



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

**RULES AND REGULATIONS
ON THE PROHIBITION
AGAINST THE RELEASE,
DISBURSEMENT, OR
EXPENDITURES OF PUBLIC
FUNDS AND
CONSTRUCTION OF PUBLIC
WORKS, DELIVERY OF
MATERIALS FOR PUBLIC
WORKS, AND ISSUANCE OF
TREASURY WARRANTS AND
SIMILAR DEVICES UNDER
SECTIONS 261(V) and (W) OF
THE OMNIBUS ELECTION
CODE IN CONNECTION
WITH THE OCTOBER 30, 2023
BARANGAY AND
SANGGUNIANG KABATAAN
ELECTIONS**

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|------------------------------------|--------------|
| GARCIA, George Erwin M., | Chairman |
| INTING, Socorro B., | Commissioner |
| CASQUEJO, Marlon S., | Commissioner |
| FEROLINO, Aimee P., | Commissioner |
| BULAY, Rey E., | Commissioner |
| MACEDA, Jr., Ernesto Ferdinand P., | Commissioner |
| CELIS, Nelson J., | Commissioner |

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Promulgated: August 9, 2023

RESOLUTION NO. 10944

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

WHEREAS, under Section 261(v) of the Omnibus Election Code (OEC), an election offense is committed by any public official or employee including barangay officials and those of government-owned or controlled corporations and their subsidiaries, who, during forty-five days before a regular election and thirty days

before a special election, releases, disburses or expends any public funds;

WHEREAS, Section 261(w) of the OEC provides that an election offense is committed during the period of forty-five days preceding a regular election and thirty days before a special election, by any person who: (a) undertakes the construction of any public works, except for projects or works exempted in the preceding paragraph; or (b) issues, uses or avails of treasury warrants or any device undertaking future delivery of money, goods or other things of value chargeable against public funds;

WHEREAS, Section 29 of Republic Act No. (RA) 6646¹ provides that if it should no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their right of suffrage;

WHEREAS, RA 6679, as amended by RA 10923², mandates that the construction or maintenance of barangay-funded roads and bridges shall be prohibited for a period of ten (10) days immediately preceding the date of election, the provisions of Section 261, paragraphs (v) and (w), of the OEC to the contrary notwithstanding;

WHEREAS, the Department of Social Welfare and Development (DSWD) and any other office in other departments of the government performing similar functions, are prohibited to release, disburse, or expend public funds except for salaries of personnel, and for such other routine and normal expenses, and for such other expenses as the Commission may authorize;

WHEREAS, there is a need to issue guidelines on the issuance of Certificates of Exception and Exemption for the implementation of the Law Department and guidance of the parties requesting for the same;

¹ *The Electoral Reforms Law of 1987, promulgated 05 January 1988.*

² *An Act To Amend Republic Act No. 6653 to Postpone the Barangay Elections to March 28, 1989, Prescribing Additional Rules Governing the Conduct of Barangay Elections and for Other Purposes*

NOW THEREFORE, by virtue of the powers granted by the Constitution, the Omnibus Election Code, the Electoral Reforms Law of 1987, and other relevant laws, jurisprudence, and issuances, the Commission **RESOLVED**, as it hereby **RESOLVES**, to promulgate the following:

GENERAL PROVISIONS AND DEFINITION OF TERMS

Section 1. Period of prohibition. –

- a. For social welfare projects, the following periods shall be observed:
 - i. **15 September 2023 (Friday) to 30 October 2023 (Monday)** for national, regional, provincial, and local government units and those of government-owned or controlled corporations and their subsidiaries, except as provided in Section 8 herein; and
 - ii. **20 October 2023 (Friday) to 30 October 2023 (Monday)** for those that will be implemented by the barangay.
- b. **20 October 2023 (Friday) to 29 October 2023 (Sunday)** for the construction or maintenance barangay-funded roads and bridges.

Section 2. Modes of Filing. – The following modes shall govern the filing of the requests for exemption and exception:

- a. Electronic mail (email); and
- b. Personal submission or through courier.

