



**APPROVING THE RULES IN THE CONDUCT OF PROCUREMENT FOR GOODS WITH APPLICATION OF DOMESTIC PREFERENCE COVERED UNDER REPUBLIC ACT NO. 11494 OR THE *BAYANIHAN* TO RECOVER AS ONE ACT**

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

**WHEREAS**, Section 63 of RA No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to protect national interest in all matters affecting public procurement, having due regard to the country's regional and international obligations and to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

**WHEREAS**, on 8 March 2020, the President signed Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines upon the recommendation of the Department of Health (DOH) following the confirmed local transmission of the Coronavirus Disease 2019 (COVID-19);

**WHEREAS**, on 11 September 2020, the President signed RA No. 11494 or the *Bayanihan* to Recover as One Act (*Bayanihan 2*) in view of the unabated spread of the COVID-19 virus and the ensuing economic disruption therefrom. Section 4(u) of *Bayanihan 2* exempts specific procurement projects<sup>1</sup> related to the COVID-19 response from the coverage of RA No. 9184;

**WHEREAS**, notwithstanding the above exemption from RA No. 9184, Section 4(u) of the *Bayanihan 2* provides that the procurement of products, materials and supplies produced, made or manufactured in the Philippines shall be subject to competitive procurement procedures;

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<sup>1</sup> a. Goods, which may include PPE such as gloves, gowns, masks, goggles, and face shields; surgical equipment and supplies; laboratory equipment and its reagents; medical equipment and devices; support and maintenance for laboratory and medical equipment, surgical equipment and supplies; medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hypochlorite, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension); testing kits, and such other supplies or equipment as may be determined by the DOH and other relevant government agencies: Provided, That the DOH shall prioritize the allocation and distribution of the aforesaid goods, supplies and other resources to the following:

- (i) Public health facilities in the regions, provinces, or cities, that are designated as COVID-19 referral hospitals, such as, but not limited to, Philippine General Hospital (PGH), Lung Center of the Philippines (LCP), and Dr. Jose N. Rodriguez Memorial Hospital;
  - (ii) Private hospitals which have existing capacities to provide support care and treatment to COVID-19 patients; and
  - (iii) Public and private laboratories that have existing capacities to test suspected COVID-19 patients.
- b. Goods and services for social amelioration measures in favor of affected communities;
  - c. Lease of real property or venue for use to house health workers or serve as quarantine centers, medical relief and aid distribution locations, or temporary medical facilities;
  - d. Establishment, construction, and operation of temporary medical facilities;
  - e. Utilities, telecommunications, and other critical services in relation to operation of quarantine centers, medical relief and aid distribution centers and temporary medical facilities; and
  - f. Ancillary services related to the foregoing

**WHEREAS**, given the mandatory use of competitive procurement procedures, the certification requirement under Section 4(u)(ix) of the *Bayanihan 2* that the Procuring Entity (PE) has exerted all efforts to secure the most advantageous price to the government would not apply as the price is open to competition, and would apply only to Negotiated Procurement or Emergency Procurement

**WHEREAS**, in order to reduce the adverse impact of COVID-19 in the Philippine economy, particularly in the business activities and livelihood of Filipinos, most especially the local manufacturers and the micro, small and medium enterprises, in various sectors, the last paragraph of Section 4(u) of the *Bayanihan 2* further requires the application of domestic preference for products, materials and supplies produced, made or manufactured in the Philippines in the procurement of COVID-19 related Goods subject to: (i) the issuance of a certification from the DTI that the articles forming part of the bid are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines; and (ii) the submission thereof during the competitive bidding procedure in order for the Department of Budget and Management-Procurement Service or the concerned PE to make the award to the lowest domestic bidder<sup>2</sup> notwithstanding that its bid is fifteen percent (15%) in excess of the lowest foreign bid;

**WHEREAS**, except for surgical equipment and supplies, laboratory equipment and its reagents, and medical equipment and devices, the items enumerated in Section 4(u)(1) of the *Bayanihan 2*, which are urgently required to address the current COVID-19 situation, are already included in the list of common-use supplies and equipment (CSE) available at the Procurement Service (PS) pursuant to GPPB Resolution No. 03-2020 dated 9 March 2020 to expedite their emergency purchase by the concerned government entities for their prompt mobilization and delivery;

