

II. AUDIT PROGRAM on Procurements and Procurement Projects on COVID-19 Programs and Activities

A. Emergency Procurement under Republic Act No. 11469 or the Bayanihan to Heal as One Act

Audit Objectives	Audit Procedure	Audit Criteria
<p><i>On the appropriateness of the procurement modality used</i></p> <p>To determine whether the procurement modality used by the PE is appropriate.</p>	<p>1) Determine whether the procurement modality used for the procurement/ procurement project is appropriate:</p> <p>a) Emergency Procurement under the Bayanihan to Heal as One Act - from the effectivity of GPPB Circular 01-202, which is immediately upon its publication on 12 April 2020 until the 23 June 2020 or three (3) months from 25 March 2020, the effectivity of the Bayanihan Act.</p> <p>b) Negotiated Procurement (Emergency Cases) - No specific period; may be applied from effectivity of the 2016 IRR of RA No. 9184 and related issuances.</p> <p>2) Prepare and issue AOM, NS or ND as may be warranted if the procurement modality used is inappropriate.</p>	<p>Item 11 of GPPB Circular No. 01-2020 dated April 6, 2020</p>
<p><i>On Emergency procurement under Republic Act 11469 or the Bayanihan to Heal as One Act</i></p> <p>To determine whether the Emergency Procurement under Republic Act (RA) No. 11469 or the Bayanihan to Heal as One Act (Bayanihan Act) of highly needed supplies, materials, equipment, utilities, telecommunications, and other critical services adhered to the law and other relevant laws, rules and regulations.</p>	<p>1) Obtain a list of Procurement Projects made by the Procuring Entity (PE) through Emergency Procurement under RA No. 11469 or the Bayanihan Act and determine whether the items bought conform with the following goods and/or services:</p> <p>a. Goods, which may include personal protective equipment such as gloves, gowns, masks, goggles, face shields; surgical equipment and supplies; laboratory equipment and its reagents; medical equipment and devices; support and maintenance for laboratory and medical equipment, surgical equipment and supplies; medical supplies, tools, and consumables such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hydrochloride, cleaning materials, povidone iodine, common medicines (e.g., paracetamol tablet and suspension, mefenamic acid, vitamins tablet and suspension, hyoscine tablet and suspension); testing kits; and such other supplies or equipment as may be determined by the Department of Health and other relevant government agencies;</p> <p>b. Goods and services for social amelioration measures in favor of affected communities;</p>	<ul style="list-style-type: none"> • Item 2.2 of GPPB Circular 01-2020 dated April 6, 2020 • Item 3.5 of DBM Local Budget Circular No. 125 dated Apr. 7, 2020 (for Cities and Municipalities) • Item 3.5 of DBM Local Budget Circular No. 126 dated Apr. 13, 2020 (for Provinces)

Audit Objectives	Audit Procedure	Audit Criteria
	<p>c. Lease of real property or venue for use to house health workers or serve as quarantine centers, medical relief and aid distribution locations or temporary medical facilities;</p> <p>d. Establishment, construction, and operation of temporary medical facilities;</p> <p>e. Utilities, telecommunications, and other critical services in relation to operation of quarantine centers, medical relief and aid distribution centers and temporary medical facilities; and</p> <p>f. Ancillary services related to the foregoing.</p> <p><i>For Municipalities and Cities:</i></p> <p>a) Personal Protective Equipment;</p> <p>b) Equipment, reagents, and kits for COVID-19 testing;</p> <p>c) Medicines and vitamins;</p> <p>d) Hospital equipment and supplies;</p> <p>e) Disinfectants, sprayers, disinfection tents and other disinfecting supplies and misting equipment;</p> <p>f) Food, transportation (including fuel), and accommodation expenses of medical personnel and other LGU personnel directly involved in the implementation of COVID-19-related PPAs and expenses;</p> <p>g) Food assistance and other relief goods for affected households;</p> <p>h) Expenses for the construction/repair/ lease/ rental of additional space/ building to accommodate COVID-19 patients and persons under monitoring/ investigation;</p> <p>i) Expenses for the operation of stand-alone/ mobile testing laboratory;</p> <p>j) Expenses for the purchase/ rental of tents/spaces for temporary shelters of the homeless;</p> <p>k) Expenses for training of personnel in the conduct of COVID-19 testing and other related trainings; and</p>	