PROHIBITION AGAINST THE RELEASE, DISBURSEMENT, AND EXPENDITURE OF PUBLIC FUNDS FOR SOCIAL SERVICES AND DEVELOPMENT

Section 3. Period of Filing. All Requests for Exemption for projects, activities, and programs pertaining to social welfare and services

shall be filed on or before 1 September 2023, from Monday to Friday, 8:00 am to 5:00 pm, excluding holidays. Requests submitted after 5:00 pm shall be considered filed at 8:00 am of the next working day.

Social services as used in this Resolution shall refer to the services rendered by the government to provide aid, support, or assistance to the disadvantaged, distressed or vulnerable persons or sectors of society.

Section 4. Authority of the Law Department to Receive, Evaluate and Recommend on Requests for Exemption. - The Law Department shall, upon proper evaluation and compliance by the requesting party with all the requirements for exemption, submit its recommendation to the Chairman of the Commission for approval/disapproval of the Request for Exemption.

Section 5. Authority of the Chairman to Approve/Disapprove Recommendations of the Law Department - The Chairman of the Commission is authorized to approve/disapprove recommendations of the Law Department on the Requests for Exemption from the prohibition against the release, disbursement, and expenditure of public funds for social services and development.

Section 6. Payment of fees. - No payment of fees shall be required for all requests for the issuance of Certificate of Exemption for projects, activities, and programs pertaining to social welfare projects and services.

Section 7. Contents of the Request. The requesting party shall submit a request for exemption which shall include, but not limited to, the following information:

- a) Title of social services, and developmental programs and projects;
- b) Office/Branch/LGU requesting;
- c) Name, Position, and authority of the Person filing the request;
- d) Period and purpose of project implementation;
- e) Amount of disbursement; and
- f) Other relevant information.

The requesting party shall preserve the documents relevant to the request for a period of five (5) years from the submission thereof, and present the same when so required by the Commission.

Section 8. Assistance to Individuals in Crisis Situations (AICS). – The distribution of AICS from **20 October 2023 (Friday) up to Election day of 30 October 2023 (Monday)** shall be prohibited **except** those which are normally given to qualified individuals such as, but not limited to basic needs in the form of food, transportation, medical, educational, burial, and other similar assistance.

AICS as used in this Resolution is defined as a stop-gap measure that provides financial, emotional, and psychosocial support to families and individuals who have experienced a crisis or unexpected life event. It can help them meet their basic needs in the form of food, transportation, medical, educational and burial assistance³.

Section 9. Releases and Expenditures in case of Calamities or Disasters. – Releases and expenditures of public funds for relief or other goods to be distributed to the affected individuals and/or families in cases of calamities or disasters shall not require an exemption from this Commission.

Section 10. Manner of filing of Request for Exemption. – The request for exemption shall be submitted to the Law Department by electronic means, and personal submission or through courier.

The filing shall be in the following manner:

- a. The request for exemption in digital/scanned copy shall be submitted through email to the Law Department at *law.socialservices@comelec.gov.ph*.
- b. On the same day of filing through email, the hard copy of the request shall be personally filed or sent thru courier service to the Law Department.

In case there is a variance between the digital/scanned copy sent through email and the hard copy, the copy sent through email shall prevail.

³<https://dswdprogram.com/aics-assistance-to-individuals-in-crisis-situations> (accessed on 7 August 2023)

Applications filed other than the modes mentioned above shall not be accepted by the Commission. Belated filing shall cause the denial of the request for exemption.

Section 11. Opposition. - A verified *Opposition* may be filed by any interested party within three (3) days from the filing of the request for exemption in .pdf format, to the OCOC through email at *clerkofthecommission@comelec.gov.ph*, copy furnished the Law Department at *law.socialservices@comelec.gov.ph*, pursuant to COMELEC Resolution No. 10673. The date of email shall be considered as the date of filing.

