



REGISTRY RECEIPT

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	NO. MAY 29 2009
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**NPM No. 27-2009**

29 May 2009

**THE BIDS AND AWARDS COMMITTEE**  
**METRO ILOILO WATER DISTRICT**  
Bonifacio Drive  
Iloilo City

**ATTN :** Ms Amaryllis J.C. Castro  
Chairperson, BAC

**Re :** Procurement of Bulk Water Supply

Dear Ms. Castro:

We respond to your letter dated 15 May 2009 requesting policy guidance relative to the proposed adoption of Negotiated Procurement for the *Bulk Water Supply Contract* (hereinafter, the "Contract") by the Metro Iloilo Water District ("MIWD").

As per your representation, the said contract covers a period of ten (10) years. Further, for reasons both fortuitous and otherwise, MIWD has not been able to meet the 24-hour supply of water to its service areas. This prompted the declaration of a state of emergency in the service areas of MIWD by the Bids and Awards Committee (BAC), and the issuance of a resolution by the Office of the Sangguniang Panlungsod declaring the City of Iloilo under water crisis.

Pursuant to Section 48.2 in accordance with Section 10 of the Implementing Rules and Regulations Part - A (IRR-A) of Republic Act No. 9184 (R.A. 9184), all procurement, as a general rule, shall be done through Competitive Bidding. Alternative methods shall be resorted to only in highly exceptional cases provided under the law. In other words, while the law mandates that public bidding be conducted by the government, it allows procurement through alternative modes provided that any of the conditions that warrant the same exists.

Thus, apart from public bidding, procurement of water supply by bulk may be undertaken through Negotiated Procurement under Section 53 on the following ground:

- (b) In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

In availing of the above mode of procurement, the procuring entity shall undertake negotiations with a previous supplier, contractor or consultant in good standing, or a supplier,

contractor or consultant of good standing situated within the vicinity where the calamity or emergency occurred. The award of contract shall be posted at the G-EPS website, website of the procuring entity, if any, and in conspicuous place within the premises of the procuring entity.

One other alternative mode is procurement through another agency of the government under Section 53 (e), which may be adopted subject to the conditions and the procedure laid down in the *Implementing Guidelines on Agency-to-Agency Agreements* as per GPPB Resolution 018-2007, dated 31 May 2007.

Please note that it is only upon determination of the BAC, subject to the prior approval of the head of the procuring entity (HOPE) that the foregoing conditions exist, that negotiated procurement may be undertaken under the said paragraphs.

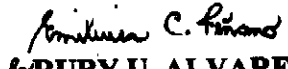
At this juncture, should the MIWD BAC arrive at a determination that the conditions for resorting to Negotiated Procurement are obtaining in this case, it is noteworthy to state that R.A. 9184 and its IRR-A are silent as to the matter of multi-year contracts.

Anent thereto, Section 23 of the General Provisions of Republic Act No. 9524 or the 2009 General Appropriations Act provides that in the implementation of multi-year projects, no agency shall enter into a multi-year contract without securing a Multi-Year Obligational Authority (MYOA) issued by the DBM for the purpose.

Corollarily, the Department of Budget and Management (DBM) has issued DBM Circular Letter No. 2004-12 dated 12 October 2004 prescribing the guidelines and procedure for the implementation of multi-year contracts by national government agencies. Unless therefore, your Office is exempt from said requirement, and inasmuch as accountability for entering into said multi-year contracts solely rests on your BAC and HOPE, we urge you to validate if your governing board is authorized to enter into multi-year contracts, and whether there is no additional budget authority required for the purpose. Otherwise, we strongly suggest that the Contract be procured on a yearly basis.

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

Very truly yours,

  
for **RUBY U. ALVAREZ**  
*Executive Director III*

Atty. Hycer,

I've made some revisions, good work.

Please print as NPM. See filename: MetroIloilo Nego Proc. Bulk Water Supply.