Audit Objectives	Audit Procedure	Audit Criteria
	<p>1) Other necessary COVID-19-related PPAS and expenses.</p> <p><i>For Provinces:</i></p> <p>a) Personal Protective Equipment;</p> <p>b) Equipment, reagents, and kits for COVID-19 testing;</p> <p>c) Medicines and vitamins;</p> <p>d) Hospital equipment and supplies;</p> <p>e) Disinfectants, sprayers, disinfection tents and other disinfecting supplies and misting equipment;</p> <p>f) Food, transportation (including fuel), and accommodation expenses of medical/ health workers and other personnel of provincial, district and other local hospitals operated by the provincial government;</p> <p>g) Expenses for the construction/repair/ lease/ rental of additional space/ building to accommodate COVID-19 patients and persons under monitoring/ investigation;</p> <p>h) Expenses for training of medical/ health personnel of the provincial, district and other local hospitals operated by the provincial government relative to the conduct of COVID-19 testing and other related trainings;</p> <p>i) Other necessary COVID-19-related PPAS and expenses of provincial, district and other local hospitals operated by the provincial government; and</p> <p>j) Operation and maintenance of duly established provincial checkpoints related to COVID-19, such as provision of foods, medicines/ vitamins, personal protective equipment and disinfecting supplies for the exclusive use of provincial government employees and personnel concerned, including those hired under Contract of Service and Job Order schemes.</p>	
	<p>2) From the list of Procurement Projects, verify whether the following project requirements were provided for:</p> <p>a. Project Name;</p>	<p>• Item 3.1 of GPPB Circular No. 01-2020 dated April 6, 2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
	b. Approved Budget for the Contract (ABC); c. Technical Specifications, Scope of Work, or Terms of Reference; d. Date of Delivery or Implementation; e. Required quantity; and f. Other relevant information that the PE may require.	
	3) Obtain a certification/validation (Verify and validate whether there is a budget prepared) by the Budget Officer or equivalent position in the PE that there are funds in the budget to cover for the same. Verify and validate such certification for the budget prepared.	<ul style="list-style-type: none"> • Item 3.2 of GPPB Circular No. 01-2020 dated April 6, 2020 • GPPB NPM No. 004-2020 dated April 16, 2020
	4) Obtain the revised Annual Procurement Plan (APP) and a copy of the Supplemental APP, if any, which contain the Procurement Projects and validate the following: <ul style="list-style-type: none"> a) the APP was approved by the HoPE or his delegate; b) if the PE has indicated "Emergency Procurement under the Bayanihan Act" as the procurement modality in its updated APP; and c) posted on the PE's website and submitted to the Government Procurement Policy Board (GPPB) or posted on the GPPB online portal for Emergency Procurement under the Bayanihan Act, once operational, on or before 30 September 2020. 	
	5) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	
<p><i>On the eligibility and qualifications of suppliers</i></p> <p>To ascertain that the supplier, distributor, manufacturer, contractor, or consultant is legally, technically, and financially capable to undertake the procurement</p>	1) Verify that the supplier, distributor, manufacturer, contractor, or consultant have: <ul style="list-style-type: none"> a. submitted the <i>mandatory documentary requirements</i> under Item 4.1 GPPB Circular No. 01-2020 or if said documents were to be submitted after award of contract, has committed to comply with the same in the Omnibus Sworn Statement (OSS), with the stipulations provided in Appendix 1 for the OSS form for Emergency Procurement under the Bayanihan Act; b. complied with the <i>technical specifications, scope of work or terms of reference set by the PEs, and other documents supporting the same, including</i> 	<ul style="list-style-type: none"> • Item 3.4 and 4.1 of GPPB Circular No. 01-2020 dated April 6, 2020

Audit Objectives	Audit Procedure	Audit Criteria
	<p>appropriate licenses and permits required by law or rules, or if said documents were required to be submitted after award of contract, has committed to comply with the same in the OSS; and</p> <p>c. submitted any <i>financial requirements of the project</i> such as the Net Financial Contracting Capacity (NFCC), in case of Infrastructure Projects, or if said documents were required to be submitted after award of contract, has committed to comply with the same in the OSS.</p> <p>2) For foreign suppliers, the equivalent document in their jurisdiction would suffice consistent with Section 23.2 of the 2016 revised Implementing Rules and Regulations of RA No. 9184.</p>	<p></p> <p>• Item 23.2 of the 2016 revised IRR of RA 9184</p>
	<p>3) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.</p>	
<p><i>On submission of documentary requirements by the suppliers</i></p> <p>To validate that all the mandatory documentary requirements are submitted by suppliers, manufacturers, distributors, contractors and consultants.</p>	<p>1) Obtain the following documents for suppliers which are not included in the bidder's updated file through the Philippine Government Electronic Procurement System Certificate of Registration and Membership or its own records:</p> <p>a. Mayor or Business permit (may be recently expired but to be accompanied by the Official Receipt as proof of application and payment for the renewal of the permit, subject to submission of the new Mayor's Permit after award of contract)</p> <p>For projects with an ABC above PhP500,000.00:</p> <p>b. Income Tax Returns (Annual Income Tax Return of the preceding tax year) OR Business Tax Returns (Value Added Tax or Percentage Tax Return covering the previous six months);</p> <p>c. Omnibus Sworn Statement (OSS), which shall be an original copy</p> <p>Additional requirements for Infrastructure Projects:</p> <p>d. Philippine Contractors Accreditation Board (PCAB) License; and</p> <p>e. NFCC for Infrastructure Projects with an ABC above PhP500,000.00.</p> <p>2) Verify through the receipt date and time on the documents that these were submitted at any time before award of contract (contract date) or after award but before payment (date of the check as payment).</p> <p>The OSS shall be submitted at any time before award of contract or after award of contract but before payment.</p>	<p></p> <p>• Item 4 of GPPB Circular 01-2020</p> <p>• Item 4.2 and 4.3 of GPPB Circular 01-2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
	If an unnotarized OSS was submitted prior to award, an original notarized OSS should have been submitted after award of contract but before payment.	
	3) For direct negotiation with local farmers, the submission of any of the following at any time before award or after award but before payment shall be sufficient: a. a certification that the farmer is in the Registry System for Basic Sectors in Agriculture (RSBSA); b. RSBSA identification card; or c. Barangay Certification that the supplier is a bonafide farmer.	• Item 6.2 of GPPB Circular 01-2020
	4) Obtain the Disbursement Voucher (DV) prepared by the PE and signed by the farmer to show actual delivery and receipt of payment. Post-audit these vouchers.	• Item 6.4 of GPPB Circular 01-2020
	5) Compare the quantities, description of articles, unit and total value of items per Project Requirement (or Purchase Order, if available) and DV to ensure that these match. If discrepancies are noted, inquire for the reasons of such discrepancies and validate whether the reasons are acceptable.	
	6) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	
<p><i>On determining the most advantageous price</i></p> <p>To validate if the price of the contract is the most advantageous price to the Government</p>	<p>1) From the DV and/or awarded contract, compare the price in the awarded contract with:</p> <p>a. <i>existing price data</i> of the agency, the Department of Trade and Industry or other relevant agencies; or</p> <p>b. preliminary market scanning done by the agency showing <i>prevailing market prices and practice</i>.</p>	• Item 5 of GPPB Circular 01-2020
	<p>2) In the same manner, the prices of agricultural products purchased directly from local farmers shall be compared with:</p> <p>a. the <i>average prevailing farm gate price for the province</i>, if purchased directly from the farmers;</p> <p>b. the <i>market price</i>, if purchased from farmers' association or cooperative; or</p> <p>c. the <i>recommended retail price</i> by the local price coordinating council for commodities sold by</p>	• Item 6.3 of GPPB Circular 01-2020