Immediately after filing through email, the party shall personally file or send through any courier service, the *Opposition* with complete annexes in four (4) hard copies, to the OCOC, copy furnished the Law Department. Proof of payment of the required fees, deposits, and fines, if any, shall be attached thereto.

Section 12. 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).

Section 13. 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.

Section 14. Submission of Recommendation in case of Opposition. - After evaluation of the request for exemption, or submission of the evidence by the parties or the lapse of the period to file their Memoranda, the OCOC shall immediately submit its recommendation for the approval/disapproval of the Request for Exemption to the Division of the Commission that has jurisdiction over the case.

Section 15. 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 10 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.

Section 16. 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*.

Section 17. Finality. - The resolution on the Request for Exemption 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.

PROHIBITION AGAINST CONSTRUCTION OR MAINTENANCE OF BARANGAY - FUNDED ROADS AND BRIDGES

Section 18. Submission to the Commission of certified lists of authorized construction and maintenance of barangay-funded roads and bridges. - On or before 20 October 2023, *Punong Barangays* shall submit to the Law Department certified lists of the following:

- a. All ongoing construction and/or maintenance of barangay-funded roads and bridges commenced before **20 October 2023**;
- b. Similar construction and/or maintenance of barangay-funded roads and bridges under foreign agreements commenced before **20 October 2023**;

- c. All ongoing construction and/or maintenance of barangay-funded roads and bridges undertaken by contract through public bidding held, or by negotiated contract awarded, before **20 October 2023**.

Any construction and/or maintenance of barangay-funded roads and bridges not included in the list herein required to be submitted by the *Punong Barangay* shall be considered as falling under the public works ban.

No submission is required if there are no ongoing construction and/or maintenance of barangay-funded roads and bridges.

Section 19. Issuance of Certificate of Exception. - The Law Department shall receive and compile the lists of authorized construction and maintenance of barangay-funded roads and bridges. Written request for the issuance of Certificate of Exception must be accompanied by a certification enumerated in the succeeding sections of this Resolution and upon payment of non-refundable certification fee of **One Thousand (Php1,000.00) Pesos per project**.

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "A".

Section 20. Requirements for the issuance of Certificate of Exception. - A Certification shall be submitted to the Law Department containing the following:

- a. List of completed barangay roads and bridges;
- b. List of barangay roads and bridges with Letter of Acceptance;
- c. List of contracts covering the ongoing maintenance work being done on the existing/completed barangay roads and bridges;
- d. Notarized or sworn undertaking not to allow more than the number of laborers or employees already employed during the six-month period to work before **20 October 2023**; and
- e. A notarized or sworn undertaking not to hire additional laborers that would exceed the said number as provided for in letter (d).

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "B".

Section 21. Payment for the usual cost of preparation for construction and/or maintenance of barangay-funded roads and bridges; Requirements. - A Certified list of the following must be submitted to the Law Department by the requesting party in relation to payment for the usual cost of preparation 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:

- a. Statement of account, billing or collection invoice number, and its respective dates of issue, corresponding amount, and date due, if applicable; and
- b. A sworn or notarized undertaking not to hire more than the actual number of laborers at the start of the project/s.

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "C".

Section 22. Immediate payment of laborers required. - Any laborer who may have worked on ongoing construction and/or maintenance of barangay-funded roads and bridges which have to be suspended pursuant to the ban shall be paid immediately his complete earned wage upon the suspension of works. In no case shall the earned wage or any portion thereof shall be retained to be paid only within five (5) days before or on the day of election. Likewise, any laborer who may have worked in construction and/or maintenance of barangay-funded roads and bridges shall be paid his complete wage every regular pay and in no case said wage or any part thereof be retained or its payment deferred.

Section 23. Construction and/or maintenance of barangay roads and bridges undertaken by contract awarded through public bidding or by negotiated contract awarded before 20 October 2023. - A Certified list of the following shall be submitted to the Law Department by the requesting party:

- a. Notice of Award (NOA) of contract; or
- b. Notice to Proceed (NTP) with the public works project;

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "D".