Unit 2506 Raffles Corporate Center  
F. Ortigas Jr. Road, Ortigas Center  
Pasig City, Philippines 1605

26 May 2009

3/26/09

**THE BIDS AND AWARDS COMMITTEE**  
**METRO ILOILO WATER DISTRICT**  
Bonifacio Drive  
Iloilo City

**ATTN : Ms Amaryllis J.C. Castro**  
Chairperson, BAC

**Re : Mode of Procurement for Bulk Water Supply**

Dear Ms. Castro:

We respond to your letter dated 15 May 2009 requesting policy guidance relative to the mode of procurement for the *Bulk Water Supply Contract* (hereinafter, the "Contract") by the Metro Iloilo Water District ("MIWD"). Specifically, you are inquiring whether MIWD may adopt Negotiated Procurement for the said ten (10) year Contract. As per your representation, for reasons both fortuitous and otherwise, MIWD has not been able to supply 24-hour supply of water to its service areas. This prompted the declaration of a state of emergency in the service areas of MIWD by the BAC, and the issuance of a resolution by the Office of the Sangguniang Panlungsod declaring the City of Iloilo under water crisis.

Pursuant to Section 48.2 in accordance with Section 10 of the Implementing Rules and Regulations Part – A (IRR-A) of Republic Act No. 9184 (R.A. 9184), all procurement, as a general rule, shall be done through Competitive Bidding. Alternative methods shall be resorted to only in highly exceptional cases provided under the law. In other words, while the law mandates that public bidding be conducted by the government, it allows procurement through alternative modes provided that any of the conditions that warrant the same exists.

Thus, apart from public bidding, procurement of water supply by bulk may be undertaken through Negotiated Procurement under Section 53 on the following ground:

- (b) In case of imminent danger to life or property during a state of calamity, or when time is of the essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

In addition, procurement from another agency of the government under Section 53 (e) and the *Implementing Guidelines on Agency-to-Agency Agreements* as per GPPB Resolution 018-2007, dated 31 May 2007, may be adopted subject to the conditions and the procedure laid therein.

Please note that it is only upon determination of the BAC, subject to the prior approval of the head of the procuring entity that the foregoing conditions exist, that negotiated procurement may be undertaken under the said paragraphs.

At this juncture, assuming that there are justifiable reasons for MIWD to resort to Negotiated Procurement, it is noteworthy to state that R.A. 9184 and its IRR-A are silent as to the matter of multi-year contracts.

~~Amend the~~ Section 23 of the General Provisions of Republic Act No. 9524 or the 2009 General Appropriations Act provides that in the implementation of multi-year projects, no agency shall enter into a multi-year contract without securing a Multi-Year Obligational Authority (MYOA) issued by the DBM for the purpose.

Corollarily, the Department of Budget and Management (DBM) has issued DBM Circular Letter No. 2004-12 dated 12 October 2004 prescribing the guidelines and procedure for the implementation of the same. Unless therefore, your Office is exempt from said requirement, or a MYOA has already been obtained in accordance with your Charter and other pertinent rules on the matter, we strongly suggest that the Contract be procured on a yearly basis.

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

Very truly yours,

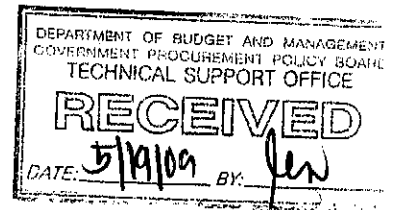
**RUBY U. ALVAREZ**  
*Executive Director III*



# METRO ILOILO WATER DISTRICT

Bonifacio Drive, Iloilo City

May 15, 2009



## RUBY U. ALVAREZ

Executive Director III  
Government Procurement Policy Board  
Unit 2506 Raffles Corporate Center  
F. Ortigas Jr. Avenue, Ortigas Center  
Pasig City, Philippines 1605

→ Hygiene  
Pls. handle  
JEN

**Subject: Mode of Procurement for Bulk Water Supply Contract**

Madam:

Metro Iloilo Water District, created by virtue of P.D. 198, has been serving the potable water needs of its franchise area covering the City of Iloilo and six municipalities. Bulk of its water supply comes from its overflow dam at Tigum river in Maasin and from ten (10) pumping stations located in various municipalities. However, for many years, its capacity of 42,000 - 45,000 cubic meters of water a day is inadequate to meet the water needs of its constituents. This problem is also compounded by the denudation of the Maasin watershed resulting to low water level during the dry season and the unaccounted-for water which currently amounts to more than 40% of its total production. Counting also the fact that typhoon "Frank" last year destroyed a portion of its 600 mm dia. transmission line and also caused heavy siltation and damage to the dam and its reservoir. Thus, the city of Iloilo suffered from scarce water supply which has drawn public outcry and sentiments of its constituents during the period. Acting in haste, MIWD has restored the damaged facilities to return to normalcy the water supply situation. With this predicament, the Board of Directors has issued resolutions declaring a state of emergency in the service areas of MIWD (see attached copy of resolutions) and in the same token, the city of Iloilo has declared the city of Iloilo under water crisis (copy of the resolution of the Office of the Sangguniang Panlungsod is also attached).

In its earnest desire to perform its mandate to provide potable water to its constituents, and to ensure adequate 24-hour supply of water to its present and future customers, MIWD has adopted the scheme of buying water from bulk water suppliers through a Bulk Water Supply Contract with a duration of ten (10) years. The expected Day One of delivery will commenced five to six months from signing of the contract. The contract will be considered as procurement of goods, which is potable water in this case, based on the agreed volume of water to be supplied each day.

We, the Bids and Awards Committee, therefore, would like to solicit your opinion, if we can use Negotiated Procurement by short-listing the eligible bidders, to submit bids for the contract citing the grounds stated in

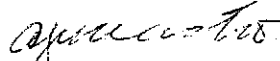
attn - BAC Chairman  
033-3366538

the aforementioned resolutions. And if not, what mode of procurement could we recommend to fast track the implementation of the contract in accordance with the provisions of the IRR-A of R.A. 9184.

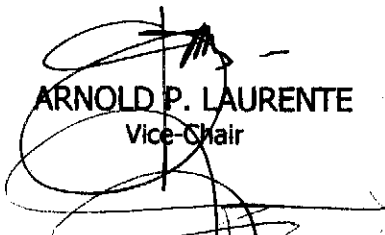
We hope you could shed light on this matter soonest in the interest of public service and welfare of our constituents.

Very truly yours,

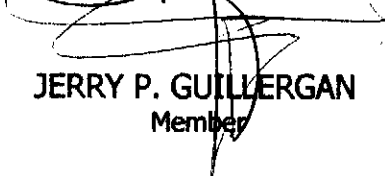
**BIDS AND AWARDS COMMITTEE**



**AMARYLLIS J. C. CASTRO**  
Chairperson



**ARNOLD P. LAURENTE**  
Vice-Chair



**JERRY P. GUILLERGAN**  
Member



**LALAIN Y. PENAFLORES**  
Member



**NANCY A. GALLEGO**  
Member



**JOSE REY S. SABIO**  
Member

cc:

- OIC, Office of the GM
- Corporate Legal Counsel
- File

10.- DECLARATION OF EMERGENCY SITUATION IN THE SERVICE AREAS OF MIWD.

Resolution No. 725 s. 2008

“Considering that the dredging and desiltation activities in Sta. Barbara Water Treatment Plant has been unduly delayed due to the magnitude of the silts and sands in the basins which is over 33,000 cu.m. as surveyed and which the contractor cannot finish draining and in view of the decrease by 50% in production and sales of MIWD, the Board, on unanimous motion, resolved that there is a need of immediate action which would require the acknowledgement and declaration of the state of emergency in the service areas of MIWD to allow certain processes to address the problem.

UNANIMOUSLY APPROVED.”



# METRO ILOILO WATER DISTRICT

Bonifacio Drive, Iloilo City



February 16, 2009

**HONORABLE JERRY P. TRENAS**

Mayor, Iloilo City  
3<sup>rd</sup> Level, Robinson's Place  
Iloilo City

Dear Mayor Trenas,

We are pleased to inform you that the Metro Iloilo Water District (MIWD) is on the road to recovery from the damage caused by typhoon "Frank" last June 21, 2008. Towards this direction, the MIWD Board of Directors recently declared the areas served by the District under a "*State of Emergency*" in order to fast track among others the procurement process and expedite the implementation of the programmed plan of action for the immediate restoration of the water supply in Iloilo City.

