



RESOLUTION NO. 02-2025

APPROVING THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 12009, OTHERWISE KNOWN AS THE NEW GOVERNMENT PROCUREMENT ACT

WHEREAS, Republic Act (RA) No. 12009 entitled “New Government Procurement Act,” (NGPA) took effect on 13 August 2024;

WHEREAS, Section 91 of the Act authorizes the Government Procurement Policy Board (GPPB) as the central body that sets strategic direction and makes policy decisions regarding all matters affecting public procurement, having due regard to the country’s regional and international efforts in advancing public procurement reforms;

WHEREAS, the same Section further provides that the GPPB shall formulate and amend, whenever necessary, its Implementing Rules and Regulations (IRR) to ensure that the procurement process is streamlined and responsive to the needs of the government;

WHEREAS, Section 112 of the Act provides that the IRR shall be formulated by the GPPB within one hundred eighty (180) days from the promulgation of RA No. 12009;

WHEREAS, the GPPB - Technical Support Office (TSO), in fulfillment of its mandate to provide support to the GPPB,¹ commenced preparatory work in May 2024 for the formulation and development of the IRR, by conducting a comparative study between RA No. 9184 and the Joint Congressional Bicameral Report on the Act;

WHEREAS, on 07 June 2024, through GPPB Resolution No. 04-2024,² the Board approved the recommendation of the GPPB-TSO for the creation of IRR Committees responsible for crafting the rules for specific subject areas in RA No. 12009 to ensure the timely drafting, compliance with the prescribed period, and effective implementation of the Act. Furthermore, the GPPB agreed that the IRR Committees may invite representatives from other government agencies to join the Committees to contribute expertise and facilitate effective inter-agency coordination;

WHEREAS, between July and August 2024, the GPPB-TSO developed a comparative matrix between RA No. 12009, RA No. 9184 and its IRR, while actively conducting consultations and workshops with stakeholders to gather diverse perspectives for enhanced implementation of the Act;

WHEREAS, the GPPB-TSO also collaborated with academic institutions, such as the University of the Philippines, to conduct workshops leveraging expert knowledge for the development of the IRR. Additionally, the GPPB-TSO participated in a specialized consultation workshop facilitated by the United Nations Office on Drugs and Crime (UNODC) which focused on critical topics, such as beneficial ownership, transparency, and open government contracting to incorporate international best practices related to anti-corruption and procurement integrity into the IRR;

WHEREAS, on 12 August 2024, the NGPA Microsite was officially launched as the central platform for information sharing, collaboration and engagement among IRR Committee members, stakeholders, and the public;

¹ Section 91 of RA No. 12009.

² Dated 07 June 2024.

WHEREAS, in the 4th GPPB meeting on 24 September 2024, the GPPB-TSO encouraged the GPPB members to submit proposals and proposed the adoption of a modular method for the formulation of the IRR. This method divides subject matters into manageable sections, ensuring that each part of the IRR contains all the important information needed for the effective implementation of the Act. Subsequently, the GPPB-TSO's IRR team incorporated the relevant proposed language from the GPPB members into the initial IRR draft;

WHEREAS, in November 2024, the GPPB Chairperson directed the creation of an IRR Technical Working Group (TWG), composed of the GPPB-TSO, the Department of Budget and Management (DBM), and Procurement Service-DBM (PS-DBM), to facilitate the efficient drafting of the IRR based on the consolidated inputs from the GPPB members and stakeholder consultations. A series of Focus Group Discussions³ (FGD) with the IRR TWG were conducted to address technical, substantive, and policy concerns in the IRR;

WHEREAS, on 03 December 2024, the initial draft of the IRR was posted on the NGPA Microsite (Exposed IRR) and disseminated through the social media platforms and websites of the GPPB, DBM and PS-DBM to invite the public to provide comments, feedback, and suggestions. On 09 December 2024, the GPPB members were requested to nominate their technical representatives to participate in an upcoming line-by-line review aimed at providing technical expertise regarding the specific stakeholder and public input for the IRR;

WHEREAS, a series of consultations and reviews followed to refine the draft IRR of RA No. 12009. In December 2024, stakeholders and development partners convened to provide feedback on the Exposed IRR. From 7 to 10 January 2025, the GPPB-nominated technical representatives participated in a review workshop to evaluate the input received on the Exposed IRR, and offer their comments and proposed language, if any. Subsequently, from 15 January to 03 February 2025, the IRR TWG conducted the line-by-line review and legal scrubbing of the final IRR draft. These efforts ensured that the IRR was thoroughly reviewed, legally sound, and reflective of stakeholder input and legislative intent;

