



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
MANILA

099-13-DPW-H
6.30.99

30 June 1999

DEPARTMENT ORDER) SUBJECT: **Guidelines for the Implementation**
No. **137**) **of DPWH Projects by LGUs**
Series of 1999)

X-X-X-X-X-X-X-X-X-X-X-X-X-X

1. **Purpose**

This Department Order sets the guidelines, including rules and procedures, to be followed by all concerned in the implementation by local government units (LGUs) of DPWH infrastructure projects pursuant to existing laws and to instructions of the President.

2. **Pertinent Laws and President's Instructions**

2.1 The following provisions of existing laws (Annex "A") serve as legal bases for the herein guidelines on the implementation by LGUs of DPWH projects:

- a. Section 85 of the General Provisions of the 1999 General Appropriations Act, which authorizes the DPWH to enter into a memorandum of agreement with an LGU with the demonstrated capability to undertake a DPWH project by itself, i.e., by administration, with the concurrence of the Representative or Congressman of the legislative district concerned.
- b. Special Provision No. 1 of the DPWH budget under the 1999 GAA, which authorizes the delegation of the implementation of DPWH projects to LGUs with the demonstrated capability to implement the projects by themselves upon consultation with the Representatives concerned.

- c. Special Provision No. 2 of the DPWH budget under the 1999 GAA, which authorizes the contracting out of the maintenance of National Roads with LGUs with the demonstrated capability to undertake the work by themselves in consultation with the Representatives concerned.
- d. Section 5 of R.A. No. 8150 or the Four-Year Public Works and Highways Infrastructure Program Act, which provides that the DPWH shall, upon the request of the members of Congress concerned, authorize LGUs to implement DPWH projects under the categories of local roads and other public works, provided that the LGUs have the capability to implement the projects.
- e. Special Provision No. 3 of the Department of Agriculture (DA) budget under the 1999 GAA, which provides for the release to the DPWH of DA appropriations for farm-to-market roads in key production areas.
- f. Special Provision No. 1 of the DECS-Schoolbuilding Program under the 1999 GAA, which provides that a schoolbuilding project may be implemented by an LGU with the demonstrated capability to undertake the work by itself in consultation with the Representative concerned.
- g. Section 10 of R.A. No. 8150, as adopted in Section 84 of the 1999 GAA, which provides that, if the project costs Twenty Million Pesos or less, it may be done by administration without prior public bidding. The same section states that, if the project costs more than Twenty Million Pesos it may be done by administration only in case of (i) emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life and/or property or to comply with government commitments, (ii) failure to award a contract after competitive bidding for a valid cause, (iii) termination or rescission of contract, or (iv) areas with critical peace and order problems as certified by the Local Peace and Order Council, prior authority to shall be obtained from the DPWH Secretary if the project cost is One Hundred Million Pesos (P100,000,000) or less, or from the President, upon recommendation of the DPWH Secretary,

if the project cost is more than One Hundred Million Pesos (P100,000,000).

2.2 In addition, the herein guidelines are based on the following decisions of the President (Annex "B"):

- a. The President's approval dated 16 April 1999 of the letter-request dated 16 April 1999 of the Chairmen of the Regional Development Councils or RDCs, authorizing the DPWH to let the Provinces with capabilities to handle the construction of farm-to-market roads, school buildings, flood control projects, and the maintenance of national roads.
- b. The President's approval dated 12 May 1999 of the request dated 10 May 1999 of the House of Representatives, for the DPWH Secretary to interpret the contents of the said letter-request of the Chairmen of the RDCs in accordance with the provisions of the 1999 GAA, particularly Section 85 of the General Provisions and Special Provisions No. 1 and 3 of the DPWH section thereof.

3. **General Guidelines**

3.1. In accordance with the said provisions of existing laws and instructions of the President, the following conditions must be met before the DPWH Secretary can authorize an LGU to implement a DPWH Project funded under the 1999 GAA:

- a. The LGU shall implement the Project by itself, i.e., by administration only.
- b. The LGU must possess the demonstrated capability to implement the Project by administration, as determined by the concerned DPWH District Engineer, using the evaluation criteria prescribed in item 5 hereof.
- c. The Representative or Congressman concerned must have been duly consulted and given his written concurrence on the proposed implementation by the LGU of the Project. If, however, the Project is a farm-to-market road, schoolbuilding, or flood control, or other infrastructure in

the category of "local roads and other public works" under R.A. No. 8150 and is funded directly under the DPWH budget, then the Congressman concerned must have submitted a written request for the LGU to implement the Project.

