



## RESOLUTION NO. 15-2020

### **APPROVING THE ADOPTION OF THE SIXTH (6<sup>TH</sup>) EDITION OF THE PHILIPPINE BIDDING DOCUMENTS FOR THE PROCUREMENT OF GOODS AND INFRASTRUCTURE PROJECTS AND RELATED AMENDMENTS IN THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184 AND ASSOCIATED ISSUANCES**

**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 and corresponding standard forms for procurement, whenever necessary;

**WHEREAS**, Section 3 (c) of RA No. 9184 mandates that all procurement of the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or -controlled corporations, government financial institutions and local government units, shall be governed by the principle, among others, of having a “[s]treamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method;”

**WHEREAS**, Section 6 of RA No. 9184 provides for the following requirement on the standardization of the procurement process and forms:

To systematize the procurement process, avoid confusion and ensure transparency, the procurement process, including the forms to be used, shall be standardized insofar as practicable. For this purpose, the GPPB shall pursue the development of generic procurement manuals and standard bidding forms, the use of which once issued shall be mandatory upon all Procuring Entities;

**WHEREAS**, Sections 6.1 and 6.2 of the 2016 revised IRR of RA No. 9184 mandate the use the Philippine Bidding Documents by the procuring entities (PEs) as follows:

To systematize the procurement process, avoid confusion and ensure transparency the GPPB shall pursue the development and approval of generic procurement manuals, standard Bidding Documents, and forms, including those to be used for major procurement like drugs and textbooks; and

Procuring Entities are mandated to use the Generic Procurement Manuals (GPMs), Philippine Bidding Documents (PBDs), and other standard forms of the GPPB. However, whenever necessary to suit the particular needs of the Procuring Entity, modifications may be made, particularly for major and specialized procurement, subject to the approval of the GPPB;

**WHEREAS**, GPPB Resolution No. 24-2016<sup>1</sup> approved the Fifth (5<sup>th</sup>) Edition of the Philippine Bidding Documents (PBDs) for Goods, Infrastructure Projects, and Consulting Services as harmonized with the Development Partners on 27 October 2016;

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<sup>1</sup> Dated 27 October 2016.

**WHEREAS**, since the use of the 5<sup>th</sup> Edition of the PBDs in early 2018, several requests for clarification were received by the Board, through its Technical Support Office (TSO), relative to the contents of the PBDs, particularly on the following issues:

- a) discrepancies in the rules between the PBD Clauses and the 2016 revised IRR of RA No. 9184;
- b) confusion in the use of Bidding Forms, *i.e.* mandatory or optional;
- c) varying formats of the PBDs and the Bidding Forms for the different classifications of procurement; and
- d) language used in the PBDs does not match the provisions as stated in the revised 2016 IRR of RA No. 9184 or other GPPB issuances;

**WHEREAS**, the simplification of the PBDs was introduced during the 4<sup>th</sup> GPPB Online Meeting on 7 May 2020, and the Board supported the move in order to:

- a) To address the foregoing issues and to minimize or prevent the following problems:
  - i) Varied interpretation of the procurement rules leading to the disqualification of eligible bidders;
  - ii) Risk of inconsistencies in the procurement rules due to repetitive clauses found within the PBDs, and those that are already covered under the 2016 IRR of RA No. 9184 and other GPPB issuances;
  - iii) Delay in the delivery or implementation of Procurement Projects since the PEs are experiencing long processing time for bid preparation; and
  - iv) Sheer practicality given the voluminous nature of the Philippine Bidding Documents.
- b) To align with the proposed adoption of online bid submission for the effective conduct of public procurement, especially that the country has been placed under a State of Calamity due to the Coronavirus Disease 2019 situation, which has affected the conduct of procurement activities in view of the reduced mobility of the PE, bidders, and stakeholders;

**WHEREAS**, on the 5<sup>th</sup> GPPB Online Meeting on 20 May 2020, the proposed strategies for the simplification of the PBDs were presented to the Board, as follows:

- a) Delete the Clauses that have existing legal bases. Instead, one general statement would be adopted in the PBDs stating that all provisions of RA No. 9184 and its 2016 revised IRR, including the associated issuances, constitute the bidding requirements and the terms and conditions of the contract;
- b) Combine repetitive clauses in the PBDs;
- c) Include in the appropriate GPM the deleted portions that provide details on the existing procedures therein;
- d) Separate the Bidding Forms from the PBDs and include in a separate issuance the mandatory provisions required;
- e) Separate the section on Foreign-Assisted Projects from the PBDs and will be covered by an exclusive issuance for this purpose; and
- f) Update and refine the provisions in the PBDs for consistency with the 2016 revised IRR of RA No. 9184 and related issuances;

**WHEREAS**, the GPPB approved the strategies subject to submission of comments on the draft simplified PBDs for Goods, Infrastructure Projects, and Consulting Services;

**WHEREAS**, during the 4<sup>th</sup> Online Meeting on 18 June 2020, the GPPB-TSO presented to the Inter Agency Technical Working Group (IATWG) the proposed simplified PBDs, as initially discussed in the aforementioned GPPB Meetings as well as the comments on the

simplified PBDs submitted by the National Economic and Development Authority and Department of Transportation;

**WHEREAS**, the IATWG agreed to endorse, for approval of the Board, the adoption of the simplified PBDs with their recommendations, as indicated below:

- a) Append a checklist of the technical and financial documents in the simplified PBDs;
- b) Paraphrase the bid and payment currencies in the simplified PBDs to include a qualification that the foreign denominations should be accepted or tradeable by the *Bangko Sentral ng Pilipinas*; and
- c) Require the bidders to submit only one (1) copy of the technical and financial bid components, while allowing the PE to request the bidders for additional soft or hard copies. However, failure of the bidders to provide the additional copies shall not be a ground for disqualification;

**WHEREAS**, on 23, 24, 26, and 30 June 2020, the GPPB-TSO representatives conducted a line-by-line review of the proposed simplified PBDs, to further refine and update the clauses based on the 2016 revised IRR of RA No. 9184;

**WHEREAS**, during the 7<sup>th</sup> GPPB Online Meeting on 28 July 2020, the GPPB-TSO presented to the Board: (i) the simplified PBDs for Goods and Infrastructure Projects incorporating the above comments and (ii) the related amendments in the 2016 revised IRR of RA No. 9184 and associated issuances, particularly on:

- a) the currencies of foreign-denominated bids, which shall indicated as acceptable or tradeable by the *Bangko Sentral ng Pilipinas*;
- b) submission of eligibility documents to the implementing or end-user unit if subcontracting is allowed during contract implementation; and
- c) eligibility of bidders participating in domestically funded procurement of Goods whose foreign ownership exceed the percentage provided in the Section 23.4.1.1 of the 2016 revised IRR of RA No. 9184;

**WHEREAS**, the proposed simplified PBDs for Consulting services will be presented at a later GPPB meeting as this is still undergoing review;

**WHEREAS**, the GPPB, after careful review and due deliberation of the final comments and suggestions of the members, agreed to approve all matters on the (i) adoption of the simplified PBDs for Goods and Infrastructure Projects, and (ii) related amendments to the revised 2016 IRR of RA No. 9184 and associated issuances that resulted from the simplification of the PBDs;

**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. **ADOPTION** of the 6<sup>th</sup> Edition PBDs or the simplified PBDs for Goods and Infrastructure Projects to be used by all PEs;
2. **AMENDMENTS** to the provisions of the 2016 revised IRR of RA No. 9184 and associated issuances, a copy of which is attached as Annex "A;" and

3. **USE** of the simplified PBDs for Goods and Infrastructure Projects for the preparation of bidding documents, and submission and receipt of bids through the GPPB Online Portal.

This Resolution shall take effect after fifteen (15) days following the publication in the Official Gazette.