**WHEREAS**, Section 43 of RA No. 9184 provides that goods may be obtained from domestic or foreign sources and the procurement thereof shall be open to all eligible suppliers, manufacturers, and distributors consistent with the country's obligations under international treaties or agreements. However, in the interest of availability, efficiency, and timely delivery of goods, the PE may give preference to the purchase of domestically-produced and manufactured goods, supplies, and materials that meet the specified or desired quality;

**WHEREAS**, domestic preference under RA No. 9184 and its 2016 revised IRR is being applied through Sections 43.1 and 43.2 of the IRR of RA No. 9184 which provides that the PE shall give preference to materials and supplies produced, made, and manufactured in the Philippines by awarding the contract to the lowest domestic bidder claiming preference through the submission of a certification from the DTI that the articles forming part of its bid are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines, provided its bid is not more than fifteen (15%) in excess of the lowest foreign bid and the award is in the amount of the lowest foreign bid;

**WHEREAS**, pursuant to Section 5(n) of the 2016 revised IRR of RA No. 9184, a foreign bid refers to any offer of articles, materials or supplies not manufactured or not to be manufactured in the Philippines, substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines. While a domestic bid refers to any offer for bidding, may it be from a domestic bidder or a foreign bidder, of goods, supplies or materials that are substantially grown, produced or manufactured in the Philippines, as evidenced by a Domestic Bidders Certificate of Preference issued by the DTI;

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<sup>2</sup> Domestic Bidder refers to any person or entity offering unmanufactured articles, materials or supplies of the growth or production of the Philippines, or manufactured articles, materials, or supplies manufactured or to be manufactured in the Philippines substantially from articles, materials, or supplies of the growth, production, or manufacture, as the case may be, of the Philippines as defined under Section 5(j) of the 2016 revised IRR of RA No. 9184.

**WHEREAS**, pursuant to Section 43.1.3 of the 2016 revised IRR of RA No. 9184, the DTI issued Department Administrative Order No. 19-01 and 19-10, series of 2019 prescribing the guidelines in the issuance of a certificate of preference for domestic bidders participating in government procurement projects upon determination that the articles forming part of its bid are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines;

**WHEREAS**, pursuant to Article VI, Section 29(1) of the 1987 Philippine Constitution, which provides that “no money shall be paid out of the Treasury except in pursuance of an appropriation made by law” and Section 4(1) of Presidential Decree No. 1445 or the State Audit Code of the Philippines, which states that “no money shall be paid out of any public treasury or depository except in pursuance of an appropriation law or other specific statutory authority,” all award of contracts must be within the approved budget as provided for in the General Appropriations Act, corporate budget or budget ordinance of the concerned PE. Thus, the bid price of the lowest domestic bid with domestic preference must not exceed the approved budget for the contract (ABC);

**WHEREAS**, during the 11<sup>th</sup> GPPB Meeting, the GPPB - Technical Support Office (TSO) recommended rules on the conduct of competitive bidding for procurement of goods covered under the *Bayanihan 2*, thus:

Except for Procurement Projects covered within the conditions and threshold of Shopping under Section 52.1(b) and Small Value Procurement,<sup>3</sup> the rules and procedure of Competitive Bidding or Public Bidding under RA No. 9184 and its 2016 revised IRR shall be adopted in the procurement of the following items covered under Section 4(u)(1) of RA No. 11494 or the *Bayanihan 2* **because the *Bayanihan 2* requires the use of competitive procurement procedure:**

- a. Included in the list of CSE of the PS:
  - i. Personal protective equipment such as gloves, gowns, masks, goggles, and face shields;
  - ii. support and maintenance for laboratory and medical equipment, surgical equipment and supplies;
  - iii. medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hypochlorite, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension);
  - iv. testing kits; and
  - v. such other supplies or equipment as may be determined by the DOH and other relevant government agencies.
  
- b. Not included in the list of CSE of the PS:
  - i. Surgical equipment and supplies;
  - ii. laboratory equipment and its reagents; and
  - iii. medical equipment and devices.