- d. If the Project costs more than Twenty Million Pesos (P20,000,000), the Project may be done by administration by the LGU only in any of the four cases provided in Section 10 of R.A. 8150 (as mentioned in item 2.1-g above), and provided that prior authority has been obtained from the DPWH Secretary if the Project Cost is One Hundred Million Pesos (P100,000,000) or less, or from the President, upon recommendation of the DPWH Secretary, if the Project Cost is more than One Hundred Million Pesos (P100,000,000).
- 3.2. The LGU shall implement the Project in accordance with the Program of Work, Plans, Specifications, Project Cost (Budget), and Time Duration approved by the authorized DPWH official.
 - 3.3. To the extent feasible, the LGU shall use labor-based equipment-supported methods in implementing the Project.
 - 3.4. The LGU shall be accountable for the Project funds released to it by the DPWH, as follows:
 - a. Except for a Project involving the maintenance of a National Road (see item 3.5-a below), the DPWH shall release to the LGU an initial cash advance equivalent to fifteen percent (15%) of the approved Project Cost. The DPWH shall release subsequent cash funds to the LGU only after the latter has liquidated previous cash advances based on Liquidation Reports signed by the LGU Treasurer/Chief Accountant and verified and found correct by the Resident Auditor of the Commission on Audit.
 - b. In the case of a Project involving the maintenance of a National Road which is to be contracted out to the LGU in accordance with Special Provision No. 2 of the DPWH budget under the 1999 GAA, the DPWH shall make an advance payment to the LGU equal to fifteen percent

(15%) of the approved Project Cost. The DPWH shall make subsequent progress payments to the LGU based on its Progress Billings supported by Statements of Work Accomplished approved by the DPWH District Engineers.

- 3.5. The District Engineer concerned shall oversee and monitor the implementation by the LGU of the Project. The LGU shall submit monthly Project monitoring reports to the District Engineer, copy furnished the Regional Director concerned.

4. **Additional Guidelines**

- 4.1 Construction of Farm-to-Market Roads - In addition to the General Guidelines in item 3 hereof, before the DPWH can authorize an LGU to implement a farm-to-market road Project funded under the DA budget in the 1999 GAA, the DA Secretary must have been consulted and given his written concurrence on this implementation arrangement.
- 4.2 Construction of Schoolbuildings - In addition to the General Guidelines in item 3 hereof, before the DPWH can authorize an LGU to implement a schoolbuilding Project funded under the DECS-Schoolbuilding Program in the 1999 GAA, the DECS Secretary must have been consulted and given his written concurrence on this implementation arrangement.
- 4.3 Construction of Flood Control - Only locally-funded flood control Projects, i.e., those that are not financed by foreign loans or grants, may be implemented by an LGU under this Department Order.
- 4.4 Maintenance of National Roads - Pursuant to Special Provision No. 2 of the DPWH budget under the 1999 GAA, the DPWH may contract out the maintenance of a National Road to an LGU with the demonstrated capability to undertake the Project by itself, as determined by the District Engineer concerned, using the criteria prescribed in item 5 hereof. Since the LGU shall, in effect, act as a contractor of the DPWH, this contractual relationship, including funding and payment arrangements, shall be reflected in the Memorandum of Agreement between the DPWH and the LGU.
- 5

5. Criteria for Determining the Capability of an LGU

- 5.1 The DPWH District Engineer concerned shall evaluate and determine the demonstrated capability of an LGU to implement a Project by itself, i.e., by administration, on the basis of the following criteria:
- Maintenance condition of the local roads under the LGU.
 - Construction/maintenance experience or track record of the LGU relevant to the proposed Project.
 - Organization and personnel of the LGU for the proposed Project.
 - Construction equipment of the LGU for the proposed Project.
 - Financial and procurement management systems of the LGU.
- 5.2 The details of these evaluation criteria, including the measurable indicators thereof and their application, are given in the prescribed evaluation format in Annex "C," which shall be prepared and submitted by the District Engineer and approved by the Regional Director.

