



097.12 DPWH
04.17.2017

**SUBJECT : Guidelines and Procedures for all
Price Escalation and Extraordinary
Contract – Related Claims Manual**

60

NO.

Series of 2017-04.17-17

ROMEO S. MONJO, CESO I

Undersecretary
Officer-In-Charge

Department of Public Works and Highways
Office of the Secretary



WIN7W01998

6.1.2. TCA/AMD/WRO

2017



Guidelines and Procedures for all Price Escalation and Extraordinary Contract–Related Claims

Department of Public Works and Highways

GUIDELINES AND PROCEDURES FOR ALL PRICE ESCALATION AND EXTRAORDINARY CONTRACT-RELATED CLAIMS

TABLE OF CONTENTS

| | |
|--|----|
| FOREWORD | i |
| INTRODUCTION | ii |
| LIST OF ACRONYMS | 1 |
| DEFINITION OF TERMS | 2 |
| PRICE ESCALATION AND EXTRAORDINARY CONTRACT-RELATED CLAIMS | |
| GUIDELINES | 6 |
| I. Price Escalation | 7 |
| A. Backgrounder | 7 |
| B. Legal Basis | 7 |
| C. Checklist of Requirements | 9 |
| D. Procedure | 12 |
| E. Review and Approval Process | 14 |
| E.1. Two Stage Process | 15 |
| E.1.1. First Stage | 15 |
| E.1.2. Second Stage | 16 |
| E.2. Detailed Technical Parameters/Applicable Price Indices for Infrastructure Projects | 16 |
| E.3. Amount of Price Escalation to be Granted | 18 |
| E.4. Review of Contract Prices After Completion of the Contract | 18 |
| F. Authority to Approve Contract Price Escalation | 18 |
| G. Other Conditions for Approval of Contract Price Escalation | 19 |
| H. Parametric Formula for Infrastructure Projects | 19 |
| I. Sample Computation | 20 |
| II. Claim for Interest Payment Due to Delayed Payment of Progress Billing | 21 |
| A. Legal Basis | 21 |
| B. Basis of Computation | 21 |
| C. Checklist of Requirements | 22 |
| D. Procedure | 23 |
| E. Sample Computation | 23 |

| | |
|--|----|
| III. Claim for Payment of Burned Equipment ----- | 24 |
| A. Legal Basis ----- | 24 |
| B. Basis of Computation ----- | 25 |
| C. Checklist of Requirements ----- | 26 |
| D. Procedure ----- | 28 |
| E. Sample Computation ----- | 28 |

ANNEXES

| | |
|---|-----|
| Annex A – Parametric formulas for each work item to compute the fluctuation factor K ----- | 29 |
| Annex B – Sample Computation for Price Escalation ----- | 36 |
| Annex C – Sample Computation for Claim for Payment of Interest Payment Due to Delayed Payment of Progress Billing ----- | 48 |
| Annex D – Sample Computation for Claim for Payment of Burned Equipment ----- | 51 |
| Annex E – Special Order No. 40 Series of 2015 ----- | 58 |
| Annex F – Department Order No. 58 Series of 2008 ----- | 60 |
| Annex G – 2009 Revised Rules of Procedure of the Commission on Audit ----- | 83 |
| Annex H – Ministry Order No. 43 Series of 1984 ----- | 107 |
| Annex I – Department Order No. 36 Series of 2004 ----- | 110 |
| Annex J – Department Order No. 71 Series of 2005 ----- | 119 |
| Annex K – COA Memorandum Circular No. 88-569 ----- | 121 |
| Annex L – Department Order No. 50, Series of 1998 ----- | 136 |
| Annex M – Sample Forms for the Computation of Price Escalation ----- | 138 |

FOREWORD

It is the thrust of this Department to speed up implementation of infrastructure projects so the Filipino people can reap the maximum benefit from the value of every peso invested by the government.

For this reason, it is crucial that infrastructure contracts entered into by the government with local and/or foreign contractors are well-drafted with clear and specific terms and conditions reasonable to both parties covering all details from the beginning of performance until the contract's completion. Disputes arising from faulty contracts can be both costly and burdensome to resolve that will result to implementation delays and will have negative impact to stakeholders.

One of the ways the Department has been doing to accomplish this goal is the enhancement of the construction and contract management capacity of its personnel by continuously improving processes and cascading throughout the organization through development of manuals and training.

Hence, the formulation of this guidebook, entitled ***Guidelines and Procedures for All Extraordinary Contract-Related Claims***, under the guidance of the Price Escalation and Extraordinary Claims Review Committee (PEECRC) created through Special Order No. 40, series of 2015, to provide guiding principles, courses of actions and references in the assessment, evaluation and processing of all extraordinary contract-related claims pursuant to the provisions of the Revised Implementing Rules and Regulations of Republic Act No. 9184 "Government Procurement Reform Act" and the provisions under Department Order No. 58, series of 2008 "Procedural Flow and Guidelines on the Processing of Extraordinary Claims."

This guidebook contains procedural flows, necessary checklists of requirements, references to acceptable legal bases and technical parameters, thereby improving consistency in assessment, evaluation and processing of extraordinary contract-related claims. This will aid DPWH Project Engineers/Managers/Consultants to properly review such claims and recommend payment or non-payment thereof. Likewise, this guidebook will serve as reference of contractors for contract-related claims and other related matters.

INTRODUCTION

During the course of project implementation, contractors may file a claim that arises due to extraordinary conditions and other contractual obligations. Although a contractor is entitled to pursue every legitimate claim whether under the contract or not, it must be recognized that the Department of Public Works and Highways is also entitled to substantial proof and sufficient legal bases of the claim before deciding any obligation for payment.

The guidelines and procedures in the assessment, evaluation and processing of Extraordinary Contract-Related Claims, such as: 1) Price Escalation, 2) Claim for Payment of Interest due to Delayed Progress Billings Payment, and 3) Claim for Payment of Burned Equipment, are provided in this guidebook. It includes the established legal and technical parameters, checklist of requirements, procedural flow and sample computation for standard evaluation and processing of all money claims.

LIST OF ACRONYMS

| | |
|----------|--|
| ACEL | Association of Carriers and Equipment Lessors, Inc. |
| BIR | Bureau of Internal Revenue |
| BOC | Bureau of Construction |
| CFMS | Controllership Financial Management Services |
| CMWPI | Construction Materials Wholesale Price Index |
| COA | Commission on Audit |
| CPI | Consumer Price Index |
| DO | Department Order |
| DOF | Department of Finance |
| DOLE | Department of Labor and Employment |
| DPWH | Department of Public Works and Highways |
| DUPA | Detailed Unit Price Analysis |
| DV | Disbursement Voucher |
| FIDIC | Federation Internationale des Ingenieurs-Conseils (International Federation of Consulting Engineers) |
| GAA | General Appropriations Act |
| GIF | Government Financial Institution |
| GOCC | Government-owned and/or controlled corporation |
| GPPB | Government Procurement Policy Board |
| IAEB | Invitation to Apply for Eligibility and to Bid |
| IO | Implementing Office |
| IRR | Implementing Rules and Regulations |
| JBIC | Japan Bank for International Cooperation |
| LGU | Local Government Unit |
| NCA | Notice of Cash Allocation |
| NEDA | National Economic and Development Authority |
| NSO | National Statistics Office |
| NTP | Notice to Proceed |
| NWPC | National Wages and Productivity Commission |
| OIC | Officer-in-Charge |
| PEECRC | Price Escalation and Extraordinary Claims Review Committee |
| PERT/CPM | Project Evaluation Review Technique/Critical Path Method |
| PMO | Project Management Office |
| PPI | Producer Price Index |
| PSA | Philippine Statistics Authority |
| RA | Republic Act |
| RROW | Road Right-of-Way |
| STDEV | Standard Deviation |
| SO | Special Order |
| SSS | Social Security System |
| SUC | State Universities and Colleges |
| SWA | Statement of Work Accomplished |
| VAT | Value Added Tax |
| VO | Variation Order |
| WPI | Wholesale Price Index |

DEFINITION OF TERMS

Accumulated Interest Amount – the amount of cumulative interest that is due and not yet paid. Interest that is earned on delayed payment of progress billings accumulated over time before it is paid out.

ACEL Guidebook – general and standardized guide on equipment rental rates; used as basis by almost all contractors in the estimate and eventual submission of bids for their respective projects. The guidebook is also used by contractors to justify cost of escalation relating to the equipment component of projects under evaluation and those affected by sudden price movement of materials.

Acquisition Cost – the acquired cost for property or equipment *after adjusting for discounts, incentives, closing costs and other necessary expenditures, but before sales taxes.*

Advance Payment – any payment out of the approved contract price made after issuance of Notice to Proceed and prior to execution of Works, Consulting Services or Goods, upon submission of a written request of the Contractors, Consultants or Suppliers, and financial guarantees as required in the Bidding Documents.

Appraisal – alternative term of valuation; a valuation of property by the estimate of an authorized person. It is an impartial analysis and evaluation conducted according to established criteria to determine the acceptability, merit or worth of an item.

Association of Carriers and Equipment Lessors, Inc. (ACEL) – provides solutions to the problems that beset the construction industry and introduced the system of equipment leasing and standardization of rental rates.

Bar Chart – another term for gantt chart; chart showing the construction time schedule of project activities.

Bare Rental – means the applicable Equipment Rental Rates (less operator, cost of fuel, lubricants, maintenance, insurance and repair).

Bill of Lading – a detailed list of shipment of goods in the form of a receipt given by the carrier to the person consigning the goods.

Civil Code of the Philippines – also known as Republic Act No. 386, an act to ordain and institute the Civil Code of the Philippines. It is the basic law governing: (1) persons and family relations; (2) property, ownership and its modifications; (3) the modes of acquiring ownership; and (4) obligations and contracts.

Commercial Borrowings – refer to commercial loans used to fund large capital expenditures.

Competitive Bidding – a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post-qualification, and award of contract.

Consulting Services – services for infrastructure projects and other types of projects or activities requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the agency

CPI – refers to the Consumer Price Index issued by the DTI, which measures the monthly changes in the average retail prices of goods and services commonly purchased by a particular group of people in a particular area.

Critical Path Method (CPM) – a project management technique that analyzes which activities have the least amount of scheduling flexibility and predicts project duration schedule based on the activities that fall along the "critical path." Activities that lie along the critical path cannot be delayed without delaying the finish time for the entire project.

Economic Life – the period over which an asset (machine, property, computer system, etc.) is expected to be usable, with normal repairs and maintenance, for the purpose it was acquired, rented, or leased. Expressed usually in number of years, process cycles, or units produced, it is usually less than the asset's physical life and is the period over which the asset's depreciation is charged. Also called average life, service life, effective life, mean life, or useful life.

Equipment Utilization Schedule – the proportion of the estimated time that a piece of equipment or a system is operating up to the completion of the project.

Extraordinary Circumstances – refers to an event or occurrence, or series of events or occurrences during contract implementation which give/s rise to price escalation as may be determined by the NEDA, in accordance with the provisions of the Civil Code of the Philippines.

Extraordinary Inflation or Deflation – refers to the decrease or increase of the purchasing power of the Philippine currency which is unusual or beyond the common fluctuation in the value of said currency, in accordance with the two (2) standard deviation rule computed under Section 5.2.2 of these Guidelines, and such decrease or increase could not have been reasonably foreseen or was manifestly beyond the contemplation of the parties at the time of the establishment of the obligation.

FIDIC – an acronym stands for Federation Internationale des Ingenieurs-Conseils. Also known as the FIDIC Conditions of Contract Definition, it is an international federation of consulting engineers.

Fluctuation Factor – a value calculated by multiplying the proportion of an individual adjustable element by the percentage change in the current index figure when compared with the base index figure.

Fortuitous Event – an occurrence which cannot be foreseen, or which though foreseen, is inevitable.

Government Financial Institutions – provides financial services and acts as a financial intermediary for the country's major transactions.

Government Owned and/or Controlled Corporations (GOCCs) – government-owned corporations that conduct both commercial and non-commercial activity.

Government Procurement Policy Board – the regulatory body for Philippine Government Procurement created under Rule XX of Republic Act 9184 Implementing Rules and Regulations.

Infrastructure Projects – include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports,

communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings and other related construction project of the government. To be classified as a capital outlay project, the works must extend the life of the asset by more than 1 year

Interest Due to Delayed Payment Claim – it is a claim for payment requested by the contractor whose Progress Billings and/or other payments receivable from the DPWH had been delayed for a certain period of time during the project implementation due to circumstances/causes not attributable to their firm.

Interest Rate – expressed as a percentage of principal, the amount charged by a lender to a borrower for the use of assets.

Legal Parameters – identification of the legal bases for events that will trigger/result to extraordinary circumstances within the bounds of the Civil Code of the Philippines.

Manpower Utilization Schedule – the proportion of the estimated time that the number of personnel is working up to the completion of the project.

Money claim – a request or demand for payment for services rendered or goods provided.

National Economic and Development Authority – as mandated by the Philippine Constitution, is the country's independent economic development and planning agency. It is headed by the President as chairman of the NEDA board, with the Secretary of Socio-Economic Planning, concurrently NEDA Director-General, as vice-chairman. It is the country's premier socioeconomic planning body, highly regarded as the authority in macroeconomic forecasting and policy analysis and research.

Notice of Cash Allocation (NCA) – authority issued by the Department of Budget and Management (DBM) to Central, Regional and District offices to cover the cash requirements of the agencies for a specific period and purpose.

Notice to Proceed (NTP) – the document issued by the Head of the Procuring Entity to the winning bidder to proceed with the implementation of the contract specifying the date on which work/services can begin.

PPI – refers to the Producer Price Index, which measures the average change in the unit price of a commodity as it leaves the establishment of the producer.

Price Escalation – an adjustment of monetary values made periodically to compensate for fluctuation in costs of construction supplies, materials, equipment, and labor.

Procuring Entity – any branch, constitutional commission or office, agency, department, bureau, office, or instrumentality of the GOP (NGA), including GOCC, GFI, SUC and LGU procuring goods, consulting services and infrastructure projects.

Program Evaluation and Review Technique (PERT) – a graphic representation of a project's schedule, showing the sequence of tasks, which tasks can be performed simultaneously.

Progress Payment – contractor's claim for partial payments of the contract price equivalent to the value of work accomplished. It shall be verified and certified by the DPWH Project Engineer and shall not include for payment of materials and equipment delivered on the job

site but not completely put in place as yet, unless such payment is stipulated in the Instruction to Bidders.

RA 9184 – Government Procurement Reform Act (GPRA) – prescribes the necessary rules and regulations for the modernization, standardization, and regulation of the procurement activities of the government and for other purposes.

Recoupment of Advance Payment – repayment of the advance payment in the form of 15% deductions from the Contractor's progress payments, as will be determined by the DPWH until full liquidated thereof.

Reglementary period – regulative period; refers to the number of days/months/years within which the party must file pleading to court/tribunal/body. Outside the said period, the court/tribunal/body can deny the acceptance of the filed pleading.

Salvage Value – the value which badly depreciated improvements, machines, or equipment would have if dismantled and sold in separate parts or pieces; the value of an asset at the end of its economic life.

S-Curve – it provides a quick and effective way to monitor the performance of project by comparing expected and actual results.

Straight Line Diagram – it graphically shows the date of occurrence of specific dates such as the date of contract affectivity, expiration date and other vital data of the project such as approved variation orders, approved time suspensions/extensions, if there's any. It also shows the date of the suspension/resume orders or affected time period subject of the request for contract time extension.

Technical Parameters – formulation of an objective mechanism with definite and measurable criteria to obviate and open-ended interpretation of the occurrence of extraordinary circumstances.

WPI – refers to the Wholesale Price Index, which measures the monthly changes in the general price level of commodities, usually in large quantities, that flow into the wholesale trading system.

CONTRACT-RELATED CLAIMS GUIDELINES

- I. Price Escalation
- II. Claim for Interest Payment Due to Delayed Payment of Progress Billing
- III. Claim for Payment of Burned Equipment

I. Price Escalation

A. Backgrounder

Purpose

These Guidelines are being formulated to meet the following objectives:

1. To prescribe the rules and procedures in the request for price escalation;
2. To ensure that the task mandated under Section 61 and Appendix 2 of R.A. 9184 shall be undertaken competently, objectively and expeditiously for locally-funded projects;
3. To ensure that the task mandated in the General Conditions of Contract or Conditions of Particular Application shall be undertaken competently, objectively and expeditiously by the Department for foreign-assisted projects; and
4. To establish the legal and technical parameters for an objective determination of events that can be considered as extraordinary circumstances in accordance with the Civil Code of the Philippines.

Scope and Application

These Guidelines shall apply only for locally-funded infrastructure projects and foreign-assisted infrastructure projects and consulting services.

B. Legal Basis

a. For Locally-funded infrastructure projects

The price escalation for infrastructure projects will be allowed only under extraordinary circumstances in accordance with the Civil Code of the Philippines and pursuant to Section 61 of the Revised IRR of Republic Act No. 9184 otherwise known as "Government Procurement Reform Act". For consulting services which are locally funded, *No contract price escalation for consulting services shall be allowed* as provided under Appendix 9 (Section 1.1) of the Revised IRR of R.A. No. 9184.

Article 1144 under Chapter 3 – Prescription of Actions of the Civil Code of the Philippines

The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

Section 61– Contract Prices of the Revised IRR Republic Act No. 9184

Sec. 61.1. For the given scope of work in the contract as awarded, all bid prices shall be considered as fixed prices, and therefore not subject to price adjustment and escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the GPPB, or when a Treaty or International or Executive Agreement expressly allows it pursuant to Section 4 of this IRR.

Sec. 61.2. In cases where the cost of the awarded contract is affected by any applicable new laws, ordinances, regulations, or other acts of the GOP, promulgated after the date of bid opening, a contract price adjustment shall be made or appropriate relief shall be applied on a no loss-no gain basis.

Sec 61.3. Any request for price escalation under extraordinary circumstances shall be submitted by the concerned entity to the National Economic and the Development Authority (NEDA) with the endorsement of the procuring entity. The burden of proving the occurrence of extraordinary circumstances that will allow for price escalation shall rest with the entity requesting for such escalation. NEDA shall only respond to such request after receiving the proof and the necessary documentation.

For purposes of this Section, "extraordinary circumstances" shall refer to events that may be determined by the NEDA in accordance with the Civil Code of the Philippines, and upon the recommendation of the procuring entity concerned.

Sec. 61.4. All contracts shall be denominated and payable in Philippine currency, and this shall be stated in the Bidding Documents: *Provided, however,* That subject to the guidelines issued by the GPPB, the procuring entity may provide in the Bidding Documents that obligations may be paid in foreign currency; *Provided, further,* That should the procuring entity receive bids denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the day of the bid opening for purposes of bid comparison and evaluation.

b. For Foreign-assisted projects (infrastructure projects and consulting services)

The request for Price Escalation of foreign-assisted projects shall be pursuant to General Conditions of Contract, Condition of Particular Application, and Specific/Special Provisions of the Contract.

Clause 13.8 – Adjustments for Changes in Cost under Chapter 13 – Variations and Adjustments of the FIDIC Conditions of Contract, states that:

"xxx the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labour, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this Sub-Clause. To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.

The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:

$$P_n = a + b \frac{L_n}{L_o} + c \frac{E_n}{E_o} + d \frac{M_n}{M_o} \dots \dots$$

Where:

"P_n" is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period "n", this period being a month unless otherwise stated in the Contract Data;

"a" is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

"b", "c", "d", ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

"Ln", "En", "Mn", ... are the current cost indices or reference prices for period "n", expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

"Lo", "Eo", "Mo", ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.

In cases where the "currency of index" is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the central bank of the Country, of this relevant currency on the above date for which the index is required to be applicable. xxx"

C. Checklist of Requirements

For civil works:

| Document | Remarks |
|---|--|
| Letter request of the contractor | It should be duly signed by the authorized representative of the contractor. It should state the amount, specific period of claim, and the legal justification of the claim. The letter should also contain the contractor's letter head, date of request and the position of the signing representative. This should be duly received by the concerned IO. |
| Endorsement letter of the Implementing Office | It should be addressed to the Hon. Secretary, Attn: Chairman, PEECRC, stating their position and recommendation of the subject claim. |
| Computation of the Price Escalation | It should provide the complete detailed computation of the Price Escalation based on R.A. 9184, approved Contract Agreement or General Conditions of the Contract for every billing period. (See attached sample forms for the computation of the Price Escalation for every billing, summary of computation for every billing and overall summary of computation of the request Annex M). |
| Copy of Contract Agreement | To prove/verify the existence of the project contract of the claimant and/or any provision pertaining to Price Escalation. It should include the original scope of work and the original contract price. |

| | |
|---|--|
| General Conditions of Contract (GCC), Special Conditions of the Contract (SCC)/Condition of Particular Application (COPA) *(any of the above which will show the provision for entitlement for Price Escalation) | To check the provision/s that entitles the contractor to claim for Price Escalation including the formula to be used. |
| Resolution of Award | To check the date of bidding and other relevant data about the project. |
| Copy of Bill of Quantities | To check/verify the original unit price of the items or components affected by the request for price escalation vis-à-vis proposed escalated items. |
| Copy of NTP | To check the official date of contract effectivity. |
| Copy of the approved SWA | To check/verify the accomplishment of the contractor for each period covered by the claim. |
| Copy of the Approved Variation Order and Itemized Cost of Revision, if any | To check/verify quantities of work under Variation Order that are covered by the claim. The date of approval of Variation order will serve as reckoning date in escalating the price of new item(s) of work. |
| Clear/legible Copy of Approved Disbursement Voucher for every Progress Billing covered by the claim | To check the D.V. No., amount and respective dates received at the Accounting Division. |
| Voucher of Advance Payment | To check the amount and date of advance payment to be excluded/deducted for each period covered by the price escalation claim. |
| Fluctuation Factor (K) for the period used in the parametric formulas | To check the appropriateness of the coefficient used in the computation of the claim for Price Escalation. |
| Copy of applicable price indices | To check/verify the price indices used in the detailed computation for the items or components affected by the request for price escalation, issued/published by the appropriate entity. |
| Copy of the Approved Time Extensions, if any | To verify the revised duration of the contract and to check the items and scope of works covered by the claims are within the revised contract period. |
| Copy of the Approved Suspension/Resumption Order, if any | To check if the covered suspension period is in accordance with the revised PERT/CPM Diagram. |
| Copy of the Approved Original PDM or PERT/CPM, Bar Chart with S-Curve | To evaluate the schedule of commencement and completion of the covered items of work in the requested Price Escalation. |
| Copy of the Revised PDM or PERT/CPM, Bar Chart with S-Curve | To evaluate the revised schedule of commencement and completion of the covered items of work in the requested Price Escalation. |
| Copy of approved unit price adjustment (if any) | To verify the adjusted price of the items of work covered by the request for Price Escalation. |

| | |
|--|--|
| Certified True Copies of Monthly Payrolls and Remittances of Premiums to SSS | To check/verify if the contractor's employee/personnel had received the corresponding increase due to escalation and to check if the remittances are duly received by SSS covering the period of the price escalation claim. |
| Audited Financial Statement | To countercheck if the increased remuneration of the contractor's personnel was reflected in the Audited Financial Statement. It should be notarized. |
| Certification of all involved employees that they actually received the increase in remuneration | To serve as proof that the contractor actually paid the increased remuneration which he is claiming. |
| Sales invoice of the escalated construction materials | To prove evidence of purchase and accounts payable to the seller and countercheck the escalated price on materials of the items of work covered by the request. |
| Purchase receipts of the escalated construction materials | To verify the payment received by the seller from the contractor on the sale made and countercheck the escalated price on materials of the items of work covered by the request. |

For consulting services:

| Document | Remarks |
|---|---|
| Letter request of the consultant | It should be duly signed by the authorized representative of the consultant. It should state the amount, specific period of claim, and the legal justification of the claim. The letter should also contain the consultant's letter head, date of request and the position of the signing representative. This should be duly received by the concerned IO. |
| Endorsement letter of the Implementing Office | It should be addressed to the Hon. Secretary, Attn: Chairman, PEECRC, stating their position and recommendation of the subject claim. |
| Computation of the Price Escalation | It should provide the complete detailed computation of the Price Escalation based on approved Contract Agreement or General Conditions of the Contract for every billing period. (See attached sample forms for the computation of the Price Escalation for every billing, summary of computation for every billing and overall summary of computation of the request Annex M). |
| Copy of Contract Agreement | To prove/verify the existence of the project contract of the claimant and/or any provision pertaining to Price Escalation. It should include the original scope of work and the original contract price. |
| General Conditions of Contract (GCC), Special Conditions of the Contract (SCC)/Condition of Particular Application (COPA) *(any of the above which will show the provision for entitlement for Price Escalation) | To check the provision/s that entitles the consultant to claim for Price Escalation including the formula to be used. |

| | |
|--|--|
| Resolution of Award | To check the date of bidding and other relevant data about the project. |
| Copy of Bill of Quantities | To check/verify the original unit price of the items or components affected by the request for price escalation vis-à-vis proposed escalated items. |
| Copy of NTP | To check the official date of contract effectivity. |
| Clear/legible Copy of Approved Disbursement Vouchers for every Progress Billings | To check the D.V. No., amount and respective dates received at the Accounting Division. |
| Voucher of Advance Payment | To check the amount and date of advance payment to be excluded/deducted for each period covered by the price escalation claim. |
| Copy of Summary for Remuneration | To check/verify the consultant's personnel and corresponding remuneration for a specific period covered by the claim. |
| Copy of the approved Supplemental Agreement/ Realignment | To check/verify the additional works to the original contract of the consultant which may result to additional man-months and/or additional personnel. |
| Fluctuation Factor (K) for the period used in the parametric formulas | To check the appropriateness of the coefficient used in the computation of the claim for Price Escalation. |
| Copy of applicable price indices | To check/verify the price indices used in the detailed computation for the items or components affected by the request for price escalation, issued/published by the appropriate entity. |
| Copy of the approved Manning Schedule, Work Schedule and approved revisions, if any. | To check the personnel involved and their period of involvement in the consulting services that are covered by the requested Price Escalation. |
| Certified True Copies of Monthly Payrolls and Remittances of Premiums to SSS | To check/verify if the consultant's employee/personnel had received the corresponding increase due to escalation and to check if the remittances are duly received by SSS covering the period of the price escalation claim. |
| Audited Financial Statement | To countercheck if the increased remuneration of the consultant's personnel was reflected in the Audited Financial Statement. It should be notarized. |
| Certification of all involved employees that they actually received the increase in remuneration | To serve as proof that the consultant actually paid the increased remuneration which he is claiming. |

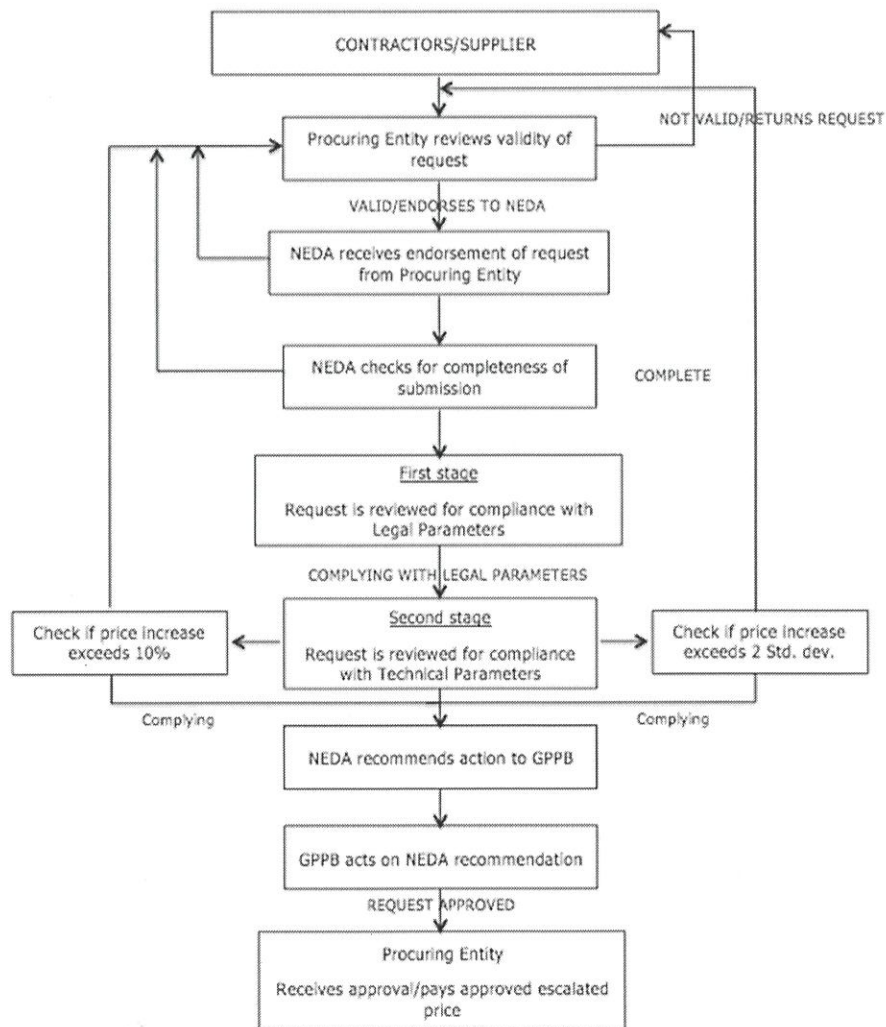
D. Procedure

a. Procedure for locally-funded projects (infrastructure projects)

1. Claim for payment of Price Escalation shall be filed with the Implementing Office by the contractor through a letter request together with the computation of the filed claim and complete documentation in accordance with the approved checklist.

