



**APPROVING THE ISSUANCE OF THE GOVERNMENT PROCUREMENT POLICY BOARD POSITION PAPER IN RESPONSE TO THE SENATE INQUIRY ON THE PRICING FOR THE PURCHASE OF GOODS**

**WHEREAS**, on 20 October 2021, during the Senate Committee on Finance Subcommittee “A” hearing on the public deliberation of the proposed Fiscal Year 2022 Budget of the Department of Budget and Management (DBM), its attached agencies and other agencies,<sup>1</sup> Senator Francis N. Pangilinan inquired from the Government Procurement Policy Board – Technical Support Office (GPPB-TSO) representative regarding the position of the GPPB on the use of the suggested retail prices (SRPs) for wholesale or bulk procurement by the government, as this issue emerged from the Senate Blue Ribbon Committee hearings<sup>2</sup> on the Commission on Audit Observation Report involving the purchase of Coronavirus Disease -19 supplies by the Department of Health (DOH) from the DBM-Procurement Service, among others;

**WHEREAS**, the GPPB-TSO representative responded that Republic Act (RA) No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR) requires the determination of the Approved Budget for the Contract (ABC)<sup>3</sup> as the upper limit or ceiling for the Bid prices<sup>4</sup> for the procurement of Goods, Infrastructure Projects, and Consulting Services; thus, the same is being used in setting the project cost for the procurement by the government, whether in bulk or wholesale;

**WHEREAS**, on 8 November 2021, the Department Liaison Office-Senate of the DBM endorsed to the GPPB-TSO the Senate inquiry seeking the GPPB’s position in issuing a policy on pricing for the wholesale purchase of Goods, the GPPB-TSO received the formal endorsement of among others;

**WHEREAS**, on 9 November 2021, the GPPB-TSO consulted with the representatives<sup>5</sup> of the Department of Trade and Industry and the DOH, being among the Implementing Agencies<sup>6</sup> authorized to issue SRPs under RA No. 7581, as amended, on the setting and application of SRPs of Basic Necessities and Prime Commodities;

<sup>1</sup> National Economic Development Authority and Philippine Statistics Authority.

<sup>2</sup> Dated September 7, 10, 13, 17, 21, 24, and 30; October 5, 19, and 28; and November 4, all in 2021.

<sup>3</sup> Refers to the budget for the contract duly approved by the Head of the Procuring Entity (HoPE), as provided for in the General Appropriations Act (GAA), continuing, and automatic appropriations, in the case of national government agencies (NGAs); the corporate budget for the contract approved by the governing board, pursuant to Executive Order (EO) No. 518, s. 1979, in the case of GOCCs and GFIs, and RA No. 8292 in the case of SUCs; the budget approved by the *Sanggunian* through an appropriations ordinance in the case of LGUs. For multi-year contracts, for which a Multi-Year Obligational Authority (MYOA) or an equivalent document is required, the ABC shall be that incorporated in the project cost reflected in the MYOA or equivalent document (Section 5(b), 2016 revised IRR of RA No. 9184).

<sup>4</sup> In accordance with the approved Annual Procurement Plan (APP) of all Procuring Entities (PEs), as indicated in the Invitation to Bid and the Bidding Documents, as required in Section 7 in relation to Section 31 of RA No. 9184 and its 2016 revised IRR.

<sup>5</sup> Assistant Director Cheryl G. Carbonell, Consumer Protection and Advocacy Bureau, DTI and Director Melissa S. Guerrero, Program Manager, Pharmaceutical Division and Executive Assistant Office of the Secretary in concurrent capacity of the DOH.

<sup>6</sup> Refers to the department, agency or office of the Government which has jurisdiction over a basic necessity or prime commodity as defined under Section 3 of RA 7581, as amended by RA 10623 and Section 4(5) of the Joint DTI-DA-DOH-DENR-DOE Administrative Order No. 13-1, s. 2013, which shall be:

- (a) The Department of Agriculture, with reference to agricultural crops, fish and other marine products, fresh meat, fresh poultry and dairy products, fertilizers, and other farm inputs;
- (b) The Department of Health with reference to drugs;
- (c) The Department of Environment and Natural Resources, with reference to wood and other forest products;
- (d) The Department of Trade and Industry, with reference to all other basic necessities and prime commodities; and
- (e) The Department of Energy, with reference to household liquefied petroleum gas (LPG) and kerosene.