6. Project Memoranda of Agreement

- 6.1 Every Project to be undertaken by an LGU in accordance with the provisions of this Department Order shall be covered by a Project Memorandum of Agreement (MOA) to be entered into by and between the DPWH and the LGU concerned, using the format in Annex "D," except in the case of the maintenance of National Roads for which the format in Annex "E" shall be used.
- 6.2 The following DPWH officials are hereby authorized to enter into and approve the said MOA:

<u>Project Cost</u>	<u>Signing Official</u>	<u>Approving Official</u>
Up to P30 M	District Engineer	Regional Director
Above P30 M	Regional Director	Secretary

7. **Effectivity**

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



GREGORIO R. VIGILAR
Secretary

ANNEX "A"

a. **SECTION 85 OF THE GENERAL PROVISIONS, PAGE 1430,
1999 GENERAL APPROPRIATIONS ACT (GAA)**

"Sec. 85 **Implementing Agency for National Funded Projects.** Pursuant to Sec. 17 (c) of R.A. No. 7160, the Local Government Code of 1991, projects, facilities, programs and services funded under the General Appropriations Acts shall be implemented by the appropriate national government department or agency irrespective of the nature and location of such projects, facilities, programs and services: PROVIDED, That a memorandum of agreement may be entered into with the implementing national government agency and the beneficiary LGU, designating the latter or any other local government unit with demonstrated capability to undertake the project or activity by themselves with the concurrence of the representative of the legislative district concerned." (underscoring supplied)

b. **SPECIAL PROVISION NO. 1 OF THE DPWH BUDGET, PAGE
756, 1999 GAA**

"1. **Restriction on the Delegation of Project Implementation.** The implementation of projects funded herein shall not be delegated to other agencies, except those projects to be implemented by the Engineering Brigades of the Armed Forces of the Philippines, inter-department undertakings and projects to be undertaken by other offices and agencies including local government units with demonstrated capability to implement the project by themselves upon consultation with the representative of the legislative district concerned. In all cases, the Department of Public Works and Highways shall exercise technical supervision over the project." (underscoring supplied)

c. **SPECIAL PROVISION NO. 2 OF THE DPWH BUDGET, PAGE 756, 1999 GAA**

"2. Release and Use of Roads and Bridges Maintenance Funds. . . . Of the amount herein appropriated for the maintenance of roads and bridges, a maximum of seventy percent (70%) may be contracted out to qualified entities including local government units with demonstrated capability to undertake the work by themselves pursuant to Section 84 of the General Provisions of this Act in consultation with the representative of the legislative district concerned. The balance shall be used for maintenance by force account."
(underscoring supplied)

d. **SECTION 5 OF R.A. NO. 8150 (FOUR-YEAR PUBLIC WORKS AND HIGHWAYS INFRASTRUCTURE ACT)**

"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)

e. **SPECIAL PROVISION NO. 3 OF THE DEPARTMENT OF AGRICULTURE BUDGET, 1999 GENERAL APPROPRIATIONS ACT (GAA)**

"3. Implementation of Farm-to-Market Roads Projects. The appropriation herein provided for capital outlays for the Department of Agriculture for the construction of farm-to-market roads within areas covered by irrigation system shall be released to, and administered by, the National Irrigation Administration: PROVIDED, That appropriations intended for the construction of roads in key production areas shall be released to the Department of Public Works and

Highways: PROVIDED, FURTHER, That the Department of Agriculture after consultation with the respective representative of the legislative district concerned, shall identify the respective locations or sites where the appropriate projects shall be constructed: PROVIDED, FURTHERMORE, That the amount of One Hundred Fifty Million Pesos (P150,000,000) shall be used to construct farm-to-market roads in Agrarian Reform Communities including those not covered by such irrigation system." (underscoring supplied)

f. SPECIAL PROVISION NO. 1 OF THE DECS-SCHOOLBUILDING PROGRAM, PAGE 1172, 1999 GAA

"1. **Release of Capital Outlays.** The appropriations herein provided for the construction, rehabilitation, replacement, completion and repair of elementary and secondary schoolbuildings shall be directly released to, and administered by, the Department of Public Works and Highways based on the work program submitted by the Department of Education, Culture and Sports: PROVIDED, That the initial release shall be made within thirty (30) days after the receipt of the required documentation: PROVIDED, FURTHER, That the said construction, rehabilitation, replacement, completion and repair of the school building may be implemented by local government units with demonstrated capability to undertake the work by themselves in consultation with the representative of the legislative district concerned and the Department of Education, Culture and Sports." (underscoring supplied)

g. **SECTION 10 OF R.A. NO. 8150 (FOUR YEAR PUBLIC WORKS AND HIGHWAYS INFRASTRUCTURE PROGRAM ACT), PAGES 606-607, AS ADOPTED IN SECTION 84 OF THE 1999 GAA**