Audit Objectives	Audit Procedure	Audit Criteria
	capable farmers, and farmers' associations or cooperatives in their respective provinces, municipalities and cities.	
	3) If discrepancies are noted, inquire for the reasons of such discrepancies and validate whether the reasons are acceptable. Otherwise, establish the cause(s) and develop and prepare working papers.	
	4) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	
<p><i>On Special Repeat Orders</i></p> <p>To validate whether Special Repeat Order made by the PE were in accordance with the conditions under Item 8 of GPPB Circular 01-2020 dated April 6, 2020</p>	<p>1) From the list of Procurement Projects, take note of any orders which were made for the same items/articles and from the same supplier. Verify that the Procurement Project is a Special Repeat Order by obtaining the Notice of Award stating that it is Special Repeat Order.</p> <p>2) Inquiry regarding these orders shall be made and verify whether ALL of the following conditions are be present:</p> <p>a. limited to Goods to be procured under this GPPB Circular 01-2020;</p> <p>b. the Goods were procured under a contract previously awarded through any mode of procurement, provided that the NOA was issued within the last six (6) months;</p> <p>c. unit prices must be the same as or lower than those in the original contract. In the case of same unit price, the PE must ensure that there is no lower price available in the market;</p> <p>d. there has been a partial delivery, inspection and acceptance of the goods under a contract previously awarded; and</p> <p>e. the total amount shall not exceed one hundred percent (100%) of the original contract.</p> <p>3) Analyze any deviation to establish the cause(s) and develop appropriate working papers.</p>	<p>• Item 8 of GPPB Circular 01-2020</p>
	4) Determine reason/s and cause/s for deficiencies noted and validate same if obtained through inquiry/interview.	

Audit Objectives	Audit Procedure	Audit Criteria
	5) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	
<p><i>On advance payments to suppliers</i></p> <p>To validate if the advance payment made did not exceed the limit set forth by the President.</p>	<p>1) Obtain the contract and validate whether the terms and conditions include that an advance payment was made.</p> <p>2) If an advance payment was required, the following limitations must have been observed:</p> <p style="padding-left: 40px;">a) An advance payment not to exceed 30% of the contract amount was allowed for goods enumerated under Sec. 4(k) of RA No. 11469 (or Sec. 1 of Memo Order No. 48 dated April 20, 2020)</p> <p style="padding-left: 40px;">b) A single advance payment, not to exceed 50% of the contract amount was allowed for the lease of real properties under Sec. 4(k)(3) of RA No. 11469</p> <p style="padding-left: 40px;">c.) Said advance payment was released within 3 working days from award of contract</p> <p style="padding-left: 40px;">d) No Advance Payment was allowed for a Special Repeat Order</p>	<p>• Memorandum Order No. 48 dated April 20, 2020</p>
	3) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	
<p><i>On posting of Notice of Award</i></p> <p>To verify if the posting requirement was done as prescribed (for accountability)</p>	<p>1) Check if the Notice of Award (NOA), contract of Purchase Order was posted in:</p> <p style="padding-left: 40px;">(i) the website of the PE or if none, any conspicuous place in the premises of the PE; and</p> <p style="padding-left: 40px;">(ii) the GPPB online portal for Emergency Procurement under the Bayanihan Act</p> <p>2) Validate from the BAC/HoPE for any deviation on the prescribed posting requirement.</p> <p>3) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.</p>	<p>• Item 3.6 of GPPB Circular 01-2020</p>
<p><i>On the Procurement Contract executed</i></p> <p>To verify if the procurement contract was properly executed, duly approved and contains stipulations in conformity with the procurement</p>	<p>1) Obtain the following documents which shall form part of the contract:</p> <p style="padding-left: 40px;">a) Contract Agreement;</p> <p style="padding-left: 40px;">b) Performance Security - PE may require Performance Security depending on the nature of the procurement project.</p>	<p>Section 3.5 of GPPB Circular No. 01-2020 dated April 6, 2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
<p>laws, rules, and regulations</p>	<p>However, for Infrastructure Projects, it is required;</p> <p>c) Warranty Security – PE may require Warranty Security depending on the nature of the procurement project. In no case shall it be required on the procuring of Consulting Services;</p> <p>d) Notice of Award of Contract; and</p> <p>e) Other contract documents that may be required by existing laws and/or the Procuring Entity concerned.</p> <p>2) Check if the warranty clause requires the supplier, distributor, manufacturer or contractor that:</p> <ul style="list-style-type: none"> For the period stipulated covering the procurement at hand, the Goods or Infrastructure Projects to be delivered or implemented shall be free from defects and conform to quality standards and technical specifications of the said contract; and Contractor shall fulfill all the obligations and undertakings under the contract and the OSS. <p>3) When technical assistance is needed in the review of the procurement contract, refer the contract for review by the Regional Technical Services.</p> <p>4) Prepare and issue AOM, NS or ND as may be warranted for deficiency noted.</p>	
<p><i>On irregularities committed by suppliers after the award</i></p> <p>To determine whether there are erring procurement contract awardees and to recommend the applicable penalties for the corresponding violations, if any.</p>	<p>1) Identify the offenses, if any, made by the supplier, distributor, manufacturer, contractor, or consultant for any of the following violations:</p> <p>a) Failure to faithfully perform or deliver its obligations and undertakings under its contract, including compliance with the warranty clause and duly executed OSS;</p> <p>b) Failure to perform or deliver any of the obligations and undertakings in the contract in case advance payment was made or given;</p> <p>c) Delay in the completion or delivery of the Procurement Project through its fault; and</p>	<ul style="list-style-type: none"> Item 10 of GPPB Circular 01-2020 GPPB Resolution No. 40-2017 dated 21 December 2017

