

Reproduced



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

9 January 1984

MINISTRY ORDER)

No.

3

Series of 1984)

SUBJECT: Guidelines on the restoration and payment of damages to work accomplished in infrastructure projects before final acceptance of the project

Pursuant to Art. 7.12 of the Standard Specifications for Highways and Bridges and in consonance with the provisions of Art. 1174 of the New Civil Code, as amended, the contractor shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expenses thereof, except damages to the work due to unforeseeable causes beyond the control and without fault or negligence of the contractor including, but not restricted to, acts of God or of the public enemy, acts of the government, slides found by the engineer to be unavoidable and ordinary wear and tear on any section of the road open to traffic by order of the Engineer.

For the protection of the interest of the government in the payment of repair/restoration of works damaged due to force majeure or acts of God, the following guidelines are hereby promulgated:

1. Determination of existence and extent of damages, if any

Whenever any calamity like typhoon, flood, earthquake or the like occurs, the following actions shall immediately be taken by the Project Engineer:

- 1.1 Within twenty-four (24) hours from the occurrence of any calamity, the Project Engineer, together with the contractor or his representative, shall conduct an investigation to determine whether the project(s) sustained damages.
- 1.2 Take photographs of the damaged portions of the project(s); Evaluate and assess the extent of the damages to the project and determine the estimated cost of reconstruction/restoration thereof.
- 1.3 Prepare a proposed change order for the restoration/reconstruction of the damages to the works involved and submit the same for approval thru proper channels, attaching therewith the report of investigation, pictures of the damages and other supporting documents.

2. Determination of whether the contractor is entitled to payment of restoration

In order to determine who should shoulder the cost of repair/restoration of damages on the works, the Project Engineer shall conduct an investigation to establish the following:

- 2.1 Whether the contractor has taken all necessary precautions and has provided adequate protection to forestall damages or injury to the finished works.
- 2.2 Whether the cause(s) of the damage to the works could have been anticipated by the contractor, and whether the contractor, assuming that he could have foreseen the contingency, could have prevented it.

ok for file - 1/17/84



- 2.3 Whether the damages are solely attributable to force majeure or acts of God, or whether the contractor is guilty of contributory negligence.

If it is determined that the cause(s) of the damage to the completed works is attributable to the fault or negligence of the contractor, the cost of repair shall be borne by the contractor. However, if the damages were caused solely by force majeure or acts of God, without fault or negligence of the contractor, then the government shall shoulder the cost of repair and restoration of the damages.

3. Basis of cost/payment of repair or restoration works

To determine the cost of repair/restoration of the damages to the works, the Project Engineer shall:

- 3.1 Ascertain whether there are retrievable materials left, like sand or gravel, etc., which can be used in the repair/restoration work. The cost of retrievable materials shall be deducted in the estimated cost of the items of work where such materials are to be incorporated.
- 3.2 Where there are no retrievable materials, the unit costs of the items of work to be done shall be based on the unit costs of similar items in the original contract.

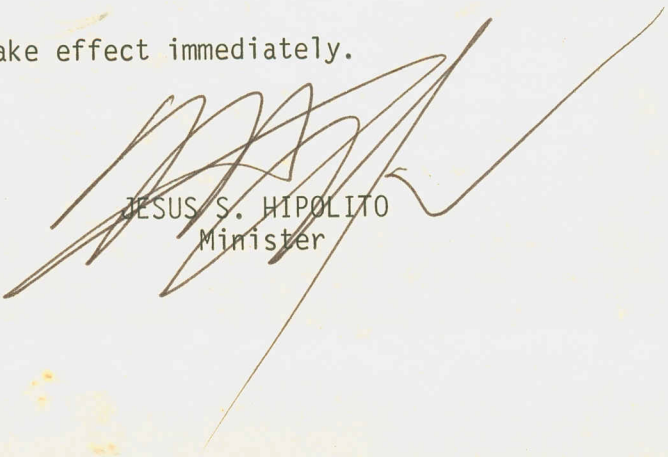
4. Commencement of repair/restoration work

In order to give the Minister or his duly authorized representative ample time to verify the extent of damages to works caused by natural calamities, no repair/restoration works shall be started until after the following have been complied with:

- 4.1 That the corresponding change order for the repair/restoration of such damages is prepared and submitted for approval by officials concerned.
- 4.2 That funds are available for the repair/restoration works to be done and that the corresponding change order has been approved by the official concerned.
- 4.3 In cases of emergency or when time is of the essence, the Minister or his duly authorized representative may, by written order, authorize repair/restoration work to be started before approval of the corresponding change order.

Warning is hereby given to all officials concerned, as well as contractors, that no payment shall be allowed for repair/restoration works done in violation of these guidelines, and the official authorizing or allowing such works to be done shall be held personally liable for payment of such works.

These guidelines shall take effect immediately.

  
JESUS S. HIPOLITO  
Minister

1/19/84  
2.42  
11