Competitive bidding is one that is open to participation by any interested party and consisting of the following processes: advertisement and posting of the Invitation to Bid, pre-bid conference, eligibility screening of prospective bidders,

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<sup>3</sup> Section 53.9 of the 2016 revised IRR of RA No. 9184 and Annex “H” thereof.

receipt and opening of bids, evaluation of bids, post-qualification, and award of contract, the specific requirements and rule of which are defined in the 2016 revised IRR of RA No. 9184.

Procurement of CSE items mentioned above which are not available in the PS, may be procured by PEs from other sources without the need of securing a Certificate of Non-Availability of Stocks (CNAS), subject to the conditions set forth in the GPPB Resolution No. 17-2020 dated 18 September 2020.

In adopting the rules and procedure of Competitive Bidding under RA No. 9184 and its 2016 revised IRR for the procurement of Goods covered under the *Bayanihan 2*, Procuring Entities (PEs) shall:

- a. post the procurement opportunity in the Philippine Government Electronic Procurement System (PhilGEPS) website. However, in case the PE is unable to post its opportunities in the PhilGEPS for justifiable reasons, the same shall be posted in the website of the PE concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the PE;
- b. dispense with the mandatory periods for each stage of the procurement for COVID-19 related items covered under RA No. 11494 or the *Bayanihan 2* and determine the specific procurement timelines as may be sufficient for the PEs and Bidders to properly conduct, or participate in, the procurement activity, e.g. for the prospective bidders to adequately prepare a responsive bid or the Bids and Awards Committee to effectively verify, validate and ascertain all the documents and requirements submitted by the Bidder during the post-qualification process, among others, taking into consideration the urgency and complexity of the procurement project being undertaken.

For this purpose, the maximum periods and the recommended earliest possible time for action on specific procurement activities in Annex "C" of the 2016 revised IRR of RA No. 9184 may be used as reference in deciding which stage may the period be reduced or expedited by the PE;

- c. dispense with the requirement of single largest completed contract for bidders claiming domestic preference considering that the items covered under the *Bayanihan 2*, if substantially grown, produced or manufactured in the Philippines as evidenced by a Domestic Bidders Certificate of Preference issued by the DTI, would be new product offerings of the bidders in order to address the shortage of supplies during the COVID-19 pandemic;
- d. adopt the GPPB Resolution No. 09-2020, dated 7 May 2020, on Measures for the Efficient Conduct of Procurement Activities during a State of Calamity, or Implementation of Community Quarantine or Similar Restrictions, particularly the use of alternative documentary requirements such as the Performance Securing Declaration, as amended; and
- e. ensure the use of the revised Omnibus Sworn Statement.

**WHEREAS**, during the discussion at the aforementioned GPPB Meeting, members from the Department of Information and Communications Technology and the Department of

Education recommended the following on the conduct of competitive bidding for procurement of goods covered under the *Bayanihan 2*:

The rules and procedure, excluding the thresholds prescribed, for the alternative mode of Small Value Procurement under Section 53.9 of the 2016 revised IRR of RA No. 9184 shall be adopted in the procurement of the following items covered under Section 4(u) of RA No. 11494 or the *Bayanihan 2* which includes sending of requests for quotation to at least three (3) suppliers of known qualifications thus, extending equal opportunity to enable said suppliers who are eligible and qualified to participate in government procurement:

- a. Included in the list of CSE:
  - i. Personal protective equipment such as gloves, gowns, masks, goggles, and face shields;
  - ii. support and maintenance for laboratory and medical equipment, surgical equipment and supplies;
  - iii. medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hypochlorite, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension);
  - iv. testing kits; and
  - v. such other supplies or equipment as may be determined by the DOH and other relevant government agencies.
  
- b. Not included in the list of CSE:
  - i. Surgical equipment and supplies;
  - ii. laboratory equipment and its reagents; and
  - iii. medical equipment and devices.

Procurement of CSE items mentioned above which are not available in the PS, may be procured by PEs from other sources without the need of securing a CNAS, subject to the conditions set forth in the GPPB Resolution No. 17-2020 dated 18 September 2020.