Audit Objectives	Audit Procedure	Audit Criteria
	<p>d) Refusal to prioritize and accept contracts for materials and services necessary to promote the declared national policy under the Bayanihan Act.</p> <p>2) Check the date of receipt of the Purchase Order and compare it with the date of delivery against the Inspection and Acceptance Report. Verify whether the goods were received within the Purchase Order's terms and if there is a delay on delivery, compute for the liquidated damages accordingly.</p> <p>3) Identify the sanctions for the offenses. For ready reference, hereunder are the penalties for common offenses committed by suppliers, manufactures, distributors, contractors and consultants:</p> <p>a) Blacklisting for a period of two (2) years in all government procurement activities following the provisions under the Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors, and Consultants;</p> <p>b) Criminal liability for Swindling (Estafa) or the commission of fraud with unfaithfulness or abuse of confidence through misappropriating or converting any payment received by a person or entity under an obligation involving the duty to deliver certain goods or services, to the prejudice of the public and the government of the Philippines pursuant to Article 315 of the RPC;</p> <p>c) At least one-tenth (1/10) of one percent (1%) of the cost of the unperformed portion for every day of delay.</p> <p>In case the total sum of liquidated damages reaches ten percent (10%) of the total contract price, the PE may cancel the contract. Should the PE decide not to cancel the contract, the imposition of liquidated damages shall be continued;</p> <p>d) • Imprisonment of two (2) months; or • Fine of not less than Ten Thousand Pesos (PhP10,000.00) but not more than One Million Pesos (PhP1,000,000.00); or • Both, at the discretion of the court.</p> <p>4) Obtain copies of documents showing the actions taken by the PE in regard to the offenses and imposition of sanctions/penalties, if any.</p>	

Audit Objectives	Audit Procedure	Audit Criteria
	5) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.	

II. AUDIT PROGRAM on Procurements and Procurement Projects on COVID-19 Programs and Activities

B. Delegation of Duties by the HoPE on Emergency Procurement under Republic Act No. 11469 or the Bayanihan To Heal as One Act

Audit Objectives	Audit Procedure	Audit Criteria
To verify whether the delegation of duties made by the Head of Procuring Entities (HoPE) for the Emergency Procurement under Republic Act No. 11469 or the Bayanihan to Heal as One Act was proper for the timely and responsive conduct of procurement activities.	1) Obtain any document, issuance or communication indicating that the HoPE delegated the authority to directly negotiate or conduct the procurement activities to the: a) End-user unit or b) any other appropriate bureau, committee, support or procuring unit. If no delegation is made, the Bid and Awards Committee (BAC) shall be the one to undertake the negotiation or procurement.	Item 3.3 of GPPB Circular No. 01-2020 dated April 6, 2020
	2) In the same document, issuance or communication determine whether the awarding of the contract was delegated to any qualified official of the PE except to those where there exists conflict of interest such as the following: a) BAC Chairperson and members; or b) the person who has been authorized to directly negotiate or undertake the procurement.	Item 3.5 of GPPB Circular No. 01-2020 dated April 6, 2020
	3) Prepare the appropriate audit working papers to validate the findings.	
	4) Prepare and issue AOM, NS or ND as may be warranted on all deficiencies noted.	

II. AUDIT PROGRAM on Procurements and Procurement Projects on COVID-19 Programs and Activities

C. Negotiated Procurement (Emergency Cases)

Audit Objectives	Audit Procedure	Audit Criteria
<p><i>On the appropriateness of the procurement modality used</i></p> <p>To determine whether the procurement modality used by the PE is appropriate.</p>	<p>1) Determine whether the procurement modality used for the procurement/ procurement project is appropriate:</p> <p>a) Emergency Procurement under the Bayanihan to Heal as One Act - from the effectivity of GPPB Circular 01-202, which is immediately upon its publication on 12 April 2020 until the 23 June 2020 or three (3) months from 25 March 2020, the effectivity of the Bayanihan Act.</p> <p>b) Negotiated Procurement (Emergency Cases) - No specific period; may be applied from effectivity of the 2016 IRR of RA No. 9184 and related issuances.</p> <p>2) Prepare and issue AOM, NS or ND as may be warranted if the procurement modality used is inappropriate.</p>	<p>Item 11 of GPPB Circular No. 01-2020 dated April 6, 2020</p>
<p>To determine whether the Procurements/ Procurement Projects made through Negotiated Procurement under Emergency Cases modality adhered to relevant laws, rules and regulations.</p>	<p>1) Obtain the Revised Annual Procurement Plan (APP) that includes the Procurement Projects that were subjected to Negotiated Procurement (Emergency Cases), to wit:</p> <p>a) Goods, which may include those enumerated in the list submitted by the DOH such as alcohol, sanitizers, tissue, thermometers, hand soap, detergent, sodium hydrochloride, cleaning materials, personal protective equipment for utility staff, povidone iodine, gloves, masks; common medicines and testing kits;</p> <p>b) Civil Works Projects;</p> <p>c) Consulting Services;</p> <p>d) Lease of real property or venue for use as quarantine centers, evacuation sites, medical relief and aid distribution locations, warehousing facilities, or similar temporary disaster or emergency response facility.</p>	<ul style="list-style-type: none"> • Sec. 53.2 of the 2016 Revised IRR of RA 9184 • GPPB Resolution No. 03-2020 dated March 09, 2020 (which amended the 2016 IRR of RA 9184 and GPPB Circular 04-2016 dated Dec. 20, 2016) • GPBB Resolution No. 05-2020 dated Mar. 20, 2020 • COA GPPB Joint Memorandum Circular No. 1 dated March 26, 2020

