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Competition and Corruption in Public Procurement – Note by the Philippines

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Philippines

1. Introduction

1.1. Public procurement in the Philippines

1. Governments around the world spend approximately US\$9.5 trillion annually in procurement.¹ For the Philippines, public procurement represents a substantial portion of the economy – an average of about 13% to 20% of the Gross Domestic Product.² In fact, yearly, the Philippine Congress allocates about 45% of its national budget for procurement.³ This level of spending is expected to remain given that infrastructure development still remains a top priority. With the amount of public funds devoted to procurement, it stands to reason that improving the transparency and accountability of the process should be of equal importance.

1.2. Competition and public procurement

2. Public procurement has been defined as the purchase by governments and state-owned enterprises of goods, services, and works.⁴ It is a crucial pillar of services delivery for governments.⁵

3. Under Philippine law, government procurement is underpinned by the principle of competitiveness, *i.e.*, equal opportunity must be ensured for all eligible and qualified suppliers, manufacturers, distributors, contractors, consultants, and service providers.⁶ Other governing principles include transparency, simplicity, and accountability.⁷ This allows the State to obtain the optimum combination of quality and cost to meet the requirements of public service.⁸

4. By its very nature and characteristic, a competitive public bidding aims to protect the public interest by giving the public the best possible advantages through open competition and to avoid or preclude suspicion of favoritism and anomalies in the execution of public contracts.⁹

¹ World Bank, *Methodology for Assessing Procurement Systems, Assessment of Public Procurement in the Philippines*, 2021.

² Stated by Secretary Pangandaman of the Department of Budget Management, available at <https://www.dbm.gov.ph/index.php/the-secretary-2/speeches/2186-putting-sound-procurement-at-the-heart-of-delivering-public-services> (last accessed on 20 April 2026).

³ *Id.*

⁴ Organisation for Economic Co-operation and Development, *Public Procurement*, available at <https://www.oecd.org/en/topics/public-procurement.html> (last accessed on 20 April 2026).

⁵ *Id.*

⁶ Sec. 3(b), Article I, Republic Act No. 12009 or the New Government Procurement Act (NGPA).

⁷ *Danville Maritime, Inc. v. Commission on Audit*, G.R. No. 85285, July 28, 1989.

⁸ Sec. 5(z), Article I, NGPA.

⁹ *Danville Maritime, Inc. v. Commission on Audit*, G.R. No. 85285, July 28, 1989.

5. When procurement systems work under the framework of competitiveness, government contracts deliver better value for money — more kilometers of roads built, more schools equipped, more hospitals supplied with quality equipment. For businesses, fair procurement creates a level playing field where companies compete on merit rather than connections, encouraging innovation and efficiency in the private sector.¹⁰

6. While the general rule is that all public procurement must undergo competitive bidding, Philippine law allows for other modes of procurement such as limited source bidding, negotiated procurement, direct acquisition, and more, provided the requirements under existing procurement laws and regulations are complied with.

7. Generally, procurement is a multi-step process which requires the participation of several actors to conclude successfully. The steps involved are the following: (1) pre-procurement conference; (2) advertisement or invitation to bid; (3) pre-bid conference; (4) eligibility check of prospective bidders; (5) submission and receipt of bids; (6) modification and withdrawal of bids; (7) bid opening and examination; (8) bid evaluation; (9) post qualification; (10) award of the contract; and (11) notice to proceed.¹¹ This multi-layered process is intended to safeguard the integrity and transparency of the entire process.

1.3. PH Public Procurement and persistent challenges

8. Despite the process being meticulously outlined, persistent challenges continue to surround Philippine public procurement. Studies have observed that non-compliance of bidders, incomplete documents, delays, and corruption are just some of the issues that still need addressing.¹² Allegations of overpricing and awards to unqualified bidders have led to a number of investigations for possible instances of corruption.¹³

9. A 2023 study also identified government's weak capacity to implement its own procurement procedures as a persistent challenge.¹⁴ This comes from the fact that performing the functions of the Bids and Awards Committee (BAC) is an *ad hoc* exercise by its members who are normally selected from various units of the procuring government entity.¹⁵ It is only the secretariat of the BAC that is permanent and has a mandate to dedicate its whole time for procurement activities.

Public procurement is one of the government activities most vulnerable to corruption.¹⁶

¹⁰ United Nations Office on Drugs and Crime, Philippine agencies strengthen collaboration to combat procurement fraud, available at: <https://www.unodc.org/roseap/en/philippines/2025/05/combating-procurement-fraud/story.html#:~:text=Participants%20agreed%20to%20pursue%20regular,efficiency%20in%20the%20private%20sector> (last accessed on 20 April 2026).

