



BAC RESOLUTION RECOMMENDING TO THE HEAD OF THE PROCURING ENTITY THE APPROVAL FOR ADOPTION OF DIRECT RETAIL PURCHASE OF PETROLEUM FUEL, OIL AND LUBRICANT (POL) PRODUCTS AND AIRLINE TICKETS AND DELEGATION OF AUTHORITY TO THE END-USER UNITS TO UNDERTAKE THE PROCUREMENT FOR THIS PURPOSE, FOR ISSUANCE OF MEMORANDUM CIRCULAR

RESOLUTION NO. 267

Series of 2022

WHEREAS, Rule XVI, Section 48. Alternative Methods of the Republic Act 9184 and its Implementing Rules and Regulations provides that subject to the prior approval of the HOPE, and whenever justified by the conditions provided in the IRR, the Procuring Entity may, in order to promote economy and efficiency, resort to any of the alternative methods of procurement provided in this Rule. In all instances, the Procuring Entity shall ensure that the most advantageous price for the Government is obtained;

WHEREAS, Rule XVI provides further that the method of procurement to be used shall be as indicated in the approved APP. If the original method of procurement recommended in the APP was competitive bidding but cannot be ultimately pursued, the BAC, through a resolution, shall justify and recommend the change in the method of procurement to be approved by the HOPE. Such changes must be reflected in the APP to be submitted to the GPPB, pursuant to Section 7.4 of the IRR;

WHEREAS, the Committee conducted procurement activities of fuel and lubricants for various provincial offices and road maintenance activities adopting the Competitive Bidding default mode of procurement, from January 2021 to April 2021. Despite proper market engagement, conduct of pre-bid conferences and advertisement efforts made for these, the same resulted to failure of biddings for ten (10) procurement activities with the total amount of P7,948,389.25 due to absence of interested bidders; and a total of Approved Budget for the Contract (ABC) in the amount of P35,847,908.38 for cancelled procurement activities in the first quarter of CY 2022 due to absence of interested bidders;

WHEREAS, the Committee conducted procurement activities of fuel and lubricants for various provincial offices and road maintenance activities adopting the Alternative Method of Procurement under Section 52.1 (b) of the IRR particularly Shopping, where, by definition, it is a method of procurement of goods whereby the Procuring Entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This practice needs to be corrected as recommended by the BAC-Technical Working Group for the Customized Provincial Procurement Operations Manual (CPPOM) Resolution Recommending Approval of the draft CPPOM under Resolution No. 01, Series of 2021, considering the provision of the proper method of procurement as mentioned in the IRR, updated as of December 2021;

WHEREAS, Section 53.14 of the IRR provides for the applicability conditions under Direct Retail Purchase of Petroleum Fuel, Oil and Lubricant (POL) Products and Airline Tickets. Where Goods and Services are required by a Procuring Entity for the efficient discharge of its principal mandate, governmental functions, or day-today operations, direct retail purchase of (i) petroleum fuel, oil and lubricant (POL) products; and (ii) airline tickets may be made by end-users delegated to procure the same from identified direct suppliers or service providers;

WHEREAS, the Committee deemed it proper to intervene and create a different approach in terms of the procurement of fuel and lubricants for various provincial offices and road maintenance activities considering procurement performance from CY 2021 to April 2022; and as justified by the conditions present under Section 53.14 of the IRR considering it more advantageous to the government;





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WHEREAS, on motion of Ms. Emelia C. Palero, seconded by Dr. Alfredo A. Lacerona, it was;

RESOLVED, that due to the need to adopt the proper method of procurement for fuel and lubricants and the foregoing conditions, the Committee deemed it proper to:

a. Delegate the authority to all requisitioning offices to conduct Negotiated Procurement under Direct Retail of POL Products and Airline Tickets; and

b. Recommend to the HOPE the issuance of Memorandum Circular, providing for the guidelines on the Direct Retail Purchase of Petroleum Fuel, Oil and Lubricant (POL) Products, viz:

SECTION 1. DELEGATION OF AUTHORITY

The conduct of Negotiated Procurement under Direct Retail Purchase of POL Products shall be delegated to the respective requisitioning offices following the Conditions as stated herein.

