

NPM No. 75-2007

3 December 2007

MR. ALEX RAOUL S. VILLANO

Assistant Secretary-General

LEAGUE OF PROVINCES OF THE PHILIPPINES

Unit 1510, West Tower, Philippine Stock Exchange Center,
Ortigas, Pasig City

Re : Implementation of Infrastructure Projects by Administration

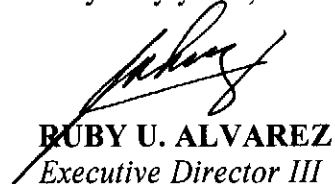
Dear Mr. Villano:

We refer to your letter dated 3 November 2006, together with a copy of League of Provinces National Executive Board Resolution No. 2006-005 entitled "Reiterating the Request for Her Excellency President Gloria Macapagal-Arroyo to Suspend the Implementation of the Government Procurement Policy Board (GPPB) Resolution No. 13-2005 dated 15 August 2005 with Respect to Local Government Units (LGUs) and Allow LGUs to Decide Whether to Bid Out or Undertake by Administration Infrastructure Projects Funded Solely by LGUs Regardless of the Project Cost."

Please be advised that GPPB Resolution 13-2005 has been repealed by GPPB Resolution No. 18-2006 dated 6 December 2006.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.

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

Very truly yours,



RUBY U. ALVAREZ
Executive Director III



RESOLUTION NO. 018-2006

APPROVING AND ADOPTING THE REVISED GUIDELINES FOR THE IMPLEMENTATION OF INFRASTRUCTURE PROJECTS BY ADMINISTRATION

WHEREAS, Republic Act No. 9184 (R.A. 9184), otherwise known as “Government Procurement Reform Act” and its Implementing Rules and Regulations Part A (IRR-A) took effect on January 26, 2003 and October 8, 2003, respectively;

WHEREAS, under Section 53 (b) of the IRR-A, in exceptional cases expressed therein, the procuring entity has the option to undertake infrastructure projects through negotiated procurement, by administration or, in high security risk areas, through the Armed Forces of the Philippines (AFP);

WHEREAS, pursuant thereto, the Government Procurement Policy Board (GPPB), through Resolution No. 13-2005 issued the Guidelines for the Implementation of Infrastructure Projects through Negotiated Procurement under Section 54.2 (d) of IRR-A of RA 9184 and By Administration which took effect last 26 September 2005;

WHEREAS, there is a need to revise the above-mentioned guidelines in view of recent amendments to the provisions on negotiated procurement under Section 54.2 (b) and (d) of the IRR-A of R.A. 9184 under Memorandum Order No. 213 dated May 8, 2006, and to harmonize the provisions of the guidelines with the special provisions for the Department of Public Works and Highways (DPWH) under the General Appropriation Act (GAA) governing implementation of projects “by Administration or Force Account”;

WHEREAS, the GPPB in its 5th meeting on 06 December 2006 discussed and unanimously agreed to adopt the revised guidelines on the implementation of projects by administration;

NOW, THEREFORE, premises considered, **WE**, the Members of the **GOVERNMENT PROCUREMENT POLICY BOARD**, by virtue of the powers vested on **US** by law, hereby **RESOLVE** to approve and adopt, as **WE** hereby approve and adopt the “Revised Guidelines for the Implementation of Infrastructure Projects By Administration”, attached hereto as Annex “A” and made an integral part hereof.

This resolution shall take effect immediately.

APPROVED this 6th day of December 2006 at Pasig City, Philippines

ROLANDO G. ANDAYA JR.

