



## RESOLUTION NO. 12-2017

### APPROVING THE GUIDELINES ON THE USE OF FRAMEWORK AGREEMENT

**WHEREAS**, Republic Act (RA) No. 9184 entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes,” 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 9184 authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, its Implementing Rules and Regulations (IRR);

**WHEREAS**, on 27 January 2012, the GPPB issued Resolution No. 01-2012 adopting the Revised Guidelines on the Use of Ordering Agreement to prescribe the rules and procedures to govern situations where the procurement necessitates entering into ordering agreements for necessary and desirable goods that by its nature, use, or characteristic, the quantity and/or exact time of need cannot be accurately pre-determined; and, in case of expendable or non-expendable goods, it is inadvisable for the procuring entity to carry the same in stock or commit to purchase a certain quantity within a given period;

**WHEREAS**, during the 8<sup>th</sup> GPPB and 7<sup>th</sup> Inter-Agency Technical Working Group (IATWG) Joint Meeting held on 16 December 2014, it was identified that the study on the use of Framework Agreement will be part of GPPB’s Action Plan for Calendar Year 2015;

**WHEREAS**, on 15 October 2015, during the 3<sup>rd</sup> IRR Review Workshop, a procurement specialist from New Zealand gave a brief orientation on the use of Framework Agreement in accordance with the legal framework of New Zealand;

**WHEREAS**, on 4 November 2015, the procurement specialist from new Zealand provided the GPPB-TSO staff with a more detailed discussion on the use of New Zealand’s Framework Agreement to serve as additional basis for the GPPB-TSO to develop guidelines on the use of Framework Agreement to expand and/or modify the existing Guidelines on the Use of Ordering Agreement;

**WHEREAS**, during the 2<sup>nd</sup> GPPB Meeting on 5 February 2016, the first draft of the Guidelines on the Use of Framework Agreement was presented, but due to the number of comments from the members, the GPPB resolved to set another meeting to review the enhanced proposed Guidelines on the Use of Framework Agreement;

**WHEREAS**, during the 8<sup>th</sup> IATWG Meeting on 9 September 2016, the GPPB-TSO presented the revised draft Guidelines on the Use of Framework Agreement, including the comments submitted by the GPPB and IATWG members and the corresponding remarks of the GPPB-TSO, and thereafter, the IATWG agreed to recommend to the GPPB the approval of the proposed Guidelines on the Use of Framework Agreement, subject to the comments of the IATWG members to be submitted to the GPPB-TSO until 20 September 2016;

**WHEREAS**, during the 10<sup>th</sup> GPPB Regular Meeting on 23 September 2016, the GPPB deferred the approval of the proposed Guidelines on the Use of Framework Agreement subject to further review and comments of the GPPB members, and agreed that the same be taken up in the next GPPB meeting to give ample time for the member to review the said proposed Guidelines;

**WHEREAS**, on 27 October 2016, during its 11<sup>th</sup> Regular Meeting, the GPPB still deferred the approval of the proposed Guidelines on Framework Agreement, subject to the conduct of further study by the GPPB-TSO based on the discussion of the GPPB Members;

**WHEREAS**, during the 2<sup>nd</sup> IATWG Meeting on 31 March 2017, the GPPB-TSO presented the revised proposed Guidelines on the Use of Framework Agreement, incorporating the comments of the GPPB during its 11<sup>th</sup> Regular Meeting on 27 October 2016, and thereafter the IATWG adopted the recommendation of the GPPB-TSO to request the GPPB for approval of the proposed Guidelines on the Use of Framework Agreement, subject to the inclusion in the Guidelines of a provision permitting the use of electronic means in entering into Framework Agreement to be incorporated in the PhilGEPS Modernization.

**WHEREAS**, during its 2<sup>nd</sup> Regular Meeting on 10 April 2017, the revised proposed Guidelines on the Use of Framework Agreement, as well as the recommendation of the IATWG were presented to the GPPB;

**WHEREAS**, after careful review and due deliberation, the GPPB approved the Guidelines on the Use of Framework Agreement, subject to pilot implementation by the Department of Budget and Management – Procurement Service (DBM-PS), Department of Education (DepEd), Department of Health (DOH) and Department of National Defense (DND). Thereafter comments, suggestions and recommendations, if any, gathered from pilot agencies shall be incorporated in the Guidelines for overall implementation.