For this purpose, the conduct of Direct Retail Purchase shall be delegated to the end-user units to efficiently and expeditiously deal with the pressing need sought to be addressed, in particular the authority to:

- a) Recommend any change/revision in the Annual Procurement Plan (APP) to cover the Procurement Project that will be resorting to Negotiated Procurement (Petroleum Fuel, Oil and Lubricant (POL) Products and Airline Tickets) under Section 53.14 of the Revised IRR subject to the validation by the end-user units that there are funds in the budget to cover the same;
- b) Negotiate with a legally, technically, and financially capable supplier for procurement undertaken through any of the allowable instances of Negotiated Procurement (Petroleum Fuel, Oil and Lubricant (POL) Products and Airline Tickets) under Section 53.14 of the Revised IRR.; and
- c) Award Contracts/Purchase Order under Negotiated Procurement (Petroleum Fuel, Oil and Lubricant (POL) Products and Airline Tickets) under Section 53.14 of the Revised IRR is hereby delegated to the authorized representatives of the HOPE by virtue of the issued Office Order No. 45, s. 2020 dated April 8, 2020 entitled *Amending Office Order No. 340-A dated November 15, 2019 relative to the Delegation of Signing and Other Financial Administrative Authority Specifically Section I-Financial Matters.*

For record and monitoring purposes, all awards shall be immediately reported with all supporting documents to the HOPE, through the BAC, to ensure compliance with all the conditions and requirements provided for under R.A. 9184, its IRR and related guidelines.

SECTION 2. POLICY STATEMENT

All procurement of POL products shall be done through competitive bidding, except when the Procuring Entity has determined that Direct Retail Purchase is the best modality for the procurement of non-bulk POL products or where fees for additional services or functionalities are charged on top of the payment for the required POL products.

Where Goods and Services are required by a Procuring Entity for the efficient discharge of its principal mandate, governmental functions, or day-to-day operations, direct retail purchase of POL products may be made by end-users delegated to procure the same from identified direct suppliers or service providers.

SECTION 3. CONDITIONS

The procurement of POL products can be contracted by the end-user to identified direct suppliers or service providers under the following conditions:





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i. For petroleum fuel (gasoline, diesel, and kerosene), oil and lubricants:

a.) Direct retail purchase of POL products estimated to be necessary for the operations of the Procuring Entity within the fiscal year, including provisions for foreseeable emergencies based on historical records, shall be reflected in the annual procurement plan (APP) in its entirety including any amendment thereto which shall be reflected in the supplemental APP;

b.) Direct purchase must be made from any available retailers, dealers or gas stations at retail pump price;

c.) The requirement must be intended to be used for any official government vehicles and equipment for immediate consumption; and

d) Payment may be made through cash advance, reimbursement or other allowable payment modalities subject to pertinent auditing and accounting rules.

SECTION 4. ANNUAL PROCUREMENT PLAN (APP)

The method of procurement, e.g., competitive bidding or any of the alternative methods of procurement, to be utilized by the Procuring Entity shall be indicated in the APP to be approved by the HOPE. If the original mode of procurement in the APP cannot be ultimately pursued, for this method of procurement, the appropriate end-user office, shall recommend such change in the mode of procurement, to reflect in the Supplementary/Amendatory APP, to be approved by the HOPE.

The changes/revision must be submitted to the BAC Secretariat before negotiation with the supplier, and must be reflected in the APP and submitted to the GPPB in accordance with Section 7.4 of the IRR of R.A. 9184.

SECTION 5. DOCUMENTARY REQUIREMENTS

The mandatory documents to be submitted by suppliers upon negotiation and to be attached in the documents for processing of payment for this method of procurement, shall be the following, viz:

Documentary Requirements (Suppliers)	Basis
a) Mayor's permit b) BIR Certificate of Registration	<p>RA 9184 (Implementing Rules & Regulations)</p> <p>Section 53. Negotiated Procurement Negotiated Procurement is a method of procurement of Goods, Infrastructure Projects and Consulting services, whereby the Procuring Entity directly negotiates a contract with a technically, legally and financially capable supplier, contractor or consultant xxx</p>
c) Omnibus Sworn Statement	<p>COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx</p> <ul style="list-style-type: none"> • Statement of the prospective bidder that it is not blacklisted or