**WHEREAS**, on 10 November 2021, the GPPB-TSO provided the GPPB members with a Briefer<sup>7</sup> to apprise them of the foregoing Senate inquiry, particularly on the overview of project costing for the procurement of Goods, as required under RA No. 9184 and its revised IRR, as well as the *Bayanihan* 1 Act,<sup>8</sup> and the concept of SRP under RA No. 7581, as amended by RA No. 10623;

**WHEREAS**, on the same date, some Board members<sup>9</sup> submitted their comments to the GPPB-TSO, which the latter considered in the preparation of the position paper of the GPPB that will be submitted to the and Senate Blue Ribbon Committee and Committee on Finance in response to the said Senate inquiry;

**WHEREAS**, during the Year-end Joint Meeting of the GPPB and IATWG on 22 December 2021, the GPPB-TSO presented to the Board the drafted position paper, which discussed the following:

- a. Project costing undertaken by the PE for its needed items to be purchased must be the basis of the pricing for the procurement of Goods as it takes into consideration all the relevant factors and cost components for the determination of the ABC of Procurement Projects;<sup>10</sup> and
- b. The SRP, as determined and issued by the Implementing Agencies under RA No. 7581 and amended by RA No. 10623, cannot be the sole basis for the determination of the ABC because it is limited to Basic Necessities and Prime Commodities and is intended as a price guide for public information and consumer protection; thus, it did not consider the other necessary price and non-price components in project costing;

**WHEREAS**, during the same meeting, the GPPB emphasized that procurement planning is imperative in ensuring that the ABC reflects the most advantageous prevailing price for the Government;

**WHEREAS**, after careful review and deliberation of the GPPB members, the GPPB agreed to adopt and issue the said position paper in reply to the said Senate inquiry;

**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 Position Paper as the response of the Board to the Senate inquiry on the pricing for wholesale purchase of goods, copy of which is hereto attached as **Annex "A,"** and the submission thereof to the Senate Blue-Ribbon Committee and Committee on Finance.

This Resolution shall take effect immediately.

**APPROVED** this 22<sup>nd</sup> day of December 2021 at Pasig City, Philippines.

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<sup>7</sup> Through Memorandum to the Board dated 10 November 2021 sent by electronic mail.

<sup>8</sup> RA No. 11469 or the *Bayanihan* to Heal as One Act enacted on 24 March 2020.

<sup>9</sup>Mr. Frederick Domingo, Jr., Chief, Procurement Management Division of the Department of Energy and Undersecretary Ireneo V. Vizmonte, Consumer Protection and Advocacy Bureau of the Department of Trade and Industry commented as follows: (i) broaden the discussion presented in the draft Briefer regarding market study to reflect that through the conduct of a market study, the PE has the opportunity to consider the effect of the costing of extraordinary situations, such as the supply and demand effect to the market price; and (ii) delete in Item 4.1.2 the phrase "number of" and in Item 6.1.5 the term "excessive" before profiteering.

<sup>10</sup> Based on Generic Procurement Manuals (Volumes 1-4), dated 27 December 2017.

Sgd.

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

Sgd.

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**ROLANDO U. TOLEDO**  
*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**

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**DEPARTMENT OF FINANCE**

Sgd.

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**DEPARTMENT OF HEALTH**

Sgd.

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**DEPARTMENT OF INTERIOR AND LOCAL  
GOVERNMENT**

Sgd.

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**DEPARTMENT OF NATIONAL  
DEFENSE**

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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  
COMMUNICATION TECHNOLOGY**

Sgd.