"Sec. 10. **Work by Administration** - Except as may be expressly authorized by the President of the Philippines, any project in this Act with a cost of Twenty million pesos (P20,000,000) or less, based on the approved program of work under Section 8 hereof, may be done by administration or force account without prior public bidding."

"A project costing over Twenty million pesos (P20,000,00) may be prosecuted by administration by the agency concerned only in the case of: (a) emergency arising from natural calamities or where immediate action is necessary to prevent imminent loss of life and/or property or to comply with government commitments; (b) failure to award a contract after competitive public bidding for a valid cause; (c) termination or rescission of contract; (d) areas with critical peace and order problems as certified by the Local Peace and Order Council: **Provided**, That prior authority shall be obtained from the Secretary of Public Works and Highways if the project cost is One hundred million pesos (P100,000,00) or less, or from the President of the Philippines, upon recommendation of the Secretary of Public Works and Highways, if the project cost is more than One hundred million pesos (P100,000,000)."

April 16, 1999

HIS EXCELLENCY
PRESIDENT JOSEPH EJERCITO ESTRADA
Malacanang Palace, Manila

PJEE Hologram # 4366

ANNEX "B1"

APPROVED/DISAPPROVED

President Joseph E. Estrada

Excellency:

As suggested by Secretary Gregorio Vigilar of the Department of Public Works and Highways (DPWH), as taken up in the meeting of all Regional Development Councils (RDCs) this morning, this is to respectfully request for your authorization for DPWH to let the Provinces with capabilities to handle the construction of farm-to-market roads, school buildings, flood control projects, and the maintenance of national roads and highways. The DPWH will continue to have the responsibility to design, evaluate and monitor the projects.

For this year, the DPWH can start to transfer to capable Provinces the maintenance of roads and highways.

Very truly yours,

RDC Chairmen

Gov. Luis C. Singson
Chairman, RDC I

Gov. Rodolfo Q. Agbayani
Chairman, RDC II

Gov. Vicente P. Magsaysay
Chairman, RDC III

Gov. Hermilando I. Mandanas
Chairman, RDC IV

Gov. Luis R. Villafuerte
Chairman, RDC V

Gov. Florencio T. Miraflores
Chairman, RDC VI

Gov. Rene Relampagos
Chairman, RDC VII

Mayor Alfredo T. Romualdez
Chairman, RDC VIII

Mayor Ma. Clara L. Lobreña
Chairman, RDC IX

Gov. Carlos O. Fortich
Chairman, RDC X

Atty. Jesus V. Ayala
Chairman, RDC XI

Mayor Franklin M. Quijano
Chairman, RDC XII

Gov. Valentina G. Plaza
Chairman, RDC XIII

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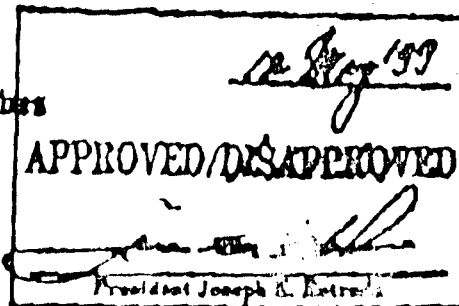
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Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



10 May 1999

HIS EXCELLENCY
PRESIDENT JOSEPH EJRERTO ESTRADA
Malacañang Palace, Manila

Your Excellency:

We seek clarification of your Excellency's approval on April 13, 1999 of the letter request sent to your Excellency by the Chairmen of the Regional Development Councils (RDCs). A copy of which is attached.

Inasmuch as the letter refers to appropriations and budgetary matters, we ask that you instruct the Secretary of the Department of Public Works and Highways to interpret the contents of the said letter in accordance with the provisions of R.A. 8741, the General Appropriations Act, particularly Section 85 of the General Provisions and the first and second paragraphs of the Special Provisions of the DPWH section.

