



# MEMORANDUM CIRCULAR

DOCUMENT NO.	BJMP- <i>DwD-MC-116</i>
ISSUE NO.	1
REVISION NO.	0
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TOPIC  
**ALTERNATIVE MODE OF PROCUREMENT OF PDL FOOD SUPPLIES**

SUB-TOPIC  
**ADOPTING DIRECT PURCHASE OF FOOD SUPPLIES FOR PDL UNDER THE CUSTODY OF THE BJMP PURSUANT TO SEC. 11, OF RA 11321**

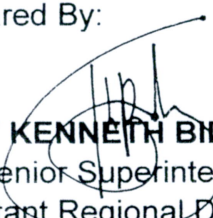
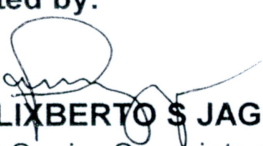


## 1.0 REFERENCES

- A. Republic Act No. 9184 entitled "An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes" or the Government Procurement Reform Act;
- B. Implementing Rules and Regulations (IRR) of RA 9184;
- C. Republic Act No. 11321 entitled "An Act Instituting the Farmers and Fisherfolk Enterprise Development Program of the Department of Agriculture otherwise known as THE SAGIP SAKA ACT."
- D. Implementing Rules and Regulations (IRR) of RA 11321; and
- E. COA Circular No. 2012-001, Prescribing the Revised Guidelines and Documentary Requirements for Common Government Transaction, dated June 14, 2012.


## 2.0 BACKGROUND/RATIONALE

The Bureau of Jail Management and Penology (BJMP) was created under RA 6975 (as amended by RA 9263) as a Line Bureau of the Department of the Interior and Local Government (DILG) to have direct supervision and control over all district, city, and municipal Jails, catering mostly to Persons Deprived of Liberty (PDL) awaiting trial or the disposition of their cases, and those classified as district, city, and municipal prisoners serving sentence after being convicted with final judgment.

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The BJMP since the effectivity of RA 9184, indicates **shopping** as mode of procurement of food supplies of PDL, during the preparation of its Annual Procurement Plan (APP) in compliance with the requirements of RA 9184, but during the **implementation and liquidation**, the provisions of the COA circular (*grant of cash advance*) is the one being applied.

The bidding process, **both the public bidding and alternative modes of procurement** are not applicable in the procurement of PDL food supplies in the BJMP mainly due to the following reasons:

A. *The Seventy Pesos (P70.00) Prisoners Subsistence Allowance (PSA) will not be duly given to PDL due to expected deductions.* - The meager budget allotted for PSA which is only P70.00 per day per PDL will be decreased further if the PSA will be subjected to competitive bidding or other mode of procurement that will surely cause insufficient food supplies. This is because in every government procurement under RA 9184, the Procuring Entity will have to include the hereunder enumerated as mandatory/legal deductions from the ABC. The deduction of these dues and expenses will result in the cutting off of the PSA that will surely end to insufficient food supplies. This will go against the intention of the congress which is to spend the whole amount of such allotment solely for the procurement of PDL food supplies without any deduction from the following:

- (a) Value Added Tax;
- (b) Profit;
- (c) Cost of Labor;
- (d) Overhead Expenses; and
- (e) Other Allowable Deductions.


B. *No fixed Approved Budget for the Contract (ABC).* - It is required that procurement in the government must be based on a fixed ABC as indicated in the Allotment Advice in every Program, Activity, and Project (PAP). However, for the procurement of food supplies of PDL under the BJMP, there is no fix ABC because the budget depends on the number of detainee or PDL population which is fluctuating every day. Considering that 90% of PDL under the custody of the BJMP are temporary detention prisoners, who may be committed and released any time, the BJMP cannot predict the exact PDL population in a certain week, month or year. This is the reason why there is no fix ABC for the procurement of food supplies for PDL allocated in one jail or region.

C. *Bidding process is tedious and incurs allowable delays.* - Every bidding process under the law, both competitive bidding and the use of alternative modes, requires certain period to complete the process before going to implementation or procurement. In some instances, delays are being encountered due to failure of bidding or brought about by legal processes such as protests, motions, etc. These tedious processes will prevent the BJMP from the timely delivery of food supplies to PDL which may result in starvation and even death because a mere hour of delay will cause hunger and may prompt the PDL to stage riot or noise barrage.

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D. *Procurement must be made on a daily basis.* - The procurement of food supplies for PDL is being made on a daily basis because the budget depends on the daily PDL Population and the purchases will be based on the dietary and special needs of PDL. The jail population may be less in a day but it can be more in another day and the supply and demand of commodities. It is therefore improbable to apply bidding process every day or even every week.

E. *Jail facilities are situated in different localities.* - District, city, and municipal jails under the BJMP are almost located in all areas in the Philippines that makes it very difficult for the BJMP Regional Offices to do the bidding process for the jails under their respective areas of responsibility. The BJMP personnel assigned in different jails also lack the qualifications set by the law to comprise the Bids and Awards Committee that is why they cannot implement the bidding process.

