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CIRCULAR 02-2015

30 January 2015

- TO** : **Heads of Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government Owned and/or Controlled Corporations, Government Financial Institutions, and Local Government Units**
- SUBJECT** : **Clarifying the Rule on Adjustment of the Approved Budget for the Contract (ABC) under Sections 35 and 53.1 of the 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 clarify the Rule on Adjustment of the Approved Budget for the Contract (ABC) under Sections 35 and 53.1 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184

2.0 Coverage

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

3.0 Adjustment of the ABC

3.1 For the adjustment of the ABC in case of failure of bidding under Section 35 of the IRR, Sections 35.2 and 35.3 provide that:

In order to determine the reason for the failed bidding, the BAC shall conduct a mandatory review and evaluation of the terms, conditions, and specifications in the Bidding Documents, including its cost estimates. Section 35.2, IRR.

Based on its findings, the BAC shall revise the terms, conditions, and specifications, **and if necessary, adjust the ABC, subject to the required approvals**, and conduct a re-bidding with re-advertisement and/or posting, as provided for in Section 21.2 of the IRR. Section 35.3, IRR.

3.2 On the other hand, for the adjustment of the ABC in negotiated procurement (two-failed biddings) under Section 53.1 of the IRR, Section 53.1.1 of the IRR provides that:

After conduct of the mandatory review of the terms, conditions, specifications, and cost estimates, as prescribed in Section 35 of this IRR, the BAC shall revise and agree on the minimum technical specifications, **and if necessary, adjust the ABC, subject to the required approvals.** However, the **ABC cannot be increased by more than twenty percent (20%) of the ABC for the last failed bidding.**

4.0 Repeal of GPPB Resolution No. 07-2005

4.1 While GPPB Resolution No. 07-2005 adopted the Rule on Adjustment in the ABC on 1 April 2005, during the effectivity of IRR-A of RA 9184, Section 75 of IRR includes the following provision:

The IRR repeals Memorandum No. 1999 dated 18 September 2003, otherwise known as the “Implementing Rules and Regulations Part A” and relevant portions of Executive Order No. 301, series of 1987 entitled “Decentralizing Actions on Government Negotiated Contracts, Lease Contracts and Records Disposal”. Any other issuance, executive order, administrative order, proclamation, charter, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of this IRR is hereby repealed, modified or amended accordingly.

4.2 From the foregoing, Sections 35, 53 and 75 of the IRR repealed GPPB Resolution No. 07-2005 with both Sections 35 and 53.1 of the IRR of RA 9184 now expressly providing for the adjustment of ABC, if necessary, subject to the required approvals, with section 53.1.1 specifically providing for a **twenty percent (20%) threshold** in case of increase in ABC.

4.3 As the considerations and parameters for the adjustment of the ABC embodied in GPPB Resolution No. 07-2005 are now expressly addressed in Sections 35.2, 35.3 and 53.1 of the IRR of RA 9184, procuring entities need not follow the rules in the adjustment of the ABC provided in GPPB Resolution No. 07-2005.

4.4 After conduct of the mandatory review of the terms, conditions, specifications, and cost estimates, any adjustment in the ABC, whether upward or downward, may be done by the procuring entity subject to the required approvals, and the twenty percent threshold for negotiated procurement (two-failed biddings) under Section 53.1.

5.0 This Circular shall take effect immediately.

6.0 For guidance and compliance.

(Sgd.)
FLORENCIO B. ABAD
Chairperson