	<p>barred from bidding by the Government or any of its agencies, offices, corporations or LGUs</p> <ul style="list-style-type: none"> Sworn affidavit of the bidder that it is not related to the HOPE by consanguinity or affinity up to the third civil degree
<p>d) PhilGEPS Registration Number (Number only Red or Platinum Membership)</p>	<p>1. COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx</p> <ul style="list-style-type: none"> Proof of posting of Notice of Award in the PhilGEPS website, the website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity <p>2. RA 9184 (Implementing Rules & Regulations)</p> <p>Section 54.3 In all instances of alternative methods of procurement, the BAC, through the Secretariat, shall post, for information purposes, the notice of award, contract or purchase order, including notice to proceed if necessary, in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity, except for contracts with ABC of Fifty Thousand Pesos (P50,000.00) and below.</p>

The mandatory documents to be submitted by end-user offices to be attached in the documents for processing of payment for this method of procurement, shall be the following, viz:

Documentary Requirements (Agency)	Basis
<p>a) Annual Procurement Plan (APP)</p>	<p>RA 9184 (Implementing Rules & Regulations)</p> <p>Section 7.4. Changes to the individual PPMPs and the consolidated APP may be undertaken every six (6) months or as often as may be required by the HoPE. The respective end-user or implementing units of the Procuring Entity shall be responsible for the changes to the PPMPs, while the BAC Secretariat shall be responsible for the consolidation of these PPMPs into an APP, which shall be subject to the approval of the HoPE.</p>
<p>b) Purchase Request (PR)</p>	<p>COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx Request for purchase or requisition of supplies, materials and equipment, duly approved by proper authorities</p>





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<p>c) BAC Resolution Delegating Authority to End-user Units to conduct of Direct Retail Purchase</p>	<p>GPPB Resolution No. 24-2019, dated 30 October 2019 ANNEX "H" Part IV</p> <p>J. Delegation of Authority</p> <p>For Negotiated Procurement under Section 53.14, the BAC and the HOPE through a Resolution and issuance for the purpose, respectively, shall delegate to specific officials, personnel, committee or office in the Procuring Entity the conduct of Direct Retail Purchase to efficiently and expeditiously deal with the pressing need sought to be addressed. xxx</p>
<p>d) Notice of Award (NOA)</p>	<p>1. GPPB Resolution No. 24-2019, dated 30 October 2019 ANNEX "H" Part IV</p> <p>J. Delegation of Authority xxx For record and monitoring purposes, all awards shall be immediately reported with all supporting documents to the HOPE, through the BAC, to ensure compliance with all the conditions and requirements provided for under R.A. 9184, its IRR and related guidelines.</p> <p>2. COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx</p> <ul style="list-style-type: none">• Proof of posting of Notice of Award in the PhilGEPS website, the website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity
<p>e) Purchase Order (PO)</p>	<p>1. COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx</p> <ul style="list-style-type: none">• Purchase Order/Letter Order/Contract, duly approved by the official concerned and accepted by the supplier (date of acceptance must be clearly indicated, especially when the time or date of delivery is dependent on or will be counted from the date of acceptance of the purchase order/letter order/contract)





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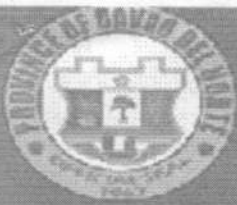
<p>f) Award Notice Abstract (PhilGEPS)</p>	<p>1. RA 9184 (Implementing Rules & Regulations)</p> <p>Section 54.3 In all instances of alternative methods of procurement, the BAC, through the Secretariat, shall post, for information purposes, the notice of award, contract or purchase order, including notice to proceed if necessary, in the PhilGEPS website, the website of the Procuring Entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the Procuring Entity, except for contracts with ABC of Fifty Thousand Pesos (P50,000.00) and below.</p> <p>2. COA Circular 2012-001 Revised Documentary Requirements for Common Government Transactions</p> <p>Item no. 9.2 (pp. 43-48) Procurement through Alternative Modes Basic Requirements Common to All Purchases under Alternative Mode xxx Proof of posting of Notice of Award in the PhilGEPS website, the website of the procuring entity concerned, if available, and at any conspicuous place reserved for this purpose in the premises of the procuring entity</p>
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SECTION 6. TERMS AND CONDITIONS

The following Terms and Conditions shall reflect the Purchase Request (PR) and Purchase Order (PO), viz:

1. Bid Prices for procurement using the Retail Pump Price or the price of petroleum fuel per liter, such as, gasoline, diesel oil and kerosene, as established by retailers, dealers or gas stations for the day. Cost for E-VAT and other governmental costs which fall equally on all prospective suppliers are presumed to be included in the computation of the bid price at the time of delivery.
2. For staggered deliveries, the procuring entity shall make, after every delivery, an accounting of the amount actually payable based on the date of the delivery receipt to determine the allowable unit/volume that may still be ordered from the remaining amount allotted for each POL product. The procuring entity shall be allowed to make adjustments in the units/volume to be delivered per type of product to conform to the remaining amount in the total contract price.
3. The supplier shall be responsible to dispense fuel to _____ (End-user unit) vehicles only and ensure that issued fuel will not exceed PO allocation.
4. Fuel, Oil, Lubricants and Other Services shall be available to the _____ (End-user unit) upon the issuance of the approved Purchase Order (PO). All purchases must be accompanied by properly accomplished and duly signed PO.





