



**APPROVING THE ISSUANCE OF CIRCULAR  
PROVIDING GUIDANCE ON CONTRACT TERMINATION DUE TO FIFTEEN  
PERCENT NEGATIVE SLIPPAGE BY THE CONTRACTOR IN INFRASTRUCTURE  
PROJECTS**

**WHEREAS**, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and the 2016 revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 28 October 2016, respectively;

**WHEREAS**, Section 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

**WHEREAS**, on 22 December 2004, the GPPB issued Resolution No. 018-2004 adopting and approving the Guidelines on Termination of Contracts (Guidelines) establishing the policies and procedures relating to the whole or partial termination of government procurement contracts of goods, infrastructure projects, and consulting services;

**WHEREAS**, Item III(A)(2)(a) of the Guidelines provides for the termination of the contract in case of negative slippage of fifteen percent (15%) or more for on-going projects in accordance with Presidential Decree No. 1870;<sup>1</sup>

**WHEREAS**, on 18 March 2018, the Department of Public Works and Highways (DPWH) sent a letter requesting the GPPB for the issuance of a policy regarding the termination of contracts on the ground of thirty (30) days delay of a contractor in the implementation of infrastructure project, in response to the instruction issued by the President of the Republic of the Philippines through the Cabinet Secretary to the DPWH and the Department of Transportation (DOTr). The request letter includes proposal to amend Section 34.3(b)(ii)(a) of the 2016 revised IRR of RA No. 9184 and Item III(A)(2)(a) of Annex “I” or the Guidelines on Termination of Contract;

**WHEREAS**, during a Special Meeting of the Inter-Agency Technical Working Group (IATWG) on 23 March 2018, the proposal of DPWH was presented and the members resolved to endorse the same to the GPPB subject to further discussion between DPWH and the GPPB-TSO representatives to agree on the proposed wordings of the amendment. However, as presented by GPPB-TSO during the same meeting, the proposal to amend Section 34.3 (b)(ii)(a) of the 2016 revised IRR of RA No. 9184 was

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<sup>1</sup> Authorizing the Government's Take Over by Administration of Delayed Infrastructure Projects or Awarding of the Contract to other Qualified Contractors, issued on 12 July 1983.

determined to be not substantial hence, only the proposal of DPWH with regards the amendment of Item III(A)(2)(a) of Annex "I" was endorsed;

**WHEREAS**, on 16 April 2018, in a meeting held for the purpose, the DPWH and GPPB-TSO finalized the proposal to include thirty-day delay as a ground for contract termination of procurement contracts in infrastructure projects;

**WHEREAS**, on 18 May 2018, the Board deferred resolution on the request and asked the DPWH to submit the following before the next scheduled GPPB Meeting on 31 May 2018, thus:

1. Status of DPWH projects as regards slippages and impact analysis if the proposal were to be applied to the current projects;
2. Actual number of contracts *vis-à-vis* actual number of contractors;
3. Number of terminated contracts and the timelines of the termination;  
and
4. Data on school buildings and health facilities.

**WHEREAS**, on 31 August 2018, DPWH submitted the required data and analysis for the consideration of the Board;

**WHEREAS**, on 28 September 2018, during the 5<sup>th</sup> GPPB Meeting, the GPPB resolved to undertake the following:

1. Maintain the current IRR, Bidding Documents and the Guidelines;
2. Require the DOTr and DPWH to submit their respective approaches to address the instructions of the President, premised on its compliance with the procurement law and associated rules; and
3. Communicate to the Cabinet Secretary, the actions undertaken by the Board upon receipt of the submission of the DOTr and DPWH, without prejudice to their individual submissions to the Cabinet Secretary.

**WHEREAS**, in response to the 28 September 2019 Resolution of the Board requiring them to submit actions undertaken to address the instructions of the President, the DOTr sent a letter dated 09 November 2018 to the GPPB-TSO informing the latter that they issued a Memorandum, dated 23 February 2018, to all its Undersecretaries, Assistant Secretaries, and Heads of Attached Agencies directing that, henceforth, all contracts involving infrastructure projects, shall provide that a slippage of more than thirty (30) days is a ground for the contract's termination, the non-payment and/or blacklisting of the contractor concerned, in addition to the grounds provided in RA No. 9184 and its 2016 revised IRR;

**WHEREAS**, DPWH, on 03 December 2018, submitted its response providing for explanation that they have already been implementing the calibrated actions on particular slippage are reflected on DPWH Department Order No. 193 series of 2016 or the

Administrative Action on Contracts with Negative Slippage in Accordance with the 2016 revised IRR of RA No. 9184 which can be summarized as follows:

1. Negative slippage of 5% (“Early Warning” Stage) – where a contractor shall be given a warning and be guided to submit a detailed “catch-up” program on a fortnightly (two weeks) basis to eliminate the stoppage;
2. Negative slippage of 10% (“ICU” Stage) – where the contractor shall be issued a final warning and be required to come-up with more detailed program of activities with weekly physical targets, together with the required additional input resources; and
3. Negative slippage of 15% or more (“Terminal” Stage) – where the implementing office shall initiate termination of the contract and/or take-over of the remaining work by administration or assignment to another contractor/appropriate agency.