**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 Guidelines on the Use of Framework Agreement, copy of which is attached as **Annex “A”**, subject to pilot implementation by the Department of Budget and Management – Procurement Service (DBM-PS), Department of Education (DepEd), Department of Health (DOH) and Department of National Defense (DND).

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 April 2017 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**

(SGD)

---

**DEPARTMENT OF HEALTH**

---

**DEPARTMENT OF INFORMATION AND  
COMMUNICATIONS TECHNOLOGY**

---

**DEPARTMENT OF THE INTERIOR  
AND LOCAL GOVERNMENT**

(SGD)

---

**DEPARTMENT OF NATIONAL  
DEFENSE**

(SGD)

---

**DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS**

(SGD)

---

**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

---

**DEPARTMENT OF TRADE AND  
INDUSTRY**

(SGD)

---

**DEPARTMENT OF TRANSPORTATION**

---

**PRIVATE SECTOR REPRESENTATIVE**

## GUIDELINES ON THE USE OF FRAMEWORK AGREEMENT

### 1. PURPOSE

The guidelines are formulated to prescribe the rules and procedures to govern situations where the procurement by the national government, its departments, bureaus, offices and agencies, including State Universities and Colleges (SUCs), Government-Owned and/or –Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and Local Government Units (LGUs) necessitate entering into Framework Agreement for necessary and desirable goods that are repeatedly required by the procuring entity, but by their nature, use, or characteristic, the quantity and/or exact time of need cannot be accurately pre-determined; and, in case of expendable or non-expendable goods, it is inadvisable for the procuring entity to carry the same in stock or commit to purchase a certain quantity within a given period. The guidelines shall also apply to the procurement of simple and non-complex services.

### 2. SCOPE AND APPLICATION

- 2.1. These guidelines shall govern the use of Framework Agreement by all departments, bureaus, offices, and agencies of the national government, GOCCs, GFIs, SUCs, and LGUs for repeatedly required goods determined to be necessary and desirable to address and satisfy the needs of the procuring entities, but by its nature, use, or characteristic, the quantity and/or exact time or frequency of need cannot be accurately pre-determined. The guidelines shall also apply to the procurement of simple and non-complex services.
- 2.2. Framework Agreement, as a contractual arrangement, may be used for expendable or non-expendable goods that are repeatedly required by the procuring entity in the regular course of business; and, for services, such as, hotel accommodation, air travel, including simple and non-complex services, such as, but not limited to, janitorial, security, catering, maintenance and repair services.
- 2.3. Services allowed to be subject of a Framework Agreement shall be those mentioned in Section 2.2, and shall not cover procurement of consulting services, and infrastructure projects.

### 3. DEFINITION OF TERMS

- 3.1. **Call-Off.** Refers to a specific procurement request or order made by the procuring entity within the duration of the Framework Agreement exercising the option and requiring a supplier/service provider to deliver the goods or render the service agreed upon under the terms of Framework Agreement .
- 3.2. **Call for Mini Competition.** Refers to a written request from the procuring entity inviting all parties to a multi-year Framework Agreement to submit their best price proposal for items subject of Mini Competition.
- 3.3. **Framework Agreement.** Refers to a written agreement between a procuring entity and a supplier(s) or service provider(s) that identifies the terms and conditions, under which specific purchases, otherwise known as “Call-Offs”, are made for the duration of the agreement. The Framework Agreement is in the nature of an option contract between the procuring entity and the Bidder(s) granting the procuring entity the option to either place an order for any of the goods or services identified in the Framework Agreement List or not buy at all, within a minimum period of one (1) year to a maximum period of three (3) years.
- 3.4. **Framework Agreement List.** Refers to the list of goods or services, and their corresponding technical specifications, scope of work, projected quantities, and estimated prices, subject of the Framework Agreement. This shall be limited to repeatedly required goods that are (i) identified to be necessary and desirable, but, by its nature, use, or characteristic, the quantity and/or exact time of need cannot be accurately pre-determined; and (ii) using a Framework Agreement is most practical, economical, and advantageous for the procuring entity.
- 3.5. **Mini-Competition.** Refers to the process by which the parties to a multi-year Framework Agreement bid as to their best price, prior to the issuance of a Call-Off by the procuring entity.
- 3.6. **Multi-Year Obligational Authority (MYOA).** Refers to the document issued by DBM either for locally-funded projects or foreign-assisted projects implemented by agencies in order to authorize the latter to enter into multi-year contracts for the full project cost.<sup>1</sup>

#### 4. GENERAL CONDITIONS

- 4.1. Procuring entities may opt to use the Framework Agreement if this is advantageous to government, otherwise the goods or services may be procured through some other means in accordance with Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR).
- 4.2. Framework Agreement may be used only upon compliance with the following requirements:

---

<sup>1</sup> DBM Circular Letter No. 2015-7, dated 3 June 2015, entitled *Updated Guidelines for Issuance of Multi-Year Obligational Authority*.