Assuring you of our continuous support on your programs to uplift the welfare of our people.

With all good wishes for you and our country, we are

Respectfully,

MANUEL H. VILLAR, JR. Speaker
MANUEL A. ROXAS II Majority Leader
FELICIANO R. DELMONTA, JR. Minority Leader

ALFREDO K. ABULO, JR. Deputy Speaker
EDUARDO R. CULLAS Deputy Majority Leader
DEPUTY CLERK Deputy Speaker

WILLIAM J. ANJARA-CASTILLO
Senior Assistant Majority Leader

NEPTALI M. GONZALES II
Assistant Majority Leader

ANNEX "C"

EVALUATION OF CAPABILITY OF LOCAL GOVERNMENT UNIT (LGU) TO IMPLEMENT DPWH INFRASTRUCTURE PROJECTS

Name of LGU: _____ Date of Evaluation: _____

Name of Project proposed to be implemented by LGU: _____

Estimated Project Cost: _____

CRITERIA

APPLICATION

1. Maintenance Condition of Local (LGU) Roads

The LGU must have maintained its Local Roads to a "fair" to "satisfactory" level, using the road condition rating of of the DPWH Bureau of Maintenance.

Actual condition rating of Local Roads as of _____
(date): _____

2. Experience or Track Record relevant to the proposed Project

2.1 The cost of the largest single relevant project completed by the LGU within the last three years should be at least 50% of the estimated cost of the Project.

Cost of largest project completed by LGU: _____
versus
50% of estimated cost of proposed Project: _____

2.2 The cost of the completed largest single relevant project managed within the last three years by the key LGU personnel to be assigned to the Project (Project Manager to Foreman) should be at least 50% of the estimated cost of the Project.

Cost of largest project managed by key LGU personnel: _____
versus
50% of estimated cost of proposed Project: _____

3. Organization and Personnel for the Project

The LGU must have the required key Personnel from its Engineering Office who are available to undertake, supervise,

Yes/No

and manage the Project by administration.

4. Construction Equipment for the Project

The LGU must own and commit for the Project the required minimum owned equipment listed in Annex I. Yes/No

5. Financial and Procurement Management

5.1 The LGU must have satisfactory and procurement management systems as indicated by the absence of adverse findings in the latest COA audit report. Yes/No

5.2 The LGU must have fully liquidated its previous cash advances from the DPWH. Yes/No

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

Submitted by:

Approved by:

DPWH District Engineer

DPWH Regional Director

ANNEX "D"

STANDARD FORMAT OF PROJECT MOA-1

**PROJECT MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE DPWH AND THE LOCAL GOVERNMENT UNIT OF
_____ FOR THE
IMPLEMENTATION OF A DPWH PROJECT**

This Memorandum of Agreement (MOA) entered into on _____ at _____ 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 Local Government Unit of _____, herein represented by its Governor/Mayor, _____, and hereinafter referred to as the LGU.

W I T N E S S E T H

WHEREAS, under the 1999 General Appropriations Act or GAA (R.A. No. 8745) and the Public Works and Highways Infrastructure Program Act (R.A. No. 8150), nationally funded infrastructure projects may be implemented by Local Government Units with the demonstrated capability to undertake the Projects by themselves, upon prior consultation with and written concurrence/request of the Representatives or Congressmen concerned;

*WHEREAS, President Joseph Estrada approved on 16 April 1999 the request of the Chairmen of the Regional Development Councils for the DPWH to let Provinces with capabilities to handle, among other things, the construction of farm-to-market roads, schoolbuildings, and flood control, which the President clarified on 12 May 1999 to the effect that the said request shall be interpreted in accordance with the provisions of the 1999 GAA (R.A. 8745), particularly Section 85 of the General Provisions and the first and second paragraphs of the Special Provision of the DPWH section thereof;

*Note: This WHEREAS shall be included in the MOA only if the LGU is a Provincial Government.

