

[MEMORANDUM ORDER NO. 48, April 20, 2020]

INCREASING THE ALLOWABLE AMOUNT OF ADVANCE PAYMENT FOR PROCUREMENT ACTIVITIES UNDER REPUBLIC ACT NO. 11469 OR THE "BAYANIHAN TO HEAL AS ONE ACT"

WHEREAS, Section 88(1) of Presidential Decree No. 1445 or the "Government Auditing Code of the Philippines," provides that except with the prior approval of the President, the government shall not be obliged to make an advance payment for services not yet rendered or for supplies and materials not yet delivered under any contract therefor;

WHEREAS, Paragraph 4.3 in relation to Paragraph 4.1, Annex D of the 2016 Revised Implementing Rules and Regulations (RIRR) of Republic Act (RA) No. 9184 or the "Government Procurement Reform Act," provides that a single advance payment not to exceed 50% of the contract amount shall be allowed for contracts entered into by a procuring entity for hotel and restaurant services, use of conference, seminar and exhibit areas, and lease of office spaces, where the requirement of down payment is a standard industry practice, without need of prior approval by the President;

WHEREAS, Paragraph 4.4 in relation to Paragraph 4.1, Annex D of the 2016 RIRR of RA No. 9184 provides that advance payment not to exceed 15% of the contract amount, unless otherwise directed by the President, shall be allowed for procurement of goods required to address contingencies arising from natural or man-made calamities in areas where a State of Calamity has been declared by appropriate authorities, without need of prior approval by the President;

WHEREAS, in light of the increasing number of COVID-19 cases, Proclamation No. 929 (s. 2020) declared a State of Calamity throughout the country for a period of six (6) months, imposed an Enhanced Community Quarantine over the entire Luzon, and enjoined government agencies and local government units to render full assistance to and cooperation with each other, and mobilize the necessary resources to undertake critical, urgent and appropriate disaster response aid and measures;

WHEREAS, Section 4(k) of RA No. 11469 or the "Bayanihan to Heal as One Act," vested the President with the temporary emergency authority to undertake the procurement of certain goods, services and lease of property, as the need arises, in the most expeditious manner, as exemptions from the provisions of RA No. 9184 and other relevant laws;

WHEREAS, based on a recent market study conducted by the Procurement Service of the Department of Budget and Management, suppliers of medical supplies and personal protective equipment (PPEs) prioritize buyers who are willing to make advance payment of at least 30% of the contract amount;

WHEREAS, the Government Procurement Policy Board, through Resolution No. 06-2020, issued a circular providing the Guidelines for Emergency Procurement under