



Republic of the Philippines
Department of Trade and Industry
Construction Industry Authority of the Philippines

CONSTRUCTION INDUSTRY ARBITRATION COMMISSION

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**CIAC REVISED RULES OF PROCEDURE GOVERNING
CONSTRUCTION ARBITRATION**

*(As amended by CIAC Resolution Nos. 15-2006, 16-2006, 18-2006, 19-2006,
02-2007, 07-2007, 13-2007, 02-2008, 03-2008, 11-2008, 01-2010, 04-2010, 07-2010,
08-2014, 07-2016, and 06-2017)*



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FOREWORD

The Construction Industry Arbitration Commission (CIAC), pursuant to its rule-making powers granted by Executive Order No. 1008, the Construction Industry Arbitration Law, promulgated the first Rules of Procedures Governing Construction (Rules) in August 1988. From 1989 to 2002, the Rules were amended several times to address, on an *ad hoc* basis, the particular problems which the CIAC had, during those times, encountered in the administration of construction arbitration. A thorough revision of the Rules was undertaken in 2005.

Prior to and after the major change in 2005, amendments to the Rules covered a vast range of concerns, from the filing of a case to the appointment of arbitrators, conduct of hearings, rendition of arbitral award, and execution/enforcement of arbitral awards. Other interim matters occurring in between the entire gamut of the arbitration process down to post award procedures were also considered. These amendments were introduced spanning seven (7) different sets of Commission, namely:

- [1] the **Santos Commission** (Dean Gonzalo T. Santos, Jr., Chairman; Engr. Lamberto Un Ocampo and Mr. Onofre B. Banzon, Members);
- [2] the **Diokno Commission** (Engr. Antonio W. Diokno, Chairman; Engrs. Bernardo O. Armena and Anton C. Kho, Members);
- [3] the **Jovellanos Commission** (Engr. Jose U. Jovellanos, Chairman; Dean Alfredo L. Juinio and Engr. Lamberto Un Ocampo, Members);
- [4] the **Inciong Commission** (Engr. Enrique P. Inciong, Chairman; Amb. Sedfrey A. Ordonez and Engr. Antonio I. Goco, Members);
- [5] the **Ordenez Commission** (Amb. Sedfrey A. Ordonez, Chairman; Engrs. Isaac S. David and Samson C. Lazo, Members);
- [6] the **Bellosillo Commission** (Justice Josue N. Bellosillo, Chairman; Engrs. Isaac S. David and Samson C. Lazo, members); and
- [7] the **Cosico Commission** (Atty. Manuel M. Cosico, Chairman; Engrs. Antonio A. Abola and Emilio Lolito J. Tumbocon, Members).

The revision of the entire Rules which was approved in November 2005 by the 5th Commission, was prompted by the need to align these Rules, as far as practicable, with international practice and the provisions of R.A. 9285 or the Alternative Dispute Resolution Act of 2004 (the ADR Law) which affirmed CIAC's jurisdiction vested under Executive Order No. 1008 and provided a new impetus to the resolution of disputes through proceedings other than court litigation.

The revisions were done by a committee created by CIAC and composed of the following CIAC-accredited arbitrators:

Chairman	-	Prof. Alfredo F. Tadiar
Members	-	Dean Custodio O. Parlade Atty. Victor P. Lazatin Mr. Joven B. Joaquin Engr. Joel J. Marciano

In the revision and all subsequent amendments to the Rules, CIAC had consistently consulted with the members of the Philippine Institute of Construction Arbitrators and Mediators, Inc. (PICAM), the exclusive organization of all arbitrators and mediators accredited by CIAC, for the wisdom gained from their vast experiences in handling actual construction disputes, as well as with the following CIAC Legal Counsel who unselfishly lent their services in shaping the CIAC Rules and pertinent policies on construction arbitration, namely:

- [1] **Dean Custodio O. Parlade**, former Managing Partner of Benitez Parlade Africa Herrera Parlade & Panga Law Offices (PABLAW), who served as legal counsel of CIAC from December 2000 to November 2002 but provided the Commission with invaluable advice and opinions during its meetings from February 1991 to November 2002;
- [2] The late **Judge Salvador S. Ceguera**, retired RTC judge of Quezon City, who served from January 2003 until his untimely demise in April 2004;
- [3] The late **Professor Alfredo F. Tadiar** of the U.P. College of Law, former Director of UP Legal Aid, Chairman of the National Amnesty Commission and chairman of the ADR Department of the Philippine Judicial Academy (PHILJA), the education and training arm of the Supreme Court, who served from April 2004 until his untimely demise in December 2015; and
- [4] **Professor Mario E. Valderrama**, Co-founder and President of the Philippine Chapter of Chartered Institute of Arbitrators (CI Arb) and President Emeritus of the Philippine Institute of Arbitrators, Inc. (PI Arb), who is the current CIAC General Counsel.

Under the 7th Commission, recent amendments were made to pursue one of its objectives, which is to align CIAC practices in arbitration with international standards and within the intent and spirit of the Construction Industry Arbitration Law or Executive Order No. 1008. As an initial step towards this objective, consultation meetings/dialogues were conducted by the Commission with its accredited arbitrators. Proposed amendments from the PICAM, thru its Committee on Amendments, were also sought and considered with the end in view of making the provisions of the CIAC Revised Rules of Procedure Governing Construction Arbitration conform with E.O. No. 1008.

The amendments were initiated by CIAC Chairman Manuel M. Cosico and ably assisted by the Committee on Style composed of Dr. Primitivo C. Cal as Chairman with Attys. Victor P. Lazatin, Arthur P. Autea, Robert N. Dio, Myra Angeli Gallardo-Batungbakal, and Lourdes J. Espinosa, as Members.

