



# COA - Constitutional Mandate

The Commission on Audit shall have the authority to “examine, audit and settle, in accordance with law and regulations, all accounts pertaining to the **revenues and receipts of**, and expenditures and uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations; keep the general accounts of the government and, for such period as may be provided by law, preserve the vouchers pertaining thereto; and promulgate accounting and auditing rules and regulations including those for the prevention of irregular, unnecessary, excessive, or extravagant expenditures of funds or property.

*(Section 2 of Article IX-D of the Philippine Constitution)*

# *The Commission On Audit...*



*COA @ 118: Enabling Partner for  
Better Government Service*

# Vice Mayors' League of the Philippines

*“A Just and Humane Society, a Local Government that Shall Embody Our Ideals and Aspirations for a Peaceful, Economically Progressive and United People through Effective Governance and Responsive and Pro-Active Local Legislation.”*



# **6<sup>th</sup> Module of the Academy of Presiding Officers – 4<sup>th</sup> Cycle**

**October 24, 2018**

# Topics

- \* Updates on the guidelines of the COA on Procurement
- \* Practical tips for the Sanggunian in examining the utilization of LGU funds as part of their oversight functions
- \* Discussion of the Commission's latest issuances with regard to LGUs
- \* ***Prescribing the use of the Rules and Regulations on Settlement of Accounts***

*Powers and Duties:*

# *Municipal Vice Mayor*

**\* Section 445**

- \* (1) Be the presiding officer of the sangguniang bayan and sign all warrants drawn on the municipal treasury for all expenditures appropriated for the operation of the sangguniang bayan;
- \* (2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang bayan, except those whose manner of appointment is specifically provided in this Code;
- \* (3) Assume the office of the municipal mayor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;
- \* (4) Exercise the powers and perform the duties and functions of the municipal mayor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and
- \* (5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

*Powers and Duties:*

# *City Vice Mayor*

## **Section 456**

- \* (1) Be the presiding officer of the sangguniang panlungsod and sign all warrants drawn on the city treasury for all expenditures appropriated for the operation of the sangguniang panlungsod;
- \* (2) Subject to civil service law, rules and regulations, appoint all officials and employees of the sangguniang panlungsod, except those whose manner of appointment is specifically provided in this Code;
- \* (3) Assume the office of the city mayor for the unexpired term of the latter in the event of permanent vacancy as provided for in Section 44, Book I of this Code;
- \* (4) Exercise the powers and perform the duties and functions of the city mayor in cases of temporary vacancy as provided for in Section 46, Book I of this Code; and
- \* (5) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.



# *Powers, Duties, Functions of Sanggunian*

## **\* Section 447.**

- \* (1) Approve ordinances and pass resolutions necessary for an efficient and effective municipal government, xxx (12)
- \* (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto, xxx (15)
- \* (3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall: xxx (7)

# *Powers, Duties, Functions of Sanggunian*

- \* (4) Regulate activities relative to the use of land, buildings and structures within the municipality in order to promote the general welfare and for said purpose shall: (9)
- \* (5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall: (16)
- \* (6) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

# Updates on the guidelines of the COA on Procurement

- \* There are no updates in recent issuances of COA that dealt on Procurement

# GPPB updates

- \* *CIRCULAR 02-2018 9 March 2018*
- \* **This Circular is being issued to maximize the conduct of Pre-bid Conference to minimize the occasions of bidders' disqualification due to non-compliance with the bidding requirements.**
- \* BAC to Have a Proactive Role during the Conduct of Pre-bid Conference
  - \* Supplemental/Bid Bulletin
  - \* post the Minutes of the Pre-bid Conference in the procuring entity's website.

