



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

NPM No. 44-2012

26 April 2012

MS. CARMELITA B. BUYUCCAN
Chairperson, Bids and Awards Committee
PROVINCIAL LOCAL GOVERNMENT UNIT OF IFUGAO
CORDILLERA ADMINISTRATIVE REGION
3F, PEO Bldg., Capitol Compound,
Lagawe, Ifugao

Re: Design and Build Infrastructure Projects

Dear Ms. Buyuccan:

We respond to your letter dated 9 December 2011 seeking clarification regarding the procurement of infrastructure contracts through the design and build scheme, particularly, on the seemingly contradictory provisions on the submission and evaluation of detailed engineering requirements provided in Section 17.6 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) 9184 and Section 8 of Annex "G" of the IRR of RA 9184.

As you have observed, Section 17.6 of the IRR allows bidders to submit its detailed engineering designs as part of its bid, while Section 8 of Annex "G" of the IRR requires bidders to submit detailed engineering requirements upon award of the design and build contract.

For your guidance, Section 17.6 of the IRR lays down the general rule to be observed in the procurement of infrastructure projects. Under regular circumstances, detailed engineering investigations, surveys and designs are conducted by the Procuring Entity or the duly authorized representative. Therefore, this condition must be completed first by the concerned government agency so that interested bidders are apprised of the project requirements. The exception to this rule is when the project involves a design and build scheme wherein bidders are expected to provide the design of the infrastructure project and construct the same. In this situation, the responsibility of developing the detailed engineering requirements is transferred to the bidders. As such, the second paragraph of Section 17.6 provides bidders the option to submit the detailed engineering requirements as part of its bid.

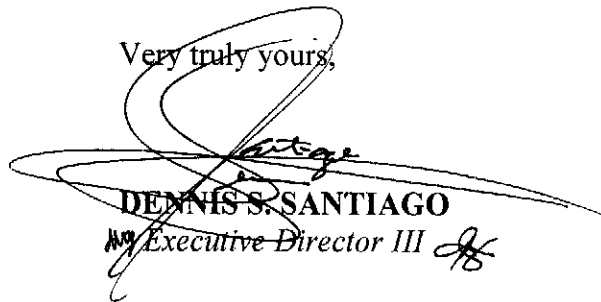
It should be noted, however, that development of detailed engineering requirements such as investigations, surveys and designs entails costs such that requiring its submission as part of the bid will only discourage participation by bidders because of the uncertainty of winning the contract. In this regard, Section 17.6 allows bidders the option to submit the detailed engineering requirements as part of their bids; and Annex "G" of the IRR clarifies

that in case the bidder opts not to submit the detailed engineering requirements as part of its bid, it must do so upon award of the design and build contract.

Based on the foregoing, we are of the view that there is no conflict between Section 17.6 of the IRR of RA 9184 and Section 8 of Annex "G" of the same IRR. Section 17.6 of the IRR provides the general rule and the exception thereto as regards submission of detailed engineering requirements. Section 8 of Annex "G", on the other hand, clarifies the exception provided in Section 17.6 of the IRR.

We hope our advice provided sufficient guidance on the matter. Should you have further questions, please do not hesitate to contact us.

Very truly yours,



DENNIS S. SANTIAGO
Executive Director III