

EMERGENCY PROCUREMENT UNDER BAYANIHAN TO HEAL AS ONE ACT

OUTLINE

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- III. Procedure for EP under Bayanihan Act**
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- V. Direct Purchase from Local Farmer**
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BACKGROUND



Republic Act No. 11469



Otherwise known as the **“Bayanihan to Heal as One Act”**
(“Bayanihan Act”)



The President was authorized to undertake the procurement of identified goods and services **as exemptions from the provisions of RA No. 9184** or the Government Procurement Reform Act ***in response to the Declaration of a State of National Emergency due to the Coronavirus Disease 2019 (COVID-19) outbreak***

BACKGROUND



GPPB Resolution No. 06-2020

- The Executive Secretary issued a Memorandum directing the DBM Secretary, who is likewise the Chairperson of the Government Procurement Policy Board (GPPB), to craft the **guidelines for the conduct of procurement activities for the items exempted from RA No. 9184 under the Bayanihan Act**
- Published on 12 April 2020 which approved **GPPB Circular No. 01-2020** on the Guidelines for Emergency Procurement (EP) under the Bayanihan Act

BACKGROUND



NPM No. 004-2020

- Issued by the GPPB-TSO on 16 April 2020 to guide Procuring Entities (PEs) in the conduct of Emergency Procurement under the Bayanihan Act, specifically summarizing the procedure and requirements as well as address possible issues and clarifications.

GPPB CIRCULAR NO. 01-2020

Application



May only be adopted upon its effectivity on **12 April 2020**

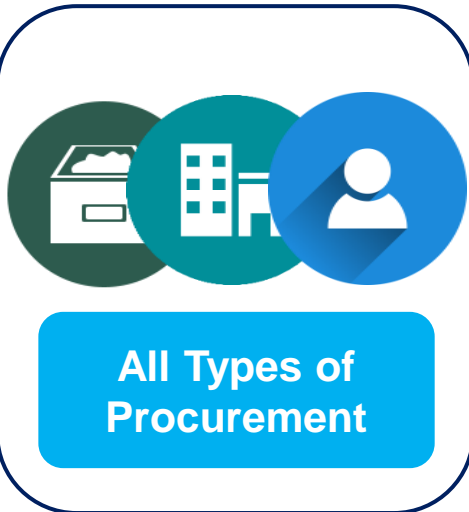


EP undertaken pursuant to Section 53(b) of RA No. 9184 and Section 53.2 of its 2016 IRR shall remain to be covered by said rules **unless the same is cancelled and a new procurement covering the projects under the Bayanihan Act is commenced** following the Circular **on or after 12 April 2020**

GPPB CIRCULAR NO. 01-2020

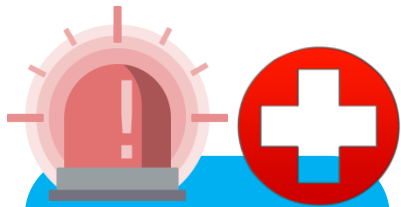
Application

Items needed in order to **mitigate, if not contain, the transmission of COVID-19, immediately mobilize assistance** in the provision of basic necessities to families and individuals affected by the imposition of Community Quarantine, **undertake measures that will prevent the overburdening of the healthcare system, immediately and amply provide healthcare**, including medical tests and treatments to COVID-19 patients, persons under investigation, or persons under monitoring and **undertake a program for recovery and rehabilitation**, including a social amelioration program and provision of safety nets to all affected sectors



GPPB CIRCULAR NO. 01-2020

Application



Medical and Sanitary Items and Services

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; testing kits; and such other supplies or equipment as may be determined by the DOH and other relevant government agencies

GPPB CIRCULAR NO. 01-2020

Application



**Social
Services
and Goods**

For social amelioration measures in favor of affected communities

GPPB CIRCULAR NO. 01-2020

Application



**Lease of
Real
Property
and Venue**

For use to house health workers or serve as quarantine centers, medical relief and aid distribution locations or temporary medical facilities

GPPB CIRCULAR NO. 01-2020

Application



**Construction
Service**

Establishment, construction, and operation
of temporary medical facilities

GPPB CIRCULAR NO. 01-2020

Application

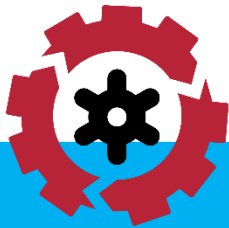


Critical Services

Utilities, telecommunications, and other critical services in relation to operation of quarantine centers, medical relief and aid distribution centers and temporary medical facilities