Audit Objectives	Audit Procedure	Audit Criteria
	2) Verify whether the revised APP was duly approved by the HoPE or his delegate.	
	3) Obtain certification/validation by the appropriate office (i.e. Budget Officer) in the Procuring Entity (PE) that there are funds in the budget to cover for the same.	
	<p>4) Verify whether any of the following instances was present to establish that the Negotiated Procurement under Emergency Cases was resorted to:</p> <p>i. In case of imminent danger to life or property during a state of calamity, or</p> <p>ii. When time is of the essence arising from natural or man-made calamities or</p> <p>iii. Other causes where immediate action is necessary:</p> <p>a) to prevent damage to or loss of life or property; or</p> <p>b) to restore vital public services, infrastructure facilities and other public utilities.</p> <p>The instances or situations where the foregoing conditions may be applied include the provision of immediate response and initial recovery steps to avoid loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to property, destruction of assets, loss of services, social and economic disruption and environmental degradation.</p> <p>Note: Attached is a GPPB issuance on procedures in Negotiated Procurement for Emergency Cases for your reference.</p>	

Audit Objectives	Audit Procedure	Audit Criteria
	<p>Also, considering that the underlying reason to support a Negotiated Procurement through the Emergency modality relates to “time element” as enumerated in the above instances, the Procuring Entity should consider appropriate timing or the proximity of time between the actual procurement activity to be conducted and the emergency sought to be addressed, such that when the reason or cause for the emergency has already been abated, adoption of competitive bidding as the primary mode of procurement shall be considered.</p>	
	<p>5) Validate whether the contract was awarded to a legally, technically, and financially capable supplier, contractor, or consultant by obtaining the submitted mandatory requirements as follows:</p> <ul style="list-style-type: none"> • Mayor’s/ Business Permit (or the recently expired Mayor’s/ Business Permit and the Official Receipt as proof of application and payment for the renewal of the permit, subject to submission of the new Mayor's Permit after award of contract); • Omnibus Sworn Statement (OSS); • Phil. Contractors Accreditation Board (PCAB) License (for Infrastructure Projects) <p>For projects with an ABC above P500,000</p> <ul style="list-style-type: none"> • Income/ Business Tax Return • Net Financial Contracting Capacity (NFCC) (for Infrastructure Projects) <p><i>Note:</i> PEs already maintaining a bidder’s updated file on any of the following requirements, whether through Philippine Government Electronic Procurement System Certification of Registration and Membership or its own records, shall not require its re-submission.</p>	
	<p>6) In case the Procurement Project was awarded to a foreign bidder, validate whether the foreign bidder is legally, technically and financially capable to undertake the procurement at hand.</p> <p>A legally, technically, and financially capable</p>	

Audit Objectives	Audit Procedure	Audit Criteria
	<p>foreign bidder has:</p> <p>i) submitted the mandatory documentary requirements;</p> <p>ii) complied with the technical specifications set by the PEs, including the required certification under existing rules such as the Certificate of Product Registration issued by the FDA for testing kits; and</p> <p>iii) submitted the financial requirements of the project such as NFCC, in case of infrastructure projects.</p> <p>The equivalent document in the jurisdiction of the foreign bidders would also suffice.</p>	
	<p>7) Obtain the Request for Quotation/ Proposal (RFQ/RFP) and determine whether the abovementioned documents were submitted on the prescribed period specified therein.</p>	<p>Item 4.1.4 of GPPB Circular 04-2016 dated Dec. 20, 2016</p>
	<p>8) Obtain the following documents which shall form part of the contract:</p> <p>a) Contract Agreement;</p> <p>b) Performance Security - PE may require PS depending on the nature of the procurement project. However, for Infrastructure Projects, it is required;</p> <p>c) Warranty Security – PE may require WS depending on the nature of the procurement project. In no case shall it be required on the procuring of Consulting Services;</p> <p>d) Notice of Award of Contract; and</p> <p>e) Other contract documents that may be required by existing laws and/or the Procuring Entity concerned.</p>	<p>• Sec. 37.2.3 of 2016 IRR of RA 9184 (for the documents which form part of the contract)</p> <p>• Sec. 39, 54.5 and 62 of 2016 IRR of RA 9184 (Guidelines for Provision of Performance and Warranty Security)</p>
	<p>9) Inquire with the BAC Secretariat whether the NOA, Contract/ PO including the NTP was posted in:</p> <p>a) the PhilGEPS website;</p> <p>b) the website of the Procuring Entity concerned, if available; and</p>	<p>Item 4.1.6 GPPB Circular 04-2016 dated Dec. 20, 2016 (Posting Requirement)</p>

