



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

097.13 DPWH

02-17-2015

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DEPARTMENT ORDER)

SUBJECT: REPLACEMENT OF CONSULTANTS' KEY PERSONNEL

NO. 21)
Series of 2015 *KKBA 02-17-15*

Section 33.3 of the Implementing Rules and Regulations of Republic Act No. 9184 provides the following requirement with regard to the replacement of key personnel of consultants engaged for DPWH projects:

"33.3. There should be no replacement of key personnel before the awarding of contract, except for justifiable reason, such as, illness, death, or resignation provided it is duly supported by relevant certificates, or any delay caused by the procuring entity. The procuring entity shall immediately consider negotiation with the next ranked consultant if unjustifiable replacement of personnel by the first ranked firm is made. Once the contract has been awarded, no replacement shall be allowed until after fifty percent (50%) of the personnel's man-months have been served, except for justifiable reasons, subject to appropriate sanctions as prescribed in the PBDs (i.e., Philippine Bidding Documents)."

Section 39.5 of the General Conditions of Contract under the Philippine Bidding Documents (PBDs) provides the following requirement:

"39.5 No changes shall be made in the Key Personnel, except for justifiable reasons beyond the control of the Consultant, as indicated in the SCC (i.e., Special Conditions of Contract), and only upon prior approval of the Procuring Entity. If it becomes justifiable and necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications. If the Consultant introduces changes in Key Personnel for reasons other than those mentioned in the SCC, the Consultant shall be liable for the imposition of damages as described in the SCC."

Section 39.5 of the Special Conditions of Contract (SCC) provides the following requirement:

"The Consultant may change its Key Personnel only for reasons of death, serious illness, incapacity of an individual Consultant, or until after fifty percent (50%) of the Personnel's man-months have been served."

"Violators will be fined an amount equal to the refund of the replaced Personnel's basic rate, which should be at least fifty percent (50%) of the total basic rate for the duration of the engagement."

To promote integrity, transparency and competition in the procurement process, all Heads of Implementing Offices and others concerned are directed to strictly follow the provisions of the three Sections cited above. Consistent with these provisions, the IO shall observe the following rules, particularly during the contract implementation stage:

- a. Any replacement of the Consultant's key personnel shall be allowed only for any of the following reasons – i.e., death, serious illness or incapacity – which shall be supported with written certifications or affidavits. Replacement of personnel because of resignation of the original personnel shall also be allowed if there is a delay by the Procuring Entity in the award of the contract of at least six (6) months after the date of bidding.
- b. The replacement personnel must possess qualifications, in terms of experience, education and training that are equal to or better than those of the original personnel to be replaced. This must be shown in the comparative scores of the replacement personnel and the original personnel using the rating system employed in the evaluation of the bids.
- c. Prior written approval by the Head of the Procuring Entity shall be obtained before any replacement of the Consultant's key personnel is made.
- d. The Head of the Implementing Office concerned shall submit to the Procurement Service, DPWH, a written report on every replacement in the Consultant's personnel approved by him, together with the reasons for the replacement and the comparative ratings of the original and replacement personnel, within seven (7) days after the replacement is approved by him.
- e. The incidence of replacement of the Consultant's key personnel shall be reflected in its Consultant's Performance Evaluation System (ConsPES) rating which shall be included in the criteria for the shortlisting of consultants and evaluation of bids for future consulting services.

This Order takes effect immediately and amends or supersedes all existing Department Orders and issuances, or portions thereof which are inconsistent herewith.


ROGELIO L. SINGSON
Secretary

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4.7.2 JABS/MGNO