Secretary

Department of Budget and Management

ROMULO L. NERI

Director General

National Economic and Development
Authority



RESOLUTION NO. 018-2006

**NATIONAL ECONOMIC AND
DEVELOPMENT AUTHORITY**

**DEPARTMENT OF NATIONAL
DEFENSE**

DEPARTMENT OF EDUCATION

DEPARTMENT OF HEALTH

**DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT**

DEPARTMENT OF ENERGY

**DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS**

DEPARTMENT OF FINANCE

**DEPARTMENT OF TRADE AND
INDUSTRY**

**DEPARTMENT OF SCIENCE AND
TECHNOLOGY**

**DEPARTMENT OF TRANSPORTATION
AND COMMUNICATIONS**

PRIVATE SECTOR REPRESENTATIVE

Attested by:

RUBY U. ALVAREZ
Board Secretary, GPPB
Executive Director, GPPB-TSO

GUIDELINES FOR THE IMPLEMENTATION OF INFRASTRUCTURE PROJECTS BY ADMINISTRATION

1.0 Purpose and Coverage

These guidelines shall provide rules for the implementation of projects "by administration" by all Departments, Bureaus, Offices and Agencies of the National Government (NGA), Government-Owned and/or Controlled Corporations (GOCCs), Government Financing Institutions (GFIs), State Universities and Colleges (SUCs), and Local Government Units (LGUs).

Projects undertaken "by administration" by the Armed Forces of the Philippines Corps of Engineers (AFPCOE) shall be governed by the guidelines issued by the GPPB through Resolution 09-2005 dated 28 April 2005.

2.0 Definition of Terms

For purposes of these guidelines, the following terms shall be defined as follows:

- 2.1 **"By Administration"** refers to the procedure by which the implementation of an infrastructure project is carried out under the administration and supervision of the concerned agency through its own personnel.
- 2.2 **Implementing Agency** refers to any government unit undertaking the construction of an infrastructure project.
- 2.3 **Job-Contractor** refers to a person or entity who carries out, under his own responsibility, supervision and control, the performance or completion of a specific job, service or work which has been farmed out by another for the latter's benefit.
- 2.4 **Job-order** refers to employment of individuals to undertake piece or lump sum works, or intermittent jobs of short duration not exceeding six months on a daily basis.
- 2.5 **Labor-only Contractor** refers to a person or entity that engages in the supply of workers/laborers to an employer but does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed perform activities directly related to the principal business of the employer.
- 2.6 **Pakyaw** refers to a system of hiring a labor group for the performance of a specific work and/or service incidental to the implementation of an infrastructure project by administration whereby tools and materials are

furnished by the implementing agency. For the specific work/service output, a lump-sum payment is made either through the group leader or divided among the pakyaw workers and disbursed using a payroll system.

- 2.7 **Semi-skilled Work/Job** refers to a work/job which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials, or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work, but more complex than unskilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks.
- 2.8 **Skilled Work/Job** refers to work that requires qualifications in which a person uses judgment to determine the machine and manual operations in order to obtain the proper form, quality, or quantity of material to be produced. Skilled work may require laying out work estimating quality, determining the suitability and needed quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work.
- 2.9 **Unskilled Work/Job** refers to work which needs little or no judgment that can be learned on the job in a short period of time. The job may or may not require considerable strength.

3.0 Conditions and Requirements for the use of "By Administration"

- 3.1 Projects undertaken by Administration shall be included in the approved Annual Procurement Plan (APP) of the procuring entity concerned. If the original mode of procurement recommended in the APP was Public Bidding but cannot be ultimately pursued, or the project to be undertaken by administration has not been previously included, the BAC, through a resolution shall justify and recommend the change in the mode of procurement or the updating of the APP to be approved by the Head of the Procuring Entity.
- 3.2 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 in consultation with the leagues enumerated under the Local Government Code.

- 3.3 Any project costing Five Million (P 5,000,000) or less may be undertaken by administration or force account by the implementing agency concerned. A project costing over Five Million (P 5,000,000) may be undertaken by the agency concerned only in the following cases:
 - a. emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life or property;
 - b. to comply with government commitments, as certified by the concerned government authority;
 - c. failure to award a contract after competitive bidding for a valid cause;
 - d. termination or rescission of contract;
 - e. areas with critical peace and order problems as certified by the Local Peace and Order Council;

PROVIDED, that prior authority shall be obtained from the Secretary of Public Works and Highways, if the project cost is Five Million (P5,000,000) up to Twenty Million (P20,000,000), or from the President of the Philippines, upon the favorable recommendation of the Secretary of Public Works and Highways, if the project cost is more than Twenty Million (P 20,000,000).

