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NPM No. 45-2009

19 August 2009

MR. GERARDO P. CORSIGA
Project Manager, NIA-BRISRIIP
NATIONAL IRRIGATION ADMINISTRATION
Rehiyon VI, Lungsod ng Bago
Celis St., Bago City, Negros Occidental

Re: Suspension and Blacklisting

Dear Sir:

We respond to your letter dated 06 August 2009 which was received by our office on 10 August 2009, in relation to a copy of the Mindanaoan newsletter re: list of contractors suspended by DPWH which you faxed to us last 18 August 2009, seeking guidance in the awarding of contracts for your newly concluded LMC Bidding.

We wish to inform you that the Government Procurement Policy Board (GPPB) has already issued the *Uniform Guidelines for Blacklisting of Manufacturers, Suppliers, Distributors, Contractors and Consultants (Guidelines)* through GPPB Resolution No. 09-2004 dated 20 August 2004. Said Guidelines provides, under Section 5.6 thereof, guidance on the effect of a suspension order issued by an agency, to wit:

A contractor is suspended upon receipt of the notice of decision prohibiting him from participating in the bidding process of the agency. The suspension shall remain in effect during the period of motion for reconsideration and protest and shall terminate only upon the reversal of the decision by the Head of the Procuring Entity or appellate authority.

If no motion for reconsideration or protest is filed, the decision shall become final and executory after the lapse of seven (7) calendar days from the receipt of the notice of decision. Thereafter, the Head of the Procuring Entity shall issue a Blacklisting Order disqualifying the erring contractor from participating in the bidding of all government projects.

Further, said Guidelines clarifies and distinguishes the status of a suspended person/entity from a blacklisted person/entity, under Section 7 thereof, to wit:

Before the issuance of a Blacklisting Order, the erring contractor may participate in the procurement of any government project except in the agency where he is suspended. But if the Blacklisting Order is issued prior to the date of the notice of award ("NOA"), the blacklisted person/entity shall not be qualified for award and such project/contract shall be awarded to another bidder pursuant to Republic Act No. 9184 and its Implementing Rules and Regulations Part A.

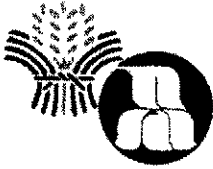
If the Blacklisting Order is issued after the award of a government project/contract to the blacklisted person/entity, the awarded project/contract shall not be prejudiced by the said order: *Provided, however*, that the said offense(s) committed by the blacklisted person/entity is/are not connected with the awarded project/contract.

It can be deduced from the foregoing that a suspended contractor may still be allowed to participate in the procurement of government projects, except in the agency where said contractor has been suspended, and may thereafter be awarded the contract, provided that no Blacklisting Order shall have yet been issued, subject to the conditions provided in the Guidelines. A copy of said Guidelines may be downloaded from our website: www.gppb.gov.ph, for your reference.

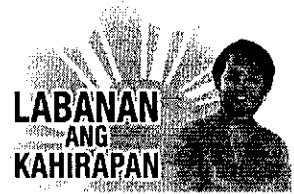
We trust that this sufficiently addresses your concern. Should you have any additional questions, please do not hesitate to contact us.

Very truly yours,

Rubylise C. Pinano
for **RUBY U. ALVAREZ**
Executive Director III



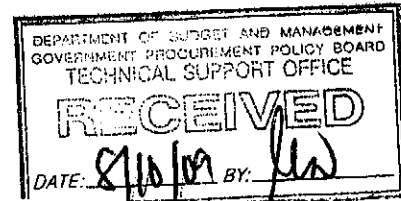
Republika ng Pilipinas
Department of Agriculture
Pambansang Pangasiwaan ng Patubig
(NATIONAL IRRIGATION ADMINISTRATION)
Bago River Irrigation System Rehabilitation and Improvement Project
Rehiyon VI, Luagsod ng Bago



Office Address: Celis Street, Bago City, Negros Occidental, Telephone Nos. : (034) 461-1367 / Telefax No.461- 0306

August 6, 2009

The Executive Director III
GPPB-TSO
Pasig City



Sir,

*Ernie,
Pls. handle. Sign in my
superior behalf.
8/8/14/09*

This has in reference with the sixty (60) Contractors banned by Department of Public Works and Highways (DPWH) to participate in the bidding in violation to the "Three Strike Policy" imposed by the said agency in their procurement of infrastructure projects.

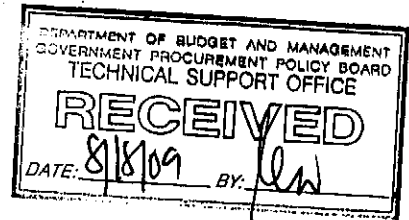
In this regard, this Office would like to formally inquire our stand on how to treat and go over in the awarding of contracts for our newly concluded LMC Bidding to the winning bidder in as much as some of our Contractors that will be awarded are included in the list of banned Contractors.