The underlying principles applied by the Cosico Commission during its review of the Rules and formulation of the proposed changes, were: 1) if the intent/objective of the proposal is the same as the original provision, the original provision will be retained; and 2) if the matter/s subject of the proposed amendments is/are already adequately covered by existing provisions of the CIAC Rules, the original provisions shall, likewise, be retained.

The amendments introduced by the 7th Commission were focused on the following:

1. Reinstatement of the provision in Section 1, Article III of the original CIAC Arbitration Rules dated 13 August 1988 on the submission by the parties to the CIAC Rules;
2. Vesting the Commission with the authority to select and appoint the 3rd member and Chairman of the Arbitral Tribunal, consistent with Section 14 (Arbitrators) of E.O. No. 1008;
3. Deleting the rule on automatic appointment of “common nominees” to the Arbitral Tribunal to be more in accord with the party autonomy rule by applying the order of preference of the parties as signified in their lists of nominees;
4. Deletion of the word “*construction*” in Section 1.1, Rule 1 (Policy and Objectives) and Section 2.1, Rule 2 (Jurisdiction) of the CIAC Rules, to make the said provisions conform with the language of Section 4 (Jurisdiction) of E.O. 1008 which notably does not employ the word “*construction*” in defining the jurisdiction of CIAC but rather states that CIAC “shall have original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines”;
5. For the same reason stated in item 4, deletion of the phrase “*construction dispute*” in Section 2.2 of Rule 2 and replacing the same with the phrase “*the disputes referred to in Section 2.1 of Rule 2*”; and

6. Retention of Sections 6.1, 6.2, and 6.2.1 of Rule 6 (Submission and Communication/Notices) subject to the replacement of the phrase *“if they are delivered against receipt or forwarded by registered mail to the address or last known address of the party/ies for whom the same are intended as notified by the party/ies in question or by the other party/ies as appropriate”* in the 1st paragraph of Section 6.2 with the phrase *“if they are delivered personally by an authorized representative of CIAC by private courier, by registered mail to the address(es) or last known address(es) of the party(ies) for whom the same are intended appearing in the record, and/or by email sent to the email address(es) of the party(ies) on record, at the option of the Secretariat/arbitrator(s).”*

Like its predecessors, the 7th Commission has taken pains to address all nagging issues which confronted CIAC in the past. However, it simply can not provide solutions for every problem that may conceivably arise in the entire course of the arbitration proceedings. The revisions and amendments were framed for general applications and are not intended to address peripheral issues which could arise from time to time, the resolution of which are left to the sound discretion of the arbitrators at the time of application.

In general, the amendments were formulated to conform to the ADR Law, and, as far as practicable, to international practices and standards. However, the spirit and intent of E.O. 1008 which is to encourage the early and expeditious settlement of disputes in the Philippine construction industry, in pursuit of national development goals, is preserved in its entirety.

It is hoped that these Revised Rules with the recent amendments will prove to be a more effective tool in guiding arbitration proceedings, to the end of having a fair, efficient and expeditious resolution of all construction disputes.

9 November 2017.



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RULE 1 - POLICY AND OBJECTIVES

SECTION 1.1 *Statement of policy and objectives* - It is the policy and objective of these Rules to provide a fair and expeditious resolution of **disputes** as an alternative to judicial proceedings, which may restore the disrupted harmonious and friendly relationships between or among the parties.¹

SECTION 1.2 *Applicability of rules* - These Rules are applicable to proceedings in arbitration before an Arbitral Tribunal of one or more Arbitrator/s.

SECTION 1.3 *Judicial rules not controlling* - In any arbitration proceeding under these Rules, the judicial rules of evidence need not be controlling, and it is the spirit and intention of these Rules to ascertain the facts in each case by every and all reasonable means without regard to technicalities of law or procedure.

RULE 2 - JURISDICTION

SECTION 2.1 *Jurisdiction* – The CIAC shall have original and exclusive jurisdiction over **disputes**, which arose from, or is connected with contracts entered into by parties involved in construction in the Philippines whether the dispute arose before or after the completion of the contract, or after the abandonment or breach thereof. These disputes may involve government or private contracts.²

2.1.1 The jurisdiction of the CIAC may include but is not limited to violation of specifications for materials and workmanship; violation of the terms of agreement; interpretation and/or application of contractual provisions; amount of damages and penalties; commencement time and delays; maintenance and defects; payment default of employer or contractor and changes in contract cost.³

SECTION 2.2 *Coverage* – **The disputes referred to in Section 2.1 of Rule 2** shall include those between or among parties to, or who are otherwise bound by, an arbitration agreement, directly or by reference, whether such parties are project owner, contractor, subcontractor, fabricator, project manager, design professional, consultant, quantity surveyor, bondsman or issuer of an insurance policy in a construction project.⁴

2.2.1 The CIAC shall continue to exercise original and exclusive jurisdiction over construction disputes although the arbitration is commercial pursuant to Section 21 of R.A. 9285 or the Alternative Dispute Resolution Act of 2004.

¹ As amended by CIAC Resolution No. 06-2017 (effectivity: 23 August 2017) to conform with the language of Section 4, E.O. 1008

² Section 4, E.O. No. 1008; CIAC Resolution No. 06-2017 deleted the word “construction” from the phrase “construction disputes” to conform with the language of Section 4, E.O. 1008

³ Section 4, E.O. 1008

⁴ Section 35, R.A. 9285; bold text amended by CIAC Resolution No. 06-2017

2.2.2 Excluded from the coverage of this Rules are disputes arising from employer-employee relationships, which shall continue to be covered by the Labor Code of the Philippines.