# GPPB updates

- \* RESOLUTION NO. 07-2018
- \* **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**
  - \* Section 5.1, Progress Payment
  - \* Section 5.2, Progress Payment
  - \* Section 5.3 of Annex “E”, Progress Payment and GCC Clause 40.2 of the PBDs for Infrastructure Projects
- “Alternatively, the Procuring Entity may require in the Bidding Documents that statement of work accomplished or progress billing and the corresponding request for progress payment may only be submitted upon actual completion of the infrastructure project or a specific portion, segment, milestone or phase thereof. “
- \*

# GPPB updates

- \* RESOLUTION NO. 06-2018
- \* **APPROVING THE AMENDMENT TO THE GUIDELINES ON LEASE OF REAL PROPERTY AND VENUE UNDER ANNEX “H” OF THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT (RA) NO. 9184**
- \* “i. Prior to the expiration of the lease contract, the end-user of the procuring entity must conduct a cost-benefit analysis of the lease. For instance, it must compare the rental rates charged by its lessor against other lessors in the area. It must also analyze whether entering into a new contract will be more expensive taking into consideration the cost of transfer and accessibility to the public. In assessing the existing lease, PEs are encouraged to consult relevant government agencies regarding any new policy or directive in the lease of real property.
  
- \* ii. If the results of the CBA, conducted by the end-user, continue to favor the existing lessor, then the Head of the Procuring Entity (HoPE) may simply renew its lease contract. If it does not, then the PE should procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and this guidelines. For efficiency and economy, during the effectivity of the contract, or upon its renewal, the PE may consider the expansion or reduction of the space provided by the existing lessor, provided procure a new lease contract in accordance with Section 53.10 of the IRR of RA 9184 and this guidelines. For efficiency and economy, during the effectivity of the contract, or upon its renewal, the PE may consider the expansion or reduction of the space provided by the existing lessor, provided that the leased premises can accommodate the space requirements of the PE in case of expansion, based on the need of the PE and the best way by which such need may be addressed and satisfied, subject to existing budgeting, accounting and auditing rules.”;

# GPPB updates

- \* RESOLUTION NO. 03-2018
- \* **APPROVING THE AMENDMENT TO SECTION 22.4 OF THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184 AND ISSUANCE OF CIRCULAR ON THE CONDUCT OF PRE-BID CONFERENCE**
  - \* 1. Amendment of Section 22.4 of the 2016 IRR of RA 9184 to read as:
    - \* “22.4. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request. The minutes of the pre-bid conference shall likewise be posted in the website of procuring entities.
  - \* Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.” 2. Issuance of a Circular on the Conduct of Pre-bid Conference, copy of which is hereto attached as Annex “A”.

# GPPB updates

- \* RESOLUTION NO. 40-2017
- \* **APPROVING THE REVISED GUIDELINES FOR BLACKLISTING OF MANUFACTURERS, SUPPLIERS, DISTRIBUTORS, CONTRACTORS AND CONSULTANTS**
- \* 1. No need to mention the term “spouse” in the effect of blacklisting of individuals; 2. Clarify that the penalty of Suspension is applicable in any bidding process of the agency;
- \*
- \* 3. Clarify that the blacklisting after the lapse of project duration shall be applicable only prior to contract closure; and
- \*
- \* 4. Change the protest mechanism to appeals procedure to avoid confusion with the protest mechanism during bidding process;
- \*



# GPPB updates

- \* RESOLUTION NO. 36-2017
- \* **APPROVING AMENDMENTS TO THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT NO. 9184 AND THE FIFTH (5th) EDITION OF THE PHILIPPINE BIDDING DOCUMENTS (PBDs)**
- \* **2017**
- \* 1. Amendment to Sections 24.4.3, 25.2(a)(i), 25.2(b)(i) and 37.1.4(a)(ii) to refer to the Guidelines for the Procurement of Goods and Services, Infrastructure Projects, and Consulting Services to be Procured and Performed Abroad and remove the existing rules on the submission of documentary requirements by bidders in Foreign Service ; 2. Amendment to Section 2, Appendix “A”, Annex “H”, to allow the submission of PhilGEPS Registration Number and other documentary requirements until issuance of Notice of Award only; and
- \* Amendment to Section 38.2 to provide rules on rescheduling of deadline for bid submission and other procurement activities that falls on other non-working days duly declared by the President, Governor, Mayor or other Government Official authorized to make such declaration.

# GPPB updates

- \* RESOLUTION NO. 36-2017
- \* **2016**
  
- \* 1. Include a provision in the IRR that any change in the original Bidding Documents for the Procurement of Consulting Services prior to Eligibility Checking and Shortlisting shall be issued at least seven (7) calendar days before the deadline for the submission of eligibility documents; and
  
- \* 2. Amend the provisions of the 5th Edition of the Philippine Bidding Documents (PBDs) corresponding to the proposed amendments to the IRR.