2. The Implementing Office shall conduct direct review/evaluation of the filed claim and recommend payment or non-payment thereof to the Price Escalation and Extraordinary Claims Review Committee (PEECRC).
3. The PEECRC instructs the Technical Working Group (TWG) for further review/evaluation and validation of the recommendation of the Implementing Office.
4. The TWG conducts review/evaluation of the claim and presents recommendation to the PEECRC.
5. The PEECRC conducts deliberation of the claim, which shall be presented by the Implementing Office, to determine disposition of the claim for endorsement of the Secretary to NEDA.
6. NEDA checks for completeness of submission and in compliance with the legal and technical parameters.
7. NEDA recommends action to GPPB.
8. GPPB acts on NEDA recommendation. GPPB shall approve/disapprove the claim of the contractor and forwards the result to DPWH.
9. If approved, the Implementing Office shall request for Funding from the Planning Service.
10. Corresponding payment of escalated price, if approved by GPPB, shall be paid by the DPWH.

FLOWCHART FOR PROCESSING PRICE ESCALATION UNDER R.A. No. 9184



Endorsement

- Request for contract price escalation under extraordinary circumstances shall be submitted by the concerned entity to NEDA with the endorsement of the head of the procuring entity.
- The burden of proving the occurrence of extraordinary circumstances that will allow for contract price escalation shall rest with the entity requesting for such escalation.
- NEDA will only review and verify the occurrence of extraordinary circumstances and recommends its findings to the GPPB and does not approve contract price escalation requests.
- NEDA does not compute for the actual amount of money to be paid to the contractor/supplier.

b. Procedure for foreign-assisted projects (infrastructure projects and consulting services)

1. Request for payment of Price Escalation shall be filed with the Implementing Office by the contractor/consultant through a petition letter together with the computation of the filed claim and complete documentation in accordance with the approved checklist.
2. The Implementing Office refers the contractor's claim to the consultant (if any) for review and recommendation. In case where the consultant is the requesting party, the concerned Implementing Office shall directly conduct review/evaluation.
3. In case where the contractor is the requesting party, and if there is no consultant, the Implementing Office shall conduct direct review/evaluation of the filed claim and recommend payment or non-payment thereof to the Price Escalation and Extraordinary Claims Review Committee (PEECRC).
4. The PEECRC instructs the Technical Working Group (TWG) for further review/evaluation and validation of the recommendation of the Implementing Office.
5. The TWG conducts review/evaluation of the claim and presents recommendation to the PEECRC.
6. The PEECRC conducts deliberation of the claim which shall be presented by the Implementing Office to determine disposition of the claim and prepares Resolution recommending payment or non-payment of the claim.
7. The Resolution shall be forwarded to the Secretary for approval/disapproval of the request for payment of the claim.
8. The PEECRC through the TWG shall transmit the approved Resolution of the requested Price Escalation to the Implementing Office.
9. If approved, the Implementing Office shall request for funding from the Planning Service.
10. Corresponding payment to the approved escalated price shall be paid by the DPWH.

E. Review and Approval Process

The Review and Approval Process herein are only applicable for locally-funded projects; the Review and Approval Process for foreign-assisted projects are through the Technical Working Group (TWG) and Price Escalation and Extraordinary Claims Review Committee (PEECRC), respectively.

A request for price escalation shall only be granted if it satisfies the following:

E.1. Two Stage Process

E.1.1 First Stage

Legal Parameters: This stage shall establish the legal basis for extraordinary circumstances that will allow contract price escalation.

"Extraordinary Circumstances" shall refer to the following articles of the Civil Code of the Philippines:

Article 1174, as it pertains to *Ordinary Fortuitous Events* or those events which ordinarily happen or which could be reasonably foreseen but are inevitable, such as, but not limited to the following:

- a. Typhoons
- b. Thunderstorms
- c. Flooding of lowly areas, and
- d. Vehicular accidents;

Provided that the following requisites are present:

- i. The cause of the extraordinary circumstance must be independent of the will of the parties;
- ii. The event must be either unforeseeable or unavoidable;
- iii. The event must be such as to render it difficult but not impossible for the supplier or contractor to fulfill his obligation in a normal manner or within the contemplation of the parties;
- iv. The supplier or contractor must be free from any participation in or aggravation of the injury to the procuring entity; and
- v. The allowance for price escalation should an ordinary fortuitous event occur is stipulated by the parties or the nature of the obligation requires assumption of risk.

Article 1250, as it pertains to *Extraordinary Inflation or Deflation*, decrease or increase of the purchasing power of the Philippine currency which is unusual or beyond the common fluctuation in the value of said currency.

Article 1680, as it enumerates *Extraordinary Fortuitous Events* or those events which do not usually happen, such as, but not limited to the following:

- a. Fire
- b. War
- c. Pestilence
- d. Unusual flood
- e. Locusts, and
- f. Earthquake

E.1.2. Second Stage

Technical Parameters: The request for price escalation shall be reviewed in accordance with the technical parameters stipulated herein;

Standard Deviation – the escalation in the price of an item, good, or component, as requested, should at least be two (2) standard deviations from the mean calculated based on the historical trend of applicable price indices covering a historical data *of thirty (30) months reckoned from the date of bid opening*.

Price Index – used in computing the mean. Data for a locally available good, item, or component shall be those issued/published by the appropriate entity, e.g. NSO.

Alternative Index – for an international good, item, or component wherein appropriate data is not available from domestic sources, data shall be those issued/published by the appropriate foreign entity.

Ten Percent (10%) Increase – if data is unavailable to establish the two standard deviation parameter, the applicable price index should have registered an increase of more than ten percent (10%), as determined from the prevailing price index at the time of bid opening.

Hierarchy of Index: Wholesale Price Index (WPI), Consumer Price Index (CPI) and Procedures Price Index (PPI).

For civil works, NSO has the Construction Materials Wholesale Price Index (CMWPI). CMWPI, WPI, CPI and PPI are available for download from the NSO website (www.census.gov.ph).

Since all of the formulas for the computation of K have labor component, data for minimum wage per region is available in the DOLE-NWPC website (www.nwpc.dole.gov.ph).

E.2. Detailed Technical Parameters/Applicable Price Indices for Infrastructure Projects

Detailed Technical Parameters/Applicable Price Indices for Infrastructure Projects –The detailed computation and validation of price escalation for infrastructure projects shall use the coefficient K, which is the coefficient representing the increase or decrease of a work item as the result of price fluctuation.

Pursuant to the Revised Guidelines, if the Invitation to Apply for Eligibility and to Bid (IAEB) for the contract was issued prior to the effectivity of said Revised Guidelines (06 November 2008), the 10-year period under the Old Guidelines (19 October 2004) will be used for computing the two standard deviations above the mean (threshold) instead of the 30-month historical period.

The value K varies for each item of work and is represented by the following:

$$K = a + b (X_i/X_o) + c (Y_i/Y_o) + d (Z_i/Z_o) + \dots n (N_i/N_o)$$

Where:

a – is a 0.15 fixed coefficient representing contractor's profit, and other non-adjustable items.

b, c, d ... n – are the coefficients representing the proportionate value of each pay item to the total. $b + c + d + \dots + n = 0.85$.

$X_i, Y_i, Z_i \dots N_i$ – are variables representing the current price indices of the cost of labor, materials and other components of the contract during the period under consideration at the time of the request for price escalation, based on the original or duly approved revised schedule of contract implementation, subject to Section 8, Appendix 2 of R.A. 9184.

$X_o, Y_o, Z_o \dots N_o$ – are variables representing the current price indices of the cost of labor, materials and other components of the contract on the date of bid opening or approval of variation order.

The sum of $a + b + c + \dots + n$ must be equal to 1 (100%).

Threshold $K = a + b (X_t) + c (Y_t) + d (Z_t) + \dots + n (N_t)$

Average $K = a + b (X_{ave}) + c (Y_{ave}) + d (Z_{ave}) + \dots + n (N_{ave})$

Where:

a – is a 0.15 fixed coefficient representing contractor's profit, and other non-adjustable items.

b, c, d ... n – are the coefficients representing the proportionate value of each pay item to the total. $b + c + d + \dots + n = 0.85$.

$X_t, Y_t, Z_t \dots N_t$ – are the threshold price indices computed as 2-standard deviation plus mean of price indices of labor, material, and other contract items for a 30-month (New Guidelines) or a 10-year (Old Guidelines) historical period reckoned from date of bid submission.

$X_{ave}, Y_{ave}, Z_{ave} \dots N_{ave}$ – are the average price indices of labor, materials and other contract items reckoned from issuance of NTP to date of completion (completed project) or 6th month of the succeeding 6-month period (ongoing project).

The sum of $a + b + c + \dots + n$ must be equal to 1 (100%).

Decision Point:

If the Average K for each item is greater than Threshold K, it is eligible for Price Escalation. Otherwise, not eligible.

Formula for Standard Deviation

$$S_D = \sqrt{\frac{\sum_i^n (x_i - \bar{x})^2}{n - 1}}$$

Where: X_i is the entire list
 \bar{x} is the mean

N is the number of months

Formula for Mean

$$\text{Ave} = \frac{X}{N}$$

Where: X is the entire list of numbers

N is the month from issuance of NTP to completion

E.3. Amount of Price Escalation to be Granted

In the case of infrastructure projects, the amount to be granted shall be determined based on the following:

| | Old Guidelines (2004) | Revised Guidelines (2008) |
|---------------------------------|------------------------------|----------------------------------|
| Where $K > 1.05$, | $P = P_o (K - 0.10)$ | $P = P_o (K - 0.05)$ |
| Where $0.95 \leq K \leq 1.05$, | $P = P_o$ (No escalation) | $P = P_o$ (No escalation) |
| Where $K < 0.95$, | $P = P_o (K + 0.10)$ | $P = P_o (K + 0.05)$ |

Where:

P is the escalated bid/unit price.

P_o is the original bid/unit price.

K is the Fluctuation Factor.

Price escalation shall be calculated for every whole month and the average fluctuation factor for the month under consideration shall be used. The applicable fluctuation factor shall be used. The applicable fluctuation factor shall be applied to the original contract unit price of the corresponding work item.

Requests for price escalation shall only be made for cost items already incurred by the contractor/supplier, as supported by official receipts, sales invoices, or other documentary evidence. No request for price escalation shall be made for prospective application. Further, price escalation shall only be granted to those items included in a specific request; Provided further, that requests for price escalation shall be made not less than six (6) months reckoned from the date of effectivity of the contract, and not less than six (6)-month period thereafter, except for price escalation being requested at the completion of the contract.

E.4. Review of Contract Prices After Completion of the Contract

Upon completion of the contract, the procuring entity shall calculate the amount of price escalation supposedly due to the contractor/consultant to consider likewise any downward movement in prices during the entire contract implementation period. If the resulting amount of price escalation is lower than the amount of price escalation already paid, the amount of overpayment shall be deducted by the procuring entity from the retention money in case of infrastructure projects.

F. Authority to Approve Contract Price Escalation

1. The head of the procuring entity shall not pay any contract price escalation until after the GPPB has approved the claim.

2. The approval by the GPPB of the request for contract price escalation shall in no way be construed as an approval or validation of any irregularity committed by the requesting entity during the procurement process.

G. Other Conditions for Approval of Contract Price Escalation

1. Contract Price Escalation, if awarded through Public Bidding, shall be reckoned from the month of bidding of the project and shall be allowed for every progress billing. When the contract has not been the subject of competitive bidding, price escalation shall be reckoned from the month agreed upon in the contract and shall be granted for every progress of billing.
2. In case the project is behind schedule on the approved network diagram, price escalation on the portion of work that should have been, but was not, actually accomplished within the period shall be based on the applicable price index for the period in which it should have been accomplished. Payment of the computed amount shall not be made until said unaccomplished portion of the work is completed and upon prior approval of the GPPB and the head of the procuring entity.
3. Where advance payment has been made, no price escalation shall be granted for the following:
 - a. That portion of work accomplished during the period corresponding to a value equal to the amount of recoupment of advance payment; and
 - b. The amount of materials for which advance payment was made.
4. Variation Orders (Change Order or Extra Work Order or Supplemental Agreement) are subject to the escalation formula used to adjust the original contract price, less cost of mobilization. The computation shall be in accordance with following guidelines:
 - a. If the unit price of items of work in the Variation Order (Change Order) is the same with original unit cost, the computation of Price Escalation shall be reckoned from the date of bidding.
 - b. If the unit price of items of work in the Variation Order (Extra Work Order) is new, the computation of Price Escalation shall be reckoned from the approval of the variation order.
5. Submission of contractor's claim for Contract Price Escalation shall be within one (1) year after the completion of the project or three (3) months after the final payment, whichever comes later pursuant to D.O. No. 50, Series of 1998 (**Annex M**).

H. Parametric Formula for Infrastructure Projects

For civil works, there are fifty-two (52) work items identified that can be claimed by the contractor, thus, there are fifty-two (52) parametric formulas for each work item to compute the fluctuation factor K. Please refer to **Annex A** for the Parametric Formulas for infrastructure projects.

The following price indices are used in the computation of Fluctuation Factor.

- a. General Construction Price Index as published by the Philippine Statistics Authority (PSA).
- b. Labor Cost Index as published by the Department of Labor and Employment.
- c. Equipment Index as published by the PSA

I. Sample Computation

Refer to ***Annex B*** for sample computation of Price Escalation.

II. Claim for Interest Payment Due to Delayed Payment of Progress Billing

A. Legal Basis

For foreign-assisted projects:

The request of Claim for Payment of Interest Payment Due to Delayed Payment of Progress Billing of foreign-assisted projects shall be pursuant to General or Particular Conditions of Contract.

Clause 14.8 – Delayed Payment under Chapter 14 – Contract Price and Payment of the FIDIC Conditions of Contract, states that:

"If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b)) of the date on which any Interim Payment Certificate is issued.

Unless otherwise stated in the Particular Conditions, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central bank in the country of the currency of payment, or if not available, the interbank offered rate, and shall be paid in such currency.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy."

B. Basis Of Computation

$$Ia = P \times Dd \times \frac{i}{365}$$

Where: Ia = Accumulated interest amount in pesos
P = Net amount billed
Dd = Number of days delayed
i = Interest rate per annum (decimal)

C. Checklist of Requirements

| Document | Remarks |
|---|---|
| Letter request of the contractor | It should be duly signed by the authorized representative of the contractor. It should state the amount, specific reason and period of claim, and the legal justification of the claim. The letter should also contain the contractor's letter head, date of request and the position of the signing representative. This should be duly received by the concerned implementing office. |
| Endorsement letter of the Implementing Office | It should be addressed to the Hon. Secretary, Attn: Chairman, PEECRC, stating their position and recommendation of the subject claim. |

| | |
|---|--|
| Computation of the amount of claim due to interest from delayed payment of progress billing | It should be in the prescribed format per D.O. No. 58, Series of 2008 - Procedural Flow and Guidelines on the Processing of Extraordinary Claims (Annex G). It should be duly signed by the contractor and the Implementing Office. |
| Copy of Contract Agreement | To prove/verify the existence of the project contract of the claimant and/or any provision pertaining to the claim. |
| General Conditions of Contract (GCC), Special Conditions of the Contract (SCC)/Condition of Particular Application (COPA) *(any of the above which will show the provision for entitlement of the claim) | To check the provision/s that provides legal basis of the contractor's claim for Interest Payment due to the delayed payment of Progress Billing. |
| Copy of NTP | To check the official date of contract effectivity. |
| Background information for each payment duly signed by the head of IO or Certification of the IO | To check the date of submission of the contractor of complete documents for the Progress Billing. |
| Clear/legible Copy of Approved Disbursement Vouchers for every Progress Billings | To check the D.V. No., amount and respective dates received at the Accounting Division. |
| Proof of receipt of payment (depositor's bank accounts transaction record) | To check the date of receipt of the contractor for the payment for the Progress Billing. |
| Copy of Advice/Authority to Debit Accounts/ Payments of D.V. | To further check payment for the Progress Billing and date of receipt of the contractor. It should be signed by the proper authority. |
| Copy of the approved SWA | To check/verify the accomplishment of the contractor for each period covered by the claim. |
| Monthly Project Status Report | To further verify the status of the project if delayed or on schedule. It should be issued by the Implementing Office and signed by the Project Director. |
| Certification from the Implementing Office indicating the reasons for the delay in the payment of progress billing | To check the specific reasons of the delay in the payment of progress billing and it should be signed by the Implementing Office. |

D. Procedure

1. Claim for Interest Payment due to Delayed Payment of Progress Billing shall be filed to the Commission on Audit by the contractor through a petition letter together with the computation of the filed claim and complete documentation in accordance with the approved checklist. It should be simultaneously submitted to the Implementing Office for review and evaluation.

2. The Commission on Audit shall order the Implementing Office to answer the petition.
3. The Implementing Office refers the claim to consultant (if any) for review and recommendation.
4. If there is no consultant, the Implementing Office shall conduct direct review/evaluation of the filed claim and recommend payment or non-payment thereof to the Price Escalation and Extraordinary Claims Review Committee (PEECRC).
5. The PEECRC instructs the Technical Working Group (TWG) for review/evaluation and validation of the recommendation of the Implementing Office.
6. The TWG conducts review/evaluation of the claim and presents recommendation to the PEECRC.
7. The PEECRC conducts deliberation of the claim which shall be presented by the Implementing Office to determine disposition of the claim and prepares answer to the petition recommending payment or non-payment of the claim.
8. The answer to the petition shall be forwarded to the Secretary for approval and shall be forwarded to COA.
9. COA shall approve/disapprove the claim of the contractor and forwards the result to DPWH.
10. If approved, the Implementing Office shall request for funding from the Planning Service.
11. Corresponding payment to the approved claim for Interest Payment due to Delayed Payment of Progress Billing shall be paid by the DPWH.

NOTE:

- The rate of interest for the loan or forbearance of any money, goods, or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be in accordance with Circular No. 799, Series of 2013 issued by Bangko Sentral ng Pilipinas (BSP) or whichever latest issuance of the BSP.
- The date certifications were issued by the head of Implementing Office for each Progress Billing plus the stipulated 28-day reglementary period as stipulated in Clause 43.1 are used as the date progress billings due for payment. In cases where the 28-day reglementary period had lapsed prior to receipt at the Accounting Division of this Department, the date receipt of the progress billing plus five (5) working days will be used as the due date for payment.
- The dates NCA were released based on the certification issued by the Department Chief Accountant are used as reference/basis for the claim.

E. Sample Computation

Refer to **Annex D** for sample computation of claim for payment of Interest Payment Due to Delayed Payment of Progress Billing.

III. Claim for Payment of Burned Equipment

A. Legal Basis

- a. For locally-funded projects

Article 1144 under Chapter 3 – Prescription of Actions of the Civil Code of the Philippines

The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

Determination of events that will result to extraordinary fortuitous events shall be in accordance with the Civil Code of the Philippines:

Article 1680, as it enumerates *Extraordinary Fortuitous Events* or those events which do not usually happen, such as, but not limited to the following:

- a. Fire
- b. War
- c. Pestilence
- d. Unusual flood
- e. Locusts, and
- f. Earthquake.

It shall also be pursuant to the provisions in the Republic Act No. 9184 otherwise known as "Government Procurement Reform Act."

- b. For foreign-assisted projects

The request of Claim for Payment of Burned Equipment of foreign-assisted projects shall be pursuant to General or Particular Conditions of Contract.

Clause 19.1 – Definition of Force Majeure under Chapter 19 – Force Majeure of the FIDIC Conditions of Contract, states that:

"In this Clause, "Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control,
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which, having arisen, such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

B. Basis of Computation

A. Remaining Useful Value (RUV) before the Incident: (From COA Appraisal Formula)

$$RUV = \frac{AC-SV}{L} + R + SV$$

Where:

- AC = Acquisition Cost
- SV = Salvage Value = 10% of Acquisition Cost
- L = Economic Life (estimated useful life)
- R = Remaining Useful Life = L – AS
- AS = Actual Service (age) of the unit

B. Appraised Value (AV) after the Incident:

$$AV = RUV \times CFF \times CF$$

Where:

- CFF = Currently Fluctuation Factor
- $$= \frac{\frac{P}{\$} \text{ rate at appraisal year}}{\frac{P}{\$} \text{ rate at acquisition year}}$$

CF = Condition Factor

- Excellent = 0.8
- Very Good = 0.7
- Good = 0.6
- Satisfactory = 0.5
- Adequate = 0.4
- Fair = 0.3
- Poor = 0.2
- Very Poor = 0.1

The claim for losses incurred due to damages on burned equipment is computed as follows:

NOTE:

Bureau of Equipment parameter on rehabilitated equipment:
 Extended life of Rehabilitated Equipment = three (3) years or thirty six (36) months

COST CONSIDERATION OF ACQUIRED EQUIPMENT:

Burned equipment were acquired as:

- a.) brand new
- b.) newly-reconditioned
- c.) remanufactured units.

C. Checklist of Requirements

| Document | Remarks |
|---|---|
| Letter request of the contractor | It should be duly signed by the authorized representative of the contractor. It should state the amount, specific reason and period of claim, and the legal justification of the claim. The letter should also contain the contractor's letter head, date of request and the position of the signing representative. This should be duly received by the concerned implementing office. |
| Endorsement letter of the Implementing Office | It should be addressed to the Secretary, Attn: Chairman, PEECRC, stating their position and recommendation of the subject claim. |
| Evaluation and recommendation of the consultant and the IO | It should reflect the position and evaluation of the consultant and of the Implementing Office regarding the claim and should be duly signed by the proper authority. |
| Computation of the Claim for Payment of Burned Equipment | It should provide the complete detailed computation of the claim and the overall summary of computation for the request. |
| Copy of Contract Agreement | To prove/verify the existence of the project contract of the claimant and/or any provision pertaining to the claim. |
| General Conditions of Contract (GCC), Special Conditions of the Contract (SCC)/Condition of Particular Application (COPA) *(any of the above which will show the provision for entitlement of the claim) | To check the provision/s that provides legal basis of the contractor's claim for payment of Burned Equipment. |
| Copy of the Approved Suspension Order and Resume Order, if any | To prove that there was a project delay due to Burned Equipment. It should state the nature, reason and duration of the suspended period. |
| Copy of the Approved Time Extensions, if any | To verify the revised duration of the contract. It should state the reason, period and duration for the time extension. |
| Copy of the Approved PDM or PERT/CPM, Bar Chart with S-Curve | To evaluate the schedule of commencement and completion of the items of work relative to the covered equipment in the requested claim. The corresponding Approved Monthly Equipment can likewise be analyzed. |

| | |
|---|---|
| Copy of the Approved Revised PDM or PERT/CPM, Bar Chart with S-Curve | To evaluate the revised schedule of commencement and completion of the items of work relative to the covered equipment/manpower in the requested claim. The corresponding revised Approved Monthly Equipment can likewise be analyzed. |
| Straight Line Diagram | To serve as a visual guide to help in the analysis of the claim for payment. This is to show the contract effectivity date, original and revised expiry dates, period and reason for the suspension and time extension granted to the contractor, if any. |
| List of the operational equipment | To serve as proof that the equipment was at the project site with proof of actual mobilization and certification from the Project Engineer that these are operational. |
| Monthly Equipment and Manpower Report | To check the equipment present and utilized on the covered period of claim. |
| PNP/DILG Investigation Report | To verify/justify the contractor's claim for payment of Burned Equipment. It should contain the investigation and certification of the PNP/DILG in the area for the burning incident. |
| Site photographs | To verify the site condition or the condition of the damaged/burned equipment. |
| Project Engineer's Report | To check/verify the investigation of the Project Engineer stating the damaged equipment from the burning incident. |
| Contractor's request for the importation of equipment, exemption from duties and taxes for the exclusive use of the project | To prove the importation/shipment and presence of the equipment involved and being requested in the claim. It should be signed by the contractor's authorized representative. |
| DPWH endorsement to Department of Finance (DOF) | To further prove the presence/mobilization of the equipment involved and being requested in the claim. |
| Re-export Bond of the Equipment | To further prove the importation/shipment and presence of the equipment involved and being requested in the claim. |
| Bill of Lading | To verify the shipment of the equipment involved and being requested in the claim. |
| Certified True Copy by the PMO of the Leased Agreement of Equipment | To check the equipment leased by the IO. It should state the specific equipment exclusively used for the project duly notarized and received by the IO, if any. |
| Photocopy of the contractor's Field Logbook | To check the presence/mobilization of the equipment involved covering the period of claim duly signed by the consultant (if any) and the IO representative. |
| Contractual Data and latest Status/Progress Report | To check/verify the accomplishment of the contractor. It should be duly signed by the consultant (if any) and the Implementing Office. |

| | |
|---|--|
| Copy of the approved computation/table of predetermined unworkable days | To verify the inclusion of the predetermined unworkable days in the claim. |
|---|--|

D. Procedure

1. Claim for payment of Burned Equipment should be filed to the Commission on Audit by the contractor through a petition letter together with the computation of the filed claim and complete documentation in accordance with the approved checklist. It should be simultaneously submitted to the Implementing Office for review and evaluation.
2. The Commission on Audit shall order the Implementing Office to answer the petition.
3. The Implementing Office refers the claim to consultant (if any) for initial review and recommendation.
4. If there is no consultant, the Implementing Office should conduct direct review/evaluation of the filed claim and recommend payment or non-payment thereof to the Price Escalation and Extraordinary Claims Review Committee (PEECRC). Also, the claim for burned units should be recommended by the Bureau of Equipment.
5. The PEECRC instructs the Technical Working Group (TWG) for further review/evaluation and validation of the recommendation of the Implementing Office.
6. The TWG conducts review/evaluation of the claim and presents recommendation to the PEECRC.
7. The PEECRC conducts deliberation of the claim which shall be presented by the Implementing Office to determine disposition of the claim and prepares answer to the petition recommending payment or non-payment of the claim.
8. The answer to the petition shall be forwarded to the Secretary for approval/disapproval of the request for payment of the claim and forwards the answer to the petition to COA.
9. COA shall approve/disapprove the claim of the contractor and forwards the result to DPWH.
10. If approved, the Implementing Office shall request for funding from the Planning Service.
11. Corresponding payment to the approved claim for Payment of Burned Equipment shall be paid by the DPWH.

E. Sample Computation

Refer to ***Annex E*** for sample computation of claim for payment of Payment of Burned Equipment.