**APPROVED** this 28<sup>th</sup> day of July 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**

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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**

**SGD**

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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**

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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**



## ANNEX "A"

Unit 2504 Raffles Corporate Center  
F. Ortigas Jr. Road, Ortigas Center  
Pasig City, Philippines 1605

<b>2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184</b>	
<b>ORIGINAL</b>	<b>AMENDMENT</b>
<p>61.4. All contracts shall be denominated and payable in Philippine currency, and this shall be stated in the Bidding Documents: Provided, however, That subject to the guidelines<sup>2</sup> issued by the GPPB, the Procuring Entity may provide in the Bidding Documents that obligations may be paid in foreign currency; Provided, further, That should the Procuring Entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening for purposes of bid comparison and evaluation.</p>	<p>61.4. All contracts shall be denominated and payable in Philippine currency, and this shall be stated in the Bidding Documents: Provided, however, That subject to the guidelines issued by the GPPB, the Procuring Entity may provide in the Bidding Documents that obligations may be paid in foreign currency, <b>which shall be accepted or tradeable by the <i>Bangko Sentral ng Pilipinas</i></b>; Provided, further, That should the Procuring Entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening for purposes of bid comparison and evaluation.</p>
<p><b>GPPB RESOLUTION NO. 20-2005 dated 7 October 2005, as amended by GPPB RESOLUTION NO. 03-2011 dated 28 January 2011 GUIDELINES ON PROCUREMENTS INVOLVING FOREIGN-DENOMINATED BIDS, CONTRACT PRICES, AND PAYMENT USING LETTERS OF CREDIT</b></p>	
<b>ORIGINAL</b>	<b>AMENDMENT</b>
<p><b>5. SUBMISSION AND EVALUATION OF BIDS</b></p> <p>5.1. All bids may be denominated wholly in local currency or wholly in foreign currency or a combination thereof; provided, however, that foreign component of bids shall cover only imported goods as supported by import documents.</p>	<p><b>5. SUBMISSION AND EVALUATION OF BIDS</b></p> <p>5.1. All bids may be denominated wholly in local currency or wholly in foreign currency, <b>which shall be accepted or tradeable by the <i>Bangko Sentral ng Pilipinas</i></b>, or a combination thereof; provided, however, that foreign component of bids shall cover only imported goods as supported by import documents.</p>

<sup>2</sup> Refers to GPPB Resolution No. 03-2011 dated 28 January 2011, as amended by GPPB Resolution No. 13-2019, dated 23 May 2019.

<p><b>6. CONTRACT PRICES</b></p> <p>6.1. As a general rule, Contracts shall be denominated and paid in Philippine currency, except when the procuring entity agrees that obligations shall be settled in any other currency, subject to conditions provided for under these guidelines.</p>	<p><b>6. CONTRACT PRICES</b></p> <p>6.1. As a general rule, Contracts shall be denominated and paid in Philippine currency, except when the procuring entity agrees that obligations shall be settled in any <b>other foreign</b> currency, <b>which shall be accepted or tradeable by the <i>Bangko Sentral ng Pilipinas</i></b>, subject to conditions provided for under these guidelines.</p>
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<p align="center"><b>GOVERNMENT PROCUREMENT MANUAL VOLUME 2 Manual of Procedures for the Procurement of Goods</b></p>	
<p align="center"><b>ORIGINAL</b></p>	<p align="center"><b>AMENDMENT</b></p>
<p><b>Subcontracts</b></p> <p><b>Is subcontracting allowed for the procurement of goods and services?</b></p> <p>Generally, a supplier may be allowed to subcontract a portion of the contract or project.</p> <p>However, the supplier should not be allowed to subcontract a material or significant portion of the contract or project, which portion must not exceed the maximum allowed by the Procuring Entity as indicated in the bidding documents. The bidding documents must specify what are considered as significant/material component(s) of the project.</p> <p>All subcontracting arrangements must be disclosed at the time of bidding, and subcontractors must be identified in the bid submitted by the supplier. Subcontracting is limited to twenty percent (20%) of the project in accordance with the Bidding Documents.</p> <p>Any subcontracting arrangements made during project implementation and not disclosed at the time of the bidding shall not be allowed. The subcontracting arrangement shall not relieve the supplier of any liability or obligation under the contract. Moreover, subcontractors are obliged to comply with the provisions of</p>	<p><b>Subcontracts</b></p> <p><b>Is subcontracting allowed for the procurement of goods and services?</b></p> <p>Generally, a supplier may be allowed to subcontract a portion of the contract or project.</p> <p>However, the supplier should not be allowed to subcontract a material or significant portion of the contract or project, which portion must not exceed the maximum allowed by the Procuring Entity as indicated in the bidding documents. The bidding documents must specify what are considered as significant/material component(s) of the project.</p> <p><del>All subcontracting arrangements must be disclosed at the time of bidding, and subcontractors must be identified in the bid submitted by the supplier.</del> Subcontracting is limited to twenty percent (20%) of the project in accordance with the Bidding Documents.</p> <p><b>The bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the bidder opts to disclose the name of the subcontractor during bid submission, the bidder shall include the required documents as part of the technical components of the bid. A</b></p>

