

CUSTOMIZED CODE OF CONDUCT FOR OFFICIALS AND EMPLOYEES OF THE OFFICE OF THE OMBUDSMAN INVOLVED IN THE PROCUREMENT PROCESS

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I. Purpose:

Procurement involves disbursement of public funds or funds placed under its official custody and the basic rule is that such funds should be properly spent by the Office. If the procurement is well managed by those involved in the procurement process, then, corruption and wastage of resources are avoided.

The Office of the Ombudsman is committed to the principle of good governance and it has exerted efforts to adhere to the principle of transparency, accountability, equity, efficiency, competitiveness and economy in the conduct of its procurement of Goods (all items, supplies, materials, equipment and general services) and Consulting Services and in contracting Infrastructure Projects. To ensure the integrity of the procurement process in the Office, it is essential to establish a customized Code of Conduct for all its officials and employees involved in the procurement process.

II. Scope:

This customized Code of Conduct shall apply to all officials and employees of the Office who are involved in the procurement process, namely: the BAC, the TWG, the TIG, the BAC Secretariat, the PMS/GSD, the FMS, the Accounting Division, the Planning and Budget Division, the Cashiering Unit, the Officials who are signatories to the Contracts/Agreements and the respective end-users.

III. Policies and Rules:

Section 1. Definition of Terms

As used herein, the term:

1.a Procurement _ refers to the acquisition of Goods and Consulting Services, and the contracting for Infrastructure Projects by the Office of the Ombudsman.

1.b Goods _ refer to all items, supplies, materials, equipment and general support services.

1.c Consulting Services _ refer to services for Infrastructure Projects and other types of projects or activities of Government requiring adequate external technical and professional expertise including advisory and review services, pre-investment or feasibility studies, design, construction supervision, management and related services, and other technical services or special studies.

1.d Infrastructure Projects / Civil Works - include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, rail

ways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage & solid waste management systems,

shore protection, energy / power and electrification facilities, national buildings, school buildings, hospital buildings and other related construction projects of the government.

1.e Code _ refers to the customized Code of Conduct for the Office of the Ombudsman BAC other Committees/Offices involved in procurement.

1.f Office _ refers to the Office of the Ombudsman.

1.g Gift _ refers to a thing disposed of gratuitously in favor of another, and shall include a simulated sale or a disposition onerous to the giver.

1.h Benefit _ refers to a right, privilege, entertainment, exemption or any other similar act of liberality in favor of another.

1.i BAC Secretariat _ refers to the members of the support staff to the Bids and Awards Committee and the custodians of the procurement records.

1.j Suppliers / Contractors _ refer to persons or group of persons, or entities that supply Goods and Consulting Services and contract for Infrastructure Projects.

1.k BAC _ Bids and Awards Committee

1.l TWG _ Technical Working Group

1.m TIG _ Technical Inspection Group

1.n PMS _ Property Management Section

1.o GSD _ General Services Division

1.p IRR-A _ Implementing Rules and Regulations Part A

1.q COA _ Commission on Audit

1.r NGO _ Non-Government Organization

1.s PS-DBM _ Procurement Service Department of Budget and Management

1.t FMS _ Finance and Management Services

1.u End-user _ refers to the officers and employees of the unit for which the Goods, Consulting Services and Infrastructure Projects are intended.

1.v Signatories to the Contract - refer to the Officials who execute and sign the contract / agreement for the Office.

Section 2. General Provisions

The Chairman and Members of the Ombudsman BAC, TWG, TIG, the BAC Secretariat, and the officials and employees of the PMS / GSD, FMS, Planning and Budget Division, Accounting Division, Cashiering Unit, and the signatories to the contract, while in the performance of their duties and responsibilities as such, shall:

2.a Adhere strictly to the principles and provisions of laws and rules promoting transparency, accountability, equity, efficiency, professionalism, competitiveness and economy in procurement.

