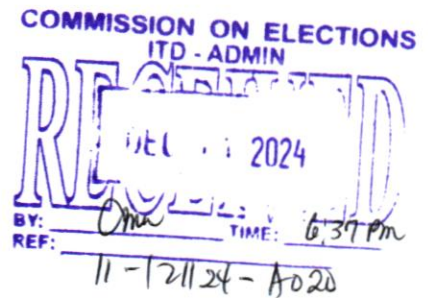




Republic of the Philippines  
COMMISSION ON ELECTIONS  
Intramuros, Manila



RULES AND REGULATIONS ON  
THE PROHIBITION AGAINST  
THE RELEASE, DISBURSEMENT,  
OR EXPENDITURE OF PUBLIC  
FUNDS FOR THE  
CONSTRUCTION OF PUBLIC  
WORKS, DELIVERY OF  
MATERIALS FOR PUBLIC  
WORKS AND ISSUANCE OF  
TREASURY WARRANTS AND  
SIMILAR DEVICES IN  
CONNECTION WITH THE MAY  
12, 2025 NATIONAL AND LOCAL  
ELECTIONS, AND BARMM  
PARLIAMENTARY ELECTIONS

GARCIA, G.E.M.,  
INTING, S.B.,  
CASQUEJO, M.S.,  
FEROLINO, A.P.,  
BULAY, R.E.,  
MACEDA, E.F.P. JR.,  
CELIS, N.J.,

Chairman  
Commissioner  
Commissioner  
Commissioner  
Commissioner  
Commissioner

X-----X

promulgated: November 13, 2024

RESOLUTION NO. 11078

*WHEREAS*, under the 1987 Constitution, the Commission on Elections (Commission) is mandated to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall;

*WHEREAS*, Section 261 (v) of the Omnibus Election Code (OEC) prohibits public officials or employees, including barangay officials and those of government-owned and controlled corporations (GOCCs) and their subsidiaries, to release, disburse or expend any public funds for public works during the forty-five (45) days preceding a regular election, unless said release, disbursement, or expenditure falls within the exceptions;

*WHEREAS*, Section 261 (w) of the OEC prohibits any person to issue, use or avail treasury warrants or any device undertaking future delivery of money, goods or other things of value chargeable against public funds during the period of forty-five days preceding a regular election;

NOW THEREFORE, pursuant to the powers vested in it by the Constitution and OEC, the Commission **RESOLVED**, as it hereby **RESOLVES** to adopt the following rules and regulations to enforce the foregoing prohibitions under Section 261 (v) and (w) of the OEC.

## RULE I PUBLIC WORKS BAN

**SECTION 1. *Public works defined*** - Whenever used in this Resolution, “**public works**” refer generally to “infrastructure projects” or any building or structure on land or to structures built by the Government for public use and paid for by public funds. It encompasses fixed works constructed for public use or enjoyment financed and owned by the government<sup>1</sup>.

It include the construction, improvement, rehabilitation, demolition, repair, restoration, or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings, and other related construction projects of the government.<sup>2</sup>

**SEC 2. *Prohibition on Release, Disbursement or Expenditure of Public Funds.*** – Effective March 28, 2025 (Friday) until May 11, 2025 (Sunday), no public official or employee, and those of government owned and controlled corporations and their subsidiaries shall release, disburse, or expend any public funds for:

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 (6) - month period immediately prior to March 28, 2025, shall be permitted to work during such time: Provided, further, that no additional laborers shall be employed for maintenance work starting March 28, 2025 until May 11, 2025;

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<sup>1</sup> Guzman vs. COMELEC, G.R. No. 182380, 28 August 2009.

<sup>2</sup> Section 5 (0) of Republic Act No. 12009

- b) Work undertaken by contract through public bidding held, or by negotiated contract awarded, before March 28, 2025: Provided, that for the purpose of this Section, work under the so-called "takay" or "pakyaw" 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 28, 2025: 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 sub-paragraphs (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 Section 2 of this Resolution.

**SEC 3. *Prohibition Against Construction of Public Works, Delivery of Materials for Public Works and Issuance of Treasury Warrants and Similar Devices.*** – Effective March 28, 2025 until May 11, 2025, no person shall:

- a) Undertake the construction of any public works, except for projects or works exempted in the preceding Section; or

- b) 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.

## RULE II NOT COVERED BY THE BAN

**SECTION 1. *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 worked in public works projects authorized under Section 2(a) to (d), Rule I, shall be paid his complete earned wage every regular pay and in no case shall said wage or any part thereof be retained or its payment deferred.

**SEC 2. *Public-Private Partnership and Build-Operate-Transfer Projects.*** - Public works contracted under the Public-Private Partnership (PPP) and Build-Operate-Transfer (BOT) are not covered by the ban on public works.

