



## RESOLUTION NO. 05-2020

### **APPROVING THE ACCEPTANCE OF AN EXPIRED MAYOR'S PERMIT WITH OFFICIAL RECEIPT FOR THE RENEWAL APPLICATION AND UNNOTARIZED OMNIBUS SWORN STATEMENT AS BASIS FOR AWARD UNDER THE NEGOTIATED PROCUREMENT (EMERGENCY CASES) MODALITY**

**WHEREAS**, Republic Act (RA) No. 9184, otherwise known as the "Government Procurement Reform Act," 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 No. 9184 and its 2016 revised IRR authorizes the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend its IRR, whenever necessary;

**WHEREAS**, on 9 March 2020, the President signed Proclamation No. 922 declaring a State of Public Health Emergency throughout the Philippines upon the recommendation of the Department of Health following the confirmed local transmission of the novel coronavirus disease (COVID-19);

**WHEREAS**, under the State of Public Health Emergency, the relevant government entities shall be capacitated to facilitate the sufficient and immediate access to funding, particularly for all concerned government agencies and local government units, intensify government response and measures such as easing procurement process, mandatory reporting, and enforcing quarantine and disease control prevention measures;

**WHEREAS**, on 9 March 2020, the GPPB issued Resolution No. 03-2020<sup>1</sup> on the Adoption of Efficient, Effective, and Expedient Procurement Procedures during a State of Public Health Emergency, simplifying the rules in Negotiated Procurement under Emergency Cases modality embodied in Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 IRR;

**WHEREAS**, on 16 March 2020, the President signed Proclamation No. 929 declaring a State of Calamity throughout the Philippines due to COVID-19;

**WHEREAS**, the Government Procurement Policy Board-Technical Support Office (GPPB-TSO) is preparing an anticipatory opinion providing guidance to the Procuring Entities (PEs) on the procedure for Negotiated Procurement under Emergency Cases as provided in Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 IRR. During the review of the said opinion, the GPPB-TSO identified the following issues that may be raised given the Enhanced Community Quarantine:<sup>2</sup>

- (a) Possibility that there may still be local government units that have not issued Business or Mayor's Permit; and
- (b) Difficulty of supplier, manufacturer, distributor, contractor, and consultant, to have their oaths administered by notaries public or other authorities given the Enhanced Community Quarantine;

<sup>1</sup> Published in the Philippine Daily Inquirer on 13 March 2020.

<sup>2</sup> Effective by virtue of Section 2 of Proclamation No. 929, s. 2020 and Memorandum from the Office of the Executive Secretary dated 16 March 2020, providing the implementing guidelines on the Enhanced Community Quarantine and the Stringent Social Distancing Measures over the entire Luzon.

**WHEREAS**, under existing rules, submission of the expired Business or Mayor's permit with Official Receipt is allowed only for the purpose of eligibility check subject to the submission of the renewed Business or Mayor's permit as a post-qualification requirement in accordance with Section 34.2 of the 2016 IRR of RA No. 9184;

**WHEREAS**, the Omnibus Sworn Statement (OSS), even if not notarized is valid and binding between the PE and supplier, manufacturer, distributor, contractor, and consultant, as the case may be, and cannot be repudiated by any of them as against the PE. The purpose of notarization is to make the document public, thus valid and binding to the whole world without need of additional evidence;

**WHEREAS**, the GPPB-TSO recommended that PEs be allowed to accept the following during Negotiated Procurement (Emergency Cases) under Sections 53(b) of RA No. 9184 and 53.2 of its 2016 IRR:

- (a) Expired Business or Mayor's permit with Official Receipt of renewal, subject to submission of Business or Mayor's permit after award of contract; and
- (b) An unnotarized OSS subject to compliance thereafter;

**WHEREAS**, the GPPB, after careful review and deliberation, resolved to approve the following:

- (1) **ALLOW** PEs to accept the expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of Business or Mayor's permit after award of contract;
- (2) **ALLOW** PEs to accept an unnotarized OSS subject to compliance therewith after award of contract;
- (3) **AMEND** Item F of the General Guidelines of the Consolidated Guidelines for the Alternative Methods of Procurement or Annex H of the 2016 IRR of RA No. 9184 as follows:

**F. Documentary Requirements.** The mandatory documents to be submitted by suppliers, manufacturers, distributors, contractors and consultants are enumerated in Appendix A of this Guidelines.

