



## RESOLUTION NO. 22-2012

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### **AMENDING SECTIONS 19 AND 20 OF THE INTERNAL RULES<sup>1</sup> FOR THE EXERCISE BY THE GPPB OF ITS APPROVAL POWER UNDER EXECUTIVE ORDER (EO) NO. 423**

**WHEREAS**, Republic Act (RA) No. 9184, otherwise known as the “Government Procurement Reform Act” and its revised Implementing Rules and Regulations (IRR) took effect on 26 January 2003 and 2 September 2009, respectively;

**WHEREAS**, Section 63 of RA 9184 mandates the GPPB to protect national interest in all matters affecting public procurement;

**WHEREAS**, Executive Order (EO) No. 423, S. 2005, as amended by EO 645, S. 2007, prescribes the rules and procedures on the review and approval of all government contracts to conform with RA 9184;

**WHEREAS**, Section 4 of EO 423, S. 2005, as amended, provides that where the Head of the Procuring Entity (HOPE) has made a determination that a government contract involving an amount of at least Five Hundred Million Pesos (Php500,000,000.00) falls under the exceptions from public bidding, the HOPE shall, before proceeding with the alternative methods of procurement, obtain the approval of the GPPB that said government proposed procurement undertaking falls within the exceptions from public bidding and that the proposed specific alternative mode of procurement is appropriate;

**WHEREAS**, pursuant to the provisions of Executive Order No. 423, S. 2005, as amended by EO 645, S. 2007, the GPPB has adopted and promulgated the Internal Rules<sup>2</sup> (Internal Rules) for the Exercise by the GPPB of its Approval Power under EO 423, which provided the procedures governing the exercise of its powers to approve government proposed procurement undertaking that falls within the exceptions from public bidding, including the determination that the proposed specific alternative mode of procurement is appropriate;

**WHEREAS**, the Internal Rules created the GPPB Review Committee (GRC) to assist the GPPB in carrying out its functions under EO 423, as amended, specifically in making recommendations to the latter on whether the contemplated procurement undertaking falls within the exceptions from public bidding;

**WHEREAS**, Section 19 of the Internal Rules provides that the GPPB shall deliberate on the recommendation of the GRC and resolve to either affirm or deny the recommendation of the GRC or to direct that another hearing be conducted for further review of the request.

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<sup>1</sup> GPPB Resolution No. 11-2006 dated 14 June 2006

<sup>2</sup> *Id.*

**WHEREAS**, Section 19 of the Internal Rules is silent on whether GPPB may validly recommend other alternative methods of procurement in case of denial of the proponent-agency's requested/preferred alternative method of procurement;

**WHEREAS**, Section 20 of the Internal Rules provides that the approval required under E.O. 423 shall be embodied in a resolution which shall reflect the vote of ten (10) members of the GPPB who are actually present and participating in the meeting called for the purpose;

**WHEREAS**, Honorable Secretary Voltaire T. Gazmin of the Department of National Defense (DND), through a letter dated 6 August 2012 addressed to Department of Budget and Management Secretary Florencio B. Abad, raised the issue that the imposition of the required quorum of ten (10) GPPB members is unusually high considering the Board is composed only of twelve (12) members and the GPPB member-department requesting approval is automatically disqualified to vote pursuant to Section 26 of the Internal Rules; Thus, the rules serve as hindrance to the speedy resolution of DND's request for approval of its various procurement projects;

**WHEREAS**, during the Joint GPPB and GRC Meeting held on 10 August 2012, the members of discussed the issue on the number of votes required to approve or disapprove the recommendation of the GRC based on Section 20 of the Internal Rules. After careful deliberations and discussions on the issue, the members agreed that the requirement of at least ten (10) GPPB members refers only to the required quorum, and for voting purposes, only a majority vote of all the GPPB members present actually participating shall be necessary to approve or disapprove the recommendation of the GRC;

**WHEREAS**, during the GRC Meeting held on 12 September 2012, the members agreed that Section 20 of the Internal Rules on the approval or disapproval of the GRC recommendation is silent on whether the ten-member requirement pertains only to quorum or to both quorum and voting;

**WHEREAS**, after due and careful discussions and deliberations during the 9<sup>th</sup> GPPB meeting held on 24 September 2012, the members of GPPB approved to amend Sections 19 and 20 of Internal Rules;

**NOW, THEREFORE**, for and in view of all 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 following amendments to Sections 19 and 20 of the Internal Rules for the Exercise by the GPPB of its Approval Power under EO 423 (GPPB Resolution No. 11-2006), thus:

***Section 19. GPPB Resolution.*** The GPPB shall deliberate on the recommendation of the GRC and resolve to either affirm or deny the recommendation of the GRC or to direct that another hearing be conducted for further review of the request. If the GPPB so decides to affirm the recommendation of the GRC, it shall do so by way of a Resolution stating, by reference, the findings of the GRC or explaining any modification or correction thereto. If it denies the recommendation of the GRC, it shall, in a Resolution, state its reasons for denying the recommendation. It may also recommend, through a Resolution other alternative methods of procurement

which it deems appropriate under the circumstances. On the other hand, if it directs the conduct of further hearing, it shall identify in a Resolution the issues that may need further review and consideration by the GRC.

***Section 20. Required Vote.*** At least ten (10) members of the GPPB shall constitute a quorum for purposes of approving or disapproving the recommendation of the GRC in a meeting called for such purpose. The vote of at least a majority of all the members of GPPB actually present and participating shall be necessary to approve or disapprove the recommendation of the GRC. The approval required under E.O. 423 shall be embodied in a resolution which shall reflect the vote of all the members of the GPPB who are actually present and participating. Any member may participate or vote through their representatives specially designated as such.

This Resolution shall take effect immediately.

**APPROVED** this 24<sup>th</sup> day of September, 2012 at Pasig City, Philippines.

(Sgd.)

DEPARTMENT OF BUDGET AND  
MANAGEMENT

NATIONAL ECONOMIC AND  
DEVELOPMENT AUTHORITY

(Sgd.)

DEPARTMENT OF EDUCATION

(Sgd.)

DEPARTMENT OF ENERGY

(Sgd.)

DEPARTMENT OF FINANCE

DEPARTMENT OF HEALTH

(Sgd.)

DEPARTMENT OF THE INTERIOR  
AND LOCAL GOVERNMENT

(Sgd.)

DEPARTMENT OF NATIONAL  
DEFENSE

(Sgd.)

DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS

DEPARTMENT OF SCIENCE AND  
TECHNOLOGY

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**DEPARTMENT OF TRADE AND  
INDUSTRY**

(Sgd.)  

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**DEPARTMENT OF TRANSPORTATION  
AND COMMUNICATIONS**

(Sgd.)  

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**PRIVATE SECTOR REPRESENTATIVE**

Attested by:

(Sgd.)  

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**DENNIS S. SANTIAGO**  
*Board Secretary, GPPB*  
*Executive Director, GPPB-TSO*