii) Similar ongoing projects under foreign agreements commenced before March 29, 2013; and
- (iii) Notices of award for public works issued before March 29, 2013 together with a copy of each contract.

Except for local government units, all other Procuring Entities shall furnish the Department of Public Works and Highways (DPWH) with a copy of the certified list submitted to COMELEC.

5.2 Philippine Government Electronic Procurement System (PhilGEPS)

All Invitations to Bid and awards of contracts shall be posted in the PhilGEPS in accordance with the provisions of Republic Act No. 9184 and its revised Implementing Rules and Regulations.

6.0 This Circular shall take effect immediately.

7.0 For guidance and compliance.

(Sgd.)

FLORENCIO B. ABAD

Chairman