WHEREAS, in the 2nd GPPB meeting on 04 February 2025, the GPPB-TSO presented to the Board the final draft of the IRR of RA No. 12009, a copy of which is attached as **Annex "A"**. The presentation summarized its key provisions, which included the following:

1. Declaration of Policy
The IRR underscores that all interpretations of procurement rules shall be resolved in favor of government procurement to ensure that procurement decisions achieve the most advantageous outcome for the government.
2. New Governing Principles
The IRR clarifies that RA No. 12009 provides for a principle-based procurement that is also guided by the new principles of efficiency, proportionality, participatory procurement, sustainability and professionalism.
3. Strategic Procurement Planning
The IRR provides guidance on mandatory market scoping that requires Procuring Entities to assess market conditions, supplier capabilities and industry trends in preparing their Project Procurement Management Plans. It also clarifies the use of

³The Focus Group Discussion (FGD) was held November 12-15, 2024 at GPPB Building. The Second FGD was November 19-21, 2024 in the PS-DBM Office. The Third FGD was November 22-24, 2024 at Midas Hotel. The Fourth FGD was November 25, 28-29, 2024 in the DBM office.

procurement strategies⁴ as planning tools to optimize resource allocation and ensure effective contract implementation of their procurement projects.

4. Electronic Government Procurement
The IRR establishes the overarching rules for the implementation of the end-to-end electronic government procurement and the integration of systems through the establishment of interconnected databases among relevant agencies. It also provides guidance on the application of the expanded functionalities of the Philippine Government Electronic Procurement System (PhilGEPS), such as electronic marketplace and electronic bidding, among others.
5. Simplified Eligibility Documents
To streamline the procurement process, the IRR removed Class “A” and “B” eligibility documents, integrating them into the PhilGEPS Certificate of Platinum Membership for a more efficient and centralized bid qualification process.
6. New Procurement Modalities
The IRR defines the requirements for the determination of a fit-for-purpose approach, allowing Procuring Entities to select the most appropriate mode of procurement based on their specific needs and objectives. Newly introduced modes of procurement (i.e., Competitive Dialogue, Unsolicited Offer with Bid Matching, Direct Acquisition, Direct Sales, and Direct Procurement for Science, Technology, and Innovation) are likewise detailed to ensure their immediate applicability upon the effectivity of the IRR.
7. New Bid Evaluation or Award Criteria
The IRR adopts the Most Economically Advantageous and Responsive Bid (MEARB) and Most Advantageous and Responsive Bid (MARB) for award of contracts.
8. Enhanced Transparency and Accountability Measures
The IRR reinforces open data contracting practices and standards that ensure public access to all relevant procurement information through (i) mandatory video recording of procurement proceedings; (ii) full disclosure of beneficial ownership of bidders; and (iii) strengthened role of observers in procurement processes.
9. Revised Security Policies
The IRR now allows flexibility in selecting the forms of securities. For bid securities, the choice remains at the option of the bidders to encourage wider bidder participation in government procurement. On the other hand, for performance securities, warranty securities, and advance payment securities, these shall be at the discretion of the Procuring Entity to safeguard the use of public funds while maintaining procurement efficiency.
10. Professionalization of Procurement Practitioners
The IRR aligns with the Act by emphasizing the establishment of defined procurement positions, competency standards, certification programs, and licensing for public procurement professionals, ensuring that practitioners are equipped with the necessary skills and expertise.
11. Contract Implementation and Management
The IRR consolidates the pertinent guidelines on contract implementation, covering critical aspects, such as requirements for contract execution, termination, modifications, liquidated damages, and advance payments, if applicable.

⁴ These include Life Cycle Assessment, Multi-Year Contracting, Design and Build Schemes, Use of Framework Agreements, Pooled Procurement, and Warehousing Strategies.

12. Sustainable Public Procurement

The IRR provides the framework on the implementation of Green Public Procurement and Inclusive Procurement Programs, promoting active participation of microenterprises, social enterprises, startups, and women-led or women-owned enterprises.

13. Enhanced Administrative Sanctions

The IRR distinguishes suspension, blacklisting and corrective actions to be imposed upon erring suppliers, contractors or consultants to ensure consistent and fair enforcement of the Act.