SECTION 2.3 Condition for exercise of jurisdiction - For the CIAC to acquire jurisdiction, the parties to a dispute must be bound by an arbitration agreement in their contract or subsequently agree to submit the same to voluntary arbitration.

2.3.1 *Such arbitration agreement or subsequent submission must be alleged in the Complaint. Such submission may be an exchange of communication between the parties or some other form showing that the parties have agreed to submit their dispute to arbitration. Copies of such communication or other form shall be attached to the Complaint.*⁵

2.3.2 *If the Complaint is filed without the required arbitration clause or subsequent submission, the CIAC Secretariat shall within three (3) days from such filing, notify the Respondent that, if he/it is willing to have the dispute be resolved by arbitration, such agreement must be clearly expressed in the Answer.*⁶

2.3.3 *Respondent's refusal to Answer the Complaint or the filing of a Motion to Dismiss for lack of jurisdiction shall be deemed a refusal to submit to arbitration. In either case, the Commission (CIAC) shall dismiss the Complaint without prejudice to its refiling upon a subsequent submission.*⁷

SECTION 2.4 Jurisdictional challenge – A motion to dismiss based on lack of jurisdiction shall be resolved by the appointed arbitral tribunal.

2.4.1 *The Arbitral Tribunal shall have full authority to resolve all issues raised in the Motion to Dismiss for lack of jurisdiction on the grounds that the dispute is not a construction dispute, or that the Respondent was represented by one without capacity to enter into a binding arbitration agreement, or that said agreement or submission is not valid for some other reasons, or does not cover the particular dispute sought to be arbitrated, or other issues of interpretation or non-fulfillment of pre-conditions to arbitration that are raised therein.*⁸

SECTION 2.5 Non-waiver of jurisdictional challenge - A party does not waive its right to challenge the jurisdiction of CIAC by any of the following acts:

- a) participating in the nomination process including challenging the qualifications of a nominee;
- b) praying for extension of time to file appropriate pleading/motion to dismiss;
- c) opposing an application for interim relief;
- d) filing of a motion to dismiss/suspend.

RULE 3 - REQUEST FOR ARBITRATION / COMPLAINT

SECTION 3.1 Filing - Any party to a construction contract desiring to avail of arbitration shall file its Request for Arbitration in the prescribed form and number of copies to the Secretariat of the CIAC.

SECTION 3.2 Preconditions. The claimant against the government, in a government construction contract, shall state in the complaint/request for arbitration that 1) all administrative remedies have been exhausted, or 2) there is unreasonable delay in acting upon the claim by the government office or officer to whom appeal is made, or 3) due to the application for interim relief, exhaustion of administrative remedies is not practicable.

⁵ As amended by CIAC Resolution No. 15-2006 (effectivity : 18 October 2006)

⁶ Ibid

⁷ Ibid

⁸ Ibid

3.2.1 The Claimant in a private construction contract has the same obligation as the above to show similar good faith compliance with all preconditions imposed therein or exemptions therefrom.

3.2.2 In case of non-compliance with the precondition contractually imposed, absent a showing of justifiable reasons, exemption, or a waiver thereof, the tribunal shall suspend arbitration proceedings pending compliance therewith within a reasonable period directed by the Tribunal.

SECTION 3.3 *Request to answer* - The CIAC Secretariat shall within three (3) days from filing, transmit to the Respondent a request for his Answer, attaching thereto a copy of the complaint and the Request for Arbitration together with the annexed documents.

SECTION 3.4 *Commencement of arbitral proceedings* - The date when the Request for Arbitration is filed with CIAC shall, for all intents and purposes, be deemed to be the date of commencement of the proceedings.

RULE 4 - EFFECT OF AGREEMENT TO ARBITRATE

SECTION 4.1. *Submission to CIAC jurisdiction* - An arbitration clause in a construction contract or a submission to arbitration of a construction dispute shall be deemed an agreement to submit an existing or future controversy to CIAC jurisdiction, notwithstanding the reference to a different arbitration institution or arbitral body in such contract or submission.⁹

4.1.1 *Submission to CIAC Rules – when the parties have agreed to submit the dispute/s to arbitration by CIAC, they shall be deemed thereby to have submitted ipso facto to these Rules and any amendments hereto.*¹⁰

4.1.2 When a contract contains a clause for the submission of a future controversy to arbitration, it is not necessary for the parties to enter into a submission agreement before the Claimant may invoke the jurisdiction of CIAC.

4.1.3 An arbitration agreement or a submission to arbitration shall be in writing, but it need not be signed by the parties, as long as the intent is clear that the parties agree to submit a present or future controversy arising from a construction contract to arbitration. It may be in the form of exchange of letters sent by post or by telefax, telexes, telegrams, electronic mail or any other mode of communication.

SECTION 4.2 *Failure or refusal to arbitrate* - Where the jurisdiction of CIAC is properly invoked by the filing of a Request for Arbitration in accordance with these Rules, the failure despite due notice which amounts to a refusal of the Respondent to arbitrate, shall not stay the proceedings notwithstanding the absence or lack of participation of the Respondent. In such case, CIAC shall appoint the arbitrator/s in accordance with these Rules. Arbitration proceedings shall continue, and the award shall be made after receiving the evidence of the Claimant.

4.2.1 In the event that, before award, the Respondent who had not earlier questioned the jurisdiction of the Tribunal, appears and offers to present his evidence, the Arbitral Tribunal may, for reasons that justifies the failure to appear, reopen the proceedings, require him to file his answer with or without counterclaims, pay the fees, where required under these Rules, and allow him to present his evidence, with limited right to cross examine witnesses already presented in the discretion of the Tribunal. Evidence already admitted shall remain. The Tribunal shall decide the effect of such controverting evidence presented by the Respondent on evidence already admitted prior to such belated appearance.