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	<p>c) at any conspicuous place reserved for this purpose in the premises of the Procuring Entity.</p> <p>These should be posted within ten (10) days from their issuance for contracts, except for contracts with ABC of Fifty Thousand Pesos (₱50,000.00) and below.</p>	
	<p>10) Prepare the appropriate audit working papers to validate the findings.</p> <p>11) Prepare and issue AOM, NS or ND as may be warranted on all deficiencies noted.</p>	
<p><i>On irregularities committed by suppliers after the award</i></p> <p>To determine whether there are erring procurement contract awardees and to recommend the applicable penalties for the corresponding violations, if any.</p>	<p>1) Identify the offenses, if any, made by the supplier, distributor, manufacturer, contractor, or consultant under Rule XXI – Penal Clause, Rule XXII – Civil Liability and Rule XXIII – Administrative Sanctions of the Revised IRR of RA 9184.</p> <p>2) Obtain copies of documents showing the actions taken by the PE in regard to the offenses and imposition of sanctions/penalties, if any.</p> <p>3) Prepare and issue AOM, NS or ND as may be warranted for all deficiencies noted.</p>	<ul style="list-style-type: none"> • Item 10 of GPPB Circular 01-2020 • GPPB Resolution No. 40-2017 dated 21 December 2017



PROCEDURE IN NEGOTIATED PROCUREMENT UNDER **EMERGENCY** CASES

Allowable Instances for Emergency Procurement:

- (a) in case of imminent danger to life or property during a state of calamity;
- (b) when time is of the essence arising from natural or man-made calamities; or
- (c) other causes where immediate action is necessary to prevent damage to or loss of life property, or to restore vital public services, infrastructure facilities and other public utilities.

STEP 1

Check if the procurement project (based on Technical Specifications or Terms of Reference) is subject to Negotiated Procurement (Emergency Cases) and if there is budget for the purpose. If yes, have the APP covering the said procurement project approved by the HoPE.

APP

Note that approval of APP is confirmation of the existence and veracity of the ground(s) relied upon in resorting to Negotiated

STEP 2

The BAC or authorized person/unit to directly negotiate or procure from a legally, technically, and financially capable supplier, distributor, manufacturer, contractor or consultant.

Mandatory documentary requirements are as follow:

- Mayor's Business Permit
- Business OR Income Tax Returns (ABC above 500K)
- Omnibus Sworn Statement (ABC above 500K)
- PCAB License (for infrastructure projects)
- NFCC (for infrastructure projects w/ ABC above 500K)

STEP 3

HoPE or authorized person/unit to award contract to the legally, technically, and financially capable supplier, distributor, manufacturer, contractor or consultant.

This includes a foreign bidder determined to satisfy any of the legal, technical and financial requirements of the PE.

STEP 4

The BAC Secretariat shall post for information purposes the Notice of Award, contract or purchase order, including the Notice to Proceed, if required, in (i) the PhilGEPS website; (ii) the website of the PE or its electronic procurement service provider, if any; and (iii) any conspicuous place in the premises of the PE.

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II. AUDIT PROGRAM on Procurements and Procurement Projects on COVID-19 Programs and Activities

D. Delegation of Duties by the HoPE on Negotiated Procurement (Emergency Cases)

Audit Objectives	Audit Procedure	Audit Criteria
To ascertain whether the delegation of duties made by the Head of Procuring Entities (HoPE) for Negotiated Procurement (Emergency Cases) was proper and for the timely and responsive conduct of procurement activities.	1) Obtain any issuance, document or communication from the HoPE delegating the authority to directly negotiate with a legally, technically, and financially capable supplier, contractor, or consultant to the following: a) BAC b) End-user unit c) any other appropriate bureau, committee, or support unit.	• GPPB Resolution No. 03-2020 dated March 09, 2020 (which amended the 2016 Revised IRR of RA 9184 and GPPB Circular 04-2016 dated Dec. 20, 2016)
	2) In the same issuance, document or communication determine whether the HoPE delegated the authority to award the contract to any official of the Procuring Entity except: a) the BAC Chairperson or members pursuant to Section 11.2.5 of the 2016 revised IRR of RA No. 9184 and other associated issuances or b) any other official where there exists conflict of interest, such as those to whom the HoPE has delegated the authority to directly negotiate under the foregoing modality.	
	3) Obtain a copy of the Procurement Monitoring Report, duly approved by the HoPE, which includes the Procurement Projects made through Negotiated Procurement under Emergency Cases undertaken by the delegates/ person(s) authorized by HoPE.	
	4) Prepare the appropriate audit working papers to validate the findings.	
	5) Prepare and issue AOM, NS or ND as may be warranted on all deficiencies noted.	

