

NPM No. 73-2007

3 December 2007

MR. JOSEPH P. PADAYAO

Director

LAOAG-ILOCOS NORTE CONSTRUCTORS' ASSOCIATION

Laoag, Ilocos Norte

Re : Implementation of Infrastructure Project by Administration

Dear Mr. Padayao:

We refer to your letter 19 June 2006 requesting for an opinion on whether an implementing agency may lease construction equipment from private contractors to be used for the implementation of infrastructure projects by administration pursuant to Section 54.2 (d) of the Implementing Rules and Regulations Part (IRR-A) of Republic Act No. 9184 (R. A. 9184) and Government Procurement Policy Board (GPPB) Resolution No. 13-2005 dated 05 August 2005.

Please be advised that GPPB Resolution 13-2005 has been repealed by GPPB Resolution No. 18-2006 dated 6 October 2006. GPPB Resolution No. 18-2006 approved and adopted the "Revised Guidelines for the Implementation of Infrastructure Projects by Administration," a copy of which is attached for your reference.

Under the Revised Guidelines, to undertake projects by administration, the implementing agency must:

- a. have a track record of having completed, or supervised a project, by administration or by contract, similar to and with a cost of at least fifty percent (50%) of the project at hand; and
- b. own the tools and construction equipment to be used or have access to such tools and equipment owned by other government agencies.

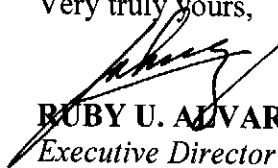
The criteria for evaluating the track record and capability of implementing agencies shall be in accordance with the guidelines to be issued by the Department of Public Works and Highways (DPWH) in consultation with the leagues enumerated under the Local Government Code.¹

¹ Section 3.2, Revised Guidelines.

Please note the requirement that the implementing agency must own the tools and construction equipment or must have access to such tools and construction equipment owned by other government agencies. In addition, the Revised Guidelines provides that no contractor shall be used by the procuring entity, directly or indirectly, for works undertaken by administration,² except the manual labor component which may be undertaken by the implementing agency concerned, by job order or through the pakyaw contracting system.³ Consequently, the implementing agency cannot lease the tools and construction equipment from private contractors.

Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III

²Section 3.4, Revised Guidelines.

³ Section 3.7, Revised Guidelines.