⁹ China Chang Jiang Energy Corporation (Philippines) versus Rosal Infrastructure Builders, and the Court of Appeals September 30, 1996, G.R. No. 125706; National Irrigation Administration (NIA) v. Hon. Court of Appeals [November 17, 1999, G.R. No. 129169).

¹⁰ Provision in Section 1, Art. III of the Original CIAC arbitration rules dated 13 Aug. 1988 reinstated under CIAC Resolution No. 07-2016 (effectivity: 4 Jan. 2017); Sections 4.1.1 and 4.1.2 were also renumbered to 4.1.2 and 4.1.3, respectively.

SECTION 4.3. When arbitration cannot proceed - Where the contract between the parties does not provide for arbitration and the parties cannot agree to submit the dispute(s) to arbitration, the arbitration cannot proceed and the Claimant/s shall be informed of that fact.

RULE 5 – ANSWER/COUNTERCLAIMS

SECTION 5.1 Time to answer - The Respondent shall, within fifteen (15) days from receipt of the Request for Arbitration/Complaint, file its answer thereto including such counterclaim/s as it may assert. For justifiable reason/s, Respondent may apply to CIAC for an extension of time to file its answer. If Respondent fails to do so, the arbitration shall proceed in accordance with these Rules.

SECTION 5.2 Transmittal of answer - A copy of the answer shall be transmitted in sufficient copies to the Claimant and to CIAC.

SECTION 5.3 Reply to counterclaim - The Claimant shall file a reply to the counterclaim with CIAC and shall furnish the Respondent a copy thereof within fifteen (15) days from date of receipt of the answer with counterclaim.

RULE 6 – SUBMISSION AND COMMUNICATIONS / NOTICES

SECTION 6.1 Number of copies - All pleadings and written statements submitted by the parties, as well as all documents attached thereto, shall be in sufficient copies to provide one copy for each party, plus one for each Arbitrator, and one for the Secretariat.

SECTION 6.2 Notices - Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered **personally by an authorized representative of CIAC, by private courier**, by registered mail to the address(es) or last known address(es) of the party(ies) for whom the same are intended **appearing in the record, and/or by email sent to the email addresses of the party(ies) on record, at the option of the Secretariat/arbitrator(s).**¹¹

If the Notice to Respondent/Request to Answer the complaint under Section 3.3 hereof is not received by Respondent due to wrong address or because Respondent has moved out from, or cannot be found at, the last known address provided by the Claimant, the CIAC Secretariat shall inform the Claimant of the non-delivery/non-receipt of the notice and require Claimant to provide CIAC with Respondent's correct/new address within fifteen (15) days from receipt of advice. If Claimant fails to comply, the Commission shall dismiss the case without prejudice to its refiling once the whereabouts of Respondent/s are known to Claimant/s.¹²

6.2.1 Notification or communication shall be deemed to have been effected on the date when actually or constructively received.

RULE 7- CONFIDENTIALITY

SECTION 7.1 Confidentiality of proceedings – The arbitration proceedings shall be considered confidential and shall not be published except (i) with the consent of the parties, or (ii) when necessary in case resort to the Court is made under the Rules of Court. The term “arbitration proceedings” shall include communications to or from CIAC, the pleadings, applications and other papers filed with CIAC, sworn statements, documentary and testimonial evidence, reports and minutes taken of the proceedings, and other orders, decision, award or resolution issued by the Arbitrator(s).

SECTION 7.2 Violation of confidentiality – Any person who violates the immediately preceding confidentiality provision shall be subject to the following sanctions:

¹¹ As Amended by CIAC Resolution No. 06-2017

¹² As amended by CIAC Resolution No. 11-2008 (effectivity: 05 September 2008). To clarify Rules 3.1 (Filing), 6.2 (Notices), and 6.2.1 by way of specific implementing guidelines, the Commission passed CIAC Res. No. 11-2010, adopting guidelines on the filing and delivery of communications in CIAC cases (effectivity: 1 January 2011), attached hereto as Appendix 1

7.2.1 If the violator is a lawyer, administrative action or proceeding to be conducted by CIAC, with proper notice and hearing, for inhibition or prohibition from appearing as counsel for any party in any arbitration case before CIAC for a period not exceeding six (6) months; without prejudice to suspension or disbarment action before the Integrated Bar of the Philippines (IBP), at the instance of CIAC.

7.2.2 If the violator is a duly licensed and registered professional, administrative/ disciplinary action before the Professional Regulation Commission (PRC), at the instance of CIAC.

RULE 8 – QUALIFICATIONS OF ARBITRATORS

SECTION 8.1 General qualification of arbitrators - The Arbitrators shall be **persons** in whom the business sector, **particularly the stake holders of the construction industry** and the government can have confidence. They shall **possess the competence, integrity, and leadership qualities** to resolve any construction dispute expeditiously and equitably. The Arbitrators shall come from different professions. They may include engineers, architects, construction managers, engineering consultants, and businessmen familiar with the construction industry and lawyers who are experienced in construction disputes.¹³

SECTION 8.2 The Arbitrators must be CIAC-accredited - Only CIAC-accredited arbitrators may be nominated by the parties and appointed by CIAC as arbitrators. A replacement arbitrator shall likewise be a CIAC-accredited arbitrator. However, as an exception to this rule, CIAC may appoint to an Arbitral Tribunal an arbitrator who is not CIAC - accredited PROVIDED that the nominee: 1) is the parties' common nominee; 2) possesses the technical/legal competence to handle the construction dispute involved; and 3) has signified his availability/acceptance of his possible appointments.¹⁴

SECTION 8.3 Undertaking of arbitrator upon the acceptance of appointment – An arbitrator who accepts an appointment as arbitrator undertakes to :

- a) **Make himself/herself available at all stages of the arbitration proceedings;**
- b) **Remain independent of the parties and their counsel or representatives;**
- c) **Maintain impartiality on all matters relating to the disputes;**
- d) **Have a continuing duty to disclose any fact of circumstance that may arouse justifiable doubts as to independence or impartiality; and**
- e) **Contribute to the fair, expeditious and timely resolution of the dispute.**¹⁵

SECTION 8.4 Arbitrators not permanent employees of CIAC - The Arbitrators shall render service only when called upon to arbitrate a construction dispute.