# GPPB updates

- \* RESOLUTION NO. 34-2017

- \* **CONFIRMING THE APPROVAL OF THE SECOND EDITION OF THE GENERIC PROCUREMENT MANUALS**

- \*

- \* 1. Consistency with the 2016 Revised IRR of RA 9184, the 5th Edition of the PBDs and other existing procurement guidelines and associated issuances; and

- \*

- \* 2. Inclusion of clarificatory discussion on some of the provisions of the 2016 revised IRR of RA 9184 taking into consideration the instructions of the GPPB and IATWG during the review of the IRR and PBDs.

- \*

# GPPB updates

- \* RESOLUTION NO. 30-2017

- \* **APPROVING ADDITIONAL AMENDMENT TO THE 2016 REVISED IMPLEMENTING RULES AND REGULATIONS (IRR) OF REPUBLIC ACT NO. 9184**

- \* Section 62.1 of the 2016 Revised IRR of RA 9184 to read as:


- \* “For the procurement of Goods, in order to assure that manufacturing defects shall be corrected by the supplier, a warranty security shall be required from the contract awardee for a minimum period of three (3) months, in the case of Expendable Supplies, or a minimum period of one (1) year, in the case of Non-expendable Supplies, after acceptance by the Procuring Entity of the delivered supplies.

- \* The obligation for the warranty shall be covered by either retention money in an amount equivalent to at least one percent (1%) but not to exceed five percent (5%) of every progress payment, or a special bank guarantee equivalent to at least one percent (1%) but not to exceed five percent (5%) of the total contract price. The said amounts shall only be released after the lapse of the warranty period or, in the case of Expendable Supplies, after consumption thereof: Provided, however, That the supplies delivered are free from patent and latent defects and all the conditions imposed under the contract have been fully met

- \*  
\*  
\*

# GPPB updates

- \* RESOLUTION NO. 25-2017
- \* **RECOGNIZING THE GREEN PUBLIC PROCUREMENT (GPP) ROADMAP AND ADOPTING THE TECHNICAL SPECIFICATIONS FOR THE TEN (10) COMMON-USE SUPPLIES AND EQUIPMENT (CSE) AND TEN (10) NONCOMMON-USE SUPPLIES AND EQUIPMENT**
  
- \* GPP List of Prioritized CSE and Non-CSE products (NON-CSE)
- \* A. Prioritized CSE Products
- \* 1. Multi-Copy Paper; 2. Toilet Paper; 3. Record Books; 4. Cleaner; 5. Trash Bag; 6. Disinfectant Spray; 7. Chairs; 8. Detergent Powder; 9. Liquid Hand Soap; and 10. LED Lights/Bulbs.
  
- \* B. Prioritized Non-CSE Products
- \* 1. Computer Monitors, Desktop Computers and Laptops; 2. Air Conditioners; 3. Vehicles; 4. Fridges and Freezers; 5. Copiers; 6. Paints and Varnishes; 7. Food and Catering Services; 8. Training Facilities / Hotels / Venues; 9. Toilets and Urinals; and 10. Textiles / Uniforms and Work Clothes.
- \*



\* Practical tips for the Sanggunian in examining the utilization of LGU funds as part of their oversight functions

Practical tips for the Sanggunian in  
**examining the utilization of LGU funds**  
as part of their oversight functions

- \* Phases of the Budget Process

- \* Budget Preparation
- \* **Budget Authorization**
- \* Budget Execution
- \* Budget Accountability

## *Budget Authorization*

- \* Annual Procurement Program
- \* Annual Investment Plan
- \* 20% Development Plan
- \* GAD Plan
- \* DRRM Plan
- \* Plantilla of Positions



*Practical tips for the Sanggunian in*  
**examining the utilization of LGU funds**  
*as part of their oversight functions*

**\* Budget Authorization**

- \* Scrutinize the budget prepared by the Executive
  - \* Department Heads to attend and defend their budget proposals.
    - \* What do you need?

*Practical tips for the Sanggunian in*  
***examining the utilization of LGU funds***  
*as part of their oversight functions*

- \* Budget deliberation on proposals of Departments/Offices are important; yet, you need to check on two important matters.