**(New)**

**In the case of Negotiated Procurement through Emergency Cases under Section 53.2 of the 2016 IRR of RA No. 9184, PEs are allowed to accept: (i) an expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of the Business or Mayor's permit after award of contract; and (ii) an unnotarized Omnibus Sworn Statement, subject to compliance therewith after award of contract; and**

- (4) **AMEND** Item 4.0 of GPPB Circular 04-2016 as follows:

**4.0 Conduct of Negotiated Procurement under Emergency Cases Modality**

**xxx**

*Documentary Requirements*

**xxx**

**4.1.6 Procuring entities are allowed to accept an expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of the Business or Mayor's permit after award of contract and an unnotarized Omnibus Sworn Statement, subject to compliance therewith after award of contract;**

**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 and other executive issuances, hereby **RESOLVE**, to confirm, adopt, and approve, as **WE** hereby confirm, adopt, and approve the following:

- (1) **ALLOW** PEs to accept the expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of Business or Mayor's permit after award of contract;
- (2) **ALLOW** PEs to accept an unnotarized OSS subject to compliance therewith after award of contract;
- (3) **AMEND** Item F of the General Guidelines of the Consolidated Guidelines for the Alternative Methods of Procurement or Annex H of the 2016 IRR of RA No. 9184 as follows:

**F. Documentary Requirements.** The mandatory documents to be submitted by suppliers, manufacturers, distributors, contractors and consultants are enumerated in Appendix A of this Guidelines.

*(New)*

**In the case of Negotiated Procurement through Emergency Cases under Section 53.2 of the 2016 IRR of RA No. 9184, PEs are allowed to accept: (i) an expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of the Business or Mayor's permit after award of contract; and (ii) an unnotarized Omnibus Sworn Statement subject to compliance therewith after award of contract; and**

- (4) **AMEND** Item 4.0 of GPPB Circular 04-2016 as follows:

**4.0 Conduct of Negotiated Procurement under Emergency Cases Modality  
xxx**

*Documentary Requirements*

**xxx**

**4.1.6 Procuring entities are allowed to accept an expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of the Business or Mayor's permit after award of contract and an unnotarized Omnibus Sworn Statement, subject to compliance therewith after award of contract.**

This Resolution shall be effective on the 20th day of March 2020.

**APPROVED** this 20th day of March 2020 at Manila, Philippines.

(SGD)

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**WENDEL E. AVISADO**  
*GPPB, Chairperson*  
**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

(SGD)

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**LAURA B. PASCUA**  
*Alternate to the Chairperson*  
**DEPARTMENT OF BUDGET AND  
MANAGEMENT**

(SGD)

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**NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY**

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**DEPARTMENT OF EDUCATION**

(SGD)

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**DEPARTMENT OF ENERGY**

(SGD)

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**DEPARTMENT OF FINANCE**

(SGD)

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**DEPARTMENT OF HEALTH**

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**DEPARTMENT OF THE INTERIOR AND  
LOCAL GOVERNMENT**

(SGD)

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**DEPARTMENT OF NATIONAL  
DEFENSE**

(SGD)

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**DEPARTMENT OF PUBLIC WORKS AND  
HIGHWAYS**

(SGD)

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**DEPARTMENT OF SCIENCE AND  
TECHNOLOGY**

(SGD)

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**DEPARTMENT OF TRADE AND INDUSTRY**

(SGD)

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**DEPARTMENT OF TRANSPORTATION**

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**DEPARTMENT OF INFORMATION AND  
COMMUNICATIONS TECHNOLOGY**

(SGD)

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**PRIVATE SECTOR REPRESENTATIVE**