GPPB CIRCULAR NO. 01-2020

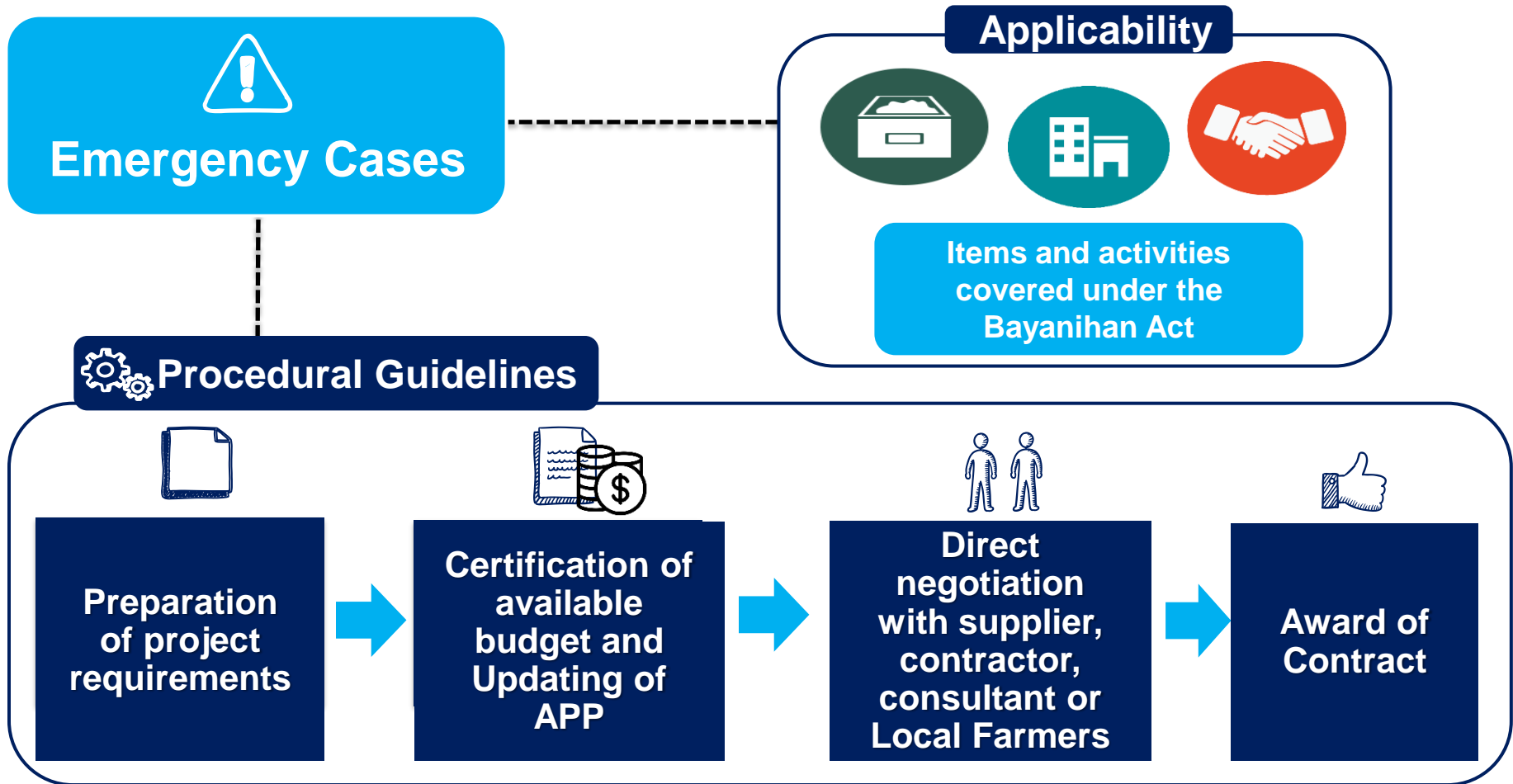
Application



**Other
Services**

Ancillary services related to the foregoing

PROCEDURE FOR EP UNDER BAYANIHAN ACT



PROCEDURE FOR EP UNDER BAYANIHAN ACT

Preparation of Project Requirements

The PE shall prepare the project requirements, which shall include:

1. Project Name;
2. Approved Budget for the Contract (ABC);
3. Technical Specifications, Scope of Work, or Terms of Reference;
4. Date of Delivery or Implementation;
5. Required Quantity; and
6. Other relevant information that the PE may require

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Certification of Available Budget and Updating of APP

The PE shall confirm the budget availability through a document or certification from the Budget Officer or equivalent position showing that there is a budget for the purpose

The PE shall update its Annual Procurement Plan (APP) for approval by the Head of the Procuring Entity (HoPE) **or his/her delegate**, indicating ***“Emergency Procurement under the Bayanihan Act”*** as the procurement modality in its updated APP



Note that PEs are allowed to commence with the procurement without an approved APP for as long as it is able to show proof on availability of budget for the purpose.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier/Contractor/Consultant

Delegation of Authority

The HoPE is encouraged to delegate:

- a.) its authority to approve the APP and award the contract; and
- b.) the authority to directly negotiate or conduct the procurement activities to the End-user unit or any other appropriate bureau, committee, support or procuring unit.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

- The PE shall directly negotiate or procure from a legally, technically, and financially capable supplier, distributor, manufacturer, contractor, consultant, **or farmers' associations or cooperatives** (collectively referred to as "Supplier" without need for a Request for Quotation or any equivalent document)
- Use of video-conferencing, web casting and similar technology (GPPB Resolution 24-2018 dated 4 December 2018)



In case no Supplier is able to provide the total quantity required **after determination through initial market scanning or scoping**, PEs are allowed to procure from several sources, and the same shall not be considered as Splitting of Contracts

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Price Negotiation with Suppliers

PEs shall negotiate for the most advantageous price to the government based on:

- a) existing price data of the agency, the Department of Trade and Industry or other relevant agencies.
- b) preliminary market scanning done by the agency showing prevailing market prices and practice.
- c) In the case of agricultural products, the market price or the recommended retail price by the local price coordinating council.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Who is a Capable Supplier (Legal)

1. Submitted the mandatory documentary requirements under Item 4.1 of the Circular or if said documents were to be submitted after award of contract, has committed to comply with the same in the prescribed Omnibus Sworn Statement (OSS) in Appendix 1 of the Circular

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Who is a Capable Supplier (Technical)

2. Complied with the technical specifications, scope of work or terms of reference set by the PEs, and other documents supporting the same, including 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

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Who is a Capable Supplier (Financial)

3. Submitted any financial requirements of the project 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.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Documentary Requirements for Suppliers

Document	Procurement Activity
Mayor's/ Business Permit	All Procurement Activities
ITR/Business Tax	For projects with an ABC above PhP500,000.00.00
OSS (new provisions)	
PCAB License	Infrastructure Projects
NFCC	Infrastructure Projects with an ABC above PhP500,000.00

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Documentary Requirements for Suppliers

PEs already maintaining a bidder's updated file of any of the following requirements, whether through the Philippine Government Electronic Procurement System Certificate of Registration and Membership or its own records, shall not require its re-submission

Bidders may submit their documentary requirements **in printed copies or by electronic mail or facsimile**, at anytime before payment (except the OSS, which shall be submitted before award)

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Allows use of Digital Signature (GPPB Resolution No. 16-2019 dated 17 July 2019) or similar means in all procurement related documents

Sample Designs for a Digitally Signed Document using PNPKI

Sample 1:



Date:
2020-04-29 05:
33:28

Abdulrasid M. Hadjirasid
Procurement Management Officer III
Government Procurement Policy Board – Technical Support Office

Sample 2:



Abdulrasid M. Hadjirasid
Procurement Management Officer III
Government Procurement Policy Board – Technical Support Office

Sample 3:



Location: Raffles Corporate
Center, F. Ortigas Jr. Road,
Ortigas Center, Pasig City
Date: 2020-04-29 05:34:45

Abdulrasid M. Hadjirasid
Procurement Management Officer III
Government Procurement Policy Board – Technical Support Office

Sample 4:



Date:
2020-04-29
05:36:25

Abdulrasid M. Hadjirasid
Procurement Management Officer III
Government Procurement Policy Board – Technical Support Office

Sample 5:



Abdulrasid M. Hadjirasid
Procurement Management Officer III
Government Procurement Policy Board – Technical Support Office

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Documentary Requirements for Suppliers

The OSS contains new provisions to protect the PE since no bid, performance or warranty securities are required under the *Bayanihan* procurement:

- a. Submit all the mandatory documentary requirements at any time before payment;
- b. Perform and deliver all of the obligations and undertakings, including the warranty provisions; and
- c. Warrant that for the period stipulated the object of the contract shall be free from defects and conform to quality standards and technical specifications of the said contract.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Direct Negotiation with Supplier

Omnibus Sworn Statement

The OSS shall be submitted at any time before award of contract. An unnotarized OSS may be accepted by the PE subject to compliance therewith after award of contract **but before payment.**

Mayor's or Business Permit

The PE is allowed to accept a copy of the recently expired Mayor's or Business Permit and the Official Receipt as proof of application and payment for the renewal of the permit will suffice, subject to submission of the Mayor's Permit after award of contract

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Award of Contract

The HoPE or his/her duly authorized representative shall immediately sign the contract or purchase order, **provided that all the documents required to be submitted prior to award of contract are complied with and that the OSS has been submitted.**

The contract shall include a **warranty clause** where the Supplier warrants that 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.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Award of Contract

Reservation Clause

The HoPE or his/her delegate reserves the right not to award the contract **if the same will not redound to the benefit of the government** such as:

- a) if 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 HoPE;
- b) if the project is no longer necessary as determined by the HoPE;
or
- c) if the source of funds for the project has been withheld or reduced through no fault of the PE.

PROCEDURE FOR EP UNDER BAYANIHAN ACT

Posting Requirements

The **approved APP** shall be posted on the *PE's website and submitted to the Government Procurement Policy Board (GPPB) or posted on the GPPB online portal at gppbgovph.com* for Emergency Procurement under the Bayanihan Act **on or before 30 September 2020**

The BAC, through its Secretariat, shall post for information purposes the **Notice of Award (NOA), contract, or purchase order** in (i) *the website of the PE or if none, any conspicuous place in the premises of the PE; and (ii) the GPPB online portal* for Emergency Procurement under the Bayanihan Act

GPPB ONLINE PORTAL

<https://www.gppbgovph.com>

Developed by the GPPB-TSO to promote accountability and transparency in the conduct of EP under the Bayanihan Act

PEs shall post on the GPPB online portal the following information relative to the Procurement Projects undertaken through EP under the Bayanihan Act:

- | | |
|----------------------------------|---|
| a) Updated APP; | f) Name of Winning Supplier, Distributor, Manufacturer, Contractor or Consultant; |
| b) Project Name; | g) NOA; |
| c) ABC; | h) Date of award and acceptance; and |
| d) Contract period; | i) Contract or Purchase Order. |
| e) Amount of Contract as Awarded | |

GPPB ONLINE PORTAL

<https://www.gppbgovph.com>

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Apps  Government Procur...



Department of Budget and Management
Government Procurement Policy Board
Technical Support Office



GPPB Online Portal

[Home](#) [Market Listings](#) [Awarded Contracts](#) [Project Requirements](#) [Procuring Entities ▼](#) [Suppliers ▼](#) [CSO Enrollment](#) [Comments](#)

➔ Login

Pursuant to the provisions of Republic Act No. 11469 or the Bayanihan to Heal as One Act, the Government Procurement Policy Board (GPPB) issued Resolution No. 06-2020 dated 6 April 2020 approving Circular No. 1 on even date providing for the Guidelines for Emergency Procurement under Republic Act No. 11469 or the Bayanihan to Heal as One Act ("Bayanihan Act").

Item 9.0 of the Circular authorizes the establishment of a GPPB online portal to promote accountability and transparency in the conduct of Emergency Procurement under the Bayanihan Act. The GPPB online portal shall also be the source of data or information to be used by the GPPB and its Technical Support Office to comply with the reportorial requirements under the Bayanihan Act.

The Government Procurement Policy Board (GPPB) - Technical Support Office (GPPB-TSO) . © 2020.