SECTION 8.5 Exemptions from civil liability for official acts - Arbitrators shall not be civilly liable for acts done in the performance of their official duties except in a clear case of bad faith, malice or gross negligence as provided in Section 38 (1), Chapter 9, Book 1 of the Administrative Code of 1987.

RULE 9 – NOMINATION AND APPOINTMENT OF ARBITRATORS

SECTION 9.1 Number of arbitrators - A Tribunal of one or three Arbitrators may be appointed to settle a dispute in accordance with the provisions hereunder.

¹³ As amended by CIAC Resolution No. 07-2016 (effectivity: 4 January 2017)

¹⁴ As amended by CIAC Res. No. 02-2007 (effectivity: 10 February 2007) and CIAC Res. No. 07-2016 (effectivity: 4 January 2017)

¹⁵ New provision under CIAC Resolution No. 07-2016 (effectivity: 4 January 2017); Sections 8.3 and 8.4 were numbered to 8.4 and 8.5, respectively

9.1.1 *In the absence of an agreement on the number of arbitrators, CIAC taking into consideration the complexities and intricacies of the dispute/s or the sum involved, has the option to appoint a Sole Arbitrator or an Arbitral Tribunal.*¹⁶

9.1.2 *In case of multiple parties, whether as Claimant or as Respondent, including three (3) or more parties in the arbitration, where all parties are unable to agree to a method for constitution of the Tribunal within ten (10) days from notice, CIAC shall appoint the arbitrators.*¹⁷

SECTION 9.2 Sole Arbitrator - Where the parties have agreed that the dispute(s) shall be settled by a Sole Arbitrator, each party shall name **not more than six (6) nominees from the CIAC-accredited arbitrators in the order of their preference for appointment as Sole Arbitrator**. If any or both of the parties **shall** fail to submit the names of their nominees within the period/s prescribed by CIAC, a Sole Arbitrator shall be appointed by CIAC.¹⁸

9.2.1 *CIAC shall appoint as sole arbitrator the common nominee of the parties who is available and not disqualified. In the absence of a common nominee or in cases where the common nominee is disqualified or is not available, CIAC shall return the lists of nominees to the parties and ask them to make an agreement on a common nominee/s within 48 hours. If the parties still fail to agree on a common nominee, CIAC may appoint a Sole Arbitrator or an Arbitral Tribunal. If CIAC decides to appoint a Sole Arbitrator, it may select an arbitrator who is not a nominee of any one of the parties and who is not disqualified and is available for appointment.*¹⁹

SECTION 9.3 Arbitral Tribunal - Where the parties **have** agreed that the dispute shall be **settled** by an Arbitral Tribunal, each party shall **name not more than six (6) nominees from the CIAC-accredited arbitrators in the order for their preference for appointment as Arbitrators**. CIAC shall choose and appoint as members of the Tribunal, one Arbitrator from the claimant's nominees and another from respondent's nominees. **CIAC shall also choose and appoint the Third Arbitrator and notify the parties thereof for their confirmation in writing within five (5) working days from receipt of the notice. If no confirmation is received within such period, the Third Arbitrator appointed by CIAC shall be deemed accepted by the parties. The Third Arbitrator chosen and appointed by CIAC shall be the Chairman of the Tribunal.**²⁰

SECTION 9.4 Conditions for appointment of foreign arbitrator²¹ - A foreign arbitrator not accredited by CIAC may be appointed as a co-arbitrator or chairperson of an arbitral tribunal for a construction dispute under the following conditions:

¹⁶ Previously Section 9.1.2 but renumbered to Section 9.1.1 due to deletion of the section under CIAC Resolution No. 07-2016

¹⁷ Previously Section 9.1.3 but renumbered to Section 9.1.2 under CIAC Resolution No. 07-2016

¹⁸ As amended by CIAC Resolution No. 07-2016 (effectivity: 4 January 2017)

¹⁹ As amended by CIAC Resolution No. 02-2007 (effectivity: 10 February 2007) Per CIAC Res. No. 08-2010 (effectivity: 1 January 2011), a cap/limit for the appointment of a Sole Arbitrator is prescribed based on a Sum in Dispute (SID) of ₱100 Million provided, however, that if the Commission shall determine that due to the number & complexity of the issues raised, the dispute would be more judiciously resolved by a 3-person panel of arbitrators, the Commission shall have the discretion of appointing an Arbitral Tribunal even if the limit set has not been reached. Such discretion, nevertheless, cannot be exercised if the SID does not exceed ₱30 Million, in which cases the principle of party autonomy shall be upheld in the parties' choice of a Sole Arbitrator

²⁰ As amended by CIAC Resolution No. 07-2016 (effectivity: 4 January 2017); Section 9.3.1 on the automatic appointment of common nominees to the Arbitral Tribunal was deleted to be more in accord with the party autonomy rule by applying the parties' order of preference in their list of nominees