¹¹ PSC v. Dear John Services, Inc., G.R. No. 183260, July 4, 2012.

¹² Imasa & Campos, Issues in Philippine Public Procurement: A Content Analysis of Commission on Audit Annual Audit Reports, *Community Development Journal* 8, (2024).

¹³ Navarro, The Evolution of Reforms and the State of Competition in Public Procurement in the Philippines, Philippine Institute of Developmental Studies Discussion Paper Series No. 2023-48, (2023).

¹⁴ Id.

¹⁵ Id.

¹⁶ Organisation for Economic Co-operation and Development, Preventing Corruption in Public Procurement, available at: <https://baselgovernance.org/sites/default/files/2020->

10. This problem affects not only developing countries but also developed ones.¹⁷ And the Philippines is no exception. In addition to the volume of transactions and the financial interests at stake, corruption risks are exacerbated by the complexity of the process, the close interaction between public officials and businesses, and the multitude of stakeholders.¹⁸

11. Corruption under Philippine law can take on many forms. In the context of procurement, Section 3 of the Anti-Graft and Corrupt Practices Act provides what constitute as “corrupt practices” for public officers.¹⁹ These include bribery and gift-taking, granting unjustified favors (manifest partiality), conflicts of interest, and entering into manifestly and grossly disadvantageous contracts on behalf of the government, to name a few.

12. Beyond the Anti-Graft and Corrupt Practices Act, the Revised Penal Code as well as the Philippine Competition Act also provide for criminal sanctions for erring individuals in the realm of public procurement.²⁰

13. The responsibility of prosecuting corrupt practices falls within the jurisdictions of the Office of the Ombudsman (OMB) and the Department of Justice. The Philippine Competition Commission (PCC) only has administrative jurisdiction over cases involving anti-competitive practices. Nevertheless, there may be competition cases entangled with corruption, as corrupt practices inevitably impede the supposed competitive process of public procurement.

2. Procurement Regulatory Framework in the Philippines

2.1. NGPA and reforms to increase transparency, accountability and competitiveness

14. Presently, the New Government Procurement Act (NGPA) serves as the primary regulatory framework for the conduct of government procurement. It was signed into law on 20 July 2024, amending the previous Government Procurement Reform Act,²¹ to increase transparency, accountability, and competitiveness in public procurement.

15. To enhance transparency, the NGPA requires the procuring government entity to keep a video recording of all procurement-related conferences for Competitive Bidding, which includes pre-procurement conference, pre-bid conference, bid opening, and other

03/oecd_preventing_corruption_in_public_procurement_2016.pdf (last accessed on 30 April 2026); See also *supra* note 2.

¹⁷ United Nations Office on Drugs and Crime, *Corruption in Public Procurement*, available at <https://www.unodc.org/e4j/zh/anti-corruption/module-4/key-issues/corruption-in-public-procurement.html> (last accessed on 20 April 2026).

¹⁸ *Id.*

¹⁹ R.A. 3019.

²⁰ The Revised Penal Code provides for specific penal sanctions for bribery, direct or indirect, involving public officials. The Philippine Competition Act provides penalties of imprisonment and fines on entities who have been found guilty of entering into anti-competitive agreements, including rigging of bids.

²¹ Republic Act No. 9184, also known as the Government Procurement Reform Act (GPRA), was signed on January 10, 2003.

meetings of the BAC. All procurement-related conferences for Competitive Bidding shall not commence without a video recording initiated by the BAC.²² The Procuring Entity is also required to livestream the preliminary examination and the opening of the bids to the public on its website, social media account, or any other form of livestreaming services.²³

16. The NGPA also provides for administrative sanctions for violations of required procedures in the conduct of biddings without prejudice to criminal and civil liabilities under the Anti-Graft and Corrupt Practices Act.²⁴ Jurisdiction over these administrative actions is vested with the head of the procuring government entity. Sanctions include blacklisting and suspension for erring bidders.²⁵

17. To ensure that all eligible and qualified suppliers, manufacturers, distributors, and other service providers are given equal opportunity in the procurement process, participating entities are now required to disclose beneficial ownership.²⁶ By requiring the disclosure of the ultimate owners of bidders, the law aims to prevent “sham” biddings where competing bidders actually belong to the same owner.²⁷ Failure or refusal to comply with the disclosure requirement shall be ground for automatic disqualification of bids.²⁸

18. Under the same law, the Government Procurement Policy Board (GPPB)²⁹ is now required to publish an annual report to help government agencies identify and detect patterns that indicate fraud, bid-rigging, and anti-competitive practices in the procurement process.³⁰ The GPPB is also mandated to provide relevant agencies access to these PhilGEPS procurement data.³¹

2.2. PCC’s administrative jurisdiction over competition in bidding procedures

19. The PCC has original and primary jurisdiction over the enforcement of the Philippine Competition Act (PCA), as well as violations of other competition laws.³² Under Section 14 of the PCA, anti-competitive agreements are prohibited.