2.b Strictly avoid all situations that may give rise or tend to give rise to situations of conflict of interests or suspicions of conflict of interests. Should a conflict of interest arise, pursuant to Rule V of OMB Office Order

Number 05-13 dated January 24, 2005, on the Norms of Behavior for Officials and Employees of the Office of the Ombudsman, it shall be the duty of the concerned official or employee to immediately disclose the same to his/her immediate supervisor and terminate the same, by way of a written declaration hereof. The written declaration on conflict of interest may be done periodically or for every contracting process.

2.c Absolutely refrain from soliciting and/or accepting, directly or indirectly, gifts and benefits for themselves or for others, from the suppliers, contractors and/or consultants regardless of whether or not said suppliers, contractors and/or consultants are transacting business with the Office of the Ombudsman.

2.d Absolutely refrain from accepting invitations or offers from suppliers, contractors and/or consultants or their representatives for meetings and conferences outside the Office.

2.e Strictly refrain from having personal contacts or interactions with suppliers, contractors and/or consultants. The latter are not allowed to enter the office premises, unless necessary to transact official business in which case their stay shall not be longer than what is required to finish their official transaction.

2.f Strictly adhere to the mandated time frames as provided for in Republic Act No. 9184 and its Implementing Rules and Regulations.

2.g Refrain from unduly influencing or exerting undue pressure upon any member of the BAC or any officer or employee of the procuring entity or office to take a particular action which favors, or tends to favor a particular supplier, contractor and/or consultant.

2.h Strictly refrain from inviting as guests and getting as ninongs, ninangs, sponsors or donors the suppliers / contractors and/or consultants transacting business with the Office to avoid closeness and familiarity as well as the perception that undue benefit and/or advantage is being given to the member concerned of the BAC, TWG, TIG, PMS/GSD, BAC Secretariat, FMS, Planning and Budget Division, Accounting Division, Cashiering Unit, as well as the signatories to the contract.

2.i Strictly observe the norms of behavior enunciated under Office Order Number 05-13 dated January 24, 2005, particularly on the provisions relating to Conflict of Interests and Confidentiality of proceedings.

Section 3. Specific Provisions

3.1 For the Bids and Awards Committee -

The BAC, in the performance of its duties and responsibilities, shall:

3.1.a Only have official contacts with suppliers, contractors and/or consultants whenever necessary during the pre-bid conference and opening of bids.

3.1.b Refrain from entertaining procurement transactions/queries from suppliers, contractors and/or consultants except through the BAC Secretariat.

3.1.c Attend the regular meetings of the BAC as scheduled.

3.2 For the BAC Secretariat _

The BAC Secretariat, in the performance of its duties and responsibilities, shall:

3.2.a Only have official contacts with suppliers, contractors and/or consultants whenever necessary during the bidding process.

3.2.b Prepare the necessary report/s and proper recording of all procurement transactions to ensure accountability

and transparency.

3.2.c Be under the direct control, supervision and monitoring of the BAC.

3.3 For the Technical Working Group _

The TWG, in the performance of its duties and responsibilities, shall:

3.3.a Only have official contacts with the concerned suppliers, contractors and/or consultants whenever necessary during the pre-bid conference, the opening of bids, the evaluation and post qualification process, and before submission of the Evaluation Report.

3.3.b Conduct ocular inspections of the suppliers, contractors and/or consultants' business offices, premises, warehouses, outlets, stores and factories unannounced. The date of ocular inspection and the team to conduct the ocular inspection shall be specified by and with authority from the BAC for monitoring purposes. In no case shall the TWG use other resources than that of the Office in the conduct of ocular inspection.

3.3.c Prepare a brief report for the BAC after every ocular inspection indicating the itinerary of travel and the expenses incurred. Claims for refund of expenses shall be properly documented and in compliance with the existing auditing and accounting rules and regulations.

3.3.d Prepare the Technical Evaluation Report and submit the same to the BAC within the prescribed period pursuant to R.A. No. 9184 and its IRR-A.