²¹ Section 37, R.A. 9285; On 23 June 2011, the Commission passed CIAC Res. No. 09-2011 (Prescribing New Guidelines for the Payment of Travel Expenses, Per Diems, Arbitrator's Fees, and Compensation of Foreign Arbitrators) which became effective on 4 August 2011

- a) the dispute is a construction dispute in which one party is an international party²² i.e. one whose place of business is outside the Philippines. For this purpose, the term international party shall not include a domestic subsidiary of such international party or a co-venturer in a joint venture with a party which has its place of business in the Philippines.
- b) the foreign arbitrator to be appointed is not a national of the Philippines and is not of the same nationality as the international party in the dispute;

9.4.1 *Procedure for appointment of foreign arbitrator.*- The foreign arbitrator must be nominated by the international party or is the common choice of the two CIAC-accredited arbitrators one of whom was nominated by the international party. The nomination must be accompanied by a resume or bio-data of the nominee relevant to qualifications as a construction arbitrator and a signed undertaking of the nominee to abide by CIAC arbitration rules and policies.

SECTION 9.5 *Disqualification of or non-acceptance by nominees* - If the nominee(s) of a party shall be disqualified or fail or refuse to accept the appointment, CIAC shall choose and appoint any qualified arbitrator who is willing to be so appointed.

SECTION 9.6 *Challenge*²³ - *An Arbitrator may be challenged by a party at any time after his appointment but before the lapse of the original 10-day period for submission of memoranda or draft decision under Section 13.16, Rule 13 hereof. Any extensions of time to file memoranda or draft decisions will not EXTEND the 10-day period to file a challenge or motion for inhibition. The challenge shall be based upon the following grounds:*

- a) *relationship by blood or marriage within the sixth degree of either party to the controversy, or to counsels within the fourth degree, computed according to the rules of civil law.*
- b) *financial, fiduciary or other interest in the controversy*
- c) *partiality or bias;*
- d) *incompetence, or professional misconduct.*

A party may also request the inhibition of an arbitrator upon other just and valid reasons affecting independence, integrity, impartiality and interest.

9.6.1 A motion for inhibition or a request for the disqualification and replacement of an arbitrator shall be treated as a challenge.

9.6.2 The challenge, motion or request shall be in the form of a complaint under oath, stating distinctly and concisely the facts complained of, supported by affidavits, if any, of persons having personal knowledge of the facts therein alleged and shall be accompanied with copies of such documents as may substantiate said facts.

9.6.3 The arbitrator concerned shall be given by CIAC an opportunity to be heard. He may, without admitting the existence of the ground of the challenge, motion or request, choose to inhibit himself but his decision shall be subject to approval by CIAC.

9.6.4 In case the challenged arbitrator is allowed to inhibit himself or is removed, CIAC shall promptly appoint his replacement. If the arbitrator concerned is the third member of the Arbitral Tribunal, the first two members thereof shall select his replacement.

9.6.5 The decision of CIAC to retain or replace an arbitrator shall be final.

²² Section 3(p), R.A. 9285

²³ As amended by CIAC Resolution No. 18-2006 (effectivity: 2 December 2006)

SECTION 9.7 Disqualification of mediator as arbitrator - An Arbitrator who acted as conciliator/mediator in a case previously brought before him for conciliation/mediation cannot act as arbitrator for the same case when brought to arbitration, unless both parties consent to his appointment in writing.

RULE 10 – APPOINTMENT AND ACCEPTANCE OF ARBITRATORS

SECTION 10.1 Communication of appointments - The Secretariat shall communicate to the arbitrators their appointment.

SECTION 10.2 Disclosure by arbitrator of disqualification²⁴ - Upon acceptance of his appointment, the Arbitrator shall disclose in writing to CIAC any circumstance likely to create in either party a presumption of bias or which he believes might disqualify him as an impartial Arbitrator. Such written disclosure shall be communicated to the parties immediately by the Secretariat. The purpose of such disclosure shall be to enable either party to investigate and ascertain whether there is a substantial legal basis to file a motion for inhibition of the arbitrator concerned or seek his replacement.

SECTION 10.3 Acceptance or refusal - The arbitrator must communicate to CIAC the acceptance or refusal of his/her appointment within five (5) days from receipt thereof. If no communication is received within the prescribed period, CIAC shall appoint a replacement from the list of the party who nominated him/her or, if none is available or qualified, from the list of CIAC-accredited arbitrators.

SECTION 10.4 Vacancies²⁵ - If, at any time during the proceedings but before an award has been rendered, any Arbitrator should resign, be incapacitated, refuse or be unable, or be disqualified for any reason to perform the duties of his office, CIAC may, within five (5) days from the occurrence of a vacancy or refusal/inability to accept appointment, appoint a substitute(s) to be chosen from a list of alternatives previously agreed upon by the parties. In the absence of such a list, the CIAC shall fill the vacancy from the list of accredited arbitrators.

If the vacancy occurs after the award has been rendered but before the jurisdiction of the arbitrator/s over the dispute is terminated under Section 16.6 of Rule 16 hereof, the CIAC may, on its own initiative, or upon written request of any of the parties, appoint a replacement from the list of alternatives previously agreed upon by the parties or the list of accredited arbitrators. The request shall state the justification/s for the need for a replacement and shall be filed together with the required deposit of arbitrators fees for the substitute/s. The CIAC may, if it finds it necessary, appoint a substitute/s. If the CIAC finds the request to be unnecessary (e.g. for Motions for correction of final award under Rule 17.1; Motions for execution or stay of execution under Rules 18.5 and 18.6; Motions for relief not covered by the Rules under Rule 19.1; cases where the appellate court merely directs a re-computation of the award or a clarification thereof, or other matters which do not entail a re-hearing of the case, or a hearing on the merits of any issue, or would not disturb/alter the findings in the final award; and other similar instances as determined by the CIAC), it shall deny the same, refund the deposit made, and direct the remaining/surviving arbitrator/s to act on pending matters.