Section 24. Emergency work necessitated by the occurrence of a public calamity limited to the restoration of the damaged facility.

- The following shall be submitted to the Law Department by the requesting party:

- a. Certified True Copy of the Executive Order or the Local *Sanggunian* Resolution declaring a state of calamity in the disaster-stricken area; and
- b. 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 photograph of the damage [with geotag, if possible], a copy of the Local Disaster Risk Reduction and Management Plan [LDRRMP], Local *Sanggunian* Resolution and approved local budget).

Section 25. Ongoing construction and/or maintenance of barangay-funded roads and bridges commenced before 20 October 2023 under foreign agreements; Requirements. - The requesting party shall submit to the Law Department a Certified list of the foreign agreement/contracts specifying the following:

- a. Name of contracting parties;
- b. Date of execution;
- c. Period covered by contract; and
- d. Works covered by the foreign agreement/contract.

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "E".

Section 26. Ongoing construction and/or maintenance of barangay-funded roads and bridges commenced before 20 October 2023 undertaken or carried out by the own personnel of the concerned barangay. - The Certification of the following shall be submitted to the Law Department by the requesting party:

- a. That the project was being undertaken using its own personnel (e.g. program of work, purchase order for materials, *pakyaw* agreement); and
- b. That the construction and/or maintenance of barangay-funded roads and bridges already commenced before 20 October 2023.

A copy of the Certification to be filled out by the requesting party is attached hereto as Annex "F".

Section 27. Procedure for Payment Fees. - Before submitting a request for Certificate of Exception, the requesting party shall accomplish the Order of Payment. Thereafter, the Requesting Party shall bring the duly accomplished Order of Payment and proceed to the Cash Division of the Main Office of the Commission and pay the non-refundable fee of One Thousand Pesos (Php1,000.00) per project through the following methods:

- a. Cash - Payments must be made at the Cash Division of the Main Office of the Commission.
- b. Postal Money Order
 - i. The postal money order must contain the following details:

| | | |
|---------|---|---------------------------------|
| Pay to | : | COMMISSION ON ELECTIONS |
| Address | : | Intramuros, Manila |
| From | : | Name of Requesting Party |

- ii. It must have the name and signature of the local postmaster or any personnel of the local PhilPost office duly authorized to issue and sign postal money orders. It must contain the stamp or seal of the local PhilPost office reflecting the date of purchase of the postal money order.
- iii. Postal money orders that do not conform to the aforementioned guidelines **SHALL NOT BE ACCEPTED** and will be returned to the sender.

c. Manager's or Cashier's Check

- i. Manager's or Cashier's Check must be made payable to the "COMMISSION ON ELECTIONS".
- ii. Personal checks, or checks drawn against the funds of a person with a current or checking account, **SHALL NOT BE ACCEPTED** and will be returned to the sender.

The amount provided in the Postal Money Order, Manager's or Cashier's Check must be exact or the same as the amount provided in the Order of Payment, excluding

service fees and charges. No change shall be given in case the amount provided is greater than the amount provided in the Order of Payment.

Official receipt issued by the Cash Division of the Main Office of the Commission, shall indicate the purpose for which the payment is made and shall be sent to the Law Department. Requests submitted without attached proof of payment of required fee shall not be acted upon by the Law Department.

Section 28. Use of Prescribed Forms. - Requesting party shall ensure that forms to be submitted are readable and with the proper file formats. Electronic copies of the prescribed forms shall be made available through the COMELEC website.

Section 29. The filing shall be in the following manner:

- a. The Request Form in MS Word and digital/scanned copy in .pdf format, shall be submitted through email to the Law Department at *law.publicworks@comelec.gov.ph*.
- b. On the same day of filing through email, the hard copy of the request, including its attachments, if any, shall be personally filed or sent through courier service to the Law Department. In case there is a variance between the attachments sent through email in Word and/or .pdf file, and the hard copy, the copy sent through email shall prevail.