WHEREAS, in accordance with the said Department Order, the LGU has submitted to the DPWH a written request given in Annex "I" hereof, for the the DPWH to authorize the LGU to implement by administration the DPWH Project mentioned in Annex "I;"

WHEREAS, in accordance with the same Department Order, the DPWH has determined the LGU to have the demonstrated capability to undertake the said Project by administration, as shown by the evaluation results in Annex "II" hereof;"

WHEREAS, in accordance with the same Department Order and pursuant to the aforementioned laws, the Congressman concerned has been consulted and has indicated his written concurrence/request on the proposed implementation by the LGU of the said Project, as shown in Annex "III" hereof;

****WHEREAS**, since the Project Cost is more than Twenty Million Pesos (P20,000,000), the conditions for work by administration prescribed in Section 10 of R.A. 8150 have been met, and prior authority has been obtained from the DPWH Secretary/President to implement the Project by administration;

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

ARTICLE I – PROJECT COVERAGE

Section 1.1 This MOA covers the implementation by the LGU of the DPWH Project described in Annex "II" hereinafter called the "PROJECT."

ARTICLE II - PROJECT IMPLEMENTATION

Section 2.1 The LGU shall implement the PROJECT by administration only, in accordance with the Programs of Work, Plans, Specifications, PROJECT Cost, and Time Duration approved by the DPWH Official concerned, which are incorporated into this MOA as Annex "III."

Section 2.2 The LGU shall, to the extent feasible, use labor-based equipment-supported methods in implementing the Project.

****Note:** This WHEREAS shall be included in the MOA only if the Project Cost is more than P20,000,000.

Section 2.3 The LGU shall start the project within fifteen (15) days from the approval of the MOA and shall complete the PROJECT within the Time Duration prescribed in Annex "III".

Section 2.4 The LGU shall submit monthly monitoring reports on the PROJECT to the DPWH District Engineer.

Section 2.5 Upon the satisfactory completion by the LGU of the PROJECT as verified by the designated DPWH inspectorate team, the DPWH District Engineer shall issue to the LGU the corresponding Certificate of PROJECT Completion.

Section 2.6 Within one (1) year after the issuance of the Certificate of PROJECT Completion, the LGU shall correct, at its own expense, all defects discovered in the PROJECT due to faulty construction or use of substandard materials. After this one-year period and after the PROJECT is verified by the DPWH inspectorate team as having no defects, the DPWH District Engineer shall issue to the LGU the Certificate of PROJECT Acceptance.

ARTICLE III - PROJECT FUNDING

Section 3.1 The DPWH District Engineer shall issue to the LGU a Letter of Advice of Allotment (LAA) equivalent to the approved PROJECT Cost based on the allotment authorized by the Department of Budget and Management. The LAA shall serve as the obligational authority of the LGU to implement the PROJECT.

Section 3.2 The LGU shall be fully accountable for all funds for the PROJECT released to it by the DPWH.

Section 3.3 The DPWH shall release to the LGU an initial cash advance for the PROJECT equivalent to fifteen percent (15%) of the obligational authority (or PROJECT Cost). The LGU shall take up the said cash advance as a Trust Deposit in a separate checking account with a Government depository bank.

Section 3.4 The DPWH shall release to the LGU succeeding cash funds for the PROJECT equivalent to the amounts of previous cash advances liquidated, based on Liquidation Reports signed by the LGU Treasurer/Chief Accountant and verified and found correct by the LGU Resident Auditor of the Commission on Audit.

ARTICLE IV - EFFECTIVITY

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

Section 4.2 Either Party to this MOA may initiate the termination of this MOA in the event of a default by the other Party of any of its obligations thereunder.

WITNESS WHEREOF, the Parties hereto have affixed their signatures at _____, this _____ day of _____.

For the LGU:

For the DPWH:

Governor/Mayor

District Engineer

Signed in the presence of:

Head, Accounting Unit

Approved by:

DPWH Secretary/Regional Director

Copy furnished: The Secretary, DPWH
The Congressman concerned

ANNEX "E"
STANDARD FORMAT OF PROJECT MOA - 2

PROJECT MEMORANDUM OF AGREEMENT (MOA)
BETWEEN THE DPWH AND THE LOCAL GOVERNMENT UNIT OF
_____ FOR THE MAINTENANCE
OF A NATIONAL ROAD

This Memorandum of Agreement (MOA) entered into on _____ at _____ 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 Provincial Government of _____, herein represented by its Governor/Mayor, _____, and hereinafter referred to as the LGU.