3.4 For the Technical Inspection Group -

The TIG, in the performance of its duties and responsibilities, shall:

3.4.a Only have official contact with the suppliers or contractors whenever necessary during the delivery and acceptance of the delivered goods or the evaluation of the performance of the general support services rendered to the office.

3.4.b Conduct inspections of deliveries of goods and evaluation of general support services rendered to the Office by the suppliers or contractors:

- In the presence of the end-user, property custodian, and PMS Officer; and
- By rotation on a per delivery and per evaluation bases.

3.4.c Strictly comply with the Office specification/s in the conduct of inspection of goods and the evaluation of the general support services rendered to the Office by the suppliers or contractors.

3.5 For the Property Management Section / General Services Division _

The PMS/GSD, in the performance of their duties and responsibilities, shall:

3.5.a Only have official contact with the concerned suppliers, contractors and/or consultants whenever necessary prior to the preparation of the Purchase Orders (PO), the Job Orders (JO) or Contracts/Agreements, during the delivery of goods or general support services, and during the preparation of documents for payments. The PMS/GSD shall, in case of sealed canvass, contact the suppliers or contractors whenever necessary if there is a need to get information on certain goods or general support services and in the conduct of market probe.

3.5.b Prepare report/s and keep the records on procurement transactions pursuant to COA rules for submission to the Overall Deputy Ombudsman.

3.6 For the Finance and Management Services, the Planning and Budget Division, the Accounting Division and the Cashiering Unit -

The FMS, the Planning and Budget Division, the Accounting Division and the Cashiering Unit, in the performance of their duties and responsibilities as such, shall:

3.6.a Expeditiously process payments of claims arising from procurement provided that the Notice of Cash Allocation has been released and all supporting documents are submitted by the concerned suppliers and the PMS/GSD.

3.6.b Accurately record all procurement transactions in the respective general and subsidiary ledgers.

3.6.c Periodically coordinate with PMS/GSD to reconcile any discrepancy in the inventory of goods.

3.6.d Properly coordinate with the concerned office/bureau to obtain the documents or information needed for the processing of claims for payments arising from procurement.

3.7 For the Signatories to the Contracts/Agreements -

The Officials of the Office who are authorized signatories to the contracts or agreements shall act within the prescribed period as provided for under Republic Act No. 9184 and its IRR-A.

3.8 For the End-Users _

The end-user shall have the following duties and responsibilities:

3.8.a Maintain and update records of goods received, consumed and/or disposed.

3.8.b Submit to the Overall Deputy Ombudsman or the BAC a report involving any discrepancy, irregularity, or defect in the procurement of goods involving their respective unit/bureau/office using, among others, the End-User Feedback form.

Section 4. Accountability - All officials and employees involved in procurement shall strictly comply with the office requirements on authorized signatories and approving authorities. To strengthen accountability, a regular review of contracts as well as audits of procurement decisions shall be made by an independent Review Committee to be created for the purpose.

Section 5. Transparency - For transparency, officials and employees having custody of documents pertaining to procurement, which are not classified as confidential, shall make available for inspection the requested document upon written request by the interested party indicating the legal purpose, subject to prior approval of the Bids and Awards Committee. For this purpose, contract registers shall be maintained by the BAC which shall include among other things, data on the notice to bidders, product/service description, start and finish of contract, names and addresses of the participating bidders/parties involved, contract value, date of last audit conducted by the independent Review Committee and audit result, the names of all personnel involved in the procurement process.

IV. Penalties/Sanctions

Any violation of these Rules shall be a ground for disciplinary action, without prejudice to the filing of appropriate criminal charges against the erring official and/or employee.

V. Separability Clause

If any provision of this Code is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

VI. Effectivity

This Office Order shall take effect fifteen (15) days after its publication in the Official Gazette and upon the filing with the University of the Philippines Law Center of three (3) certified copies thereof, including its publication in a newspaper of general circulation for three (3) consecutive weeks.

Adopted: 20 Oct. 2005

(SGD.) MARGARITO P. GERVACIO, JR.
The Overall Deputy Ombudsman

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