

[RESOLUTION NO. 07-2018, September 19, 2018]

**APPROVING AMENDMENTS TO SECTION 2, ANNEX "E" OF THE
2016 IMPLEMENTING RULES AND REGULATIONS (IRR) OF
REPUBLIC ACT (RA) NO. 9184 AND THE PHILIPPINE BIDDING
DOCUMENTS FOR INFRASTRUCTURE PROJECTS**

*Adopted: 18 May 2018
Date Filed: 19 September 2018*

WHEREAS, Republic Act (RA) No. 9184 entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes," took effect on 26 January 2003, while its 2016 Revised Implementing Rules and Regulations (IRR) took effect on 28 October 2016;

WHEREAS, Section 63(b) of Republic Act (R.A.) No. 9184, the Government Procurement Reform Act, and Section 63.1(b) of the 2016 revised Implementing Rules and Regulations (IRR) authorize the Government Procurement Policy Board (GPPB) to formulate public procurement policies, rules and regulations, and amend, whenever necessary, the IRR;

WHEREAS, Section 43 of RA 9184 provides that the rules and guidelines for the implementation and termination of contracts awarded pursuant to the provisions of the Act shall be prescribed in the IRR.

WHEREAS, Annex "E" of the 2016 IRR of RA 9184 prescribes the Contract Implementation Guidelines for Infrastructure Projects (Guidelines for brevity);

WHEREAS, under the Guidelines, contractors are allowed to claim progress payments at least once a month based on the cumulative value of the quantities executed with reference to the items in the Bill of Quantities and that payments are based on unit price payment scheme;

WHEREAS, on 22 February 2018, the GPPB-Technical Support Office (TSO) received a letter from the Bases Conversion and Development Authority (BCDA) requesting for opinion on the legality of adopting a modified payment scheme in the procurement of government infrastructure projects on a turn-key basis, among others;

WHEREAS, upon initial review, the GPPB-TSO observed that adopting a modified payment scheme that will allow procuring entities to implement their infrastructure projects on a turn-key basis will require the amendment of existing provisions of Annex "E" of the IRR of RA 9184;

WHEREAS, on 16 April 2018, the GPPB-TSO received another letter from BCDA

requesting the withdrawal of its original letter requesting for opinion;

WHEREAS, notwithstanding the withdrawal of the BCDA letter-request, the GPPB can proactively prescribe rules allowing a different payment scheme that may be utilized by other procuring entities implementing infrastructure projects;

WHEREAS, during the 2nd IATWG Meeting held on 10 May 2018, the GPPB- TSO presented the proposed amendments to Section 5, Annex "E" of the 2016 IRR of RA 9184 and the corresponding provisions of the Philippine Bidding Documents (PBDs) for Infrastructure Projects to reflect an alternative payment scheme in relation to the implementation of infrastructure projects on turn-key arrangements;

WHEREAS, after due consideration, the IATWG resolved to recommend to the GPPB the proposed amendments, subject to presentation of the pros and cons of adopting a new payment scheme for the implementation of infrastructure projects;

WHEREAS, during the 2nd Regular GPPB Meeting held on 18 May 2018, the GPPB-TSO presented proposed amendment to Section 5 of Annex "E" of the IRR of RA 9184 and the relevant provisions in the PBDs for Infrastructure Projects, as well as the pros and cons of the proposed amendments as directed by the IATWG;

WHEREAS, after careful review and due deliberations, the GPPB approved the recommendation of the IATWG to amend Section 5 of Annex "E" of the IRR of RA 9184 and the relevant provisions in the PBDs for Infrastructure Projects to reflect an alternative payment scheme in relation to the implementation of infrastructure projects;

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 amendment to Section 5 of Annex "E" of the IRR of RA 9184 or the Contract Implementation Guidelines for Infrastructure Projects, including the corresponding Clauses in the PBDs for Infrastructure Projects, a copy of which is attached as Annex "A", and made an integral part hereof.

This Resolution shall take effect immediately.

APPROVED this 18th day of May 2018 at Pasig City, Philippines.

Signed by the Representatives of the Following Agencies:

DEPARTMENT OF BUDGET AND MANAGEMENT
NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY
DEPARTMENT OF EDUCATION
DEPARTMENT OF ENERGY
DEPARTMENT OF FINANCE
DEPARTMENT OF HEALTH
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
DEPARTMENT OF NATIONAL DEFENSE
DEPARTMENT OF SCIENCE AND TECHNOLOGY