



REPUBLIKA NG PILIPINAS  
REPUBLIC OF THE PHILIPPINES  
**KAGAWARAN NG EDUKASYON**  
**DEPARTMENT OF EDUCATION**  
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DepED ORDER  
No. 59 , s. 2007

AUG 29 2007

**INSTITUTIONALIZING NGO AND PRIVATE SECTOR PARTICIPATION  
IN THE DEPARTMENT'S PROCUREMENT PROCESS**

To: Regional Directors  
Schools Division/City Superintendents  
Heads, Public Elementary and Secondary Schools  
All Others Concerned

**A. Statement of Policy**

1. It is the policy of the Department of Education to promote NGO, private sector, and citizens' participation in the procurement process and contract implementation at all levels of the Department.
2. The Department of Education seeks to foster the spirit of volunteerism in the procurement process.

**B. Legal Bases:**

Article I, Section 3 of R.A. 9184 or the Government Procurement Reform Act (GPRA). It states:

All procurement of the national government, its departments, bureaus, offices and agencies, including state universities and colleges, government-owned and/or controlled corporations, government financial institutions and local government units shall, in all case, be governed by these principles:

- a) Transparency in the procurement process and in the implementation of procurement contracts;
- b) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contract and the private parties that deal with government are, when warranted by circumstances, investigated and held liable for their actions relative thereto; and

- c) Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of this Act and its implementing rules and regulations, and all these contracts are performed strictly according to specifications.

Article V, Section 13 of R.A. 9184 or the Government Procurement Reform Act (GPRA) mandates all government agencies to invite private sector and NGO observers in all stages of the procurement process. It states:

Sec.13 Observers--To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the Commission on Audit, at least two (2) observers to sit in its proceedings, one (1) from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and the other from a non-government organization: *Provided, however*, that they do not have any direct or indirect interest in the contract to be bid out. The observers should be duly registered with the Securities and Exchange Commission and should meet the criteria for observers as set forth in the IRR. (underscoring supplied.)

**C. Definition of Terms:**

1. Official Observers are those private sector representatives, NGO representatives, private citizens authorized by the organizations they represent, or in the case of private citizens, by the DepED, to sign and submit relevant procurement documents and reports, e.g. inspection reports. There are two types of official observers: (a) those representing private sector and NGO organizations and (b) individual, private citizens.
2. Unofficial Observers are those private sector representatives, NGO representatives and private citizens who have signified their intention via official registration with the DepED or who came on their own to observe the proceedings. Being unofficial observers, they cannot sign Inspection Reports and other procurement documents. They can submit their written observations of the Implementation of the Contract and the Delivery and Acceptance to the Head of the Department of Education, Chairman of the Bids and Awards Committee of the DepED, Head of the Procurement Service of the DepED, or to the Resident Ombudsman.
3. Procurement is hereby defined as beginning from the time the Department approves the Annual Procurement Plan (APP) and ends upon complete Delivery and Acceptance of the procured goods, services, or infrastructure project. For purposes of this Department Order or Memorandum, complete Delivery and Acceptance *excludes payment*.

**D. Stages of the Procurement Process where Observers will be invited.**

Other than the stage/s of the procurement as spelled out in the IRR-A Sec. 13.3 of the R.A. 9184, private sector, NGO representatives, and private citizens are to be invited as official and unofficial observers in the Contract Implementation and the Delivery and Acceptance Stages.

**E. Selection Criteria for Private Sector and NGO Observers in the Different Stages of the Procurement Process**

1. For the Bidding Stage or Process

Selection of Private Sector and NGO Observers shall follow the criteria set forth in Sec. 13 of the GPRA and Sec. 13.1 and Sec. 13.2 of the GPRA's IRR-A.

2. Contract Implementation and the Delivery and Acceptance Stages

Selection of Private Sector and NGO Observers at the Contract Implementation and the Delivery and Acceptance Stages

In accordance with Sec. 13 of RA 9184, there shall be at least two (2) official observers: one from the private sector and one from the NGO sector. In the absence of representatives from both these sectors, the DepED shall mobilize two (2) private citizens who signified their intention to observe the process subject to the selection criteria presented in Section F of this Department Order.

2.a. Where the implementation of the contract is done *in situ*, in the place where the end-users are geographically located (e.g. school building project) the private sector and NGO observers should be chosen according to the following criteria:

2.a.1. The private sector observer should be a duly registered business entity (as evidenced by a business permit) within the area where the contract is being implemented

or

It is the area chapter of a national association or organization in a sector or discipline relevant to the contract being implemented (e.g. for school buildings, a chapter of the Philippine Constructors Association, National Constructors Association of the Philippines, Philippine Institute of Civil Engineers, United Architects of the Philippines, etc.), or a local industry association or federation relevant to the contract being implemented.

2.a.2. The private sector observer should not have any pecuniary or monetary interest in the contract as a subcontractor, supplier, forwarder/transporter, or a losing bidder/s.

2.a.3. The private sector observer should not belong to the immediate family or related up to the third degree of consanguinity to the contractor, subcontractor, supplier, forwarder/transporter, or losing bidder/s. They should not be associated to the contractor, subcontractor, supplier, forwarder/transporter, or losing bidder/s in a way that would compromise their objectivity.

2.a.4. The private sector observer should have knowledge or expertise in the subject matter of the contract being implemented.

2.a.5. The NGO or civil observer should be a duly accredited organization (accredited by the Sanggunian: barangay, municipality, city; province) or SEC registered organization operating within the geographical location (barangay, municipality, city, and province) where the project is being implemented

or

It is the chapter of a national or local association with a major stake in the efficiency and quality implementation of the contract (e.g. Parents-Teachers-Community Association, Girl and Boy Scouts of the Philippines).

or

It is a duly recognized and legitimate school-based or youth organization (e.g. High School or College Students' Council, Members of the School Paper, Junior Graftwatch, etc.).