GPPB ONLINE PORTAL

GPPB Online Portal for **EMERGENCY** Procurement under the Bayanihan Act



In compliance with GPPB Circular No. 1, Procuring Entities (PEs) shall post procurement information on projects undertaken through Emergency Procurement under the Bayanihan Act.

PEs shall register through this website:
www.gppbgovph.com



Suppliers may likewise register to post available items and suppliers covered under the Bayanihan Act.



Suppliers and Civil Society Organizations are further encouraged to register on the GPPB online portal for the latest issuances, webinars, FGD and other events.

Everyone can view the data online without the need of any registration.



gppb.gov.ph



DIRECT PURCHASE FROM LOCAL FARMER

Direct Negotiation with Local Farmer

Documentary Requirements for Local Farmers

Submission of any of the following at any time **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.

DIRECT PURCHASE FROM LOCAL FARMER

Direct Negotiation with Local Farmer

Price Negotiation with Local Farmers

PEs shall be guided by the following in the negotiation of prices for agricultural products:

- a) the average prevailing farm gate price for the province; or
- b) the recommended retail price by the local price coordinating council for commodities sold by capable farmers in their respective provinces, municipalities and cities.

The disbursement voucher prepared by the PE shall be signed by the farmer and serve as delivery invoice and evidence the actual delivery and receipt of payment

SPECIAL REPEAT ORDER

Procedure

**Determination of
the need to
re-order**



**Conduct of Study
and Confirmation
of Conditions**



**Direct negotiation
with Supplier**

**Supplier enters
into contract with
PE**



**HoPE approves
recommendation
and issues NOA for
SRO**



No advance payment shall be allowed for Special Repeat Order

SPECIAL REPEAT ORDER

Conditions


- a) limited to **Goods** to be procured under the *Bayanihan Act*;
- 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**;
- 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;
- d) there has been a partial delivery, inspection and acceptance of the goods under a contract previously awarded; and
- e) the total amount shall not exceed one hundred percent (100%) of the original contract.

ADVANCE PAYMENT

Memorandum No. 48

Allows advance payment **not to exceed thirty percent (30%) of the contract amount** for items covered under the *Bayanihan Act* (OP MO No. 48)

A **single advance payment not to exceed fifty percent (50%) of the contract amount** shall be allowed for contracts entered into by a PE for services ***where requirement of down payment is a standard industry practice such as in the lease of real property or venue*** to house health workers or serve as quarantine centers, medical relief and aid distribution locations or temporary medical facilities

 All PEs shall release the advance payment to the supplier, contractor or lessor ***within three (3) working days from the award of contract***

ADMINISTRATIVE AND CRIMINAL PENALTIES

PEs are authorized to impose the following penalties for the corresponding violations, among others:

Violation	Sanction
Failure of the supplier, distributor, manufacturer, contractor, or consultant to submit the documentary requirements, faithfully perform or deliver its obligations and undertakings in the contract, including compliance with the warranty clause.	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

ADMINISTRATIVE AND CRIMINAL PENALTIES

PEs are authorized to impose the following penalties for the corresponding violations, among others:

Violation	Sanction
Failure to perform or deliver any of the obligations and undertakings in the contract in case advance payment was made or given	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

ADMINISTRATIVE AND CRIMINAL PENALTIES

PEs are authorized to impose the following penalties for the corresponding violations, among others:

Violation	Sanction
Delay in the completion or delivery of the Procurement Project through fault of the supplier, distributor, manufacturer, contractor, or consultant	<ul style="list-style-type: none">• At least one-tenth (1/10) of one percent (1%) of the cost of the unperformed portion for every day of delay.• 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.

ADMINISTRATIVE AND CRIMINAL PENALTIES

PEs are authorized to impose the following penalties for the corresponding violations, among others:

Violation	Sanction
Refusal to prioritize and accept contracts for materials and services necessary to promote the declared national policy under the <i>Bayanihan</i> Act	<ul style="list-style-type: none">• 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



BE UPDATED!

FOR THE LATEST ISSUANCES, FAQs, TRAININGS, SEMINARS/WEBINARS,
FGDS & OTHER EVENTS OF THE GPPB-TSO.

Follow us on our official Social Media Accounts

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Please drop your questions and comments at [slido.com](https://www.slido.com)
through Event Code: **#GovernmentProcurementPH**



THANK YOU!

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