*Practical tips for the Sanggunian in*  
***examining the utilization of LGU funds***  
*as part of their oversight functions*

1. Were targets set in the preceding years met?
  - \* Treasury and other revenue generating departments/units:
    - \* Assessor's Office
    - \* Business Permits and Licensing Office
    - \* Markets
    - \* Economic Enterprises
    - \* Building Official

*Practical tips for the Sanggunian in*  
***examining the utilization of LGU funds***  
*as part of their oversight functions*

2. Were Department and other Offices in the LGU prudent in their spending of government funds?

# Sources of Information

- \* Reports
  - \* Management Reports
  - \* Accountants
  - \* COA Annual Audit Reports

*Practical tips for the Sanggunian in*  
**examining the utilization of LGU funds**  
*as part of their oversight functions*

- \* **Annual Audit Report (AAR)**
- \* 1. Read the copy of the AAR of the Commission on Audit furnished yearly by the Office of the Auditor
  - a. Statement of Financial Condition
  - b. Statement of Financial Performance
  - c. **Statement of Comparison of Budget and Actual Amount**
  - d. Auditor's Opinion
  - e. Findings and Recommendation that have impact on legislation

# Question?

- \* Is it possible that Vice Mayors and the Sanggunians they preside over can be the keys to an economically progressive local government units; or conversely speaking, could it be that progress is far fetched because the Vice Mayors and Sanggunians may be sleeping on their jobs?

# Practical tips for the Sanggunian

- \* Do not concentrate only on the examination of the utilization of LGU funds.
- \* Revisit the mandate of the Sanggunian
  - \* there are 6 major functions and each has specific functions numbering 52 in all



# No. 2 Function of Sanggunian

- \* (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto, shall:

# No. 2 Function of Sanggunian

- \* (i) Approve the annual and supplemental budgets of the municipal government and appropriate funds for specific programs, projects, services and activities of the municipality, or for other purposes not contrary to law, in order to promote the general welfare of the municipality and its inhabitants;
- \* **(ii) Subject to the provisions of Book II of this Code and applicable laws and upon the majority vote of all the members of the sangguniang bayan, enact ordinances levying taxes, fees and charges, prescribing the rates thereof for general and specific purposes, and granting tax exemptions, incentives or reliefs;**
- \* (iii) Subject to the provisions of Book II of this Code and upon the majority vote of all the members of the sangguniang bayan, authorize the municipal mayor to negotiate and contract loans and other forms of indebtedness;

# No. 2 Function of Sanggunian

- \* **(vii) Adopt a comprehensive land use plan for the municipality: Provided, That the formulation, adoption, or modification of said plan shall be in coordination with the approved provincial comprehensive land use plan;**
- \* **(viii) Reclassify land within the jurisdiction of the municipality, subject to the pertinent provisions of this Code;**
- \* **(ix) Enact integrated zoning ordinances in consonance with the approved comprehensive land use plan, subject to existing laws, rules and regulations; established fire limits or zones, particularly in populous centers; and regulate the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of this Code;**

# Practical tips for the Sanggunian

- \* Revenue generation
  - \* When was the last time that the Revenue Code or tax ordinances enacted/updated?
  - \* When was the last time the LGU has the schedule of market values revised?

*\* Supreme Court Decision*

**G.R. No. 175527 - HON. GABRIEL LUIS  
QUISUMBING, ET AL. v. HON.  
GWENDOLYN F. GARCIA, ET AL.**

- \* Gabriel Luis Quisumbing (Quisumbing), Estrella P. Yapha, Victoria G. Corominas, and Raul D. Bacaltos (Bacaltos), collectively petitioners, assail the Decision<sup>1</sup> of the Regional Trial Court (RTC) of Cebu City, Branch 9, in Civil Case No. CEB-31560, dated July 11, 2006, which declared that under the pertinent provisions of Republic Act No. 7160 (R.A. No. 7160), or the Local Government Code, and Republic Act No. 9184 (R.A. No. 9184), or the Government Procurement Reform Act, respondent Cebu Provincial Governor Gwendolyn F. Garcia (Gov. Garcia), need not secure the prior authorization of the *Sangguniang Panlalawigan* before entering into contracts committing the province to monetary obligations.