In adopting the rules and procedure of Small Value Procurement under Section 53.9 of the 2016 revised IRR of RA No. 9184 for procurement activities under the *Bayanihan 2*, PEs shall:

- a. post the procurement opportunity or the Request for Quotation in the website of the PE concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the PE for a period of at least three (3) calendar days. Those who responded through any of the required postings shall be allowed to participate notwithstanding the requests for quotation sent to at least three (3) suppliers of known qualifications;
- b. submit a certification that the PE exerted all efforts to secure the most advantageous price to the government based on existing price data of the agency, the DTI or other relevant agencies or preliminary market scanning was done by the agency showing prevailing market prices and practice;
- c. adopt the GPPB Resolution No. 09-2020, dated 7 May 2020, on Measures for the Efficient Conduct of Procurement Activities during a State of

Calamity, or Implementation of Community Quarantine or Similar Restrictions; and

- d. ensure the use of the revised Omnibus Sworn Statement for procurement projects with ABC above Fifty Thousand Pesos (₱50,000.00);

**WHEREAS**, to ensure the effective implementation of the domestic preference rules as a support mechanism for local manufacturers and micro, small and medium enterprises, in various sectors, and help jumpstart the local economy in the procurement of COVID-19 related goods covered under the *Bayanihan 2*, and after careful review and deliberations, the Board resolved, upon recommendation of the GPPB-TSO, to adopt the below-described rules in the conduct of procurement under the *Bayanihan 2*;

**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 following:

1. **ADOPT** the rules and procedure of Competitive Bidding or Public Bidding under RA No. 9184 and its 2016 revised IRR, except for Procurement Projects covered within the conditions and threshold of Shopping under Section 52.1(b) and Small Value Procurement, in the procurement of the following items covered under Section 4(u)(1) of RA No. 11494 or the *Bayanihan 2* **because the *Bayanihan 2* requires the use of competitive procurement procedure**:
  - a. Included in the list of CSE of the PS:
    - i. Personal protective equipment such as gloves, gowns, masks, goggles, and face shields;
    - ii. support and maintenance for laboratory and medical equipment, surgical equipment and supplies;
    - iii. medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hypochlorite, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension, oral rehydration solution, and cetirizine tablet and suspension);
    - iv. testing kits; and
    - v. such other supplies or equipment as may be determined by the DOH and other relevant government agencies.
  - b. Not included in the list of CSE of the PS:
    - i. Surgical equipment and supplies;
    - ii. laboratory equipment and its reagents; and
    - iii. medical equipment and devices.

Competitive bidding is one that is open to participation by any interested party and consisting of the following processes: advertisement and posting of the Invitation to Bid, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract, the specific requirements and rule of which are defined in the 2016 revised IRR of RA No. 9184.

Procurement of CSE items mentioned above which are not available in the PS, may be procured by PEs from other sources without the need of securing a CNAS, subject to the conditions set forth in the GPPB Resolution No. 17-2020 dated 18 September 2020.

In adopting the rules and procedure of Competitive Bidding under RA No. 9184 and its 2016 revised IRR for the procurement of Goods covered under the *Bayanihan 2*, PEs shall:

- a. post the procurement opportunity in the PhilGEPS website. However, in case the PE is unable to post its opportunities in the PhilGEPS for justifiable reasons, the same shall be posted in the website of the PE concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the PE;
- b. dispense with the mandatory periods for each stage of the procurement for COVID-19 related items covered under RA No. 11494 or the *Bayanihan 2* and determine the specific procurement timelines as may be sufficient for the PEs and Bidders to properly conduct, or participate in, the procurement activity, e.g. for the prospective bidders to adequately prepare a responsive bid or the Bids and Awards Committee to effectively verify, validate and ascertain all the documents and requirements submitted by the Bidder during the post-qualification process, among others, taking into consideration the urgency and complexity of the procurement project being undertaken.

For this purpose, the maximum periods and the recommended earliest possible time for action on specific procurement activities in Annex "C" of the 2016 revised IRR of RA No. 9184 may be used as reference in deciding which stage may the period be reduced or expedited by the PE;

- c. dispense with the requirement of single largest completed contract for bidders claiming domestic preference considering that the items covered under the *Bayanihan 2*, if substantially grown, produced or manufactured in the Philippines as evidenced by a Domestic Bidders Certificate of Preference issued by the DTI, would be new product offerings of the bidders in order to address the shortage of supplies during the COVID-19 pandemic;
  - d. adopt the GPPB Resolution No. 09-2020, dated 7 May 2020, on Measures for the Efficient Conduct of Procurement Activities during a State of Calamity, or Implementation of Community Quarantine or Similar Restrictions, particularly the use of alternative documentary requirements such as the Performance Securing Declaration, revised to attached hereto as Annex "A"; and
  - e. ensure the use of the revised Omnibus Sworn Statement, attached hereto as Annex "B";
2. **APPROVE** the following rules in the application of domestic preference in the procurement of COVID-19 related Goods covered under RA No. 11494 or the *Bayanihan 2*:
- a. The PE shall award to the lowest calculated domestic bid, subject to the following:

- (i) submission of a certification from the DTI that the articles of a manufacturer or supplier are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines;
- (ii) the lowest calculated domestic bid is not more than fifteen (15%) percent in excess of the lowest foreign bid;
- (iii) the lowest calculated bid of the domestic bidder is not more than the ABC; and
- (iv) the lowest calculated bid of the domestic bidder complies with and is responsive to all the requirements and conditions specified in the PE's bidding documents;

Illustrative Example:

**ABC: 3,500,000.00**

Lowest Foreign Bid	Lowest Domestic Bid (with a Domestic Bidders Certificate of Preference from the DTI)
2,653,360.00	2,789,098.00
Maximum Margin of Preference $2,653,360.00 + 15\% =$ <b>3,051,364.00</b>	within the ABC and the maximum margin of preference
Domestic Preference Rule is applied. Award to Lowest Domestic Bid with a Certificate of Domestic Bidders Preference from the DTI at <b>2,789,098.00</b> (note that the PE should validate the responsiveness of the bid)	

- b. In case the lowest calculated domestic bid **exceeds the fifteen (15%) percent maximum margin of preference** or fifteen (15%) percent in excess of the lowest foreign bid, the domestic preference rule **SHALL NOT APPLY**. The PE shall award to the lowest calculated foreign bid;

Illustrative Example:

**ABC: 3,500,000.00**

Lowest Foreign Bid	Lowest Domestic Bid (with a Domestic Bidders Certificate of Preference from the DTI)
2,653,360.00	3,075,098.00



Maximum Margin of Preference $2,653,360.00 + 15\% =$ <b>3,051,364.00</b>	within the ABC but <b>exceeds the maximum margin of preference</b>
Domestic Preference Rule is not applied Award to Lowest Foreign Bid at <b>2,653,360.00</b> (note that the PE should validate the responsiveness of the bid)	

- c. In case the lowest calculated domestic bid is within the fifteen (15%) percent maximum margin of preference or fifteen (15%) percent in excess of the lowest foreign bid but **exceeds the ABC**, the domestic preference rule **SHALL NOT APPLY**. The PE shall award to lowest calculated foreign bid;

Illustrative Example:

**ABC: 3,500,000.00**

<b>Lowest Foreign Bid</b>	<b>Lowest Domestic Bid (with a Domestic Bidders Certificate of Preference from the DTI)</b>
3,100,000.00	3,510,000.00
Maximum Margin of Preference $3,100,000.00 + 15\% =$ <b>3,565,000.00</b>	within the maximum margin of preference but <b>exceeds the ABC</b>
Domestic Preference Rule is not applied. Lowest Domestic Bid is disqualified. Award to Lowest Foreign Bid at <b>3,100,000.00</b> (note that the PE should validate the responsiveness of the bid)	

- d. In case the lowest calculated domestic bid **exceeds both the fifteen (15%) percent maximum margin of preference** or fifteen (15%) percent in excess of the lowest foreign bid **and the ABC**, the domestic preference rule **SHALL NOT APPLY**. The PE shall award to lowest calculated foreign bid;

Illustrative Example:

**ABC: 3,500,000.00**

<b>Lowest Foreign Bid</b>	<b>Lowest Domestic Bid (with a Domestic Bidders Certificate of Preference from the DTI)</b>
3,100,000.00	3,710,000.00

Maximum Margin of Preference 3,100,000.00 + 15% = <b>3,565,000.00</b>	<b>Exceeds the maximum margin of preference and the ABC.</b>
Domestic Preference Rule is not applied. Lowest Domestic Bid is disqualified. Award to Lowest Foreign Bid at <b>3,100,000.00</b> (note that the PE should validate the responsiveness of the bid)	

- e. In case no domestic bidder submitted a Domestic Bidders Certificate of Preference from the DTI, the domestic preference rule **SHALL NOT APPLY** between or among domestic bidders. The PE shall award the contract to the domestic bidder with the lowest calculated bid offered provided it complies with and is responsive to all the requirements and conditions specified in the PE's bidding documents and is determined as the lowest calculated responsive bid.