Annex A

Parametric formulas for each work item to
compute the fluctuation factor K

Parametric formulas for each work item to compute the fluctuation factor K

Hereunder are the Parametric Formula for infrastructure projects:

1. Common earthwork fluctuation factor for clearing and grubbing, subgrade preparation, common excavation, common borrow, embankment construction, common fill or backfill and select borrow.

$$K1 = 0.15 + 0.05 (Li/Lo) + 0.60 (Ei/Eo) + 0.20 (Fi/Fo)$$

2. Rock excavation fluctuation factor

$$K2 = 0.15 + 0.08 (Li/Lo) + 0.27 (Zi/Zo) + 0.12 (Fi/Fo) + 0.38 (Ei/Eo)$$

3. Structural excavation fluctuation factor

$$K3 = 0.15 + 0.08 (Li/Lo) + 0.19 (Fi/Fo) + 0.58 (Ei/Eo)$$

4. Structural backfill fluctuation factor

$$K4 = 0.15 + 0.15 (Li/Lo) + 0.17 (Fi/Fo) + 0.53 (Ei/Eo)$$

5. Daywork fluctuation factor for equipment

$$K5 = 0.15 + 0.05 (Li/Lo) + 0.20 (Fi/Fo) + 0.60 (Ei/Eo)$$

6. Daywork fluctuation factor for labor

$$K6 = 0.15 + 0.85 (Li/Lo)$$

7. Graded subbase or base course fluctuation factor using screened or processed aggregate, granular materials, crushed adobe or the like

$$K7 = 0.15 + 0.02 (Li/Lo) + 0.62 (Bi/Bo) + 0.05 (Fi/Fo) + 0.16 (Ei/Eo)$$

8. Asphaltic materials fluctuation factor for prime or tack coat.

$$K8 = 0.15 + 0.01 (Li/Lo) + 0.82 (Ai/Ao) + 0.01 (Fi/Fo) + 0.01 (Ei/Eo)$$

9. Asphaltic concrete fluctuation factor for bituminous wearing or surface course.

$$K9 = 0.15 + 0.01 (Li/Lo) + 0.62 (Ai/Ao) + 0.12 (Bi/Bo) + 0.03 (Fi/Fo) + 0.07 (Ei/Eo)$$

10. Portland cement concrete pavement (PCCP) fluctuation factor

$$K10 = 0.15 + 0.02 (Li/Lo) + 0.47 (Ci/Co) + 0.21 (Bi/Bo) + 0.02 (Di/Do) + 0.03 (Fi/Fo) + 0.10 (Ei/Eo)$$

11. Concrete fluctuation factor for curb, gutter and sidewalk

$$K11 = 0.15 + 0.06 (Li/Lo) + 0.36 (Ci/Co) + 0.16 (Bi/Bo) + 0.03 (Di/Do) + 0.06 (Fi/Fo) + 0.18 (Ei/Eo)$$

12. Reinforced concrete structures fluctuation factor for bridge, culvert, retaining wall, bulkhead, piles, precast, parapet wall, railing, footing, columns, supporting slab and beam

$$K_{12} = 0.15 + 0.03 (Li/Lo) + 0.28 (Ci/Co) + 0.13 (Bi/Bo) + 0.03 (Di/Do) + 0.25 (Ri/Ro) + 0.03 (Fi/Fo) + 0.10 (Ei/Eo)$$

13. Reinforced concrete structures fluctuation factor for headwall, catch basin, manhole, drop inlet concrete post

$$K_{13} = 0.15 + 0.21 (Li/Lo) + 0.25 (Ci/Co) + 0.03 (Di/Do) + 0.19 (Ri/Ro) + 0.09 (Bi/Bo) + 0.02 (Fi/Fo) + 0.06 (Ei/Eo)$$

14. Reinforced concrete pipe (RCP) or culvert pipe (RCCP) fluctuation factor

$$K_{14} = 0.15 + 0.05 (Li/Lo) + 0.61 (Qi/Qo) + 0.02 (Ci/Co) + 0.01 (Bi/Bo) + 0.04 (Fi/Fo) + 0.12 (Ei/Eo)$$

15. Non-reinforced concrete pipes fluctuation factor

$$K_{15} = 0.15 + 0.13 (Li/Lo) + 0.69 (Qi/Qo) + 0.02 (Ci/Co) + 0.01 (Bi/Bo)$$

16. Concrete for structure Class A or B fluctuation factor

$$K_{16} = 0.15 + 0.03 (Li/Lo) + 0.41 (Ci/Co) + 0.19 (Bi/Bo) + 0.09 (Di/Do) + 0.04 (Fi/Fo) + 0.09 (Ei/Eo)$$

17. Grouted rip-rap or stone masonry fluctuation factor

$$K_{17} = 0.15 + 0.18 (Li/Lo) + 0.27 (Ci/Co) + 0.13 (Bi/Bo) + 0.07 (Fi/Fo) + 0.20 (Ei/Eo)$$

18. Concrete masonry (CHB) fluctuation factor

$$K_{18} = 0.15 + 0.33 (Li/Lo) + 0.30 (Qi/Qo) + 0.13 (Ci/Co) + 0.04 (Bi/Bo) + 0.01 (Fi/Fo) + 0.04 (Ei/Eo)$$

19. Reinforcing steel bars fluctuation factor

$$K_{19} = 0.15 + 0.06 (Li/Lo) + 0.67 (Ri/Ro) + 0.04 (Fi/Fo) + 0.08 (Ei/Eo)$$

20. Structural steel bars works fluctuation factor

$$K_{20} = 0.15 + 0.03 (Li/Lo) + 0.71 (Si/So) + 0.03 (Fi/Fo) + 0.08 (Ei/Eo)$$

21. Demolition of concrete structure fluctuation factor

$$K_{21} = 0.15 + 0.07 (Li/Lo) + 0.20 (Fi/Fo) + 0.58 (Ei/Eo)$$

22. Demolition of PCCP strip fluctuation factor

$$K_{22} = 0.15 + 0.09 (Li/Lo) + 0.19 (Fi/Fo) + 0.57 (Ei/Eo)$$

23. Demolition AC pavement strip fluctuation factor

$$K23 = 0.15 + 0.05 (Li/Lo) + 0.20 (Fi/Fo) + 0.60 (Ei/Eo)$$

24. Painting fluctuation factor with use of equipment

$$K24 = 0.15 + 0.28 (Li/Lo) + 0.48 (Ni/No) + 0.02 (Fi/Fo) + 0.07 (Ei/Eo)$$

25. Painting fluctuation factor using labor only

$$K25 = 0.15 + 0.19 (Li/Lo) + 0.66 (Ni/No)$$

26. Wood structure fluctuation factor for falsework, temporary wood bridge, wood guardrail

$$K26 = 0.15 + 0.06 (Li/Lo) + 0.63 (Di/Do) + 0.04 (Fi/Fo) + 0.12 (Ei/Eo)$$

27. Carpentry works fluctuation factor

$$K27 = 0.15 + 0.15 (Li/Lo) + 0.62 (Di/Do) + 0.02 (Fi/Fo) + 0.06 (Ei/Eo)$$

28. Cast and / or galvanized iron pipes fluctuation factor

$$K28 = 0.15 + 0.02 (Li/Lo) + 0.78 (Ii/Io) + 0.01 (Fi/Fo) + 0.04 (Ei/Eo)$$

29. Steel pipes fluctuation factor

$$K29 = 0.15 + 0.03 (Li/Lo) + 0.69 (Ii/Io) + 0.03 (Fi/Fo) + 0.10 (Ei/Eo)$$

30. Asbestos cement pipes fluctuation factor

$$K30 = 0.15 + 0.02 (Li/Lo) + 0.77 (Ki/Ko) + 0.02 (Fi/Fo) + 0.04 (Ei/Eo)$$

31. PVC pipes fluctuation factor

$$K31 = 0.15 + 0.07 (Li/Lo) + 0.69 (Ji/Jo) + 0.02 (Fi/Fo) + 0.07 (Ei/Eo)$$

32. Gate valves and fire hydrants fluctuation factor

$$K32 = 0.15 + 0.04 (Li/Lo) + 0.77 (Ii/Io) + 0.01 (Fi/Fo) + 0.03 (Ei/Eo)$$

33. Check valves fluctuation factor

$$K33 = 0.15 + 0.03 (Li/Lo) + 0.79 (Pi/Po) + 0.01 (Fi/Fo) + 0.02 (Ei/Eo)$$

34. Water service connection fluctuation factor

$$K34 = 0.15 + 0.10 (Li/Lo) + 0.40 (Pi/Po) + 0.35 (Ji/Jo)$$

35. Plumbing fixtures fluctuation factor

$$K35 = 0.15 + 0.08 (Li/Lo) + 0.77 (Pi/Po)$$

36. Plain and corrugated G.1 sheets fluctuation factor

$$K36 = 0.15 + 0.09 (Li/Lo) + 0.76 (Wi/Wo)$$

37. Cement plaster fluctuation factor

$$K37 = 0.15 + 0.38 (Li/Lo) + 0.37 (Ci/Co) + 0.10 (Bi/Bo)$$

38. Marble floor finish fluctuation factor

$$K38 = 0.15 + 0.07 (Li/Lo) + 0.03 (Ci/Co) + 0.01 (Bi/Bo) + 0.65 (Xi/Xo) + 0.03 (Fi/Fo) + 0.06 (Ei/Eo)$$

39. Glazed and ceramic tiles fluctuation factor

$$K39 = 0.15 + 0.12 (Li/Lo) + 0.66 (Xi/Xo) + 0.05 (Ci/Co) + 0.02 (Bi/Bo)$$

40. Window frames and grills fluctuation factor

$$K40 = 0.15 + 0.09 (Li/Lo) + 0.53 (Si/So) + 0.06 (Fi/Fo) + 0.17 (Ei/Eo)$$

41. Glazing fluctuation factor

$$K41 = 0.15 + 0.03 (Li/Lo) + 0.82 (Gi/Go)$$

42. Electrical rough in fluctuation factor

$$K42 = 0.15 + 0.16 (Li/Lo) + 0.69 (Vi/Vo)$$

43. Lighting fixtures and devices fluctuation factor

$$K43 = 0.15 + 0.13 (Li/Lo) + 0.72 (Ui/Uo)$$

44. PVC waterstop (9") fluctuation factor

$$K44 = 0.15 + 0.03 (Li/Lo) + 0.82 (Ji/Jo)$$

45. Electrical wood pole fluctuation factor

$$K45 = 0.15 + 0.01 (Li/Lo) + 0.73 (Di/Do) + 0.03 (Fi/Fo) + 0.08 (Ei/Eo)$$

46. Wood crossarm fluctuation factor

$$K46 = 0.15 + 0.11 (Li/Lo) + 0.74 (Di/Do)$$

47. Lightning arrester (3,000v to 15,000v) fluctuation factor

$$K47 = 0.15 + 0.09 (Li/Lo) + 0.76 (Ti/To)$$

48. Transformers (10KVA to 50KVA) fluctuation factor

$$K48 = 0.15 + 0.01 (Li/Lo) + 0.81 (Ti/To) + 0.01 (Fi/Fo) + 0.02 (Ei/Eo)$$

49. Bare copper wire fluctuation factor

$$K49 = 0.15 + 0.04 (Li/Lo) + 0.79 (Ti/To) + 0.01 (Fi/Fo) + 0.01 (Ei/Eo)$$

50. Bare aluminum wire fluctuation factor

$$K50 = 0.15 + 0.13 (Li/Lo) + 0.69 (Ti/To) + 0.01 (Fi/Fo) + 0.02 (Ei/Eo)$$

51. Dredging fluctuation factor

$$K51 = 0.15 + 0.06 (Li/Lo) + 0.20 (Fi/Fo) + 0.59 (Ei/Eo)$$

52. General construction fluctuation factor (for others not covered by any or combination of the above 51 fluctuation factors)

$$K52 = 0.15 + 0.85 (Mi/Mo)$$

Where:

| | | |
|----|---|--|
| Mi | - | current general construction price index figure |
| Mo | - | base general construction price index figure |
| Li | - | current labor index figure |
| Lo | - | base labor index figure |
| Ei | - | current equipment index figure |
| Eo | - | base equipment index figure |
| Ai | - | current asphaltic material price index figure |
| Ao | - | base asphaltic material price index figure |
| Bi | - | current aggregates material price index figure |
| Bo | - | base aggregates material price index figure |
| Ci | - | current cement price index figure |
| Co | - | base cement price material index figure |
| Di | - | current lumber material price index figure |
| Do | - | base lumber material price index figure |
| Fi | - | current automotive fuel price index figure |
| Fo | - | base automotive fuel price index figure |
| Gi | - | current glass and glazing material price index figure |
| Go | - | base glass and glazing material price index figure |
| Hi | - | current hardware material price index figure |
| Ho | - | base hardware material price material index figure |
| Ii | - | current galvanized and/ or cast iron pipe (Plumbing) material price index figure |
| Io | - | base galvanized and/or cast iron pipe (Plumbing) material price index figure |

| | | |
|----|---|--|
| Ji | - | current polyvinyl chloride pipe (Plumbing) material price index figure |
| Jo | - | base polyvinyl chloride pipe (Plumbing) material price index figure |
| Ki | - | current asbestos cement pipe (Plumbing) material price index figure |
| Ko | - | base asbestos cement pipe (Plumbing) material price index figure |
| Ni | - | current paint material price index figure |
| No | - | base paint material price index figure |
| Pi | - | current plumbing fixtures material price index figure |
| Po | - | base plumbing fixtures material price index figure |
| Qi | - | current concrete products material price index figure |
| Qo | - | base concrete products material price index figure |
| Ri | - | current reinforcing steel material price index figure |
| Ro | - | base reinforcing steel material price index figure |
| Si | - | current structural steel material price index figure |
| So | - | base structural steel material price index figure |
| Ti | - | current exterior electrical material price index figure |
| To | - | base exterior electrical material price index figure |
| Ui | - | current electrical fixtures/ devices material price index figure |
| Uo | - | base electrical fixtures/ devices material price index figure |
| Vi | - | current electrical (rough-in) material price index figure |
| Vo | - | base electrical (rough-in) material price index figure |
| Wi | - | current metal products material price index figure |
| Wo | - | base metal products material price index figure |
| Xi | - | current tile work material price index figure |
| Xo | - | base tile work material price index figure |
| Zi | - | current blasting material price index figure |
| Zo | - | base blasting material price index figure |

Annex B

Sample Computation for Price Escalation

Sample Computation for Price Escalation

1. If there is a legal basis to claim for price escalation in accordance with the guidelines, proceed to next item.
2. The date of bid opening for the subject contract was December 2007 and the contract was implemented starting January 2008.
3. The six (6) – month period under consideration for contract price escalation is from January to June 2008.
4. The thirty (30) – month historical data for the components of K19 necessary for testing compliance with the Technical Parameters under Section 5.2.2 of these Guidelines is from July 2005 to December 2007.
5. The Work Item Identified to have been affected by the Extraordinary Circumstances is Reinforcing Steel Bars or K19.

$$K19 = 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08(E_i/E_o)$$

Where: L – refers to labor index

R – refers to reinforcing steel bars wholesale price index

F – refers to automotive fuel price index

E – refers to equipment price index

i – refers to the value of index for the month under consideration

o – refers to the value of the index during opening of bid

The following steps illustrate how to determine whether request for price escalation may be granted using the 2 Standard Deviation (STDEV) rule under Section 5.2.2.a:

1. Compute for the Mean for each component of K19 using the data in Table 1 for the entire thirty (30) month period (July 2005 to December 2007)

Table 1: Computation for the Mean

| K19 Component | Formula for Mean | Mean |
|-----------------------|---|--------|
| Labor (L) | $\frac{\sum L \text{ from Jul2005 to Dec2007}}{30}$ | 343.70 |
| Reinforcing Steel (R) | $\frac{\sum R \text{ from Jul2005 to Dec2007}}{30}$ | 524.70 |
| Automotive Fuel (F) | $\frac{\sum F \text{ from Jul2005 to Dec2007}}{30}$ | 436.90 |
| Equipment (E) | $\frac{\sum E \text{ from Jul2005 to Dec2007}}{30}$ | 321.40 |

2. COMPUTE THE 2 STDEV above Mean ($2\Phi + \mu$) of each K19 component by adding the Mean computed under step 1 to the 2 STDEV. The 2STDEV is computed by getting the STDEV of the thirty (30) - month historical data of each K19 component and multiplying it by 2.

Table 2: Computation for the 2STDEV above Mean

| K19 Component | STDEV | 2STDEV (STDEV*2) | $2\Phi + \mu$ 2STDEV + Mean |
|-----------------------|-------|---------------------|--------------------------------|
| Labor (L) | 14.10 | 28.20 | 371.87 |
| Reinforcing Steel (R) | 21.90 | 43.80 | 568.50 |
| Automotive Fuel (F) | 32.30 | 64.60 | 501.50 |
| Equipment (E) | 10.46 | 20.92 | 342.32 |

$$SD = \sqrt{\frac{\sum_1^n (X - \bar{X})^2}{N - 1}}$$

Where: X – is the entire list of numbers

\bar{X} – is the mean

N – is the number of months

$$SD(\text{Labor}) = \sqrt{\frac{\sum n (5766.70)}{29}}$$

$$SD = \sqrt{198.85}$$

$$SD = 14.10$$

$$SD(\text{RSB}) = \sqrt{\frac{\sum n (13952.36)}{29}}$$

$$SD = \sqrt{481.12}$$

$$SD = 21.90$$

$$SD(\text{Fuel}) = \sqrt{\frac{\sum n (30290.05)}{29}}$$

$$SD = 32.30$$

$$SD(\text{Equipment}) = \sqrt{\frac{\sum n (3171.51)}{29}}$$

$$SD = 10.46$$

3. Establish the K19 Threshold by substituting the values of the STDEV above mean computed in Step 2 into the K19 Item. Formula as follows:

$$\text{K19 Threshold} = 0.15 + 0.06(2\Phi + \mu)_L + 0.67(2\Phi + \mu)_R + 0.04(2\Phi + \mu)_F + 0.08(2\Phi + \mu)_E$$

$$\text{K19 Threshold} = 0.15 + 0.06(371.87) + 0.67(568.50) + 0.04(501.50) + 0.08(342.32)$$

$$\text{K19 Threshold} = 450.080$$

4. Compute for the Average Value of each price index for the six-month period (January to June 2008) under consideration for contract price escalation.

| K19 Component | Average Value |
|-----------------------|---------------|
| Labor (L) | 364.80 |
| Reinforcing Steel (R) | 625.10 |
| Automotive Fuel (F) | 542.10 |
| Equipment (E) | 328.70 |

5. Establish K19 Average by computing the Average Value of the work item for the six (6) – month period under consideration for price escalation (January to June 2008) as follows:

$$K19 = 0.15 + 0.06(Ave)_L + 0.67(Ave)_R + 0.04(Ave)_F + 0.08(Ave)_E$$

$$K19 = 0.15 + 0.06(364.8) + 0.67(625.1) + 0.04(542.1) + 0.08(328.7)$$

$$K19 = 488.8$$

6. To determine whether request for price escalation may be granted, the K19 Average should be compared to the K19 Threshold. If K19 Average is greater than K19 threshold, price escalation may be granted; otherwise the request for price escalation should be denied.
7. In the above example, K19 Average is greater than K19 Threshold. Therefore, price escalation may be granted for the period of January to June 2008. See Annex ___ for Sample Price Indices of Variables Relevant to K19.

TABLE 1: Sample Price Indices of Variables Relevant to K19

| Period | | Labor (L) | RSB (R) | Fuel (F) | Eqpt. (E) |
|--------|-------|-----------|---------|----------|-----------|
| Year | Month | Indices | Indices | Indices | Indices |
| | Jun | 379.0 | 736.5 | 636.6 | 328.7 |
| | May | 362.0 | 625.3 | 565.4 | 328.7 |
| | Apr | 362.0 | 616.7 | 529.8 | 328.7 |
| | Mar | 362.0 | 587.6 | 511.0 | 328.7 |
| | Feb | 362.0 | 578.6 | 500.3 | 328.7 |
| 2008 | Jan | 362.0 | 578.6 | 509.3 | 328.7 |
| | Dec | 362.0 | 561.9 | 508.0 | 293.6 |
| | Nov | 362.0 | 561.9 | 497.4 | 299.3 |
| | Oct | 362.0 | 560.4 | 477.6 | 303.7 |
| | Sep | 362.0 | 560.4 | 463.5 | 310.4 |
| | Aug | 362.0 | 549.3 | 459.4 | 310.1 |
| | Jul | 350.0 | 549.3 | 451.2 | 308.4 |
| | Jun | 350.0 | 549.3 | 449.8 | 310.5 |
| | May | 350.0 | 535.1 | 440.0 | 313.0 |
| | Apr | 350.0 | 535.1 | 429.1 | 316.8 |
| | Mar | 350.0 | 529.5 | 414.4 | 319.5 |
| | Feb | 350.0 | 526.7 | 408.5 | 319.0 |
| 2007 | Jan | 350.0 | 525.3 | 427.1 | 321.0 |

| | Dec | 350.0 | 524.5 | 425.2 | 328.7 |
|--------|-------|-----------|-----------|-------------------|-------|
| | Nov | 350.0 | 526.3 | 426.4 | 328.7 |
| | Oct | 350.0 | 522.4 | 435.2 | 328.7 |
| | Sep | 350.0 | 522.6 | 455.2 | 328.7 |
| | Aug | 350.0 | 522.8 | 475.9 | 328.7 |
| | Jul | 350.0 | 530.4 | 471.3 | 328.7 |
| | Jun | 350.0 | 520.4 | 465.1 | 328.7 |
| | May | 350.0 | 513.0 | 455.2 | 328.7 |
| | Apr | 325.0 | 513.0 | 434.4 | 328.7 |
| | Mar | 325.0 | 504.3 | 426.3 | 328.7 |
| | Feb | 325.0 | 502.1 | 423.5 | 328.7 |
| 2006 | Jan | 325.0 | 497.8 | 406.2 | 328.7 |
| | Dec | 325.0 | 509.5 | 405.1 | 328.7 |
| | Nov | 325.0 | 509.5 | 416.3 | 328.7 |
| | Oct | 325.0 | 511.8 | 409.9 | 328.7 |
| | Sep | 325.0 | 487.7 | 395.4 | 328.7 |
| | Aug | 325.0 | 487.7 | 381.5 | 328.7 |
| 2005 | Jul | 325.0 | 489.8 | 371.8 | 328.7 |
| Period | | Labor (L) | | | |
| Year | Month | X | \bar{X} | $(X - \bar{X})^2$ | |
| | Jun | 379.0 | | 1246.09 | |
| | May | 362.0 | | 334.89 | |
| | Apr | 362.0 | | 334.89 | |
| | Mar | 362.0 | | 334.89 | |
| | Feb | 362.0 | | 334.89 | |
| 2008 | Jan | 362.0 | | 334.89 | |
| | Dec | 362.0 | | 334.89 | |
| | Nov | 362.0 | | 334.89 | |
| | Oct | 362.0 | | 334.89 | |
| | Sep | 362.0 | 343.70 | 334.89 | |

| | | | | |
|------|-----|----------|--|---------|
| | Aug | 362.0 | | 334.89 |
| | Jul | 350.0 | | 39.69 |
| | Jun | 350.0 | | 39.69 |
| | May | 350.0 | | 39.69 |
| | Apr | 350.0 | | 39.69 |
| | Mar | 350.0 | | 39.69 |
| | Feb | 350.0 | | 39.69 |
| 2007 | Jan | 350.0 | | 39.69 |
| | Dec | 350.0 | | 39.69 |
| | Nov | 350.0 | | 39.69 |
| | Oct | 350.0 | | 39.69 |
| | Sep | 350.0 | | 39.69 |
| | Aug | 350.0 | | 39.69 |
| | Jul | 350.0 | | 39.69 |
| | Jun | 350.0 | | 39.69 |
| | May | 350.0 | | 39.69 |
| | Apr | 325.0 | | 349.69 |
| | Mar | 325.0 | | 349.69 |
| | Feb | 325.0 | | 349.69 |
| 2006 | Jan | 325.0 | | 349.69 |
| | Dec | 325.0 | | 349.69 |
| | Nov | 325.0 | | 349.69 |
| | Oct | 325.0 | | 349.69 |
| | Sep | 325.0 | | 349.69 |
| | Aug | 325.0 | | 349.69 |
| 2005 | Jul | 325.0 | | 349.69 |
| | Σ | 10310.00 | | 5766.70 |

$$\text{Mean} = \frac{\Sigma L \text{ from Jul2005 to Dec2007}}{30} = \frac{10310.00}{30}$$

$$\text{Mean} = 343.67 \text{ say } \mathbf{343.7}$$

$$\text{SD} = \sqrt{\frac{\sum_1^n (X - \bar{X})^2}{N-1}} \quad \text{SD Labor} = \sqrt{\frac{\sum n (5766.70)}{29}}$$

41

SD Labor = 14.10

| Period | | Reinforcing Steel Bars (R) | | |
|--------|-------|----------------------------|-----------|-------------------|
| Year | Month | X | \bar{X} | $(X - \bar{X})^2$ |
| | Jun | 736.5 | | 44859.24 |
| | May | 625.3 | | 10120.36 |
| | Apr | 616.7 | | 8464 |
| | Mar | 587.6 | | 3956.41 |
| | Feb | 578.6 | | 3956.41 |
| 2008 | Jan | 578.6 | | 3956.41 |
| | Dec | 561.9 | | 1383.84 |
| | Nov | 561.9 | | 1383.84 |
| | Oct | 560.4 | | 1274.49 |
| | Sep | 560.4 | | 1274.49 |
| | Aug | 549.3 | | 605.16 |
| | Jul | 549.3 | | 605.16 |
| | Jun | 549.3 | | 605.16 |
| | May | 535.1 | | 108.16 |
| | Apr | 535.1 | | 108.16 |
| | Mar | 529.5 | | 23.04 |
| | Feb | 526.7 | | 4.00 |
| 2007 | Jan | 525.3 | | 0.36 |
| | Dec | 524.5 | | 0.04 |
| | Nov | 526.3 | | 2.56 |
| | Oct | 522.4 | 524.7 | 5.29 |
| | Sep | 522.6 | | 4.41 |
| | Aug | 522.8 | | 4.41 |
| | Jul | 530.4 | | 32.49 |
| | Jun | 520.4 | | 18.49 |
| | May | 513.0 | | 136.89 |
| | Apr | 513.0 | | 136.89 |

| | | | | |
|------|----------|----------|--|----------|
| | Mar | 504.3 | | 416.16 |
| | Feb | 502.1 | | 510.76 |
| 2006 | Jan | 497.8 | | 723.61 |
| | Dec | 509.5 | | 231.04 |
| | Nov | 509.5 | | 231.04 |
| | Oct | 511.8 | | 166.41 |
| | Sep | 487.7 | | 1369.00 |
| | Aug | 487.7 | | 1369.00 |
| 2005 | Jul | 489.8 | | 1218.01 |
| | Σ | 15739.60 | | 13952.36 |

$$\text{Mean} = \frac{\Sigma R \text{ from Jul2005 to Dec2007}}{30} = \frac{15739.60}{30}$$

$$\text{Mean} = 524.65 \text{ say } \mathbf{524.7}$$

$$\text{SD} = \sqrt{\frac{\Sigma_1^n (X - \bar{X})^2}{N-1}} \quad \text{SD RSB} = \sqrt{\frac{\Sigma n (13952.36)}{29}}$$

$$\text{SD RSB} = 21.93 \text{ say } 21.90$$

| | | Fuel (F) | | |
|------|-------|----------|-----------|-------------------|
| Year | Month | X | \bar{X} | $(X - \bar{X})^2$ |
| | Jun | 636.6 | | 39880.09 |
| | May | 565.4 | | 16512.25 |
| | Apr | 529.8 | | 8630.41 |
| | Mar | 511.0 | | 5490.81 |
| | Feb | 500.3 | | 4019.56 |
| 2008 | Jan | 509.3 | | 5241.76 |
| | Dec | 508.0 | | 5055.21 |
| | Nov | 497.4 | | 3660.25 |
| | Oct | 477.6 | | 1656.49 |
| | Sep | 463.5 | | 707.56 |
| | Aug | 459.4 | | 506.25 |
| | Jul | 451.2 | | 204.49 |
| | Jun | 449.8 | | 166.41 |

| | | | | |
|------|-----|----------|--------|----------|
| | May | 440.0 | | 9.61 |
| | Apr | 429.1 | | 60.84 |
| | Mar | 414.4 | | 506.25 |
| | Feb | 408.5 | | 806.56 |
| 2007 | Jan | 427.1 | | 136.89 |
| | Dec | 425.2 | | 136.89 |
| | Nov | 426.4 | | 110.25 |
| | Oct | 435.2 | 436.90 | 2.89 |
| | Sep | 455.2 | | 334.89 |
| | Aug | 475.9 | | 1521.00 |
| | Jul | 471.3 | | 795.24 |
| | Jun | 465.1 | | 334.89 |
| | May | 455.2 | | 334.89 |
| | Apr | 434.4 | | 6.25 |
| | Mar | 426.3 | | 112.36 |
| | Feb | 423.5 | | 179.56 |
| 2006 | Jan | 406.2 | | 949.49 |
| | Dec | 405.1 | | 1011.24 |
| | Nov | 416.3 | | 424.36 |
| | Oct | 409.9 | | 729.00 |
| | Sep | 395.4 | | 1722.25 |
| | Aug | 381.5 | | 3069.16 |
| 2005 | Jul | 371.8 | | 4238.01 |
| | Σ | 13105.90 | | 30290.05 |

$$\text{Mean} = \frac{\sum F \text{ from Jul2005 to Dec2007}}{30} = \frac{13105.90}{30}$$

$$\text{Mean} = 436.86 \text{ say } \mathbf{436.90}$$

$$SD = \sqrt{\frac{\sum_1^n (x - \bar{x})^2}{N-1}} \quad SD \text{ Fuel} = \sqrt{\frac{\sum n (30290.05)}{29}}$$

$$SD \text{ Fuel} = 32.32 \text{ say } 32.30$$

| Period | | Equipment (E) | | |
|--------|-------|---------------|-----------|-------------------|
| Year | Month | X | \bar{X} | $(X - \bar{X})^2$ |
| | Jun | 328.7 | | 53.29 |
| | May | 328.7 | | 53.29 |
| | Apr | 328.7 | | 53.29 |
| | Mar | 328.7 | | 53.29 |
| | Feb | 328.7 | | 53.29 |
| 2008 | Jan | 328.7 | | 53.29 |
| | Dec | 293.6 | | 772.84 |
| | Nov | 299.3 | | 488.41 |
| | Oct | 303.7 | | 313.29 |
| | Sep | 310.4 | | 121.00 |
| | Aug | 310.1 | | 127.69 |
| | Jul | 308.4 | | 169.00 |
| | Jun | 310.5 | | 118.81 |
| | May | 313.0 | | 70.56 |
| | Apr | 316.8 | | 21.16 |
| | Mar | 319.5 | | 3.61 |
| | Feb | 319.0 | | 5.76 |
| 2007 | Jan | 321.0 | 321.4 | 0.16 |
| | Dec | 328.7 | | 53.29 |
| | Nov | 328.7 | | 53.29 |
| | Oct | 328.7 | | 53.29 |
| | Sep | 328.7 | | 53.29 |
| | Aug | 328.7 | | 53.29 |
| | Jul | 328.7 | | 53.29 |
| | Jun | 328.7 | | 53.29 |
| | May | 328.7 | | 53.29 |
| | Apr | 328.7 | | 53.29 |
| | Mar | 328.7 | | 53.29 |

| | | | | |
|------|-----|---------|--|---------|
| | Feb | 328.7 | | 53.29 |
| 2006 | Jan | 328.7 | | 53.29 |
| | Dec | 328.7 | | 53.29 |
| | Nov | 328.7 | | 53.29 |
| | Oct | 328.7 | | 53.29 |
| | Sep | 328.7 | | 53.29 |
| | Aug | 328.7 | | 53.29 |
| 2005 | Jul | 328.7 | | 53.29 |
| | Σ | 9641.90 | | 3171.51 |

$$\text{Mean} = \frac{\Sigma E \text{ from Jul 2005 to Dec 2007}}{30} = \frac{9641.90}{30}$$

$$\text{Mean} = 321.40$$

$$\text{SD} = \sqrt{\frac{\Sigma (X - \bar{X})^2}{N-1}} \quad \text{SD Equipment} = \sqrt{\frac{\Sigma n (3171.51)}{29}}$$

$$\text{SD Equipment} = 10.46$$

Computation for Amount of Price Escalation

After determining that price escalation may be granted for the period under consideration, the computation for the amount to be granted is done for each month of said period.