- \* The Commission on Audit (COA) conducted a financial audit on the Province of Cebu for the period ending December 2004. Its audit team rendered a report, Part II of which states: "Several contracts in the total amount of ₱102,092,841.47 were not supported with a *Sangguniang Panlalawigan* resolution authorizing
- \* the Provincial Governor to enter into a contract, as required under Section 22 of R.A. No. 7160."<sup>2</sup> The audit team then recommended that, "Henceforth, the local chief executive must secure a *sanggunian* resolution authorizing the former to enter into a contract as provided under Section 22 of R.A. No. 7160."<sup>3</sup>

*Supreme Court Decision*

G.R. No. 175527 - HON. GABRIEL LUIS QUISUMBING, ET AL. v.  
HON. GWENDOLYN F. GARCIA, ET AL.

- \* The question of whether a *sanggunian* authorization separate from the appropriation ordinance is required should be resolved depending on the particular circumstances of the case. Resort to the appropriation ordinance is necessary in order to determine if there is a provision therein which specifically covers the expense to be incurred or the contract to be entered into. Should the appropriation ordinance, for instance, already contain in sufficient detail the project and cost of a capital outlay such that all that the local chief executive needs to do after undergoing the requisite public bidding is to execute the contract, no further authorization is required, the appropriation ordinance already being sufficient.



*Supreme Court Decision*

G.R. No. 175527 - HON. GABRIEL LUIS QUISUMBING, ET AL. v. HON. GWENDOLYN F. GARCIA, ET AL.

- \* On the other hand, should the appropriation ordinance describe the projects in generic terms such as "infrastructure projects," "inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems projects," "reclamation projects" or "roads and bridges," there is an obvious need for a covering contract for every specific project that in turn requires approval by the *sanggunian*. Specific *sanggunian* approval may also be required for the purchase of goods and services which are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses.

# COA DECISION NO. 2013-167

*November 12, 2013*

- \* **Subject: Automatic review of Commission on Audit Regional Office No. IV Decision No. 2009-10 dated December 14, 2009 which lifted Notice of Disallowance No. 2006-048-101(02-03) dated February 6, 2006 relative to the acquisition by the Lucena City Government of Information Technology resources in the amount of P 10,562,319.00**
- \* The Vice Mayor also filed with the Office of the Deputy Ombudsman for Luzon a Motion for the Issuance of Preventive Suspension Order against the City Mayor and other City Officials, and for the Issuance of a Cease and Desist Order to stop the release of payment to Amellar. The Office of the Ombudsman found no reason to suspend the respondent City Officials but issued a Cease and Desist Order "enjoining further the release of payment to Amellar."

# COA DECISION NO. 2013-167

*November 12, 2013*

- \* **AOM was issued:**
- \* Lack of publication/ advertisement for the bidding;  
and
- \* The bidder's failure to register with, and be accredited by the NCC, which rendered the subject contract "of doubtful validity."
- \* The bid amount of more than P30 million was grossly disadvantageous to the government compared to Geodata's offer of P14.4 million.

# COA DECISION NO. 2013-167

November 12, 2013

- \* In sum, the procurement of IT resources through Limited Source Bidding was in violation of the law on public bidding. The Supreme Court in the case of Leopoldo Oani vs. People of the Philippines (G.R. No. 139984, March 31, 2005), citing Danville Maritime, Inc. vs. Commission on Audit (G.R. No. 85285, July 28, 1989), said that **a contract without public bidding is void and the party cannot benefit from it.** In view of **the absence of a public bidding, the procurement of the subject IT resources is held as illegal.** Pursuant to the case of Information Technology Foundation of the Philippines, et al. vs. Commission on Election, et al. (G.R. No. 159139, January 13, 2004), public funds expended therefor must be recovered from the payees and/or from the persons who made possible the illegal disbursements, without prejudice to possible criminal prosecutions against them.

