



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Bonifacio Drive, Port Area, Manila

097-73-4704 (A)
3-5-97

17 February 1997

DEPARTMENT ORDER) NO. 41)
Series of 1997)
SUBJECT: **Implementing Rules and Regulations
for Delegation to LGUs of Project
Implementation under the General
Appropriations Act for 1997
(R.A. No. 8250)**

T O : All Undersecretaries, Assistant Secretaries, Bureau Directors, Regional Directors, District Engineers, Project Directors, Project Managers, and Others Concerned

The following rules and regulations are hereby issued to implement Special Provisions No. 1 and 2 on the appropriations for the Department of Public Works and Highways (DPWH), and Special Provision No. 10, on the appropriations for the DECS-School Building Program, under the General Appropriations Act for 1997 or R.A. No. 8250, pertaining to the implementation of infrastructure projects by Local Government Units (LGUs):

1. Pertinent Provisions of R.A. No. 8250 and R.A. No. 8150:

1.1 Special Provision No. 1, DPWH, p. 235, R.A. No. 8250,
prescribes the following:

"1. **Restriction on the Delegation of Project Implementation.** The implementation of projects funded herein shall not be delegated to any other agencies; except those projects that will be implemented by the Engineering Brigades of the Armed Forces of the Philippines, inter-department undertakings and projects undertaken by other offices/agencies as may be approved by the President and by local government units, pursuant to Section 5 of R.A. No. 8150, The Public Works and Highways Infrastructure Program Act of 1995."
(Underscoring supplied)

1.2 Special Provision No. 2, DPWH, p. 731, R.A. No. 8250,
stipulates the following:

"2. **Release and Use of Maintenance Funds.**
x x x x x x x

Of the amount herein appropriated for the maintenance of national roads and bridges, a maximum of fifty percent (50%) shall be contracted out preferably to local

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government units with demonstrated capability to undertake the work pursuant to Section 5 of R.A. No. 8150, the Public Works and Highways Infrastructure Program Act of 1995, in accordance with guidelines and standards to be issued by the Department of Public Works and Highways. The balance shall be used for maintenance by force account." (Underscoring supplied).
x x x x x x x


- 1.3 Special Provision No. 10, DECS-School Building Program, p. 1184, R.A. No. 8250, states the following:

"10. Implementation of School Building Program. In the administration of the DECS-School Building Program in accordance with the provisions of R.A. No. 7880, the Department of Public Works and Highways may authorize the local government units pursuant to Section 5 of R.A. No. 8150, the Public Works and Highways Infrastructure Program Act of 1995 and the Department of Education, Culture and Sports to undertake project construction." (Underscoring supplied).

- 1.4 In turn, said Section 5 of R.A. No. 8150, the Public Works and Highways Infrastructure Program Act of 1995, provides the following:

"Sec. 5 Participation of Local Government Units - The Department of Public Works and Highways (DPWH) shall, upon the request of the member(s) of Congress concerned, authorize provinces, cities, municipalities, or barangays to implement projects under the categories of local roads and other public works in this Act: Provided That these local government units have the capability to implement such projects." (Underscoring supplied)

2. Projects to be Undertaken by LGUs

- 2.1 Pursuant to the foregoing provisions of the law, the Department of Public Works and Highways may authorize an LGU to implement an infrastructure project with appropriations under the DPWH or the DECS-School Building Program in R.A. No. 8250, only under the following conditions:
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- a. The subject project must be either (i) the construction, improvement, or maintenance of a local road (including bridges) or other public works which is local in character and impact, e.g., improvement of provincial, city, municipal, or barangay road, local drainage, water wells, etc., (ii) the maintenance of a national road (including bridges), or (iii) the construction, rehabilitation, replacement, or completion or repair of a school building project, with appropriations under the DECS-School Building Program in R.A. No. 8250.
 - b. The DPWH must have received from the member of Congress (Congressman/Senator) concerned a written request for an LGU to implement the subject project.
 - c. The LGU shall undertake the subject project by administration or force account.
 - d. The LGU must be found by the DPWH to have the capability to implement the subject project by administration, based on the criteria mentioned below.
 - e. The LGU shall undertake the project in accordance with the Program of Work, Plans and Specifications approved by the DPWH.
- 2.2 The District Engineer concerned shall evaluate the capability of the concerned LGU to implement the subject project, using the following criteria, the results of which shall be reported using the form in Annex "A":

FACTOR -----	REQUIREMENT -----
(a) PERFORMANCE OR TRACK RECORD (FOR THE LAST TWO YEARS) -----	
(1) Maintenance	Satisfactorily maintained its local roads and other infrastructure in the last two years

