



**APPROVING FURTHER AMENDMENTS TO THE REVISED GUIDELINES FOR THE IMPLEMENTATION OF INFRASTRUCTURE PROJECTS BY ADMINISTRATION**

**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 formulate public procurement policies, rules and regulations, and amend its IRR and corresponding standard forms for procurement, whenever necessary;

**WHEREAS**, Section 7.3.2 of the 2016 revised IRR of RA No. 9184 requires all procuring entities (PEs) to include in their Project Procurement Management Plan the information on whether projects shall be implemented by administration in accordance with the guidelines issued by the GPPB;

**WHEREAS**, Section 53.2 of the 2016 revised IRR of RA No 9184 provides that the PE has the option to undertake an infrastructure project by administration, or through the Armed Forces of the Philippines Corps of Engineers in high security risk areas, during emergency cases, such as in case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities, and other public utilities;

**WHEREAS**, the FYs 2005 to 2008 General Appropriations Act (GAA) include a DPWH Special Provision,<sup>1</sup> which stated the cases in undertaking infrastructure projects by administration and the requirement for the local government units (LGUs) to obtain the validation of the Secretary of Public Works and Highways if the project cost is Five Million Pesos (PhP 5 Million) up to Twenty Million Pesos (PhP 20 Million), or the President of the Philippines, upon the favorable recommendation of the Secretary of Public Works and Highways, if the project cost was more than PhP 20 Million;

**WHEREAS**, GPPB Resolution No. 13-2005,<sup>2</sup> as amended by GPPB Resolution No. 18-2006,<sup>3</sup> has been issued to provide the guidelines for the implementation of infrastructure projects by administration (Guidelines), which included the relevant provisions of the said GAA special provision, particularly on the cases for implementing infrastructure projects by administration and obtaining the validation of the Secretary of Public Works and Highways;

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<sup>1</sup> The DPWH Special Provision for GAA FY 2005 - 2008 stated:

“4. Work By Administration. Except as may be expressly authorized by the President of the Philippines, any project in this Act with a cost of Five Million Pesos (P5,000,000) or less, based on the approved program, may be done by administration or force account by the agency concerned. A project costing over Five Million Pesos (P5,000,000) may be undertaken by administration by the agency concerned only in case of: (i) emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life or property, or to comply with government commitments; (ii) failure to award a contract after competitive public bidding for a valid cause; (iii) termination or rescission of contract; (iv) areas with critical peace and order problems as certified by the Local Peace and Order Council: PROVIDED, That prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is Twenty Million Pesos (P20,000,000) or less, or from the President of the Philippines, upon the recommendation of the Secretary of Public Works and Highways, if the project cost is more than Twenty Million Pesos (P20,000,000).”

<sup>2</sup> Dated 5 August 2005.

<sup>3</sup> Dated 6 December 2006.

**WHEREAS**, the FYs 2009 to 2013 GAA provided for a DPWH Special Provision<sup>4</sup> that increased the threshold amount for project costs requiring validation of the concerned officials to PhP 20 Million or Fifty Million Pesos (PhP 50 Million), as the case may be;

**WHEREAS**, GPPB Resolution No. 7-2009<sup>5</sup> amended Item 3.3 of the Guidelines to reflect the aforesaid changes in the threshold amount based on the project cost of infrastructure projects undertaken by administration. However, the said GAA special provision was already deleted in the GAA for FY 2014 up to the present;

**WHEREAS**, while the aforesaid DPWH special provision was deleted from the GAA beginning FY 2014, a similar GAA General Provision<sup>6</sup> was retained from FYs 2014 to 2020 covering the implementation of nationally funded projects by the LGUs, which have the capability to implement the project by administration and comply with the budgetary requirements therefor;

**WHEREAS**, in FYs 2015 to 2020 GAA, the DPWH Special Provision<sup>7</sup> provided that the DPWH may delegate its nationally funded projects to the LGUs with the capability to implement either by administration or contract, subject to its overall technical supervision;