II. AUDIT PROGRAM on Procurements and Procurement Projects on COVID-19 Programs and Activities

E. Electronic Submission and Posting of Procurement Related Documents

Audit Objectives	Audit Procedure	Audit Criteria
<p>To validate whether the measures for the efficient conduct of procurement activities during a State of Calamity, or Implementation of Community Quarantine or Similar Restrictions provided under GPPB Resolution 09-2020 dated May 7, 2020 were adopted by the Procuring Entity.</p>	<p>1) Obtain a Certification from the highest official managing the Information Technology System of the agency stating that the electronic system or procedure to be used by the PE for the electronic submission and receipt of bids is compliant with the foregoing requirements:</p> <p>a) Bid submission uses a two-factor security procedure consisting of an archive format compression and password protection to ensure the security, integrity and confidentiality of the bids submitted;</p> <p>b) Allows access to a password-protected Bidding Documents on opening date and time. The passwords for accessing the file will be disclosed by the Bidders only during the actual bid opening which may be done in person or face-to-face through videoconferencing, webcasting or similar technology; and</p> <p>c) Capable of generating an audit trail of transactions to ensure the security, integrity and authenticity of bid submissions.</p>	<p>Item 4.2 of GPPB Resolution No. 09-2020, dated 7 May 2020</p> <p>Annex A of GPPB Resolution 12-2020 dated May 20, 2020 for the <u>Certification of the highest official managing the IT system of the agency</u></p>
	<p>2) Verify if the Certification was submitted to the GPPB-TSO through ITcertification@gppb.gov.ph and its acknowledgement receipt from GPPB-TSO prior to posting of the Bidding Documents allowing for electronic submission and receipt of bids.</p>	
	<p>3) Interview the highest official managing the Information Technology System of the agency and conduct a walk-through of the electronic system or procedures used by the PE for the electronic submission and receipt of bids.</p>	
	<p>4) Verify whether the following procedures for online or electronic submission are adopted:</p>	<p>Item 5 and Annex B of GPPB Resolution No. 09-2020, dated 7 May 2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
	<p>a) The <i>Invitation to Bid</i>, including the Bidding Documents shall <i>clearly state whether the PE shall allow the submission and receipt of bids through electronic means</i>;</p> <p>b) <i>Bidders shall submit their Bids through any of the abovementioned online or electronic facilities at any time before the closing date and time specified in the Bidding Documents</i>;</p> <p>c) Upon receipt of the first and second envelopes, <i>PEs shall generate a Bid receipt page for the official time of submission which can be saved or printed by the bidder (Sec. 25.6 Submission and Receipt of Bids)</i>; and</p> <p>d) As with manual submission, Bidders may modify or withdraw their Bid at any time before the deadline for the submission and receipt of bids. Where a bidder modifies its Bid, it shall not be allowed to retrieve its original Bid and shall only be allowed to submit another. For electronic bid submission, <i>Bidders shall send another Bid equally secured, properly identified, and labelled as a “modification” of the one previously submitted. The time indicated in the latest Bid receipt page generated shall be the official time of submission. Bids submitted after the deadline shall not be accepted. (Sec. 26 Modification and Withdrawal of Bids)</i></p>	
	<p>e) Bidders shall submit their bids through their duly authorized representative using the forms specified in the Bidding Documents in two (2) separate sealed bid envelopes, or <i>two (2) password-protected Bidding Documents in compressed archive folders</i>, in case of electronic bid submission, and which shall be submitted simultaneously. (Sec. 25 Submission and Receipt of Bids)</p> <p>f) Bidding Documents not in compressed archive folders and are not password-protected, shall be rejected. (Sec. 25.9 Submission and Receipt of Bids)</p> <p>g) For electronic bid submission, <i>the passwords for accessing the Bidding Documents will be disclosed by the Bidders only during the actual bid opening</i></p>	

Audit Objectives	Audit Procedure	Audit Criteria
	<p><i>which may be done in person or face-to-face through videoconferencing, webcasting or similar technology. (Sec. 29 Bid Opening)</i></p> <p>h) For price quotations from prospective Lessors (For Negotiated Procurement – Lease of Real Property and Venue) and prospective NGOs (Negotiated Procurement Under Section 53.11 of 2016 IRR of RA 9184)</p> <p>The prospective Lessors or NGOs shall submit <i>password-protected price quotations in compressed archive folders, in case of electronic submission of price quotations.</i></p> <p>For electronic submission of price quotations, <i>the passwords for accessing the same will be disclosed by the prospective Lessors or NGOs on a specified date which may be done in person or face-to-face through videoconferencing, webcasting or similar technology.</i></p>	
	<p>5) Obtain a copy of submitted documentary proof on limited access to financial institutions, regulatory and other offices as well as the implementation of government restrictions on transport and travel as may be required by the BAC from the Bidders.</p> <p>6) Validate whether the following alternate documentary requirements for procurement activities were accepted by the PE:</p> <p>a) Unnotarized Bid Securing Declaration;</p> <p>b) Expired Business or Mayor's permit with Official Receipt of renewal application, subject to submission of Business or Mayor's permit after award of contract but before payment;</p> <p>c) Unnotarized Omnibus Sworn Statement subject to compliance therewith after award of contract but before payment; and</p> <p>d) Performance Securing Declaration (PSD) in lieu of a performance security to guarantee the winning bidder's faithful performance of obligations under the contract, subject to the following:</p>	<p>Item 6 of GPPB Resolution No. 09-2020, dated 7 May 2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
	<p>i. Similar to the PSD used in Framework Agreement, such declaration shall state, among others, that the winning bidder shall be blacklisted from being qualified to participate in any government procurement activity for one (1) year, in case of first offense or two (2) years, if with prior similar offense, in the event it violates any of the conditions stated in the contract;</p> <p>ii. An unnotarized PSD may be accepted, subject to submission of a notarized PSD before payment, unless the same is replaced with a performance security in the prescribed form, as stated below; and</p> <p>iii. The end-user may require the winning bidder to replace the submitted PSD with a performance security in any of the prescribed forms under Section 39.2 of the 2016 revised IRR of RA No. 9184 upon lifting of the State of Calamity, or community quarantine or similar restrictions, as the case may be.</p>	
	<p>7) From the PMR, conduct an inquiry with the BAC Secretariat to identify the procurement activities which were suspended due to the declaration of a State of Calamity, or implementation of community quarantine or similar restrictions. Verify whether the BAC made the following steps:</p> <p>a) The BAC notified all prospective bidders and posted a notice on the PE's website, if any;</p> <p>b) The notice included the suspension of the conduct of procurement activities for a specific Procurement Project its estimated date of resumption and all the implications of such suspension which shall include, but not limited to the fixed price rule in procurement, extension of the bid validity and security, validity of the eligibility requirements prior to the award of contract, conditions of award, and revised date of delivery.</p> <p>PEs may retroactively suspend the conduct of procurement activities beginning 9 March 2020.</p>	<p>Item 7 of GPPB Resolution No. 09-2020, dated 7 May 2020</p>

