



## TECHNICAL SUPPORT OFFICE

Unit 2506 Raffles Corporate Center,  
F. Ortigas Jr. Road, Ortigas Center,  
Pasig City, Philippines 1605

**NPM No. 03-2008**

30 January 2008

**MR. NESTOR P. BORROMELO**  
Chairman, Bids and Awards Committee  
Metropolitan Waterworks and Sewerage System  
Katipunan Road, Balara, Quezon City

**Re : Section 9.1 of the General Conditions of Contract**

Dear Mr. Borromeo:

This refers to your letter dated 16 October 2007 inquiring whether a schedule of payment other than that provided in clause 9.1 of the General Conditions of Contract (GCC) of the Philippine Bidding Documents (PBDs) for Goods may be adopted in the contract for Supply and Installation of Two (2) Units of Elevators of the Metropolitan Waterworks and Sewerage System (MWSS). The proposed provision states, as follows:

50% of the contract cost upon delivery and inspection of the elevator at MWSS, 30% upon installation, 10% upon testing, commissioning final inspection and acceptance, 10% to be retained to cover the Supplier's warranty obligations.

A reading of clause 9.1 of the GCC of the PBDs for Goods clearly shows that procuring entities are allowed to specify in the Special Conditions of the Contract (SCC) a scheme of payment other than that provided in said clause, *to wit*:


**Unless otherwise specified in the SCC**, payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the GOODS have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. x x x (Emphasis supplied)

Thus, it is our considered opinion that MWSS may validly adopt its proposed payment schedule as long as it is expressly stated in its SCC in reference to clause 9.1 of the GCC.

This opinion is being rendered on the basis of the facts and particular circumstances as represented. It may not necessarily be applicable upon a different set of facts or circumstances.

We trust that this clarifies matters. Should you have additional questions, please do not hesitate to contact us.

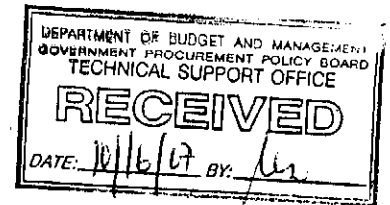
Very truly yours,



**RUBY U. ALVAREZ**  
Executive Director III



Republic of the Philippines  
**Metropolitan Waterworks and Sewerage System**  
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→ Dennis.  
P/O: handle.  
10/18/07

16 October 2007

**ATTY. RUBY U. ALVAREZ**  
Executive Director  
Government Procurement Policy Board (GPPB)  
Unit 2506 Raffles Corporate Center  
Emerald Ave. Ortigas Center  
Pasig City

Dear Atty. Alvarez,

The Metropolitan Waterworks and Sewerage System [MWSS] is in the process of procuring an Elevators under the Contract name; Supply and Installation of Two(2) units of Elevators.

Under the standard bidding documents, definition of terms, item 9.1 states as follows;

"Unless otherwise specified in the SCC, payments shall be made only upon a certification by the Head of the Procuring Entity to the effect that the GOODS have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. Except with the prior approval of the President no payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this contract. Ten percent [10 %] of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract as described in GCC Clause 15.3.

Relative to above provision, we would like to inquire if we are allowed to specify a different schedule of payment in the Special Condition of the Contract [SCC] similar to as follows;

*50 % of the contract cost upon delivery and inspection of the elevator at MWSS, 30 % upon installation, 10 % upon testing, commissioning final inspection and acceptance, 10 % to be retained to cover the Supplier's warranty obligations.*

The Contract is not a typical supply contract because it includes installation and will require dismantling of existing elevator. Hence, it will take time for the bidder to effect the payment since there is installation, commissioning, testing and acceptance.

Your immediate response is highly sought.

Thank you

Very truly yours,

  
**NESTOR P. BORROMEO**  
MWSS BAC Chairman