1. Compute the Monthly Rates of Increase for the period granted under consideration (January to June 2008) in accordance with Section 5.2.4.a of these Guidelines as follows:

$$\begin{aligned} \text{K19 June} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\ &= 0.15 + 0.06 (1.05) + 0.67 (1.31) + 0.04 (1.25) + 0.08 (1.12) \\ &= \mathbf{1.23} \end{aligned}$$

$$\begin{aligned} \text{K19 May} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\ &= 0.15 + 0.06 (1.00) + 0.67 (1.16) + 0.04 (1.11) + 0.08 (1.12) \\ &= \mathbf{1.12} \end{aligned}$$

$$\begin{aligned} \text{K19 April} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\ &= 0.15 + 0.06 (1.00) + 0.67 (1.19) + 0.04 (1.04) + 0.08 (1.12) \\ &= \mathbf{1.08} \end{aligned}$$

$$\begin{aligned} \text{K19 Mar} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\ &= 0.15 + 0.06 (1.00) + 0.67 (1.05) + 0.04 (1.01) + 0.08 (1.12) \\ &= \mathbf{1.04} \end{aligned}$$

$$\begin{aligned} \text{K19 Feb} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\ &= 0.15 + 0.06 (1.00) + 0.67 (1.03) + 0.04 (0.98) + 0.08 (1.12) \\ &= \mathbf{1.03} \end{aligned}$$

$$\begin{aligned}
K_{19 \text{ Jan}} &= 0.15 + 0.06 (L_i/L_o) + 0.67 (R_i/R_o) + 0.04 (F_i/F_o) + 0.08 (E_i/E_o) \\
&= 0.15 + 0.06 (1.05) + 0.67 (1.31) + 0.04 (1.25) + 0.08 (1.12) \\
&= \mathbf{1.23}
\end{aligned}$$

2. Compute the Percentage Rate of Increase for the Work item for each month of the period under consideration in accordance with Section 5.3 as follows:

$$\begin{aligned}
P_{\text{June}} &= P_o (1.23 - 0.05) \\
&= \mathbf{P_o (1.18)}
\end{aligned}$$

$$\begin{aligned}
P_{\text{May}} &= P_o (1.12 - 0.05) \\
&= \mathbf{P_o (1.07)}
\end{aligned}$$

$$\begin{aligned}
P_{\text{April}} &= P_o (1.08 - 0.05) \\
&= \mathbf{P_o (1.03)}
\end{aligned}$$

$$P_{\text{Mar}} = \mathbf{P_o}$$

$$P_{\text{Feb}} = \mathbf{P_o}$$

$$P_{\text{Jan}} = \mathbf{P_o}$$

This shows that the Escalated Value of the work item for the months of June, May, and April is 18%, 7%, and 3%, respectively, higher than the original value of the work item.

3. Compute the Escalated Value to be granted for the work item by applying the Percentage Rate of Increase for each month to the monthly billing, which should be supported by official receipts, sales invoices, and other acceptable documentary evidence, as follows:

Computation for the Escalated Value

| Month | Percentage Rate of Increase | Monthly Billing | Escalated Value |
|----------|-----------------------------|-----------------|-----------------|
| January | 0 | ₱ 1 Million | ₱ 0.00 |
| February | 0 | ₱ 1 Million | ₱ 0.00 |
| March | 0 | ₱ 1 Million | ₱ 0.00 |
| April | 3 | ₱ 1 Million | ₱ 30,000.00 |
| May | 7 | ₱ 1 Million | ₱ 70,000.00 |
| June | 18 | ₱ 1 Million | ₱ 180,000.00 |

Annex C

Sample Computation for Claim for Payment
of Interest Payment Due to Delayed Payment
of Progress Billing

Sample Computation for Claim for Payment of Interest Payment Due to Delayed Payment of Progress Billing

PROBLEM SITUATION:

On June 15, 1991, Mt. Pinatubo erupted causing tremendous damage on the lives and properties in the province of Zambales. Hence, on June 3, 1992, the DPWH Undersecretary called a meeting at the DPWH Regional Office in San Fernando, Pampanga which was attended by thirty (30) contractors including Contractor A, and underscored the necessity of desilting the different river systems in Central Luzon upon instructions of the Secretary.

Two (2) projects were awarded to a Contractor A without a written contract, as follows:

1. First Project -- emergency excavation, hauling and shaping or diking of lahar spoils located at Station 13+930 to Station 14+486 of Maculcul River in San Narciso, Zambales with a contract amount of Php 14,116,902.57.
2. Second Project -- emergency excavation, hauling and shaping of lahar spoils located at Station 14+490 to Station 15+020 of Maculcul River in San Narciso, Zambales with a contract amount of Php 14,044,921.94.

GIVEN:

1. On the said meeting, it was agreed between concerned parties that forty percent (40%) of the works accomplished in 1992 will be paid within same year and the remaining balance of 60% will be paid in 1992 or as soon as funds are available.
2. On July 15, 1992, Contractor A was instructed by Mt. Pinatubo Rehabilitation Management Office to stop the work due to the rainy season.
3. Contractor A was able to complete 93% of the contracted job for First Project amounting to Php 13,128,719.39 for the excavation, hauling and shaping including mobilization expenses whereas for the Second Project, Contractor A was able to accomplish 91% of the contracted job with a total cost of Php 12,780,878.97.
4. The DPWH refused to pay Contractor A's claim for payment of its accomplishment for the two (2) projects despite availability of funds. Hence, Contractor A filed a complaint for sum of money and damages before the Regional Trial Court (RTC).
5. After all the hearings and processes, RTC ordered DPWH to pay the principal amount with interests per centum per month, attorney's fees equivalent to ten (10%) per centum of the total claim of the contractor, litigation expenses in the amount of five hundred thousand pesos (Php 500,000.00) and the cost of the suit.
6. RTC ordered DPWH to pay for the interest amounting to one percent (1%) per centum per month commencing from July 15, 1992 until fully paid. However, the assailed decision of the RTC was affirmed with modification by the Fourth Division, Court of Appeals, on November 22, 2015 changing the rate of interest from 1% per month reckoned from July 15, 1992 to 6% from November 10, 1993 until its finality and 12% thereafter until fully paid, which became final and executory on July 14, 2006 as recorded in the Book of Entries of the Second Division, Supreme Court.

7. After the ECRC deliberation held last March 14, 2007, the amount claimed by Contractor A was found to be correct and in order based on the Supreme Court decision.

COMPUTATION:

| | AMOUNT |
|--|------------------------|
| Principal | ₱ 25,953,467.66 |
| Interest at 6% a year from November 10, 1993 to July 10, 2006 or a period of 12 years and 8 months | 19,724,653.43 |
| Interest at 12% a year from July 14, 2006 to March 14, 2007 or a period of 8 months | 2,076,277.41 |
| Total Principal and Interest | 47,754,380.50 |
| Add: 10% of ₱ 47,754,380.50 for Attorney's Fees | 4,775,438.05 |
| Add: Litigation Expenses | 500,000.00 |
| Total Amount due as of March 14, 2007 | ₱ 53,029,818.55 |

RESOLUTION:

In view of the decision of the Regional Trial Court which is affirmed by the Court of Appeals and the Supreme Court, the ECRC recommends the approval of the payment of two completed and unpaid excavation, hauling and diking projects in the amount of **FIFTY THREE MILLION TWENTY NINE THOUSAND EIGHT HUNDRED EIGHTEEN AND 55/100 PESOS ONLY (₱ 53,029,818.55).**

Annex D

Sample Computation for Claim for Payment
of Payment of Burned Equipment

Sample Computation for Claim for Payment of Payment of Burned Equipment

PROBLEM SITUATION:

Five (5) units of heavy construction equipment owned by Contractor A, were allegedly burned by unidentified armed men on February 10, 2012 at quarry site in Brgy. San Roque, Kidapawan City. The units were, at the time of the burning incident, being used in connection with the NRIMP-2, CP-RI 2.7B Project, Digos-Cotabato Road, Kidapawan City.

GIVEN:

1. The burned equipment were already investigated by the PNP/DILG, Cotabato Police Provincial Office, Kidapawan City, and were further certified by the Bureau of Fire Protection, Office of the City Fire Marshall, Kidapawan City Fire Office, Kidapawan City.
2. During the course of site verification or ocular inspection, only four (4) units were inspected at the contractor's yard in Amas, Kidapawan City since one (1) unit, the hydraulic excavator, was already transferred at the contractor's other yard in Sultan Naga Dimaporo, a distant town in Lanao del Norte since the company had an earlier plan to move out from the present compound in Kidapawan City due to the continuing threat from outside to the personnel and property of the firm.
3. As a result of the ocular inspection, the burned equipment that were considerably damaged and need to be replaced or undergo major repairs in order to restore into operational condition are as follows:

a. Dump Truck No. 1:

Make and Model: Isuzu, 10-wheeler with Plate No. RHS-650
Serial No.....CXZ71J3010747
Engine No.....10PDI-767584
Acquisition Cost.....PhP 1,188,000.00
Date Acquired.....November 11, 2008

Remarks: The unit was totally burned and it is deemed uneconomical and impractical to subject the unit to major repairs due to the great extent of damage inflicted in the equipment. It is already considered junk.

b. Dump Truck No. 2:

Make and Model: Isuzu, 10-wheeler with Plate No. RFT-734
Serial No.....CXZ81K13000269
Engine No.....10PE1-152242
Acquisition Cost.....PhP 962,500.00
Date Acquired.....March 12, 2009

Remarks: The unit was also totally burned and wrecked. Again, it would be impractical and uneconomical to make major repairs due to the great extent of damage inflicted in the equipment. It is also already considered junk.

c. Dump Truck No. 3:

Make and Model: Isuzu, 10-wheeler with Plate No. RJC-725
Serial No.....CXZ71J-3014816
Engine No.....10PD1-780049
Acquisition Cost.....PhP 1,150,000.00
Date Acquired.....June 10, 2009

Remarks: The unit was totally damaged and the whole unit was entirely burned so major repairs to restore it to operational condition would be uneconomical and impractical. It is now considered junk.

d. Payloader

Make and Model: Volvo Mdl. LG958

Serial No.....91050662

Engine No.....

Acquisition Cost.....PhP 3,900,000.00

Date Acquired.....February 7, 2011

Remarks: The unit was also burned. The entirety of the operator's cabin/canopy suffered considerable damage to include the instrument pane, board, gauges, steering hoses, accelerator cable, air-condition system wiring harness, batteries, oil filter assembly, foot valve and side mirrors. Also the boom/bucket lever control, steering wheel and steering orbitol assembly were severely damaged as well as other combustible parts. The unit may still be optionally restored into operational condition if major repairs shall have to be done.

e. Backhoe (Hydraulic Excavator)

Make and Model: Hitachi Excavator Crawler, Mdl. UH07-7

Serial No.....164-22279

Engine No.....

Acquisition Cost.....PhP 700,000.00

Date Acquired.....February 7, 1998

Remarks: The backhoe was not actually inspected at the Contractor A's construction compound in Amas, Kidapawan City, and as aforementioned, it was already transferred to Sultan Naga Dimaporo, Lanao Del Norte. The picture of the unit was submitted by the contractor and it shows that the operator's cockpit (canopy) was the one that was heavily damaged. The whole of the operator's cabin was practically razed to ashes severely damaging the instrument panel board and gauges, steering lever and hoses, accelerator cables, air-conditioning system and the wiring harness. The control levers for the boom and bucket (shovel) were also damaged plus all other instruments and accessories inside the cabin and the other hydraulic hoses of the rest of the controls. Optionally, the unit needs major repairs to restore it to operational condition.

However, reportedly, the unit was repaired and is now in good operating condition upon the follow-up inspection by the EMD personnel, Region XII and per Verification/Assessment Report. To support his claims, the contractor submitted the Sales Invoice covering the cost of parts incurred in said repairs in the amount of FIVE HUNDRED SIXTY-SIX THOUSAND THREE HUNDRED PESOS ONLY (PhP566,300.00).

4. From the facts and data that were gathered plus the pictures taken of the burned equipment and basing from the site verification and ocular inspection, the evaluation and/or assessment made by this team shows that all the five (5) units were considerably damaged. The three (3) dump trucks were totally burned and the firm's Project Engineer told that the owner seems to have opted to replace the burned units with another reconditioned ones rather than undergo major repairs so they did not submit any assessment of the damaged parts for repair purposes. The Front-end loader and Hydraulic excavator also suffered considerable damages that the lighter in extent than those of the three dump trucks. The owner did not submit replacement parts estimate for the Pay Loader with the notion, and may have opted, that it would be

better and more practical to replace the unit with another one than to undergo major repairs. But then, the Backhoe was reported to have been repaired and is now in good operating condition.

5. Nevertheless, the prescribed Commission on Audit (COA) guidelines and formula were used in the computation of the subject claim. With the application of the prescribed procedures and computations using the COA formulas, the amount of claim that may be considered can be determined by computing for the remaining useful values of the units before the burning incident, then subtract from it the computed appraised value after they were burned. Pursuant to COA Memorandum Circular No. 88-569, dated August 12, 1988 and basing from the COA appraisal formula which is being adopted by the Bureau of Equipment (BOE), the amount of claim that can be considered for the burned units are computed as follows:

- A. Remaining Useful Value (RUV) before the Incident:
(Form COA Appraisal Formula)

$$RUV = \left(\frac{AC-SV}{L} \right) R + SV$$

Where:

| | |
|----|---|
| AC | = Acquisition Cost |
| SV | = Salvage Value = 10 % Acquisition Cost |
| L | = Economic Life (estimated useful life) |
| R | = Remaining Useful Life = L - AS |
| AS | = Actual Service (age) of the unit |

- B. Appraised Value (AV) after the Incident:

$$AV = RUV \times CFF \times CF$$

| | | |
|--------|--------------|--|
| Where: | CFF | = Currency Fluctuation Factor = $\frac{(P/\$ \text{ rate at appraisal year})}{(P/\$ \text{ rate at acquisition year})}$ |
| | CF | = Condition Factor |
| | Excellent | = 0.8 |
| | Very Good | = 0.7 |
| | Good | = 0.6 |
| | Satisfactory | = 0.5 |
| | Adequate | = 0.4 |
| | Fair | = 0.3 |
| | Poor | = 0.2 |
| | Very Poor | = 0.1 |

The claim for losses incurred due to damages on the burned equipment is computed as follows:

NOTE: Bureau of Equipment parameter on rehabilitated equipment:

Extended life of Rehabilitated Equipment = three (3) years or thirty-six (36) months

ASSUMPTIONS:

Burned equipment were acquired as newly-reconditioned or remanufactured units.

COMPUTATIONS:

A. Remaining Useful Value (RUV) before the incident: (From COA Appraisal Formula)

Item No.: 1. Dump Truck, Plate No. RHS-650
Date Acquired: November 11, 2008
Date Burned: February 10, 2012

$$R = L - AS$$
$$R = 3 - 0.2438 = 2.7562 \text{ years}$$

$$RUV = \left[\left(\frac{\text{PhP}1,188,000.00 - \text{PhP}118,800.00}{3} \right) 2.7562 \right] + \text{PhP}118,800.00$$

$$RUV = \text{PhP } 1,101,109.68$$

Item No.: 2. Dump Truck, Plate No. RFT-734
Date Acquired: March 12, 2009
Date Burned: February 10, 2012

$$R = L - AS$$
$$R = 3 - 2.8986 = 0.1014 \text{ year}$$

$$RUV = \left[\left(\frac{\text{PhP}962,500.00 - \text{PhP}96,250.00}{3} \right) 0.1014 \right] + \text{PhP}110,000.00$$

$$RUV = \text{PhP } 125,529.25$$

Item No.: 3. Dump Truck, Plate No. RJC-725
Date Acquired: June 10, 2009
Date Burned: February 10, 2012

$$R = L - AS$$
$$R = 3 - 2.657 = 0.343 \text{ year}$$

$$RUV = \left[\left(\frac{\text{PhP}1,150,000.00 - \text{PhP}115,000.00}{3} \right) 0.343 \right] + \text{PhP}110,000.00$$

$$RUV = \text{PhP } 233,355.00$$

Item No.: 4. Payloader, Mdl.LG958
Date Acquired: February 7, 2011
Date Burned: February 10, 2012

$$R = L - AS$$
$$R = 3 - 1.0082 = 1.9918 \text{ years}$$

$$RUV = \left[\left(\frac{\text{PhP}3,900,000.00 - \text{PhP}390,000.00}{3} \right) 1.9918 \right] + \text{PhP}390,000.00$$

$$RUV = \text{PhP } 2,720,406$$

Item No.: 5. Backhoe (Hydraulic Excavator), Mdl. UHO7-7

Date Acquired: February 7, 1998

Date Burned: February 10, 2012

$$R = L - AS$$

$$R = 3 - 2.0082 = 0.9918 \text{ year}$$

$$RUV = \left[\left(\frac{\text{PhP}700,000.00 - \text{PhP}70,000.00}{3} \right) 0.9918 \right] + \text{PhP}70,000.00$$

$$RUV = \text{PhP } 278,278.00$$

B. Appraised Value (AV) after the incident:

Per COA Memorandum No. 88-569, dated August 12, 1998, equipment that can no longer be repaired/reconditioned on units that are totally burned are appraised at their scrap or junk value.

Appraised Value (AV) = Estimated weight x Prevailing cost of scrap metal

Metal Scrap/Junk Shop Price: PhP 10.00/kilogram (within locality in Region XIII).

1. Dump Truck, Plate No. RHS-650

(Per COA Memorandum No. 88-569)

Estimated weight of scrap/burned Dump truck = 5 Tons or 5,000 Kg.

$$AV = 5,000\text{kg} \times \text{PhP } 10.00/\text{kg} = \text{PhP } 50,000.00$$

2. Dump truck, Plate No. RFT-734

(Per COA Memorandum No. 88-569)

Estimated weight of scrap/burned Dump truck = 5 Tons or 5,000 Kg.

$$AV = 5,000\text{kg} \times \text{PhP } 10.00/\text{kg} = \text{PhP } 50,000.00$$

3. Dump Truck, Plate No. RJC-725

(Per COA Memorandum No. 88-569)

Estimated weight of scrap/burned Dump truck = 5 Tons or 5,000 Kg.

$$AV = 5,000\text{kg} \times \text{PhP } 10.00/\text{kg} = \text{PhP } 50,000.00$$

COMMISSION ON AUDIT (COA) FORMULA

$$\text{Appraised Value} = (RUV) \left[\frac{\frac{P}{\$} \text{ rate at Appraisal Yr.}}{\frac{P}{\$} \text{ rate at Acquisition Yr.}} \right] (CF)$$

Where:

CF = Condition Factor

Excellent = 0.8

Very Good = 0.7

Good = 0.6

Satisfactory = 0.5

Adequate = 0.4

Fair = 0.3

Poor = 0.2
 Very Poor = 0.1

4. Payloader – Mdl. LG958

$$\text{Appraised Value} = \text{PhP } 2,720,406.00 \left[\frac{\text{PhP}41.08}{\text{PhP}43.70} \right] (0.1) = \text{PhP } 255,730.61$$

5. Backhoe (Hydraulic Excavator) – Mdl. Uho7-7

$$\text{Appraised Value} = \text{PhP } 278,278.00 \left[\frac{\text{PhP}41.08}{\text{PhP}43.70} \right] (0.2) = \text{PhP } 56,578.37$$

C. The amount that can be claimed for the burned equipment,

$$C = \text{RUV} - \text{Appraised Value}$$

1. DUMP TRUCK, Plate No. RHS-650

$$C1 = \text{PhP } 1,101,109.68 - \text{PhP } 50,000.00 = \text{PhP } 1,051,109.68$$

2. DUMP TRUCK, Plate No. RFT-734

$$C2 = \text{PhP } 125,529.25 - \text{PhP } 50,000.00 = \text{PhP } 75,529.25$$

3. DUMP TRUCK, Plate No. RJC-725

$$C3 = \text{PhP } 233,335.00 - \text{PhP } 50,000.00 = \text{PhP } 183,335.00$$

4. Payloader

$$C4 = \text{PhP } 2,720,406.00 - \text{PhP } 255,730.61 = \text{PhP } 2,464,675.39$$

5. Backhoe (Crawler Hydraulic Excavator)

$$C5 = \text{PhP } 278,278.00 - \text{PhP } 56,578.37 = \text{PhP } 221,699.63$$

D. Total Claim, $TC = \sum C1 + C2 + C3 + C4 + C5$

$$TC = \text{PhP } 1,051,109.68 + \text{PhP } 75,529.25 + \text{PhP } 183,335.00 + \text{PhP } 2,464,675.39 + \text{PhP } 221,699.63$$

$$TC = \text{PhP } 3,996,348.95$$

RESOLUTION:

For damages incurred on the burned equipment owned by Contractor A, the Claim that may be considered is in the total amount of **THREE MILLION NINE HUNDRED NINETY-SIX THOUSAND THREE HUNDRED FORTY-EIGHT AND 95/100 PESOS ONLY (PhP 3,996,348.95).**

Annex E

Special Order No. 40 Series of 2015

**Merging and Reconstitution of the DPWH Price
Escalation and Price Adjustment Committee and
Extraordinary Claims Review Committee**



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

097.12.DPH
03-11-2015

MAR 06 2015

SPECIAL ORDER)
NO. **40**)
Series of 2015 *s. 11, 15*)
⑦

**SUBJECT: Merging and Reconstitution of
the DPWH Price Escalation and
Price Adjustment Committee
and Extraordinary Claims
Review Committee**

Pursuant to Executive Order No. 366 series of 2004 and the approval and implementation of DPWH Rationalization Plan, the Price Escalation and Price Adjustment Committee (PEPAC) and the Extraordinary Claims Review Committee (ECRC) are hereby merged and shall be renamed as Price Escalation and Extraordinary Claims Review Committee (PEECRC).

The PEECRC shall be composed of the following:

| | |
|--------------------|---|
| Chairman | : Assistant Secretary GILBERTO S. REYES |
| Vice-Chairman | : Director WALTER R. OCAMPO |
| Members | : Director B. ELIZABETH E. YAP |
| | : Project Manager VIRGILIO C. CASTILLO |
| | : Director CONSTANCE A. LLANES, JR. |
| | : Director MARICHU A. PALAFOX |
| | : Director NOEL TORIBIO L. ILAO |
| | : Atty. MAXIMILIAN ANTHONY E. FERNANDEZ |
| Provisional Member | : HEAD OF THE IMPLEMENTING OFFICE |

The Claims Review Division, Bureau of Construction shall serve as the Committee's Secretariat and Technical Working Group.

The PEECRC shall review/evaluate/validate and recommend payment or non-payment of the following claims of contractors of DPWH projects:

1. Price Escalation
2. Extraordinary Claims
 - a. Unbooked Claims
 - b. Payment of Idle Equipment/Personnel
 - c. Value Added Tax (VAT) Differential
 - d. Interest due to Delayed Payments
 - e. Other Related Extraordinary Claims of Contractors from DPWH

This Special Order shall take effect immediately and shall supersede the following Department Issuances:

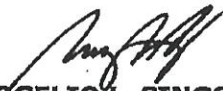
- 1) SO No. 159 s. 2014: *Assignment of Atty. Maximilian Anthony E. Fernandez as Member of Central Office Price Escalation and Price Adjustment Committee;*
 - 2) SO No. 87 s. 2012: *Designation of Assistant Secretary Luis A. Mamitag, Jr. As Chairman of the Extraordinary Claims Review Committee;*
- M*

- 3) SO No. 132 s. 2011: *Designation of Assistant Secretary Eugenio R. Pipo Jr. as Chairman of the Central Office Price Escalation and Price Adjustment Committee;*
- 4) SO No. 131 s. 2011: *Designation of Assistant Secretary Eugenio R. Pipo Jr. As the Chairman of the Extraordinary Claims Review Committee;*
- 5) SO No. 277 s. 2010: *Designation of Undersecretary Jalme A. Pacanan as Chairman of the Extraordinary Claims Review Committee;*
- 6) SO No. 240 s. 2010: *Reconstitution of the Central Office Price Escalation and Price Adjustment Committee;*
- 7) SO No. 239 s. 2010: *Reconstitution of the DPWH Extraordinary Claims Review Committee.*
- 8) SO No. 36 s. 2008: *Reconstitution of the DPWH Extraordinary Claims Review Committee and its Technical Working Group (TWG).*
- 9) SO No. 33 s. 2007: *Reconstitution of the Technical Working Group (TWG) of the Reconstituted DPWH Price Escalation and Price Adjustment Committee (PEPAC);*

Department of Public Works and Highways
Office of the Secretary



WIN5102568


ROGELIO L. SINGSON
Secretary

1.1 ECA/GSR/RCA

Annex F

Department Order No. 58 Series of 2008

Procedural Flow and Guidelines on the Processing of
Extraordinary Claims



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

097.13 DPWH
10-24-2008

OCT 23 2008

DEPARTMENT ORDER)
No. **58**)
Series of 2008 *10-24-08*)

SUBJECT: **Procedural Flow and Guidelines on
the Processing of Extraordinary
Claims**

In order to facilitate the processing of extraordinary claims, which include, among others, unbooked claims, idle equipment/personnel claims, VAT Differential, and interests due to delayed payment of progress billings of contractors, the following procedural flow is hereby prescribed:

1. All extraordinary claims shall be submitted by contractors to the concerned Implementing Office. The claim shall include the following:
 - a) The letter of the contractor duly signed by the authorized representative stating the specific details and legal basis of the extraordinary claim.
 - b) The supporting documents as enumerated in the checklist of requirements (See Checklist corresponding to claim in Annexes A to D).
 - c) The computation of the money claim prepared by the contractor in accordance with the prescribed format (See format corresponding to claim in Annexes E to J).
2. The Implementing Office shall evaluate the submitted claim and recommend payment or non-payment thereof to the Extraordinary Claims Review Committee (ECRC).
3. The ECRC, after deliberation, shall submit its recommendation to the Secretary, through a Resolution, for his approval.

