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**CIRCULAR NO. 03-2008**

August 20, 2008

**TO: Heads of Departments, Bureaus, Offices and Agencies of the National Government, Government Owned and/or Controlled Corporations, Government Financial Institutions, State Universities and Colleges, and Local Government Units**

**SUBJECT: Establishment of an Express Lane for Claims of Contract Price Escalation under Section 61 of the Implementing Rules and Regulations Part of Republic Act No. 9184**

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**1.0 Purpose**

This circular is being issued to respond to the collective request of contractors to address the crippling effects of the present price abnormalities in steel and fuel on the implementation of government infrastructure contracts.

**2.0 Express Lane for Contract Price Escalation**

An express lane for claims of contract price escalation (hereafter, the “Express Lane”) under Section 61 of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act No. (R.A.) 9184 is hereby established.

Only the following contracts for procurement of infrastructure projects may avail of the Express Lane: (i) those with notices to proceed issued starting 2007; and (ii) contracts with no slippage of more than five percent (5%).

**3.0 Procedural Steps and Timelines under the Express Lane**

**3.1 Endorsement from Procuring Entity.** The Head of the Procuring Entity concerned shall endorse the request/s for price escalation to the National Economic and Development Authority (NEDA) on or before September 15, 2008, or any succeeding date as may be determined by the Government Procurement Policy Board (GPPB), accompanied by the following documents:

- a. A copy of the endorsed request/s for price escalation submitted by the contractor/supplier;
- b. A certification from the Head of the Procuring Entity in the form of Appendix A attesting, among others, that the request for price escalation under extraordinary circumstances for the endorsed contract/s is justified;

- c. Total estimate of the amount of price escalation to be granted based on the contracts duly endorsed by the Head of the Procuring Entity;
- d. Other information/documents as may be required by NEDA and GPPB.

An orientation meeting for procuring entities shall be held on 27 August 2008, at 9 A.M., Unit 2506, Raffles Corporate Center, F. Ortigas Jr. Road, Ortigas Center, Pasig City.

- 3.2** 20-Day Review and Approval Process. NEDA shall immediately determine the existence of extraordinary circumstances based on the requests submitted by procuring entities. GPPB shall then act upon NEDA's recommendation in a meeting called for that purpose.

For requests submitted by procuring entities on or before September 15, 2008, the GPPB shall act upon said requests on or before October 3, 2008.

- 3.3** Conditions to Payment of Contract Price Escalation. The Head of the Procuring Entity shall not pay any contract price escalation duly approved under this Express Lane until after submission of the following documents to the GPPB:

- a. Certified copy of the original contract entitled to contract price escalation including the original scope of work and the original contract price, as awarded;
- b. Original cost estimates and/or bill of materials of the items, goods or components affected by the request and the proposed escalated prices thereof, which shows an increase of at least two (2) standard deviations or ten percent (10%), as the case may be, as applicable to the type of contract;
- c. Original and, if applicable, revised schedule of contract implementation;
- d. Original copy of the request for price escalation submitted by the contractor/supplier to the procuring entity, including information on the quantity of materials/components and/or scope of work being proposed for price escalation;
- e. Other information/documents as may be required by the GPPB.

**4.0 Statement of Accountability**

**4.1** In accord with Section 61.2 of the Implementing Rules and Regulations Part of Republic Act No. 9184, the burden of proving the occurrence of extraordinary circumstances shall rest with the procuring entity requesting for such escalation.

**4.2** It is likewise the full responsibility of the procuring entity to determine the amount of price escalation to be granted in accord with the Guidelines. Any misrepresentation made by the procuring entity or the contractor/supplier shall cause the automatic disapproval of said claim.

**5.0 Effectivity**

This circular shall take effect immediately.

(Sgd)

**ROLANDO G. ANDAYA, JR.**

Chairperson