



RESOLUTION NO. 24-2013

APPROVING THE ISSUANCE OF A CIRCULAR ENUMERATING THE ACTS PROHIBITED DURING THE 2013 BARANGAY AND SANGGUNIAN KABATAAN ELECTIONS

WHEREAS, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

WHEREAS, Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement;

WHEREAS, the Commission on Elections (COMELEC) issued Resolution No. 9715 dated 18 June 2013 reiterating the prohibited activities during the election period for the 2013 Barangay and Sanggunian Kabataan Elections, pursuant to Section 3 of Republic Act (RA) No. 6679¹ and Batas Pambansa Bilang (BP) 881²;

WHEREAS, the Election Period for the 2013 Barangay and Sanggunian Kabataan Elections shall run from **28 September** to **12 November 2013** with the day of election scheduled on **28 October 2013**;

WHEREAS, BP 881 is a general law that applies to all kinds of elections, while RA 6679 is a special law that applies to Barangay Elections;

WHEREAS, there are prohibited acts under COMELEC Resolution 9715 relevant to procurement rules and regulations, *to wit*: “Construction or maintenance of provincial, city, municipal or barangay-funded roads and bridges’ pursuant to Section 3 of RA 6679;

WHEREAS, Section 3 of RA 6679 states that “The construction or maintenance of provincial, city, municipal and barangay-funded roads and bridges shall be prohibited for a period of ten (10) days immediately preceding the date of election, the provisions of Section 261, paragraphs (v) and (w), of the Omnibus Election Code to the contrary notwithstanding”;

WHEREAS, during the 3rd Inter-Agency Technical Working Group (IATWG) Meeting held on 9 July 2013, IATWG agreed to recommend to the Government Procurement Policy Board (GPPB) the issuance of a Circular to guide government agencies on the conduct of procurement activities during the Election Period in connection with COMELEC Resolution No. 9715;

WHEREAS, in the 5th GPPB meeting held on 11 July 2013, the GPPB agreed to adopt the recommendation of the IATWG to issue a Circular reiterating COMELEC Resolution No. 9715 in order to guide government agencies on the conduct of procurement activities during the Election Period;

¹ An Act to Amend Republic Act No. 6653 to Postpone the Barangay Elections to March 28, 1989, Prescribing Additional Rules Governing the Conduct of Barangay Elections and for other Purposes.

² Omnibus Election Code.

NOW, THEREFORE, for and in view of all the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law and other executive issuances, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the **ISSUANCE** of a Circular to guide government agencies on the conduct of procurement activities during the election period for the 2013 Barangay and Sanggunian Kabataan Elections attached hereto as **Annex “A”** .

This Resolution shall take effect immediately.

APPROVED this 30th day of July 2013 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

(Sgd.)

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

(Sgd.)

DEPARTMENT OF HEALTH

(Sgd.)

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

(Sgd.)

**DEPARTMENT OF NATIONAL
DEFENSE**

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(Sgd.)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRADE AND
INDUSTRY**

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO



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CIRCULAR 05-2013

30 July 2013

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 the Conduct of Procurement Activities in relation to the October 28, 2013 Barangay and Sanggunian Kabataan (SK) Elections

1.0 PURPOSE

- 1.1** This Circular is to clarify the conduct of procurement activities of government agencies during the 2013 Barangay and Sanggunian Kabataan Elections from September 28 to November 12, 2013 (*hereinafter referred to as "Election Period"*) and to advise government agencies on the procurement activities it may or may not undertake under Section 3 of Republic Act 6679³ and 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 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 GENERAL CONSIDERATIONS

- 3.1** 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:

³ An Act to Amend Republic Act No. 6653 to Postpone the Barangay Elections to March 28, 1989, Prescribing Additional Rules Governing the Conduct of Barangay Elections and for Other Purposes.

3.1.1 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.

3.1.2 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.

3.1.3 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 September 28, 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 September 28, 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 field storehouses before September 28, 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 September 28, 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 September 28, 2013 are likewise allowed, *provided* that such project was reported to COMELEC in accordance with Section 5 below.

3.2 Construction of public works and delivery of materials for public works shall be prohibited during the ***Election Period***, except in case of construction and maintenance of provincial, city, municipal and barangay-funded roads and bridges which shall be prohibited from **October 18 to October 28, 2013** or a period of ten (10) days immediately preceding the date of the election.

4.0 REPORTORIAL REQUIREMENTS

4.1 COMELEC

On or before September 28, 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 September 28, 2013;
- (ii) Similar ongoing projects under foreign agreements commenced before September 28, 2013; and
- (iii) Notices of award for public works issued before September 28, 2013 together with a copy of each contract.

Local government units, including barangays, need not furnish to the Department of Public Works and Highways (DPWH) a copy of the certified list submitted to COMELEC.

4.2 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.

5.0 This Circular shall take effect immediately.

6.0 For guidance and compliance.

(Sgd.)

FLORENCIO B. ABAD

Chairperson