F. *Unavailability of supplies during calamity.* - In every bidding process, the winning bidder shall abide by his/her responsibility in accordance with the contract. For infrastructure projects, delivery of goods other than daily food supplies, consulting services, the winning bidder is entitled by law to request for suspension of work or delivery during natural calamity especially when he/she was the one directly affected. For food supplies however, this cannot be allowed.

This is one of the reasons why we cannot implement the bidding process, instead, we are directly procuring food supplies on a daily basis from any available suppliers, in accordance with COA Circular No. 2012-001, because food supplies for PDL are not subject to suspension, otherwise all of them will succumb to hunger and may prompt the PDL to stage riot or noise barrage.

The implementation of direct purchase in the delivery of food supplies to PDL serves a crucial role in accomplishing the mission of the BJMP to enhance public safety by ensuring humane safekeeping and development of PDL for their eventual reintegration to society. The institution of this policy will certainly redound to the benefit of the public and the government considering that: (1) the entire amount (PSA) will be fully given to the PDL and will not be subjected to any business deductions in order to earn income; (2) its delivery will not incur allowable delays brought about by the bidding process; (3) delivery of food supplies is fresh from the farm being purchased from Agrarian Reform Beneficiaries Organization enshrined under the Sagip Saka Act; and (4) delivery of food supplies will not be suspended in times of calamity.

### 3.0 OBJECTIVES

3.1. To deliver food supplies equivalent to the full amount of the Prisoners Subsistence Allowance allotted to PDL under the General Appropriations Act;


3.2. To prevent delay in the delivery of food services to PDL considering that the daily mode of procurement will respond to all situations, especially during calamities where no suppliers are available; and

3.3. To promote and sustain the well-being of our PDL in jails.

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#### 4.0 SCOPE

This Memorandum Circular (MC) shall be applicable to all procurements of food supplies for Persons Deprived of Liberty.

#### 5.0 DEFINITION OF TERMS


For purposes of these guidelines, the following terms are defined:

- (a) **Accredited Farmers and Fisherfolk Enterprise** - refers to the government accredited enterprise of farmers engaged in agriculture and fishery- related economic activities, including, among others, producer groups, fisherfolk organizations/groups, cluster of growers or other similar enterprise whose products are included in the commodity value chains, have potential to increase their marketable surplus, either operational and/or willing to undergo capacity building on enterprise development and management which are;
- (b) **Adjacent Municipality/City Market** - refers to the open market selling agricultural and fishery products in a nearby municipality or city where the jail is situated.
- (c) **Agricultural and Fishery Products** - refer to locally- produced live, fresh, chilled, frozen, and processed agricultural and fishery – based products including agricultural and fishery inputs directly produced by local farmers and fisherfolk (IRR of RA 11321);
- (d) **Agrarian Reform Beneficiaries Organizations (ARBOs)** – farmer’s organizations under the stewardship of the Department of Agrarian Reform (DAR) to sustain the government food sufficiency by the food they produce.
- (e) **Annual Procurement Plan (APP)** - refers to the requisite document that the agency must prepare to reflect the necessary information on the entire procurement activities (i.e. goods, services) that it plans to undertake within the calendar year.
- (f) **Cash Advance**- made by BJMP authorities in the utilization of the Prisoners Subsistence Allowance appropriated under the General Appropriations Act (GAA), the amount of which will depend on the actual number of the PDL population, to be supported by the roster of PDL the corresponding certification from BJMP Officials. Said cash advance will be utilized by the BJMP officials in the direct purchase of food supplies for PDL under their custody;
- (g) **Daily PDL Population** – refers to the actual number of Persons Deprived of Liberty (PDL) confined in one jail in a certain day which shall be the basis in arriving at a budget ceiling in the procurement of PDL food supplies for that specific day;
- (h) **Emergency Cases** - refers to imminent danger to life or property during a state of calamity, or when time is of the essence arising from actual or man-made calamities, health emergencies, or other causes where immediate action is necessary to prevent

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damage to or loss of life or property, or to restore vital public services, infrastructure facilities, and other public utilities.