# DECISION NO. 2015-478

*December 29, 2015*

- \* Affirmed Notice of Disallowance No. 2005-001 (2004) dated November 9, 2005, as amended on June 15, 2006, relative to the procurement of liquid organic fertilizer amounting to P2,725,000.00
- \* 1. The procurement of liquid fertilizer was undertaken without public bidding, with reference to brand names, and lacking the requisite posting and publication, in violation of RA No. 9184 and Section 21.2.1 of its Implementing Rules and Regulations (IRR).
- \* 2. There was an overpricing in the purchase of 2,000 liters of liquid fertilizer.
- \* 3. The laboratory test/analysis conducted by Department of Agriculture –Regional Field Unit No. 13 showed that the procured fertilizer contained only three elements and have lower nutrient percentage as compared to the locally available fertilizer sold at a minimal cost.

# DECISION NO. 2015-478

December 29, 2015

- \* The procurement through **direct contracting was inapplicable because the items purchased by the municipality did not appear to be “sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the Government”**, as contemplated under Section 50 (c) of the IRR of RA No. 9184. 3
- \* The brand “Bio-Nature” was specified in the purchase request as the liquid fertilizer sought to be procured by the municipality, in violation of Section 18 of RA No. 9184.
- \* The fact of procurement overpricing was clearly established and that was not refuted by petitioners. 5. The MBAC has the responsibility of ensuring that the procuring entity abides by the standards set forth by RA No. 9184 and its IRR.
- \* **The fact that the DA represented or vouched to the municipal mayor and to other officers of the municipality on the credentials of the supplier as an exclusive distributor, is not sufficient basis for disregarding government procurement rules.**
- \* Petitioners, as officials of the municipality, cannot be excused from liability for the disallowance in that **“fiscal responsibility shall, to the greatest extent, be shared by all those exercising authority over the financial affairs, transactions and operations of the government agency.”**

# DECISION NO. 2016-248

*September 20, 2016*

- \* **Failed to ensure that the procuring entity abided with the standards set forth by RA No. 9184 and its IRR-A (Section 12 of IRR-A).**
  - \* A. Publication in a newspaper of nationwide general circulation
  - \* B. Posting of the IAEB in the G-EPS
    - \* In case the LGU lacks internet connection, it may post its IAEB through internet café in its locality or it may arrange to use the facilities of other LGUs or national government offices, such as the DBM Regional Office

# DECISION NO. 2018-347

*October 3, 2018*

- \* **Petition for Money Claim of Vicente Eulalio V. Tañedo against the Municipality of Pandan, Antique, for payment of cattle, goats, and piglets in the total amount of P1,665,000.00**
- \* Records show that the Bids and Awards Committee (BAC) of the Municipality of Pandan posted an Invitation to Bid for the procurement and delivery of cattle, layer chicken, piglet and goat. After two failed biddings, the BAC conducted a mandatory review of the terms, conditions, specifications and cost estimates where it was agreed that the minimum technical specifications and cost estimate be adjusted. For this reason, the specifications for the procurement of cattle in particular was changed, from five-year old cattle weighing 200 kilograms (kgs.) (upgraded) to two-year old cattle weighing 100-120 kgs. (upgraded). In the same meeting, the BAC decided to conduct a negotiated procurement so as not to cause further delay in the implementation of the procurement.



# DECISION NO. 2018-347

*October 3, 2018*

- \* The Audit Team R6-06, Audit Group Local Government Sector B – Antique Province, in its Initial Comment and Recommendation, recommended the following:
  - \* 1. An independent expert professional trained to appraise livestock should determine if the delivered cattle were in accordance with the specifications, i.e., upgraded breed, as accepted and received;
  - \* 2. If the breed of the cattle delivered were in accordance with the specifications, the municipality should be ordered to pay the amount of P1,125,000.00 for the 50 cattle, the agreed contract price. Otherwise, the claim should be denied; and
  - \* 3. Claimant should be paid the amount of P540,000.00 representing the price for the 50 goats and 50 piglets delivered, considering that they were covered by perfected POs duly accepted by the municipality.

# DECISION NO. 2018-347

*October 3, 2018*

- \* The municipality, through its Mayor and its Accountant, filed an Answer, praying that the Petition for Money Claim be dismissed for lack of cause of action, lack of jurisdiction, and for lack of factual and legal bases, and arguing the following:
  - \* 1. The purchase request (PR) for the 50 cattle was approved only by the **Vice Mayor** who had no authority to do so, thus, unenforceable;
  - \* 2. The actual cattle delivered did not conform to the sample as inspected by the Provincial Veterinarian, and long time between delivery and inspection might have allowed switching; and
  - \* 3. The demands for payment made by claimant were not received by the municipality.