The decision of the CIAC on vacancies shall be final.

RULE 11 – PRELIMINARY CONFERENCE / TERMS OF REFERENCE

SECTION 11.1 Notice of conference - The Arbitrator/Arbitral Tribunal shall set the case for preliminary conference not later than 15 days after appointment of arbitrator(s) and a notice to the parties thereof shall forthwith be sent to finalize the Terms of Reference as provided in Rule 11.4 below, a draft copy of which is attached thereto and to consider the following, among others:

²⁴ Made applicable under CIAC Res. No. 05-2006 (effectivity: 17 February 2006) to all legal or technical experts hired in CIAC cases pursuant to Rule 15 (Appointment of Experts)

²⁵ As amended by CIAC Res. No. 07-2007 (effectivity: 26 July 2007)

- a. possibility of amicable settlement;
- b. necessity or desirability of amendments to pleadings;
- c. obtaining stipulations or admission of facts and/or documents to avoid unnecessary proof;
- d. limitation of the number of witnesses;
- e. suggested formulation of issues by the parties;
- f. application for interim relief, appointment of experts and necessity of site inspection; and
- g. such other matters as may aid in the just and speedy disposition of the case.

SECTION 11.2 Introduction of the arbitrators – At the start of the preliminary conference, the arbitrator/s shall introduce themselves to the parties paying particular attention to matters related to professional training and experience.

SECTION 11.3 Disclosure²⁶ – During the preliminary conference the Arbitrator who had failed to make his or her written disclosure required in the previous section shall disclose any circumstance likely to give rise to justifiable doubts as to impartiality or independence, including financial or personal interest in the outcome of the arbitration and any existing or past relationships with any individual or corporate party together with their respective relatives or principal stockholders/officers or foreseeable participant in the proceedings. On the basis of such disclosure, either party may ask clarificatory questions thereon that may lead to a decision to move for inhibition or accept the appointment.

SECTION 11.4 Terms of Reference. - This document functions like a pre-trial order in judicial proceedings and controls the arbitration proceedings unless corrected for manifest errors by motion filed not later than the hearing date.

11.4.1 Contents - The TOR shall include the following particulars:

- a) the full names of the parties, and their respective counsels, if any;
- b) the addresses and contact numbers of the parties/counsels, to which notifications or communications arising in the course of the arbitration may validly be made;
- c) a summary of the parties' respective claims;
- d) full statement of admitted facts and documents;
- e) the issues to be resolved in question form;
- f) the Arbitrators' full names;
- g) the place where arbitration proceedings shall be held;
- h) the breakdown, schedule of payments, and sharing of arbitration fees;
- i) such other particulars as may be required by the Arbitral Tribunal for the proper and speedy adjudication of the case.

11.4.2 Signing - The Terms of Reference (TOR) shall be signed on each and every page thereof, by the parties together with their respective counsel and the Arbitral Tribunal immediately after finalization thereof. In any case, the TOR must be finalized and signed not later than five (5) days from inception.

SECTION 11.5 Arbitration To Proceed Even Without TOR. - In the exercise of the sound discretion of the Arbitral Tribunal, arbitration shall proceed even without the TOR on the basis of the issues formulated by the pleadings filed by the parties.

²⁶ Made applicable under CIAC Res. No. 05-2006 (effectivity: 17 February 2006) to all legal or technical experts hired in CIAC cases pursuant to Rule 15 (Appointment of Experts)

SECTION 11.6 Submission for Decision. – No factual issue being in dispute, the case may be deemed submitted for decision without an oral hearing and on the basis of documentary evidence already submitted.

RULE 12 – VENUE

SECTION 12.1 Venue, Date and Time of Hearing - The venue, date and time of the arbitral proceedings shall be mutually agreed upon by the parties and the Arbitral Tribunal. In the event of disagreement, the choice of venue made by the Arbitral Tribunal shall prevail.

RULE 13 - ARBITRATION PROCEEDINGS

SECTION 13.1 Order of Proceedings - A hearing shall be opened by recording of the place, time and date of hearing, the presence of the Arbitral Tribunal, parties, and witnesses, if any. The names and addresses of all witnesses and exhibits in the order received shall be made part of the record.

13.1.1 Quorum - Two members of a tribunal shall comprise a quorum for the purpose of conducting a hearing.

SECTION 13.2 Briefing on Rules and procedures - At the initial hearing, the Arbitral Tribunal shall inform the parties of the general rules and procedures on arbitration proceedings, stressing peculiarities from judicial proceedings, its strict adherence to time bars, its policies against postponements and other matters to insure a speedy and fair disposition of the issues.

SECTION 13.3 Order of presentation - It shall be within the discretion of the Arbitral Tribunal to determine the order of presentation of evidence. Generally, the party who seeks to enforce a right or establish a claim shall be required to present its evidence first, followed by the other party.

SECTION 13.4 Expeditious procedures - The Arbitral Tribunal shall at all times adopt the most expeditious procedures for the introduction and reception of evidences, and shall have complete control over the proceedings, but in any case shall afford full and equal opportunity to all parties to present relevant evidence.

SECTION 13.5 Evidence - The parties may offer such evidence as they desire and shall produce such additional documents and witnesses as the Arbitral Tribunal may deem necessary to a clear understanding of facts and issues for a judicious determination of the dispute(s). The Arbitral Tribunal shall act according to justice and equity and merits of the case, without regard to technicalities or legal forms and need not be bound by any technical rule of evidence. Evidence shall be taken in the presence of the Arbitral Tribunal and all of the parties, except where any of the parties is absent, or has waived his right to be present.