**SEC 3. *Irrigation Projects.*** - The repair, maintenance, and rehabilitation of irrigation facilities as well as BOT irrigation projects shall be exempted from the scope of the ban on public works<sup>3</sup>.

**SEC 4. *Maintenance and other operating expenses (MOOE), defined.*** - It refers to such expenses for traveling, communication, repairs and maintenance, transportation and delivery, supplies and materials, rents, utility, subscription expenses, taxes insurance premium and other fees, professional services, printing and publication, advertising, representation, subscription, among others<sup>4</sup>.

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<sup>3</sup>Republic Act No. 8435. "AN ACT PRESCRIBING URGENT RELATED MEASURES TO MODERNIZE THE AGRICULTURE AND FISHERIES SECTORS OF THE COUNTRY IN ORDER TO ENHANCE THEIR PROFITABILITY, AND PREPARE SAID SECTORS FOR THE CHALLENGES OF GLOBALIZATION THROUGH AN ADEQUATE, FOCUSED AND RATIONAL DELIVERY OF NECESSARY SUPPORT SERVICES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES"

<sup>4</sup>General Appropriations Act



MOOE of national agencies, departments, offices, government-owned and controlled corporations, state universities, and local government units are considered normal and routine expenses incurred through its day-to-day operations and are not covered by the prohibition against release, disbursement, or expenditure of public funds.

**SEC 5. *Salaries of Government Personnel*** - Payments for salaries of personnel in the government, including benefits mandated by law, are excepted from the prohibitions against the release, disbursement, or expenditure of public funds, and issuance of treasury warrants and similar devices.

**SEC 6. *Projects and programs entailing the use of other state/public funds not covered under Section 261 (v) of the OEC.*** - The release, disbursement or expenditures of other state funds are allowed subject to the following conditions:

- (a) The projects/programs/activities ("PPAs") sought to be implemented during the prohibited period of March 28, 2025 to May 11, 2025 were established before the said period and duly reported to the Commission on Audit pursuant to Item 2.1 of its Circular No. 2013-004 dated 30 January 2013<sup>5</sup>;
- (b) The public awareness and information dissemination activities pertaining to these PPAs must conform to the guidelines provided under the said COA Circular.
- (c) In no instance shall the implementation of PPAs be used as an opportunity by any candidate, his or her spouse, family member within the second civil degree of affinity or consanguinity, political parties, party-list organizations and their nominees to further their candidacy through their personal appearance in such events, the posting, exhibition or distribution of any form of election propaganda, or any material containing their names, logos, initials, mottos, slogans, images, and other forms of representation attributable to them.

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<sup>5</sup>The subject of Commission on Audit Circular No. 2013-004 dated 30 January 2013 is "Information and Publicity on Programs/Projects/Activities of Government Agencies".

- (d) Support for or endorsement of candidates, party-list organizations and political parties shall not be made as a condition for the entitlement of the benefits from the PPAs.
- (e) Should the PPAs involve distribution of cash, goods or merchandise for scholarships, assistance for burial, healthcare, calamity and other similar programs, candidates, party-list nominees, their spouses, and members of their family within the second civil degree of affinity or consanguinity are strictly prohibited from participating, directly or indirectly, in the distribution thereof. A violation of this condition shall subject the candidates or their representatives to liability under Section 261 (o) of the OEC.

**SEC 7. *Excepted expenditures on MOOE and salary of personnel; No need for a Certification*** - For excepted expenditures under Sections 4 and 5 of this Rule, the concerned government agency need not request for the certificate of exception.

### **RULE III CERTIFICATE OF EXCEPTION**

**SECTION 1. *Submission to the Commission of the certified list of authorized public works projects.*** - The Department Secretary, Head of National Agency, including GOCCs, government financing institutions, state universities and colleges concerned, and local chief executive or their duly authorized representative, shall submit to the Commission, through the Political Finance and Affairs Department (PFAD), a certified list of the following:

- a) All on-going public works projects commenced before March 28, 2025;
- b) All on-going public works projects under foreign agreements commenced before March 28, 2025;
- c) All public works undertaken by contract through public bidding held, or by negotiated contract awarded, before March 28, 2025.

Any public works not included in the above list and which are not among the exceptions under Sec. 261, sub-section (v) of the

OEC or under these Rules shall be considered as falling under the public works ban.

**SEC 2. *Submission online and the use of prescribed form.*** - All submission for the issuance of the Certificate of Exception must be filed online on or before March 28, 2024 in the COMELEC Website using the Public Works Ban link. Submission filed personally or by registered mail, shall not be accepted adopting the zero-contact policy and automation of business-related transactions in the government<sup>6</sup>.

Electronic copies of all the prescribed forms shall be made available for free in the COMELEC Website. Requesting party shall ensure that the forms to be submitted comply with proper file formats.