In evaluating the claims, the Implementing Office and the ECRC shall adhere to the attached Guidelines, whichever is appropriate to the claim, as shown in Annexes K to N, which are likewise prescribed in this Order.

This Order shall take effect immediately.

HERMOGENES E. ERDANE, JR.
Secretary



WIN8W00872

| Contractor | Consultants | Implementing Office | ECRC | TWG | OSCC |
|--|---|--|--|--|---|
| <p>Submits request for payment of extraordinary claim together with the complete requirements stipulated in the proposed Department Order.</p> | <p>a. Conducts initial review/evaluation b. Check completeness of documents and compliance to requirements.</p> | <p>Receives memo. ECRC process ends here.</p> <p>a. Refers claim to consultants for initial review and recommendation. b. If there are no consultants, the implementing office is to conduct direct review/evaluation. c. Submits claim to ECRC together with own recommendation for payment or non payment.</p> | <p>Sends memo transmitting approved/disapproved request for payment of extraordinary claim to the implementing office.</p> <p>Refers claim to TWG for further review/evaluation and validation of the recommendation of the implementing office.</p> | <p>Prepares memo transmitting approved/disapproved request for payment of extraordinary claim to the implementing office together with all the other documents.</p> <p>a. Conducts review and validation of the findings of the implementing office. b. Check completeness of documents and compliance to requirements.</p> <p>Documents are complete and complies with all requirements?</p> <p>Yes</p> <p>1. Conducts preliminary meeting at the TWG level. 2. Schedules ECRC meeting for the deliberation of the claim which shall be presented by the implementing office.</p> | <p>Approve/disapprove request for payment of extraordinary claim.</p> |



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX A

CHECKLIST
(Unbooked Claim)

Project/Location :
Contractor :

1. Endorsement letter of the Implementing Office addressed to the Hon. Secretary, Attn: Chairman, ECRC, stating their position and recommendation of the subject claim of the contractor
2. Letter request of the contractor duly signed by the authorized representative
3. Plans
4. Approved POW/Detailed Estimates
5. Contract Agreement
6. Approved As-Built Plans
7. Statement of Work Accomplished
8. Photographs (Before/During/After)
9. Inspectorate Team Report
10. Field Logbook of the DPWH and Contractor
11. Equipment Information
 - a. List of Equipment
 - Owned
 - Leased
 - b. Contract Leased
 - c. Certificate of Registration
 - d. Detailed information of individual equipment
 - Make
 - Model
 - Serial No.
 - Chassis No.
 - Plate No.
12. COA Validated Report/Court Order
13. Other supporting documents



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX B

CHECKLIST

(Claim for Payment of Idle Time of Equipment /Personnel)

Project/Location :
Contractor :

1. Endorsement letter of the Implementing Office addressed to the Hon. Secretary, Attn: Chairman, ECRC, stating their position and recommendation of the subject claim of the contractor
2. Letter request of the contractor duly signed by the authorized representative
3. Evaluation and Recommendation of the Consultant and the Implementing Office in Matrix Form
4. Copy of the Specific Provision of the Conditions of Contract that entitles the Contractor to claim the cost incurred due to standby of equipment, manpower & etc as a result of the project suspension
5. Copy of the Approved Suspension Order and Resume Order
6. Copy of the Approved PERT/CPM, Bar Chart with S-Curve prior to the Suspension Order together with the corresponding Approved Monthly Equipment and Manpower Utilization Schedule
7. Copy of the Approved Revised PERT/CPM, Bar Chart with S-Curve incorporating the Suspension Order and Time Extension together with the corresponding Equipment and Manpower Utilization Schedule
8. Straight Line Diagram showing the effectivity Date, Original & Revised expiry dates, Suspension period and Time Extension granted to the contractor
9. Copy of the Approved Time Extensions
10. List of the operational equipment that was brought to the project site adopting the sample Table below with the proof of actual mobilization such as (for **Foreign Contractor**):
 - 10.1 Contractor's request for the importation of equipment, exemption from duties and taxes for the exclusively use of the project
 - 10.2 DPWH endorsement to Department of Finance (DOF)
 - 10.3 Re-export Bond of the equipment
 - 10.4 Bill of Lading; and any valuable documentary evidence of mobilization

| LIST OF EQUIPMENT (Type of Equipment to be arranged as listed in the Approved Utilization of Equipment to include the Leased Equipment, if any) | | | | | | Re-Export Bond # for Owned or Lease | Bill of Lading Number | Actual Arrival at Site |
|--|-----------------|------|------|----------|---|--|-----------------------------|------------------------------|
| Type | Assigned No. | Make | Year | Capacity | Engine/ Chassis/ Serial Number | | | |
| | | | | | | | | |

11. Monthly list of the Mobilized Equipment in matrix format in Table below corresponding only to the equipment programmed for utilization in the Approved PERT/CPM covering the period of claim, duly signed by the consultant and the Implementing Office

| ACTUAL EQUIPMENT IN THE PERT/CPM AND S-CURVE APPROVED FOR UTILIZATION | | | | Daily Utilization to mark1 for each working day excluding Sundays, Holidays & Predetermined unworkable days | | | TOTAL | |
|---|--------------------|----------|------------------------|--|----------|----------|-------|--------|
| Type | Assigned Number | Capacity | ACEL/ Bid Rental | 1 16 | to to | 15 31 | Days | Amount |
| | | | | | | | | |
| | | | | | | | | |

12. Monthly Equipment and Manpower Report covering the period of claim, duly signed by the consultant and the Implementing Office
13. Inventory of Equipment and Manpower before and after the Suspension Order
14. Certified true copy by the PMO of the Leased Agreement of Equipment exclusively for use of the project duly notarized and received by the Implementing Office, if any
15. Xerox copy of the Contractors Field Logbook covering the period of claim duly signed by the consultant and the Implementing Office representative
16. Contractual Data & Latest Status/Progress Report duly signed by the Consultant and Implementing Office
17. Billing and Official receipt for water, electric, telephone consumption and etc.
18. Site photographs before and during Suspension period
19. Copy of the Contractor's Project Organizational Chart
20. List of Employees in the in the Contractor's company indicating their monthly salary and signature and involvement in the project
21. Certified true copies of the Appointment/Contract Agreement between the contractor and regular and unskilled/skilled personnel employees of the contractor
22. Certified photocopies of monthly payrolls and remittances of premiums received by SSS covering the period of the claim
23. Justification/Clarification why laborer's employment were not terminated during the project suspension
24. Certified true copy by PMO of the Sub-Contracting Agreement duly notarized and received by the Implementing Office, if any
25. For documents from abroad, it should be duly authenticated/certified by the Philippine Embassy
26. Copy of the Computation/Table of Predetermine Unworkable days and actual monthly weather report
27. Other supporting documents



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX C

CHECKLIST
(Claim for Payment of VAT Differential)

Project/Location :
Contractor :

1. Endorsement letter of the Implementing Office addressed to the Hon. Secretary, Attn: Chairman, ECRC, stating their position and recommendation of the subject claim of the contractor.
2. Letter request of the contractor duly signed by the authorized representative
3. Tabulated computation of VAT Differential in prescribed format
4. Copy of Original Bill of Quantities
5. Copy of Approved Variation Orders
6. Copy of Contract Agreement
7. Copy of Contractor's Unit Price Analysis of Items of Work in the Original bill of Quantities and Unit Price Analysis of New Items of Work in the Approved Variation Orders
8. Copy of Approved Statement of Work Accomplished and Monthly Certificate of Payment of Progress Billing
9. Copy of Approved Disbursement Vouchers of Progress Billing
10. Copy of Instructions to Bidders
11. Original Proposal Book containing the pro-forma of Detailed Unit Price Analysis Form
12. Resolution of Award
13. Monthly Value Added Tax Declaration (BIR Form No. 2550M)
14. Certificate of Creditable Tax Withheld at source (BIR Form No. 2307)
15. Certification from the Implementing Office stating that no works was undertaken thru sub-contract works
16. Affidavit of the contractor stating that no works was undertaken thru sub-contract works
17. Affidavit that the signing individual making the VAT Differential claim is the authorized representative of the contractor
18. Other supporting documents

ANNEX D

CHECKLIST

(Claim for Interest Payment Due To Delayed Payment Of
Progress Billings)

Project/Location :

Contractor :

1. Endorsement letter of the Implementing Office addressed to the Hon. Secretary, Attn: Chairman, ECRC, stating their position and recommendation of the subject claim of the contractor
2. Letter request of the contractor duly signed by the authorized representative
3. Computation of the Interest claim duly signed by the Implementing Office
4. Copy of the Contract Agreement
5. Copy of NTP
6. Copy of the specific provisions in the Conditions of Contract that entitles the Contractor to the Interest Payment due to the delayed payment of progress billing
7. Certification of the Bureau Directors on the date of required documents for every progress billing were completed/complied by the contractor
8. Clear/legible copy of approved Disbursement Vouchers for every progress billings showing the D.V. No. and respective dates received at the Accounting Division
9. Proof of receipt of payment showing its date
10. Copy of SWA for every progress billing
11. Copy of Advice/Authority to Debit Accounts/Payments of D.V.
12. Copy of latest approved Project Status Report
13. Reasons for the delay in the payment of progress billing
14. Other supporting documents

**SUMMARY OF CLAIM FOR INCURRED LOSSES DUE TO
STANDBY EQUIPMENT & MANPOWER
AS A RESULT OF PROJECT SUSPENSION**
(Covered Period)

ANNEX E

PROJECT NAME :
LOCATION :
IMPLEMENTING OFFICE :
CONTRACTOR :

A). STANDBY COST OF EQUIPMENT

| ITEM NO. | TYPE OF EQUIPMENT/CAPACITY | NO OF UNITS | TYPE/MAKE/ MODEL | AS SUBMITTED BY THE CONTRACTOR | | AS RECOMMENDED BY THE I.O. | |
|-------------|----------------------------|----------------|---------------------|--------------------------------|-----------|----------------------------|-----------|
| | | | | TIME | UNIT RATE | TIME | UNIT RATE |
| 1 | | | | | | | |
| 2 | | | | | | | |
| 3 | | | | | | | |
| 4 | | | | | | | |
| 5 | | | | | | | |
| 6 | | | | | | | |
| 7 | | | | | | | |
| 8 | | | | | | | |
| 9 | | | | | | | |

Prepared by _____ Checked by : _____ Verified by : _____ Recommending Approval : _____ Approved : _____

Contractor's Authorized Representative _____ Head, Implementing Office _____ Head, TWG-ECRC _____ Vice Chairman, ECRC _____ Chairman, ECRC _____

B). STANDBY COST OF MANPOWER

| ITEM NO. | NAME OF PERSON | DESIGNATION | AS SUBMITTED BY THE CONTRACTOR | | AS RECOMMENDED BY THE I.O. | |
|----------|----------------|-------------|--------------------------------|-----------|----------------------------|-----------|
| | | | TIME | UNIT RATE | TIME | UNIT RATE |
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |

Prepared by

Checked by :

Verified by :

Recommending Approval :

Approved :

Contractor's Authorized Representative

Head, Implementing Office

Head, TWG-ECRC

Vice Chairman, ECRC

Chairman, ECRC

**CLAIM OF INCURRED LOSSES DUE TO
STANDBY OF EQUIPMENT & MANPOWER
AS A RESULT OF PROJECT SUSPENSION**
(Monthly Period)

ANNEX F

PROJECT NAME :
LOCATION :
IMPLEMENTING OFFICE :
CONTRACTOR :

A). STANDBY COST OF EQUIPMENT

| ITEM NO. | TYPE OF EQUIPMENT/CAPACITY | NO. OF UNITS | TYPE/MADE/MODEL | AS SUBMITTED BY THE CONTRACTOR | | AS RECOMMENDED BY THE I.O. | |
|-------------|-------------------------------|-----------------|-----------------|--------------------------------|-----------|----------------------------|-----------|
| | | | | TIME | UNIT RATE | TIME | UNIT RATE |
| 1 | | | | | | | |
| 2 | | | | | | | |
| 3 | | | | | | | |
| 4 | | | | | | | |
| 5 | | | | | | | |
| 6 | | | | | | | |
| 7 | | | | | | | |
| 8 | | | | | | | |
| 9 | | | | | | | |

Prepared by _____ Checked by : _____ Verified by : _____ Recommending Approval : _____ Approved : _____

Contractor's Authorized Representative _____ Head, Implementing Office _____ Head, TWG-ECRC _____ Vice Chairman, ECRC _____ Chairman, ECRC _____

B). STANDBY COST OF MANPOWER

| ITEM NO. | NAME OF PERSON | DESIGNATION | AS SUBMITTED BY THE CONTRACTOR | | AS RECOMMENDED BY THE I.O. | |
|----------|----------------|-------------|--------------------------------|-----------|----------------------------|-----------|
| | | | TIME | UNIT RATE | TIME | UNIT RATE |
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |

Prepared by

Checked by :

Verified by :

Recommending Approval :

Approved :

Contractor's Authorized Representative

Head, Implementing Office

Head, TWG-ECRC

Vice Chairman, ECRC

Chairman, ECRC

ANNEX G

A) Monthly Equipment Utilization Report

Legend:

- O - Operation
- S - Standby
- R/B - Repair/Br

| | | | | |
|--|---------------------------|----------------|---------------------|----------------|
| Contractor's Authorized Representative | Head, Implementing Office | Head, TWG-ECRC | Vice Chairman, ECRC | Chairman, ECRC |
|--|---------------------------|----------------|---------------------|----------------|

[illegible]

W - Working
S - Standby

Checked by:

Recommending Approval:

Approved: _____

Head, Implementing Office

Vice Chairman, ECRC

Chairman, ECRC

PROJECT NAME :
LOCATION :
IMPLEMENTING OFFICE :
CONTRACTOR :

[illegible]

Approved :

Chairman, ECRC

ANNEX I

[illegible]

| Contractor's Authorized Representative | Head, Implementing Office | Head, TWG-ECRC | Vice Chairman, ECRC | Chairman, ECRC |
|--|---------------------------|----------------|---------------------|----------------|
|--|---------------------------|----------------|---------------------|----------------|

ANNEX J

PROJECT NAME:

LOCATION:

IMPLEMENTING OFFICE:

CONTRACTOR:

[illegible]

| | | | | |
|---------------|--------------|---------------|-------------------------|------------|
| Prepared by : | Checked by : | Verified by : | Recommending Approval : | Approved : |
|---------------|--------------|---------------|-------------------------|------------|

| Contractor's Authorized Representative | Head, Implementing Office | Head, TWG-ECRC | Vice Chairman, ECRC | Chairman, ECRC |
|--|---------------------------|----------------|---------------------|----------------|
|--|---------------------------|----------------|---------------------|----------------|



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX K

**GUIDELINES IN THE PROCESSING OF UNBOOKED CLAIMS
PINATUBO/EARTHQUAKE AND OTHER DPWH
INFRASTRUCTURE PROJECTS**

1. All claims should be properly recommended/endorsed for payment by the concerned Regional Office
2. All claims should be part of the inventory of claims presently handled by the Extraordinary Claims Review Committee (ECRC)
3. Payments of all claims should be based on the principle of "QUANTUM Meruit" (No loss/ no gain), recommend for funding whichever is the lowest total cost.
4. The location of the project being processed shall be confined in the declared calamity areas, i.e. Region III for Pinatubo, Cordillera Administrative Region for Earthquake, and various calamity areas, as declared by the President of the Republic of the Philippines.
5. Only claims with complete documents, submitted in accordance with the checklist provide by the team, shall be processed.
6. COA validated claims should also be subjected to verification of the authenticity of the signatures of the authorized signatories to the documents.
7. Statement of Work Accomplishment (SWA) shall be subject to field inspection and verification, with the signatures of authorized signatories to the said document should also be authenticated.
8. For the Pinatubo claims, prepare comparative unit cost analysis using SWA vs. COA vs. MPR-PMO approved unit cost and recommended whichever is the lowest total cost.
9. Payment of unbooked claims, including that projects which are covered by court orders, shall only be effected after clearance from the Secretary has been secured.



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX L

**GUIDELINES IN THE EVALUATION OF CLAIMS FOR STANDBY
EQUIPMENT AND MANPOWER RESOURCES AND ETC. DUE TO
SUSPENSION OF WORK**

I. LEGAL BASIS

- a. Copy of specific provision of the Conditions of Contract that entitles the Contract to claim the cost incurred due to standby of equipment manpower and etc. as a result of project suspension
- b. Legal Opinion

II. BASIS OF COMPUTATION

- a. **COVERAGE** – Actual Suspended period based on the approved Suspension/Resume Order with corresponding approved time extension.
- b. **STANDBY TIME OF EQUIPMENT** – D.O. 36 Series 2004 wherein a month to month term with a minimum of 120 hours a month (4.80 hours/day) shall be charged for equipment on standby. This excludes Sunday and Holidays
- c. **NUMBER OF EQUIPMENT** – The actual equipment mobilized and operational at site but not to exceed the equipment requirement as reflected in the approved monthly Equipment Utilization Schedule.
- d. **EQUIPMENT RENTAL RATE** – Bare Rental Rates from the applicable edition of the ACEL Guidebook, or bare Rental Rates of the contractor's existing contract for the project, whichever is lower.
- e. **NUMBER OF MANPOWER** - The actual manpower mobilized at site but not to exceed the manpower requirement as reflected in the approved monthly Manpower Utilization Schedule.
- f. **STANDBY TIME OF MANPOWER** – Actual time idle based from the approved payroll for the project.
- g. **RATE OF MANPOWER** – The contractor's manpower rate based from their existing contract for the project.
- h. **ELECTRIC/WATER/TELEPHONE BILLS** – the actual consumption during suspension of work based on the official bills and receipt of payment.
- i. **INDIRECT COST** – Actual site and overhead expenses incurred during the suspension of works.



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX M

GUIDELINES IN THE EVALUATION OF VAT DIFFERENTIAL CLAIM

III. LEGAL BASIS

Legal Service opinion approved by the Honorable Secretary Hermogenes E. Ebdane, Jr. in their Memorandum dated May 23, 2005 under paragraph 3, which states that *"The Instructions to Bidders required the bidders to adopt the DPWH Detailed Unit Price Analysis (DUPA) Form which imposed the 10% VAT on equipment and labor costs only. Using the form, the total VAT under the Tax Code on the said project exceeds the amount provided by the contractor in its bid documents."* and *"In the light of the above, the instant request may be given consideration inasmuch as while the Contractor passed on to DPWH only the equivalent of VAT as computed by the ITB (Instructions to Bidders), the Government continues to collect 10% VAT on the said projects."*

IV. BASIS OF COMPUTATION

1. It was indeed mentioned that VAT should be 10% per provision of Section 108 of the 1997 Tax Code (Annex 8), to quote : "There shall be levied, assessed and collected, a value-added tax equivalent to ten (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties." unquote.
2. The DPWH is however using 8.5% and 5% as basis in the computation for VAT differential as these are in accordance with BIR Ruling No. 2-98 dated April 17, 1998 and BIR Ruling No.16-2005 dated September 1, 2005 which individually states that the rate and basis of creditable value added tax withheld for payments made to government public works contractors shall be 8.5% and 5% respectively since public works contractors in anyway allowed a presumptive input tax equivalent to 1½ % and 7% of the gross billings in lieu of actual input tax when they file their periodic VAT returns in accordance with R.A. No. 8241 and the New E-VAT Law.
3. Thus, the amount of VAT Differential is equivalent to the total amount of VAT withheld computed by getting the 8.5% or 5% amount of each contract pay item less the actual amount of VAT in the contract, per the accomplished Detailed Unit Price Analysis Form for each contract pay item.



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX N

**GUIDELINES IN THE EVALUATION OF INTEREST CLAIMS DUE
TO DELAYED PAYMENT OF NATIONAL ROADS IMPROVEMENT
AND MANAGEMENT PROJECT IMPLEMENTED BY
THE BUREAU OF MAINTENANCE**

I. LEGAL BASIS

1. CLAUSE 43.1 of the General Conditions of Contract for all NRIMP-Projects
2. Legal Opinion rendered by the Legal Service on the Validity of Claims for Interest Payments pursuant to Clause 43.1 of General Condition of the contract.

II. BASIS OF COMPUTATION FOR INTEREST PAYMENT

$$Ia = P \times Dd \times i / 365$$

Where:

Ia = Accumulated Interest Amount (in Pesos)
P = Net Amount Billed (in Pesos)
Dd = No. of days of delayed payment (c.d.)
i = Interest rate per annum (in percent)
365 = Number of days per year

III. PROCEDURE

1. The interest rate shall be fifteen percent (15%) per annum or the prevailing rate of interest for commercial borrowings at the time the delay in payment occurred, whichever rates is lower. Prevailing rate of interest for commercial borrowings shall be as issued by the Department of Economic Statistics of the Bangko Sentral ng Pilipinas.
2. The dates certifications were issued by the BOM Director for each progress billings plus the stipulated 28-day reglamentary period as stipulated in Clause 43.1 are used as the date progress billings are due for payment. In cases were the 28-day reglamentary period had lapsed prior to receipt at the Accounting Division of this Department, the date receipt of the progress billing plus 4 to 5 working days will be used as the due date for payment.
3. The dates NCA were released based on the certification issued by the OIC-Department Chief Accountant are used as the date late payments are made.



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
TECHNICAL WORKING GROUP
EXTRAORDINARY CLAIMS REVIEW COMMITTEE
Bonifacio Drive, Port Area, Manila

ANNEX N

**GUIDELINES IN THE EVALUATION OF INTEREST CLAIMS
DUE TO DELAYED PAYMENTS FOR PMO-ADB/PMO-IBRD PROJECTS**

I. LEGAL BASIS

1. General Condition of Contracts/Conditions of Particular Applications and Appendix to Bid.
2. Legal Opinion rendered by the Legal Service on the validity of claims for interest.

II. BASIS OF COMPUTATION FOR INTEREST PAYMENT

(FORMULA FOR COMPOUNDED MONTHLY INTEREST):

$$I_a = P [(1 + i)^n - 1]$$

Where

- I_a = Accumulated interest
 P = Net amount billed
 i = Interest rate per annum compounded monthly
 n = Number of months payment was delayed

Note: for Uniformity of Computations:

- a. Adopt 6 digits for interest rate and the number of months delayed.
- b. Adopt 2 digits for amounts in pesos or for other currencies.
- c. Adopt 30.4375 days/month (average).

III. RECKONING DATES:

1. The date Disbursement Voucher was received by the Engineer plus the reglamentary/process period for payment as stipulated in the conditions of the contract shall be used as date progress billings are due for payment;
2. The date of Check/Debit Memorandum/NCA Released as Certified by the OIC Department Chief Accountant and/or Certificate from the Bank Branch Manager shall be used as date the payment was made.

Annex G

2009 Revised Rules of Procedure of the
Commission on Audit

THE 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT

Pursuant to Section 6 of Article IX-A of the 1987 Constitution, and by virtue of the powers vested in it by existing laws, the Commission on Audit hereby promulgates the following rules governing pleadings and practice before it.

RULE I INTRODUCTORY PROVISIONS

Section 1. ***Title.*** - These rules shall be known and cited as the “2009 Revised Rules of Procedure of the Commission on Audit.”

Section 2. ***Applicability.*** - These Rules shall govern the pleadings and practice in the Commission on Audit in all matters, actions and proceedings originally acted upon by or appealed to it in the exercise of its quasi-judicial function, including administrative cases.

Section 3. ***Construction.*** - These Rules shall be liberally construed in order to effectively carry out the power, authority and duty of the Commission on Audit as vested upon it by the Constitution and the existing laws, and to achieve just, timely and inexpensive determination and disposition of any matter or case before it.

Section 4. ***Meaning of Words.*** - Whenever used in these Rules, the words or terms below shall have the meaning indicated:

- a. Accounts - the bookkeeping records, including journals, ledgers, vouchers, and other supporting papers; a detailed statement of items of debits and credits
- b. Adjudication and Settlement Board (ASB) – a body composed of Assistant Commissioners authorized to exercise adjudication functions
- c. Appeal – the process of elevating to a higher authority as provided in these Rules any decision order or ruling of the Commission or any of its duly authorized representatives
- d. Appellant - the party who appeals the final order or decision of the Auditor, Director or the Adjudication and Settlement Board (ASB)
- e. Appellee - the Auditor, Director, or ASB whose order or decision is the subject of the appeal
- f. Auditor - the head of an auditing unit, group, or team of the Commission on Audit
- g. Chairman - the Chairman of the Commission on Audit or Presiding Officer of the Commission Proper

- h. Charge - inclusion or addition to an accountability pertaining to the assessment, appraisal or collection of revenues, receipts and other incomes such as those arising from under-appraisal, under-assessment or under-collection
- i. COA Order of Execution (COE) – a written instruction to withhold payment of salary and other money due to persons liable, for the settlement of their liability
- j. Commission - the Commission on Audit
- k. Commission Proper (CP) - the Chairman and the two Commissioners. In case any member of the CP has not been appointed and assumed his functions, the incumbent members shall be deemed the CP
- l. Commissioner - a Commissioner of the Commission on Audit
- m. Director - the head of a Central Office Audit Cluster in the National, Local or Corporate Sector, or of a Regional Office of the Commission
- n. Disallowance - the disapproval in audit of a transaction, either in whole or in part. The term applies to the audit of disbursements as distinguished from “charge” which applies to the audit of revenues/ receipts
- o. Government agency or agency of the government or agency - any department, bureau or office of the National Government, or any of its branches and instrumentalities or any local government unit, as well as any government-owned or controlled corporation, including its subsidiaries, or other self-governing board or commission of the government
- p. Interlocutory order - an order issued by the Commission Proper or any of its Members, other than the final decision
- q. Member - the Chairman or a Commissioner
- r. Money claim - a demand for payment of a sum of money, reimbursement or compensation arising from law, or contract due from or owing to a government agency;
- s. Notice of Finality of Decision (NFD) – a written notification that a decision of the Commission on Audit has become final and executory
- t. Petitioner - the party who submits a money claim or who appeals the final order or decision of the Director or the ASB to the Commission Proper;
- u. Record of the case - consists of the pleadings, documents and papers filed with the Commission, which support the decision or action subject of appeal. In case of audit disallowances/charges, the papers shall include certified true copies of the notice of suspension, notice of disallowance/charge and the pertinent working papers and relevant evidence;
- v. Respondent - in administrative cases, the term refers to an employee of the Commission charged with offenses punishable

- under Civil Service laws. In cases of petitions or money claims, the term refers to the party required to answer the petition;
- w. Secretary - the head of the Commission Secretariat.

RULE II

JURISDICTION AND POWERS OF THE COMMISSION ON AUDIT

Section 1. *General jurisdiction.* - The Commission on Audit shall have the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenues and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity directly or indirectly, from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government, and for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

The Commission shall have exclusive authority subject to the limitations in Article IX of the Constitution, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

Specifically, such jurisdiction shall extend over but not be limited to the following cases and matters:

- a. Disallowance of expenditures or uses of government funds and properties found to be illegal, irregular, unnecessary, excessive, extravagant or unconscionable;
- b. Money claims due from or owing to any government agency;
- c. Determination of policies, promulgation of rules and regulations, and prescription of standards governing the performance by the Commission of its powers and functions;
- d. Resolution of novel, controversial, complicated or difficult questions of law relating to government accounting and auditing;

- e. Charges made in the audit of revenues and receipts resulting from under-appraisal, under-assessment or under-collection;
- f. Audit of the books, records and accounts of public utilities as provided by law;
- g. Visitorial power over non-governmental organizations (1) subsidized by the government, (2) those required to pay levies or government share, (3) those funded by donations through the government, (4) those for which government has put up a counterpart fund, or (5) those entrusted with government funds or properties;
- h. Authorization and enforcement of the settlement of accounts subsisting between agencies of the government;
- i. Compromise or release in whole or in part, of any settled claim or liability to any government agency;
- j. Power to require the submission of papers relative to government obligations;
- k. Opening and revision of settled accounts;
- l. Retention of money due to a person for satisfaction of his indebtedness to the government;
- m. Seizure by the Auditor of the office of the local treasurer found to have a shortage in cash;
- n. Checking and audit of all property or supplies of the government agency;
- o. Constructive distraint of property of any accountable officer with shortage in his accounts upon a finding of a prima facie case of malversation of public funds or property against him;
- p. In coordination with appropriate legal bodies, collection of indebtedness found to be due a government agency in the settlement and adjustment of its accounts by the Commission

Section 2. *The powers and functions of the Chairman as Chief Executive Officer.* - As Chief Executive Officer of the Commission, the Chairman shall (1) control and supervise the general administration of the Commission, (2) direct and manage the implementation and execution of policies, standards, rules and regulations promulgated by the Commission, and (3) control and supervise the audit of highly technical or confidential transactions or accounts of any government agency.