Upon verification of the completeness and accessibility of the documentary requirements submitted, the requesting party will receive an email from the Law Department of their Order of Payment.

Official receipt issued by the Cash Division of the Main Office of the Commission, shall indicate the purpose for which the payment is made and shall be sent to the Law Department. Requests submitted without attached proof of payment of required fee shall not be acted upon.

Only those projects excepted by law and with complete submission of documentary requirements in accordance with these rules shall be issued with a Certificate of Exception.

Applications filed other than the modes mentioned above shall not be accepted by the Commission. Belated filing and/or non-compliance with any of the requirements under this Resolution, or that the document submitted is incomplete or incorrect shall cause the denial of the request or the exclusion of any specific project affected by incompleteness or incorrectness thereof.

Section 30. Duty to safekeep. - The requesting party shall safekeep the supporting documents mentioned in the preceding sections relative to the request for issuance of Certificate for Exception within five (5) years from the time of the request, and submit the same when so required by the Commission.

Section 31. Projects and programs entailing the use of other state/public funds not covered under Section 261(v) of the OEC. - The release, disbursement or expenditure 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 **20 October 2023 to 29 October 2023** were established before the said period and duly reported to the Commission on Audit (COA) pursuant to Item 2.1 of its Circular No. 2013-004 dated 30 January 2013⁴.
- 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 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.
- d. Support for or endorsement of candidates shall not be made as a condition for the entitlement of the benefits from the PPAs.
- e. Candidates, their spouses, and members of their family within the second civil degree of affinity or consanguinity are strictly prohibited from participating, directly or indirectly,

⁴ Commission on Audit Circular No. 2013-004 dated 30 January 2013 re “Information and Publicity on Programs/Projects/Activities of Government Agencies.”

in the distribution of cash, goods or merchandise for scholarships, assistance for burial, healthcare, calamity and other similar programs. A violation of this condition shall subject the candidates or their representatives to liability under Section 261(o) of the OEC.

Section 32. The Commission is not estopped from implementing Section 261(o) of the OEC. - In cases where the prohibited acts as described in Section 261(o) of the OEC occur, the Certificates of Exception issued by the Law Department and Certificates of Exemption issued by the Commission shall not prevent the conduct of preliminary investigation of election offenses punishable under the OEC, pursuant to Section 265 thereof, as amended by Section 43 of RA 9369⁵.

Section 33. Injunction. - The Department of Budget and Management and the COA, 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 ongoing maintenance of existing or completed barangay roads and bridges in violation of the prohibitions contained in Sections 261(v) and (w) of the OEC or Section 1 hereof as implemented by RA 6679, as amended.

All field offices of the Commission, including those of its deputized agencies and citizens arms, are directed to monitor compliance in their respective jurisdictions and submit immediately to the Commission a written report on any violation of said provisions of the OEC.

Section 34. Penalty. - Any violations of this Resolution shall, consistent with Sections 261 and 264 of the OEC, constitute an election offense and will 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.

Section 35. Effectivity. - This Resolution shall take effect on the seventh day after its publication in two (2) daily newspaper of general circulation.

⁵ *An Act Amending Republic Act No. 8436, entitled "An Act Authorizing the Commission on Elections to use an Automated Election System in the May 11, 1998 National or Local Elections and in subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy Of Elections, Amending for the purpose Batas Pampansa Blg. 881, as amended, Republic Act No. 7166 and other related Elections Laws, Providing Funds therefor and for other purposes"*

Section 36. Dissemination. - The Education and Information Department shall cause the publication of this Resolution in two (2) daily newspaper of general circulation immediately after the promulgation hereof and shall furnish copies to the Executive Secretary, the Commission on Audit, Department of Social Welfare and Development, Department of the Interior and Local Government, and Department of Public Works and Highways.

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, August 09, 2023.


ATTY. CONSUELO B. DIOLA
Director IV
Office of the COMELEC Secretary

This Resolution can be verified at this number (02) 8527-2987; email address at comsec@comelec.gov.ph.