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**CIRCULAR 02-2016**

9 August 2016

**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 : Clarification on the Conduct of Procurement Activities in Relation to the October 31, 2016 Barangay and Sanggunian Kabataan (SK) Elections**

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**1.0 PURPOSE**

- 1.1** This Circular is issued to clarify the conduct of procurement activities of government agencies during the 2016 Barangay and SK Elections from 1 October to 7 November 2016 (*hereinafter referred to as “Election Period”*) and to advise government agencies on the procurement activities it may or may not undertake under Section 3 of Republic Act 6679<sup>1</sup> and Section 261(v) and (w) of the Omnibus Election Code.
- 1.2** This also serves to remind agencies that the election ban is not designed to paralyze the operations of the government, but to insulate government procurement from political partisan activities, usually in the form of new projects, which are designed to influence the public during the elections.

**2.0 SCOPE**

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 GENERAL CONSIDERATIONS**

- 3.1** Procuring entities may proceed with the commencement and completion of procurement activities during the *Election Period*. However, issuance of a Notice of Award or the release, disbursement and expenditure of public funds shall be prohibited in the following instances:

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<sup>1</sup> An Act to Amend Republic Act No. 6653 to Postpone the Barangay Elections to March 28, 1989, Prescribing Additional Rules Governing the Conduct of Barangay Elections and for Other Purposes.

**3.1.1 Social Projects.** No Notice of Award, whether through public bidding or any of the alternative modes of procurement, may be issued for social projects by the DSWD and any other departments performing functions similar to DSWD, during the Election Period, except in the following cases:

- (a) *Routine and normal expenses.* Routine and normal expenses of the department.
- (b) *COMELEC Exemption.* Such other expenses authorized by COMELEC after due notice and hearing.

**3.1.2 Housing-Related Projects.** No Notice of Award, whether through public bidding or any of the alternative modes of procurement, may be made for housing-related projects by the HUDCC and any other agency of the government performing similar functions, during the Election Period, except in the following cases:

- (a) *Administrative expenses.* Such other necessary administrative expenses.
- (b) *COMELEC Exemption.* Such other expenses authorized by COMELEC after due notice and hearing.

**3.1.3 Public Works.** No Notices of Award, whether through public bidding or any of the alternative modes of procurement, may be issued for public works during the Election Period.

While public bidding for public works may be conducted, the Procuring Entity should withhold the issuance of the Notice of Award during the Election Period.

However, procurement for any of the following public works is allowed:

- (a) *Maintenance Work.* Maintenance of existing and/or completed public works projects; *provided* that no additional laborers shall be employed. Only the average number of laborers or employees employed during the six (6) month period immediately prior to 1 October 2016 shall be permitted to work during such time.
- (b) *Contract entered into or awarded before election ban.* Notices of award, whether through public bidding or any of the alternative modes of procurement, issued before 1 October 2016, *provided* that such award was reported to the Commission on Elections (COMELEC) in accordance with Section 5 below.

- (c) *Preparatory works.* Preparation for working drawings, specifications, bills of materials, estimates, and other procedures preparatory to actual construction including the purchase of materials and equipment and all incidental expenses for wages of watchmen and other laborers employed for such work in the central office and field storehouses before 1 October 2016.
- (d) *Calamity.* Emergency works necessitated by the occurrence of a public calamity, but such work shall be limited to the restoration of the damaged facility.
- (e) *Ongoing projects.* Ongoing public works commenced before 1 October 2016, *provided* that such project was reported to the COMELEC in accordance with Section 5 below.
- (f) *Similar projects under foreign agreements.* Ongoing foreign assisted projects commenced before 1 October 2016 are likewise allowed, *provided* that such project was reported to COMELEC in accordance with Section 5 below.

**3.2** Construction of public works and delivery of materials for public works shall be prohibited during the *Election Period*, except in case of construction and maintenance of provincial, city, municipal and barangay-funded roads and bridges which shall be prohibited from **21 to 30 October 2016** or a period of ten (10) days immediately preceding the date of the election.

## **4.0 REPORTORIAL REQUIREMENTS**

### **4.1 COMELEC**

On or before 1 October 2016, the Head of the Procuring Entity shall submit to the COMELEC through its regional election directors/provincial election supervisors/election officers concerned certified lists of the following:

- (i) All ongoing public works projects commenced before 1 October 2016;
- (ii) Similar ongoing projects under foreign agreements commenced before 1 October 2016; and
- (iii) Notices of award for public works issued before 1 October 2016 together with a copy of each contract.

Local government units, including barangays, need not furnish the Department of Public Works and Highways (DPWH) a copy of the certified list submitted to COMELEC.

**4.2** Philippine Government Electronic Procurement System (PhilGEPS)

All Invitations to Bid and awards of contracts shall be posted in the PhilGEPS in accordance with the provisions of Republic Act No. 9184 and its revised Implementing Rules and Regulations.

**5.0** This Circular shall take effect immediately.

**6.0** For guidance and compliance.

**(SGD)**

**BENJAMIN E. DIOKNO**

*Chairperson*