<p>the contract and shall be jointly and severally liable with the principal supplier, in case of breach thereof, in so far as the portion of the contract subcontracted to it is concerned.</p>	<p><b>subcontractor that is identified during contract implementation must comply with the eligibility criteria and documentary requirements. The implementing or end-user unit shall determine whether the subcontractor complies with the eligibility criteria and documentary requirements, and secure the approval of the HoPE.</b></p> <p><del>Any subcontracting arrangements made during project implementation and not disclosed at the time of the bidding shall not be allowed.</del> The subcontracting arrangement shall not relieve the supplier of any liability or obligation under the contract. Moreover, subcontractors are obliged to comply with the provisions of the contract and shall be jointly and severally liable with the principal supplier, in case of breach thereof, insofar as the portion of the contract subcontracted to it is concerned.</p> <p>Any subcontracting arrangement shall not relieve the supplier of any liability or obligation under the contract. Moreover, subcontractors are obliged to comply with the provisions of the contract and shall be jointly and severally liable with the principal supplier, in case of breach thereof, insofar as the portion of the contract subcontracted to it is concerned.</p>
<p><b>GOVERNMENT PROCUREMENT MANUAL VOLUME 3</b>  <b>Manual of Procedures for the Procurement of Infrastructure Projects</b></p>	
<p><b>ORIGINAL</b></p>	<p><b>AMENDMENT</b></p>
<p><b>Subcontracting</b></p> <p><b>Is subcontracting allowed for the procurement of infrastructure projects?</b></p> <p>A contractor may be allowed to subcontract a portion of the contract or project if the bidding documents clearly provide for such arrangement. However, the contractor should not be allowed to subcontract a material or significant portion of the contract or project, which portion must not exceed fifty percent (50%) of the total project cost. The bidding documents must specify what are considered as significant/material</p>	<p><b>Subcontracting</b></p> <p><b>Is subcontracting allowed for the procurement of infrastructure projects?</b></p> <p>A contractor may be allowed to subcontract a portion of the contract or project if the bidding documents clearly provide for such arrangement. However, the contractor should not be allowed to subcontract a material or significant portion of the contract or project, which portion must not exceed fifty percent (50%) of the total project cost. The bidding documents must specify what are considered as significant/material component(s) of the project.</p>