- 3.4 No contractor shall be used by the procuring entity, directly or indirectly for works undertaken by administration.
- 3.5 Procurement of tools and construction equipment shall be subject to the rules on public bidding.
- 3.6 For projects funded by the National Government and implemented by a Local Government Unit, the latter shall be required to post the necessary warranty security in accordance with Section 62 of RA 9184 and its IRR-A.
- 3.7 The manual labor component of projects undertaken by administration may be undertaken in-house by the implementing agency concerned, by job-order or through the pakyaw contracting system. In-house labor is undertaken if the workers are employees or personnel occupying regular plantilla positions in the implementing agency. Job-order contracts shall be governed by relevant Commission on Audit (COA) and/or Civil Service Commission (CSC) rules.

4.0 Pakyaw Contracting System

- 4.1 Pakyaw labor shall be drawn from the vicinity of the project, or Pakyaw labor groups belong to various Barangay Associations contiguous to the project site. Unskilled labor should be drawn from the Barangay where the project is located; semi-skilled labor shall be recruited within the municipality, preferably within the Barangay; skilled labor shall be recruited within the province but preferably within the Barangay/Municipality.
- 4.2 The formation of Pakyaw Groups should actively involve the Barangay leaders and the community. A Project Facilitator (PF) shall be appointed by the implementing agency to assist in the organization of the Pakyaw Groups and in the preparation of the Pakyaw Contracts. The PF shall, for purposes of informing the community of the project and of organizing pakyaw groups, shall convene community meetings, with the assistance of the Barangay Chairperson/s. The PF shall cause the registration of all unemployed or underemployed members of the community who are interested to join Pakyaw groups being formed for the project.
- 4.3 The Pakyaw workers should be formed into groups of workers based on the lump sum works. In case of competitive selection, pakyaw groups which were not selected for a particular lump sum work may choose to compete for other works requiring pakyaw groups.
- 4.4 Where there is competition for the award of Pakyaw works, the pakyaw labor contract shall be awarded through competitive selection with at least three (3) Pakyaw Groups participating. There is deemed to be a competition for the award of pakyaw contracts when the number of laborers who registered during the community meeting is more than what is reasonably needed for the lump sum work required under the project. The competitive selection shall be done on a "per-output" basis. And the winner(s) shall be determined based on what group(s) undertake(s) to deliver the desired output at the lowest rate, either per item of output or per lump sum work, within the required period.
- 4.5 For purposes of Item 4.4 hereof, the number of members per group shall be determined by the Project Facilitator to ensure that at least three Pakyaw Groups are organized for the competitive selection. The determination by the Project Facilitator of the number of members per Pakyaw Group shall be exercised with regard to the objective of providing work to as many laborers as possible.
- 4.6 A Group Leader shall be elected from among the members of the group who shall be the signatory to the Pakyaw Contract and any other documents pertaining to the work on behalf of the Pakyaw Group. He may be replaced at

any time by the group through an election for that purpose, after due notice to the Project Facilitator and the Barangay Chairperson. Any such replacement shall not invalidate any previous Pakyaw Contract.

4.7 In no case may Pakyaw Groups be regular or licensed contractors or organized by and/or under the management of a regular or licensed contractor. Laborers supplied by job-contractors/labor-only contractors are likewise disqualified to become members of the Pakyaw groups when the job-contracting/labor-only contracting is specifically carried out for the purpose.

4.8 The amount of a pakyaw labor contract per project shall not exceed Five Hundred Thousand Pesos (P500,000.00) per pakyaw group.

6.0 Repealing Clause

This set of guidelines repeals GPPB Resolution 13-2005 approving and adopting the Guidelines for the Implementation of Infrastructure Projects through Negotiated Procurement under Sec. 54.2 (d) of IRR-A of RA 9184 and by Administration.

7.0 Effectivity

These Guidelines or any amendments hereto shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of these guidelines.