Aside from attending these emergency measures, MIWD has still to cope with the increasing demand for potable water in its service area where it has to vigorously endeavor to fast track the implementation of its comprehensive improvement and rehabilitation programs to improve the level of service to wit:

1. Construction of an infiltration gallery at Maasin dam Intake;
2. Rehabilitation of slope protection at the riverbank in Maasin Dam damaged by floods;
3. Construction of impounding reservoirs upstream of Maasin Dam to balance the annual demand requirements;
4. Comprehensive rehabilitation of transmission and distribution network including establishment of District Metering Areas (DMA);
5. Expansion of the distribution network to serve potential consumers within the service area;
6. Explore and develop additional water sources to meet the ever-growing water demand.

MIWD currently relying on the existing Maasin Dam Intake and 100 deep wells having a combined capacity of 450 liters per second serving more than 31,000 concessionaires. Taking into account the devastating effect to our watershed of various typhoons that visited Iloilo, available water supply of our present sources will not be enough to meet the increasing water demand requirements of the fast growing infrastructure and business development where it was reported that more than a hundred thousand households (data given by Iloilo City Planning Office) presently dwell in Iloilo City.





# METRO ILOILO WATER DISTRICT

Bonifacio Drive, Iloilo City

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Thus, the District endeavors in exploring for alternative sources of water supply within the province in order to augment its present and future needs.


Meanwhile, we humbly appeal through your political leadership representations, that a sound, united and effective long term solution must be formulated to preserve and protect our watershed areas in order to ensure the abundant availability and affordable potable water supply to our present and future consumers.

Enclosed herewith is Board Resolution No. 71, s. 2009 for your perusal and consideration.

Thank you for giving preferential action on this matter.

Our best regards.

Very truly yours,

  
**ENGR. EDGAR R. CALASARA**  
Officer-in-Charge  
Office of the General Manager



# METRO ILOILO WATER DISTRICT

Bonifacio Drive, Iloilo City

TO : HONORABLE JERRY P. TRENAS  
FROM : THE BOARD OF DIRECTORS

XX ===== XX

For your information and guidance, quoted hereunder is Resolution No. 71, series of 2009 passed by the Board during its meeting held on February 6, 2009:

Resolution No. 71, s. 2009

WHEREAS, the MIWD Board of Directors has passed Resolution No. 725, s. 2008 dated December 29, 2008 declaring a state of emergency in the service areas of MIWD to allow certain processes to address the undue delay of dredging and desiltation activities at the Water Treatment Plant in Sta. Barbara, Iloilo due to the magnitude of the silts and sands in the basins which is over 33,000 cu.m. as surveyed;

WHEREAS, the production and sales of MIWD in 2008 have decreased tremendously compared to that of 2007;

WHEREAS, MIWD is currently serving only 31,140 concessionaires as of December 31, 2008 out of 216,121 households in the Province and City of Iloilo;

WHEREAS, MIWD is not in a position to fully serve its projected number of concessionaires in its service areas due to inadequate water supply;

WHEREAS, in order to improve the service of MIWD by giving its concessionaires 24 hours of uninterrupted water supply, the MIWD Board of Directors has decided to declare a state of emergency in order to fast track the implementation of its projects;

NOW THEREFORE, on unanimous motion and unanimously seconded, be it resolved as it is hereby resolved, to extend the declaration of the state of emergency in the service areas of MIWD until such time that the shortage of water supply in the Province and City of Iloilo be addressed.

Resolved finally, that MIWD will request for technical and other assistance from LWUA to address the problems and proposed undertakings of MIWD in order to improve its level of service considering the District's limited resources for its necessary undertakings.

Let a copy of this resolution be furnished the City Government of Iloilo for its appropriate action and/or for its endorsement to LWUA.

UNANIMOUSLY APPROVED."

