



## RESOLUTION NO. 36-2013

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### **ALLOWING THE GOVERNMENT PROCUREMENT POLICY BOARD- TECHNICAL SUPPORT OFFICE TO REFRAIN FROM RENDERING NON- POLICY MATTER OPINIONS RELATIVE TO ACTUAL PROCUREMENT CONTROVERSIES, ISSUES, AND CONCERNS PENDING WITH PROCURING ENTITY**

**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**, based on its mandate under Section 63 of RA 9184 mandates the Government Procurement Policy Board (GPPB) is the sole administrative authority imbued with quasi- legislative and incidental powers to determine the policy direction in the area of public procurement through the formulation of procurement rules, regulations and guidelines;

**WHEREAS**, the GPPB-Technical Support Office (GPPB-TSO) was created under Section 63 of RA 9184 and mandated to provide research, technical, and administrative support to the GPPB including research-based procurement policy recommendations and rule-drafting under Section 63.3 of the revised IRR of RA No. 9184;

**WHEREAS**, pursuant to GPPB Resolution No. 03-2000, dated 26 May 2003, the GPPB-TSO was authorized to issue Non-Policy Matter Opinions in response to requests of National and Local Government Agencies dealing with non-policy procurement related matters or issues, or technical applications of the procurement rules and regulations;

**WHEREAS**, the GPPB-TSO has been receiving requests from procuring entities (PEs), through the Head of the Procuring Entity (HOPE), or Bids and Awards Committees (BAC), including the private sector to resolve issues and concerns pertaining to on-going procurement activities;

**WHEREAS**, during the 9<sup>th</sup> Government Procurement Policy Board (GPPB) and 6<sup>th</sup> Inter-Agency Technical Working Group (IATWG) Joint Meeting held on 17 December 2013, the GPPB-TSO informed the Board that requesting PEs and BACs would await for the opinion of the GPPB or the GPPB-TSO before they decide and proceed with their respective procurement activities, which is tantamount to placing the GPPB and the GPPB-TSO in a position to determine, resolve and decide on procurement matters, issues and concerns that fall solely within the discretion and authority of the PE, HOPE and BAC;

**WHEREAS**, it is established that the GPPB has neither quasi-judicial investigating and fact-finding powers and functions, such as, to hold hearings, determine facts, and exercise discretion of a judicial nature, and thus cannot dictate upon, decide, nor interfere with the functions of the PE, HOPE and BAC, which solely falls within its discretionary authority as sanctioned by law;

**WHEREAS**, the GPPB and its TSO can only render policy and non-policy matter opinions, respectively, on issues purely relating to the interpretation and application of the procurement laws, rules, and regulations and not to decide for and in behalf of the PE, HOPE or BAC;

**WHEREAS**, after careful and judicious deliberations on the matter, the GPPB and the IATWG agreed to allow the GPPB-TSO upon its request, to refrain from rendering Non-Policy Matter Opinions relative to actual procurement controversies, issues and concerns pending before a procuring entity where it is ultimately requested to decide and exercise discretion for and in behalf of the PE, HOPE and BAC;

**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 the following:

1. **ALLOW** the GPPB-TSO to **REFRAIN** from rendering Non-Policy Matter Opinions relative to actual procurement controversies, issues and concerns pending before a procuring entity where it is ultimately requested to decide and exercise discretion for and in behalf of the PE, HOPE and BAC;
2. **ISSUE** a Circular **REMINDING** all procuring entities and the private sector of the functions of the GPPB and its GPPB-TSO, and the BAC, as well as **REITERATING** the GPPB's position stated above.

This Resolution shall take effect immediately.

**APPROVED** this 17<sup>th</sup> day of December 2013 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

DEPARTMENT OF NATIONAL  
DEFENSE

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**DEPARTMENT OF PUBLIC WORKS  
AND HIGHWAYS**

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**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*