Illustrative Example:

**ABC: 3,500,000.00**

<b>Lowest Calculated Bid</b>	<b>2nd Lowest Calculated Bid</b>
Domestic Bidder <b>without a Domestic Bidders Certificate of Preference</b> from the DTI	Domestic Bidder <b>without a Domestic Bidders Certificate of Preference</b> from the DTI
2,653,360.00	2,700,000.00
Domestic Preference Rule is not applied. Award to the Lowest Calculated Responsive Bid at <b>2,653,360.00</b> (note that the PE should validate the responsiveness of the bid)	

3. **REMIN**d the PEs to comply with the additional posting requirements under RA No. 11494 or the *Bayanihan 2* for the procurement of Goods, Infrastructure Projects, and Consulting Services covered therein and publish the following information and documents in the GPPB Online Portal, the website of the PE concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the PE within seven (7) working days from the date of acceptance of the award:
- Project name;
  - Approved Budget for the Contract;
  - Contract period;
  - Name of winning supplier, distributor, manufacturer, contractor or consultant;
  - Amount of contract as awarded;
  - Notice of award (NOA);
  - Date of award and acceptance; and
  - Contract or purchase order;

4. **REMIND** PEs that the rules on the conduct of procurement activities covered under RA No. 11494 or the *Bayanihan 2* shall only be in effect during the effectivity of the said law which is until **December 19, 2020**. Thus, PEs which issued a NOA during its effectivity may proceed with their contract implementation even after said effectivity. After the lapse of the effectivity of the *Bayanihan 2*, no NOA shall be issued.

This Resolution shall take effect immediately.

**APPROVED** this 21<sup>st</sup> day of September 2020 at Pasig City, Philippines.

Sgd.

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**WENDEL E. AVISADO**  
*GPPB, Chairperson*  
**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

Sgd.

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**LAURA B. PASCUA**  
*Alternate to the Chairperson*  
**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

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**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

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**DEPARTMENT OF EDUCATION**

Sgd.

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**DEPARTMENT OF ENERGY**

Sgd.

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**DEPARTMENT OF FINANCE**

Sgd.

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**DEPARTMENT OF HEALTH**

Sgd.

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**DEPARTMENT OF THE INTERIOR AND  
LOCAL GOVERNMENT**

Sgd.

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**DEPARTMENT OF NATIONAL  
DEFENSE**

Sgd.

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**DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS**

Sgd.

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

Sgd.

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**DEPARTMENT OF TRADE AND INDUSTRY**

Sgd.

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**DEPARTMENT OF TRANSPORTATION**

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**DEPARTMENT OF INFORMATION AND  
COMMUNICATIONS TECHNOLOGY**

Sgd.

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**PRIVATE SECTOR REPRESENTATIVE**

REPUBLIC OF THE PHILIPPINES)  
CITY OF \_\_\_\_\_ ) S.S.

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**PERFORMANCE SECURING DECLARATION  
For the Conduct of Procurement Activities under Republic Act No. 11494 or the Bayanihan  
to Recover as One Act**

To: *[Insert name and address of the Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, to guarantee the faithful performance by the supplier/distributor/manufacturer/contractor/consultant of its obligations under the Contract, I/we shall submit a Performance Securing Declaration within a maximum period of ten (10) calendar days from the receipt of the Notice of Award prior to the signing of the Contract.
2. I/We accept that: I/We will be automatically disqualified from bidding for any procurement contract with any procuring entity for a period of one (1) year for the first offense, or two (2) years for the second offense, upon receipt of your Blacklisting Order if I/we have violated my/our obligations under the Contract.
3. I/We understand that this Performance Securing Declaration shall cease to be valid upon:
  - a. issuance by the Procuring Entity of the Certificate of Final Acceptance, subject to the following conditions:
    - i. Procuring Entity has no claims filed against the contract awardee;
    - ii. It has no claims for labor and materials filed against the contractor; and
    - iii. Other terms of the contract; or
  - b. replacement by the supplier/distributor/manufacturer/contractor/consultant of the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 revised IRR of RA No. 9184 as required by the end-user.