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**PHILIPPINE SPACE AGENCY**

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**PRIVATE SECTOR REPRESENTATIVE**

## ANNEX “A”

### Position Paper of the Government Procurement Policy Board in response to the Senate Inquiry on the Pricing for Procurement of Goods

This Position Paper is being issued to address the inquiry by the Senate Committee on Finance Sub-Committee “A” on the position of the Government Procurement Policy Board (GPPB) regarding the pricing for the purchase of Goods.<sup>11</sup> Particularly, it sought to answer whether the Suggested Retail Price (SRP) may be made the basis for determining the Approved Budget for the Contract (ABC) in procuring Goods, whether in bulk or wholesale.<sup>12</sup>

To fully explain the position of the Board, the existing rules on project costing under Republic Act (RA) No. 9184 or the Government Procurement Reform Act, and the basis of the SRP under RA No. 7581 or the Price Act, as amended by RA No. 10623 are discussed below.

#### 1.0 Determination of the Project Costing for the Procurement of Goods

##### 1.1 Importance of Procurement Planning in the Procurement of Goods

RA No. 9184 and its 2016 revised Implementing Rules and Regulations (IRR) provides that no procurement shall be undertaken unless it is in accordance with the approved Annual Procurement Plan (APP), including any approved changes therein.<sup>13</sup> The agency must prepare beforehand the APP to reflect the entire procurement activities that it plans to undertake within a given fiscal year. The APP must likewise include provisions for foreseeable emergencies based on historical records. As such, judicious preparation is required for the APP submission, which is based on the consolidated Project Procurement Management Plans (PPMP) submitted by the end-user representatives,<sup>14</sup> subject to compliance with existing budgeting rules.<sup>15</sup> In the process of consolidation and evaluation of the APP, it bears noting that the procurement of unnecessary, excessive, and duplicitous items is reduced, if not completely avoided, thus maximizing the scarce resources of the government.

The importance of procurement planning thus lies in the fostering of value for money by ensuring that the ABC, which is the ceiling for the bid prices, will reflect the most advantageous price for the government.<sup>16</sup>

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<sup>11</sup> Section 5(h) of the 2016 revised IRR of RA No. 9184 defines *Goods* to refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationary, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services.

<sup>12</sup> Made during the Hearing on the proposed fiscal year 2022 Budget held on 20 October 2021.

<sup>13</sup> Section 7 of RA No. 9184 and its 2016 revised IRR.

<sup>14</sup> Section 7.3.2 of the 2016 revised IRR of RA No. 9184 providing for the PPMP preparation.

<sup>15</sup> Section 7.3.4 of the 2016 revised IRR of RA No. 9184 requiring the submission to the Procuring Entity's Budget Office for evaluation.

## 1.2 Project Costing as an imperative to Procurement Planning

In identifying and assessing the needs of a Procuring Entity (PE),<sup>16</sup> it is imperative that the PE undertakes project costing, being a necessary tool in procurement planning, in order to predict the quantities, technical specifications and reasonable prices of Goods and other resources that are required in the scope of its projects. In other words, the PE must utilize project costing to determine the ABC, which is the overall basis for the pricing of Goods to be procured.

Accordingly, the PE must consider certain cost and non-cost factors and components<sup>17</sup> in determining the ABC. The PE can establish these factors and components through an initial market study or industry scoping to obtain sufficient knowledge of the market or industry, which would enable it to make an informed choice in the conduct of its procurement activities for the entire calendar year.

## 1.3 Market Study as a Crucial Factor in Project Costing

In the conduct of market study<sup>18</sup> or industry scoping, PEs should determine the (i) availability of items or goods in the market; (ii) manufacturers, distributors or retailers of the items or goods to be procured; and (iii) capacity of the manufacturers, distributors or retailers to provide pricing variations or discounts to utilize economies of scale, among others. The conduct thereof enable PEs to consider the effect of the costing in extraordinary situations, such as the supply and demand effect on the market price, among others. Simply put, it is incumbent upon PEs to determine what constitutes the most reasonable and fair cost of Goods, taking into consideration the results of their market study as well as suppliers' profit margins based on industry practices.

Moreover, the amount must not be excessive that it may put the government in a grossly disadvantageous situation<sup>19</sup> and cause difficulty in complying with budget, accounting and auditing rules, such as the Amended Rules and Regulations on the Prevention of Irregular, Unnecessary, Excessive or Extravagant Expenditures or Uses of Public Funds and Property.<sup>20</sup> This, however, must not be too low as to discourage suppliers from participating.

