

APPROVING THE ISSUANCE OF A CIRCULAR REMINDING ALL PROCURING ENTITIES OF THE EFFECTIVITY OF THE SUNSET CLAUSE PROVIDED UNDER SECTION 21.2.1 OF THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184

WHEREAS, the 2016 revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 was approved through GPPB Resolution 13-2016 dated 09 August 2016 and published in the Official Gazette on 28 August 2016. It took effect sixty (60) days after its publication or on 28 October 2016;

WHEREAS, Section 21.2.1 of the 2016 revised IRR of RA 9184 provides for the mandatory requirement of Advertising and Posting of the Invitation to Bid/Request for Expression of Interest, thus:

Except as otherwise provided in Section 54.2 of this IRR and for the procurement of common-use goods and suppliers, the Invitation to Bid/Request for Expression of Interest shall be:

- a) Posted at any conspicuous place reserved for this purpose in the premises of the Procuring Entity concerned for seven (7) calendar days as certified by the head of the BAC Secretariat of the Procuring Entity concerned;
- b) Posted continuously in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and
- c) Advertised at least once in one (1) newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement: Provided, That advertisement shall not be required for contracts to be bid with an ABC of Ten Million Pesos (Php10,000,000.00) and below for the procurement of goods, Fifteen Million Pesos (Php15,000,000.00) and below for procurement of Infrastructure Projects, and Five Million Pesos (Php5,000,000.00) and below for the procurement of Consulting Services.

WHEREAS, the last paragraph of Section 21.2.1 of the 2016 revised IRR of RA 9184, provides for a sunset clause on the mandatory requirement of advertising the bid opportunity, thus: *“Two (2) years after the effectivity of this IRR, advertisement in a newspaper of general nationwide circulation shall no longer be required. However, a Procuring Entity that cannot post its opportunities in the PhilGEPS for justifiable reasons shall continue to publish its advertisements in a newspaper of general nationwide circulation.”*;

WHEREAS, to ensure smooth transition to this new system, the GPPB-TSO sent a letter to the PS-PhilGEPS, dated 26 September 2018, to inquire and confirm the status of PhilGEPS's system with regard to posting requirements of Procuring Entities;

WHEREAS, PS-PhilGEPS Deputy Executive Director (DED) Rosa Maria M. Clemente informed GPPB-TSO, through a letter dated 10 October 2018, that the upgrade implemented by PhilGEPS has improved the performance and reliability of the system and showed an increase number of users accessing the site. Further, DED Clemente reported that there were no major issues being encountered on posting notices in the website and that there are no incidents of unscheduled or unexpected downtime;

WHEREAS, considering that the date of effectivity of the sunset clause is fast approaching, the GPPB-TSO recommends the issuance of a Circular reminding all government instrumentalities that pursuant to the sunset clause provided in the last paragraph of Section 21.2.1 of the 2016 IRR, advertisement in a newspaper of general nationwide circulation shall no longer be required starting **29 October 2018**;

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 reminding all government instrumentalities of the implementation of the sunset clause provided in Section 21.2.1 of the 2016 revised IRR of RA 9184, attached hereto as **Annex "A"**.

This resolution shall take effect immediately.

APPROVED this 18th day of October 2018 at Pasig City, Philippines

(SGD)

**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

(SGD)

DEPARTMENT OF EDUCATION

DEPARTMENT OF ENERGY

(SGD)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

**DEPARTMENT OF INFORMATION AND
COMMUNICATION TECHNOLOGY**

**DEPARTMENT OF INTERIOR AND
LOCAL GOVERNMENT**

(SGD)

**DEPARTMENT OF NATIONAL
DEFENSE**

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

(SGD)

(SGD)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRADE AND
INDUSTRY**

(SGD)

(SGD)

