



REPUBLIC OF THE PHILIPPINES
MINISTRY OF PUBLIC HIGHWAYS
OFFICE OF THE MINISTER
MANILA

4 October 1979

MINISTRY ORDER)
No. 183
Series of 1979)

SUBJECT: Clarification on the provisions
of Batas Pambansa Blg. 13 and
LOI 794, and delegating certain
authorities pertaining to prose-
cution of public works projects

A. Clarification on the provisions of Batas Pambansa Blg. 13 and
LOI 794

Several requests have been received for clarification as to the applicability of the provisions of Batas Pambansa Blg. 13 (Public Works Act of 1979) and LOI 794 as regards the authority to approve programs of work and the different categories of projects that may be carried out by administration, by contract through public bidding, or by negotiated contract. The following clarification as recommended by the Assistant Secretary for Administration is hereby made:

1. Detailed plans and programs of work.—Section 2 of Batas Pambansa Blg. 13 provides as follows:

"Prior to the actual construction, improvement, rehabilitation and/or reconstruction of the projects covered in whole or in part by appropriations in this Act, approval of detailed engineering plans and programs of work by the x x x Minister of Public Highways x x x shall be obtained for every project with an estimated cost greater than ₱1,000,000; by the Bureau Head concerned for every project with an estimated cost greater than ₱500,000 but not more than ₱1,000,000; by the Regional Director concerned for every project with an estimated cost greater than ₱200,000 but not more than ₱500,000; and by the District or City Engineer concerned for every project with an estimated cost of ₱200,000 or less. x x x No project shall be divided into smaller portions for the purpose of circumventing the provisions of this Section."

Letter of Instructions No. 794 does not contain a provision regarding the approval of detailed plans or programs of work. Section 2 of Batas Pambansa Blg. 13 thus governs the approval of programs of work, without limiting the authority of the Ministry to specify different authority levels, so long as these do not exceed those provided by Batas Pambansa Blg. 13.

2. Prosecution of projects by administration, by contract through public bidding, or by negotiated contract.—Pursuant to Section 7 of Batas Pambansa Blg. 13, projects with a cost of ₱500,000 or less may be done by administration by the agency concerned without public bidding. Projects with a cost of more than ₱500,000 shall be advertised for public bidding, provided that if bidding fails the project may be prosecuted by administration with the approval of the Minister concerned if the cost is ₱2,000,000 or less; and with the approval of the President, upon recommendation of the Minister concerned, if the cost is more than ₱2,000,000. However, in case of urgent necessity or emergency, projects costing more than 500,000 may be prosecuted by administration without

prior public bidding by the agency concerned, subject to the approval of the Minister concerned if the project cost is ₱2,000,000 or less, and the approval of the President, upon recommendation of the Minister concerned, if the project cost is more than ₱2,000,000.

Section 8 of Batas Pambansa Blg. 13 also provides that negotiated contracts may only be allowed under the following circumstances:

- "(a) in cases where public bidding has failed to produce bids acceptable to the bureau or agency concerned; or
- (b) in case of urgent necessity or emergency or danger to life and property; or
- (c) in case of a project which is contiguous to an on-going project under contract, in which case the agency concerned may negotiate with the contractor of the on-going project to undertake the additional work under the same contractual terms and conditions of the on-going contract less credit for mobilization, except in cases of extraordinary inflation or state of recession declared by the government; Provided, That no negative slippage is incurred by the contractor in any of his on-going projects: Provided, further, That the additional work is within his contracting capabilities."

Letter of Instructions No. 794, on the other hand, directs all agencies implementing public works projects and other projects involving civil works to advertise for bids all projects with a cost of more than ₱300,000 each and to award the contract therefore to the bidder submitting the lowest complying bid. It allows the implementing agencies to undertake by administration projects costing ₱300,000 or less each and allows projects costing more than ₱300,000 to 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.

Considering that under the provisions of the Constitution the President is charged with the responsibility and duty to implement and execute laws and that pursuant to this mandate he has issued LOI 794, providing instructions to be followed by all infrastructure implementing agencies in the prosecution of public works projects, the provisions of said LOI 794 and not those of Batas Pambansa Blg. 13 shall control and govern the prosecution of all infrastructure projects.

B. Delegated Authorities

As Ministry policy, the following levels of authority are hereby authorized to perform the following acts:

A. Approval of programs of work

Projects with an estimated cost of ₱200,000 or less	- District/City Engineer
Projects with an estimated cost greater than ₱200,000 but not more than ₱500,000	- Regional Director
Projects with an estimated cost greater than ₱500,000 but not more than ₱1,000,000	- Bureau Director
Projects with an estimated cost greater than ₱1,000,000	- Minister or whoever is delegated by him

B. Prosecution of projects by administration

Projects with an estimated cost of ₱300,000 or less	District/City Engineering Office without prior approval by the Minister
Projects with an estimated cost greater than ₱300,000 but not more than ₱1,000,000 *	District/City Engineering Office with prior approval by the Minister
Projects with an estimated cost greater than ₱1,000,000 *	Regional Office, subject to prior approval by the President, upon recommendation of the Minister

* Subject to the provisions of LOI 794.

C. Advertisement and Bidding of Projects and Award of Contracts

Projects with an estimated cost greater than ₱300,000 but not more than ₱500,000	District/City Engineering Office
Projects with an estimated cost greater than ₱500,000 but not more than ₱1,000,000	Regional Office
Projects with an estimated cost greater than ₱1,000,000	Ministry Proper

It is understood that Regional Directors and District/City Engineers are also authorized to enter into contracts for projects advertised, bid and awarded by them pursuant to this section, provided that all contracts they have entered into shall be subject to the approval of the Minister.

D. Prosecution of projects through negotiated contract

Regional Directors may enter into and approve negotiated contracts for projects with an estimated cost of less than ₱300,000, subject to the provisions of LOI 794. They shall, however, furnish the Minister with copies of all negotiated contracts they have entered into pursuant to this authority.

Please be guided accordingly.

Vicente J. Paterno 10/8
VICENTE T. PATERNO
Minister

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