- a) The Head of the Procuring Entity (HOPE) determines that adopting a Framework Agreement will be more advantageous for the procuring entity having considered the following:
- (i) End-User Unit's certification that the repeatedly required goods in the Framework Agreement List are necessary and desirable for the operations of the procuring entity, supported by the following documents:
    - 1. Document, such as, but not limited to, feasibility study, needs analysis, or historical data, establishing the need for the acquisition of the goods in the Framework Agreement List; and
    - 2. Market study establishing the Approved Budget for the Contract (ABC) for each of the goods;
  - (ii) Result of Cost-Benefit Analysis supports the appropriateness of using Framework Agreement by establishing benefits, such as, but not limited to the following:
    - 1. Efficiency in procurement is attained as repetitive conduct of procurement or the occasions of failures of acquisitions are minimized;
    - 2. Stockholding or warehousing of goods and the costs and risks accompanying it will be significantly reduced or avoided;
    - 3. Additional cost will be lessened as the possibility of delay in the acquisition of the goods or services is minimized;
    - 4. The commitment by the supplier or service provider to immediately deliver at a short notice will translate to a more efficient means of supplying goods and services;
    - 5. Procuring entity will benefit from the fixed price or adjusted price for the duration of the Framework Agreement;
    - 6. Call-Offs at the time of actual need will result in the optimum usage of the ABC; or
    - 7. The benefits and advantages of lean and just-in-time procurements are achieved.
  - (iii) The Framework Agreement List is prepared in the most practical, efficient, and economical manner that will encourage participation and competition among interested market operators in the relevant industry.

- b) The procurement shall be conducted following the procedures for Competitive Bidding provided in RA 9184 and its IRR, subject to Section 6 hereof.
- 4.3. Prices indicated in the Framework Agreement corresponding to the subject goods or services in the Framework Agreement List shall be fixed price per unit or item or identified service. For a single-year Framework Agreement, the price shall be based on the actual bid price of the bidder, while for a multi-year Framework Agreement, it shall be based on the price offered in the Mini-Competition.
- 4.4. The Framework Agreement shall contain (a) the Framework Agreement List; (b) the terms and conditions applicable to Call-Offs between the parties within its duration; and (c) methods for delivering the goods or performing the services under the Framework Agreement.

## **5. FRAMEWORK AGREEMENT BY ELECTRONIC MEANS**

The Philippine Government Electronic Procurement System (PhilGEPS) may include a special facility on electronic Framework Agreement system, which may contain processes different from the provision of these Guidelines to adapt to improvements in modern technology, provided that such modifications are consistent with the provisions of Section 3 of Republic Act No. 9184.

## **6. PROCUREMENT PLANNING**

- 6.1. No procurement shall be undertaken under these guidelines unless the same is in accordance with the Annual Procurement Plan (APP) and the Project Procurement Management Plan (PPMP) prepared by the procuring entity. The procuring entity, in preparing its APP, shall include, for purposes of entering into a Framework Agreement, a Framework Agreement List, which shall remain unchanged, neither to be increased or decreased after advertisement and during its life span.
- 6.2. The APP shall indicate the types of units or items considered for inclusion in the Framework Agreement List. In determining the units or items to be listed, the procuring entity shall carefully examine and identify its needs and the probable time, period, event, or occasion the Call-Off may take place.
- 6.3. The Framework Agreement List shall indicate the following information:
  - a) Type and nature of each item;
  - b) Technical specifications or Scope of Work;
  - c) Maximum quantity of items or services;
  - d) Estimated contract price per item or service;
  - e) Total ABC including budgetary allotments per type of product or service

- f) Expected delivery timeframe after receipt of a Call-Off; and
  - g) Other appropriate information as may be necessary.
- 6.4. The estimated contract price per item or service shall be determined and prepared after careful consideration of variables and factors that may affect future market prices using, whenever applicable, historical data, market study, feasibility study, net present value of money, assessment of Total Cost of Ownership, Life Cycle Costing and Value for Money analysis.
- 6.5. In the event a MYOA or equivalent document is necessary to support a contractual obligation on a multi-year basis, the procuring entity should secure a MYOA or equivalent document from relevant government authority before the commencement of the relevant procurement activity in compliance with applicable law, rules, circulars and issuances.
- 6.6. The maximum quantity of items or services shall be determined based on the expected number or outputs to be required by the procuring entity should the need arises. The maximum quantity shall be considered as the maximum quantity allowed to be purchased by the procuring entity, which the supplier or service provider is bound to deliver or perform pursuant to the Call-Off issued for the purpose.