20. Section 14 finds application in public procurement as it prohibits the fixing of prices at an auction or anticompetitive agreements in any form of bidding, including cover

²² Sec. 38, Article IV, NGPA.

²³ The mandatory video recording shall only apply to the procurement of Goods costing above Ten Million Pesos (P10,000,000.00), Infrastructure Projects costing above Twenty Million Pesos (P20,000,000.00), and Consulting Services costing above Five Million Pesos (P5,000,000.00) using Competitive Bidding as the mode of procurement.

²⁴ Sec. 92, Article XX, NGPA.

²⁵ Secs. 99-100, Article XXI, NGPA.

²⁶ Sec. 81, Art. XV, NGPA.

²⁷ Sec. 81, Art. XV, NGPA.

²⁸ Sec. 81, Art. XV, NGPA.

²⁹ The GPPB is the central body that sets strategic direction and makes policy decisions regarding all matters affecting public procurement.

³⁰ Sec. 24(c), Art. III, NGPA.

³¹ Sec. 24, Rule III, Implementing Rules and Regulations, NGPA.

³² Sec. 12(a), Republic Act No. 10667 or the Philippine Competition Act (PCA).

bidding, bid suppression, bid rotation, market allocation, and other analogous practices of bid manipulation.

21. Bid rigging occurs when competitors, instead of competing, coordinate their actions to manipulate the outcome of a bidding process to their benefit. It undermines both government procurement and biddings held by private businesses, depriving them of better value for money.³³ Ultimately, the higher costs are passed on to consumers.

22. The PCC plays an important role in ensuring that the bidding process is not attended by collusion among bidding participants. Should there be any finding of violation of Section 14, the PCC is empowered to impose administrative sanctions which involve fines ranging from PhP125 million (~US\$2M) for the first offense, up to PhP310 million (~US\$5M) for subsequent offenses.³⁴ These administrative sanctions are separate and distinct from the ones found under the NGPA.

2.3. OMB and DOJ-OFC criminal jurisdiction over corruption

23. Another set of relevant agencies that have jurisdiction over violations involving public bidding are the OMB and the Department of Justice – Office for Competition (DOJ-OFC). The OMB is the agency vested with jurisdiction to investigate and prosecute offenses involving graft and corruption by public officers under the Anti-Graft and Corrupt Practices Act. On the other hand, the DOJ-OFC has jurisdiction over the prosecution of the criminal aspect of competition violations, *e.g.*, Section 14 of the PCA, complementing the administrative jurisdiction of the PCC. The proceedings before the DOJ-OFC may be initiated by a Complaint filed by the PCC after the latter’s conduct of a preliminary inquiry.³⁵ The DOJ-OFC shall then conduct its own preliminary investigation in accordance with the revised rules of criminal procedure.³⁶

3. PCC’s BiRST

3.1. What is the PCC’s BiRST

24. To enhance its enforcement efforts in the public procurement space, the PCC has developed the PCC Bid Rigging Screening Tool (BiRST). It is a tool that proactively analyzes procurement documents and information to screen biddings and detect possible violations of bid rigging. This helps the PCC Competition Enforcement Office (CEO) streamline efforts and conserve resources by shifting focus towards “flagged” biddings primarily.

25. With various laws requiring the preservation and collection of procurement data, the BiRST utilizes stored procurement data to identify possible “red flags” in previous biddings concluded. Some of these red flags include tenders where the winning bid is an

³³ Philippine Competition Commission, Bid Rigging Screening Tool, available at: <https://www.phcc.gov.ph/file-manager/1/Covid-19/Bid%20rigging%20is%20against%20the%20law/Anti-bid-rigging-screening-tool-.pdf> (last accessed on 04 May 2026).

³⁴ Sec. 29 (a), PCA. The schedule of fines was recently adjusted by virtue of PCC Memorandum Circular No. 26-002.

