

[GPPB RESOLUTION NO. 20-2012, July 27, 2012]

RESOLUTION AMENDING SECTION 54.5 OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184

WHEREAS, Section 63 of Republic Act No. (RA) 9184 mandates the Government Procurement Policy Board (GPPB) to formulate and amend, whenever necessary, the Implementing Rules and Regulations (IRR) and the corresponding standard forms for procurement;

WHEREAS, Section 39.1 of the IRR of RA 9184 provides that "to guarantee the faithful performance by the winning bidder of its obligations under the contract in accordance with the Bidding Documents, it shall post a performance security prior to the signing of the contract."

WHEREAS, Section 62 of the IRR of RA 9184 provides that a warranty security shall be required from the contract awardee for the procurement of goods and infrastructure projects;

WHEREAS, Section 54.5 of the IRR provides that "performance and warranty securities, as prescribed in Section 39 and 62 of this IRR, shall be submitted for contracts acquired through the alternative methods of procurement, except for Shopping under Section 52 and Negotiated Procurement under Sections 53.2 (emergency cases), 53.9 (small value procurement), 53.10 (lease of real property), and 53.13 (UN agencies)."

WHEREAS, Agency-to-Agency and Community Participation modalities of Negotiated Procurement under Sections 53.5 and 53.12 of the IRR, respectively, are not included as among those exempt under Section 54.5 from the posting of performance and warranty securities;

WHEREAS, Sections 3(c) and 6(e) of the Guidelines on Agency-to-Agency Agreements^[1] provide that the Procuring Agency may require from the Servicing Agency the posting of performance and warranty securities;

WHEREAS, under the Agency-to-Agency modality, the servicing agency tasked to perform the work, must have the legal mandate to deliver the goods and services or undertake the infrastructure projects or consulting services required by the procuring entity, and thus, there is an assurance that the servicing agency can execute and perform the contract in accordance with the agreed requirements;

WHEREAS, in Community Participation modality, project sustainability and achievement of specific social objectives are the underlying reasons for its adoption; accordingly local communities take ownership of their work; have interest in the accomplishment of the project as they directly benefit therefrom; and, would ensure that the activity is actually carried out and completed pursuant to the identified requirements;