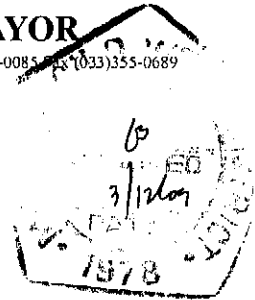


REPUBLIC OF THE PHILIPPINES  
CITY OF ILOILO

**OFFICE OF THE CITY MAYOR**

3rd Level, Robinsons Place, Iloilo City 5000 Tel. (033) 337-3573 / 337-0085 Fax (033) 355-0689

1<sup>st</sup> Indorsement  
March 10, 2009



Respectfully indorsed to Mr. **EDGAR R. CALASARA, OIC, Metro Iloilo Water District**, this City, the City, the Resolution No. 2009-315 from the Sangguniang Panlungsod, regarding the declaration on the Water Crisis in the City, *for his information and guidance.*

  
**JERRY P. TREÑAS**  
City Mayor

/haar

REPUBLIC OF THE PHILIPPINES  
CITY OF ILOILO  
OFFICE OF THE SANGGUNIANG PANLUNGSOD

EXCERPT FROM THE MINUTES OF THE 7<sup>TH</sup> REGULAR SESSION OF THE SANGGUNIANG PANLUNGSOD OF THE CITY OF ILOILO, PHILIPPINES, HELD AT THE SESSION HALL, 2<sup>ND</sup> FLOOR, ILOILO TERMINAL MARKET BUILDING, ILOILO CITY, ON WEDNESDAY, MARCH 04, 2009

PRESENT:

HON. JED PATRICK E. MABILOG  
Presiding Officer

HON. ERWIN J. PLAGATA  
Temporary Presiding Officer



HON. EDUARDO L. PEÑAREDONDO, Floor Leader  
HON. JOSE S. ESPINOSA, III, Assistant Floor Leader  
HON. LYNDON V. ACAP  
HON. ELDRID C. ANTIQUIERA  
HON. JULIENNE L. BARONDA  
HON. ELY A. ESTANTE, JR.  
HON. JEFFREY P. GANZON  
HON. JOHN MELCHOR L. MABILOG, Pres., SK Federation  
HON. MA. IRENE D. ONG, Pres., Liga ng mga Barangay  
HON. ARMAND S. PARCON  
HON. ANTONIO V. PESINA, JR.  
HON. NIELEX C. TUPAS  
HON. PERLA S. ZULUETA

Member  
Member  
Member  
Member  
Member  
Member  
Ex-Officio Member  
Ex-Officio Member  
Member  
Member  
Member  
Member

ABSENT:

NONE

**RESOLUTION NO. 2009-315**  
**A RESOLUTION DECLARING WATER CRISIS IN THE CITY OF ILOILO**

WHEREAS, Metro Iloilo Water District (MIWD) Board of Directors passed Resolution No. 71 dated February 6, 2009 declaring State of Emergency in the service areas of MIWD;

WHEREAS, such declaration was caused by the damage brought by Typhoon "Frank" last June 21, 2008, where MIWD is serving only 31,140 concessionaires as of December 31, 2008 out of 216,121 households in the Province and City of Iloilo;

WHEREAS, numerous programs and projects are on line for the immediate implementation, rehabilitation, and improvement of MIWD;

WHEREAS, it is necessary to create awareness and adopt austerity measures among the people in the City and Province of Iloilo to soften the impact of this water crises;

*fla*

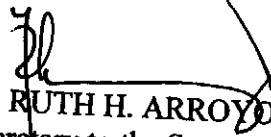
NOW, THEREFORE, on motion of Councilor Eduardo L. Peñaredondo, co-sponsored by Councilor Julienne L. Baronda and seconded by Councilors Jose S. Espinosa III, Nielex C. Tupas and Lyndon V. Acap,

RESOLVED, AS IT IS HEREBY RESOLVED, to pass a resolution declaring water crisis in the City of Iloilo.

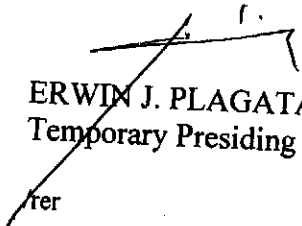
RESOLVED, FURTHER, that copies of this resolution be forwarded to the Office of the City Mayor and the Metro Iloilo Water District (MIWD), for information and guidance.

Unanimously approved.

I hereby certify to the correctness of the above quoted resolution.

  
RUTH H. ARROYO  
Secretary to the Sanggunian

ATTESTED AND CERTIFIED  
TO BE DULY ADOPTED:

  
ERWIN J. PLAGATA  
Temporary Presiding Officer

ter