



Republic of the Philippines  
**GOVERNMENT PROCUREMENT POLICY BOARD**  
**TECHNICAL SUPPORT OFFICE**

**NPM No. 002-2023**

24 October 2023

**HEADS OF PROCURING ENTITIES**

**Re: Procurement Activities During the Election Period**

**Dear Sir/Madam:**

Supplementary to the guidance provided in Government Procurement Policy Board (GPPB) Resolution No. 11-2023 and Circular No. 1-2023,<sup>1</sup> the GPPB–Technical Support Office (GPPB-TSO) is issuing this opinion in anticipation of requests for clarification from Procuring Entities (PEs) on the conduct of procurement activities in connection with the 30 October 2023 Barangay and Sangguniang Kabataan (SK) Elections.

The Circular is based on the Commission on Elections (COMELEC) Resolution Nos. 10905,<sup>2</sup> revising the calendar of activities and periods of certain prohibited acts for the upcoming elections and 10944,<sup>3</sup> providing the rules and regulations on the prohibition against the release, disbursement, or expenditures of public funds and construction of public works, delivery of materials for public works, and issuance of treasury warrants and similar devices, pursuant to Section 261 (v) and (w) of the Omnibus Election Code (OEC).<sup>4</sup>

It must be emphasized that the PEs can conduct their procurement activities from the Pre-Procurement Conference until Post-Qualification during the Prohibited Period.<sup>5</sup> However, the PEs cannot issue the Notice of Award (NOA) nor the Contract Award, unless the award is for Exempted Projects, because the issuance of these will result in the release, disbursement, or expenditure of public funds, which is expressly not permitted under the OEC.

The release, disbursement, and expenditure of public funds by the PEs are prohibited, except for the Exempted Projects, to wit:

1. All kinds of Public Works and Housing-related Projects from 19 October 2023 until 28 October 2023;
2. Social Welfare Projects of national, regional, provincial, and local government units and those of government-owned or controlled corporations and their subsidiaries from 15 September to 30 October 2023. Meanwhile, the distribution of the Assistance to Individuals in Crisis Situations is prohibited from 20 October 2023 to 30 October 2023; and
3. Social Welfare Projects for those that will be implemented by the barangay from 20 October 2023 to 30 October 2023.

Please be informed that the Exempted Projects enumerated on Section 261(v) (Election Offenses) of the OEC are the following:

<sup>1</sup> Approved on 15 September 2023 and published on 12 October 2023 in The Philippine Star.

<sup>2</sup> Promulgated on 3 May 2023.

<sup>3</sup> Promulgated on 9 August 2023.

<sup>4</sup> Batas Pambansa Bilang 881, series of 1985.

<sup>5</sup> Item 4.1 of GPPB Resolution No. 11-2023.

1. Public Works
  - a. Maintenance of existing and/or completed public works where no additional laborers are employed;
  - b. Work whose contract was awarded before 19 October 2023;
  - c. Preparatory works or the payment for the usual cost of preparation for working drawings, specifications, bills of materials, estimates, and other procedures in preparation for the actual construction, including the purchase of materials and equipment before 19 October 2023;
  - d. Ongoing projects started before the campaign period and are listed as authorized public works or projects by the COMELEC;
  - e. Projects under foreign agreements or ongoing foreign-assisted projects submitted to the COMELEC; and
  - f. Necessary emergency work due to a public calamity but limited to the restoration of the damaged facility.
  
2. Social Welfare Projects
  - a. Routing and normal expenses; and
  - b. Other expenses authorized by the COMELEC after due notice and hearing.
  
3. Housing-Related Projects
  - a. Administrative expenses; and
  - b. Other expenses authorized by the COMELEC after due notice and hearing.

For your further information, construction or maintenance of barangay-funded roads and bridges is prohibited from 20 October 2023 to 29 October 2023.

Should the PEs need to award Procurement Projects which are covered by the Prohibited Projects, they may direct their request for exemption to the COMELEC, which has sole authority to decide on the same and exclusive jurisdiction to implement the OEC. On the other hand, the PEs may refer to the Department of Budget and Management for clarification on the prohibition against release, disbursement, or expenditures of public funds.

## **FREQUENTLY ASKED QUESTIONS**

For easy reference of PEs in the conduct of procurement activities during the upcoming Barangay and SK Elections, we have prepared the following frequently asked questions:

### **1. Are PEs allowed to undertake procurement activities during the Prohibited Period?**

As a rule, PEs are allowed to proceed with the commencement and completion of their procurement activities from the Pre-Procurement Conference until Post-Qualification during the Prohibited Period. However, PEs are not allowed to issue a Notice of Award for the Prohibited Projects during the same period, unless it falls under the Exempted Projects.

### **2. Can the Head of Procuring Entity (HoPE) create a Bids and Awards Committee (BAC) during the Prohibited Period?**

Yes, the HoPE can establish the BAC/s during the Prohibited Period as it does not relate to any of the Prohibited Projects or any of the prohibited activities in connection with the 2023 Barangay and SK Elections.

### **3. Are PEs allowed to post their procurement activities during the Prohibited Period?**

Yes, PEs are allowed to post procurement activities until the recommendation of the award even during the Prohibited Period since it does not involve the release, disbursement, or

expenditure of any public funds for Prohibited Projects or any of the prohibited activities in connection with the 2023 Barangay and SK Elections.

**4. Are PEs allowed to extend the duration and effectivity of an ongoing contract during the Prohibited Period?**

Yes, the HoPE may extend the duration and effectivity of an ongoing contract during the Prohibited Period since ongoing contracts are not among the Prohibited Projects and the extension of contracts is not among the prohibited activities in connection with the 2023 Barangay and SK Elections.

**5. What are the Exempted Projects during the 2023 Barangay and SK Elections or those Prohibited Projects that are nonetheless exempted or may still be undertaken by PEs during the Prohibited Period?**

Section 261(v) (Election Offenses) of the OEC provides the list of public works, social projects, and housing-related projects which are exempt from the prohibition against release, disbursement, or expenditure of public funds.

**6. Are PEs allowed to award a contract during the Prohibited Period?**

As a rule, PEs are not allowed to issue a Notice of Award for all Prohibited Projects during the Prohibited Period. However, PEs are allowed to issue a Notice of Award for Exempted Projects.

**7. Does the prohibition to issue a Notice of Award cover ongoing public works projects which began before the campaign period?**

No, pursuant to Section 261(v)(1) of the OEC, this prohibition shall not apply to ongoing public works projects commenced before the campaign period or similar projects under foreign agreements that are submitted to the COMELEC.

**8. Will PEs violate the mandatory timelines under Republic Act (RA) No. 9184 if it does not award a contract during the Prohibited Period?**

No, since the issuance of the Notice of Award will effectively result in the release, disbursement, or expenditure of public funds which is proscribed under the OEC (unless it is otherwise exempted therein), the issuance of the Notice of Award is likewise proscribed to effectively implement the prohibition under the said law. Effectively, this legal prohibition under the OEC operates to suspend the counting of the mandatory timelines provided under RA No. 9184.

For the information and guidance of all.

Sincerely,

**ROWENA CANDICE M. RUIZ**  
*Executive Director V*

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