



Department of Budget and Management
GOVERNMENT PROCUREMENT POLICY BOARD
TECHNICAL SUPPORT OFFICE

NPM No. 02-2012

4 January 2012

MR. MARINO Y. REYES

President & CEO

M.Y. REYES BUILDERS & DEVELOPMENT CORP.

No. 20 Oslo Avenue, Capitol Homes,
Old Balara, Quezon City

**Re: Request for Price Escalation for the Partial Construction of
Francisco Balagtas Elementary School (Phase 1)**

Dear Mr. Reyes:

We refer to your letter dated 15 November 2011 asking for assistance as regards the issuance of the required certification by the Secretary of the Department of Education (DepED) to support the request for price escalation by M.Y. Reyes Builders and Development Corp. (M.Y. Reyes) pursuant to Republic Act No. 9184 (RA 9184) and its revised Implementing Rules and Regulations (IRR).

We understand from your letter that DepED, through former Undersecretary Ramon C. Bacani, endorsed M.Y. Reyes's request for price escalation for the partial construction of three (3) storey school building at F. Balagtas Elementary School to the National Economic and Development Authority (NEDA) through a letter dated 15 January 2010.

Although NEDA initially found the eligibility of the price escalation claim and the computations made by the Physical Facilities and Schools Engineering Division (PFSED) on the determination of the existence of extraordinary inflation to be in accordance with the Revised Guidelines for Contract Price Escalation¹ (Guidelines), NEDA is unable to act upon or make final recommendations on the request due to the absence of the certification from the Head of the Procuring Entity (HOPE) that the request for price escalation is justified in accordance with RA 9184, its IRR, and the Guidelines².

It bears stressing that "[t]he burden of proving the occurrence of extraordinary circumstances that will allow for price escalation rests with the entity requesting for such escalation. NEDA shall only respond to such request after receiving the proof and

¹ Issued pursuant to Section 61 of RA 9184 and its IRR.

² See Section 5.1. (a) of the Guidelines.

the necessary documentation.”³ Along this line, the review and approval process under Section 5 of the Guidelines provide that the HOPE shall endorse the request for price escalation to NEDA upon determination that such request is valid and justified.

Anent the foregoing, it is the procuring entity’s duty to comply with, and its prerogative to determine the existence of, the conditions set forth in the Guidelines for the review, approval and endorsement of requests for price escalation.

Pointedly, this office is not in a position to favorably act on your request to convince the DepED Secretary to issue the required certification that will support M.Y. Reyes’s request for price escalation presently endorsed to NEDA. To reiterate, the favorable endorsement of request for price escalation is incumbent upon the sound determination of the HOPE pursuant to a judicious application and appreciation of the Guidelines and the facts, including the pieces of evidence presented to support an affirmative transmittal.

We hope that our advice sufficiently addresses your concerns. Note that this opinion is being rendered on the basis of the facts and particular circumstances as presented.

Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III

//msyan

³ See Section 61.3 of the IRR.