



## GCG MEMORANDUM CIRCULAR NO. 2018 - 02

**SUBJECT : REVOCATION OF GCG MEMORANDUM CIRCULAR NO. 2013-03 (RE-ISSUED) - COORDINATION AND ALIGNMENT OF MAJOR DEVELOPMENT PROJECTS OF THE GOCC SECTOR**

**DATE : 03 January 2018**

### 1. BACKGROUND AND PURPOSES.

1.1 With Executive Order No. 43, s. 2011 as its legal basis, the GCG issued Memorandum Circular (MC) No. 2013-03 (*Re-Issued*) on 21 February 2014 to:

- (a) *Balance the principle of operational autonomy in the GOCC Sector with the need for inter-agency coordination towards paving the way for the convergence of the GOCC Sector and the National Government in pursuing inclusive and sustainable economic growth and development;*
- (b) *Clarify in operational terms the interfacing of RA No. 10149 with the "Public-Private Partnership (PPP) Law" (R.A No. 7718) which requires every GOCC, whether Chartered or Nonchartered, to submit for approval their PPP Projects to the Investments Coordination Committee (ICC) of the National Economic Development Authority (NEDA) and/or the NEDA Board, regardless of whether such projects are part of a GOCC's list of priority projects or corporate plans; and*
- (c) *Address policy gaps wherein Major Development Projects or Major Contracts may be ancillary to the primary purpose of a GOCC and yet are not required under existing laws to go through any competitive or regulatory process, such as but not limited to, leasing out government property to a private sector entity under Executive Order No. 301, s. 1987;"*

1.2 On 16 May 2017, President Rodrigo R. Duterte issued Executive Order (EO) No. 24, s. 2017, amending EO No. 43, s. 2011, reorganizing the Cabinet into six (6) clusters in order to "*streamline their functions and improve existing procedures to achieve a more efficient and effective integration of programs, activities, and priorities*" and with the objective to, among others, "*regain people's trust in public institutions and cultivate trust among fellow Filipinos, which could be achieved by streamlining and reengineering the efforts of the various Executive Departments*".<sup>1</sup>

1.3 The GCG, as an attached agency to the Office of the President, was created by Republic Act No. 10149<sup>2</sup> and is the central advisory, monitoring, and oversight body with authority to formulate, implement and coordinate policies for GOCCs.

<sup>1</sup> See "Whereas" Clauses of EO 24, s. 2017.

<sup>2</sup> GOCC Governance Act of 2011.

1.4 The current Commission has determined that there is a need to revisit GCG MC No. 2013-03 in light of the above-mentioned purposes of EO. 24 and the following antecedent circumstances:

1.4.1 In consideration of the President's policy to expedite development and the implementation of infrastructure projects under the Public-Private Partnership (PPP) scheme,<sup>3</sup> an appropriate policy is essential to guide the GOCCs in aligning with the Philippine Development Plan and thereby efficiently contribute to the nation's economic growth; and

1.4.2 In his inaugural speech, the President has ordered all department secretaries and heads of agencies to "*remove redundant requirements and [that] compliance with one department or agency, shall be accepted as sufficient for all*";<sup>4</sup> thus, amendment of policies will guide the GOCCs to a simplified and efficient implementation of their major development projects.

## 2. DECLARATION OF POLICIES.

2.1 R.A. No. 10149 has declared that the state shall ensure:

2.1.1 The operations of GOCCs are rationalized and monitored centrally in order that government assets and resources are used efficiently and the government exposure to all forms of liabilities including subsidies is warranted and incurred through prudent means;<sup>5</sup>

2.1.2 The governance of GOCCs is carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness;<sup>6</sup> and

2.1.3 A reporting and evaluation system, which will require the periodic disclosure and examination of the operations and management of the GOCCs, their assets and finances, revenues and expenditures, is enforced.<sup>7</sup>

2.2 The GCG, as provided in R.A. No. 10149, has, among others, the following powers and functions:

2.2.1 Conduct periodic study, examination, evaluation and assessment of the performance of the GOCCs, receive, and in appropriate cases, require reports on the operations and management of the GOCCs including, but not limited to, the management of the assets and finances of the GOCCs;<sup>8</sup> and

2.2.2 Coordinate and monitor the operations of GOCCs, ensuring alignment and consistency with the national development policies and programs.<sup>9</sup>

<sup>3</sup> <http://manilastandard.net/business/208836/duterte-to-expedite-ppp-deals.html>

<sup>4</sup> <http://newsinfo.inquirer.net/793344/full-text-president-rodrico-duterte-inauguration-speech>

<sup>5</sup> Section 2(b), R.A. No. 10149;

<sup>6</sup> Section 2(c), R.A. No. 10149;

<sup>7</sup> Section 2(d), R.A. No. 10149;