- | | |
|---------------------------------|---|
| (2) Construction | Satisfactorily implemented, by administration, infrastructure projects similar to the subject project in the past two years. |
| (3) Fiscal Management | Demonstrated sound financial management system, per audit report by the Commission on Audit (COA) for the last two years. |
| (4) Procurement and Contracting | Complied with rules for procurement and contracting of materials, equipment and services, per COA audit for the last two years. |

(b) CAPABILITY TO IMPLEMENT DPWH PROJECTS

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|------------------------|---|
| (1) Organization | Has adequately staffed Provincial/City/Municipal Engineering Office which can undertake the subject DPWH project by administration. |
| (2) Budget | Has sufficient funds for current operating expenditures of the Provincial/City/Municipal Engineering Office. |
| (3) Fiscal Control | Has adequate accounting and auditing system, including separate books of accounts for infrastructure projects. |
| (4) Equipment | Possesses the minimum heavy equipment required to implement the subject project by administration. |
| (5) Project Management | Has adequate management and monitoring system for project engineering, preparation of work program, contracting and procurement, and works supervision. |

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- 2.3 The District Engineer concerned shall approve the results of the LGU capability evaluation if the project cost is not more than his authority to bid out and approve contracts, pursuant to Department Order No. 30, series of 1996, as amended, i.e., P5 million or P10 million. If the project cost is beyond such authority, the District Engineer shall submit the results of the LGU capability evaluation to the following DPWH officials, for approval:

Approving Official

Project Cost

Regional Director

Above the said authority of the District Engineer, but not more than the authority of the Regional Director to bid out and approve contracts, pursuant to Department Order No. 30, series of 1996, as amended, i.e., P15 M or P30 M

Secretary, thru the
Regional Director


Above the said authority of
the Regional Director

- 2.4 If the results of the LGU capability evaluation, as approved by the concerned DPWH official in accordance with item 2.3 above, shows that the LGU is capable of implementing the subject project, a Memorandum of Agreement (MOA) shall be executed between the District Engineer and the Head of the LGU concerned, using the format in Annex "B," to effect the delegation to the LGU of the project implementation and to provide for the transfer of project funds to the said LGU. The MOA shall be supported by a statement from the concerned DPWH Accountant that the project funds are available, covering the cost of the project and based on the allotment released for the project by the Department of Budget and Management. The District Engineer shall provide a copy of the said MOA to the Regional Director and the DPWH Secretary.

- 2.5 After the execution of the said MOA, the District Engineer shall issue to the Head of the LGU a Letter of Advice of Allotment covering the cost of the subject project which shall serve as the obligational authority of the LGU to implement the project. The District Engineer shall release to the LGU an initial cash advance equivalent to forty percent (40%) of the obligational authority. The LGU shall take up the said cash advance as a Trust Deposit to be deposited in a

separate checking account with a government depository bank. The District Engineer shall release succeeding cash advances only after submission by the Head of the concerned LGU of liquidation reports duly certified by the LGU Chief Accountant. The Head of the LGU shall likewise submit to the District Engineer monthly accomplishment reports on the project.

This Order supersedes all Department Orders and other issuances or portions thereof inconsistent herewith and takes effect immediately.



GREGORIO R. VIGILAR
Secretary

ANNEX "A"

EVALUATION OF CAPABILITY OF LOCAL GOVERNMENT UNIT (LGU) TO IMPLEMENT DPWH OR DECS-SCHOOL BUILDING INFRASTRUCTURE PROJECTS

NAME OF LGU: _____ DATE OF EVALUATION: _____
NAME OF PROJECT REQUESTED TO BE IMPLEMENTED BY LGU: _____

COST OF PROJECT: ₱ _____

FACTOR -----	REQUIREMENT -----	RATING ----- (Please encircle)
(a) PERFORMANCE OR TRACK RECORD (FOR THE LAST TWO YEARS) -----		
(1) Maintenance	Satisfactorily maintained LGU roads and other LGU infrastructure in the last two years	YES/NO
(2) Construction	Satisfactorily implemented, by administration, infrastructure projects, similar to the subject Project in the past two years.	YES/NO
(3) Fiscal Management	Demonstrated sound financial management system, per audit report by the Commission on Audit (COA) for the last two years.	YES/NO
(4) Procurement and Contracting	Complied with rules for procurement and contracting of materials, equipment and services, per COA audit for the last two years.	YES/NO
(b) <u>CAPABILITY TO IMPLEMENT DPWH PROJECTS</u>		
(1) Organization	Has adequately staffed Provincial/City/Municipal Engineering Office which can undertake by administration, the subject Project.	YES/NO

FACTOR -----	REQUIREMENT -----	RATING ----- (Please encircle)
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(2) Budget	Has sufficient funds for current operating expenditures of the Provincial/City/Municipal Engineering Office.	YES/NO
(3) Fiscal Control	Has adequate accounting and auditing system including separate books of accounts for infrastructure projects.	YES/NO
(4) Equipment	Possesses minimum heavy equipment for the required to implement the subject Project by administration.	YES/NO
(5) Project Management	Has adequate management and monitoring system for project engineering, preparation of work program, contracting and procurement, and works supervision.	YES/NO

CONCLUSION: Based on this evaluation, the LGU is/is not (please encircle) capable of implementing the subject Project.