The two (2) Commissioners may assist in the general administration of the Commission, upon proper delegation by the Chairman.

Section 3. *Powers, functions and duties of Auditors as representatives of the Commission.* - The Auditors shall exercise such powers and functions as provided by law and as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions and resources of the agencies under their respective audit jurisdiction.

Section 4. *Appellate Jurisdiction.* - The Directors shall have appellate jurisdiction over decisions of Auditors in accordance with these Rules. Decisions of the Directors may be appealed to the ASB or to the Commission Proper as the case may be.

Section 5. *Entities within the jurisdiction of the Commission.* - The authority and powers of the Commission to examine, audit and settle all accounts extend to the following entities:

- a. National Government, its departments, bureaus, agencies and offices, including Philippine embassies, consulates and other foreign-based government agencies;
- b. Local government units, their agencies, and other instrumentalities;
- c. Government-owned and/or controlled corporations and their subsidiaries;
- d. Constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution;
- e. Autonomous state colleges and universities;
- f. Public Utilities and Franchise grantees for rate determination and franchise tax;
- g. Non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those which the government has put up a counterpart fund, or those funded by the government; and
- h. Such other entities as may be provided by law to be under COA's jurisdiction.

RULE III ORGANIZATIONAL STRUCTURE OF THE COMMISSION PROPER AND HOW IT TRANSACTS BUSINESS

Section 1. *The Commission Proper.*- (1) For purposes of these rules and as a component of the organizational structure of the Commission, the Chairman and the two Commissioners shall together be known as the Commission Proper and as such shall be distinguished from the other components of the Commission consisting of the central and regional offices subsisting or which may hereinafter be created. (2) The Commission Proper shall sit as a body to determine policies, promulgate rules and regulations, and prescribe standards governing the performance by the Commission of its powers and functions. (3) The Chairman shall act as the presiding officer of the Commission Proper and the Chief Executive Officer of the Commission.

Section 2. *Regular session.* - The Commission Proper shall hold its regular sessions at the Commission Proper Board Room, COA Central Office, Quezon City, every Tuesdays and Thursdays without need of call, unless it decides otherwise.

Section 3. *Special session.* - Whenever public interest requires, the Chairman on his own initiative or upon recommendation of any of the two Commissioners may call a special session at the time and place designated by the Commission Proper.

Section 4. *Quorum and voting.* - The Commission Proper shall decide by a majority vote of all its members any case or matter brought before it within sixty (60) days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief or memorandum required by these Rules or by the Commission Proper.

Section 5. *Powers and duties of the Chairman as Presiding Officer.* - As Presiding Officer, the powers and duties of the Chairman when discharging his functions in actions or proceedings before the Commission Proper shall include the following:

- a. To issue calls for the special sessions of the Commission Proper;
- b. To approve the agenda for the sessions of the Commission Proper;
- c. To preside over the sessions of the Commission Proper;
- d. To participate in the deliberations of and vote during all regular and special sessions of the Commission Proper where any case issue or matter within its jurisdiction is under consideration;
- e. To preserve order and decorum during the session;
- f. To decide all questions of order by any Member;
- g. To summon the parties to a case brought before the Commission Proper for resolution;
- h. To issue subpoena and subpoena duces tecum;
- i. To administer oaths and otherwise take testimony in any investigation or inquiry on any matter within the jurisdiction of the Commission;
- j. To sign interlocutory orders, resolutions or ruling in cases not yet assigned to a Member;
- k. To exercise such other powers and duties as are vested upon him by law or by the Commission Proper.

Section 6. *Powers and duties of the two (2) Commissioners.* - As members of the Commission Proper, the powers and duties of the two (2) Commissioners shall include the following:

- a. To attend, participate in the deliberations of, and vote during all regular and special sessions of the Commission Proper where any case, issue, or matter within its jurisdiction is under consideration;
- b. To recommend to the Chairman the inclusion in the agenda of any case or matter deemed appropriate in the performance of his function;
- c. To sign interlocutory orders, resolutions or ruling in cases and matters assigned to them for study and reporting;

- d. To require the appearance of any official or employee of the Commission in order to obtain information pertinent to a case assigned to him, the formulation of policy and the promulgation of accounting and auditing rules and regulations, or to direct the submission of any document, report, or record in the possession of such official or employee; and
- e. To exercise such other powers as are vested upon him by law or by specific provisions of these Rules.

Section 7. *The Commission Secretary.* - The duties and functions of the Commission Secretary shall include the following:

- a. To prepare the agenda for the sessions of the Commission Proper based on the priority set by it;
- b. To prepare and keep the minutes of all sessions, hearings and conferences of the Commission Proper;
- c. To receive all communications for action of the Commission Proper and determine compliance of appellant/petitioner with the required payment of filing fee prior to referral to the Legal Services Sector or to other concerned Office as the case may be;
- d. To keep a Docket wherein he shall enter in chronological order the cases and the proceedings thereon and a Book of Decisions which shall contain the original copy of the decisions or resolutions rendered by the Commission Proper in the order of their dates;
- e. To maintain for the Commission Proper a file of all Supreme Court Decisions involving the COA; and
- f. To perform such related functions as may be authorized by law or regulations or upon instruction of the Commission Proper.

Section 8. *Assistance to the Commission Proper.* - The Commission Proper may request the assistance of the Assistant Commissioners, and the Directors of the Central and Regional Offices in the performance of its adjudicatory functions, in cases or matters related to the latter's respective functions and responsibilities.

Section 9. *Power to issue subpoena and subpoena duces tecum.* - The Chairman or any Commissioner of the Commission, the Assistant Commissioners, the Central Office Directors, the Regional Directors, the Auditors of any government agency, and any other official or employee of the Commission specially deputed in writing by the Chairman for the purpose shall, in compliance with the requirement of due process, have the power to summon the parties to a case brought before the Commission for resolution, issue subpoena and subpoena duces tecum, administer oaths, and otherwise take testimony in any investigation or inquiry on any matter within the jurisdiction of the Commission.

RULE IV PROCEEDINGS BEFORE THE AUDITOR

Section 1. *Auditors as representatives of the Commission.* - The Auditors shall exercise such powers and functions as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions, and resources of the agencies under their respective audit jurisdiction.

Section 2. *Role of the Auditor.* - The Auditor shall maintain complete independence and exercise professional care and be guided by applicable laws, regulations and the generally accepted principles of auditing and accounting in the performance of the audit work as well as in the preparation of audit and financial reports.

Section 3. *Responsibility to Obtain Sufficient Evidence.* - The Auditor shall obtain, sufficient evidence to provide an appropriate factual bases for his opinions, conclusions, judgments and recommendations. He shall likewise be responsible for safeguarding the evidence needed to support his findings which may include (1) physical evidence such as the thing itself or sample thereof which is subject of the investigation or audit observation; (2) testimonial evidence such as sworn statements from witnesses, depositions and signed interview notes; (3) documentary evidence consisting of letters, contracts, reports, photographs, extracts from books of accounts, invoices, receipts, and computer print-outs; (4) analytical evidence such as analysis sheets/working papers prepared; and (5) electronic evidence such as e-mail, text messages or multimedia messages.

The technicalities of law and the rules governing the admissibility and sufficiency of evidence obtaining in the courts of law shall not strictly apply.

Section 4. *Audit Disallowances/Charges/Suspensions* - In the course of the audit, whenever there are differences arising from the settlement of accounts by reason of disallowances or charges, the auditor shall issue Notices of Disallowance/Charge (ND/NC) which shall be considered as audit decisions. Such ND/NC shall be adequately established by evidence and the conclusions, recommendations or dispositions shall be supported by applicable laws, regulations, jurisprudence and the generally accepted accounting and auditing principles. The Auditor may issue Notices of Suspension (NS) for transactions of doubtful legality/validity/propriety to obtain further explanation or documentation.

Section 5. *Relief from Accountability* - The auditor shall act on requests for relief from accountability for losses due to fortuitous events or natural calamities, or due to acts of man, i.e. theft, robbery, arson, etc. involving amounts not exceeding one hundred thousand pesos (P100,000.00). The action of the auditor shall be deemed an audit decision.

Section 6. *Number of Copies and Distribution.* - The ND, NC, NS or other order or decision of the Auditor shall be prepared in such number of copies as may be necessary

for distribution to the following: (1) original copy-to the head of agency being audited; (2) duplicate copy-to the Auditor for his record; (3) other copies to the agency officials directly affected by the results of the audit and from whom specified action or a response from the results of audit is expected as may be provided by law or the pertinent rules and regulations of the Commission.

Section 7. Service of Copies of ND/NC/NS, Order or Decision – The ND, NC, NS, order, or decision shall be served to each of the persons liable/responsible by the Auditor, through personal service, or if not practicable through registered mail. In case there are several payees, as in the case of a disallowed payroll, service to the accountant who shall be responsible for informing all payees concerned, shall constitute constructive service to all payees listed in the payroll.

Section 8. Finality of the Auditor's Decision. - Unless an appeal to the Director is taken, the decision of the Auditor shall become final upon the expiration of six (6) months from the date of receipt thereof.

Section 9. Motion for Reconsideration Not Allowed –The Auditor shall not entertain a motion for reconsideration of his audit decision, and any such motion shall be returned to the movant without action and with the advise for him to file an appeal instead to the Director pursuant to Rule V hereof.

RULE V PROCEEDINGS BEFORE THE DIRECTOR

Section 1. Who May Appeal. - An aggrieved party may appeal from the decision of the Auditor to the Director who has jurisdiction over the agency under audit.

Section 2. How Appeal Taken. – The appeal to the Director shall be taken by filing an Appeal Memorandum with the Director, copy furnished the Auditor. Proof of service of a copy to the Auditor shall be attached to the Appeal Memorandum. Proof of payment of the filing fee prescribed under these Rules shall likewise be attached to the Appeal Memorandum.

Section 3 . Caption. - The party appealing shall be called the "Appellant" and the Auditor who rendered the decision appealed from, as the "Appellee".

Section 4. When Appeal Taken - An Appeal must be filed within six (6) months after receipt of the decision appealed from.

Section 5. Interruption of Time to Appeal. - The receipt by the Director of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the Director's decision.

Section 6. *Auditor's Answer and Transmittal of Record.* - The Director shall, within five (5) days after receipt of the Appeal Memorandum, order the Auditor to submit an Answer together with the entire records of the case including the EDSE, every page of which shall be numbered at the bottom. The Auditor shall comply with the order within fifteen (15) days from receipt thereof.

Section 7. *Power of Director on Appeal.* - The Director may affirm, reverse, modify or alter the decision of the Auditor. If the Director reverses, modifies or alters the decision of the Auditor, the case shall be elevated directly to the Commission Proper for automatic review of the Directors' decision. The dispositive portion of the Director's decision shall categorically state that the decision is not final and is subject to automatic review by the CP.

Section 8. *Relief from Accountability* - The Director shall have original jurisdiction over requests for relief from accountability for losses due to fortuitous events or natural calamities involving amounts in excess of one hundred thousand pesos (₱100,000.00) and for losses due to acts of man; i.e., theft, robbery, arson, etc. involving amounts exceeding one hundred thousand pesos (₱100,000.00) but not more than five hundred thousand pesos (₱500,000.00).

Section 9. *Period to Decide Case.* - The Director shall render his decision on the case within fifteen (15) days after submission of the complete documents necessary for evaluation and decision.

Section 10. *Motion for Reconsideration Not Allowed* - The Director shall not entertain a motion for reconsideration of his decision and any such motion shall be returned to the movant without action and with the advise for him to file an appeal instead to the ASB or CP as the case may be, pursuant to Rule VI or Rule VII hereof.

RULE VI PROCEEDINGS BEFORE THE ADJUDICATION AND SETTLEMENT BOARD (ASB)

Section 1. *Composition of the Adjudication and Settlement Board (ASB)* - The ASB is hereby reconstituted composed of the Assistant Commissioner of the Legal Services Sector (LSS) as Chairperson, and the Assistant Commissioners of the National Government Sector, Corporate Government Sector and Local Government Sector as Members. Whenever the subject under consideration involves engineering/technical or accounting matters, the Assistant Commissioners of the Special Services Sector or Government Accountancy Sector, respectively, shall sit as members of the ASB. The LSS Assistant Commissioner shall notify them accordingly.

Section 2. *How the ASB Transacts Business* - The ASB shall act as a body to render decisions on matters within its jurisdiction. The LSS Assistant Commissioner shall act as

presiding officer of the meetings of the ASB which shall be held at least once a month. The ASB shall meet every first Wednesday of the month, or as often as necessary in the public interest or upon recommendation of any of the members.

Section 3. *ASB Secretariat* – The LSS Assistant Commissioner shall designate a senior staff of the Office of the General Counsel to serve as head of the ASB Secretariat who shall be responsible for the receipt and issuance of all communications of the ASB, the preparation of the agenda and minutes of its meetings, the maintenance of ASB records, and such other related functions as may be authorized by regulations or upon instruction of the ASB Chairperson.

Section 4. *Original Jurisdiction* - The ASB shall exercise original jurisdiction over cases involving the (1) write-off of unliquidated cash advances and dormant accounts receivable in an amount not exceeding One Million Pesos; and (2) requests for relief from accountability for losses due to acts of man, i.e. arson, theft, robbery, etc. involving amounts in excess of five hundred thousand pesos (₱500,000.00) but not exceeding five million pesos (₱5,000,000.00).

Section 5. *How requests filed* – Requests for write off of accounts or relief from accountability shall be filed with the ASB Secretariat under the Office of the Assistant Commissioner of the LSS, in five (5) copies. It shall include a complete citation of the facts of the case, the grounds for the action sought; laws, rules and regulations relied upon and shall be accompanied by all documents referred to in the request and necessary for adjudication of the case.

Section 6. *Appellate Jurisdiction* - The ASB shall have appellate jurisdiction over the decision of the Director in case of disallowances and charges involving amounts not exceeding one million pesos (₱1,000,000.00) and over requests for relief from accountability.

Section 7. *How appeal taken* – The appeal to the ASB shall be taken by filing an Appeal Memorandum in five (5) copies with the ASB Secretariat under the Office of the LSS Assistant Commissioner, copy furnished the Director. Proofs of service of a copy to the Director and of the payment of filing fee shall be attached to the Appeal Memorandum.

Section 8 . *Caption* – The party appealing shall be called the “Appellant” and the Director who rendered the decision appealed from shall be called the “Appellee”

Section 9. *When appeal taken* - An appeal must be filed within the remaining of the six (6) months period, after receipt of the decision appealed from.

Section 10. *Interruption of Time to Appeal.* - The receipt by the ASB of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the ASB’s decision.

Section 11. *Director's Answer and Transmittal of Record* - The ASB Chairperson shall, within five (5) days after receipt of the Appeal Memorandum, direct the Director to submit an Answer together with the entire records of the case including an EDSE, every page of which shall be numbered at the bottom. The Director shall comply with the order within fifteen (15) days from receipt thereof.

Section 12. *Power of ASB on appeal* - The ASB may affirm, reverse, modify or alter the decision of the Director.

Section 13. *Decision of the ASB* - The ASB shall review the case and render a decision within fifteen (15) days from receipt of the complete documents necessary for evaluation and decision.

Section 14. *Motion for Reconsideration Not Allowed* - The ASB shall not entertain a motion for reconsideration of its decision and any such motion shall be returned to the movant without action and with the advise for him to file a petition for review instead to the CP pursuant to Rule VII hereof.

RULE VII

PETITION FOR REVIEW TO THE COMMISSION PROPER

Section 1. *Who May Appeal and Where to Appeal.* - The party aggrieved by a decision of the Director or the ASB may appeal to the Commission Proper.

Section 2. *How Appeal Taken.* - Appeal shall be taken by filing a Petition For Review in five (5) legible copies, with the Commission Secretariat, a copy of which shall be served on the Director or the ASB who rendered the decision. Proof of service thereof shall be attached to the petition together with the proof of payment of the filing fee prescribed under these Rules.

Section 3. *Period of Appeal.* - The appeal shall be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under Sections 9 and 10 of Rule VI in case of decision of the ASB.

Section 4. *Caption.* - The party appealing shall be called the "Petitioner " and the Director or ASB as the "Respondent ".

Section 5. *Contents of Petition.* - The petition for review shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review, and shall be accompanied by a certified true copy of the decision appealed from, together with certified true copies of such relevant portions of the record as are referred to therein and other supporting papers. The petition shall state the specific dates to show that it was filed within the reglementary period.

Section 6. **Order to Answer.** - Within five (5) days from receipt of the petition for review, the Commission Secretary shall issue an Order requiring the Director or the ASB Chairperson to file his Answer to the Petition and transmit the entire records of the case to the Commission Secretary.

Section 7. **Filing of Answer and Transmittal of Record.** - Within fifteen (15) days from receipt of the Order to Answer, the Director/ASB Chairperson shall submit his Answer to the petition to the Commission Secretary together with the records of the case. A copy of the Answer shall be served on the petitioner by the Director or the ASB Chairperson. The answer shall (a) point out the insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed.

Section 8. **Reply.** - Petitioner may file a reply with the Commission Secretary, copy furnished the Director concerned or the ASB Chairperson within fifteen (15) days from receipt of the Answer. The Commission Proper, however, may direct any or all the parties to submit additional pleadings or documents which it may deem necessary in the proper adjudication of the case.

RULE VIII ORIGINAL CASES FILED DIRECTLY WITH THE COMMISSION PROPER

Section 1. **Original Jurisdiction** - The Commission Proper shall have original jurisdiction over: a) money claim against the Government; b) request for concurrence in the hiring of legal retainers by government agency; c) write off of unliquidated cash advances and dormant accounts receivable in amounts exceeding one million pesos (₱1,000,000.00); d) request for relief from accountability for loses due to acts of man, i.e. theft, robbery, arson, etc, in amounts in excess of Five Million pesos (₱5,000,000.00).

Section 2. **Money claim** – A money claim against the government shall be filed directly with the Commission Secretary in accordance with the following:

- a) **Petition.** - A claimant for money against the Government, whose claim is cognizable by the Commission Proper, may file a petition. The party seeking relief shall be referred to as "Petitioner" and the government agency or instrumentality against whom a claim is directed shall be referred to as "Respondent". The petition shall also be assigned a docket number as provided in these Rules.
- b) **Contents of Petition.** - The petition shall contain the personal circumstances or juridical personality of the petitioner, a concise statement of the ultimate facts constituting his cause of action, a citation of the law and jurisprudence upon which the petition is based and the relief sought. The petition shall be accompanied by certified

true copies of documents referred therein and other relevant supporting papers.

- c) **Filing of Petition.** - The petition shall be filed with the Commission Secretary, a copy of which shall be served on the respondent. Proof of service of the petition on the respondent together with proof of the payment of filing fee shall be attached to the petition.
- d) **Order to Answer.** - Upon the receipt of the petition, the Commission Secretary shall issue an Order requiring respondent to answer the petition within fifteen (15) days from receipt thereof.
- e) **Answer.** - Within fifteen (15) days from receipt of the said Order, the respondent shall file with the Commission Secretary an Answer to the petition. The answer shall be accompanied by certified true copies of documents referred to therein together with other supporting papers. The answer shall (a) point out insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed or granted. Copy of the answer shall be served on the petitioner and the proof of service thereof shall be attached to the answer.
- f) **Reply.** - Petitioner may file a Reply, copy furnished the respondent, within fifteen (15) days from receipt of the Answer.
- g) **Comment by Concerned Offices.** - Money claims, except court-adjudicated claims, shall first be assigned by the Commission Secretary to the appropriate Central or Regional Office, for comment and recommendation prior to referral to the Legal Services Sector for preparation of the decision and formal deliberation by the Commission Proper.

Section 3. **Hiring of Legal Retainer** – A request for concurrence of the Commission in the hiring of legal retainer shall be filed with the Office of the General Counsel who shall evaluate the same and issue the written concurrence or denial thereof in behalf of the Commission. A request for reconsideration or appeal therefrom shall be cognizable by the Commission Proper.

Section 4. **Other Cases** – Requests for write off of accounts receivable or unliquidated cash advances exceeding ₱1 million; or relief from accountability for acts of man such as robbery, theft, arson in excess of ₱5 million; or approval of private sale of government property; or other matters within the original jurisdiction of the CP, shall be filed with the Commission Secretary. The Commission Secretary shall refer the case to the Central/Regional Office concerned for comment and recommendation and thereafter to the Legal Services Sector, for preparation of the draft decision for consideration of the Commission Proper.

RULE IX
PLEADINGS, MODE OF FILING, DOCKETING OF CASES AND FILING FEE

Section 1. *Form of Pleadings.* - Pleadings, motions and other petitions shall contain a caption setting forth the name and address of the Commission on Audit, the title of the case, the docket number and the description of the pleading. They shall be printed or typewritten double-spaced on legal size bond paper. Proof of service of such papers on the adverse party or auditor, Director, ASB Chairperson or other parties having a direct interest in the case is necessary and must be shown therein.

Section 2. *Number of copies of pleadings.* - Every petition, answer, reply, motion, notice and other papers required by these rules to be filed in a case before the Commission Proper, thru the Commission Secretary, shall be made in five (5) legible copies.

Section 3. *Mode of Filing.* - The filing of pleadings, motions and other papers may be done either by personal delivery or by registered mail. If the filing is made by personal delivery, the receiving clerk shall promptly and legibly stamp on the face of the first page of the pleading the exact date and time it was received and filed and thereafter affix his initials.

If the filing is by registered mail, the date of mailing stamped by the post office of origin, shall be considered as the date of filing. The envelope or a portion thereof showing the date of mailing and registry stamp containing the pleading, motion and other papers shall be attached thereto. The date of actual receipt shall also be legibly stamped or indicated on the first page of the pleading.

When a petition does not have the complete annexes or the required number of copies, the petitioner shall be required to complete the annexes or file the necessary number of copies of the petition before the case is docketed.

Section 4. *Other Modes of Filing.* - Pleadings, motions and other papers sent by ordinary mail, by private messengerial services, or by any mode other than personal delivery or registered mail, shall be deemed filed only on the date and time they are actually received. The date and time of actual receipt shall be stamped and signed by the receiving clerk.

Section 5. *Payment of Filing Fee* - Every petition/appeal filed before an adjudicating body/office of this Commission pertaining to the cases enumerated below shall be imposed a filing fee equivalent to 1/10 of 1% of the amount involved, but not exceeding ₱10,000.00:

- a) appeal from audit disallowance/charge
- b) appeal from disapproval of request for relief from accountability

The Commission Secretary shall, thereafter, refer the case to the LSS which shall evaluate the claim and prepare a draft decision to be submitted to the Commission Proper thru the Commission Secretary, within fifteen (15) days from receipt of the referral.

Section 3. ***Oral Argument.*** - Upon motion by a party, or motu proprio, the Commission Proper may call for oral arguments of the parties before the Commission Proper en banc subject to such limitation of time and issues as the Commission may prescribe. In lieu of oral arguments, the parties may be allowed to submit their respective memoranda within fifteen (15) days from notice thereof.

Section 4. ***Period for Rendering Decision.*** - Any case brought to the Commission Proper shall be decided within sixty (60) days from the date it is submitted for decision or resolution, in accordance with Section 4, Rule III hereof.

Section 5. ***Procedure in Making Decisions.*** - The conclusion of the Commission Proper in any case brought before it for decision shall be reached after formal deliberation by its members.

Any member may write a separate concurring or dissenting opinion which shall form part of the decision. Any member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor.

Section 6. ***Form of Decision.*** - Every adjudication on the merits of a case shall be in the form of a decision which shall state clearly and distinctly the facts and the law on which it is based and signed by the members of the Commission Proper.

The copies of the agenda and excerpts of the minutes of the session of the Commission Proper and the resolution or decision pertaining to a case shall be duly attested by the Commission Secretary and shall be attached to the records of the case.

Section 7. ***Seal of the Commission.*** - The seal of the Commission on Audit, which shall be in the custody of the Commission Secretary, shall be affixed to all decisions or resolutions of the Commission as an indication of their official character.

Section 8. ***Number of Copies and Distribution of Decision.*** - Copies of the Decision or Resolution of the Commission shall be distributed as follows: (1) first original copy to the permanent Book of Decisions which shall be maintained and kept by the Commission Secretary; (2) second original copy to the Central Office Records Division of the Commission; (3) third original copy to the rollo or folder containing the original copies of the pleadings and other papers in the custody of the Commission Secretary; (4) one copy each to the Legal Services Sector, Auditor and Director concerned; (5) one copy each to the parties or their counsels in the case.

Section 9. ***Finality of Decisions or Resolutions.*** - A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory

after the lapse of thirty (30) days from notice of the decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Supreme Court is filed.

Section 10. *Motion for Reconsideration.* - A motion for reconsideration may be filed within the time remaining of the period to appeal, on the grounds that the evidence is insufficient to justify the decision; or that the said decision is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

Section 11. *Form and Contents of the Motion for Reconsideration.* - The motion shall be verified and shall point out specifically the findings or conclusions of the decision which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or the provisions of law that such finding or conclusions are alleged to be contrary to.

Section 12. *Effect of Motion for Reconsideration and How It is Disposed Of.* - A motion to reconsider a decision, complying with the immediately preceding section, suspends the running of the period to elevate the matter to the Supreme Court. Within two (2) days from its filing, the Commission Secretary shall refer the motion to the Director/ASB for comments. Upon receipt of the comments, he shall forward the same together with the motion to the Legal Services Sector for study and recommendation. The latter shall, within fifteen (15) days from receipt thereof, submit a draft decision, for the consideration of the Commission Proper.

Section 13. *Entry of Decision.* - If no appeal is filed within the time provided in these rules, the decision of the Commission shall be entered by the Commission Secretary in the Docket which shall contain the dispositive part of the decision and shall be signed by the Secretary with a certificate that such decision has become final and executory. Such recording of the decision shall constitute the entry.

RULE XI CONTEMPT

Section 1. *Direct Contempt Punished Summarily.* - A person guilty of misbehavior in the presence of or so near the Commission Proper or any of its members as to obstruct or interrupt the proceedings before it or them, including disrespect toward the Commission or its members, offensive personalities toward others or refusal to be sworn or to answer as a witness, or to subscribe to an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by the Commission or any of its members and shall be punished in accordance with the penalties prescribed in the Rules of Court.

Section 2. *Indirect Contempt.* - After a charge in writing has been filed by an aggrieved party before the Commission Proper or its members, and after an opportunity shall have been given to the respondent to be heard by himself or counsel, a person guilty of the following acts may be punished for contempt:

- a. Misbehavior of any officer of the Commission in the performance of his official duties or in his official transactions;
- b. Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its members;
- c. Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its members not constituting direct contempt under Section 1 of this rule;
- d. Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its members;
- e. Failure to obey a subpoena duly served.

Section 3. *Penalty for Indirect Contempt.* - If adjudged guilty, the accused may be punished in accordance with the penalties prescribed in the Rules of Court.

RULE XII JUDICIAL REVIEW

Section 1. *Petition for Certiorari.* - Any decision, order or resolution of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.

When the decision, order or resolution adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency.

RULE XIII ENFORCEMENT AND MONITORING OF DECISION

Section 1. *Execution of Decision* – Execution shall issue upon a decision that finally disposes of the case. Such execution shall issue as a matter of right upon the expiration of the period to appeal therefrom if no appeal has been fully perfected.

Section 2. *Notice of Finality of Decision (NFD)* - An NFD directing the persons liable to pay/refund the amount disallowed shall be issued by the following officials, upon a decision that has become final and executory:

- a) Auditor – for ND/NC or Decision issued by him
- b) Director who supervised the special audit team-for ND/NC issued by the audit team
- c) Director – for decision rendered by him
- d) General Counsel – for decision of the ASB

- e) Commission Secretary – for decision of the CP

Section 3. **COA Order of Execution (COE)** - In case of failure of the person(s) liable to refund the amount disallowed/charged as provided in the preceding section, the COE directing the Cashier/Treasurer/Disbursing Officer to withhold payment of any money due such person(s) shall be issued by the following:

- a) Director – for NFDs issued by him and the by Auditor
- b) General Counsel – for NFD issued by him and by the Commission Secretary, and for judgments rendered by the Supreme Court

Section 3. **Non-compliance with the COE.** - In case of failure by the Cashier/Treasurer/Disbursing Officer to comply with the COE, the Auditor shall notify the agency head concerned of the non-compliance. At the same time, the Auditor shall report the matter through the COA Director concerned, to the General Counsel who shall take any or all of the following actions:

- a. Recommend to the Commission Proper to cite defaulting party in contempt;
- b. Refer the matter to the Solicitor General for the filing of appropriate civil suit;
- c. Refer the case to the Ombudsman for the filing of appropriate administrative or criminal action.

