



Republic of the Philippines
Department of Education

27 FEB 2013

DepEd MEMORANDUM
No. **41**, s. 2013

**DISSEMINATION OF COMELEC RESOLUTION NO. 9585
(Rules and Regulations Governing Ban on Public Works and Release, Disbursement
and Expenditures of Public Funds, Construction of Public Works, Delivery
of Materials for Public Works and Issuance of Treasury Warrants and Similar
Devices in Connection with the May 13, 2013 Automated Synchronized
National, Local and ARMM Regional Elections)**

To: Undersecretaries
Assistant Secretaries
Bureau Directors
Directors of Services, Centers and Heads of Units
Regional Directors
Schools Division/City Superintendents
Heads, Public and Private Elementary and Secondary Schools

1. For the information and guidance of all concerned, enclosed is a copy of the **Commission on Elections (COMELEC) Resolution No. 9585** dated December 18, 2012 entitled *Rules and Regulations Governing Ban on Public Works and Release, Disbursement and Expenditures of Public Funds, Construction of Public Works, Delivery of Materials for Public Works and Issuance of Treasury Warrants and Similar Devices in Connection with the May 13, 2013 Automated Synchronized National, Local and ARMM Regional Elections* which is self-explanatory.

2. Immediate dissemination of this Memorandum is desired.


BR. ARMIN A. LUISTRO FSC
Secretary

Encl.:
As stated

Reference:
None

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

ELECTION
LEGISLATION
FUNDS
RULES & REGULATIONS

D-MCR/DM-COMELEC Resolution No. 9585
0207/February 20, 2013



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Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

RULES AND REGULATIONS GOVERNING BAN ON PUBLIC WORKS AND RELEASE, DISBURSEMENT AND EXPENDITURES OF PUBLIC FUNDS, CONSTRUCTION OF PUBLIC WORKS, DELIVERY OF MATERIALS FOR PUBLIC WORKS AND ISSUANCE OF TREASURY WARRANTS AND SIMILAR DEVICES IN CONNECTION WITH THE MAY 13, 2013 AUTOMATED SYNCHRONIZED NATIONAL, LOCAL AND ARMM REGIONAL ELECTIONS.

Brillantes, Sixto Jr., S., Chairman
Sarmiento, Rene V., Commissioner
Tagle, Lucenito N., Commissioner
Velasco, Armando C., Commissioner
Yusoph, Elias R., Commissioner
Lim, Christian Robert S., Commissioner
Padaca, Maria Gracia Cielo, M. Commissioner

Promulgated: December 18, 2012

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RESOLUTION NO. 9585

The Commission on Elections, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code, and other election laws, has RESOLVED, as it hereby RESOLVES to promulgate, the following rules and regulations to enforce the prohibitions provided under Section 261, subsections (v) and (w) of the Omnibus Election Code.

Section 1. Prohibition on Release, Disbursement or Expenditure of Public Funds. - Effective March 29, 2013 until May 13, 2013, no public official or employee including barangay officials and those of government-owned or controlled corporations and their subsidiaries shall release, disburse or expend any public funds for:

- 1) Any and all kinds of public works, except the following:
 - a) Maintenance of existing and/or completed public works project: *Provided*, That not more than the average number of laborers or employees already employed therein during the six-month period immediately prior to March 29, 2013, shall be permitted to work during such time: *Provided, further*, That no additional laborers shall be

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employed for maintenance work starting March 29, 2013 until May 13, 2013;

- b) Work undertaken by contract through public bidding held, or by negotiated contract awarded, before March 29, 2013: *Provided*, That for the purpose of this Section work undertaken under the so-called "takay" or "paquiao" system shall not be considered as work by contract;
- c) Payment for the usual cost of preparation for working drawings, specifications, bills of materials, estimates, and other procedures preparatory to actual construction including the purchase of materials and equipment, and all incidental expenses for wages of watchmen and other laborers employed for such work in the central office and field storehouses before March 29, 2013: *Provided*, That the number of such laborers shall not be increased over the number hired when the project or projects were commenced; and
- d) Emergency work necessitated by the occurrence of a public calamity, but such work shall be limited to the restoration of the damaged facility.

No payment shall be made within five (5) days before the date of election to laborers who have rendered services in projects or works except those falling under subparagraphs (a), (b), (c), and (d), of this Section.

The prohibition shall not apply to on-going public works projects commenced before the campaign period or similar projects under foreign agreements. For purposes of this provision, it shall be the duty of the government officials or agencies concerned to report to the Commission the list of all such projects being undertaken by them as provided for under Sec. 3 of this Resolution.

