

GUIDELINES ON THE CONDUCT OF PROCUREMENT ACTIVITIES DURING THE ELECTION PERIOD FOR THE 09 MAY 2022 NATIONAL AND LOCAL ELECTIONS

WHEREAS, the synchronized national and local elections are scheduled to take place on 09 May 2022 in accordance with Section 2 of Republic Act (RA) No. 7166;¹

WHEREAS, Paragraph (v) of Section 261 of *Batas Pambansa* No. 8812² or the Omnibus Election Code of the Philippines (OEC) proscribes the release, disbursement, or expenditure of public funds by any public official or employee including barangay officials and those of government-owned and controlled corporations and their subsidiaries, subject to certain exceptions;

WHEREAS, Paragraph (b) of Section 94 of the OEC defines expenditure to include: “the payment or delivery of money of anything of value, or a contract, promise or agreement to make an expenditure, for the purpose of influencing the results of the election. It shall also include the use of facilities personally owned by the candidate, the money value of the use of which can be assessed based on the rates prevailing in the area;”

WHEREAS, Paragraph (w) of Section 261 of the OEC prohibits the construction of public works, delivery of materials for public works, and issuance of treasury warrants and similar devices forty-five (45) days before the date of the election, except for projects or works exempted under Section 261 (v) of the OEC;

WHEREAS, the Commission on Elections (COMELEC) issued Resolution No. 10695 dated 10 February 2021, providing for the calendar of activities and periods of prohibited acts in connection with the 09 May 2022 national and local elections;

WHEREAS, in previous elections, the Government Procurement Policy Board (GPPB) issued the following resolutions and circulars to guide Procuring Entities (PEs) in complying with the election ban guidelines:

- a. GPPB Resolution No. 12-2009 dated 27 November 2009 (May 2010 National and Local Elections);³
- b. Annex A of GPPB Resolution No. 12-2009 entitled Guidelines on the Conduct of Procurement Activities from March 26 to May 10, 2010;⁴
- c. GPPB Circular No. 04-2012 dated 23 November 2012 (May 2013 National and Local Elections);⁵
- d. GPPB Resolution No. 21-2015 dated 18 August 2015 (May 2016 National and Local Elections);⁶
- e. GPPB Circular No. 08-2015 dated August 18, 2015 (May 2016 National and Local Elections);⁷

¹ An Act Providing for Synchronized National and Local Elections and for Electoral Reforms, Authorizing Appropriations Therefor, and for Other Purposes. Dated 26 November 1991.

² Dated 03 December 1985.

³ GPPB Resolution No. 12-2009 may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Resolutions/12-2009.pdf>

⁴ The Guidelines on the Conduct of Procurement Activities from March 26 to May 10, 2010 may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Resolutions/12-2009.pdf>

⁵ Clarification on Conduct of Procurement Activities in relation to the May 13, 2013 National and Local Elections. The said guidelines may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Circulars/04-2012.pdf>

⁶ GPPB Resolution No. 21-2015 may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No.%2021-2015.pdf>

⁷ Guidelines on the Conduct of Procurement Activities in relation to the May 9, 2016 National and Local Elections. The said guidelines may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Circulars/GPPB%20Circular%20No.%2008-2015.pdf>

- f. GPPB Resolution No. 03-2019 dated 07 February 2019 (May 2019 National and Local Elections);⁸
- g. GPPB Circular No. 01-2019 dated February 07, 2019 (May 2019 National, and Local Elections).⁹

WHEREAS, during the 4th Inter-Agency Technical Working Group (IATWG) Meeting held on 18 November 2021, the GPPB-Technical Support Office (GPPB-TSO) proposed to the IATWG to recommend to the GPPB the issuance of a Circular reminding PEs of the procurement activities that are prohibited starting 25 March 2022 until 08 May 2022 in accordance with COMELEC Resolution No. 10695, as well as procurement activities that are allowed during the said period. It was further recommended that any request for exemption from the coverage of the prohibited activities be referred to the COMELEC similar to what was provided in GPPB Circular No. 01-2019;

WHEREAS, in the same meeting, the IATWG discussed the concerns on the conduct of procurement during the election period, one of which is the clarification on the possible exemption of COVID-19 related procurement from the election ban. Following this, the GPPB-TSO clarified that questions on interpretation and requests for exemptions relating to the conduct of activities during the election period shall be directed to the COMELEC, being the agency mandated to implement the provisions of the OEC and COMELEC Resolution No. 10695;

WHEREAS, the IATWG adopted the proposal of the GPPB-TSO to recommend to the GPPB the issuance of a Circular reminding PEs of the procurement activities that are prohibited starting 25 March 2022 until 08 May 2022 in accordance with COMELEC Resolution No. 10695, including the clarification that any request for exemptions from the prohibition shall be directly referred to the COMELEC;

WHEREAS, during the 10th GPPB Meeting held on 02 December 2021, after the GPPB-TSO discussed and presented the proposed Circular adopted by the IATWG, which reiterates procurement activities that are prohibited during the election ban pursuant to COMELEC Resolution No. 10695 and also clarifies procurement activities allowed to be undertaken coupled with the recommendation that any query or request for exemption from the said prohibition shall be referred to the COMELEC;

WHEREAS, after careful review and due deliberation, the GPPB resolved to adopt the recommendation of the IATWG to issue the said Circular reminding PEs of the procurement activities that are prohibited starting 25 March 2022 until 08 May 2022 in accordance with COMELEC Resolution No. 10695;

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 to issue a Circular reiterating the Guidelines on the Conduct of Procurement Activities of Government Agencies during the Election Period, pursuant to the Resolution on the Calendar of Prohibited Activities issued by COMELEC, a copy of which is attached as **Annex "A"**.