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5. The supplier shall ensure that a transaction slip/receipt/invoice shall be issued every time fuel is withdrawn or other products/services are given; that the transaction slips accurately reflects any and all purchases charged to the _____ (End-user unit); maintain a comprehensive register to record all withdrawals made on a per vehicle basis; issue an accurate Statement of Account with copies of transaction slip/receipt/invoice on a monthly basis.
6. Payment shall be made by the _____ (End-user unit) within _____ calendar days from receipt of the _____ (weekly, monthly, or quarterly) billing with complete attachments covering actual purchases.
7. The supplier shall provide immediately the following documentary requirements for the processing of payment, viz:
 - a) Mayor's permit
 - b) BIR Certificate of Registration
 - c) Omnibus Sworn Statement
 - d) PhilGEPS Registration Number (Number only Red or Platinum Membership)
8. The supplier shall be located within _____ (meter/kilometer) radius from the requisitioning office.
9. No advance withdrawal is allowed prior to the approval of the Purchase Order.
10. Additional fund allocation due to supplemental budget, augmentation shall follow the usual procedures of procurement.
11. The supplier shall provide fuel, oil, lubricants and other products/services requirement of the _____ (End-user unit) service vehicles including free of charge basic services like windshield cleaning, oil/water level checking, and tire pressure gauge measurement.
12. The _____ (End-user unit) reserves the right to withdraw or cancel the Purchase Order, should there issues which shall arise in terms of customer service or in accordance with Annex "I" of the 2016 revised IRR of RA No. 9184, without thereby incurring any liability to the affected supplier.

SECTION 7. POSTING REQUIREMENT.

Except for contracts with Approved Budget for Contract of Fifty Thousand Pesos (PhP50,000.00) and below, the Bids and Awards Committee, through the Secretariat shall post for information purposes the Notice of Award, contract or purchase order, including the Notice to Proceed, if necessary, in (i) the PhilGEPS website; (ii) the website of the Procuring Entity or its electronic procurement service provider, if any; and (iii) any conspicuous place in the premises of the Procuring Entity.

The End-User unit shall submit to the BAC Secretariat within three (3) calendar days upon issuance, copies of Notice of Award and Purchase Orders for the posting requirement as part of the pertinent documents in the processing of payment.





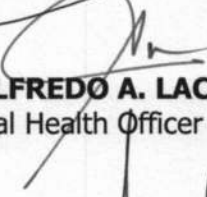
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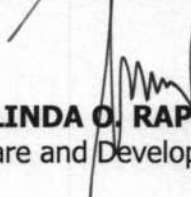
RESOLVED FURTHER, to submit to the Office of the Local Chief Executive, Honorable Edwin I. Jubahib a copy of this Resolution for his information and approval; and in case of approval, a copy of the Memorandum Circular shall be furnished to all offices;


RESOLVED this 11th day of April 2022 at PGSO Conference Room, 2F PGSO Bldg., Capitol Compound, Mankilam, Tagum City, Davao del Norte, Philippines.

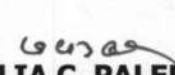
Recommending Approval:


ENGR. GLENN A. OLANDRIA
Provincial Engineer- Member


DR. ALFREDO A. LACERONA
Provincial Health Officer -Member


MS. ROSALINDA O. RAPISTA, RSW
Provincial Social Welfare and Development Officer-Member



MR. NELSON F. PLATA, MPA
PG Department Head-PPDO – BAC Member


MS. EMELIA C. PALERO, CPA
Provincial Budget Officer – BAC Member


ENGR. JIVELLYN B. CO, MPA
Provincial General Services Officer-BAC Vice Chairperson


MR. DENNIS B. DEVILLERES, LL.B.
Provincial Economic Enterprise Development Officer-BAC Chairperson

Approved by:


EDWIN I. JOBAHIB
Governor

