

CIRCULAR 03-2019

8 March 2019

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

SUBJECT: Guidance on Contract Termination Due to Fifteen Percent (15%) Negative Slippage By the Contractor in Infrastructure Projects

1.0 PURPOSE

This Circular is issued to further guide procuring entities on the actions to be undertaken when contractors incurred negative slippage in the implementation of infrastructure projects.

2.0 SCOPE

All Departments, Bureaus, Offices and Agencies of the National Government including State Universities and Colleges, Government-Owned and/or Controlled Corporations, Government Financial Institutions and Local Government Units.

3.0 CONTRACT TERMINATION DUE TO DEFAULT BY CONTRACTORS IN INFRASTRUCTURE PROJECTS

3.1 The provisions for the grounds contract termination of on-going infrastructure project under GPPB Resolution No. 018-2004 remain effective and continue to be the basis by which both the procuring entities and contractors should be guided, thus:

"2. In contracts for Infrastructure Projects:

The Procuring Entity shall terminate a contract for default when any of the following conditions attend its implementation:

- a) *Due to the Contractor's fault and while the project is on-going, it has incurred negative slippage of fifteen percent (15%) or more in accordance with Presidential Decree 1870;¹*

¹Authorizing the Government's Take Over by Administration of Delayed Infrastructure Projects or Awarding of the Contract to other Qualified Contractors, issued on 12 July 1983.

4.0 GUIDELINES

- 4.1 The provisions of the Guidelines on Termination of Contracts as embodied in GPPB Resolution No. 018-2004 remain to be the basis for contract termination in infrastructure projects.
- 4.2 To ensure the timely implementation of infrastructure projects and effective management of the performance of contractors, the following calibrated actions in response to delays in the implementation of infrastructure projects are hereby adopted:

4.2.1 Negative slippage of five percent (5%) –

The contractor shall be given a warning and be required to:

- 4.2.1.1 Submit a detailed “catch-up” program every two weeks in order to eliminate the slippage and to restore the project to its original schedule;
- 4.2.1.2 Accelerate work and identify specific physical targets to be accomplished over a definite period of time; and
- 4.2.1.3 Provide additional input resources such as the following: money, manpower, materials, equipment, and management, which shall be mobilized for this action.

The Implementing Unit shall exercise closer supervision and meet the contractor every other week to evaluate the progress of work and resolve any problems and bottlenecks.

4.2.2 Negative slippage of ten percent (10%)–

The contractor shall be issued a final warning and be required to come-up with a revised detailed “catch-up” program with weekly physical targets together with the required additional input resources.

The implementing unit shall intensify on-site supervision and evaluation of the project performance to at least once a week and prepare contingency plans for a possible termination of the contract or take-over of the work by administration or contract.

4.2.3 Negative slippage of fifteen percent (15%) –

The implementing unit shall initiate termination of the contract or take-over of the work by administration or contract in accordance with Section 53.3 of the 2016 revised IRR of RA No. 9184 and the Revised Guidelines for the Implementation of Infrastructure Projects by Administration.

It shall likewise take proper transitory measures to minimize work disruptions, e.g., take-over by administration while negotiation or rebidding is on-going.

- 5.0 All procuring entities are enjoined to apply this Guidelines on all government infrastructure projects.
- 6.0 This Circular shall take effect fifteen (15) days after publication.
- 7.0 For guidance and compliance.

SGD

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