## 1.4 Project Costing for Emergency Procurement under the *Bayanihan Act*

For the procurement of Coronavirus Disease (COVID) -19 related items under the *Bayanihan 1 Act*,<sup>21</sup> it is imperative to note that any price negotiation<sup>22</sup>

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<sup>16</sup> Section 5(o) of the 2016 revised IRR of RA No. 9184 defines Procuring Entity to refer to any branch, department, office, agency, or instrumentality of the government, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions, and local government units procuring Goods, Consulting Services and Infrastructure Projects.

<sup>17</sup> In the Guidelines on the Establishment of Procurement System and Organization (Generic Procurement Manual Volume 1), the PE must consider several factors, such as the appropriation for the project or procurement (whether taken from the current year's appropriations or continuing and automatic appropriations) or the budget as proposed to the approving authorities, **the market price of the goods and/or services being procured, inflation and cost of money which are directly related to the procurement time table.**

<sup>18</sup> Used interchangeably with market research or market scanning.

<sup>19</sup> Section 3(g) of RA No. 3019.

<sup>20</sup> COA Circular No. 85-55-A, 8 September 1985.

<sup>21</sup> RA No. 11469 or the *Bayanihan to Heal as One Act* enacted on 24 March 2020.

<sup>22</sup> Item 5 of GPPB Circular No. 01-2020, dated 06 April 2020 as provided in GPPB Resolution No. 6-2020.

within the limits of the ABC would depend on the PE's determination of the price most advantageous to the government with due consideration of the need to immediately address the Public Health Emergency arising from the COVID-19 situation.

Price negotiations may be based on existing price data of the concerned PE, the Department of Trade and Industry (DTI), Department of Health (DOH), or any other regulatory agencies. Based on existing laws or industry practice, these regulatory agencies are using reasonable indices or parameters for benchmark prices of certain commodities based on their respective mandates, which may serve as the PE's guide in determining the ABC for its Procurement Projects<sup>23</sup> under the *Bayanihan 1 Act*.

## 1.5 Relevance of the ABC

The ABC reflected in the APP shall be consistent with the appropriations for the project authorized in the General Appropriations Act (GAA), continuing and automatic appropriations, the corporate budget or the appropriations ordinance. For multi-year contracts for which a Multi-Year Contracting Authority (MYCA) or an equivalent document is required, the ABC shall be that incorporated in the project cost reflected in the MYCA or equivalent document. For Foreign-funded Procurement, the ABC refers to the cost estimate prepared by the PE and approved by the foreign government or international financing institution as specified in the Treaty or International or Executive Agreement.

Relative to pricing, the ABC, as reflected in the APP, is initially prepared by the Procurement Management Office (PMO) or end-user unit, as indicated in its PPMP, with the assistance of the Bids and Awards Committee, if necessary. In preparing the APP, the PMO considers the factors and cost components in the Generic Procurement Manual (GPM), with emphasis on market study in order to achieve value for money<sup>24</sup> in the PE's Procurement Projects.

As earlier mentioned, the specific factors and cost components considered under procurement planning include, but are not limited to, the following:

- a. The cost or market price of the product or service itself;
- b. Incidental expenses like freight, insurance, taxes, installation costs, training costs, and cost of inspection;
- c. Inflationary factor, since the planning phase is usually done one year ahead of the actual procurement date;
- d. Quantities, considering that buying in bulk usually means lower unit prices; and
- e. The supply of spare parts or maintenance services if part of the contract package.

If the project or contract has a foreign component, it is also best to include a currency valuation adjustment factor, in order to address foreign exchange

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<sup>23</sup> Item No. 1.3 of GPPB Circular No. 06-2019 defines Procurement Project to refer to a specific or identified procurement covering goods, infrastructure project or consulting services. A Procurement Project shall be described, detailed, and scheduled in the Project Procurement Management Plan prepared by the agency which shall be consolidated in the Procuring Entity's Annual Procurement Plan (APP).

