



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

NPM No. 12-2012

25 February 2013

MS. LORNA D. DE LEON
Chief, Administrative Officer
INSURANCE COMMISSION (IC)
1071 United Nations Avenue,
Manila

Re : Advance Payment for Infrastructure Projects

Dear Ms. De Leon:

This refers to your letter dated 1 February 2013, seeking our opinion on whether advance payment may be allowed pursuant to Section 4 of the Contract Implementation Guidelines for the Procurement of Infrastructure Projects (Guidelines) under Annex "E" of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184, notwithstanding the proscription against advance payment on government contracts under Section 88 of Presidential Decree No. 1445, otherwise known as "The State Audit Code of the Philippines". The matter is raised relative to your procurement of the Proposed Modularization and Renovation of IC Main Building Project.

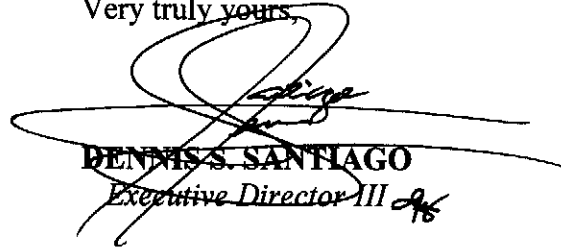
At the outset, it bears stressing that there is no conflict between Section 88 of PD 1445 and the Guidelines concerning advance payment. Note that the first sentence of Section 88 of PD 1445 provides that "[e]xcept with the prior approval of the President (Prime Minister) the government shall not be obliged to make an advance payment for services not yet rendered or for supplies and materials not yet delivered under any contract therefor". This requirement for prior approval by the President was addressed through the issuance of Memorandum Order No. 119 by then President Gloria Macapagal-Arroyo approving IRR Part A of RA 9184, which contained the exact provision now referred to in Section 4 of the Guidelines embodied in the revised IRR of RA 9184.


Thus, considering that in the procurement of infrastructure projects, the President approved advance payment not exceeding fifteen percent (15%) of the total contract price, we are of the considered view that advance payment may be granted by the IC for its Proposed Modularization and Renovation of IC Main Building Project upon compliance with the requirements under Section 4 of the Guidelines.

We hope that our advice provided sufficient guidance on the matter. Note that this opinion is being issued on the basis of facts and particular circumstances presented, and may

not be applicable to a different set of facts and circumstances. Should you have other concerns, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III 


/s/