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CIRCULAR 04-2015

30 April 2015

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 : Reiteration of GPPB Position on Section 9(b)(ii) of Department of Labor and Employment (DOLE) Department Order (DO) No. 18-A Pursuant to GPPB Resolution No. 14-2012 dated 1 June 2012

1.0 Purpose

This Circular is being issued to reiterate the position of the Government Procurement Policy Board (GPPB) declaring Section 9(b)(ii) of DOLE DO No. 18-A violative of Article IX, Section 31 of RA 9184 and its revised Implementing Rules and Regulations (IRR).

2.0 Coverage

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 GPPB Position

As explained in the previous GPPB Policy Matter (PM) Opinions¹, the 10% administrative fee provided for under Section 9(b)(ii) of DO 18-A is a percentage rate that has for its effect the fixing of a floor price imposed on all service agreements. The said 10% administrative fee is a direct contravention of Article IX, Section 31 of RA 9184 which provides that “*there shall be no lower limit to the amount of the award*”. Hence, the position of the Board that Section 9(b)(ii) of DOLE DO No. 18-A is violative of RA 9184 and its revised IRR remains.

¹ GPPB PM Nos. 03-2012, dated 30 November 2012 and 02-2013, dated 11 April 2014

4.0 Authority of the GPPB

Under Section 63 of RA 9184 and its revised IRR, the GPPB is mandated, among others, to protect national interest in all matters affecting public procurement, to formulate and amend public procurement policies, rules and regulations, and to ensure proper implementation by Procuring Entities of the provisions of RA 9184 and its IRR, including Section 31 thereof.

5.0 This Circular shall take effect immediately.

6.0 For guidance and compliance.

(SGD)

FLORENCIO B. ABAD

Chairperson