**WHEREAS**, during the 1<sup>st</sup> Joint Meeting of the GPPB and IATWG held on 07 February 2019, the GPPB-TSO presented the response submitted by the DPWH and DOTr, noting that the DPWH proposed Calibrated Action on Negative Slippage is in conformity with the ground for termination of contracts for infrastructure projects as prescribed under Item III(A)(2)(a) of the Guidelines;

**WHEREAS**, the GPPB-TSO further emphasized the need to harmonize the conflicting policies observed by the DPWH and DOTr and the Board resolved to direct GPPB-TSO to draft a Circular adopting the calibrated actions of DPWH under Department Order No. 193, subject to proper review and recommendation of the IATWG;

**WHEREAS**, during the 2<sup>nd</sup> Regular Meeting of the IATWG on 28 February 2019, the GPPB-TSO submitted for review the draft Circular Providing Guidance on Contract Termination Due to Fifteen Percent Negative Slippage by the Contractor in Infrastructure Projects which the IATWG favorably endorsed to the Board with minor revisions;

**WHEREAS**, during the 2<sup>nd</sup> Regular Meeting of the GPPB on 08 March 2019, the GPPB-TSO presented to the Board the draft Circular as endorsed by the IATWG and after due consideration, the Board resolved to approve the proposed Circular Providing Guidance on Contract Termination Due to Fifteen Percent (15%) Negative Slippage by the Contractor in Infrastructure Projects;

**NOW, THEREFORE**, for and in consideration of 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 the Circular, attached as Annex “A” and forms and integral part of this resolution, providing guidance on the termination of contracts in case of fifteen percent (15%) negative slippage by the contractor in an ongoing contract adhering to the following:

1. The provisions of the Guidelines on Termination of Contracts as embodied in GPPB Resolution No. 018-2004 remain to be the basis for contract termination in infrastructure projects.
2. To ensure the timely implementation of infrastructure projects and effective management of the performance of contractors, the following calibrated actions in response to delays in the implementation of infrastructure projects are hereby adopted:

2.1. Negative slippage of five percent (5%) –

The contractor shall be given a warning and be required to:

- 2.1.1. Submit a detailed “catch-up” program every two weeks in order to eliminate the slippage and to restore the project to its original schedule;
- 2.1.2. Accelerate work and identify specific physical targets to be accomplished over a definite period of time; and
- 2.1.3. Provide additional input resources such as the following; money, manpower, materials, equipment, and management, which shall be mobilize for this action.

The implementing unit shall exercise closer supervision and meet the contractor every other week to evaluate the progress of work and resolve any problems and bottlenecks.

2.2. Negative slippage of ten percent (10%) –

The contractor shall be issued a final warning and be required to come-up with a revised detailed “catch-up” program with weekly physical targets together with the required additional input resources.

The implementing unit shall intensify on-site supervision and evaluation of the project performance to at least once a week and prepare contingency plans for a possible termination of the contract or take-over of the work by administration or contract.

2.3. Negative slippage of fifteen percent (15%) –

The implementing unit shall initiate termination of the contract or take-over of the work by administration or contract in accordance with Section 53.3 of the 2016 revised IRR of RA No. 9184 and the

Revised Guidelines for the Implementation of Infrastructure Projects by Administration.

It shall likewise take proper transitory measures to minimize work disruptions, e.g., take-over by administration while negotiation or rebidding is on-going.

This resolution shall take effect fifteen (15) days after publication.

**APPROVED** this 8<sup>th</sup> day of March 2019 at Pasig City, Philippines.

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**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

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**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

SGD

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**DEPARTMENT OF EDUCATION**

SGD

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**DEPARTMENT OF ENERGY**

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**DEPARTMENT OF FINANCE**

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**DEPARTMENT OF HEALTH**

SGD

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**DEPARTMENT OF INFORMATION AND  
COMMUNICATION TECHNOLOGY**

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**DEPARTMENT OF INTERIOR AND  
LOCAL GOVERNMENT**

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**DEPARTMENT OF NATIONAL  
DEFENSE**

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**DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS**

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

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**DEPARTMENT OF TRADE AND  
INDUSTRY**

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**DEPARTMENT OF TRANSPORTATION**

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**PRIVATE SECTOR REPRESENTATIVE**