<sup>24</sup> Guidelines on the Establishment of Procurement System and Organization (Volume 1), dated 25 December 2017 explaining the considerations to be made in the PE's development of its project requirements, which included the concept of value for money that covers price, cost, and non-cost factors like suitability or fitness to the purpose, quality, benefits, or environmental impact, etc.

rate fluctuations between the planning phase and the actual procurement date. To determine the factor to be used, the PMO or end-user unit may request guidance from the BSP, or refer to BSP forecasts, if available.

## 1.6 Concept of Wholesale Purchase or Bulk Buying

In computing the ABC of Procurement Projects, specifically for Goods, PEs are expected to take into consideration the quantity to be procured relative to the cost per item of Goods.

Bulk purchasing is a means of acquiring goods that involves large orders of the same item. Because of economies of scale, manufacturers often reduce the unit price per item based on how many items are sold together. Larger companies can produce more by spreading the cost of production over a larger amount of goods. An industry may also be able to dictate the cost of a product if several different companies are producing similar goods within that industry.

This serves a dual purpose: major purchasers, including the government, are encouraged to buy from the discounting manufacturer and the manufacturer is guaranteed a large production run.

## 2.0 Concept of the Suggested Retail Price

### 2.1 RA No. 7581 or the Price Act of 1992 as the Prevailing Law on Price Control of Basic Necessities and Prime Commodities

RA No. 7581, as amended by RA No. 10623, implements *automatic price control*<sup>25</sup> and *mandated price ceiling*<sup>26</sup> measures to provide effective and sufficient protection to consumers against illegal acts of price manipulation<sup>27</sup> to ensure the availability of Basic Necessities<sup>28</sup> and Prime Commodities<sup>29</sup> at reasonable prices at all times without denying legitimate business a fair return on investment.

This law sets these price control and regulatory measures for Basic Necessities and Prime Commodities. Notwithstanding, the inclusion or exclusion of other types and certain brands of goods covered under said law may be made upon the approval of the President, based on a petition of an Implementing Agency<sup>30</sup> or action initiated by the Price Coordinating Council.

The law limited the authority of issuing suggested reasonable retail prices to the following Implementing Agencies by setting certain Basic Necessities and Prime Commodities under their respective jurisdiction for the purpose of monitoring prevailing prices:

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<sup>25</sup> Section 6 of RA No. 7581, as amended by RA No. 10623.

<sup>26</sup> Section 7 of RA No. 7581, as amended by RA No. 10623.

<sup>27</sup> E.g. *hoarding, profiteering and cartels* with respect to the supply, distribution, marketing and pricing of goods, especially during periods of calamity, emergency, threat, rebellion, widespread illegal price manipulation and other similar situations.

<sup>28</sup> Defined under Section 1 of RA 10623, An Act Amending Certain Provisions of Republic Act No. 7581, entitled "An Act Providing Protection to Consumers by Stabilizing the Prices of Basic Necessities and Prime Commodities and by Prescribing Measures against undue Price Increases During Emergency Situations and Like Occasions and for other Purposes; which can be accessed through this link: <https://www.officialgazette.gov.ph/2013/09/06/republic-act-no-10623/> .

<sup>29</sup> Section 2 of RA No. 10623.

<sup>30</sup> Section 10 (5) of RA No. 7581 and its IRR defines "Implementing Agencies" as specific agencies having jurisdiction over certain commodities in relation to Section 3 of the same law.

- a. Department of Agriculture (DA), with reference to agricultural crops, fish and other marine products, fresh poultry and dairy products, fertilizers, and other farm inputs;
- b. DOH, with reference to essential drugs;
- c. Department of Environment and Natural Resources (DENR), with reference to wood and other forest products;
- d. DTI, with reference to all other Basic Necessities and Prime Commodities; and
- e. Department of Energy (DOE) with reference to household liquefied petroleum gas (LPG) and kerosene.<sup>31</sup>

Pursuant to Section 10(5) of RA No. 7581 and Section 4 of the Joint DTI-DA-DOH-DENR Administrative Order No. 1, s. 1993 or the IRR of the Price Act, the Head of the Implementing Agency may, whenever necessary, issue SRPs, which are derived either from (i) their monitoring reports<sup>32</sup> on prices for Basic Necessities and Prime Commodities; or (ii) recommendation from the Local Price Coordinating Council of their respective areas<sup>33</sup>. Note, however, that the SRPs are merely advisory or guideposts, and therefore issued only for the information and guidance of producers, manufacturers, traders, dealers, sellers, retailers and consumers, in accordance with the above-cited provisions.

