



RESOLUTION NO. 08-2011

APPROVING AMENDMENTS TO ANNEX “E” OF THE REVISED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9184

WHEREAS, Republic Act (RA) No. 9184, entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and For Other Purposes,” took effect on 26 January 2003, while its Implementing Rules and Regulations (IRR) Part A took effect on 8 October 2003;

WHEREAS, the Government Procurement Policy Board (GPPB), under Section 63 of the RA 9184 and its IRR-A, is mandated to formulate and amend public procurement policies, rules and regulations, and amend the IRR, whenever necessary;

WHEREAS, after extensive consultation and deliberations, the GPPB approved the Revised IRR of RA 9184 through GPPB Resolution 03-2009 during its meeting held last 22 July 2009. It was published in a Supplemental Issue of the Official Gazette last 3 August 2009, and took effect on 2 September 2009;

WHEREAS, in a meeting held on 28 January 2011, the GPPB and its Inter Agency Technical Working Group (IATWG) agreed to revise portions of Annex “E” of the Revised IRR pertaining to the process and conditions for grant of variation orders as embodied in its Resolution 03-2011 published in the Manila Times on 6 April 2011;

WHEREAS, to avoid vague understanding and ambiguous interpretation of the processes and conditions for granting variation orders, there is a need to clarify and revise Sections 1.5 and 3.1 of Annex “E” of the revised IRR;

WHEREAS, in a meeting held on 7 October 2011, the GPPB discussed the unclear and equivocal provisions and deliberated on the corrections necessary to provide a clear and unambiguous guidance on the proper process and considerations for granting variation orders;

NOW, THEREFORE, for and in consideration of the foregoing, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to confirm, adopt and approve, as **WE** hereby confirm, adopt and approve, the following revisions to Sections 1.5 and 3.1 of Annex “E” of the IRR of RA 9184:

CURRENT PROVISION	APPROVED REVISION
Section 1.5	
In claiming for any Variation Order, the contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within twenty-eight (28) calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure	In claiming for any Variation Order, the contractor shall, within seven (7) calendar days after such work has been commenced pursuant to Section 3.2 hereof; or, within twenty-eight (28) calendar days after the circumstances or reasons justifying a claim for extra cost shall have occurred, deliver a notice giving full and detailed particulars of any extra cost in order that it may be investigated at that

CURRENT PROVISION	APPROVED REVISION
to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:	time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:
a) If the procuring entity's representative/Project Engineer believes that a Change Order or Extra Work Order should be issued, he shall prepare the proposed Order accompanied with the notices submitted by the contractor, the plans therefor, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for the need of such Change Order or Extra Work Order, and shall submit the same to the Head of the Procuring Entity for approval.	No revision
b) The procuring entity's representative/Project Engineer, upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the technical staff of the Region to conduct an on-the-spot investigation to verify the need for the work to be prosecuted. A report shall be submitted directly to the procuring entity's representative/Project Engineer.	b) The Head of the Procuring Entity or his duly authorized representative procuring entity's representative/Project Engineer , upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the appropriate technical staff or office of the procuring entity to conduct an on-the-spot investigation to verify the need for the work to be prosecuted and to review the proposed plan, quantities, and prices of the work involved.
c) The procuring entity's representative/Project Engineer, after being satisfied that such Change Order or Extra Work Order is justified and necessary, shall review the estimated quantities and prices and forward the proposal with the supporting documentation to the Head of the Procuring Entity or his duly authorized representative for consideration.	c) The technical staff or appropriate office of the procuring entity shall submit a report of their findings and recommendations, together with the supporting documents, to the Head of the Procuring Entity or his duly authorized representative for consideration.
d) If, after the review of the plans, quantities and estimated cost of the items of work	d) The Head of the Procuring Entity or his duly authorized representative, acting

