



## RESOLUTION NO. 10-2017

### APPROVING THE UPDATED LIST OF MINIMUM DOCUMENTS PURSUANT TO THE INTERNAL RULES FOR THE EXERCISE OF APPROVAL POWER OF THE GPPB UNDER EO 423

**WHEREAS**, Executive Order (E.O.) No. 423, s. 2005 prescribes the rules and procedures on the review and approval of all government contracts in conformity with Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act”;

**WHEREAS**, Section 4 of E.O. 423, s. 2005, as amended by E.O. 645 s. 2007, provides that where the Head of the Procuring Entity (HOPE) has made a determination that a government contract, including Government contracts required by law to be acted upon and/or approved by the President, involving an amount of at least 500 Million Pesos falls under any of the exceptions from public bidding, the HOPE shall, before proceeding with the alternative methods of procurement provided by law and applicable rules and regulations, obtain the approval of the GPPB that said government proposed procurement undertaking falls within the exceptions from public bidding and that the proposed specific alternative method of procurement is appropriate;

**WHEREAS**, the GPPB, in Resolution No. 11-2006, approved and adopted the Internal Rules for the Exercise by the GPPB of its Approval Power pursuant to E.O. 423, s. 2005;

**WHEREAS**, pursuant to Section 12 of the approved Internal Rules, the GPPB issued Resolution No. 15-2006 approving the List of Minimum Documents to be submitted by requesting agencies to the GPPB for the review of proposed procurement undertaking as indicated in **Annex “A”** thereof;

**WHEREAS**, the GPPB, through Resolution No. 33-2014 dated 16 December 2014, amended Annex “A” of GPPB Resolution No. 15-2006 to conform with the provisions of the 2009 Revised IRR of RA 9184;

**WHEREAS**, on 9 August 2016, the GPPB issued Resolution No. 13-2016 approving the 2016 Revised IRR of RA 9184 and its Annexes, which took effect on 28 October 2016 or sixty (60) days after its publication on 29 August 2016;

**WHEREAS**, in the past deliberations on E.O. 423 Requests of agencies, the GPPB and/or the GRC would require additional documentary requirements, such as, among others, the Certification from the Head of the Procuring Entity that undertaking the specific alternative method of procurement is more advantageous to the government in accordance with Section 48 of RA 9184 and its 2016 Revised IRR;

**WHEREAS**, during the GPPB Review Committee (GRC) Meeting on 24 February 2017, the GPPB-Technical Support Office (TSO) informed the GRC that it will recommend to the GPPB the updating of the list of minimum documentary requirements for E.O. 423 Requests

to conform with the provisions of the 2016 Revised IRR of RA 9184 and to include documents previously required by the GPPB and/or the GRC;

**WHEREAS**, during the Special GPPB Meeting on 10 March 2017, the GPPB-TSO recommended to the GPPB the approval of the following:

1. Updated list of minimum documentary requirements for E.O. 423 Requests to conform with the provisions of the 2016 Revised IRR of RA 9184;
2. Inclusion of documents previously required by the GPPB and/or the GRC; and
3. Inclusion of a “catch-all” provision stating – “Such other material and relevant documents, papers and information to support the request of the procuring entity”;

**WHEREAS**, the GPPB, after careful review and deliberation, resolved to approve the Updated List of Minimum Documents Pursuant to the Internal Rules for the Exercise of Approval Power of the GPPB under E.O. 423;

**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, hereby **RESOLVE** to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the Updated List of Minimum Documents Pursuant to the Internal Rules for the Exercise of Approval Power of the GPPB under E.O. 423, copy of which is attached as **Annex “A”**.

This Resolution shall take effect after fifteen (15) days following the publication in Official Gazette or a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this Resolution.

**APPROVED** this 10<sup>th</sup> day of March 2017 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**

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**DEPARTMENT OF ENERGY**

(SGD)

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**DEPARTMENT OF FINANCE**

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**DEPARTMENT OF HEALTH**

(SGD)

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**DEPARTMENT OF INFORMATION AND  
COMMUNICATIONS TECHNOLOGY**

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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)

(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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**PRIVATE SECTOR REPRESENTATIVE**



**UPDATED LIST OF MINIMUM DOCUMENTS PURSUANT TO THE  
INTERNAL RULES FOR THE EXERCISE OF APPROVAL POWER OF  
THE GPPB UNDER EO 423**

The Letter-Request shall be accompanied by the following documents as may be appropriate:

**A. Limited Source Bidding:**

1. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
2. Approval by the HoPE of the said BAC recommendation; and
3. A copy of the Official List of pre-selected suppliers/consultants maintained by the relevant government authority that has expertise in the type of procurement at hand.

**B. Direct Contracting:**

**1. Under Section 50 (a) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation; and
- c. A copy of the Letter of Patent, Copyright or any other document establishing proprietary nature and exclusivity of the source of the items/goods intended to be procured.

**2. Under Section 50 (b) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation; and
- c. Copy of the subject contract, specifically underscoring the clause which requires that procurement of critical plant component from a specific manufacturer, supplier or distributor is a condition precedent to hold the contractor to guarantee its performance under said contract.

