

**NPM No. 53-2009**

14 October 2009

**MR. ANTONIO P. REYES**

*Chairman, Bids and Awards Committee*

**NATIONAL KIDNEY AND TRANSPLANT INSTITUTE**

East Avenue, Quezon City

**Re : Incentive Bonus**

Dear Mr. Reyes:

We respond to your letters dated 26 August and 24 September 2009, seeking for an opinion from the Government Procurement Policy Board on whether the National Kidney and Transplant Institute (NKTII) could apply the formula for the computation of Incentive Bonus stated under Contract Implementation (CI) Clause 9 of the Implementing Rules and Regulations (IRR) of Presidential Decree (P.D.) No. 1594, as amended, for the early completion of NKTII's Diagnostic Center by its winning contractor.

At the outset, we wish to inform you that P.D. 1594, dated 11 June 1978, entitled "Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contracts" has been expressly repealed by Republic Act (R.A.) No. 9184 and its Implementing Rules and Regulations (IRR). Any other law, presidential decree or issuance, executive order, letter of instruction, administrative order, proclamation, charter, rule or regulation and/or parts thereof contrary to or inconsistent with the provisions of R.A. 9184 and its IRR have likewise been repealed, modified or amended accordingly.

Moreover, if it were the clear and real intent of the legislators to still allow payment of incentive bonus, then they should have specifically provided for the same in R.A. 9184 and its IRR-A. On the contrary, they have categorically and expressly stated in Section 42.4 of the IRR-A of R.A. 9184 that no incentive bonus, in whatever form or for whatever purpose, shall be allowed.

Furthermore, please be informed that based on consultations on the revision of the IRR-A of R.A. 9184, it was revealed that incentive bonus is being prohibited so as to deter possible opportunities for collusion and graft and corruption.

Lastly, we wish to inform you that the GPPB through Resolution No. 05 - 2009, dated 30 September 2009, approved and adopted the Third Edition of the Philippine Bidding Documents (PBDs) for the Procurement of Infrastructure Projects. In keeping with R.A. 9184 and its IRR, nowhere in said bidding documents is the grant of incentive bonus allowed.

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

Very truly yours,

*Amilusa C. Ferrano*  
for **RUBY U. ALVAREZ**  
*Executive Director III*

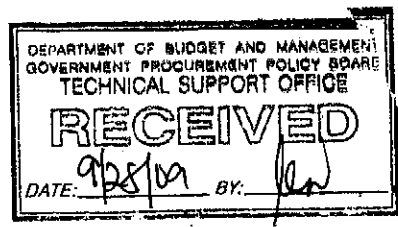


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**NATIONAL KIDNEY AND TRANSPLANT INSTITUTE**

Si → Sumis.  
Pls. handle. Sign in  
my behalf. 9/29/09

**MS. RUBY U. ALVAREZ**  
Executive Director III - TSO  
Government Procurement Policy Board  
Unit 2506 Raffles Corporate Center  
F. Ortigas Jr. Road, Ortigas Center  
Pasig City



Attention: **Mr. Bryan Bigalbal**  
Procurement Officer

Dear Ms. Alvarez:

This has reference to our letter dated August 26, 2009 seeking opinion from your office if we could use the formula stated in IRR PD 1594, C19 Incentive of Work in the granting of incentive bonus to our contractor, C.E. Padilla Constructions. The letter pertains to the early completion of construction works for our Diagnostic Center Project. As this is one of the priority projects of President Gloria M. Arroyo, we are enjoined to complete the constructions within this year. As such, our contractor has been working 24 hours per day on three shifts to meet the target date as instructed by the President.

It is worthwhile to mention that granting of the said Incentive Bonus is incorporated in the memorandum of the President dated February 25, 2009 which provides that there shall be incentives for those who accomplish the project on time.

In relation to this, please be informed that the granting of incentive bonus for early completion of the project is part of our contract with C.E. Padilla Constructions. However, no specific formula was provided in the contract. The contract has already been reviewed and recommended for implementation by the Office of the Government Corporate Counsel (OGCC). Attached is a copy of the said opinion for your reference.

We will greatly appreciate your early and favorable response regarding this matter.

Very truly yours,  
  
**ENRIQUE T. ONA, MD**  
Executive Director

- Attachments:
1. NKTi letter dated August 26, 2009 (w/ attachments)
  2. OGCC Opinion on the contract