

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City
Telefax Nos. (02) 900-6741 to 44

NPM No. 134-2004

October 14, 2004

ENGR. RICARDO D. OBLENA, CESO III

Regional Executive Director
Department of Agriculture
Regional Field Unit 6, Iloilo City

**Re : Request for Authority from the Government Procurement Policy Board
to Approve Variation Order**

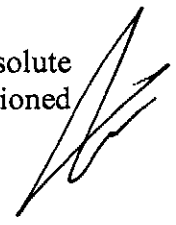
Dear Executive Director Oblena:

This refers to your letter dated September 23, 2004, which we received on September 27, 2004, requesting authority from our office to approve the request of your agency's contractor for the construction of Pump Water Supply and Water Pipeline at the Department of Agriculture – Regional Integrated Agricultural Research Center (DA-RIARC) for a variation order on the said contract.

Please note that Section 1.1 of Annex "E" of the Implementing Rules and Regulations Part A (IRR-A) of Republic Act 9184 (R.A. 9184) allows the issuance by the procuring entity of a Variation Order, to wit:

Variation Orders may be issued by the procuring entity to cover any increase/decrease in quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignment to suit actual field conditions resulting in disparity between the preconstruction plans used for purposes of bidding and the "as staked plans" or construction drawings prepared after a joint survey by the contractor and the Government after award of the contract, provided that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of works should be within the general scope of the project as bid and awarded. A Variation Order may either be in the form of a change order or extra work order.

Pursuant to the above-quoted provision, the head of the procuring entity has absolute discretion whether or not Variation Orders may be issued to cover any of the situations mentioned

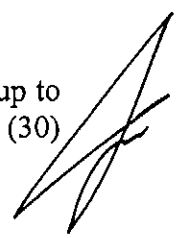


therein. No approval by or authority from the Government Procurement Policy Board (GPPB) or its Technical Support Office (GPPB-TSO) is necessary before any procuring entity can issue a Variation Order.

However, the proper procedure laid down in Section 1.5 of Annex "E" of the IRR-A should be observed by procuring entities before any Variation Order is issued. Section 1.5 of Annex "E" of the IRR-A specifically provides as follows:

In claiming for any Variation Order, the contractor shall, within seven (7) calendar days after such work has been commenced or after the circumstances leading to such condition(s) leading to the extra cost, and within twenty-eight (28) calendar days deliver a written communication giving full and detailed particulars of any extra cost in order that it may be investigated at that time. Failure to provide either of such notices in the time stipulated shall constitute a waiver by the contractor for any claim. The preparation and submission of Variation Orders are as follows:

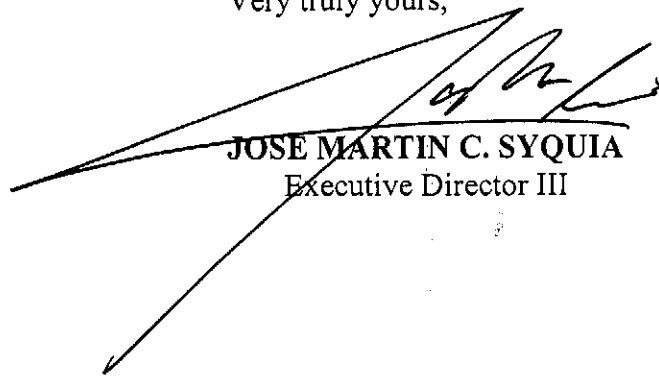
- a. If the Project Engineer believes that a Change Order or Extra Work Order should be issued, he shall prepare the proposed Order accompanied with the notices submitted by the contractor, the plans therefor, his computations as to the quantities of the additional works involved per item indicating the specific stations where such works are needed, the date of his inspections and investigations thereon, and the log book thereof, and a detailed estimate of the unit cost of such items of work, together with his justifications for the need of such Change Order or Extra Work Order, and shall submit the same to the Regional Director or equivalent official of office/agency/corporation/LGU concerned.
- b. The Regional Director or equivalent official concerned, upon receipt of the proposed Change Order or Extra Work Order shall immediately instruct the technical staff of the Region to conduct an on-the-spot investigation to verify the need for the work to be prosecuted. A report of such verification shall be submitted directly to the Regional Director or equivalent official concerned.
- c. The Regional Director or equivalent official concerned, after being satisfied that such Change Order or Extra Work Order is justified and necessary, shall review the estimated quantities and prices and forward the proposal with the supporting documentation to the head of the procuring entity for consideration.
- d. If, after review of the plans, quantities and estimated unit cost of the items of work involved, the proper office of the procuring entity empowered to review and evaluate Change Orders or Extra Work Orders recommends approval thereof, the head of the procuring entity or his duly authorized representative, believing the Change Order or Extra Work Order to be in order, shall approve the same.
- e. The timeframe for the processing of Variation Orders from the preparation up to the approval by the procuring entity concerned shall not exceed thirty (30) calendar days.



In view of the foregoing, your agency may issue the Variation Order requested by its contractor without need of any approval or authority from the GPPB or the GPPB-TSO. We wish to emphasize, however, that before the requested Variation Order be issued, the procedures provided under Section 1.5 of Annex "E" of the IRR-A should have been strictly followed and the addition or deletion of works should be within the general scope of the project as bid and awarded, and the deletion of the work should not affect the integrity and usefulness of the structure.

We trust that this clarifies matters.

Very truly yours,



JOSE MARTIN C. SYQUIA
Executive Director III

/dlsn/npm/da.variation/10.04

REPUBLIC OF THE PHILIPPINES
GOVERNMENT PROCUREMENT POLICY BOARD
Technical Support Office

Unit 2506 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City
Telefax Nos. (02) 900-6741 to 44

September 27, 2004

ENGR. RICARDO D. OBLENA, CESO III

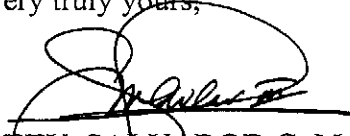
Regional Executive Director
Department of Agriculture
Regional Field Unit 6, Iloilo City

Dear Executive Director Oblena:

This refers to your letter dated September 23, 2004, which we received on September 27, 2004, addressed to Executive Director Jose Martin C. Syquia, requesting for approval of the request for variation order under Republic Act 9184 and its Implementing Rules and Regulations Part A.

We wish to inform you that we shall respond to your concerns either through phone or in writing at the earliest possible opportunity, or raise the same to the Government Procurement Policy Board for appropriate resolution should referral thereto becomes necessary.

Very truly yours,


ATTY. SALVADOR C. MALANA III
Head, Legal and Policy Group