WITNESSETH

WHEREAS, in accordance with Section 85 of the General Provisions of R.A. 8745 or the 1999 General Appropriations Act (GAA) and Special Provision No. 2 of the DPWH budget under the 1999 GAA, the DPWH may contract out the maintenance of a National Road to a Local Government Unit which possesses the demonstrated capability to undertake the Project by itself, upon prior consultation with and written concurrence/request of the Congressmen concerned;

WHEREAS, President Joseph Estrada approved on 16 April 1999 the request of the Chairmen of the Regional Development Councils for the DPWH to let Provinces with capabilities to handle, among other things, the maintenance of National Roads, which the President clarified on 12 May 1999 to the effect that the said request shall be interpreted in accordance with the provisions of R.A. No. 8745 (1999 GAA), particularly Section 85 of the General Provisions and the first and second paragraphs of the Special Provisions of the DPWH section thereof;

WHEREAS, based on the foregoing premises, the DPWH issued Department Order No. 137, dated June 30, 1999 which sets the guidelines,

including rules and procedures, for the implementation by Local government Units of DPWH Projects;

WHEREAS, in accordance with the said Department Order, the LGU has submitted to the DPWH a request, given in Annex "I" hereof, for the DPWH to contract out to the LGU the maintenance of the National Road mentioned in Annex "I;"

WHEREAS, as provided in the same Department Order, the DPWH has determined the LGU to have the demonstrated capability to undertake the Project by administration, as shown by the evaluation results in Annex "II;" and

WHEREAS, in accordance with the same Department Order and pursuant to the aforementioned laws, the Congressman concerned has been duly consulted and has indicated his written concurrence on the proposed implementation by the LGU of the Project, as shown in Annex "III;"

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

ARTICLE I – PROJECT COVERAGE

Section 1.1 This MOA covers the implementation by the LGU of the Project involving the maintenance of the National Road section described in Annex "IV," hereinafter called the "PROJECT."

ARTICLE II - PROJECT IMPLEMENTATION

Section 2.1 The LGU shall implement the PROJECT by administration in accordance with the Program of Work, Plans and Specifications, PROJECT Cost, and Time Duration approved by the DPWH Official concerned, which are incorporated into the MOA as Annex "III."

Section 2.2 The LGU shall, to the extent feasible, use labor-based/equipment-supported methods in undertaking the PROJECT.

Section 2.3 The LGU shall start the project within fifteen (15) days from the approval of the MOA and shall complete the PROJECT within the Time Duration prescribed in Annex "III".

Section 2.4 The LGU shall submit monthly monitoring reports on the PROJECT to the DPWH District Engineer concerned

Section 2.5 Upon the satisfactory completion by the LGU of the PROJECT as verified by the designated DPWH inspectorate team, the DPWH District Engineer shall issue to the LGU the corresponding Certificate of PROJECT Completion.

Section 2.6 Within one (1) year after the issuance of the Certificate of PROJECT Completion, the LGU shall correct at its own expense, all defects discovered in the works due to faulty construction or use of substandard materials. After this one-year period and after the PROJECT is verified by the DPWH inspectorate team to be free of defects, the DPWH District Engineer shall issue the Certificate of PROJECT Acceptance to the LGU.

ARTICLE III - PROJECT FUNDING AND PAYMENTS

Section 3.1 The DPWH shall issue a Certificate of Availability of Funds covering the approved PROJECT Cost and obligate the said Funds, in the name of the LGU as creditor, in its books of accounts.

Section 3.2 Upon signing of this MOA by both Parties, the DPWH shall made an advance payment for the PROJECT to the LGU equivalent to fifteen percent (15%) of the approved PROJECT Cost. The LGU shall take up said cash advance as a Trust Deposit in a separate checking account with a Government depository bank.

Section 3.3 The DPWH shall make subsequent progress payments for the PROJECT to the LGU based on its Progress Billings supported by Statements of Work Accomplished.

ARTICLE IV - EFFECTIVITY

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

Section 4.2 Either Party to this MOA may initiate the termination of this MOA in the event of a default by the other Party of any of its obligations thereunder.

WITNESS WHEREOF, the Parties hereto have affixed their signatures in

_____, this _____ day of _____.

For the LGU:

For the DPWH:

Governor/Mayor

District Engineer

Signed in the presence of:

Head, Accounting Unit

Approved by:

DPWH Secretary/Regional Director

Copy furnished: The Secretary, DPWH
The Congressman concerned