## 7. COMPETITIVE BIDDING

- 7.1. The procuring entity shall conduct the bidding using the single stage, two-envelope procedure as prescribed in Sections 23 and 25 of RA 9184 and its IRR, whereby upon option of the procuring entity, bidders may be allowed to bid on a per item/lot/package basis as provided in the Framework Agreement List. For this purpose, the procuring entity, through its BAC, shall prepare, when necessary, separate Technical Specifications/Scope of Work for every line item to be bid out and indicate, among others, an ABC for each item, the maximum quantity it may procure when needed, and the requested delivery/performance lead time from issuance of the Call-Off or from any date determined by the procuring entity.
- 7.2. The Invitation to Bid shall indicate that the procurement will be subject to a Framework Agreement arrangement pursuant to these Guidelines, and shall state whether the Framework Agreement is subject to Mini-Competition or Outright Determination of the Lowest Calculated Responsive Bid (LCRB).
- 7.3. The procedures and requirements for Competitive Bidding provided in RA 9184 and its IRR shall apply, however, the LCRB may be determined as follows:
- a. **Outright Determination of LCRB.** If the Framework Agreement is determined to be for a duration of one (1) year, the LCRB shall be determined by the BAC, and the recommendation to enter into a Framework Agreement with the LCRB shall be submitted to the HOPE. Upon receipt of the BAC recommendation the HOPE shall

award the option contract, in the form of a Notice to Execute Framework Agreement, to the bidder with the LCRB. This notwithstanding, actual purchase of the procuring entity shall only be made upon issuance of Call-Off.

- b. **Determination of LCRB After Mini-Competition.** When the Framework Agreement is determined to be for a duration of two (2) to three (3) years, the determination of the eligibility and the compliance of bidders with the technical and financial aspects of the project shall be initially made by the BAC. The BAC shall then recommend the execution of a Framework Agreement among the eligible, technically and financially compliant bidders and the Procuring Entity. The HOPE shall then issue to all complying bidders a Notice to Execute a Framework Agreement. The determination of the LCRB shall not be performed by the BAC until a Mini-Competition is conducted among the bidders who were earlier determined to be eligible and compliant with the technical and financial aspects of the project. When Call for Mini-Competition is made, the BAC shall allow the bidders to submit their best financial proposals on such pre-scheduled date, time and place, to determine the bidder with the LCRB.

- 7.4. For procurements subject to Framework Agreements, the specific timelines for the conduct of bid evaluation, post-qualification and award of contract under the IRR of RA 9184 shall be applied only in a suppletory manner.

## **8. FRAMEWORK AGREEMENT**

- 8.1. Within ten (10) calendar days from receipt by the participating bidder(s) of the Notification to Execute a Framework Agreement with the Procuring Entity, the bidder or its duly authorized representative shall formally enter into a Framework Agreement with the procuring entity for an amount of One Peso to be paid by the procuring entity as a consideration for the option granted to the procuring entity to procure the items in the Framework Agreement List when the need arises.
- 8.2. Framework Agreements shall include the following: (a) Framework Agreement List; (b) a contract price per item/service specified in the Framework Agreement List; (c) delivery/service terms and conditions; (d) terms of payment; (e) specify that the perfection of the actual procurement contract shall be reckoned from the execution of the Call-Offs; and (f) statement that upon the execution of the Call-Offs, all rules and guidelines governing implementation of procurement contracts under RA 9184 and its IRR shall be applicable.
- 8.3. Framework Agreements shall not state or imply any agreement by the procuring entity to place future contracts or make orders with the supplier/service provider.