Section 4. **Holding the Defaulting Party in Contempt.** – Any party who fails to comply with the COE may be held in contempt pursuant to Section 2, Rule XI of these Rules. The LSS shall study and evaluate the report of such non-compliance as cited in the preceding section and submit its recommendation to the Commission Proper within fifteen (15) days from receipt thereof.

Section 5. **Referral to the Solicitor General.** - To enforce civil liability, the Auditor shall submit to the Director concerned a report on COEs which have not been complied with. The report shall be duly supported with certified copies of the subsidiary records, and the payrolls/vouchers disallowed and collections charged, together with all necessary documents for the filing of the appropriate civil suit. The Director shall forward the report to the General Counsel who shall study and evaluate the same and submit his recommendations to the COA Chairman within fifteen(15) days from receipt thereof. Referral to the Office of the Solicitor General for its appropriate action may be made.

Section 6. **Referral to the Ombudsman.** - The Auditor shall report to his Director all instances of failure or refusal to comply with the decisions or orders of the Commission contemplated in the preceding sections. The COA Director shall see to it that the report is supported by the sworn statement of the Auditor concerned, identifying among others, the persons liable and describing the participation of each. He shall then refer the matter to the Legal Services Sector who shall refer the matter to the Office of the Ombudsman or

other appropriate office for the possible filing of appropriate administrative or criminal action.

Section 7. *Effect of Non-compliance.* - Any delay in complying or refusal to comply with the order or decision of the Commission shall constitute a ground for contempt, and/or administrative disciplinary action against the officer or employee concerned.

RULE XIV ADMINISTRATIVE CASES

Section 1. *Applicability of Civil Service Law and Other Rules.* - The procedures set forth in the pertinent provisions of the Civil Service Law, The Omnibus Rules Implementing Executive Order No. 292 and COA Memorandum No. 76-48 dated April 27, 1976, in administrative cases against officers and employees of the Commission, are hereby adopted and read into these rules.

Section 2. *Re-Hearing.* - In meritorious cases as may be determined by the Commission Proper, the Commission Proper may order a re-hearing of the administrative case.

Section 3. *Proposed Decision.* - Upon the termination of the formal investigation and the submission of the report of the hearing officer, or evaluation of respondent's Answer in case of waiver of formal investigation, the LSS shall within thirty (30) days thereof propose a decision for the consideration of the Commission Proper.

Section 4. *Transmittal to the Commission Proper.* - The LSS shall transmit to the Commission Proper through the Commission Secretary the proposed decision which shall contain the following particulars:

- a. Administrative case title and number;
- b. Respondent, position/designation and place of assignment;
- c. A brief statement of materials facts;
- d. Findings and conclusions;
- e. Penalty imposed, if warranted.

Section 5. *Review by the Chairman and Commissioners.* - The Commission Secretary shall furnish the members of the Commission with a complete set of the record of the case, together with the proposed decision and the summary of the case, for review.

Section 6. *Finalization of the Decision.* - After the review of the case by the Chairman and the Commissioners, the Commission Secretary shall calendar the same as an item in the agenda of the next regular meeting of the Commission Proper.

Section 7. *Recording and Release.* - The Commission Secretary shall record the decision in the Docket of Administrative Cases maintained by that office and thereafter send it to

the Central Office Records Division which shall be responsible for its release and full dissemination to all concerned.

Section 8. *Motion for Reconsideration.* - The respondent may, within fifteen (15) days after receipt of the decision, file with the Commission Proper a motion for reconsideration thereof in accordance with the procedure set forth under Sections 39, 40, 41 and 42 of COA Memorandum No. 76-48.

Section 9. *Disposition of the Motion for Reconsideration.* - The disposition of a motion for reconsideration shall be embodied in an appropriate resolution or issuance of the Commission Proper which shall form part of the records of the case. The procedure outlined for the disposition of administrative cases shall be observed.

Section 10. *Appeal.* - Appeals, where allowable, shall be made by the party adversely affected by the decision in accordance with the rules prescribed under existing Civil Service rules and regulations.

RULE XV MISCELLANEOUS PROVISIONS

Section 1. *Supplementary Rules.* - In the absence of any applicable provision in these rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

Section 2. Any deviation from these rules, which does not affect the substantive rights of the parties, shall not invalidate the action taken by the Commission.

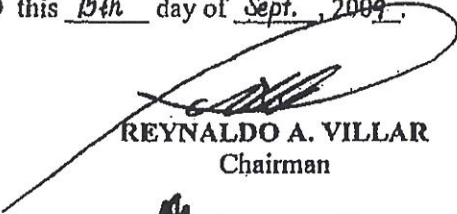
RULE XVI REPEALING CLAUSE AND EFFECTIVITY

Section 1. *Repealing Clause.* - All resolutions, rules, regulations, circulars and memoranda and other issuances of the Commission or parts thereof which are inconsistent with any provisions of these rules are hereby deemed repealed or modified accordingly.

Section 2. *Separability Clause.* - If any part of these rules is declared unconstitutional, the remaining part not affected thereby shall remain valid and effective.

Section 3. *Effectivity.* - These rules shall be published in a newspaper of general circulation and shall take effect thirty (30) days after completion of its publication.

APPROVED this 15th day of Sept., 2009.




REYNALDO A. VILLAR
Chairman



JUNITO E. ESPINO, JR.
Commissioner

Having been published in the Philippine Star on Sept. 28, 2009, these rules
take effect on Oct. 28, 2009, and the Daily Tribune

Attested by:



FORTUNATA M. RUBICO
Director IV
Commission Secretary

Annex H

Ministry Order No. 43 Series of 1984

Reproduced



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

10 September 1984

MINISTRY ORDER)
No. **43**)
Series **6** (1984)
X-X-X-X-X-X

Subject: Guidelines in the Preparation
and Payment of Contract Price
Escalation

To give substance to the Presidential approval of the amendment to the Implementing Rules and Regulations of PD 1594 authorizing Ministers of Infrastructure agencies to escalate contract prices up to 30% per annum, and for a uniform implementation of the same, the following guidelines are hereby promulgated for MPWH projects:

1. The implementing offices concerned shall submit to the MPWH Price Escalation Committee (MPWH-PEC), which is tasked with the computation of price escalation with the assistance of the MPWH Infrastructure Computer Center (ICC), the following documents (certified true copies), together with the contractor's request for price escalation payment duly endorsed/recommended by the Head of the implementing office:

- a. Approved Contract, including Resolution of Award and Abstract of Bids
- b. Approved Notice to Commence Work
- c. Approved PERT/CPM Work Schedule
- d. Approved Payment Voucher(s) and Statement(s) of Work Accomplished
- e. Approved Change, Work, or Extra Work Orders, Supplemental Agreements, Addenda, etc., if any
- f. Approved Contract Time Suspension/Extension, if any
- g. Background Information for every collection or partial payment duly signed by the Head of the implementing office.

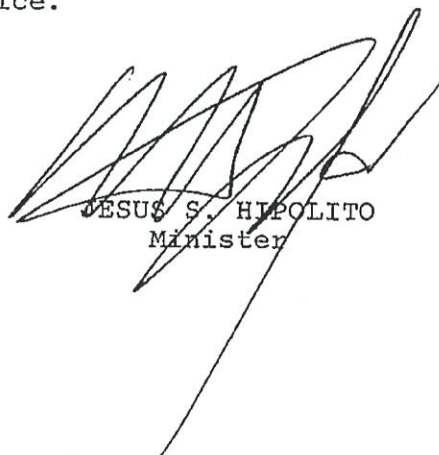
2. The Price Escalation Committee and the ICC shall prepare the necessary computations which shall be approved by the Minister or the Deputy Minister concerned. Copies of the computer printout(s) showing the applicable price escalation for payment duly approved by the Minister or the Deputy Minister, as the case may be, shall be forwarded by the MPWH-PEC to the implementing office concerned.

3. The implementing offices shall then prepare the corresponding payment vouchers chargeable (a) against the economic contingency portion of the contract if such was provided for in the obligation of funds to support said contract; (b) if no such contingency sum was built-in into the contract, the calculated price escalation shall be charged directly against the project funds; (c) However, if there are no more funds available as free balance of the project, the amount of price escalation shall be charged against the funds obligated for the contract.

4. All payment vouchers for price escalation shall be approved by the Minister unless otherwise delegated under Ministry Order No. 65, s. 1982 (Delegation of Authorities).

5. In case of 3(c) above, the implementing office shall evaluate the effects of price escalation and the extent payment thereof shall erode funds obligated for the contracted scope of work. Should there be no savings in whatever form to offset payments for price escalation, the project should be re-structured and the corresponding Change Order or Supplemental Agreement shall immediately be prepared/submitted for approval, ensuring that a usable portion of the project shall be completed with the exhaustion of the obligated funds therefor. The uncompleted portion of the project due to the resulting shortfall of funds shall be included in the ensuing construction program(s) of the implementing office.

For compliance.



JESUS S. HIPOLITO
Minister

Annex I

Department Order No. 36 Series of 2004

Revised Guidelines in Equipment Leasing Operation
with Schedule of Rental Rates



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
BUREAU OF EQUIPMENT
Manila

897-13 DPWH
5-15-04

MAR 12 2004

DEPARTMENT ORDER) SUBJECT: REVISED GUIDELINES IN EQUIPMENT
No. **36**) LEASING OPERATION WITH SCHEDULES
Series of *may 5-15-04*) OF RENTAL RATES
X-X-X-X-X-X-X-X-X-X-X-X-X-X-X

The equipment leasing operation of this Department, as an integral part of equipment management system, necessitates the charging of RENTAL for the use of equipment pursuant to Section 24 of R.A. 917, as amended by Section 17 of PD 17, in order to generate funds from the use of all DPWH equipment by either government or private users for the purpose of recovering capital investment, cost of maintenance and rehabilitation, depreciation, interest, insurance and overhead as a support to government infrastructure projects and maintenance.

In this connection, the lease/rental of all DPWH equipment (i.e., Land Based and Marine Equipment as per attached Schedules A and B, respectively) on a fully maintained basis, without fuel and operator, shall be subject to the following terms and conditions:

1. Issuance of Equipment to DPWH Field Operating Units Undertaking Projects by Administration or Force Account.

1.1 Usage of equipment shall be documented by submitting and processing an Equipment Rental Request/Order (ERRO), as follows:

- 1.1.1 The District/City/Project Engineer or Project Manager as the Lessee shall initiate and sign the ERRO as the requesting officer with a certification from the authorized field accountant as to availability of fund for the payment of rental.
- 1.1.2. The same will be recommended for approval by the Regional Equipment Engineer (REE) and be approved by the Regional Director.
- 1.1.3. The approved ERRO shall be retained by the concerned Regional Equipment Services (RES), a copy of which shall be furnished the Area Equipment Services (AES) for compliance and billing purposes.
- 1.1.4. Issuance of equipment by the RES or AES to the District/City Engineering Offices or Project Managers of Project Management Offices (PMO) shall be covered by an ERRO.
- 1.1.5. To avoid hoarding of equipment, the DEO or PMO must return the equipment that is no longer covered by the ERRO or list of Basic Highway Maintenance Equipment (BHME) being phased down to the issuing RES/AES to maximize utilization and shall serve as available units in the Regional inter-District/City Engineering Offices transfer of equipment.

2. Utilization of Basic Highway Maintenance Equipment (BHME)

- 2.1 The minimum fleet of BHME assigned to each District Engineering Office (DEO) which conform with the appropriate composition of BHME is considered rental-free pursuant to Department Order No. 54, Series of 1991.
- 2.2 The BHME list must be assessed and adjusted in relation to current Maintenance by Administration (MBA) phase-down from time to time in order to optimize equipment utilization.
- 2.3 To maximize the utilization and to preclude equipment hoarding, the Regional Offices shall strictly enforce the Regional inter-District/City Engineering Offices transfer of equipment.
- 2.4 Issuance of ERROs for equipment to be used in other projects aside from the national highway maintenance undertaken by administration is subject to the payment of equipment rentals.
- 2.5 Equipment not included in the list of minimum fleet of BHME shall not be utilized for highway maintenance unless authorized by the concerned DPWH Undersecretary/Assistant Secretary for Operation upon prior endorsement by the Regional Director and recommended for approval by the Director, Bureau of Equipment (BOE).

3. Rental Timing/Charging

- 3.1 A rental day is defined as a continuous eight (8) hours workable period within a twenty-four (24) hour duration excluding mealtime. Usage in excess of eight (8) hours within a rental day shall be counted or rented whether the equipment is being operated or laid idle. This, in effect, will discourage hoarding of the units and for optimum utilization.
- 3.2 For a day-to-day ERRO, a minimum rental corresponding to one (1) day [8-hours] shall be charged. The usage in excess of eight (8) hours shall be considered overtime and rental shall be charged for each hour of overtime or fraction thereof.
- 3.3 For a month-to-month term, the ERRO for highway construction equipment shall be charged a minimum of one hundred twenty (120) hours per month whether the equipment is used or not. Rental shall also be charged for actual operating hours in excess of the first 120 hours.
- 3.4 Rental may be suspended under the following conditions:
 - 3.4.1 In case of official shutdown due to major repair, provided that the Regional/Area Equipment Engineer is notified accordingly within one (1) day of breakdown, otherwise, claims for rental suspension for the period in question shall not be allowed. Should the period of shutdown exceeds two (2) or more calendar days, the equipment shall be returned to the AES/RES for custody.

4. Payment of Equipment Rentals

- 4.1 For accounting purposes, the rental charges shall be billed at the close of each calendar month. If the use of the equipment is for a shorter duration, billing shall be done upon completion/termination of the lease period. The billing shall be supported by a duly accomplished Utilization Report in consonance with Department Order No. 140, Series of 1996
- 4.2 Any department field officer/employer shall be held administratively liable for the technical malversation or violation of existing regulations if he diverts the amount intended for equipment rental as provided for in the approved ERRO.

5. Discounting of Rental Rates

- 5.1 Utilization of equipment under an approved ERRO is entitled to a discount in rental for land based equipment as follows:

| AGE (Based on Acquisition) | PNEUMATIC MOUNTED UNITS | CRAWLER MOUNTED UNITS |
|--------------------------------------|--|--------------------------------------|
| 5 years old | 10 % | 10 % |
| 6 years old | 15 % | 15 % |
| 7 years old | 25 % | 25 % |

- 5.2 All newly-rehabilitated equipment shall be entitled to a ten percent (10%) discount for the first five (5) years of operation/utilization after which it shall follow the prescribed discount as stated above.

6. Utilization of Equipment for Emergency

- 6.1 The fleet of BHME assigned to each DEO/CEO may also be utilized for a calamity-related emergency.
- 6.2 Other equipment which is not part and parcel of the BHME may be used in case of natural calamity/disaster and/or emergency period, but the subject equipment must be returned to the issuing office after the completion of its purpose and shall be billed as rental against calamity funds.

7. Lease/Rental of Material Processing Plants

- 7.1 Idle/underutilized Material Processing Plants under the custody of Regional Offices may be leased to private contractors or suppliers of aggregates, in consonance with Department Order No. 151, Series of 1989, subject, however, to the terms and conditions to be incorporated in the Contract of Lease of Equipment, which shall include, among others, a minimum of one hundred twenty (120) hours rental rates shall be charged per month whether the plant is used or not; the Lessee shall agree to initially put the leased unit in good operating condition, and shall replace/repair any defective parts, and to bear the cost of fuel/lube, insurance, as well as the cost of mobilization and demobilization. Said Contract of Lease shall be coursed through the Utilization Division, BOE, for review and evaluation and to be recommended by the BOE Director, for approval by the Undersecretary/Assistant Secretary for Operations concerned, for contracts exceeding one (1) month but less than one (1) year, and for the Secretary's approval, for contracts of one (1) year up to a maximum of two (2) years.

8. Lease of DPWH Equipment to Other Government Entity, Local or National

- 8.1 Authority to lease equipment to other government entities on a "short-term" duration not exceeding one (1) month is hereby delegated to all Regional Directors pursuant to Department Order No. 59, Series of 1988. After the originally approved lease period not exceeding one (1) month expires, same may be extended for a period of another one (1) month, subject to a certification from the REE concerned that both the original lease period not exceeding one (1) month and the extension, were fully paid for under the advance payment arrangement.
- 8.2 Issuance of equipment shall be made after the lease contract is approved and same shall be withdrawn after the termination of lease period.
- 8.3 Should the Lessee desire to use the equipment for more than sixty (60) days period but less than one (1) year, same should be done with prior clearance from the Undersecretary/Assistant Secretary for Operations concerned, subject, however, to the execution of a Lease Contract by and between the Regional Director concerned as Lessor and other government agency as Lessee, to be approved by the Undersecretary/Assistant Secretary for Operations concerned.

9. Lease of Equipment to DPWH Private Contractor

- 9.1 Private contractor undertaking DPWH projects and other government projects may be allowed to lease the equipment on a short term basis pursuant to Department Order No. 18, Series of 1993, under a Fully-Maintained Equipment Lease Contract (FMELC).
- 9.2 For a lease period for DPWH equipment of more than one (1) month but less than one (1) year, the Lessee shall secure an authority from the Undersecretary/Assistant Secretary for Operations concerned. Thereafter, an Equipment Lease Contract shall be executed by and between the DPWH Private contractor as Lessee, the same to be supported with a Surety Bond to guarantee the replacement cost of leased equipment in case of loss, cost of repair that is not due to normal wear and tear, and cost of replacement of missing parts, tools, attachments and accessories originally issued with the equipment.
- 9.3 The leasing of equipment to contractors/private firms shall be governed by the provisions of the Lease Contract to be executed incident thereto. Said contract if it exceeds one (1) month but less than one (1) year shall be approved by the Undersecretary/Assistant Secretary for Operations concerned.
- 9.4 Payment of rental must be made in advance or the Lessee shall put up a domestic Letter of Credit to guarantee the payment of rental covering the period of lease.
- 9.5 The issuance of the leased equipment shall be done only after the approval of the Contract of Lease.
- 9.6 The mobilization and demobilization costs shall be for the account of Lessee, likewise, the Lessee shall be liable for compensation, lawsuits arising from injury or damage caused/done to any person or property by reason of the use of leased equipment during the period of lease.

10. Leasing of Land-Based and Marine Equipment from Private Lessors

- 10.1 To accelerate early completion of rescinded/terminated projects, and other emergency/urgent projects, which will be more economical and expeditious if undertaken by the administration, and whenever the required equipment is not available at the DPWH Regional Offices where the project is located, the Regional Directors/District Engineers or PMO Project Managers may lease the necessary equipment from the Private Lessors subject to the following conditions:
 - 10.1.1 The equipment rental rates offered by the private lessors shall not exceed the current ACCEL RENTAL RATES prescribed/authorized by DPWH under a department order.
 - 10.1.2 Payment of rental shall be for the actual equipment time or number of operating hours used.

- 10.1.3 A certification must be secured from the BOE Director that subject equipment is not available at the Central Office, or from the concerned Regional Equipment Engineer.
- 10.1.4 An Equipment Inspection report re: equipment proposed to be leased from private lessors, must be secured from the Utilization Division, BOE, or Regional/Area Equipment Services concerned confirming that the subject equipment is in good operating condition.
- 10.1.5 A comparative analysis for reasonableness and acceptance of offered rental rate must be submitted by the BOE indicating that the rental rates by the private Lessor is lower or equal to the current prescribed DPWH rental rates.
- 10.1.6 For land-based equipment, the ownership documents must be submitted indicating the chassis and engine serial numbers.
- 10.1.7 For marine equipment and pursuant to RA 5173 and LOI-208 (Philippine Merchant Marine Rules and Regulations), the following documents must be submitted: Certificate of Ownership, Registry and Coastwise License, and Certificate of Inspection.
- 10.1.8 All lease contracts for short duration of not more than thirty (30) calendar days shall be approved by the concerned Regional Directors; however, lease contracts for more than thirty (30) calendar days but less than one (1) year shall be approved by the Undersecretary/Assistant Secretary for Operations concerned, and for contracts of one (1) year up to a maximum of two (2) years shall be approved by the Secretary upon the recommendation of the BOE Director.
- 10.1.9 A clearance must be obtained from the Undersecretary/Assistant Secretary for Operations concerned if the proposed lease period is more than 30 calendar days but less than one (1) year.

11. Rental of Service Vehicle (motor vehicle/transport equipment) From Private Lessors

- 11.1 As provided for in Section 76, Chapter 7, Book VI of Executive Order No. 292 (Administrative Code of 1987), no appropriations authorized in the General Appropriations Act shall be used for renting motor transport equipment for a continuous period of more than fifteen (15) days, except as may be authorized by the Secretary of Budget and Management.
- 11.2 In order to be consistent with and in compliance with DBM - National Budget Circular No. 446, Series of 1995, (Guidelines on the Acquisition and Rental of Motor Vehicles), provisions on Rental of Motor Vehicles, Item 12.0 of NBC No. 446, is hereby adopted and incorporated, to wit:

11.2.1 Heads of Agencies are authorized to rent motor transport equipment for a continuous period not exceeding fifteen (15) days chargeable against agency appropriations under the following circumstances/situations:

- Where the motor vehicle will be used in the performance of agency functions, such as investments promotion, foreign affairs, international trade and tourism, that require transportation services for agency official guests/visitors;
- Where the motor vehicle will be used in conventions, seminars, athletic/sports events and similar gathering wherein the nature of the gathering requires the travel of transport of participants from one location to another;
- Where the motor vehicle will be used by a Presidential ad-hoc body/agency mandated to perform a specific task within a specific period. In which case, motor vehicle rental is deemed more economical, expedient and convenient than outright purchase;
- Where the motor vehicle will be used in urgent and/or emergency cases such as in search and rescue operations during natural or man-made disasters or calamities; and
- Under other situations similar to the above.

11.2.2 Rental of motor vehicles/transport equipment for a continuous period of more than fifteen (15) days may be allowed, subject to the approval by the Secretary of Budget and Management.

11.2.3 Information Requirements – Requests for authority to rent shall be accompanied by the following:

- Detailed justification for the rental of the motor/transport vehicle(s) proposed, including the duration of the specific program, project and activity for which the motor vehicle(s) will be rented;
- The number, type and specifications of vehicle(s) to be rented, and the proposed rate(s);
- Period of rental of the motor vehicle(s); and
- Certification of fund source and availability."

12. Usage of DPWH Equipment

- 12.1 The policies and guidelines on the utilization of service vehicles under a 'rental free basis' shall conform to MPWH Memorandum Circular No. 62, Series of 1986, and other approved exemption orders from the Secretary.
- 12.2 All users of DPWH equipment shall be charged rental without any exception unless authorized/approved by the Secretary upon recommendation of the BOE Director with the attendant condition relative thereto.

13. Issuance of Certificate of Clearance to DPWH Implementing Offices

- 13.1 To preclude accumulation of unpaid equipment rentals, the incumbent District/City Engineers and PMO Project Directors/Managers before they are allowed to retire from the service shall be required to secure a clearance from the concerned Regional Equipment Engineer having jurisdiction over the District/Project Management Offices where they were previously and are presently assigned, to the effect that all equipment rentals rendered during their term have been fully paid/liquidated.

14. Issuance of Certificate of Clearance to DPWH Private Contractors

- 14.1 The issuance of Certificates of Clearance for equipment rentals for contractors undertaking DPWH projects shall conform with the provisions of MPWH Memorandum Circular No. 89, Series of 1982. However, for collection of Final Payment of contract work, the concerned contractor should secure a Certificate of Clearance from the BOE thru the Utilization Division in addition to the final payment clearance issued by the Resident Project Engineer and the Regional Equipment Engineer concerned. Issuing officers from the Utilization Division, Bureau of Equipment shall check/verify and take all necessary steps to ensure that all back accounts, if any, were fully paid.

This Order shall take effect immediately and shall remain in force unless modified and/or amended accordingly.

Any existing orders, circulars and memoranda inconsistent herewith are hereby revoked.


FLORANTE SORIQUEZ
 Secretary

Annex J

Department Order No. 71 Series of 2005

Evaluation of Claims for Payment Interest due to
Delayed Payment of Progress Billings and other
related contractor's claim from the DPWH



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

697.13 DPWH
D7-06-2005

JUL 06 2005

DEPARTMENT ORDER

NO. **71**

Series of 2005 *D7-06-05*

SUBJECT : Evaluation of Claims for Payment of Idle Equipment/Personnel, VAT Differential, Interest due to Delayed Payment of Progress Billings and other related contractor's claim from the DPWH.

In the interest of the service, and in order to establish a uniform system and procedure in the evaluation of the Claims for Payment of Idle Equipment/Personnel, VAT Differential, Interest due to Delayed Payment of Progress Billings and other related contractor's claim from the DPWH, the Bureau of Construction is tasked to perform such evaluation and processing of said claims. By virtue of this delegated authority and additional functions, the Bureau of Construction may seek assistance from any office or employee of the Department, in order to accomplish this undertaking.

All existing Ad Hoc Committees created to process existing claims are directed to complete their assignments and from the date of approval of this Department Order, no more Ad Hoc Committee shall be created for this purpose but the responsibility of the review, evaluation and processing of the above claims shall be assumed by the Bureau of Construction.

This Order supercedes all other Orders, Circulars and Memoranda inconsistent herewith and shall take effect immediately.

[Signature]
HERMOGENES D. BORDANE, Jr.
Acting Secretary



WIN5A00084

Annex K

COA Memorandum Circular No. 88-569

Guidelines for Appraisal of Unserviceable Property

COMMISSION ON AUDIT MEMORANDUM NO. 88-569 August 12, 1988

TO : COA Directors, Heads of Auditing Units, COA Engineers, and All Others Concerned.

SUBJECT : Guidelines for Appraisal of Unserviceable Property

To provide the COA appraisers with a condensed set of principles and procedures for computing appraised values of unserviceable government property which the Auditor may use as reference values in his audit of disposals, this Commission hereby prescribes the herein Guidelines for Appraisal of Unserviceable Property.

I. RATIONALE

Section 79 of the Auditing Code provides:

"Destruction or Sale of Unserviceable Property -

When government property has become unserviceable for any cause, or is no longer needed, it shall, upon application of the officer accountable therefor, be inspected by the head of the agency or his duly authorized representative in the presence of the auditor concerned and, if found to be valueless or unsalable, it may be destroyed in their presence. If found to be valuable, it may be sold at public auction to the highest bidder under the supervision of the proper committee on award or similar body in the presence of the auditor concerned or other duly authorized representative of the Commission, after advertising by printed notice in the Official Gazette, or for not less than three consecutive days in any newspaper of general circulation, or where the value of the property does not warrant the expense of publication, by notices posted for a like period in at least three public places in the locality where the property is to be sold. In the event that the public auction fails, the property may be sold at a private sale at such prices as may be fixed by the same committee or body concerned and approved by the Commission."

Under this rule when there is a sale of unserviceable government property, the role of the auditor is to witness the public auction called for the purpose, and in the event that the public auction fails and a private sale is resorted to, to see that the selling price is approved by the Commission on Audit. In the performance of both roles, the Auditor needs to be guided by some reliable reference value.

Thus, COA Circular No. 79-115 construes the role of the Auditor-witness "not as a mute but as an intelligent, responsible, and articulate witness to the proceedings done in his/her presence. The act of witnessing shall not be confined to merely seeing what is being done in the proceedings but shall be related to the more meaningful discharge by the Auditor of his/her constitutional duty to examine, audit, and settle all accounts pertaining to the expenditure of funds and/or use of properties of the government."

To the engineers of the Commission fall the burden of performing the appraisal needed to provide our Auditors the required reference values. To achieve consistency in appraisal methods and to avoid arbitrary action on the part of COA appraisers, this set of appraisal guidelines is hereby promulgated.

Section 79 of PD 1445 quoted above covers only property which are unserviceable or no longer needed. There are however, abnormal cases which, incidentally, need Presidential authorization, where fully serviceable government property are sold as in the case of vehicles and furniture sought to be purchased by retiring justices and ranking government officials purportedly for sentimental value, and also in the case of the Asset Privatization Program of President Corazon Aquino where fully functional assets and even whole government corporations are being sold to private interests.

In either case, whether the property for sale is unserviceable or serviceable, the government has to recover at least a fair market value of the property. Such an objective is always assumed whenever the management of a government agency offers its property for sale.