**WHEREAS**, on 17 December 2019, during the National Economic Development Authority (NEDA) Board Regional Development Committee - Technical Board (RDCom-TB) meeting, the NEDA Caraga-Mindanao Area Committee presented its proposal to limit the requirement for the validation of the DPWH on implementing agencies undertaking projects by administration under Item 3.3 of GPPB Resolution No 07-2009 to municipalities only, instead of all LGUs, particularly provinces and highly urbanized cities with project implementation capability;

**WHEREAS**, NEDA Board RDCom-TB submitted a letter-request<sup>8</sup> to the GPPB, through its Technical Support Office (TSO), endorsing the said proposed amendment to GPPB Resolution No. 07-2009 in view of the track record and capabilities demonstrated by the

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<sup>4</sup> The DPWH Special Provision for GAA FY 2009 - 2013 stated:

“3. Work By Administration. Any project in this Act with a cost of Twenty Million Pesos (P20,000,000.00) or less, based on the approved program, may be done by administration or force account by the agency concerned.

A project costing over Twenty Million Pesos (P20,000,000.00) may also be undertaken by administration by the agency concerned: PROVIDED, That prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is more than Twenty Million Pesos (P20,000,000.00) but not more than Fifty Million Pesos (P50,000,000.00), or from the President of the Philippines, upon the recommendation of the Secretary of Public Works and Highways, if the project cost is more than Fifty Million Pesos (P50,000,000.00). In both cases, prior consultation shall be made with the representative of the district concerned.”

<sup>5</sup> Dated 30 September 2009.

<sup>6</sup> Implementation of Nationally Funded Projects. Pursuant to Section 17(c) of RA No. 7160, the National Government may designate LGUs as implementing agencies for public works, infrastructure projects, including the construction of local roads, other facilities, services, and other programs appropriated in this Act of the following agencies: Department of Public Works and Highways (DPWH), Department of Agriculture (DA), National Irrigation Administration (NIA), Department of Health (DOH), Department of Social Welfare and Development (DSWD), Department of Education (DepED), Department of Environment and Natural Resources (DENR), Department of the Interior and Local Government (DILG), and the Department of Transportation (DOTr), subject to the following:

- (a) The LGU has the capability to implement by administration or contract in accordance with the design, plan, and specifications, and such other standards and policies of the National Government;
- (b) The LGU-recipient of nationally funded local public works and infrastructure projects and other programs, services and facilities shall commit to fund the cost of maintenance and repairs thereof; and
- (c) the amounts appropriated for the LGUs shall be released during the fiscal year to be deposited in a trust fund and shall be made available for disbursement for the purpose XXX.

<sup>7</sup> DPWH Special Provision in GAAs FY 2015 - 2020 provides, “Restriction on Project Implementation. To ensure the efficient implementation of infrastructure projects, the DPWH may delegate in the following instances: (i) XXX; (ii) XXX, and (iii) LGUs with the capability to implement either by administration or contract as determined by the DPWH, subject to the overall technical supervision of the DPWH.”

<sup>8</sup> Dated 6 March 2020.

provinces and highly urbanized cities in implementing projects above PhP 20 million and to facilitate the timely implementation of LGU projects;

**WHEREAS**, during the 8<sup>th</sup> Inter Agency Technical Working Group (IATWG) Meeting on 15 October 2020,<sup>9</sup> the GPPB-TSO presented to the IATWG the following recommendations:

- a. to revise Item 3.1 of the Guidelines to require the PEs to specify in the APP the mode of procurement for the different project components, e.g. necessary tools and construction equipment for the project;
- b. to amend Item 3.2 of the Guidelines and limit the requirement for the DPWH validation of the track record and capabilities of implementing agencies to undertake projects by administration to the LGUs undertaking nationally funded infrastructure projects, given that this is the intent of the GAA special and general provisions upon which the rule was based.