³⁵ Sec. 31, PCA.

³⁶ Sec. 31, PCA.

“outlier,” the procurement mode selected is suspect (e.g., negotiated procurements due to two failed biddings), and similar pricing across bids.³⁷ This tool has been useful as it reduces reliance on reluctant witnesses and enables efficient screening of numerous procurement documents.

26. However, as the BiRST relies on input data stored by government agencies, it becomes imperative for the latter to maintain complete, regular, and reliable databases during the conduct of their procurement to ensure the proper functioning of the tool.

27. Since the BiRST operates online on the PCC’s servers, government agencies willing to utilize the tool are granted only limited access to the server. Participating agencies granted access can directly feed procurement data to ensure on-time and accurate recording. Once all relevant information have been uploaded, the BiRST is able to churn out reports and flag potentially anticompetitive bidding.

3.2. Early lessons and investigations opened

28. BiRST is still in its developmental stages. To this day, the tool is still undergoing user-testing and the CEO still collects feedback from other participating agencies. Nevertheless, since the soft launching of the PCC BiRST in 2023, the initiative has been instrumental in opening at least five (5) investigations involving procurements in construction, agriculture, and irrigation.³⁸

29. In 2023, the CEO was able to detect suspicious bidding behavior in a particular region in the Philippines by entities who participated in several government procurement projects for the purchase of various construction supplies such as road paint, asphalt, streetlights, road signs, and other related equipment.

30. The BiRST flagged their bidding activities as suspicious since from 2020 until 2023, these entities were able to bag all procurement awards notwithstanding the presence of some outliers. The subject entities were able to secure awards with tenders that had a variance of less than 1% from each other and from the approved contract budget. It was further observed that when an outsider participated in the bidding, the variance of the submissions increased to more than 1%. After further inquiry, it was revealed that the subject entities had related owners / proprietors which prompted the opening of the investigation.

31. In 2024, indications of possible bid rotation and manipulation were also found to exist in the procurement of construction projects in a certain highly urbanized city. Acting on information received, the CEO requested for procurement documents from various government regulators. The BiRST flagged that for all construction projects bid out, participants had similar prices across bids as well as similar “winning bid-to-contract budget” ratios. Further analysis also suggested that there was a pattern behind winning bidders in the said construction projects.

32. In the few years of using BiRST, the PCC had significant lessons learned. First, interagency collaboration is crucial. Securing buy-in and data sharing agreements from other government bodies, particularly those directly involved in procurement, is essential for BiRST’s effectiveness. Without full-fledged participation from crucial government

³⁷ Sec. 31, PCA.

³⁸ The PCC’s experience regarding these investigations and BiRST’s application are disclosed herein albeit to a limited extent only to preserve the integrity and confidentiality of the same. Some of these investigations are still in progress.

agencies, BiRST's utility will be limited. Second, raising awareness of competition law and the specific harms of bid rigging is vital, not just within government but also among businesses and the public. This fosters a culture of compliance and encourages reporting of information to support CEO in building up on initial leads. Third, adapting international best practices to local contexts is necessary. While drawing inspiration from other jurisdictions, BiRST has been tailored to cater to the specific nuances of the local procurement landscape. This entails a calibration of weights given to the criteria within BiRST as well as identifying crucial information in the submission of bids.

3.3. Long-term plans

33. In the long-run, the goal is to widen the roll-out of BiRST to include more agencies and to establish seamless interconnectivity between the electronic procurement systems of agencies and the PhilGEPS to facilitate reporting of procurement data. Low-hanging initiatives that the PCC could take advantage of include the optimization of existing Memoranda of Agreement (MOA) with other government agencies. While agencies already have these memoranda for information sharing in place, practical barriers to effective collaboration still remain. In a workshop organized by the United Nations Office on Drugs and Crime (UNODC), participants called for developing standard operating procedures to operationalize existing MOAs more effectively, particularly for time-sensitive investigations where delays can compromise outcomes. Confidentiality treatment was cited as one of the barriers to seamless information exchange, despite having the existence of a MOA.³⁹

4. Conclusion

34. Competition enforcement complements the fight against corruption in public procurement. Detection and successful prosecution of bid rigging activities could curb instances of corruption in public procurement, in the same way that thwarting corrupt practices could reduce occasions for bid rigging. With this in mind, the PCC strives to enhance its enforcement efforts and build synergies with government agencies that have critical roles in upholding the integrity and competitiveness of public procurement processes.

³⁹ Supra note 10.