



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

NPM No. 87-2013

25 November 2013

MR. ARNEL PACIANO D. CASANOVA, Esq.
President and CEO

BASES CONVERSION AND DEVELOPMENT AUTHORITY (BCDA)
BCDA Corporate Center, 2/F Bonifacio Technology Center
31st St., cor. 2nd Ave., Bonifacio Global City, Taguig City

Re: Notice to Proceed

Dear Atty. Casanova:

This refers to your letter dated 24 May 2013, seeking our opinion on whether the BCDA can forego the issuance of the Notice to Proceed (NTP) for the procurement of goods and services since the issued Purchase Order or Job Order already contains the *conforme* of the winning supplier and indicates the delivery date, which in effect authorizes the supplier to proceed and deliver the required goods and services.

As discussed in a previous opinion¹, government contracts are regarded as special contracts due to the particular and specific requirements as to forms and solemnities that need be complied with prior to its execution. Section 37 of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184 provides that the award of contract is subject to compliance with the conditions enumerated therein, such as the issuance of the Notice of Award (NOA) and its receipt by the winning bidder accompanied by the actual signing of the contract, including the posting of performance security, and the issuance of the Notice to Proceed (NTP), among others.

Hence, even if the NOA was duly issued, communicated to and received by the winning bidder, the bidder must still comply with all the requirements provided for under the law and the rules for it to be legally enforceable. Under RA 9184 and its IRR, the winning bidder and the Procuring Entity (PE) shall enter into contract within ten (10) calendar days from receipt of the NOA. Thereafter, the PE shall issue the NTP together with a copy of the approved contract to the successful bidder within three (3) calendar days from the date of the approval of the contract by the appropriate government approving authority. The contract effectivity date, as provided in the NTP, shall not be later than seven (7) calendar days from its issuance.

RA 9184, having been enacted for the advancement of public welfare, contains mandatory provisions. Failure to follow such rules render the proceeding to which it relates illegal and void, or the violation of which makes the decision rendered therein invalid.

¹ Non-Policy Matter No. 10-2012, dated 16 January 2012.

Article 5 of the Civil Code of the Philippines provides that "acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity".

In view of the foregoing, we wish to emphasize the importance of the issuance of the NTP by the PE together with the approved contract to the successful bidder within three (3) calendar days from the date of the approval of the contract by the appropriate government authority.²

We hope that this opinion issued by the GPPB-TSO provided sufficient guidance on the matter. Please note that this opinion is being rendered on the basis of the facts and particular situation presented, and may not be applicable given a different set of facts and circumstances. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,


DENNIS S. SANTIAGO
Executive Director V

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² Section 37.4.1 of the revised IRR of RA No. 9184.