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(2) The Department of Social Welfare and Development and any other office in other departments of the government performing functions similar to said department, except for salaries of personnel, and for such other routine and normal expenses, and for such other expenses as the Commission may authorize after due notice and hearing. Should a calamity or disaster occur, all releases normally or usually coursed through the said departments and offices of other departments shall be turned over to, and administered and disbursed by, the Philippine National Red Cross, subject to the supervision of the Commission on Audit (COA) or its representatives, and no candidate or his or her spouse or member of his family within the second civil degree of affinity or consanguinity shall participate, directly or indirectly, in the distribution of any relief or other goods to the victims of the calamity or disaster; and

(3) The Human and Urban Development Coordinating Council and any other office in any other department of the government performing functions similar to said department, except for salaries of personnel and for such other necessary administrative or other expenses as the Commission may authorize after due notice and hearing.

Sec. 2. Prohibition Against Construction of Public Works, Delivery of Materials for Public Works and Issuance of Treasury Warrants and Similar Devices. - Effective March 29, 2013 until May 13, 2013, no person shall:

- 1) Undertake the construction of any public works, except for projects or works exempted in the preceding Section; or
- 2) Issue, use or avail of treasury warrants or any device undertaking future delivery of money, goods, or other things of value chargeable against public funds.

Sec. 3. Submission to the Commission of lists of authorized public works projects. - On or before March 29, 2013, the Secretary of Public Works and Highways, the provincial governors, city/municipal mayors and punong barangays in relation to national, provincial, city/municipal and barangay public works as the case may be, shall submit to the Commission in Manila, thru the regional election

directors/ provincial election supervisors/ election officers concerned, certified lists of the following:

- a) all on-going public works projects commenced before March 29, 2013;
- b) similar projects under foreign agreements; and
- c) all public works undertaken by contract through public bidding held, or by negotiated contract awarded, before March 29, 2013 together with a copy of said contracts.

Any public works not included in the list herein required to be submitted by the Secretary of Public Works and Highways, the provincial governors, city/municipal mayors, and punong barangays, which are not among the exceptions under Sec. 261, subsection (v) of the Omnibus Election Code shall be considered as falling under the public works ban.

Sec 4. Immediate payment of laborers required. - Any laborer who may have worked on public works projects which have to be suspended pursuant to the forty-five (45) day ban on public works shall be paid immediately his complete earned wage upon the suspension of the public works projects. In no case shall the earned wage or any portion thereof be retained to be paid only within five (5) days before or on the day of the election. Likewise, any laborer who may have worked in public works projects authorized under any of subparagraphs (a) to (d) of Sec. 1 hereof, shall be paid his complete earned wage every regular pay day and in no case shall said wage or any part thereof be retained or its payment deferred.

Sec. 5. Injunction. - The Department of Budget and Management and the Commission on Audit, including all its field offices, are hereby enjoined not to release or authorize the release of any appropriation, or to pass in audit payments or expenditures of public funds that may directly or indirectly be used in violation of the prohibitions contained in Sec. 261, sub-sections (v) and (w) of the Omnibus Election Code or Sections 1 and 2 hereof.

All field offices of the Commission, including those of its deputized agencies and citizens' arms, are directed to monitor compliance with the requirements under Sec. 3 hereof by the local executive officers in their respective jurisdictions and submit immediately to the Commission a written report on any violation of said provisions of the Omnibus Election Code.

Sec. 6. Penalty. - Any violation of the provisions of this Resolution shall, consistent with Sections 261 and 264 of the Omnibus Election Code, constitute an

election offense and shall be punishable by imprisonment of not less than one (1) year but not more than six (6) years, among other penalties provided for by law.

Sec. 7. Effectivity. - This Resolution shall take effect on the seventh day after its publication in two (2) daily newspapers of general circulation.

Sec. 8. Dissemination. - The Education and Information Department shall cause the publication of this resolution in two (2) daily newspapers of general circulation, immediately after promulgation hereof, and shall furnish copies hereof to the Executive Secretary, the Chairman of the Commission on Audit, heads of all departments, and national offices, provincial governors, city/municipal mayors and punong barangays and other agencies of the government, including government-owned or controlled corporations, all registered political parties and all field offices of the Commission.

SO ORDERED.


SIXTO S. BRILLANTES, JR.
Chairman


RENE V. SARMIENTO
Commissioner


LUCENITO N. TAGLE
Commissioner


ARMANDO C. VELASCO
Commissioner


ELIAS R. YUSOPH
Commissioner


CHRISTIAN ROBERT S. LIM
Commissioner


MARIA GRACIA CIELO M. PADACA
Commissioner

cc: Chairman
All Commissioners
Executive Director
Deputy Executive Director for Operations
Law Department
Education and Information Department

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