Moreover, all LGUs should be given a wider latitude in deciding the implementation of locally funded projects as an exercise of their local autonomy,<sup>10</sup> thus, the modification to the NEDA-RDCom TB's request to apply the requirement for DPWH validation of all infrastructure projects of municipalities undertaken by administration and not to provinces and highly urbanized cities.

This will become more evident in 2022, when the LGUs are expected to receive substantial increase in their Internal Revenue Allotment shares in view of the implementation of the Supreme Court landmark ruling in the Mandanas case,<sup>11</sup> which translates to a corresponding increase in projects to be implemented by the LGUs; and

- c. to delete Item 3.3 of the Guidelines since the requirement for implementing agencies to obtain the said validation of the DPWH in undertaking infrastructure projects by administration refers to nationally funded projects, as mentioned in Item 3.2.

**WHEREAS**, during the IATWG meeting, the Department of Interior and Local Government (DILG) and the DPWH informed the Group that no submission was made to them with respect to the earlier email request of the GPPB-TSO to provide data on the number of ongoing or completed infrastructure projects that the LGUs implemented by administration as they did not experience having any LGU implementing such projects;

**WHEREAS**, during the IATWG discussion, it was noted that Item 3.3 of the Guidelines provided the cases<sup>12</sup> wherein infrastructure projects may be undertaken by administration, which are also reflected in Section 53.2 of the 2016 revised IRR of RA No. 9184, particularly in emergency cases such as in case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

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<sup>9</sup> Conducted via Google Meet.

<sup>10</sup> Citing Section 25, Article II of the 1987 Philippine Constitution in relation to Section 17(a) of RA No. 7160, which provided that the State shall guarantee and promote the autonomy of the local government units to ensure their fullest development as self-reliant communities.

<sup>11</sup> Mandanas, et. al. v. Ochoa, et al. (G.R. No. 199802, July 03, 2018), which clarifies that the share from the IRA of the LGUs is not only confined to National Internal Revenue taxes, as it should include all other national taxes like customs duties.

<sup>12</sup> Item 3.3 of the Guidelines provides the following cases: (i) emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life or property, (ii) to comply with government commitments, as certified by the concerned government authority, (iii) failure to award a contract after competitive bidding for a valid cause, (iv) termination or rescission of contract, and (v) areas with critical peace and order problems as certified by the Local Peace and Order Council.

**WHEREAS**, after deliberations, the IATWG agreed to endorse, for approval of the Board, the following modifications to the Guidelines:

- a. Refine Item 3.2 to clarify that the requirement for DPWH validation of track record and capability of implementing agencies applies only to the LGUs undertaking nationally funded projects by administration;
- b. Emphasize that the LGUs, as implementing agencies of nationally funded projects undertaken by administration, should undertake these projects by themselves and are prohibited from subcontracting any portion of the construction; and
- c. Delete Item 3.3 of the Guidelines considering that:
  - i. the basis of this provision is the DPWH special provision in the GAA, which may be subject to change every fiscal year;
  - ii. Section 53.2 of the 2016 revised IRR of RA No. 9184 already covers the emergency cases for undertaking infrastructure projects by administration; and
  - iii. the DPWH validation requirement for implementing agencies undertaking infrastructure projects by administration was only intended for the LGUs implementing nationally funded projects, as mentioned in Item. 3.2.

**WHEREAS**, during the 12<sup>th</sup> GPPB meeting<sup>13</sup> on 22 October 2020, the GPPB-TSO made further recommendations to revise the Guidelines, as follows:

- a. Direct PEs under Item 3.1 to include in their APP the mode of procurement for the different project components, e.g. necessary tools and construction equipment for the project;
- b. Clarify the second paragraph of Item 3.2 on the requirement for the DPWH validating the track record and capability of implementing agencies since this should cover only the LGUs undertaking nationally funded infrastructure projects by administration;
- c. Delete Item 3.3 considering that: (i) the basis for this provision is the DPWH special provision in the GAA, which may be subject to change every year, (ii) the cases for undertaking infrastructure projects by administration are already found in Section 53.2 of the 2016 revised IRR of RA No. 9184, and (iii) the DPWH validation requirement for implementing agencies undertaking infrastructure projects by administration were only intended for the LGUs implementing nationally funded projects, as mentioned in Item 3.2.
- d. Clarify that the implementing agencies undertaking projects by administration shall comply with the conditions in the Guidelines. Further, the technical supervision and monitoring of these implementing agencies shall be in accordance with the existing laws, rules and regulations, including the Guidelines, and issuances of the concerned agency; and
- e. Emphasize under Item 3.4 that the implementing agencies for infrastructure projects undertaken by administration are prohibited from subcontracting any portion of the construction of projects.

**WHEREAS**, the Board, after careful review and due deliberation of the final comments and suggestions of its members, agreed to approve the recommendations of the GPPB-TSO

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<sup>13</sup> Conducted via Google Meet.

on all matters regarding the Revised Guidelines for the Implementation of Infrastructure Projects by Administration, as stated below.

**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. **APPROVE** the proposed amendments to the Revised Guidelines for the Implementation of Infrastructure Projects by Administration, a copy of which is attached as Annex "A;" and
2. **DIRECT** the GPPB-TSO to coordinate with the DILG and NEDA Board RDCom to explore, identify, and discuss possible measures for the effective monitoring of the LGUs as implementing agencies undertaking infrastructure projects by administration.

This Resolution shall take effect immediately.

**APPROVED** this 22<sup>nd</sup> day of October 2020 at Manila, Philippines.

Sgd

Sgd.

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

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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**

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**DEPARTMENT OF FINANCE**

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**DEPARTMENT OF HEALTH**

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**DEPARTMENT OF THE INTERIOR AND  
LOCAL GOVERNMENT**

Sgd.

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**DEPARTMENT OF NATIONAL  
DEFENSE**

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**DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS**

Sgd.

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

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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**



## ANNEX “A”

Unit 2504 Raffles Corporate Center  
 F. Ortigas Jr. Road, Ortigas Center  
 Pasig City, Philippines 1605

<b>GPPB RESOLUTION NO. 18-2006 dated 6 December 2006,            as amended by GPPB RESOLUTION NO. 07-2009 dated 30 September 2009            REVISED GUIDELINES FOR THE IMPLEMENTATION OF INFRASTRUCTURE            PROJECTS BY ADMINISTRATION</b>	
ORIGINAL	AMENDMENT
<p><b>3.0 Conditions and Requirements for the use of “By Administration”</b></p> <p>3.1. Projects undertaken by Administration shall be included in the approved Annual Procurement Plan (APP) of the procuring entity concerned. If the original mode of procurement recommended in the APP was Public Bidding but cannot be ultimately pursued, or the project to be undertaken by administration has not been previously included, the BAC, through a resolution shall justify and recommend the change in the mode of procurement or the updating of the APP to be approved by the Head of the Procuring Entity.</p>	<p><b>3.0 Conditions and Requirements for the use of “By Administration”</b></p> <p>3.1. Projects undertaken by Administration, shall be included in the approved Annual Procurement Plan (APP) of the procuring entity concerned, <b>AS WELL AS THE PROCUREMENT OF THE DIFFERENT PROJECT COMPONENTS, I.E. TOOLS AND CONSTRUCTION EQUIPMENT COVERED UNDER SUB-ITEM NO. 3.5.</b> <del>If the original mode of procurement recommended in the APP was Public Bidding but cannot be ultimately pursued, or the project to be undertaken by administration has not been previously included, the BAC, through a resolution shall justify and recommend the change in the mode of procurement or the updating of the APP to be approved by the Head of the Procuring Entity.</del> <b>ANY CHANGE TO THE APP SHALL BE IN ACCORDANCE WITH SECTION 7.4 OF THE 2016 REVISED IRR OF RA NO. 9184.</b></p>