**3. Under Section 50 (c) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation; and
- c. Proof of exclusive dealership/manufacture of the specific items sought to be procured; and a list of sub-dealers, if any, and their sale prices for the said items.

### **C. Repeat Order:**

1. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
2. Approval by the HoPE of the said BAC recommendation;
3. Copy of subsisting procurement contract reflecting the number of items procured, the quantities per item, their units costs, and the total contract price;
4. Copy of the Notice to Proceed issue in favor of the incumbent supplier;
5. Copy of the canvass of prices of the same goods offered by other suppliers in the market; and
6. Proof of partial delivery, inspection and acceptance of the goods within the six-month period from the date of the NTP.

### **D. Negotiated Procurement:**

#### **1. Under Section 53.1 (Two Failed Biddings) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation;
- c. Proof of PhilGEPS Posting, and whenever applicable, a specimen copy or clipping of a newspaper publication of the Invitation to Bid/Request for Expression of Interest for the failed biddings; and
- d. A copy of the BAC resolutions declaring failure of biddings.

#### **2. Under Section 53.2 (Emergency Cases) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation; and
- c. Proof of the official declaration of a state of calamity by the President or the Local Chief Executive concerned, if applicable; or proof of the occurrence of a natural or man-made calamity or of other causes by reason of which, immediate action by the PE is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

#### **3. Under Section 53.3 (Take-Over of Contracts) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation;
- c. A copy of the contract which was rescinded or terminated;
- d. A copy of the notice of termination of the contract or any other document establishing the fact of rescission or termination; and
- e. Proof that immediate action by the PE is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities.

**4. Under Section 53.4 (Adjacent or Contiguous) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation;
- c. A copy of the contract including a duly approved program of work and contract costs;
- d. Proof of technical and financial capability of the contractor, *e.g., NFCC, PCAB License and No Negative Slippage*; and
- e. Proposed amount of the adjacent or contiguous contract, including the unit prices of the items included in the project.

**5. Under Section 53.5 (Agency-to-Agency) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation;
- c. Proof that the Servicing Agency (SA) has the mandate to deliver the goods and services required to be procured or to undertake the infrastructure project or consultancy required by the PE; has the absorptive capacity to undertake the project; and that it owns or has access to the necessary tools and equipment required for the project (*e.g., Certification from the relevant officer of the SA that it complies with this requirement, Copy of the law creating the SA and/or enumerating its functions, Inventory of Tools and Equipment*); and
- d. For infrastructure project, proof that the SA has 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 (*e.g., Certification from the relevant officer of the SA that it complies with this requirement, Project Implementation Report*).

**6. Under Section 53.6 (Scientific, Scholarly or Artistic Work, Exclusive Technology and Media Services) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation; and
- c. Market study determining the probable sources of the goods, works and services and confirming that only a particular supplier, contractor or consultant could undertake the project at more advantageous terms to government; and
- d. For highly-specialized life-saving medical equipment, a Certification from the Department Health of such fact.

**7. Under Section 53.8 (Defense Cooperation Agreement) of the 2016 Revised IRR of RA 9184**

- a. BAC resolution recommending to the HoPE the resort to this alternative method of procurement;
- b. Approval by the HoPE of the said BAC recommendation;
- c. Approval of the President; and

- d. A copy of the relevant defense cooperation agreement, if applicable.
- 8. Under Section 53.10 (Lease of Real Property) of the 2016 Revised IRR of RA 9184**
- a. BAC Resolution recommending to the HoPE the resort to this alternative method of procurement; and
  - b. Approval by the HoPE of the said BAC Recommendation.
- 9. Under Section 53.11 (NGO Participation) of the 2016 Revised IRR of RA 9184**
- a. BAC Resolution recommending to the HoPE the resort to this alternative method of procurement;
  - b. Approval by the HoPE of the said BAC Recommendation; and
  - c. Proof that an appropriation law or ordinance specifically earmarks an amount for projects to be specifically contracted out to NGOs (*e.g.*, Copy of General Appropriations Act, other Laws, or Local Ordinances).
- 10. Under Section 53.13 (United Nations Agencies, International Organizations or International Financing Institutions) of the 2016 Revised IRR of RA 9184**
- a. BAC Resolution recommending to the HoPE the resort to this alternative method of procurement;
  - b. Approval by the HoPE of the said BAC Recommendation;
  - c. Proof that the procurement is from – 1) a specialized agency of the United Nations (*e.g.*, Charter of the UN Agency); 2) an International Organization; or 3) an International Financing Institution; and
  - d. Any of the following, whichever is appropriate:
    - i. Proof that the procurement involves small quantities of off-the-shelf goods, primarily in the fields of education and health;
    - ii. Proof that the procurement involves specialized products where the number of suppliers is limited (*e.g.*, List of Suppliers from Relevant Government Authority); or
    - iii. Certification from the HoPE that the Goods, Infrastructure Project and Consulting Services involve advance technologies, techniques and innovations not locally available.

In any case, the Letter-Request shall also be accompanied by a copy of the Annual Procurement Plan, the Project Procurement Management Plan, the procurement request or technical specification/Terms of Reference for the given procurement project, and a Certification from the Head of the Procuring Entity that undertaking the specific alternative method of procurement is more advantageous to the government.