- (i) **General Market** – refers to the open market selling agricultural and fishery products within the locality where the jail is situated;
- (j) **Jails Transparency Bulletin** – refers to an area within the premises of the jail where all Plans, Projects, and Activities are being posted for purposes of transparency.
- (k) **Person Deprived of Liberty (PDL)** - refers to a detainee, inmate, or prisoner, or other person under confinement or custody in any other manner;
- (l) **Prisoner’s Subsistence Allowance (PSA)** - refers to the allocated food allowance of PDL per day as indicated in the General Appropriation Act (GAA);

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## 6.0 GUIDELINES

### 6.1 GENERAL GUIDELINES

The following are the general guidelines to be followed in the procurement of PDL food supplies:

- 6.1.1 The Chairperson, National Food Service Council (NFSC) shall exercise overall supervision in the procurement of all PDL food supplies nationwide and issue policy to that effect.
- 6.1.2 The Regional Director of the Jail Bureau shall be responsible for the efficient and effective utilization of the PSA for the procurement of PDL food supplies in the regional level.
- 6.1.3 The Regional Food Service Council (RFSC) will monitor and supervise the efficient procurement of food supplies of PDL in all jails and to evaluate the jail food service management.
- 6.1.4 All jail units regardless of the PDL population should have a Food Service unit/kitchen facility with qualified food service staff and food service assistants for an efficient and effective PDL food management/operation.
- 6.1.5 There shall be a list of accredited farmers and fisherfolk enterprises and ARBOs situated within the locality and adjacent municipality posted at the Jails Transparency Bulletin for easy reference in the procurement of PDL food supplies.



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## 6.2 SPECIFIC GUIDELINES/PROCEDURES

6.2.1 The Jail Warden, based on the daily PDL population shall determine the amount of budget to be utilized in the procurement of food supplies of PDL within the day.

6.2.2 The Jail Warden shall thereafter identify the kinds of agricultural and fishery products to be procured based on the daily menu prepared and/or recommended by the NFSC or RFSC which is also applicable to the dietary needs of PDL confined during that day.

6.2.3 The Jail Warden then prepares and sends the Request for Quotation (RFQ) or Request for Proposal of such products to at least three (3) ARBOS, farmers and fisherfolk cooperatives or enterprises listed under its transparency bulletin situated within the locality where the jail is situated.

6.2.4 The goods of the ARBOs, farmers and fisherfolk cooperative or enterprise that offered the lowest price and responsive to the kind of products needed shall be the one to be purchased.

6.2.5 The sending of RFQ to at least three (3) ARBOs or farmers and fisherfolk cooperatives or enterprises shall not be applicable in any of the following:

6.2.5.1 Where there is less than three (3) accredited ARBOS farmers and fisherfolk cooperative or enterprise within the locality and the adjacent city or municipality where the jail is situated, in such a case, sending (1) RFQ will suffice provided that the offer of such cooperative or enterprise is responsive to the needed agricultural and fishery products;

6.2.5.2 Where there are no accredited ARBOs, farmers and fisherfolk cooperative and enterprise within the locality and adjacent city or municipality where the jail is situated, the procurement shall be made in the open market within the locality or adjacent city or municipality selling agricultural and fishery products; and

6.2.5.3 Where all the available farmers and fisherfolk cooperatives and enterprises have limited or incomplete products offered, in such a case, procurement shall be made first at the said cooperative or enterprise on the available products before procuring to the open market for unavailable products; and


6.2.5.4 In cases of man-made and natural calamities, health emergencies, and the like where no farmers and fisherfolk cooperative or enterprise are available; or where the open market within the locality is closed, procurement shall be done directly to any available markets or suppliers selling agricultural and fishery products.

6.2.6 The Warden shall set aside the amount from PSA to be used in the procurement of LPG or fuel for cooking. In all of these enumerated procurements, purchase orders, official receipts and delivery receipts shall be presented as mandatory requirements for liquidation purposes.

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6.2.7 The expenses in the procurement, preparation, and delivery of food to the PDL are included in the PSA and shall be properly liquidated by the accountable officers.

**6.3 PENALTY CLAUSE**

Failure of BJMP officials and authorities to implement these guidelines shall be a ground for the filing of appropriate criminal and administrative charges against them.

**7.0 SEPARABILITY CLAUSE**

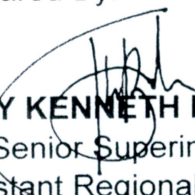



In the event that any provision or part of these guidelines be declared unauthorized or rendered invalid by competent authority, provisions not affected by such declaration shall remain valid and effective.

**8.0 REPEALING CLAUSE**

All other existing issuances that are inconsistent with these guidelines are hereby superseded or modified accordingly.

**9.0 EFFECTIVITY**

These guidelines shall take effect fifteen (15) days from the filing thereof with the U.P. Law Center – Office of the National Administrative Register in accordance with Sections 3 and 4, Chapter II, Book VII of Executive Order No. 292 otherwise known as the “Administrative Code of 1987.”

Prepared By:   <b>ATTY KENNETH BID-ING</b> Jail Senior Superintendent Assistant Regional Director for Administration of the Jail Bureau BJMPRO-I  Noted by:   <b>FELIXBERTO S JAGORIN JR</b> Jail Senior Superintendent Director for Welfare and Development	Reviewed By:   <b>DENNIS U ROCAMORA, CESE</b> Jail Chief Superintendent Deputy Chief for Operations of the Jail Bureau/ QMR	Approved By:   <b>ALLAN S IRAL, CESE</b> Jail Director Chief, BJMP
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