Further, this project that will be implemented is a foreign assisted project financed by JICA.

Favorable action and immediate response on this matter is highly appreciated.

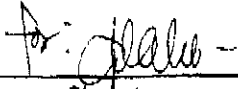
Very truly yours,

Gerardo P. Corsiga
GERARDO P. CORSIGA
Project Manager
- Arauli



Republic of the Philippines
 National Irrigation Administration
**BAGO RIVER IRRIGATION SYSTEM REHABILITATION & IMPROVEMENT
 PROJECT (BRISRIP)**
 Bago City, Negros Occidental

FAX MESSAGE FOR TRANSMISSION

Number of pages 3 (including this sheet)		Date: <u>August 18, 2009</u>
FOR	THE EXECUTIVE DIRECTOR III GPPB-TSO Pasig City	
FROM	GERARDO P. CORSIGA Project Manager NIA-BRISRIP Tele fax No.: (034) 461-2367	 _____ Signature
SUBJECT	Copy of News letter re list of contractors suspended by DPWH	
MESSAGE	For your information and reference	

Full list of 58 erring contractors suspended by the DPWH - Mangima Road, Manolo F... Page 1 of 11

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Tuesday, August 18, 2009

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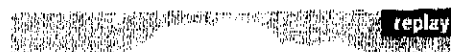
Full list of 58 erring contractors suspended by the DPWH - Mangima Road, Manolo Fortich contractor among those suspended

July 9, 2009 by Taga Mindanao
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MINDANAO - If you've recently tried a Bukidnon-



Full list of 58 erring contractors suspended by the DPWH - Mangima Road, Manolo F... Page 2 of 11

Cagayan de Oro City road trip or a **Davao City-Bukidnon-Cagayan de Oro City road trip**, then you've most likely noticed the bottleneck of traffic at the **Mangima Road** section of Sayre Highway, Manolo Fortich, Bukidnon, **Mindanao**.

There's currently a **road and rehabilitation project** there and I absolutely *dread* that section. I was once stuck there for 5 hours (!) during a **Malaybalay City to Cagayan de Oro City trip**. It usually just takes me 2 hours. You could just imagine the amount of time I've wasted!

That **Mangima Canyon Road** repair project has been a cause of delays and loads of inconvenience for the riding public for months now. In fact, in an effort to ease the traffic somehow, the Provincial Government of Bukidnon has requested that no 10-wheeler trucks be allowed to pass that section from 6am to 8pm. Of course, in the many times that I've traversed that area, I've noticed that the trucks have already started to pass even as early as 6:30pm...which is something that I could perfectly understand because the owners of these trucks also have businesses to run. I mean, really, is it their fault (and the riding public's fault) that the **project contractor**, **Henry S. Oaminal Construction and General Merchandise**, allegedly doesn't have enough equipment to finish the project on time?

So when I received a copy of a **Bukidnon Provincial Council** resolution alerting the Provincial Bids and Awards Committee (BAC) of the various contractors recently suspended by the Department of Public Works and Highways (DPWH), I was no longer surprised. **Henry S. Oaminal Construction and General Merchandise**, along with 57 others, is among the contractors suspended by the DPWH from participating in construction projects for reportedly violating **government procurement laws**.

DPWH Secretary Hermogenes Ebdane has reportedly requested other government agencies to also ban the same 58 erring contractors from participating in their own projects.

Here is the full list of the 58 contractors suspended by the DPWH for a period of *one year*:

1. A.C. Rivero Development Corp.
2. ADP construction and Supply
3. AFG Construction and Supply
4. Allenco Development Corp.
5. Annasor Construction and Trading
6. BMK Construction
7. Big Bertha Construction and Development
8. CBN Construction and supply
9. Chiara Construction
10. Cofe Jok Construction and Supply
11. Davao concrete products
12. E.M.L. Construction and Trading
13. F. Guerra Construction
14. Good Fortune International Inc.
15. Henry S. Oaminal Construction and General Merchandise
16. Hi-Tri Development corp.
17. IBC International Builders Corp.
18. J Cordon Construction and Supply
19. J. Lee Construction
20. J.M Morales Construction and Supply
21. J.S. Layson & Co., Inc.

Full list of 58 erring contractors suspended by the DPWH - Mangima Road, Manolo F... Page 3 of 11

22. Jhall Marketing & Services
23. JHJ Construction
24. LMG Construction
25. LSD Construction and Supply
26. Muana Development Corp.
27. Palmares General Merchandise
28. Patrila builders, Performance Builders and Developers Corp.
29. R.B. Uriarte Construction
30. R.G. Erillo Construction Inc.