WHEREAS, the GPPB-TSO informed the Board that during the IRR consultations, several matters requiring policy direction and further research study were identified, particularly: (i) specific provisions of the Act that are proposed to be modified in the IRR, given the need to align them with the principles and objectives of RA No. 12009, address ambiguities, and enhance their applicability to address current procurement challenges, and (ii) specific Sections of the Act requiring the development of corresponding guidelines which aim to establish uniform standards and procedures for Procuring Entities; the initial list of which was presented before the Board and is attached hereto as **Annex “B”**;

WHEREAS, in particular, for provisions under the Act that are proposed to be modified in the IRR, the following IRR provisions have been identified:

a) Definition of the Approved Budget for Contract

The insertion of the phrase “*within the authorized amount*” in the definition of Approved Budget for the Contract (ABC). Section 5(a) of the Act now states in the IRR as follows:

“Approved Budget for the Contract (ABC) refers to the budget for the contract duly approved by the Head of the Procuring Entity (HoPE), within the authorized amount in the General Appropriations Act (GAA), xxx”

The GPPB-TSO recommended the above revision based on the IRR TWG’s discussion that the definition in RA No. 9184, as adopted by RA No. 12009, could be misinterpreted to mean that the budget estimate in the GAA or other authorized sources is equivalent to the ABC. The proposed insertion aims to clarify the ambiguity while providing greater flexibility to Procuring Entities. The Board concurred with the recommendation, considering that the determination of the ABC shall be based on thorough procurement planning, including proper market scoping and use of appropriate procurement planning strategies.

b) Procurement Mode Selection Decision Tree

Based on the last paragraph of Section 6 of RA No. 12009, the GPPB is mandated to develop a decision tree to be included in the IRR that shall guide the Procuring Entities on which mode of procurement is the most fit for their desired purpose.

The GPPB-TSO recommended to the Board that a technical study and consultation be conducted prior to the issuance of the decision tree, following the modular approach used in the crafting of the IRR. This approach involves starting with the basic requirements for procurement mode selection, as already provided in the proposed IRR, and later incorporating these into the decision tree to serve as a structured guide for Procuring Entities when they conduct their procurement.

Recognizing that the IRR already offers sufficient guidance, the Board agreed to defer the issuance of the decision tree to ensure that its development would effectively support the Procuring Entities in selecting the most appropriate mode of procurement for their projects.

WHEREAS, on the other hand, for the specific Sections of the IRR that require the development of uniform guidelines, the following provisions have been prioritized for discussion, given their significant impact on procurement projects, urgency for resolution, and relevance to the effective implementation of the IRR:

a) Negotiated Procurement – Defense Cooperation Agreement and Inventory-Based Items under Section 35(h) of the Act

Pursuant to the last paragraph of Section 35(h)⁵ of the Act, Negotiated Procurement under Defense Cooperation Agreements and Inventory-Based Items may be utilized by the Law Enforcement Agencies (LEAs). However, this mode includes specific conditions that apply only to the Department of National Defense (DND), such as only the DND Secretary may authorize to utilize this procurement mode, and the defense equipment or materiel and/or defense related consulting services to be procured must be part of the Armed Forces of the Philippines Modernization Program previously approved by the President of the Philippines. These conditions limit the LEAs from independently using this mode, as it needs coordination with the DND which makes the process more complex and time-consuming.

To address the foregoing, the GPPB-TSO proposed the creation of an Inter-Agency TWG (IATWG) to conduct consultations with the LEAs and develop guidelines for this mode. The GPPB concurred with this recommendation to enable the LEAs to use this mode more effectively and efficiently.

b) Video Recording of All Procurement-Related Conferences for Competitive Bidding under Section 38 of the Act

Under Section 38⁶ of the Act, the conduct of livestreaming of procurement activities shall be mandatory; however, this raises concerns regarding privacy in sensitive

⁵ **Section 35(h).** *Defense Cooperation Agreements and Inventory-Based Items.* The Secretary of National Defense may directly negotiate with an agency or instrumentality of another country with which the Philippines has entered into a defense cooperation agreement or otherwise maintains diplomatic relations when the procurement involves major defense equipment or material and/or defense-related consultancy services, subject to the following conditions:

(1) The Secretary of National Defense has deemed it necessary in order to protect the interest of the country;
(2) The expertise or capability required is not locally available; and
(3) The defense equipment or material and/or defense related consultancy services to be procured under this modality is included in the Armed Forces of the Philippines Modernization Program previously approved by the President of the Philippines.

In the interest of national security, the Secretary of National Defense may also directly negotiate with a supplier or manufacturer in procuring inventory-based items, pertaining to major defense equipment or material, subject to the following conditions:

(1) Direct negotiation will address compatibility, interoperability, and sustainability;
(2) The supplier or manufacturer has fully and satisfactorily implemented a contract of the same item with the Department of National Defense (DND), any of its bureaus or attached agencies, or law enforcement agencies; and
(3) The supplier or manufacturer shall provide a performance security in accordance with this Act.