<p>component(s) of the project.</p> <p>Moreover, except if otherwise provided by the contract, it should not subcontract any part of the works without the prior written consent of the HoPE. However, this consent shall not relieve the contractor of any liability or obligation under the contract. The contractor will be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants, or workmen as fully as if these were its own acts, defaults, or neglects, or those of its agents, servants or workmen.</p> <p>The bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the bidder opts to disclose the name of the subcontractor during bid submission, the bidder shall include the required documents as part of the technical components of the bid. A subcontractor that is identified during contract implementation must comply with the eligibility criteria and documentary requirements and secure approval of the HoPE.</p> <p>Subcontractors should pass the eligibility requirements for the portions of the contract that they will undertake. If they are determined to be ineligible, subcontracting of such portion of the works shall be disallowed.</p>	<p><b>[Paragraphs 2 and 3 are switched for clarity]</b></p> <p>The bidder may identify the subcontractor to whom a portion of the Works will be subcontracted at any stage of the bidding process or during contract implementation. If the bidder opts to disclose the name of the subcontractor during bid submission, the bidder shall include the required documents as part of the technical components of the bid. A subcontractor that is identified during contract implementation must comply with the eligibility criteria and documentary requirements. <b>The implementing or end-user unit shall determine whether the subcontractor complies with the eligibility criteria and documentary requirements, and secure the approval of the HoPE.</b></p> <p><del>Moreover, except if otherwise provided by the contract, it should not subcontract any part of the works without the prior written consent of the HoPE. However, this consent</del> <b>Any subcontracting agreement shall not relieve the contractor of any liability or obligation under the contract. The contractor will be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants, or workmen as fully as if these were its own acts, defaults, or neglects, or those of its agents, servants, or workmen.</b></p> <p>Subcontractors should pass the eligibility requirements for the portions of the contract that they will undertake. If they are determined to be ineligible, subcontracting of such portion of the works shall be disallowed.</p>
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<b>2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184</b>	
<b>ORIGINAL</b>	<b>AMENDMENT</b>
<p>23.4.1.2. Foreign bidders may be eligible to participate under any of the following circumstances in accordance with the guidelines<sup>3</sup></p>	<p>23.4.1.2. <b>Foreign Bidders with foreign ownership exceeding those allowed in Section 23.4.1.1 of this IRR</b> may be eligible to</p>

<sup>3</sup> Refers to GPPB Resolution No. 20-2005 dated 7 October 2005, as amended by GPPB Resolution No. 03-2011 dated 28

<p>issued by the GPPB:</p> <p>a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the Act and this IRR;</p> <p>b) When the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines;</p> <p>c) When the goods sought to be procured are not available from local suppliers; or</p> <p>d) When there is a need to prevent situations that defeat competition or restrain trade.</p>	<p>participate under any of the following circumstances <b>in accordance with the guidelines issued by the GPPB:</b></p> <p>a) When provided for under any Treaty or International or Executive Agreement as provided in Section 4 of the Act and this IRR;</p> <p>b) When the foreign supplier is a citizen, corporation or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations or associations of the Philippines;</p> <p>c) When the goods sought to be procured are not available from local suppliers; or</p> <p>d) When there is a need to prevent situations that defeat competition or restrain trade.</p>
<p align="center"><b>GPPB RESOLUTION NO. 03-2011 dated 28 January 2011, as amended by GPPB RESOLUTION NO. 13-2019, dated 23 May 2019 Guidelines in the Determination of Eligibility of Foreign Suppliers, Contractors, and Consultants to Participate in Government Procurement Projects</b></p>	
<p align="center"><b>ORIGINAL</b></p>	<p align="center"><b>AMENDMENT</b></p>
<p><b>4.0 FOREIGN SUPPLIERS, CONTRACTORS, AND CONSULTANTS ELIGIBLE TO PARTICIPATE</b></p> <p>4.1. In the procurement of goods, regardless of the procurement method used, foreign bidders may be eligible to participate under any of the following circumstances:</p> <p>XXX</p>	<p><b>4.0 FOREIGN SUPPLIERS, CONTRACTORS, AND CONSULTANTS ELIGIBLE TO PARTICIPATE</b></p> <p>4.1. In the procurement of goods, regardless of the procurement method used, <del>foreign</del> bidders <b>with foreign ownership exceeding those allowed in Section 23.4.1.1 of the 2016 revised IRR of RA No. 9184</b> may be eligible to participate under any of the following circumstances:</p> <p>XXX</p>

January 2011, entitled: "Guidelines on Procurements Involving Foreign-Denominated Bids, Contract Prices, and Payment Using Letters of Credit."