Audit Objectives	Audit Procedure	Audit Criteria
	<p>8) From the PMR, validate the reasons for the Failed Biddings which include the following justifiable reasons:</p> <p>a) the physical and economic conditions have significantly changed so as to render the project no longer economically, financially, or technically feasible, as determined by the end-user unit;</p> <p>b) the project is no longer necessary as determined by the end-user unit;</p> <p>c) the source of funds for the project has been withheld or reduced through no fault of the PE; or</p> <p>d) brought about by the declaration of a State of Calamity, or implementation of community quarantine or similar restrictions.</p> <p>Procurement activities which were suspended due to Failed Bidding with reasons other than those provided under Sec. 35 of 2016 IRR of RA 9184 and those above are considered as audit exceptions.</p> <p>9) Verify if the following steps were adopted by the BAC upon lifting of the Suspension of the conduct of procurement activities:</p> <p>a) Notified all affected bidders of the lifting of the suspension and posted a notice on the PE's website, if any;</p> <p>b) Posting of the notice of resumption of procurement activities on the website of the PE, if any, or in the absence thereof, in any conspicuous place in the premises of the PE.</p> <p>10) Prepare the appropriate audit working papers to document the findings.</p> <p>11) Determine reason/s and cause/s for deficiencies noted and validate same if obtained through inquiry/interview.</p> <p>12) Prepare and issue AOM, NS or ND as may be warranted on all deficiencies noted.</p>	<p>Item 9 of GPPB Resolution No. 09-2020, dated 7 May 2020</p>
To verify that the posting and electronic	1) Obtain copies of the APP, PMR and APCPI results.	

Audit Objectives	Audit Procedure	Audit Criteria								
submission of procurement related documents (Annual Procurement Plans (APP), Procurement Monitoring Report (PMR), Agency Procurement Compliance and Performance Indicator (APCPI), Bid Documents among others are based on GPPB rules and guidelines for the efficient conduct of procurement activities during a state of calamity, or implementation of community quarantine or similar restrictions.	2) Verify whether the documents were duly approved by the Head of the Procuring Entity (HoPE) and posted in the designated section of their agency website or at any conspicuous place reserved for this purpose within the premises of the PE in the absence of an agency website.	GPPB Circular 02-2020 dated May 20, 2020								
	3) Obtain a copy of the Certification by the Head of BAC Secretariat stating that the PE has complied with the posting requirement (Appendix 1 of GPPB Circular 02-2020).									
	4) Verify whether the documents were submitted to the GPPB through electronic mail in both Microsoft Excel and Portable Document Format (PDF) files.									
	<ul style="list-style-type: none">• Ascertain that there was an auto-generated acknowledgment from the GPPB-TSO. The acknowledgment mail serve as the PE’s proof of submission of the aforesaid document or look for the list of complying PEs posted by the GPPB-TSO on the GPPB website.									
	5) Validate whether the deadlines in Item 3.2 of GPPB Circular 02-2020 dated May 20, 2020 are complied with.									
	6) Verify if the procurement reports have complied with the GPPB prescribed forms posted and downloadable from these links: <table><tr><th>Document</th><th>Downloadable Link</th></tr><tr><td>APP</td><td>https://www.gppb.gov.ph/downloadables/forms/NEW%20APP%20Format%20(EPA)rev.xlsx</td></tr><tr><td>PMR</td><td>https://www.gppb.gov.ph/downloadables/forms/PMR%20Format%20(EPA)_final.xlsx</td></tr><tr><td>APCPI</td><td>https://www.gppb.gov.ph/apcpi.php</td></tr></table>		Document	Downloadable Link	APP	https://www.gppb.gov.ph/downloadables/forms/NEW%20APP%20Format%20(EPA)rev.xlsx	PMR	https://www.gppb.gov.ph/downloadables/forms/PMR%20Format%20(EPA)_final.xlsx	APCPI	https://www.gppb.gov.ph/apcpi.php
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	APP		https://www.gppb.gov.ph/downloadables/forms/NEW%20APP%20Format%20(EPA)rev.xlsx							
PMR	https://www.gppb.gov.ph/downloadables/forms/PMR%20Format%20(EPA)_final.xlsx									
APCPI	https://www.gppb.gov.ph/apcpi.php									
7) Verify if the APP was based on approved budget of the Agency. Submission of Indicative APPs are not considered as compliance. The GPPB-TSO shall not accept any submission of the Indicative APP as the same is required only to be posted in the Transparency Seal of the PE’s website.										
8) Verify if the PE has submitted the complete report, with the required approval. In the case of APCPI, the submission shall include the accomplished Self-Assessment Form, Consolidated Procurement Monitoring Report, APCPI Questionnaire, and Action Plan.										

Audit Objectives	Audit Procedure	Audit Criteria
	9) Secure a request for certification, confirmation or statement of compliance on the submission of any procurement reports to the GPPB through the GPPB website for the list of complying PEs which may be printed by any interested party.	
	10) Prepare the appropriate audit working papers to document the findings.	
	11) Prepare and issue AOM, NS or ND as may be warranted on all deficiencies noted.	