## 2.2 Purpose of the SRP

The purpose of Government's SRPs is to monitor the reasonableness of prevailing prices of certain Basic Necessities and Prime Commodities to ultimately prevent, if not curb, profiteering, especially in times of calamity, emergency, and other exigencies when there is an anticipated shortage of supplies and expected increase in their prices. Note, however, factors<sup>34</sup> are to be considered in the selection of commodities to be monitored. To illustrate, when Public Health Emergency was declared, prices of face masks immediately went up; and thus, the public requires greater protection from the abusive practices of suppliers. Nonetheless, the SRPs must be distinguished from prevailing prices, as the SRPs are mere price standards used to guide and inform producers, manufacturers, traders, dealers, sellers, retailers, and consumers of what is considered reasonable prices of Basic Necessities and Prime commodities. On the other hand, prevailing prices refer to the average price at which any Basic Necessity has been sold in a given time within a month and serve as the basis in case of automatic price control.<sup>35</sup>

## 2.3 Use and Treatment of Implementing Agencies of their issued SRPs

<sup>31</sup> RA No. 10623 amending RA No. 7581 and Section 1 of Joint DTI-DA-DOH-DENR-DOE Administrative Order No. 13-1, s. 2013 or the Amendments to the IRR of RA No. 7581.

<sup>32</sup> Rule IV of Joint DTI-DA-DENR-DOH Administrative Order No. 1, s. 1993 or the IRR of RA No. 7581.

<sup>33</sup> Section 5, Rule VI of the Joint DTI-DA-DOH-DENR Joint Administrative Order No. 1, s. 1993 or the IRR of RA No. 7581.

<sup>34</sup> Section 4 of the Joint DTI-DO-DOH-DENR Administrative Order No. 1, s. 1993 (IRR of RA 7581). The factors are: 1. basic needs of consumers; 2. critical commodities that experience erratic movement; 3. product brand selection shall be based on availability/ regularity of supply of the brand in the market areas.

<sup>35</sup> Section 3 of RA No. 7581 in relation to Section 6 of the same law, which provides instances when automatic price control is applied:

- (1) That area is proclaimed or declared a disaster area or under a state of calamity;
- (2) That area is declared under an emergency;
- (3) The privilege of the writ of habeas corpus is suspended in that area;
- (4) That area is placed under martial law;
- (5) That area is declared to be in a state of rebellion; or
- (6) A state of war is declared in that area.



To validate on the use and treatment of the SRPs, the GPPB-TSO consulted<sup>36</sup> the following Implementing Agencies based on their mandates under RA No. 7581, to wit:

The DTI representative<sup>37</sup> clarified on these points:

- a. RA No. 7581 as amended by RA No. 10623, including their IRRs, do not provide a definition for the SRP; this, notwithstanding, the DTI Department Order No. 20-86 has defined the SRP as the price range issued by DTI and posted on its website<sup>38</sup> based on the cost components to be used as reference and guidance of producers, manufacturers, traders, sellers, retailers, and consumers; and
- b. In setting the same, the DTI analyzes the SRP proposed by manufacturers based on percentage of cost components and price of acquisition of those cost components.

On the other hand, the DOH representative<sup>39</sup> explained that:

- a. the SRP is derived from the DOH's phone survey results and electronic drug monitoring system<sup>40</sup> where the known drug establishments or drug outlets are requested to provide data on the list prices and retail prices of essential drugs; however, the DOH does not yet have a full price monitoring data on all medical devices, whether small or large medical items or equipment, although planned development of a similar monitoring system is underway;
- b. in setting the SRP, the DOH determines the price range from the lowest to highest list prices or retail prices of essential drugs and calculates the median to come up with the SRP, as posted on their website;<sup>41</sup>
- c. the SRP serves as a price guide to all consumers, which include both the public and private sectors; as such, illicit price manipulations cannot be automatically prosecuted if a drug establishment or drug outlet did not follow the SRP, but investigation will commence to establish any violation of RA No. 7581; and
- d. the SRP is not provided as a basis for the ABC in public procurement; thus, the Drug Price Reference Index<sup>42</sup> and historical data based on Purchase Orders of prior years are utilized in calculating the ABC, and not the data from the survey results and electronic drug monitoring system, which are used in setting the SRP.

