

[GPPB RESOLUTION NO. 22-2007, September 28, 2007]

APPROVING AND ADOPTING THE AMENDMENT OF SECTION 17.6 OF THE IMPLEMENTING RULES AND REGULATIONS PART A OF REPUBLIC ACT NO. 9184 AND THE GUIDELINES FOR THE DESIGN AND BUILD SCHEME FOR INFRASTRUCTURE PROJECTS

WHEREAS, Republic Act No. 9184 (R.A. 9184) and its Implementing Rules and Regulations Part A (IRR-A) took effect on 26 January 2003 and 8 October 2003, respectively;

WHEREAS, the Government Procurement Policy Board (GPPB) under Section 63 of the IRR-A of R.A. 9184 is mandated to formulate and amend public procurement policies, rules, and regulations, and amend whenever necessary, the IRR-A of R.A. 9184;

WHEREAS, Section 17.6 of the IRR-A of R.A. 9184 expressly recognizes the use of the design and build schemes in the procurement of infrastructure projects;

WHEREAS, the Inter-Agency Technical Working Group (IATWG), in its 7th regular meeting held last 27 July 2007, recommended the issuance of guidelines to govern the implementation of design and build schemes for infrastructure projects and the amendment of Section 17.6 for clarity and ease of reference to the proposed guidelines on design and build schemes;

WHEREAS, the IATWG, in its 7th and 9th regular meetings held last 27 July 2007 and 14 September 2007, respectively, deliberated and agreed on the proposed amendment to Section 17.6 of the IRR-A of R.A. 9184 and the guidelines for the implementation of the design and build scheme for infrastructure projects, and accordingly recommends them to the GPPB for its approval;

NOW, THEREFORE, for and in consideration of the foregoing, WE, the members of the GOVERNMENT PROCUREMENT POLICY BOARD, by virtue of the powers vested on US by law, hereby RESOLVE to adopt and approve, as WE hereby adopt and approve, the amendment of Section 17.6 of the IRR-A of R.A. 9184 by adding a second paragraph thereto which reads:

“The procedures for the procurement and contract implementation of infrastructure projects using a design and build scheme shall be in accordance with the provisions of “Annex “G” of this IRR-A.”

FURTHER RESOLVED, to approve and adopt, as Annex “G” of the IRR-A, the “Guidelines for the Procurement and Implementation of Contracts for Design and

Build Infrastructure Projects”, which is attached as Annex “A” and made an integral part of this resolution.

This resolution shall take effect immediately.

Adopted: 28 Sept. 2007

(SGD.) ROLANDO G. ANDAYA, JR.
Secretary
Department of Budget and Management

Also signed by other representatives of:

DEPARTMENT OF NATIONAL DEFENSE

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

DEPARTMENT OF TRADE AND INDUSTRY

DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS

PRIVATE SECTOR REPRESENTATIVE

Attested by:

(SGD.) RUBY U. ALVAREZ
Board Secretary, GPPB
Executive Director, GPPB-TSO

Annex “A”

ANNEX G

GUIDELINES FOR THE PROCUREMENT AND IMPLEMENTATION OF CONTRACTS FOR DESIGN AND BUILD INFRASTRUCTURE PROJECTS

1. SCOPE AND APPLICATION

These guidelines shall govern the procurement and implementation of contracts for design and build infrastructure projects and shall supplement applicable provisions of Republic Act No. 9184 (RA 9184) and its Implementing Rules and Regulations Part A (IRR-A) in particular Section 17.6 and Annex E.

2. PURPOSE

These guidelines are formulated to determine the conditions for the use of the design and build scheme for infrastructure projects and the procedures for the

implementation thereof.

3. GUIDING PRINCIPLES

The procuring entity, prior to resorting to the design and build scheme, should consider the following advantages and disadvantages of said scheme:

3.1 Advantages:

- a) In making use of the design and build scheme, the procuring entity is assured that only one contractor shall bear all responsibilities, which shall include the risks related to design;
- b) The design and construction periods, as well as the final project cost, will definitely be reduced; and,
- c) The procuring entity is assured of the quality of the structure, considering that only infrastructure and design experts are involved in a construction utilizing the design and build scheme.

3.2 Disadvantages:

- a) Procuring entities should, however, take into account that in utilizing the design and build scheme for a particular project, contractors are given too much discretion in determining the project cost and there is difficulty in predicting its final cost until the actual commencement of construction; and
- b) Considering that the extent of the integration of design and construction of the project is exceptionally dependent on the contractor, there may be cases when the end-result may not be exactly in accordance with what the procuring entity has required.