<sup>8</sup> Section 5(g), R.A. No. 10149;

<sup>9</sup> Section 5(j), R.A. No. 10149;

2.3 R.A. No. 10149 also states the following duties, obligations, and responsibilities of the members of the GOCC's Board of Directors/Trustees, in addition to the powers and functions provided in the individual charters or articles of incorporation and by-laws of the respective GOCCs:

2.3.1 As fiduciaries of the State, members of the Board of Directors/Trustees and the Officers of GOCCs have the legal obligation and duty to always act in the best interest of the GOCC, with utmost good faith in all its dealings with the property and monies of the GOCC.<sup>10</sup>

2.3.2 The members of the Board and the Officers must exercise extraordinary diligence in the conduct of the business and in dealing with the properties of the GOCC. Such a degree of diligence requires using the utmost diligence of every cautious person with due regard for all circumstances.<sup>11</sup>

### **3. REVOCATION OF GCG MC NO. 2013-03.**

3.1 Upon due evaluation by the GCG, proposed Major Development Projects and Major Contracts of GOCCs lie within the sound business judgment of the respective Governing Boards of the GOCCs. The Governing Boards are mandated by existing laws, rules, and regulations to exercise extraordinary diligence in the conduct of the business and in dealing with the properties of their respective GOCCs.

3.2 GCG MC. No. 2013-03 contains provisions and processes that unnecessarily impede the timely approval and implementation of government projects. It is the government's priority to streamline its processes to ensure effective and timely implementation of projects to guarantee the immediate delivery of adequate and reliable government services.

**3.3 THE GOVERNANCE COMMISSION HEREBY RESOLVES TO REVOKE GCG MC NO. 2013-03 (RE-ISSUED).**

### **4. GOCC SUBMISSIONS TO OTHER GOVERNMENT AGENCIES.**

4.1 Major Development Projects and Major Contracts of GOCCs shall continue to fall under the review and decision-making process of the NEDA, NEDA ICC, and/or the NEDA Board, pursuant to all applicable existing laws, rules and regulations, including any amendments and changes therein in the future.

4.2 In addition, GOCCs with Major Development Projects and Major Contracts shall also submit the same to the Economic Development Cluster (EDC), whenever applicable, subject to applicable existing laws, rules and regulations.

4.3 GOCCs shall ensure that all agreements entered by them including, but not limited to, those involving Major Development Projects and Major Contracts shall not be grossly disadvantageous to the government. The required

<sup>10</sup> Section 19, R.A. No. 10149,

<sup>11</sup> Section 21, R.A. No. 10149,



favorable legal opinion and/or contract review by the Office of the Government Corporate Counsel (OGCC) shall be secured by the GOCC before entering into said agreements.

4.4 All other required approvals, evaluations, and studies, as mandated by applicable laws, rules, and regulations shall be submitted by the GOCC to the relevant government agency.

5. **GOCC SUBMISSIONS TO GCG.** - GOCCs covered by RA 10149 shall submit (*both in hardcopy and electronic form*) to the GCG a briefer of all Major Development Projects and Major Contracts for purposes of monitoring GOCC performance and asset utilization. The said briefer shall contain the following:

- (i) Description of the Project/Contract;
- (ii) Enumeration of funding and other resource requirements, and the source thereof (*if applicable*);
- (iii) Location map (*if applicable*);
- (iv) Favorable legal opinion and/or contract review by the Office of the Government Corporate Counsel (OGCC); and,
- (v) Other aspects deemed important for consideration by the GOCC Governing Board.

For projects or contracts involving properties of GOCCs with an area of less than one (1) hectare, GOCCs shall submit items (i) to (v) above on a quarterly basis. For properties with an area of one (1) hectare or more, GOCCs shall submit items (i) to (v) above, together with the copy of the agreement/contract, within fifteen (15) days from the GOCC's receipt of the legal opinion and/or contract review of the OGCC. All current/existing contracts involving properties of GOCCs, regardless of area size, shall be submitted to the GCG within three (3) months from the effectivity of this Memorandum Circular.

GOCCs shall likewise submit all other documents that the GCG may require from time to time.

6. **REPEALING CLAUSE.** All other GCG orders, circulars, issuances, and decisions, or parts of the foregoing, which are inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

7. **EFFECTIVITY CLAUSE.** This circular shall take effect immediately upon its publication in the Governance Commission's website at [www.gcg.gov.ph](http://www.gcg.gov.ph).

  
SAMUEL G. DAGPIN, JR.  
Chairman

  
MICHAEL P. CLORIBEL  
Commissioner

  
MARITES C. DORAL  
Commissioner

  
CARLOS G. DOMINGUEZ  
DOF Secretary

FEB 13 2018

  
BENJAMIN E. DIOKNO  
DBM Secretary

FEB 15 2018