Whether such objective is attained or not is for the auditor to verify, hence the need for COA appraisal. The accompanying set of guidelines is aimed at providing the COA appraiser with a condensed set of principles and procedures for computing appraisal values which the auditor may use as reference values in his audit of disposals of government property.

II. OBJECTIVE

The appraisal to be performed by COA engineers is aimed at providing the auditor concerned with a reference value in his audit of disposal of government property. The appraised value is an estimate or opinion of value of an adequately described property as of a specific date transmitted in writing and supported by presentation and analysis of relevant and factual data.

The COA appraised value is to be used by the auditor in his audit of the sale/disposal of property to gauge the reasonableness of the disposal price. This appraised value should not be confused with the government floor price in a public auction. The setting of the floor price is a management responsibility.

The objective of the auditor's evaluation is to see that the disposal is not excessively underpriced compared to the reasonable value reflected in the COA appraisal. How much price discrepancy is excessive will rest on the criteria to be set by the COA Commission Proper regarding the materiality of the discrepancy compared to the costs that would be incurred if the disposal is not carried through, such as the costs for calling another public auction, those for storage and security of the property, and those for losses due to deterioration and exposure to damage from vandal/thieves.

III. GENERAL PROCEDURES

In general, the appraisal process consists of the following:

- 1) conducting an ocular inspection of the property to be appraised to assess its physical condition;
- 2) seeking reference price information such as acquisition cost, or current market price of similar property, or replacement cost for a similar new property; and
- 3) computing the appraised value following some generally accepted formula which will take into account the property's actual physical condition, the relevant reference price information, and the changes in the value of the property caused by depreciation, and those caused by changes in the value of the exchange currency, the peso.

An analysis of the appraisal is prepared in writing and submitted either thru the TSO or directly to the Unit Auditor concerned.

IV. INSPECTION OF PROPERTY TO BE APPRAISED

A. Preliminary Documentation

1. Before the COA appraiser commences the inspection of the property to be appraised, he has to check whether the corresponding form for disposal has been properly accomplished. The forms used for disposal are:

- a) Inspection and Inventory Report (I & I Report) or General Form No. 17(A).

This form is used for the disposal of vehicles, mechanized equipment, office equipment, furniture, and semi-expendable materials. When accomplished, this form should also contain the list of missing parts, if any, which should be accompanied by a certification of the property officer or custodian as to whether the missing parts were removed for future stock or have been utilized already for repair purposes.

- b) Waste Material Report (WMR) or General Form No. 64(A).

This form is used for the disposal of waste materials which result from the consumption or utilization of expendable materials, and covers damaged equipment parts, empty containers, and remnants salvaged from destroyed or damaged fixed assets.

2. If the property to be appraised is no longer available for inspection, as in the case of lost or burned equipment for which accountability is being assessed, the COA appraiser shall forego the ocular inspection, and proceed to the next succeeding appraisal step.

B. Inspection Process

In the conduct of the inspection of the property to be appraised, the COA appraiser shall perform the following, where applicable:

1. Check the condition of the property; determine whether operational, under repair, or beyond economic repair.
2. Verify stated ratings, capacity, model, year of manufacture, serial number, chassis number, motor number and other technical specifications, fuel and lubricant, and accessories, if any.
3. Determine quality or degree of maintenance and repair; check logbook, if available.
4. Determine the extent of use, mileage, rate of depreciation, and any excessive wear and tear.
5. Determine availability of spare parts.

The objective of the inspection is to supplement theoretical computations of value with first-hand observation of the condition of the property. The depreciation mentioned here refer to observed depreciation to distinguish the results of personal inspection from those of theoretical estimates.

V. REFERENCE PRICE INFORMATION

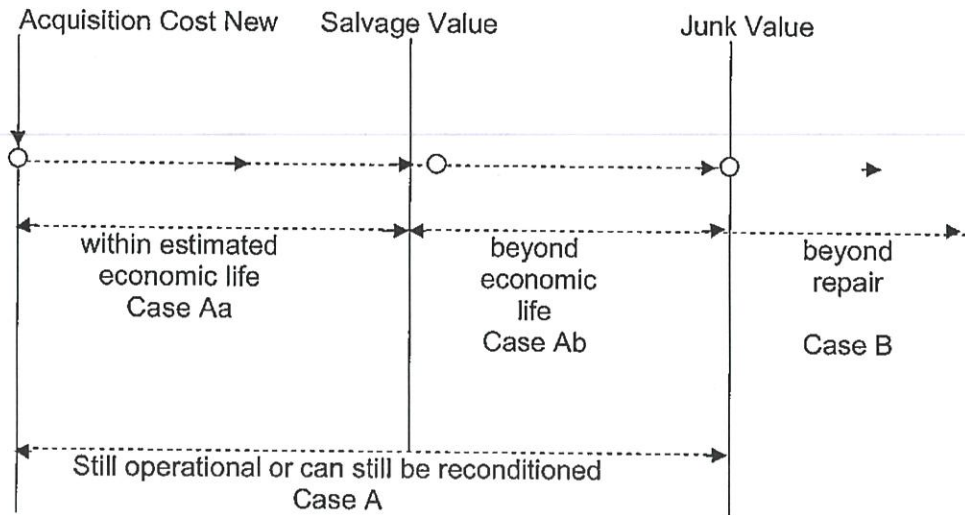
The COA appraiser shall gather the following reference price information to aid him in his appraisal computations:

1. Current Market Value (CMV) - or the prevailing market/advertised prices of used equipment/cars of the same make and model or similar models.
2. Prices from second hand rebuilders and reconditioners of machinery, cars, or equipment.
3. Acquisition Cost (AC) - or the price of the property when it was new, at the year of manufacture.
4. Replacement Cost New (RCN) - price of new property for current year.
5. Currency exchange rates for acquisition year and current year.

VI. COMPUTATION OF THE APPRAISED VALUE

A. General Guidelines and Principles

1. Unserviceable property which can no longer be repaired or reconditioned shall be appraised at scrap or junk value.
2. Unserviceable property which can still be repaired or reconditioned, and property no longer needed which are still functional shall be appraised at current market value, if such is available, otherwise the property shall be appraised at sound value.
3. Antique property, works of art, and real estate are not covered under these guidelines. Antique property and works of art shall be appraised by the National Museum, and real estate shall be appraised under a separate set of guidelines.
4. Current Market Value (CMV), is the price estimated which a property will bring if exposed for sale in the open market, allowing a reasonable time to find a buyer who buys with knowledge of the actual condition and utility of the property. The CMV may be taken from advertised prices of used equipment / vehicles of the same make and model or similar models, adjusted for the actual condition of the property being appraised relative to the condition of the advertised model.
5. Sound Value (SV), a measure of value widely used by valuers and appraisers, is derived from Replacement Cost – New (RCN), minus observed depreciation tempered by consideration given to the actual condition and utility of the property.
6. The graphic presentation of the Decline in the value of property is presented as follows:



7. Depreciation Factor is the adjustment factor used to account for the depreciation or deterioration of the property assuming normal usage and reasonable maintenance of the property. Using straight line depreciation:

$$\text{Depreciation Factor} = \frac{\text{Remaining Economic Life}}{\text{Estimated Economic Life}}$$

where:

Estimated Economic Life - is the number of years indicated in the attached Table of Estimated Economic Lives corresponding to the property type involved as its years of useful or economic life

Remaining Economic Life - is the difference between the

- a) Estimated Economic Life, and
- b) The actual age or the number of years the property has been in use or operation.

8. Condition Factor is the adjustment factor used to consider the actual condition of the property thru an evaluation of the condition of the major components of the property relative to an ideally functioning model. With respect to vehicles, the condition factor may be estimated as follows:

Table 8.1 COMPONENT CONDITION RATING TABLE

| COMPONENT: Engine | Transmission | Differential | Body Chassis | Others |
|-----------------------|--------------|--------------|--------------|--------|
| % WEIGHT CONDITION | 23% | 7% | 35% | 30% |
| Good | 1.0 | 1.0 | 1.0 | 1.0 |
| Fair | 0.8 | 0.8 | 0.8 | 0.8 |
| Poor | 0.6 | 0.6 | 0.6 | 0.6 |
| Very Poor | 0.4 | 0.4 | 0.4 | 0.4 |
| Missing | 0 | 0 | 0 | 0 |

Condition Factor :

sum of [condition rating x % weight] for all components

With respect to furniture and non-mechanized implements, the condition factor may be assigned as follows:

Table 8.2 CONDITION FACTORS FOR FURNITURE/
NON-MECHANIZED IMPLEMENTS

| Condition | Condition Factor |
|-----------|------------------|
| Good | 1.0 |
| Fair | 0.8 |
| Poor | 0.6 |

In the case of property no longer available for inspection, as in the case of lost or burned equipment for which accountability is being assessed, the condition factor shall be assumed to be 1.0.

9. Currency Fluctuation Factor is the adjustment factor used to take into account the devaluation of the peso from the year of acquisition to the year of appraisal.

CURRENCY
FLUCTUATION =
FACTOR

P/dollar exchange rate on year of appraisal

P/dollar exchange rate on year of acquisition

B. Specific Guidelines and Formula for Furniture and Non-Mechanized Implements:

1. When property is still functional or can still be repaired: Case A.

Appraised Value :

Replacement Cost-New X

| |
|--|
| $0.20 \times \text{Depreciation Factor} + 0.80 \times \text{Condition Factor}$ |
|--|

2. When property is unusable and can no longer be repaired: Case B.

Appraised Value = Junk Value

where Junk Value is based on prevailing price of scrap metal or lumber, whichever is appropriate.

C. Specific Guidelines and Formulae for Vehicles and Mechanized Equipment:

1. When property is still operational or can still be reconditioned: Case Aa.

- a) When current market value is available:

Appraised Value = Current Market Value

where:

Current Market Value = $\frac{\text{Advertised/Market Price}}{\text{Condition Factor}}$ X

- b) When Replacement Cost-New is available:

- 1) When age of property is less than estimated economic life (per attached table): Case Aa.

Appraised Value :

Replacement Cost-New X

$0.50 \times \text{Depreciation Factor} + 0.50 \times \text{Condition Factor}$

- 2) When age of property is more than estimated economic life: Case Ab

Appraised Value :

Replacement Cost-New X

$[0.50 \times \text{Condition Factor}]$

- c) When original acquisition cost, AC, is available:

- 1) When age of property is less than estimated economic life: Case Aa.

Appraised Value:

AC X Currency Fluctuation X
Factor

$0.50 \times \text{Depreciation Factor} + 0.50 \times \text{Condition Factor}$

- 2) When age of property is more than estimated economic life: Case Ab.

Appraised Value:

AC X Currency Fluctuation X
Factor

$0.50 \times \text{Condition Factor}$

2. When property can no longer be repaired/reconditioned: Case B.

Appraised Value = Scrap/Junk Value per Table of Junk Values:

1987 TABLE OF JUNK VALUES

| Junk Type | | Value |
|-----------|----------|----------|
| 1. | Steel | |
| | a) Heavy | P750/ton |
| | b) Light | 700/ton |

| | | |
|----|-------------------------|------------|
| 2. | Cast Iron Engine Blocks | P1,000/ton |
| 3. | Metal | |
| | a) Body Parts/Chassis | 675/ton |
| | b) Tin Cans | 500/ton |
| | c) Scrap | 600/ton |

VII. ADJUSTMENT OF APPRAISED VALUE WHEN AUCTION BIDS ARE LOW

When the Highest Bid is lower than the Government Floor Price.

If after exposure of the property to public auction, as required under Sec. 79 of P.D. 1445, the highest bid falls below the government floor price or the Auditor's reference value, whichever is lower, then the Auditor shall:

- a) Determine whether the difference is excessive.
The amount of deviation of the highest bid from the floor/reference value is considered excessive when it is greater than 10% of the floor/reference value plus the cost of calling another public auction.
- b) If the difference is found not excessive, the sale may be allowed in audit. If the difference is found to be excessive, the auditor shall recommend the calling of another public auction with the floor/reference value reduced by 10%.
- c) If the second auction still fails, i.e., the highest bid is still excessively lower than the reduced floor/reference value, then the sale may be negotiated with the highest offer or at a price to be approved by the Commission on Audit.

VIII. AUDIT ACTION ON DISPOSAL OF PROPERTY

When the disposal of property is performed in accordance with existing regulations then the journal voucher dropping the property from the Agency accounts shall be passed in audit. However, if regulations have been violated or if the property is disposed of at an excessively low price, then the Auditor shall suspend/disallow in audit the journal voucher dropping the property from the account.

IX. TABLES

1. Table of Estimated Economic Lives

TABLE OF ESTIMATED ECONOMIC LIVES

Source: US Treasury Dept. Bulletin F Income Tax
Depreciation & Obsolescence Estimated
Useful Lives & Depreciation Rates

| Property | Years |
|----------------------------------|-------|
| I. Motor and other Vehicles | |
| Automobiles: | |
| Owner driven | 10 |
| Passengers | 5 |
| Salesman | 3 |
| Horsedrawn vehicle | 8 |
| Motor cycle | 4 |
| Tractor | 6 |
| Trucks: | |
| Outside use - | |
| Electric | 10 |
| Gas - light | 4 |
| Medium | 6 |
| Heavy | 8 |
| Inside use - | 15 |
| II. Office Equipment | |
| Adding Machine | 10 |
| Addressing & Mailing machine | 15 |
| Billing machine | 8 |
| Binders loose leaf | 20 |
| Blue printing machine | 15 |
| Bookkeeping machine ⁸ | |
| Calculators | 10 |
| Cabinets & file | 15 |
| Call system | 14 |
| Cases: | |
| Books | 20 |
| Display | 20 |
| Check perforators | 10 |
| Check writers | 8 |
| Cleaners electric vacuum | 6 |
| Clocks: | |
| Time | 15 |
| Time stamping | 10 |
| Wall | 20 |
| Coolers, water | 10 |
| Desk | 20 |
| Duplicating machine | 10 |
| Fans electric | 10 |
| Folding & sealing machine | 10 |
| Hospital equipment | 15 |
| Lamp desk & floor | 10 |
| Linolium | 8 |
| Lockers | 25 |
| Lunch room equipment | 15 |

| | |
|-------------------------------|-------|
| Mirror | 20 |
| Money machines | 10 |
| Numbering machines | 10 |
| Photographic machine | 26 |
| Books & stand | 15 |
| Rags, carpet & mats | 10 |
| Safes & Vaults | 50 |
| Scale counter & mail | 20 |
| Shades windows | 10 |
| Sign boards | 10 |
| Tables | 15 |
| Typewriters | 10 |
| Wardrobe | 20 |
| III. Other Assets | |
| Plumbing | 20 |
| Power Plant | 20 |
| Power Transmission line | 10-15 |
| Railroads: | |
| Rails | 20 |
| Ties | 8 |
| Refrigerators | 5 |
| Sawmill | 20 |
| Sewing machines | 10 |
| Steamship freight: | |
| Great lakes | 33 |
| Lumber tracks | 20 |
| Ocean going | 20 |
| Closing machines, can | 15 |
| Cutters, paper | 15 |
| Gluing machine, box or carton | 20 |
| Boilers | 30 |
| Crushers | 25 |
| Pulverizers (cement) | 25 |
| Track (quarry) | 15 |
| Automobile tank cars | 10 |
| Railroad tank cars | 25 |
| Tanks | 22 |
| Water tower, cooling | 15 |
| Foundries | 25 |
| Motor: | |
| AC | 15 |
| DC | 12 |

2. Table of Peso/Dollar Exchange Rates

TABLE OF PESO/DOLLAR EXCHANGE RATES

| Year | Pesos/Dollar |
|------|--------------|
| 1962 | 3.8081 |
| 1963 | 3.8997 |
| 1964 | 3.8998 |
| 1965 | 3.9009 |
| 1966 | 3.8954 |
| 1967 | 3.9152 |
| 1968 | 3.9158 |
| 1969 | 3.9191 |
| 1970 | 6.0246 |
| 1971 | 6.4317 |
| 1972 | 6.6748 |
| 1973 | 6.7562 |
| 1974 | 6.7878 |
| 1975 | 7.2478 |
| 1976 | 7.4402 |
| 1977 | 7.4432 |
| 1978 | 7.3781 |
| 1979 | 7.3776 |
| 1980 | 7.5113 |
| 1981 | 7.8995 |
| 1982 | 8.5399 |

| | |
|------|---------|
| 1983 | 14.0010 |
| 1984 | 18.0000 |
| 1985 | 19.0000 |
| 1986 | 20.4360 |
| 1987 | 20.6000 |

This Memorandum shall take effect immediately. All COA Circulars, Memoranda, and instructions inconsistent with this Memorandum are hereby repealed, amended or modified accordingly.

(SGD.) EUFEMIO C. DOMINGO, Chairman

Annex L

Department Order No. 50 Series of 1998

SUBMISSION OF CONTRACTOR'S CLAIM
FOR CONTRACT PRICE ESCALATION
WITHIN ONE (1) YEAR AFTER THE
COMPLETION OF THE PROJECT OR
THREE (3) MONTHS AFTER THE FINAL
PAYMENT, WHICHEVER COMES LATER



097.13 - DPWH
3-7-98

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

March 6, 1998

DEPARTMENT ORDER)
NO. 50
SERIES OF 1998 3/1

SUBJECT: SUBMISSION OF CONTRACTOR'S CLAIM
FOR CONTRACT PRICE ESCALATION
WITHIN ONE (1) YEAR AFTER THE
COMPLETION OF THE PROJECT OR
THREE (3) MONTHS AFTER THE FINAL
PAYMENT, WHICHEVER COMES LATER.

It has been observed that even after two (2) or more years of project completion, the Department continues to receive claims for payment of contract price escalation, thereby creating funding problems since balances of project funds had already been reverted.

In view hereof and in order to facilitate processing of price escalation claims, it is directed that all claims for contract price escalation not heretofore submitted shall be submitted within one (1) year after the completion of the project or three (3) months after the final payment, whichever comes later. Failure of the contractor to submit his claim for payment of price escalation within the prescribed period will be considered as waiver of his right to claim Price Escalation.

For compliance.


GREGORIO R. VIGILAR
Secretary

Annex M

Sample Forms for the Computation of Price Escalation

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

PROJECT :
CONTRACTOR :
IMPLEMENTING OFFICE :

| PAYMENT No. | PERIOD COVERED | | TOTAL ESCALATION AMOUNT | DEDUCTIONS DUE TO Recoupment/Extra Work/New Item | NET ESCALATION AMOUNT | ALLOWABLE ESCALATION AMOUNT |
|-------------|----------------|----|-------------------------|--|-----------------------|--------------------------------|
| | FROM | TO | | | | |
| 1 | - | | | | | |
| 2 | - | | | | | |
| 3 | - | | | | | |
| 4 | - | | | | | |
| 5 | - | | | | | |
| 6 | - | | | | | |
| 7 | - | | | | | |
| GRAND TOTAL | | | | | | |

Computation for Civil Works
using the Fluctuation Factor (K)

Prepared by:

Checked and Submitted by:

Reviewed by:

Recommending Approval:

Approved by: (As to Computation)

Authorized Official of the
Contractor

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

Chairman, PEECRC

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

PROJECT : _____ DATE OF BIDDING/APPROVAL : _____
 CONTRACTOR : _____ DATE OF EFFECTIVITY : _____
 IMPLEMENTING OFFICE : _____ DATE OF CALCULATION : _____
 _____ DATE OF LAST CALCULATION : _____

BILLING NO. _____

| PARTICULARS | ORIGINAL CONTRACT AMOUNT | Approved Variation Order/s, if any | | | TOTAL |
|--|--------------------------------|------------------------------------|--|--|-------|
| | | | | | |
| ALLOWABLE ESCALATION RATE | | | | | |
| AMOUNT OF QUANTITY SUBJECT TO ESCALATION | | | | | |
| TOTAL ESCALATION AMOUNT | | | | | |
| RATE OF INCREASE | | | | | |
| ALLOWABLE ESCALATION AMOUNT | | | | | |
| BALANCE OF ESCALATED AMOUNT | | | | | |
| AMOUNT OF WORK ACCOMPLISHED | | | | | |
| RECOUPMENT AMOUNT DUE TO ADVANCE PAYMENT | | | | | |
| EQUIVALENT DEDUCTION RATE | | | | | |
| AMOUNT TO BE DEDUCTED DUE TO RECOUPMENT | | | | | |
| AMOUNT ACTUALLY DEDUCTED DUE TO RECOUPMENT | | | | | |
| PREVIOUS MATERIALS ON HAND | | | | | |
| EQUIVALENT INPUTED INTEREST | | | | | |
| TOTAL DEDUCTION | | | | | |
| ACTUAL TOTAL DEDUCTIONS | | | | | |
| NET ESCALATION AMOUNT | | | | | |
| PAYABLE ESCALATION AMOUNT | | | | | |
| DIFFERENTIAL DUE TO PARTIAL ESCALATION | | | | | |

Computation for Civil Works
using the Fluctuation Factor (K)

Prepared by: _____

Checked and Submitted by: _____

Reviewed by: _____

Recommending Approval: _____

Authorized Official of the Contractor

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

Page _ of _

COMPUTATION SHEET ON PERIODIC PRICE ESCALATION PAYMENT

DATE OF BIDDING/APPROVAL

DATE OF CALCULATION

DATE OF LAST CALCULATION

Computation for Civil Works using the Fluctuation Factor (K)

Checked and Submitted by:

Reviewed by:

Recommending Approval:

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

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

PROJECT :
CONTRACTOR :
IMPLEMENTING OFFICE :

| PAYMENT No. | PERIOD COVERED | | ACCOMPLISHMENT | | | Pn ADJUSTMENT FACTOR | TOTAL ADJUSTMENT | PRICE ESCALATION (Php) |
|-------------|----------------|----|----------------|----------|-------------------------------------|----------------------|------------------|------------------------|
| | FROM | TO | CURRENT | PREVIOUS | AMOUNT SUBJECT FOR PRICE ESCALATION | | | |
| A | B | | C | D | E | F | G (F x E) | H (G - E) |
| 1 | - | | | | | | | |
| 2 | - | | | | | | | |
| 3 | - | | | | | | | |
| 4 | - | | | | | | | |
| 5 | - | | | | | | | |
| 6 | - | | | | | | | |
| 7 | - | | | | | | | |
| Grand total | | | | | | | | |

Computation for Civil Works
using the Adjustment Factor

Prepared by:

Checked and Submitted by:

Reviewed by:

Recommending Approval:

Approved by: (As to Computation)

Authorized Official of the Contractor

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

Chairman, PEECRC

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

PROJECT : _____
CONTRACTOR : _____
IMPLEMENTING OFFICE : _____

DATE OF BIDDING/APPROVAL : _____
DATE OF EFFECTIVITY : _____
DATE OF CALCULATION : _____
DATE OF LAST CALCULATION : _____

| PAYMENT No. | PERIOD COVERED | | Monthly % Accomp. | Monthly Accomp. | ACCOMPLISHMENT | | | ACCOMPLISHMENT | | For the Period Amount subject for Price Escalation |
|-------------|----------------|----|----------------------|-----------------|-----------------------------|--|---|-------------------|--------------------|--|
| | FROM | TO | | | Corrected Billing Amount | Deductions due to Recoupment/Extra Work/New Item | Net of Billing Amount subject for Escalation | Current (To-Date) | Previous (To-Date) | |
| 1 | - | | | | | | | | | |
| 2 | - | | | | | | | | | |
| 3 | - | | | | | | | | | |
| 4 | - | | | | | | | | | |
| 5 | - | | | | | | | | | |
| 6 | - | | | | | | | | | |
| 7 | - | | | | | | | | | |
| Grand total | | | | | | | | | | |

143

Computation for Civil Works
using the Adjustment Factor

Prepared by: _____
Authorized Official of the Contractor

Checked and Submitted by: _____
Head of Implementing Office

Reviewed by: _____
Head of TWG, PEECRC

Recommending Approval: _____
Vice - Chairman, PEECRC

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

PROJECT : _____
 CONTRACTOR : _____
 IMPLEMENTING OFFICE : _____

DATE OF BIDDING/APPROVAL : _____
 DATE OF EFFECTIVITY : _____
 DATE OF CALCULATION : _____
 DATE OF LAST CALCULATION : _____

| PAYMENT No. | PERIOD COVERED | | FIXED COEFFICIENT | LABOR COEFFICIENT | MATERIAL COEFFICIENT | EQUIPMENT COEFFICIENT | Ln (Current Labor Indices) | Lo (Base) = | | Mn (Current Material Indices) | Mo (Base) = | | En (Current Equipment Indices) | Eo (Base) = | | Adjustment Factor = $\frac{[C+(D \times H)+(E \times J)]}{[F \times L]}$ |
|----------------|----------------|----|----------------------|----------------------|-------------------------|--------------------------|----------------------------------|-------------|---|-------------------------------------|-------------|---|--------------------------------------|-------------|--|---|
| | FROM | TO | | | | | | Ln/Lo | | | Mn/Mo | | | En/Eo | | |
| A | | | C | D | E | F | G | H | I | J | K | L | M | | | |
| 1 | | - | | | | | | | | | | | | | | |
| 2 | | - | | | | | | | | | | | | | | |
| 3 | | - | | | | | | | | | | | | | | |
| 4 | | - | | | | | | | | | | | | | | |
| 5 | | - | | | | | | | | | | | | | | |
| 6 | | - | | | | | | | | | | | | | | |
| 7 | | - | | | | | | | | | | | | | | |

Computation for Civil Works
using the Adjustment Factor

Prepared by:

Checked and Submitted by:

Reviewed by:

Recommending Approval:

Authorized Official of the Contractor

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

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

PROJECT :
CONSULTANT :
IMPLEMENTING OFFICE :

| SUMMARY OF CLAIMS | |
|---|--|
| A. Remuneration | |
| Total for Expatriate Key Staff | |
| Total for Local Key Staff | |
| Total for Technical Staff | |
| Total for Administrative Staff | |
| Sub-total | |
| B. Per Diem | |
| Total for Expatriate Key Staff | |
| Total for Local Key Staff | |
| Total for Technical Staff | |
| Total for Administrative Staff | |
| Sub-total | |
| C. Grand Total Cost for Price Escalation | |
| Total for Expatriate Key Staff | |
| Total for Local Key Staff | |
| Total for Technical Staff | |
| Total for Administrative Staff | |
| Sub-total | |
| Grand Total | |
| <i>less previous</i> | |
| Total Escalated Amount | |

Prepared by:

Checked and Submitted by:

Reviewed by:

Authorized Official of the
Consultant

Head of Implementing Office

Head of TWG, PEECRC

Recommending Approval:

Approved by: (As to Computation)

Vice - Chairman, PEECRC

Chairman, PEECRC

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

PROJECT :
CONSULTANT :
IMPLEMENTING OFFICE :

DATE OF BIDDING/APPROVAL :
DATE OF EFFECTIVITY :
DATE OF CALCULATION :
DATE OF LAST CALCULATION :

| PERSONNEL | | Position | Original Rate | Y/O | Adjusted Rate | Total Man-Months | Differential | Escalation Amount |
|--------------------------------|--|----------|---------------|-----|---------------|------------------|--------------|-------------------|
| Name | | | | | | | | |
| A. Expatriate Key Staff | | | | | | | | |
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| B. Local Key Staff | | | | | | | | |
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| C. Technical Staff | | | | | | | | |
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| D. Administrative Staff | | | | | | | | |
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| Total for Expatriate Key Staff | | | | | | | | |
| Total for Local Key Staff | | | | | | | | |
| Total for Technical Staff | | | | | | | | |
| Total for Administrative Staff | | | | | | | | |
| GRAND TOTAL | | | | | | | | |

Computation for
Consulting Services

Prepared by:

Reviewed by:

Checked and Submitted by:

Recommended Approval:

Authorized Official of the
Consultant

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

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

PROJECT :
CONSULTANT :
IMPLEMENTING OFFICE :

DATE OF BIDDING/APPROVAL :
DATE OF EFFECTIVITY :
DATE OF CALCULATION :
DATE OF LAST CALCULATION :

| PERSONNEL | | PERIOD COVERED | | | | | | | | | | | | TOTAL MAN-MONTHS |
|--------------------------------|----------|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|---------------------|
| Name | Position | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | |
| A. Expatriate Key Staff | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | |
| B. Local Key Staff | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | |
| C. Technical Staff | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | |
| D. Administrative Staff | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | |

Prepared by:

Checked and Submitted by:

Reviewed by:

Recommending Approval:

Authorized Official of the
Consultant

Head of Implementing Office

Head of TWG, PEECRC

Vice - Chairman, PEECRC

Computation for
Consulting Services

