

Department of Budget and Management
Government Procurement Policy Board
Technical Support Office

**Award of Contracts under a
Reenacted Budget undertaken
through Early Procurement
Activities (EPA)**

What is EPA?

EPA shall refer to the conduct of procurement activities for Goods to be delivered, Infrastructure Projects to be implemented, and Consulting Services to be rendered **in the following fiscal year**, pending approval of the General Appropriations Act (GAA), Corporate Budget or Appropriations Ordinance, as the case may be.

EPA shall commence from the posting of the procurement opportunity, if required, until recommendation to the Head of the Procuring Entity (HoPE) as to the award of the contract.

What is a Reenacted Budget?

If, by the end of any fiscal year, the Congress shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be **deemed reenacted** and shall remain in force and effect until the general appropriations bill is passed by the Congress.

2019 Reenacted Budget = FY 2018 GAA

2019 Budget = FY 2019 GAA

GPPB Issuance on Award of Contracts under

On 20 December 2018, the Government Procurement Policy Board approved the issuance of the **Circular 09-2018 on the Award of Contract under a Reenacted Budget** for procurement projects included under the EPA or those procured on the basis of the FY 2019 NEP short of award.

This is effective **January 1, 2019.**

Award of Contracts under a Reenacted Budget undertaken through EPA

When to Award

Rule 1:

Procurement projects covering recurring activities or projects, hence appropriations therefor are included in both the FY 2018 GAA and FY 2019 NEP, undertaken through EPA under the FY 2019 NEP may be awarded on the basis of the 2019 Reenacted Budget.

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When to Award

Scenario 1

Agency A has in its budget under the FY 2019 NEP the amount of 100 Million for the provision of Purchase of text books, which is also the amount of its ABC.

The amount of 100 Million is included or covered under the FY 2018 GAA.

Agency A may award on the basis of the FY 2019 Reenacted Budget.

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When to Award

Rule 2:

Procurement projects undertaken through EPA covering recurring activities or projects, hence appropriations therefor are included in both the FY 2018 GAA and FY 2019 NEP but with a higher ABC allowed under the FY 2019 NEP, may be awarded if the contract amount to be awarded (LCRB) is WITHIN the amount authorized in the 2019 Reenacted Budget.

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When to Award

Scenario 2

Agency A's budget for the procurement of medicines is 100 Million Pesos in FY 2018. The budget for the same project is 110 Million Pesos, as allocated in the FY 2019 NEP. The ABC posted for the same is also 110 Million

After undertaking EPA, the contract to be awarded amounts to 100 Million Pesos (LCRB).

Agency A may award on the basis of the FY 2019 Reenacted Budget because the LCRB is within the budget authorized in the 2019 Reenacted Budget.

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When to Award

Rule 3:

New activities or projects that are included in the FY 2019 NEP, hence not part of the FY 2018 GAA, may be awarded on the basis of the FY 2019 GAA; *provided*, the 15-day period for the HoPE to approve the Resolution of the BAC and to issue the Notice of Award provided under Sec. 37 and the 3-month period within which to complete the procurement process under Sec. 38 of RA No. 9184 shall be tolled or suspended or shall not be counted beginning January 1, 2019 until the effectivity of the new GAA for FY 2019.

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When to Award

Rule 3:

Hence, the period of time for the award of contract and termination of the procurement process, as the case may be, shall begin to run again upon the effectivity of the new GAA for FY 2019. The HoPE has the remaining period or the period of time left for award of contract and termination of the procurement process, as the case may be, counted from the effectivity of the new GAA for FY 2019.

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When to Award

Scenario 3

Agency A has Project X in its FY 2019 NEP. Said project is a new procurement project for 2019 hence, not part of the FY 2018 GAA.

Agency A's BAC issued its Resolution recommending the award of contract on December 28, 2018.

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When to Award

continued Scenario 3

The 15 day period within which the HOPE shall approve/disapprove the BAC recommendation is tolled or suspended on January 1, 2019 (3 days from BAC recommendation) until the effectivity of the new GAA for FY 2019.

Hence, if the FY 2019 GAA is effective March 1, 2019, the HOPE has the remaining 12 days or until March 13, 2019 to approved/disapprove the BAC recommendation.

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When to Award

Another Scenario 3

Agency A has Project X in the FY 2019 NEP. Said project is a new procurement project for 2019 hence, not part of the FY 2018 GAA.

If Agency A's BAC conducted the Opening of Bids on October 31, 2018, the 3-month period for the HoPE to issue the Notice of Award shall be tolled or suspended from January 1, 2019 until the effectivity of the new GAA for FY 2019.

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When to Award

Con't Another Scenario 3

Hence, if the FY 2019 GAA takes effect on March 1, 2019, the period of time left for the award of contract shall begin to run again on said date.

The HoPE has 29 days or until March 30, 2019 to issue the Notice of Award.

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Validity of Bids

Rule 4:

The validity of bids and, if applicable, the bid securities, shall be extended, at the option of the bidder, to adjust to the new procurement timeline in case the period is tolled pending the enactment of the new GAA for FY 2019.

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Validity of Bids

Scenario 4:

If the BAC conducted the Opening of Bids on September 30, 2018, after 120 days or on January 28, 2019, the bid validity will expire.

Pending the enactment of the new GAA for FY 2019, the period of time for the award of contract and termination of the procurement process, as the case may be, shall be tolled or suspended. Hence, no award of contract shall be made.

Pending the award of contract, the validity of bids shall be extended, at the option of the bidder, to adjust to the new procurement timeline until the enactment of the new GAA for FY 2019.

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When NOT to Award

Rule 5:

In all instances, the HoPE shall not award any procurement project if the amount appropriated under the 2019 Reenacted Budget or 2019 GAA is lower than the amount of contract to be awarded in accordance with Section 41 of RA 9184 which grants the HoPE the right not to award the contract if, for any justifiable and reasonable ground, the award of the contract will not redound to the benefit of the GoP, i.e., if the source of funds for the project has been withheld or reduced through no fault of the Procuring Entity.

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When NOT to Award

Rule 6:

In all instances, the HOPE has the authority, if he/she deems necessary to exercise the reservation clause under Section 41 of RA 9184, which grants the HoPE the right not to award the contract if, for any justifiable and reasonable ground, the award of the contract will not redound to the benefit of the GoP.

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Tolling of Periods

For purposes of Awards of Contracts under a Reenacted Budget, the following periods shall be tolled or suspended:

- the 15-day period for the HoPE to approve the Resolution of the BAC and to issue the Notice of Award provided under Section 37; and
- the 3-month period within which to complete the procurement process, from the opening of bids up to the award of contract, under Section 38 of RA No. 9184

The tolling/suspension of the periods will begin on January 1, 2019 until the effectivity of the new GAA for FY 2019.

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Tolling of Periods

The period of time for the award of contract (15 days) and termination of the procurement process (3 months), as the case may be, shall begin to run again upon the effectivity of the new GAA for FY 2019.

The HoPE has the remaining period or the period of time left for award of contract and termination of the procurement process, as the case may be, counted from the effectivity of the new GAA for FY 2019.

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Tolling of Periods

The period of time for the award of contract and termination of the procurement process, as the case may be **would not commence anew** upon the effectivity of the new GAA for FY 2019 but rather, grants the HoPE the **balance of the remaining period** to award the contract or terminate the procurement process.

A new 15-day period or 3-month period **would not be created** by the enactment of the new GAA for FY 2019.

THANK YOU!!

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