DEPARTMENT OF TRANSPORTATION

PRIVATE SECTOR REPRESENTATIVE



CIRCULAR 08-2018

18 October 2018

- TO : Heads of all Branch, Agency, Department, Bureau, Office, or Instrumentality of the Government, including Government Owned and/or Controlled Corporations, Government Financial Institutions, State Universities and Colleges, and Local Government Units**
- SUBJECT : Effectivity of the Sunset Clause on Advertisement of Bid Opportunities under Section 21.2.1 of the 2016 Revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184.**
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1.0 Purpose

This Circular is being issued to remind all government instrumentalities on the effectivity of the sunset clause provided in the last paragraph of Section 21.2.1 of the 2016 revised IRR of RA 9184.

2.0 Coverage

All Branches, Agencies, Departments, Bureaus, Offices, or Instrumentalities of the Government, including Government Owned and/or Controlled Corporations, Government Financial Institutions, State Universities and Colleges, and Local Government Units.

3.0 Sunset Clause under Section 21.2.1 of the 2016 revised IRR of RA 9184

- 3.1 Section 21.2.1 of the 2016 revised IRR of RA 9184 provides for the mandatory requirement of Advertising and Posting of the Invitation to Bid/Request for Expression of Interest, thus:

Except as otherwise provided in Section 54.2 of this IRR and for the procurement of common-use goods and supplies, the Invitation to Bid/Request for Expression of Interest shall be:

- a) Posted at any conspicuous place reserved for this purpose in the premises of the Procuring Entity concerned for seven (7) calendar days as certified by the head of the BAC Secretariat of the Procuring Entity concerned;

- b) Posted continuously in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and
- c) Advertised at least once in one (1) newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement: Provided, That advertisement shall not be required for contracts to be bid with an ABC of Ten Million Pesos (Php10,000,000.00) and below for the procurement of goods, Fifteen Million Pesos (Php15,000,000.00) and below for procurement of Infrastructure Projects, and Five Million Pesos (Php5,000,000.00) and below for the procurement of Consulting Services.

3.2 The last paragraph of Section 21.2.1 of the 2016 revised IRR of RA 9184 provides for a sunset clause wherein the mandatory requirement of advertising the bid opportunity under Section 21.2.1 (c) shall be removed two (2) years after the effectivity of the 2016 IRR, to wit:

Two (2) years after the effectivity of this IRR, advertisement in a newspaper of general nationwide circulation shall no longer be required. However, a Procuring Entity that cannot post its opportunities in the PhilGEPS for justifiable reasons shall continue to publish its advertisements in a newspaper of general nationwide circulation.

3.3 The two (2) year period provided under the last paragraph of Section 21.2.1 shall end on **28 October 2018**.

4.0 Implementation of the sunset clause under Section 21.2.1 of the 2016 revised IRR of RA 9184

4.1 Starting **29 October 2018**, or two (2) years after the effectivity of the 2016 revised IRR of RA 9184, Procuring Entities are reminded that the mandatory requirement of advertising the bid opportunities under Section 21.2.1 (c) of the 2016 revised IRR of RA 9184, is hereby removed.

4.2 Procuring Entities shall continue to post its bid opportunities, unless otherwise provided in the 2016 Revised IRR of RA 9184, in the following:

- a) PhilGEPS website;
- b) Procuring Entity's website;
- c) Website of the of the government/foreign or international financing institution, if applicable; and
- d) Conspicuous place reserved for the purpose.

- 4.3 The Procuring Entity shall make sure that the posting shall be for a continuous period of seven (7) calendar days, unless otherwise provided in the 2016 revised IRR of RA 9184.
- 4.4 Should the Procuring Entity, however, fail or shall not be able to post its bid opportunities in the PhilGEPS website for justifiable reasons, they shall continue to publish its advertisement of bid opportunities in a newspaper of general nationwide circulation.
- 5.0** This Circular shall take effect immediately.
- 6.0** For guidance and compliance.

(SGD)
BENJAMIN E. DIOKNO
Chairperson