Name and Signature of
Head of DPWH Office Concerned

ANNEX "B"

PROFORMA MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) entered into by and between:

The Department of Public Works and Highways, herein represented by its District Engineer, _____, and hereinafter referred to as the DPWH;

- and -

The _____ Government of _____, herein represented by its _____, _____, and hereinafter referred to as the LGU.

W I T N E S S E T H

WHEREAS, under the General Appropriations Act for 1997, R.A. No. 8250, the amount of _____ has been released for the _____, a DPWH/DECS-School Building Project located in the LGU, hereinafter called the Project through an allotment (GARO/SARO No. _____, dated _____) issued by the Department of Budget and Management (Annex "B");

WHEREAS, under Special Provision No. 1 (or 2) on the appropriations for the DPWH (or Special Provision No. 10 of the DECS-School Building Program) under the said R.A. No. 8250, the DPWH may authorize the LGU to implement the Project, pursuant to Section 5 of RA No. 8150 (the Public Works and Highways Infrastructure Program Act of 1995) which in turn provides that "the Department of Public Works and Highways (DPWH) shall, upon the request of the member(s) of Congress concerned, authorize provinces, cities, municipalities or barangays to implement projects under the categories of local roads and other public works in this Act: Provided, That these local government units have the capability to implement such projects;"

WHEREAS, _____, the member of Congress concerned, has requested the DPWH to authorize the LGU to undertake the implementation of the Project, as indicated in Annex "C;" and

WHEREAS, the DPWH has evaluated the LGU to have adequate capability to implement the Project, shown by the results of the evaluation approved by the concerned DPWH official and included herein as Annex "D;"

NOW, THEREFORE, in consideration of the foregoing premises, the Parties to this MOA hereby agree on the following terms and conditions of this MOA:

ARTICLE 1 - SCOPE OF WORK

Section 1.1 This MOA covers the implementation of the Project located in the LGU mentioned in Annex "A."

ARTICLE II - PROJECT IMPLEMENTATION

Section 2.1 The Project shall be implemented by the LGU by administration only.

Section 2.2 The LGU shall undertake the works for the Project in accordance with the Program of Work, Plans and Specifications approved by the DPWH official concerned.

Section 2.3 The LGU shall submit to the DPWH monthly accomplishment reports on the Project.

ARTICLE III - FUND ALLOTMENT AND DISBURSEMENT

Section 3.1 Upon the approval of this MOA and the Program of Work for the Project, the DPWH shall issue to the LGU a Letter of Advice of Allotment (LAA) in the amount of _____ (P_____) covering the cost of the Project, in accordance with the approved Program of Work and based on the allotment received from the Department of Budget and Management and supported by the statement from the DPWH Accountant concerned that the Project funds are available, as shown in Annex "E." The LAA shall serve as the obligational authority of the LGU to implement the Project. The DPWH shall release to the LGU an initial cash advance equivalent to forty percent (40%) of the obligational authority. The LGU shall take up said cash advance as a Trust Deposit to be deposited in a separate checking account with a Government depository bank. The DPWH shall release to the LGU succeeding cash advances shall be released only after submission of liquidation reports duly certified by the LGU Chief Accountant. The LGU shall remit to the Bureau of Treasury, under the account of the DPWH, any interest that may accrue to the fund transferred, furnishing the DPWH with a copy of the said remittance.

Section 3.2 The LGU shall submit monthly reports of disbursements on the Project, duly certified correct by its Chief Accountant and verified correct by its Resident Auditor. Any unused balance of the cash advance after the completion of the Project shall be refunded to the DPWH.

ARTICLE IV - GENERAL PROVISIONS

Section 4.1 This MOA shall take effect upon signing by the Parties hereto and shall continue and remain in force until the completion and acceptance of the Project, unless mutually terminated earlier by the said Parties.

WITNESS WHEREOF, the Parties hereto have affixed their signature in the _____, this _____ day of _____.

For the LGU:

For the DPWH:

Signed in the presence of:

Chief/Head, Accounting Unit