4. DEFINITION OF TERMS

a. Approved Budget for the Contract (ABC). This shall be a lump sum amount that shall cover the cost of design and construction works (at the option of the procuring entity) based on the conceptual design and performance specifications and in accordance with applicable provisions of the law or agency guidelines. The ABC shall be calculated based on either the approximate quantities of work of the conceptual design, from standardized designs or from cost records of previous projects of similar kind.

b. Bidding Documents for Design and Build Scheme. These shall basically be similar to the bidding documents for infrastructure projects and shall also include the performance specifications and parameters to be followed by the design and build contractors and the method for allocation of risks for the design and build contract, among others.

c. Conceptual Design. This shall describe the general idea of the procuring entity with regard to the completed facility and shall identify the scope or physical components and structures, specific outputs and requirements of the structures and proposed methods of construction, where necessary.

d. Design and Build Projects. This refers to infrastructure projects where the

procuring entity awards a single contract for the architectural/engineering design and construction to a single firm, partnership, corporation, joint venture or consortium.

e. Performance Specifications and Parameters. The procuring entity shall define the required performance specifications and criteria and its means of measurement based on the operating outputs and in accordance with appropriate design and construction standards, legal and technical obligations and any other relevant government commitments as required by existing laws and regulations. It shall not be drawn up to favor a particular solution, design and construction method.

f. Preliminary Investigations. These shall include, among others, information on soil, geotechnical, hydrologic, hydraulic, seismic, traffic, and environmental conditions that shall be used to define project design criteria, to set the basis for any changed conditions and establish preliminary project cost estimates.

g. Preliminary Survey and Mapping. These shall determine boundaries and provide stationing along control lines to establish feature and design criteria location, and identify existing and future right-of-way limits and construction easements associated with the procuring entity/s conceptual design.

h. Project Description. This shall define the objectives, purpose, limitations or constraints, as well as the allocation of risks between the procuring entity and the winning bidder.

i. Utility Locations. The procuring entity shall provide information on existing utilities in and around the project's area.

5. CONDITIONS FOR THE USE OF THE DESIGN AND BUILD SCHEME

5.1 The Design and Build scheme shall be applied under any of the following cases:

a. For flagship, priority and fast track projects that need to be completed on a tight completion schedule, as included in the Medium Term Public Investment Program (MTPIP) for national projects and in the Regional Development Investment Plan (RDIP) for regional and provincial projects;

b. For infrastructure projects requiring advanced engineering or construction technologies or whose intellectual property rights belong to private companies;

c. For infrastructure projects where design, equipment, plant and construction can be provided exclusively by a company or where manufacturer's know-how is important in the construction of such facility; or

d. For small projects where there are previously approved drawings or standardized designs and an innovation in design and

construction methods under the design and build scheme will result in lower costs and higher quality projects. Examples of these are school buildings, rural health units, among others.

5.2 All design and build projects shall be included in the Annual Procurement Plan (APP) of the procuring entity concerned and shall be subject to prior approval by the head of the procuring entity or his/her duly authorized representative.

6. CREATION OF DESIGN AND BUILD COMMITTEE

The procuring entity may create a Design and Build Committee (DBC) composed of highly technical personnel experienced in the field of architecture, engineering and construction in the particular type of project to be bid. The DBC shall assist the project management office (PMO) in the preparation of the conceptual design and performance specifications and parameters, review of detailed engineering design and supervision of the project. It shall, likewise, assist the Bids and Awards Committee (BAC) and the Technical Working Group (TWG) in the evaluation of technical proposals in accordance with the criteria set in the bid documents.

7. PRELIMINARY DESIGN AND CONSTRUCTION STUDIES

No bidding and award of design and build contracts shall be made unless the required preliminary design construction studies have been sufficiently carried out and duly approved by the head of the procuring entity that shall include, among others, the following:

- i. Project Description
- ii. Conceptual Design
- iii. Performance Specifications and Parameters
- iv. Preliminary Survey and Mapping
- v. Preliminary Investigations
- vi. Utility Locations
- vii. Approved Budget for the Contract
- viii. Proposed Design and Construction Schedule
- ix. Minimum requirements for a Construction Safety and Health Program for the project being considered
- x. Tender/Bidding Documents

The above data are for reference only. The procuring entity does not guarantee that these data are fully correct, up to date, and applicable to the project at