Law enforcement agencies may utilize this mode when the aforementioned conditions are met. These agencies are the Philippine National Police (PNP), including the PNP Maritime Group (PNP-MG) and the PNP Aviation Security Group (PNP-AVSEGROUP), Philippine Drug Enforcement Agency (PDEA), Bureau of Immigration (BI), Office for transportation Security (OST), Bureau of Fire Protection (BFP), National Bureau of Investigation (NBI), Presidential Security Group (PSG), National Police Commission (NAPOLCOM), Bureau of Jail Management and Penology (BJMP), Bureau of Corrections (BuCor), and Philippine Coast Guard (PCG).

⁶ **Section 38.** *Video Recording of All Procurement-Related Conferences for Competitive Bidding.* xxx The Procuring Entity shall also livestream the preliminary examination and the opening of the bids to the public on its website, social media account, or any other form of livestreaming services.

matters related to national security, as well as the clarity of the requirements needed for bidders to be able to participate. Notably, the Department of Education (DepEd) and Department of Public Works and Highways (DPWH) have been livestreaming their procurement activities; however, the GPPB members from these departments indicated that they follow their own internal guidelines and would prefer a uniform set of rules applicable to all Procuring Entities.

To address these concerns, the GPPB-TSO proposed for the creation of an IATWG to study and draft uniform guidelines on livestreaming of procurement activities for all Procuring Entities to ensure consistency, identify privacy risks, and set clear requirements for livestreaming while upholding transparency in government procurement. The GPPB emphasized that the standardized guidelines to be developed should balance the need for transparency with security and privacy concerns in government procurement processes, while ensuring that all Procuring Entities follow a uniform and well-defined approach to livestreaming procurement-related activities.

c) Applicability of Constructors Performance Evaluation System for Infrastructure Projects

Under Section 7, in relation to Section 52 of the Act, the final rating of at least Satisfactory in the Constructors Performance Evaluation System (CPES) is required for assessing contractor performance, among others. Currently, only the DPWH has been actively using the CPES rating system to evaluate contractor performance in Infrastructure Projects. This limited implementation presents challenges since there are no standard guidelines for performance evaluation systems for contractors, except the NEDA issuances on CPES.⁷

To address these concerns, the GPPB-TSO proposed the formulation of the guidelines in the evaluation of Contractor Performance, which can include the CPES. The guidelines aim to address the limited applicability of the CPES, promote information-sharing in Infrastructure Projects, and strengthen accountability and effective implementation of Section 52 of RA No. 12009, as reflected in the proposed IRR of the same Act. Moreover, the GPPB member from the DepEd proposed (i) establishing a shared database for CPES evaluators and (ii) considering the internal rules employed by the DPWH to ensure a more standardized and effective evaluation system for Infrastructure Projects.

d) Contract Prices regarding Price Escalation under Section 89 of the Act

⁷ Key NEDA Issuances on CPES:

- a. NEDA-Approved CPES Guidelines: NEDA approved the Constructors Performance Evaluation System (CPES) Guidelines, which all procuring entities implementing government infrastructure projects are required to use when evaluating contractor performance.
- b. NEDA Board Resolution No. 18 (s. 2002): This resolution mandates all procuring entities to include the budget for CPES implementation in their Projects' Engineering and Administrative Overhead Cost.
- c. NEDA INFRACOM Approval: The NEDA Board's Committee on Infrastructure (INFRACOM) approved amendments to the CPES Implementing Guidelines on various occasions:
 - i. Original integrated CPES Implementing Guidelines approved on January 30, 1998
 - ii. First set of amendments approved on May 19, 2005
 - iii. Second set of amendments approved on August 27, 2008
 - iv. Further amendments approved on November 20, 2014
- d. NEDA INFRACOM Resolution No. 01, Series of 2014: This resolution approved the latest amendments to the CPES Implementing Guidelines.

In Section 89⁸ of RA No. 12009, the price escalation requirements have been modified which render the existing guidelines and parametric formula for price escalation no longer applicable.

Accordingly, the GPPB-TSO proposed the creation of an IATWG to study and draft the specific guidelines for price escalation under RA No. 12009. The objective is to simplify procedures for the Procuring Entities by clearly defining the conditions and computations for price escalations in government contracts. The Board instructed the IATWG to be formed should engage with key stakeholders, including industry representatives and relevant government agencies, given that the same has budgetary implications.

e) Suspension, Blacklisting, and Corrective Measures under Sections 98 to 105

Under Sections 98 – 105 of the Act, the coverage of suspension and blacklisting has evolved, particularly in terms of grounds, duration of sanctions, and their scope of imposition, whether limited to a specific Procuring Entity or applied nationwide. Unlike previous rules which primarily prohibited erring entities from participating in procurement activities, RA No. 12009 introduces a corrective mechanism that allows erring parties to address deficiencies and undertake remedial actions to regain eligibility.