# DECISION NO. 2018-347

*October 3, 2018*

- \* Records show that the livestock subject of the claim were procured through **negotiated procurement after two failed biddings**. The municipality opted to conduct negotiated procurement despite non-compliance with the conditions and procedural requirements of the law, i.e., after two failed biddings, the BAC shall conduct a mandatory review of the terms, conditions, specifications, and cost estimates and may revise and agree on the technical, legal, and financial eligibility requirements and technical specifications or terms of reference, and if necessary, adjust the Approved Budget for the Contract, subject to the required approvals; invite three suppliers for negotiations to ensure effective competition; require these suppliers to submit their best quotations/proposals; and recommend the award of contract to the head of agency. In this case, while the BAC conducted a mandatory review and made adjustments as to the specifications for the cattle, the required approval of the Head of the Procuring Entity was not obtained for this purpose. The records do not bear that there were two other suppliers who were invited to submit their proposal. Thus, in view of the failure to comply with the conditions for negotiated procurement, **this Commission finds that there were clear violations of the provisions of Republic Act (RA) No. 9184 and its Implementing Rules and Regulations (IRR).**

# DECISION NO. 2018-347

*October 3, 2018*

- \* However, as borne by the delivery receipts, as well as the Acceptance and Inspection Reports and the Comments of the Audit Team Leader and the RD, the livestock have been duly delivered by the claimant, accepted by the municipality, and distributed to qualified beneficiaries. The delivery receipts show conformity with the revised specifications in the PR. The Acceptance and Inspection Reports likewise show that the items were inspected, verified, and found in conformity to quantity and specifications.
- \* It should be noted that the municipality never questioned or raised any objection to the livestock delivered. In fact, the livestock were indeed distributed to the intended beneficiaries. Thus, it is only fair that claimant, who had no control of the procurement process, be compensated for the livestock he delivered despite failure of the municipality to comply with the requirements of the procurement laws. Otherwise, it would result in undue enrichment on the part of the municipality whose constituents benefitted from the livestock delivered by claimant.

# DECISION NO. 2018-347

*October 3, 2018*

**\* RULING:**

- \* WHEREFORE, premises considered, the Petition for Money Claim of Vicente Eulalio V. Tañedo against the Municipality of Pandan, Antique, for payment of cattle, goats, and piglets is hereby GRANTED in the amount of P777,588.50, subject to availability of funds and the usual accounting and auditing rules and regulations.

# DECISION NO. 2018-167

*January 29, 2018*

- \* **The grounds for the disallowance based on the ND and the questioned RD decision** are summarized as follows:
  - \* (a) Violation of Section 18 of RA No. 9184;
  - \* (b) Failure of the members of the BAC and TWG to obtain the most advantageous and best possible contract price for the subject procurement since the hydraulic excavator offered by JVF Commercial during the bidding was of superior quality than that purchased from RDAK;
  - \* (c) Failure of the members of the BAC and TWG to post-qualify and evaluate the qualifications of the bidders; and
  - \* (d) Non-declaration of a failure of bidding by the BAC pursuant to Section 35.1(c) of the Revised IRR of RA No. 9184 since both the quotations of RDAK and JVF Commercial were non-responsive for failing to meet the desired specifications.

# DECISION NO. 2018-167

*January 29, 2018*

- \* And rightfully so. Between the COA auditor who can only perform post-audit functions and the PBAC members of the procuring entity xxx, it is the latter which has the technical expertise to determine the offers that will best meet the needs and requirements of its office. Upon the agency that called for the bidding, therefore, rests the burden of ensuring that the process undertaken is above-board and that the outcome thereof is most advantageous to the government. The presence of the COA representative, as witness or observer, on the other hand, is fundamental only to the extent of guaranteeing documentary integrity and transparency in the bidding process.

