



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

**NPM No. 90-2013**

25 November 2013

**MS. LILIA T. HABACON**

*Campus Director*

**PHILIPPINE SCIENCE HIGH SCHOOL –**

**CENTRAL LUZON CAMPUS (PSHS-CLC)**

Polytechnic Compound, J. Abad Santos Ave.,

Clark Freeport Zone, Angeles City 2009

**Re: Change of Venue after the Issuance of Notice of Award**

Dear Ms. Habacon:

This is in response to your letter dated 25 July 2011, seeking clarification on whether the change of venue for the project site after the issuance of the Notice of Award is allowed under Republic Act (RA) No. 9184 and its revised Implementing Rules and Regulations (IRR).

It is represented that while the contract was awarded to B.K. Sy Tu Construction for the development of PSHS-CLC's campus at Sacobia Area, Clark Special Economic Zone, San Vicente, Bamban, Tarlac, due however to the protest of the Aetas, the project site was transferred to the Air Force City, Clark Freeport Zone.

Please be informed that the change in the project site after the issuance of Notice of Award amounts to modification of bidding documents that is not sanctioned under RA 9184 and its IRR.

In a request for approval of price escalation submitted by the National Housing Authority (NHA), it was held that:<sup>1</sup>

It was noted that, NHA did not issue any Supplemental/Bid Bulletin for the purpose of modifying any provision of the bidding documents, specifically, the change in project venue. This is inconsistent with the rule that procuring entities should issue supplemental/bid bulletin for purposes of clarifying or modifying any provision of the bidding documents at least seven (7) calendar days before the deadline for the submission and receipt of bids. In addition, the act of NHA in changing the project site after the issuance of the Notice of Award also runs counter with the following procurement rules and regulations:

<sup>1</sup> Letter of the GPPB Chairperson to NHA dated 23 February 2012.

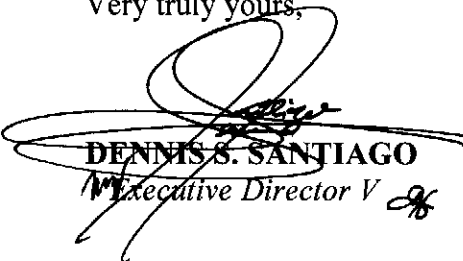
- a. In the Invitation to Bid, the name and location of the contract to be bid, the project background and other relevant information regarding the proposed contract works, including a brief description of the type, size, major items, and other important or relevant features of the works; and
- b. In the PBDs for Infrastructure Projects (Section VII, Drawings), the actual Drawings, including site plans, should be attached to said section or annexed in a separate folder.

In *Mata v. San Diego*<sup>2</sup>, the Supreme Court had the occasion to rule on the matter and held that “[m]odification of government contracts, after the same had been awarded after a public bidding, is not allowed because such modification serves to nullify the effect of public bidding and whatever advantages the Government had secured thereby and may also result in manifest injustice to other bidders”.

In view of the foregoing, we are of the view that the change in the project site after the issuance of Notice of Award is not allowed under RA 9184 and its IRR.

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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<sup>2</sup> G.R. No. L-30447, 21 March 1975.