**IN WITNESS WHEREOF**, I/We have hereunto set my/our hand/s this \_\_\_\_ day of *[month]* *[year]* at *[place of execution]*.

*[Insert NAME OF BIDDER'S  
AUTHORIZED REPRESENTATIVE]  
[Insert signatory's legal capacity]  
Affiant*

*[Jurat]*

*[Format shall be based on the Rules on Notarial Practice]*

**Omnibus Sworn Statement  
For the Conduct of Procurement Activities under Republic Act No. 11494 or the *Bayanihan*  
to Recover as One Act**

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REPUBLIC OF THE PHILIPPINES )  
CITY/MUNICIPALITY OF \_\_\_\_\_ ) S.S.

**AFFIDAVIT**

I, *[Name of Affiant]*, of legal age, *[Civil Status]*, *[Nationality]*, and residing at *[Address of Affiant]*, after having been duly sworn in accordance with law, do hereby depose and state that:

1. *[Select one, delete the other:]*

*[If a sole proprietorship:]* I am the sole proprietor or authorized representative of *[Name of Bidder]* with office address at *[address of Bidder]*;

*[If a partnership, corporation, cooperative, or joint venture:]* I am the duly authorized and designated representative of *[Name of Bidder]*;

2. *[Select one, delete the other:]*

*[If a sole proprietorship:]* As the owner and sole proprietor, or authorized representative of *[Name of Bidder]*, I have full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for *[Name of the Project]* of the *[Name of the Procuring Entity]*, as shown in the attached duly notarized *Special Power of Attorney*;

*[If a partnership, corporation, cooperative, or joint venture:]* I am granted full power and authority to do, execute and perform any and all acts necessary to participate, submit the bid, and to sign and execute the ensuing contract for *[Name of the Project]* of the *[Name of the Procuring Entity]*, as shown in the attached *[state title of attached document showing proof of authorization (e.g., duly notarized Secretary's Certificate, Board/Partnership Resolution, or Special Power of Attorney, whichever is applicable);]*;

3. *[Name of Bidder]* is not "blacklisted" or barred from bidding by the Government of the Philippines or any of its agencies, offices, corporations, or Local Government Units, foreign government/foreign or international financing institution whose blacklisting rules have been recognized by the Government Procurement Policy Board, by itself or by its association or relation with another blacklisted person or entity as defined and provided for in the Uniform Guidelines on Blacklisting;

4. Each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;

5. *[Name of Bidder]* is authorizing the Head of the Procuring Entity or its duly authorized representative(s) to verify all the documents submitted;

6. *[Select one, delete the rest:]*

*[If a sole proprietorship:]* The owner or sole proprietor is not related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or

the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*[If a partnership or cooperative:]* None of the officers and members of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

*[If a corporation or joint venture:]* None of the officers, directors, and controlling stockholders of *[Name of Bidder]* is related to the Head of the Procuring Entity, members of the Bids and Awards Committee (BAC), the Technical Working Group, and the BAC Secretariat, the head of the Project Management Office or the end-user unit, and the project consultants by consanguinity or affinity up to the third civil degree;

7. *[Name of Bidder]* complies with existing labor laws and standards; and
8. *[Name of Bidder]* is aware of and has undertaken the responsibilities as a Bidder in compliance with the Philippine Bidding Documents, which includes:
  - a. Carefully examine all of the Bidding Documents;
  - b. Acknowledge all conditions, local or otherwise, affecting the implementation of the Contract;
  - c. Made an estimate of the facilities available and needed for the contract to be bid, if any; and
  - d. Inquire or secure Supplemental/Bid Bulletin(s) issued for the *[Name of the Project]*.

9. *[Name of Bidder]* did not give or pay directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of the government in relation to any procurement project or activity.

10. In case advance payment was made or given, failure to perform or deliver any of the obligations and undertakings in the contract shall be sufficient grounds to constitute criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of Act No. 3815 s. 1930, as amended, or the Revised Penal Code.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_ day of \_\_, 20\_\_ at \_\_\_\_\_, Philippines.

\_\_\_\_\_  
Name and Signature of Bidder's  
Authorized Representative

*[Jurat]*

*[Format shall be based on the Rules on Notarial Practice]*