**SEC 3. *Documentary requirements for issuance of Certificate of Exception.*** - Requesting party shall provide the following documents:

- a) Maintenance of existing and/or completed public works project;
  - i) Certified true copy of the letter of acceptance of the public works project; or
  - ii) Certified true copy of the contract covering the maintenance work being done on the existing/completed public works project; or
  - iii) A notarized or sworn undertaking or commitment not to allow, hire or employ more than or additional number of employees/laborers to work during March 28, 2025 to May 11, 2025;

In the case of maintenance of completed public works, the requesting party must, in addition to any of the abovementioned, submit a certified true copy of the certificate of completion of the public works project.

- b) Public works projects undertaken by contract through public bidding or by negotiated contract awarded;

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<sup>6</sup> Republic Act No. 11032, otherwise known as "Ease of Doing Business and Efficient Government Service Delivery Act of 2018"

- i) Certified true copy of the "Notice of Award" (NOA) of contract; or
  - ii) Certified true copy of the "Notice to Proceed" (NTP) with the public works project; or
  - iii) Certified true copy of the contract.
- c) Payment for the usual cost of preparation of public works project for working drawings, specifications, bills of materials, and estimates, purchase of materials and equipment, and other procedures preparatory to actual construction, and all incidental expenses for wages of watchmen and other laborers employed for such work in the central office and field storehouses;
  - i) The statement of account, billing or collection invoice showing amount and date due evidencing the payment required to be released during the period covering the ban; and
  - ii) A sworn or notarized undertaking or commitment not to hire or employ more laborers than the number of laborers at commencement date of the project/s.
- d) Emergency work necessitated by the occurrence of a public calamity limited to the restoration of the damaged facility;
  - i) A certified true copy of the Executive Order or the Local Sangguniang Resolution declaring a state of calamity in the disaster-stricken area; and
  - ii) Documentation showing the scope of the emergency work needed, which must be limited to the restoration of the damaged facility, including but not limited to a copy of the Local Disaster Risk Reduction and Management Plan (LDRRMP), Local Sangguniang Resolution and approved local budget.
- e) On-going public works projects commenced before the campaign period under foreign agreements.



- i) Certified true copy of the foreign agreement/contract; and
  - ii) List of works covered by the foreign agreement/contract.
- f) Ongoing public works projects and other similar projects commenced before the campaign period undertaken or carried out by its own personnel of the concerned agency<sup>7</sup>
  - i) Documents showing that the project was undertaken by administration and
  - ii) Documentation or proof, such as but not limited to photographs, plans, progress billing, among others, showing that the infrastructure project already commenced before the campaign period.

In case that any of the abovementioned document for each public works project cannot be submitted, the party seeking to request for a Certificate of Exception shall, in lieu of the said documentary requirement, submit a Certification under oath, signed by the head of department or agency or his duly authorized representative, stating that the said project/s fall among the those excepted from the public works ban and the reason for the non-submission thereof.

**SEC 4. *No Payment of Fees required for issuance of the Certificate.*** - No fees shall be collected from the requesting party for the issuance of the Certificate.

**SEC 5. *Issuance of Certificate.*** - When all the documents submitted are complete, a certificate shall be issued to the requesting party.

When a request includes multiple projects, a certificate shall be issued to cover those projects that satisfied the requirements under this Rule. However, it shall not preclude the requesting party from submitting the missing or lacking documents for those projects not included in the certificate.

**SEC 6. *Release of the Certificate.*** - Unless personally claimed by the person who made the request, or his authorized

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<sup>7</sup> Where the implementation of an infrastructure project is carried out under the administration and supervision of the concerned agency through its own personnel (*Section 2.1, Appendix 1, Revised IRR of RA 9184*).

representative, the certificate shall be sent to the office address of the requesting party via registered mail. In any case, a digital copy of the certificate shall likewise be sent to the email address indicated in the request.

**SEC 7. *Limitation of exception.*** - The issuance of the certificate is exclusive to the requesting party and the projects subject for evaluation.

Any project covered by a certificate and to be implemented by another government entity or any of its subordinate or subdivision, the implementing entity need not secure another authority from the Commission provided that:

- a) the project has the same source of funds;
- b) The implementing entity and the project to be implemented was included and identified in the request for exception;

**SEC 8. *Effects of Misrepresentations and False Statements in the Requests; Non-compliance of rules; Incomplete or incorrect documents submitted.*** - Non-compliance with any of the requirements set forth in this Resolution, or submission of an incomplete or incorrect document, or any misrepresentation or false statement, shall cause for denial of request, exclusion of any specific project affected by incompleteness or incorrectness, or revocation of the certificate issued.

## **RULE IV OPPOSITION**

**SECTION 1. *Opposition-*** Any interested party may oppose a request for exception by filing a Verified Opposition within three (3) days from the submission of the request.

