



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

NPM No. 35-2012

4 April 2012

HON. ROGELIO L. SINGSON

Secretary

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)
Bonifacio Drive, Port Area, Manila

Re: Statement of Work Accomplished and First Progress Payment

Dear Secretary Singson:

We refer to your letter dated 2 December 2011 seeking clarification whether Clause 40.4 of the General Conditions of Contract (GCC), in relation to Section 5.1 of the Contract Implementation Guidelines for the Procurement of Infrastructure Projects¹ (Guidelines), is applicable even if the actual work is less than the twenty percent (20%) required accomplishment.

Since there is no existing conflict in the aforementioned provisions, it is our opinion that the application of said provisions in the contract implementation of infrastructure projects can be harmonized.

Pursuant to Section 5.1 of the Guidelines, “[t]he contractor may submit a Statement of Work Accomplished (SWA) or progress billing and corresponding request for progress payment for work accomplished, showing the amounts which the contractor considers itself to be entitled to up to the end of the month, to cover (a) the cumulative value of the works it executed to date, based on the items in the Bill of Quantities, and (b) adjustments made for approved variation orders executed.

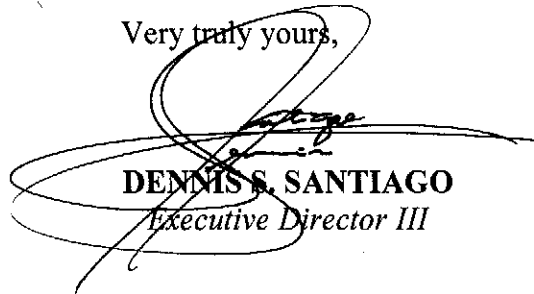
With the use of the term “may”, the contractor is given the option to submit its SWA or progress billing and corresponding request for progress payment to the procuring entity. Nonetheless, in the exercise of this option, the contractor must keep in mind GCC Clause 40.4 which provides that “[t]he first progress payment may be paid by the Procuring Entity to the Contractor provided that **at least twenty percent (20%) of the work must have been accomplished as certified by the Procuring Entity’s Representative.** Hence, the SWA or progress billing for the first progress payment must indicate that the completed portion of the work corresponds to twenty percent (20%) of the work so that it may be paid by the Procuring Entity.

¹ Annex “E” of the Revised Implementing Rules and Regulations.

In sum, the subject provisions do not prevent the Contractor from submitting its SWA even though the work accomplishment is less than the required twenty percent (20%). However, the first progress payment may only be made once the Contractor has already accomplished the twenty percent (20%) of the work as certified by the Procuring Entity's Representative. Thus, GCC Clause 40.4 cannot be made to apply for actual work that is less than the twenty percent (20%) required accomplishment.

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