# New Issuances - COA

- \* **COA Circular No. 2018-002**
- \* Guidelines prescribing the submission of the Property Inventory Form as basis for the assessment of general insurance coverage over all insurable assets, properties and interests of the government with the General Insurance Fund of the Government Service Insurance System



# New Issuances - COA

- \* **COA Circular No. 2017-004**
- \* Guidelines on the preparation of financial statements and other financial reports and implementation of the Philippine Financial Reporting Standards by Government Corporations Classified as Government Business Enterprises and Philippine Public Sector Accounting Standards by Non-Government Business Enterprises

# New Issuances - COA

- \* **COA Circular No. 2017-003 dated October 25, 2017**
- \* Amendment of Section 197 under Title VI – Miscellaneous Provisions and Administrative Instructions of Commission on Audit Circular No. 92-386 dated October 20, 1992 re: Rules and Regulations on Supply and Property Management in the Local Governments
- \*

# New Issuances - COA

- \* To reconcile the provisions of Sections 379 and 380 of the Local Government Code of 1991 (Republic Act No. 7160) with Section 197 of Commission on Audit Circular No. 92-386 dated October 20, 1992, Prescribing Rules and Regulations on Supply and Property Management in the Local Governments, Section 197 of the circular is hereby amended as follows:
- \* SEC. 197. *Disposal of Real Property and Improvements.* - Real estate and their improvements owned by the local government units may be sold to other government or private entity under sealed bids, or by negotiation if sealed bid has failed as defined herein at a price to be determined by the Committee on Awards. The contract of conveyance shall be executed by the local chief executive in behalf of the local government unit concerned in accordance with the formalities required by law on the matter and shall be approved by the local sanggunian. **The disposal shall also be subject to the approval of the Commission on Audit in case the disposal is through negotiation regardless of the value of the property to be disposed.** The request for approval shall be made prior to the perfection of the contract of sale through negotiation.
- \* Expenses relative to the registration and transfer of ownership from the local government unit to the vendee shall be borne by the vendee.

# Findings and Observations on the disbursements of local sanggunian - 2015

- \* The implementation of the Community Outreach Programs and hiring of Job Order/contractual employees to assist in the implementation of these programs are not within the mandated powers, duties and functions of the members of the Sangguniang Panlungsod.
- \* Receipts of payment of compensation of the JO personnel were supported with Special Power of Attorney all throughout the pay period and bear insufficient documentation.
- \* The Contracts of Service attached to the payrolls did not show specific duties and responsibilities of the employees which should have served as performance indicators and basis for payment.
- \* The job order personnel with similar positions are receiving different salary rates due to the absence of policy guidelines that set the rates to be paid.

# Settlement of Accounts

\* COA Circular No. 2009-006 dated September 15, 2009

***Prescribing the use of the Rules and Regulations on Settlement of Accounts***

# General Principles in the Settlement of Accounts (salient features)

- \* **Audit Observations Memorandum**
- \* **Suspension/Notice of Suspension**
- \* **Disallowance/Notice of Disallowance**
- \* **Charge/Notice of Charge**

# Other Documents on Settlement of Accounts

- \* Notice of Finality of Decision
- \* COA Order of Execution
- \* Notice of Settlement of  
Suspension/Disallowance/Charge
- \* Statement of Audit Suspensions, Disallowances and  
Charges
- \* Record of COA Decisions

# Time lines for compliance

| Document               | Days to Comply from Receipt |
|------------------------|-----------------------------|
| AOM                    | 15 days                     |
| Notice of Suspension   | 90 days                     |
| Notice of Disallowance | 180 days                    |
| Notice of Charge       | 180 days                    |



# Determination of Persons Responsible/Liable

## **Suspension/Disallowance**

- \* Custodians of government funds**
- \* Certifying Officers**
- \* Approving Officers**
- \* Those who confederated or conspired in a transaction which is disadvantageous to the government who shall be held jointly and severally liable with those who benefited therefrom**
- \* Payee**

# Determination of Persons Responsible/Liable

## **Suspension/Charges**

- \* Individual participation and involvement of public officers whose duties require the appraisal / assessment / collection of government revenues and receipts**

# Decisions and Appeal

- \* **In writing within 6 months; otherwise it becomes final and executory**
- \* **Filing of appeal will suspend the running of the prescription period**
- \* **The running of the 6 months period shall resume upon the receipt of a decision from the Director or the Adjudication and Settlement Board**



**THANK YOU**