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31. Roprim Construction
32. Shak Construction
33. Shen Construction
34. Topmost Development Marketing Corp.
35. TSD Builders Construction and Supply
36. Waterton Construction and Realty Development Corp.
37. Werr Corporation International
38. Welex Construction
39. A.D. Construction
40. ACES Trafcon Exponents, Inc.
41. ALRAF Construction and Enterprises
42. ARN Builders
43. B.E Construction
44. CVAP Construction
45. ECDA Construction
46. Gampik Construction and Development Inc.
47. IHZA Construction
48. J&S Cuadra Construction and Supply
49. JECCEL Construction and Supply
50. JLA Construction and supplies
51. KIRSKAT Venture
52. MBD General Construction
53. NFH Construction and Supply
54. NVF Construction
55. Rockworld Industries
56. Unayan Builders Construction and Supply
57. Villa Veronica construction
58. VNKC Construction

These 58 firms reportedly violated R.A. 9184 and Dep't Order 35, series of 2008, for coming up with several excuses to hinder the bidding and the completion of the projects, and what is more, the most popular excuse given was that the projects were not profitable!

Moreover, the other reasons were that the Approved Budget Cost (ABC) is much lower than the proposed projects, and still, some cited as reason traffic jam problems.

Are you pissed as I am after reading those?

Wish ko lang matuman ning suspension!

Erring contractors should really be taught a lesson.

60 DPWH Contractors Suspended For a Year

JVG Cabuag & Miguel Lazaro

Business Mirror

<http://www.businessmirror.com.ph/home/top-news/11804-60-dpwh-contractors-suspended-for-a-year.html>

THE government has slapped a year of suspension on 60 contractors found to have committed various offenses in the construction of locally funded projects of the Department of Public Works and Highways (DPWH).

DPWH Secretary Hermogenes Ebdane Jr. said on Monday he had signed the suspension order on May 21 and that it is "a part of the agency's reform initiatives following a fallout" from the World Bank's recent findings of collusion among the contractors for one of the country's biggest road project.

He said the 60 contractors, some small and others big players, were given by the DPWH Joint Central Office-Bids and Awards Committee (Co-BAC) the chance to be heard through a process. He added that suspensions are final since they have already gone through three hearings.

After a year, these suspended contractors can ask to be reinstated in the list of accredited contractors following certain procedures, he added.

Ebdane said the one-year suspension only covers biddings for DPWH and other government agencies' projects but these contractors can still participate in foreign-assisted projects.

The suspended contractors include AC Rivero Development Corp., ADP Construction and Supply, AFG Construction and Supply, Allencon Development Corp., Annasor Construction and Trading, BMK Construction, Big Bertha Construction and Development, CBN Construction and Supply;

Chiara Construction, Cofe Jok Construction and Supply, Davao Concrete products, EML Construction and Trading, F. Guerrea Construction, Good Fortune International Inc., Henry S. Oaminal Construction and General Merchandise, Hi-Tri Development Corp, IBM International Builders Corp., J Cordon Construction and Supply, J Lee Construction, and JM Morales Construction and Supply.

Ebdane said during the past few months, they have summoned 216 contractors but only 168 have responded, among which were the suspended firms.

"Those who failed to respond to the DPWH are already barred to bid, while the 60 who have responded, yet the DPWH found their reasons unacceptable, are suspended for one year effective today," Ebdane said. It was not clear whether the suspensions of those who did not respond are permanent.

Based on the department's findings, the firms violated the provisions of Republic Act 9184, or the Government Procurement and Reform Act, with most of the contractors getting the bid documents only to ask other bidders to pay them so they won't proceed, a practice that some insiders say is "normal."

Bidders who procured bid documents but did not participate three times in a year are in violation of the DPWH three-strike policy.


"In two resolutions signed by the CO-BAC members, the main reasons for the suspension included failure to respond to the DPWH secretary's letter requiring them to show cause and the unacceptable reasons provided to justify their violations," said Ebdane.

Interestingly, according to Ebdane, the three contractors already barred by the World Bank from its funded projects can still participate in the bidding of

locally funded projects and other projects assisted by other foreign donors.

In January, the bank blacklisted seven firms and an individual for engaging in collusive practices under the Philippines National Roads Improvement and Management Program.

The firms were E. C. de Luna Construction Corp. and Eduardo C. de Luna, the owner and sole proprietor of the firm; China Road and Bridge Corp., which was barred for eight years; China State Construction Corp. and China Wu Yi Co. Ltd., each barred for six years; and China Geo-Engineering Corp., barred for five years.

POSTED TUESDAY, JUNE 16, 2009 

LABELS: CORRUPTION, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)