**SEC 2. *Manner of Filing*** - A Verified Opposition shall be filed in four (4) hard copies and shall be filed personally before the Office of the Clerk of the Commission.

**SEC 3. *Docket fees for Opposition.*** - No Opposition shall be given due course without the payment of a filing fee in the amount of Ten Thousand Pesos (P10,000.00) and legal research fee in the amount of One Hundred Pesos (P100.00).

Upon submission of proof of payment, the *Opposition* shall be docketed under Election Matter (EM).

**SEC 4. *Hearing.*** - The hearing on the *Opposition* shall be within the jurisdiction of the Divisions of the Commission and the conduct thereof shall be summary in nature and delegated to the Clerk of the Commission who shall:

- a) Issue relevant Notices and Orders;
- b) Prepare Calendar of Hearings;
- c) Determine compliance of the jurisdictional facts;
- d) Receive evidence and Memoranda, if applicable;
- e) Prepare case folders; and,
- f) Perform all other actions in furtherance of this authority.

**SEC 5. *Submission of Recommendation in case of Opposition.***  
- After evaluation of the request for exception, or submission of the evidence by the parties or the lapse of the period to file their Memoranda, the Clerk of the Commission shall immediately submit its recommendation for the approval/disapproval of the Request for Exception to the Division of the Commission that has jurisdiction over the case.

**SEC 6. *Motion for Reconsideration.*** - A verified Motion for Reconsideration may be filed by the aggrieved party within five (5) days from receipt of the Resolution granting or denying the Opposition on the grounds that the evidence is insufficient to justify the Resolution or that it is contrary to law.

The motion shall be filed in the same manner prescribed on Section 2 hereof. The filing fee in the amount of One Thousand Pesos (P1,000.00) shall be paid to the Cash Division of the Main Office of the Commission. The original copy of the official receipt shall be attached to the motion.

**SEC 7. *Duty of the Clerk of the Commission on the Motion for Reconsideration.*** - Within 24 hours from the filing, the Clerk of the Commission shall submit the *Motion for Reconsideration* for resolution of the Commission *En Banc*.

**SEC 8. *Finality.*** - The resolution on the Request for Exception shall be deemed final and executory within five (5) days from receipt of the concerned parties thereof. The OCOC shall issue a Certificate of Finality and furnish the Law Department with a copy thereof within one (1) working day from its issuance.

## RULE V OTHER PROVISIONS

**SECTION 1. *Authority of the PFAD to act on requests for exception.*** – The PFAD shall receive, evaluate, and recommend to the Chairman of the Commission all the requests that comply with this Resolution.

The PFAD shall send notice to the requesting party in case that the request is non-compliant specifying the reason/s thereof or the lacking documents/requirements to be submitted.

**SEC 2. *The Commission is not estopped from implementing Section 261 (o) of the OEC.*** – The issuance of a Certificate of Exception shall not preclude the Commission from investigating and prosecuting any violation of Section 261 (o) of the OEC.

**SEC 3. *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 OEC 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 Section 6 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 4. *Penalty.*** – Any violation of Rule 1 of this Resolution shall, consistent with Sections 261 and 264 of the OEC, 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 5. *Effectivity.*** – This Resolution shall take effect on the seventh (7th) day after its publication in two (2) daily newspapers of general circulation.



**SEC 6. Publication and dissemination.** – The Education and Information Department shall cause the publication of this resolution in two (2) daily newspapers of general circulation in the Philippines while the Information Technology Department shall cause its posting in the Official website of the COMELEC.

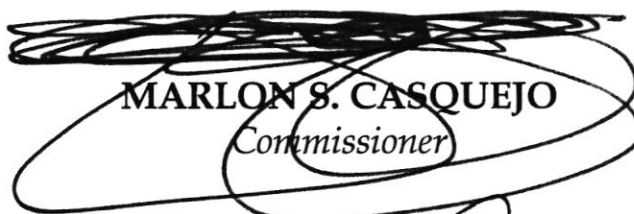
**SO ORDERED.**



**GEORGE ERWIN M. GARCIA**  
Chairman



**SOCORRO B. INTING**  
Commissioner



**MARLON S. CASQUEJO**  
Commissioner



**AIMEE P. FEROLINO**  
Commissioner



**REY E. BULAY**  
Commissioner



**ERNESTO FERDINAND P. MACEDA, JR.**  
Commissioner



**NELSON J. CELIS**  
Commissioner

**CERTIFICATION**

**APPROVED** for publication, November 13, 2024.



**CONSUELO B. DIOLA**  
Director IV

Office of the Commission Secretary

This Resolution can be verified at this number (02) 85272987; email address [comsec@comelec.gov.ph](mailto:comsec@comelec.gov.ph)