Recognizing this development, the GPPB-TSO proposed the formulation of comprehensive guidelines under Sections 98 to 105 of RA No. 12009 to clearly define the grounds, procedures, and consequences for suspension and blacklisting, while also outlining corrective actions that erring entities must fulfill. These guidelines will provide Procuring Entities with a standardized and transparent framework for enforcing accountability while balancing the need for due process and supplier, contractor or consultant rehabilitation in government procurement. The Board agreed that the guidelines should include clear parameters for sanctions and corrective measures, ensuring consistency in implementation across all Procuring Entities.

WHEREAS, after deliberation and consideration of the GPPB members, the GPPB agreed to **APPROVE** the proposed IRR of RA No. 12009, including the recommendations of the GPPB-TSO on matters requiring policy direction and further research study, particularly:

1. **ADOPT** the proposed insertion of the phrase “within authorized amount” in the definition of ABC to eliminate ambiguities while providing flexibility to the Procuring Entities;
2. **DEFER** the issuance of the decision tree to allow further technical study and consultation; and
3. **APPROVE** the formulation of the guidelines for the following:
 - a) Negotiated Procurement in Defense Cooperation Agreement and Inventory-Based Items to address the issue on limitations of the LEAs in utilizing this mode of procurement;
 - b) Conduct of livestreaming of procurement activities to ensure uniformity and applicability to all Procuring Entities;

⁸ **Section 89. Contract Prices.** - For the given scope of work in the contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price escalation during contract implementation. In the event of an extraordinary increase in prices of specific components of the Infrastructure Project, price escalation may be considered, subject to prior approval of the GPPB. If the cost of construction components increases by more than ten percent (10%) of the unit price of work items, as determined against the prevailing price indices of the Philippine Statistics Authority (PSA), a price escalation may be authorized at a no loss, no-gain basis, using the appropriate formula prescribed by the GPPB. For the purpose of this section, the PSA shall ensure that its price indices are region specific and updated on a monthly basis.

- c) Evaluation of Contractor Performance, including the CPES, to address the limited applicability of the same, allow information-sharing for Infrastructure Projects, and ensure accountability and effective implementation of the provision under Section 52 of the Act;
- d) Price escalation to establish clear conditions, clear procedures and standardized formula; and
- e) Suspension, Blacklisting and Corrective Measures to provide Procuring Entities with a standardized and transparent framework for enforcing accountability while balancing the need for due process and supplier, contractor or consultant rehabilitation in government procurement.

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 Implementing Rules and Regulations (IRR) of the Republic Act No. 12009**, a copy of which is attached as **Annex “A”**, including the recommendations of the GPPB-TSO on matters requiring policy direction, copy of which is attached as **Annex “B”**, and further research study, particularly:

1. **ADOPT** the proposed insertion of the phrase “within authorized amount” in the definition of ABC to eliminate ambiguities while providing flexibility to the Procuring Entities;
2. **DEFER** the issuance of the decision tree to allow further technical study and consultation; and
3. **APPROVE** the formulation of the guidelines for the following:
 - a) Negotiated Procurement in Defense Cooperation Agreement and Inventory-Based Items to address the issue on limitations of the LEAs in utilizing this mode of procurement;
 - b) Conduct of livestreaming of procurement activities to ensure uniformity and applicability to all Procuring Entities;
 - c) Evaluation of Contractor Performance, including the CPES, to address the limited applicability of the same, allow information-sharing for Infrastructure Projects, and ensure accountability and effective implementation of the provision under Section 52 of the Act;
 - d) Price escalation to establish clear conditions, clear procedures and standardized formula; and
 - e) Suspension, Blacklisting and Corrective Measures to provide Procuring Entities with a standardized and transparent framework for enforcing accountability while balancing the need for due process and supplier, contractor or consultant rehabilitation in government procurement.

This Resolution shall take effect after fifteen (15) days following the publication in the Official Gazette.

APPROVED this 04th day of February 2025 at Quezon City, Philippines.

SGD

GPPB, Chairperson

DEPARTMENT OF BUDGET AND MANAGEMENT

SGD

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**

SGD

**DEPARTMENT OF NATIONAL
DEFENSE**

SGD

DEPARTMENT OF EDUCATION

**DEPARTMENT OF INTERIOR AND LOCAL
GOVERNMENT**

DEPARTMENT OF TRANSPORTATION

SGD

PROCUREMENT SERVICE - DBM

SGD

PRIVATE SECTOR REPRESENTATIVE