

Republic of the Philippines
Ministry of Public Highways
OFFICE OF THE MINISTER
M a n i l a

February 23, 1979

MINISTRY ORDER)

No. 158)

Series of 1979)

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SUBJECT: Banning negotiated contracts,
except under certain conditions
as provided by law or regula-
tions

TO: All Bureau Directors
Regional Directors
Chiefs of Services
District & City Engineers
This Ministry

Quoted hereunder are the pertinent provisions of Executive Order No. 520, series of 1979, regulating negotiated contracts, to wit:

"Section 1. Declaration of Policy. All government projects involving civil, electrical and mechanical engineering works, and supply and installation of equipment and materials, except those which are authorized by laws to be undertaken by administration, shall be undertaken, except as herein provided, through competitive public bidding to ensure economy and efficiency.

Section 2. Exceptions. Any agency or instrumentality of the government may award or enter into such contract without public bidding only in the following instances:

- a) In time of emergencies arising from natural calamities where immediate action to provide the required facilities is necessary to prevent imminent loss of life and/or property;
- b) When there is failure to award the contract after competitive public bidding for valid cause or causes;
- c) Where the project is innovative in character and for experimental purposes, under such guidelines as may be promulgated by the Board herein created;
- d) When an existing contract is terminated or a portion thereof deleted, and awarding of contract to a different contractor through public bidding would entail unnecessary delay to the detriment of the government and of the general public; and
- e) In cases of urgent necessity as certified by the agency concerned and approved by the President.

Section 3. Other Conditions for Negotiations. The authority to negotiate contracts mentioned in the preceding section shall not be issued unless the necessary program of work and the government cost estimates for the project have

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been prepared and duly approved, and the contractors applying to negotiate for the project have been duly pre-qualified in accordance with the rules and procedures prescribed by the Central Tender Board herein created."

Likewise quoted are the provisions of Letter of Instruction No. 794, as follows:

"Effective immediately, all public works projects and other projects involving civil works of national offices, agencies, and instrumentalities, including government owned or controlled corporations, costing more than ₱300,000.00 each, shall be advertised for public bidding and the contract therefor awarded to the bidder submitting the lowest complying bid.

Projects costing more than ₱300,000 shall be undertaken by administration of the agency concerned or through negotiated contract only in cases of urgent necessity and in times of emergency arising from natural calamities where immediate action is necessary to prevent imminent loss of life or property, subject to the approval of the Head of the Ministry concerned if the project cost is less than ₱1,000,000 and of the President of the Philippines, upon recommendation of the Ministry Head concerned if the project cost is ₱1,000,000 or more. Expenditure on projects undertaken by administration shall not exceed the amount covered by the approved Program of Work in accordance with Section 3 of Presidential Decree No. 1342 and the amount of the negotiated contract shall not exceed the approved government estimate.

In no case shall a contract be awarded nor works started without the necessary funds released for the purpose.

The agencies concerned shall continue to undertake by administration projects costing ₱300,000 or less each in accordance with Section 10 of Presidential Decree No. 1342.

All concerned are directed to desist from splitting projects into smaller components in order not to defeat the purpose of this instruction.

This supersedes all Letters of Instruction, orders, directives, circular and rules and regulations inconsistent herewith.

DONE in the City of Manila, this 19th day of January, in the year of Our Lord, nineteen hundred and seventy-nine."

By virtue of these Executive Order and Letter of Instruction, it is hereby directed that no proposal for negotiated contracts that does not satisfy the requirements or conditions provided for in the above-quoted Executive Order and/or Letter of Instruction should be entertained. Henceforth, no negotiated contract shall be approved by this Office unless it satisfies or meets the said conditions.

It is further advised that all previous offers to undertake projects thru negotiated contract, which may have been favorably indorsed prior to the promulgation of these restrictions on negotiated contracts, but the negotiated contracts for which had not been perfected or approved before the effectivity of these restrictions, which is January 19, 1979, by order of the President, should no longer be given due course.

This order shall take effect immediately.

BALTAZAR AQUINO
Minister