This resolution shall take effect immediately.

APPROVED this 2nd day of December 2021 at Pasig City, Philippines

⁸ GPPB Resolution No. 03-2019 may be accessed in the following link:

<https://www.gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No.%2003-2019.pdf>

⁹ Clarification on the Conduct of Procurement Activities in relation to the 13 May 2019 National and Local Elections. The said guidelines may be accessed in the following link: <https://www.gppb.gov.ph/issuances/Circulars/GPPB%20Circular%20NO.%20001-2019.pdf>

Sgd.

TINA ROSE MARIE L. CANDA
GPPB, Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

Sgd.

ROLANDO U. TOLEDO
Alternate to the Chairperson
**DEPARTMENT OF BUDGET AND
MANAGEMENT**

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

DEPARTMENT OF EDUCATION

Sgd.

DEPARTMENT OF ENERGY

DEPARTMENT OF FINANCE

Sgd.

DEPARTMENT OF HEALTH

**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**

Sgd.

DEPARTMENT OF TRADE AND INDUSTRY

DEPARTMENT OF TRANSPORTATION

Sgd.

**DEPARTMENT OF INFORMATION AND
COMMUNICATIONS TECHNOLOGY**

PHILIPPINE SPACE AGENCY

Sgd.

PRIVATE SECTOR REPRESENTATIVE



ANNEX "A"

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

CIRCULAR NO. 03-2021
02 December 2021

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 : Guidelines on the Conduct of Procurement Activities in relation to the 09 May 2022 National and Local Elections

1.0 PURPOSE

- 1.1 This Circular is issued to clarify the Procurement Projects and activities that are prohibited starting **25 March 2022 to 08 May 2022**, pursuant to Commission on Elections (COMELEC) Resolution No. 10695 dated 10 February 2021.¹⁰
- 1.2 More importantly, this Circular is issued 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 upcoming 09 May 2022 National and Local 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 DEFINITION OF TERMS

- 3.1 **Expenditure** - The term "expenditure" includes the payment or delivery of money of anything of value, or **a contract**, promise, or agreement to make an expenditure, for the purpose of influencing the results of the election. It shall also include the use of facilities personally owned by the candidate, the money value of the use of which can be assessed based on the rates prevailing in the area.¹¹
- 3.2 **Public Works** – The term refers to “**infrastructure projects**” as defined under Section 5(k) of Republic Act No. 9184 or the Government Procurement Reform

¹⁰ In the Matter of Prescribing the Calendar of Activities and Periods of Certain Prohibited Acts in connection with the May 09, 2022 National and Local Elections.

¹¹ Section 94, Article XI of Batas Pambansa Bilang 881 or the Omnibus Election Code of the Philippines.

Act. It shall refer to the construction, improvement, rehabilitation, repair, restoration, or maintenance of roads and bridges, railways, airports, seaports, communication facilities, irrigation, flood control, and drainage, water supply, sanitation, sewerage, and solid waste management systems, shore protection, energy/power, and electrification facilities, national buildings, school buildings, hospitals buildings, and other related construction projects of the government.

- 3.3 Social Projects** – The term refers to activities or projects undertaken by the Department of Social Welfare and Development and any other office in any other department of the government performing functions similar to the said department.
- 3.4 Housing-Related Projects** – The term refers to activities or projects undertaken by the Housing and Urban Development Coordinating Council and any other office in any other departments of the government performing functions similar to the said department.
- 3.5 Routine, Normal or Administrative Expenses** – The term refers to expenses required for the day-to-day operations of the agency, such as salaries, light, heat, and power.

4.0 GENERAL CONSIDERATIONS

- 4.1** Procuring Entities (PEs) are allowed to proceed with the commencement and completion of procurement activities during the election period.

However, starting **25 March 2022 to 08 May 2022**, PEs are prohibited from issuing a Notice of Award for the following Procurement Projects.

- a. All kinds of Public Works, except those provided in Item 4.2.1 of this Circular;
 - b. Social Projects, except those provided in Item 4.2.2 of this Circular; and
 - c. Housing-related Projects, except those provided in Item 4.2.3 of this Circular.
- 4.2** The following Procurement Projects are exempted from the application of the prohibition provided in the second paragraph of Item 4.1 of this Circular, thus:

4.2.1 For Public Works

- a. Maintenance of existing and/or completed public works where no additional laborers are employed;
- b. Work undertaken by contract through public bidding or negotiated contract awarded before 25 March 2022;
- c. Preparatory works or the payment for the usual cost of preparation for working drawings, specifications, bills of materials, estimates, and other procedures preparatory to actual construction including the purchase of materials and equipment before 25 March 2022;
- d. Emergency work necessitated by the occurrence of a public calamity, due to force majeure or any fortuitous event, but limited to the restoration of the damaged facility, unless the COMELEC authorized such other emergency work;

- e. Ongoing projects commenced before the campaign period and are listed as authorized public works or projects by the COMELEC; and
- f. Projects under foreign agreements or ongoing foreign-assisted projects submitted to the COMELEC.

4.2.2 For Social Projects

- a. Routing and Normal Expenses; and
- b. Such other expenses authorized by the COMELEC after due notice and hearing.

4.2.3 For Housing Related Projects

- a. Administrative Expenses; and
- b. Such other expenses authorized by the COMELEC after due notice and hearing.

5.0 SUBMISSION OF DOCUMENTS AND REQUEST FOR EXEMPTION

The submission of the list of exemptions to the COMELEC is subject to the latter's rules and regulations. Request for exemption from the coverage of the prohibited activities enumerated above shall likewise be directed to the COMELEC for resolution.

6.0 For guidance and compliance.

7.0 This Circular shall take effect immediately.

Sgd.

TINA ROSE MARIE L. CANDA

Chairperson