

## COMMISSION RESOLUTION NO. 14-2020

### APPROVING AND ADOPTING THE PCC MEMORANDUM CIRCULAR ON THE PROCESS FOR EXEMPTION FROM COMPULSORY NOTIFICATION OF UNSOLICITED PUBLIC-PRIVATE PARTNERSHIP (PPP) PROJECTS, OTHERWISE KNOWN AS PCC MEMORANDUM CIRCULAR NO. 20-002

**WHEREAS**, Republic Act No. (“R.A.”) 10667 or the Philippine Competition Act (the “PCA” or the “Act”) and its Implementing Rules and Regulations (“PCA-IRR”) mandates that the State, through the Philippine Competition Commission (“PCC”), shall enhance economic efficiency and promote free and fair competition in trade, industry, and all commercial economic activities, as well as establish a national competition policy to be implemented by the government and all of its political agencies as a whole;

**WHEREAS**, R.A. 6957, as amended by R.A. 7718 (Build-Operate-and-Transfer [“BOT”] Law), mandates that the Government shall provide the most appropriate incentives to mobilize private resources in the financing of infrastructure projects, and that such incentives shall include providing a climate of minimum government regulations and procedures. In addition, Executive Order No. 8, series of 2010, as amended, identifies PPP projects as the cornerstone strategy to accelerate infrastructure development and recognizes the need to fast-track the implementation of PPP projects;

**WHEREAS**, the PCA is enforceable against any person or entity engaged in any trade, industry and commerce in the Republic of the Philippines;

**WHEREAS**, joint ventures as defined under Rule 2 (i) of the PCA-IRR, between public or private entities, are subject to the compulsory notification requirement under Section 17 of the Act if the relevant thresholds under the PCA-IRR, as amended, are met;

**WHEREAS**, should winning bidder/s in unsolicited PPP projects form a joint venture, a notification to the PCC is mandatory once notification thresholds are met under Rule 4, Section 3 of the PCA-IRR, as amended by Memorandum Circular No. 18-001;

**WHEREAS**, given that the delivery of PPP projects should be transparent, competitive, and timely, the PCC recognizes the necessity of a coordinated approach in reviewing PPP projects falling under the PCA’s mandatory notification and review requirements;

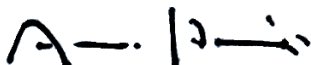
**WHEREAS**, on July 20, 2018, a Memorandum of Understanding was executed by the PCC and the PPP Center, where it was agreed, among others, that guidelines

for the facilitation and review of PPP projects in furtherance of the effective exercise of their respective mandates, shall be formulated;

**WHEREAS**, the PCC is mandated to advocate pro-competitive policies of the Government, monitor and analyze the practice of competition in markets that affect the Philippine economy, implement and oversee measures to promote transparency and accountability, and ensure that prohibitions and requirements of competition laws are adhered to;

**NOW, THEREFORE**, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to approve and adopt the PCC Memorandum Circular on the Process for Exemption from Compulsory Notification of Unsolicited Public-Private Partnership (PPP) Projects, otherwise known as PCC Memorandum Circular No. 20-002, as presented to the Commission during its regular meeting on 16 June 2020. The PCC Memorandum Circular No. 20-002 shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

**DONE** this 16<sup>th</sup> day of June 2020 in the City of Quezon, Philippines.

  
**ARSENIO M. BALISACAN**  
Chairman

  
**JOHANNES BENJAMIN R. BERNABE**  
Commissioner

  
**AMABELLE C. ASUNCION**  
Commissioner

  
**MACARIO R. DE CLARO, JR.**  
Commissioner

  
**EMERSON B. AQUENDE**  
Commissioner