<p>3.2. To undertake projects by administration, the implementing agency must:</p> <ul style="list-style-type: none"> <li>a. have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand; and</li> <li>b. own the tools and construction equipment to be used or have access to such tools and equipment owned by other government agencies.</li> </ul> <p>The criteria for evaluating the track record and capability of implementing agencies shall be in accordance with the guidelines to be issued by the Department of Public Works and Highways in consultation with the leagues enumerated under the Local Government Code.</p>	<p>3.2. To undertake projects by administration, the implementing agenc<b>IES</b> must:</p> <ul style="list-style-type: none"> <li>a. have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand; and</li> <li>b. own the tools and construction equipment to be used or have access to such tools and equipment owned by other government agencies.</li> </ul> <p>The <b>DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS SHALL VALIDATE</b> <del>criteria for evaluating the track record and capability of</del> <b>THE LGUS, AS implementing agencies FOR NATIONALLY FUNDED PROJECTS</b> <del>shall be in accordance with the guidelines issued by the Department of Public Works and Highways in consultation with the leagues enumerated under the Local Government Code.</del></p>
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<p>3.3. Any project costing Twenty Million Pesos (Php 20,000,000) or less may be undertaken by administration or force account by the implementing agency concerned. A project costing over Twenty Million Pesos (Php 20,000,000) may be undertaken by the agency concerned only in the following cases:</p> <ul style="list-style-type: none"> <li>a. emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life or property;</li> <li>b. to comply with government commitments, as certified by the concerned government authority;</li> <li>c. failure to award a contract after competitive bidding for a valid cause;</li> <li>d. termination or rescission of contract;</li> <li>e. areas with critical peace and order problems as certified by the Local Peace and Order Council;</li> </ul> <p>PROVIDED, that prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is Twenty Million (Php 20,000,000.00) up to Fifty Million Pesos (Php 50,000,000.00), or from the President of the Philippines, upon favorable recommendation of the Secretary of Public Works and Highways, if the project cost is more than Fifty Million Pesos (Php 50,000,000.00).</p>	<p><del>3.3. Any project costing Twenty Million Pesos (Php 20,000,000) or less may be undertaken by administration or force account by the implementing agency concerned. A project costing over Twenty Million Pesos (Php 20,000,000) may be undertaken by the agency concerned only in the following cases:</del></p> <ul style="list-style-type: none"> <li><del>a. emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life or property;</del></li> <li><del>b. to comply with government commitments, as certified by the concerned government authority;</del></li> <li><del>c. failure to award a contract after competitive bidding for a valid cause;</del></li> <li><del>d. termination or rescission of contract;</del></li> <li><del>e. areas with critical peace and order problems as certified by the Local Peace and Order Council;</del></li> </ul> <p><del>PROVIDED, that prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is Twenty Million (Php 20,000,000.00) up to Fifty Million Pesos (Php 50,000,000.00), or from the President of the Philippines, upon favorable recommendation of the Secretary of Public Works and Highways, if the project cost is more than Fifty Million Pesos (Php 50,000,000.00).</del></p>
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	<p>3.3. <b>[NEW] IMPLEMENTING AGENCIES UNDERTAKING INFRASTRUCTURE PROJECTS BY ADMINISTRATION SHALL COMPLY WITH THE CONDITIONS IN THESE GUIDELINES. FURTHER, THE TECHNICAL SUPERVISION AND MONITORING OF THESE IMPLEMENTING AGENCIES SHALL BE IN ACCORDANCE WITH THE EXISTING LAWS, RULES AND REGULATIONS, INCLUDING THESE GUIDELINES AND THE ISSUANCES OF THE CONCERNED AGENCY.</b></p>
<p>3.4. No contractor shall be used by the procuring entity, directly or indirectly for works undertaken by administration.</p>	<p>3.4. <b>[REVISED]</b> No contractor shall be used by the procuring entity, <b>OR ITS IMPLEMENTING AGENCY UNDERTAKING INFRASTRUCTURE PROJECTS BY ADMINISTRATION</b> directly or indirectly for works undertaken by administration.</p>