## 2.4 Comparison between SRP and ABC

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<sup>36</sup> Consultations with the DTI and DOH representatives were conducted on 8 and 9 November 2021.

<sup>37</sup> Consumer Protection and Advocacy Bureau, DTI.

<sup>38</sup> SRP of Basic Necessities and Prime Commodities can be accessed through this link: <https://www.dti.gov.ph/konsyumer/latest-srps-basic-necessities-prime-commodities/>.

<sup>39</sup> Director Anna Melissa S. Guerrero, Program Manager, Pharmaceutical Division and Executive Assistant Office of the Secretary in concurrent capacity, DOH.

<sup>40</sup> RA No. 9502 or the "Universally Accessible Cheaper and Quality Medicines Act of 2008;" the system is accessible through this link: <https://pharma.doh.gov.ph/electronic-drug-price-monitoring-system/>.

<sup>41</sup> SRPs of selected essential emergency medicines and medical devices can be accessed through this link: <https://pharma.doh.gov.ph/suggested-retail-price-srp-for-selected-essential-emergency-medicines-and-medical-devices/>.

<sup>42</sup> The Drug Price Reference Index is accessible through this link: <https://dpri.doh.gov.ph>.

Based on the above discussion, it can be gleaned that the ABC and the SRP are distinct concepts and legal terms. In summary, the following criteria can be considered to compare or distinguish the ABC from the SRP:

- a. Purpose. While both the ABC and the SRP are placed to ensure value for money, the ABC or the ceiling of bid prices is set by a PE in the conduct of its procurement activities for the protection of the government considering that it is the fiduciary duty of government offices to ensure the proper use of public funds. On the other hand, the SRP is the price guide determined by Implementing Agencies to monitor the reasonableness of the prevailing prices of Basic Necessities and Prime Commodities in the market for consumer protection;
- b. Legal Bases. RA No. 9184 and its IRR provides for the legal basis of the ABC, while the concept of the SRP is based on RA No. 7581 or the Price Act, as amended by RA No. 10623, and its IRR;
- c. Source. The ABC of a Procurement Project is derived from project costing during procurement planning; while the SRP for Basic Necessities and Prime Commodities is derived from the collection of data on prices through (i) inspection of price tags; (ii) interviews of salesclerk and consumers; and (iii) surveys conducted from targeted consumers;<sup>43</sup> and
- d. Source Document. The entire procurement activities, including the ABC of all Procurement Projects, are reflected in the Annual Procurement Plan (APP), whereas the SRP are contained in monitoring reports of Implementing Agencies or recommendations of the Local and National Price Coordinating Councils.

### **3.0 Conclusion**

In fine, project costing undertaken by the PE for its needed items to be procured should be the basis of the pricing for the purchase of, whether in bulk or wholesale, as it takes into consideration all the relevant factors and cost components for the determination of the ABC of Procurement Projects. To undertake project costing, the PE must initially conduct a market study or scanning to compute the ABC, taking into consideration several factors, including price and non-price variables.

On the other hand, the SRPs of various goods offered in the general market serve as basis in monitoring the reasonableness of prevailing prices of certain Basic Necessities and Prime Commodities to prevent profiteering especially during times of emergencies and other exigencies. Bearing this in mind, the concept of SRP is distinct from the ABC and thus, the SRP cannot be the sole basis for the pricing of procurement of Goods, whether in bulk or wholesale, since it is limited to Basic Necessities and Prime Commodities only and is intended as a price guide for public information and consumer protection.

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<sup>43</sup> Section 3, Rule IV, [DTI, DA, DOH, DENR JOINT Administrative Order No. 1, series of 1993](#).