2.a.6. The NGO observer should not have any pecuniary or monetary interest in the contract as a subcontractor, supplier, forwarder/transporter, a losing bidder/s.

2.a.7. The NGO observer should not belong to the immediate family or related up to the third degree of consanguinity to the contractor, subcontractor, supplier, forwarder/transporter, or losing bidder. They should not be associated to the contractor, subcontractor, supplier, forwarder/transporter, or losing bidder/s in a way that would compromise their objectivity.

2.a.8. The NGO observer should have knowledge or expertise in the subject matter of the contract being implemented.

*2 .b. Where the implementation of the contract is done ex situ, (for centrally procured items) in a place other than where the end-users are geographically located, the private sector and NGO observer should be chosen according to the following criteria:*

2.b.1. The private and NGO observers shall be chosen according to the criteria set forth in Section 13 of the GPRA and Sec. 13.1. and 13.2 of the GPRA.

**F. Encouraging and Mobilizing Individual Volunteers as Official and Unofficial Observers**

1. The Department of Education encourages concerned individuals (for example, retired school teachers, senior citizens, etc.) to volunteer as official and unofficial observers in the contract implementation and delivery and acceptance stages.
2. In the absence of organizations that will send private and public sector official observers, the Department of Education shall tap individuals that have expressed their intent to volunteer as official observers. Individuals will only be tapped as official observers if private sector organizations and NGOs cannot send official representatives.
3. To qualify as individual, official observers, volunteers are to list themselves with the appropriate DepED school, district, division and regional offices.
4. Official individual observers must not have any pecuniary interest in the contract as subcontractor, supplier, forwarder/transporter, or losing bidder/s.
5. Official individual observers should not belong to the immediate family or related up to the third degree of consanguinity to the contractor, subcontractor, supplier, forwarder/transporter or losing bidder/s. They should not be associated to the contractor, subcontractor, supplier, forwarder/transporter, or losing bidder/s in any way that would compromise their objectivity.
6. Official individual observers should have knowledge or expertise in the subject matter of the contract being implemented.

**G. Responsibilities of Department of Education Officials**

1. The Department of Education has the responsibility to publicly announce (via radio, community newspaper, and other means, like announcement during religious services, posting in community bulletin boards and school boards) the following:
  - a. Contents of the Contract (for regionally procured and division procured items) or the Items to be Delivered, their Quantity and Specifications (for Centrally procured items that will be delivered)
  - b. The List of all Bidders and their Board of Directors, Incorporators, and Company Officers
  - c. The Winning Bidder

- d. The Contract Price and Specifications
  - e. The Implementation Schedule
  - f. The Names of Private Citizens or the Names of the Private Sector and NGO representatives serving as Official Observers
2. The Department of Education has the responsibility of publicly inviting private sector, NGOs, and volunteers to observe the contract implementation and the acceptance and delivery of goods.
  3. The Department of Education has the responsibility of partnering with national, regional, and local NGOs for the mobilization and management of volunteers.
  4. The Department of Education shall keep a masterlist of organizations and individuals who can be tapped to serve as observers in the contract implementation and acceptance and delivery.
  5. The Department of Education shall furnish the relevant information and documents to the private sector and NGO observer.
  6. The Department of Education shall conduct with its private sector and NGO partners, orientation for the observers and the individual volunteers on the various contracts.
  7. The Department of Education shall prepare a Statement of Non-Conflict of Interest for signing by the private, NGO observers, and individual volunteers.
  8. The Department of Education shall prepare detailed guidelines (in accordance with the procured items and depending on the procuring level of the Department) for NGO and private sector, role in contract implementation and acceptance and delivery for goods, services, and infrastructure projects procured by the Department.

**H. Responsibilities of Official Observers in Contract Implementation and Delivery and Acceptance Stages**

1. Sign a Statement of Non-Conflict of Interest.
2. To join the official inspection team of the Department of Education in monitoring the progress of contract implementation, including the assessment of quality.
3. To conduct with the authority of the Department of Education unannounced inspections of project sites and other locations where contract implementation is being performed.
4. To prepare a report either jointly or separately indicating their observations on contract implementation. The report may be appended to official DepED inspection forms and submitted to the Head of the Department of Education, Head of the Procurement

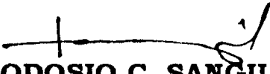
Service, or Chairman of the Bids and Awards Committee. The observers may also furnish a copy of the report to the Office of the Ombudsman/Resident Ombudsman if issues of corruption are found.

5. To observe acceptance and delivery proceedings, sign the necessary documents, and file the requisite report.

**I. Responsibilities of Unofficial Observers in Contract Implementation and Delivery and Acceptance Stages.**

1. Observe contract implementation and delivery and acceptance stages for DepED procured items;
2. Make written observations of the proceeding, and if they decide, submit these unofficial observations to the Head of the Procurement Service, Chairman of the Bids and Awards Committee, Head of the Department of Education or the Resident Ombudsman.

**J. Immediate dissemination of and compliance with this Order is directed.**

  
**TEODOSIO C. SANGIL, JR.**  
Undersecretary  
Officer-In-Charge

Reference: None

Allotment: 1- -(D.O. 50-97)

To be indicated in the Perpetual Index  
under the following subjects:

BUREAUS & OFFICES  
COMMITTEE  
POLICY  
PROCUREMENT

Maricar/DM\_Institutionalizing NGO  
08-16-07