- 8.4. No modification of the Framework Agreement during its lifetime shall be allowed.
- 8.5. Framework Agreements, including the Framework Agreement List, shall be valid only for the period stated in the Bidding Documents which, in no case shall exceed three (3) years from the time the Framework Agreement was entered into and executed by the parties, and shall not be extended beyond its lifetime.
- 8.6. To guarantee the faithful performance by the supplier/service provider of its obligations under the Framework Agreement, it shall submit a Performance Securing Declaration prior to the signing of the Framework Agreement.

## **9. CALL-OFF**

- 9.1. When the procuring entity has determined the necessity for one or more of the items/services covered in the Framework Agreement and the need to actually procure these, it shall require the delivery of the item or rendition of the service identified in the Framework Agreement List in such quantity or scope and at the price for which it was awarded by executing a Call-Off, immediately if single-year Framework Agreement, or after the conduct of Mini-Competition if multi-year Framework Agreement, in favor of the supplier/service provider to obligate the latter to deliver or perform according to the terms and conditions stated in the Framework Agreement.
- 9.2. The procuring entity may execute as many Call-Offs for the same line item as may be needed within the validity of the Framework Agreement; provided that subsequent Call-Offs shall not exceed the maximum quantity in the Framework Agreement List, and shall have the same unit price in case of single-year Framework Agreement. In multi-year Framework Agreement, the price may vary depending on the result of each Mini-Competition.
- 9.3. There is no limit on the number of Call-Offs that may be executed. However, the aggregate amount of all executed Call-Offs shall not exceed the total contract price specified in the Framework Agreement. No other costs are authorized unless otherwise specified in the Framework Agreement.
- 9.4. The procuring entity may execute Call-Offs requiring delivery to multiple destinations or performance at multiple locations.
- 9.5. For purposes of participation in other public bidding activities, the aggregate of the Call-Offs for a particular item or similar items satisfactorily completed by the supplier/service provider shall be considered as one (1) completed contract with the cumulative amount thereof as the total contract amount. In such case, the date appearing in the Certificate of Acceptance issued by the procuring entity for the last delivery will be considered as the date of completion of the contract. On the other hand, only those undelivered items in the Call-Offs executed by the procuring entity shall be included in the

Statement of All Ongoing Government and Private Contracts for purposes of participating in other bidding activities.

## **10. IMPLEMENTATION AND TERMINATION OF FRAMEWORK AGREEMENTS**

- 10.1. After receipt by the supplier/service provider of the Call-Off from the procuring entity, it shall deliver/perform the items within the period specified in the Framework Agreement, unless a different time is provided in the Call-Off; in which case, the period stated in the latter shall prevail.
- 10.2. Extension of delivery/performance time shall be upon written request of the supplier/service provider and upon approval by the procuring entity after consideration of reasonable and justifiable causes.
- 10.3. Failure to deliver/perform within the agreed period, including any time extension, will make the supplier/service provider liable to the procuring entity for liquidated damages at least equal to one-tenth of one percent (.001) of the cost of the unperformed portion of the total amount of the items ordered per Call-Off for every day of delay.
- 10.4. Once the cumulative amount of liquidated damages reaches ten percent (10%) of the total amount of the items ordered per Call-Off, the procuring entity may rescind the same, without prejudice to other courses of action and remedies open to it.
- 10.5. The Warranty provision for goods under Section 62 of RA 9184 and its IRR shall be observed under the Framework Agreement, and shall be required for each Call-Off.
- 10.6. Without prejudice to the provisions of applicable laws, rules, and guidelines, the Framework Agreement shall automatically terminate under the following conditions:
  - a) When the total maximum quantity specified in the Framework Agreement has been exhausted; or
  - b) When the specified duration of the Framework Agreement has expired.
- 9.7. All other rules governing contract implementation and termination under RA 9184, its IRR, and relevant procurement policies shall be applicable.

## **11. REPEAT ORDER**

- 11.1. No Repeat Order for an item in the Framework Agreement List shall be allowed until after the procuring entity has exhausted the maximum quantity for the same item specified therein or after the Framework Agreement has expired, whichever comes first; and subject to the conditions provided in

Section 51 of RA 9184 and its IRR. For this purpose, the Repeat Order shall be availed of only within six (6) months from the date of the last or final Call-Off for a specific item where the maximum quantity has been exhausted or from the expiration of the Framework Agreement.

- 11.2. In case Repeat Order is allowed and resorted to, the twenty five percent (25%) maximum allowable quantity shall be based on the aggregate quantity of actual items ordered and delivered.

## **12. EFFECTIVITY**

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