CURRENT PROVISION	APPROVED REVISION
involved, the proper office of the procuring entity empowered to review and evaluate Change Orders or Extra Work Orders recommends approval thereof, the Head of the Procuring Entity or his duly authorized representative, believing the Change Order or Extra Work Order to be in order, shall approve the same.	upon the recommendation of the technical staff or appropriate office, shall approve the Change Order or Extra Work Order after being satisfied that the same is justified, necessary, and in order.
e) The timeframe for the processing of the Variation Orders from the preparation up to the approval by the procuring entity concerned shall not exceed thirty (30) calendar days.	No revision
Section 3.1	
Under no circumstances shall a contractor proceed to commence work under any Change Order or Extra Work Order unless it has been approved by the Head of the Procuring Entity or his duly authorized representative. Exceptions to the preceding rule are the following:	3.1. Under no circumstances shall a contractor proceed to commence work under any Change Order or Extra Work Order unless it has been approved by the Head of the Procuring Entity or his duly authorized representative. Exceptions to the preceding rule are the following:
a. The Head of the Procuring Entity or his duly authorized representative may, subject to the availability of funds, authorize the immediate start of work under any Change Order or Extra Work Order under any or all of the following conditions: i) In the event of an emergency where the prosecution of the work is urgent to avoid detriment to public service, or damage to life and/or property; and/or ii) When time is of the essence;	3.2. However, under any of the following conditions, the procuring entity's representative/Project Engineer may, subject to the availability of funds and within the limits of his delegated authority, allow the immediate start of work under any Change Order or Extra Work Order: i) In the event of an emergency where the prosecution of the work is urgent to avoid detriment to public service, or damage to life and/or property; and/or ii) When time is of the essence;
<i>Provided, however,</i> That such approval is valid on work done up to the point where the cumulative increase in value of work on the project which has not yet been duly fully approved does not exceed five percent (5%) of the adjusted original contract price whichever is less;	<i>Provided, however,</i> That such approval is valid on work done up to the point where the cumulative increase in value of work on the project which has not yet been duly fully approved does not exceed five percent (5%) of the adjusted original contract price whichever is less;
<i>Provided, further,</i> That immediately after the start of work, the corresponding Change	No revision

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<p>Order or Extra Work Order shall be prepared and submitted for approval in accordance with the above rules herein set. Payments for works satisfactorily accomplished on any Change Order or Extra Work Order may be made only after approval of the same by the Head of the Procuring Entity or his duly authorized representative.</p>	
<p>b. For a Change Order or Extra Work Order involving a cumulative amount exceeding five percent (5%) of the original contract price, no work thereon may be commenced unless said Change Order or Extra Work Order has been approved by the procuring entity's representative/ Project Engineer.</p>	<p><i>Provided, finally,</i> That for a Change Order or Extra Work Order involving a cumulative amount exceeding five percent (5%) of the original contract price, no work thereon may be commenced unless said Change Order or Extra Work Order has been approved by the Head of the Procuring Entity or his duly authorized representative procuring entity's representative/ Project Engineer.</p>

This resolution shall take effect immediately.

APPROVED this 7th day of October 2011 at Pasig City, Philippines.

(Sgd.)

**DEPARTMENT OF BUDGET AND
 MANAGEMENT**
 By:

(Sgd.)

**NATIONAL ECONOMIC AND
 DEVELOPMENT AUTHORITY**
 By:

(Sgd.)

DEPARTMENT OF EDUCATION
 By:

(Sgd.)

DEPARTMENT OF ENERGY
 By:

(Sgd.)

DEPARTMENT OF FINANCE
 By:

(Sgd.)

DEPARTMENT OF HEALTH
 By:

(Sgd.)

**DEPARTMENT OF THE INTERIOR AND
 LOCAL GOVERNMENT**
 By:

(Sgd.)

**DEPARTMENT OF NATIONAL
 DEFENSE**
 By:

(Sgd.)

**DEPARTMENT OF PUBLIC WORKS AND
HIGHWAYS**
By:

(Sgd.)

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**
By:

(Sgd.)

**DEPARTMENT OF TRADE AND
INDUSTRY**
By:

(Sgd.)

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**
By:

(Sgd.)

PRIVATE SECTOR REPRESENTATIVE
By:

Attested by:

(Sgd.)

DENNIS S. SANTIAGO
Board Secretary, GPPB
Executive Director, GPPB-TSO