13.5.1 Order to produce documentary evidence. Upon motion of either or both of the parties, or on its own initiative, the Arbitral Tribunal may direct any person, board, body, tribunal, or government office, agency or instrumentality, or corporation to produce real or documentary evidences necessary for the proper adjudication of the issues.

13.5.2 Order to give testimony. The Arbitral Tribunal may, likewise, direct any person to give testimony at any proceeding for arbitration.

SECTION 13.6 Affidavit in lieu of direct testimony - The Arbitral Tribunal shall require the simultaneous submission of affidavits of witnesses in lieu of their direct testimonies attaching thereto pertinent documents supportive of their respective declarations. These documents shall be properly marked for purposes of identification.

SECTION 13.7 Examination by the Arbitral Tribunal - The Arbitral Tribunal may ask clarificatory questions of the witnesses at any stage of the proceedings.

SECTION 13.8 Documentary evidence - As a general rule, no documentary evidence(s) presented and offered shall be rejected unless the same is found by the Arbitral Tribunal to be completely irrelevant.

SECTION 13.9 Offer of documents - All documents not offered with the Arbitral Tribunal at the hearing but which are arranged at the hearing subsequently by agreement of the parties to be submitted, shall be filed within five (5) days from the termination of the hearing. All parties shall be afforded opportunity to examine such documents.

SECTION 13.10 Site inspection –The Arbitral Tribunal may, *motu proprio* after notice to the parties, or upon motion of a party, conduct a site inspection of any building, place or premises, including any work, material, implement, machinery, appliance or any object therein. The Tribunal in deciding on the necessity of a site inspection, may consider whether a video or pictorial presentation may suffice.

13.10.1 Costs including transportation, accommodations, meals, rental fee for the video/still camera, services, video tape recording, copy of pictures and other expenses shall be equally shared by both parties. In special cases upon the order of the Arbitral Tribunal, the party who seeks this video and will benefit from it shall bear the expenses.

SECTION 13.11 Adjournments - The Arbitral Tribunal for good cause shown, may adjourn the hearing upon his/its own initiative or upon the request of one of the parties. Adjournment shall not be more than five (5) working days.

13.11.1 Hearings may be adjourned for more than five (5) working days when such have been suspended due to payment defaults of any or both of the parties. The Arbitral Tribunal shall order the suspension of hearings upon advice by CIAC of non-payment of arbitration fees by one or both parties. Hearings shall resume upon notice by CIAC of compliance by the defaulting party/ies.

SECTION 13.12 Arbitration in the absence of the party - The Arbitration may proceed despite the absence of any party who after due notice fails to be present or fails to obtain an adjournment. An award, however, shall not be made solely on the default of a party. It shall be made on the basis of evidence submitted and proven.

SECTION 13.13 Closing of the hearings - After the submission of the draft decision/final memorandum of arguments and/or the lapse of the period given for the submission thereof, the proceedings is considered closed and no further pleadings/papers shall be filed nor accepted for filing.

SECTION 13.14 Reopening of hearing - The hearing may be reopened by the Arbitral Tribunal on their own motion or upon the request of any party, upon good cause shown, at any time before the award is rendered. When hearings are thus reopened, the effective date for the closing of the hearing shall be the date of closing of the reopened hearing.

SECTION 13.15 Summation - The Arbitral Tribunal may direct the parties to make a brief oral summation at the end of the oral hearing.

SECTION 13.16 Submission of memoranda or draft decisions²⁷ - *If any or both of the parties so desire, written memoranda or draft decisions may be submitted not later than ten (10) calendar days from the termination of the hearing or from the date of the filing of additional documents as previously agreed upon, whichever is later.*

13.16.1 If both parties agree to submit memoranda or draft decisions, the filing shall be simultaneous.

²⁷As amended by CIAC Res. 16-2006 (effectivity: 27 September 2007)

SECTION 13.17 Award or decision on the pleadings - Instead of a formal hearing, the parties may agree to submit the issues for resolution after the filing of pleadings, evidence, memoranda or draft decisions.

SECTION 13.18 Period to make a final award - The number of days within which an award shall be made will start from the date of the termination of the hearing, or from the filing of additional documents, or from the submission date of memoranda, pleadings, documents or evidences whichever is later.

RULE 14 – INTERIM RELIEF

SECTION 14.1 Interim measures - In the course of the proceedings, the Arbitral Tribunal may, upon the request of either or both parties or upon its own initiative, issue orders as is necessary to attain the following objectives:

- a. to ensure the enforcement of the award;
- b. to prevent irreparable loss or injury or deterioration of property;
- c. to minimize or avoid undue delays in project or contract implementation;
- d. to provide security for the performance of any obligation;
- e. to produce or preserve any evidence;
- f. such other measures deemed by the Arbitral Tribunal to be necessary to prevent a miscarriage of justice or abuse of rights of any of the parties.

14.1.1 The order granting provisional relief may be conditioned upon provision of security for any act or omission specified in the order.

14.1.2 Such interim measures may include but shall not be limited to preliminary injunction directed against a party, appointment of receivers or detention, preservation, inspection of property, that is the subject of dispute in arbitration. Either party may apply to the Court for assistance in implementing or enforcing an interim measure ordered by an Arbitral Tribunal

RULE 15 – APPOINTMENT OF EXPERTS

SECTION 15.1 Appointment of expert ²⁸ - The service of technical or legal experts may be utilized if requested by any of the parties or if deemed necessary by the Arbitral Tribunal. If the request for an expert is made by either or by both of the parties, the necessity of such appointment must be confirmed by the Arbitral Tribunal before issuing an appointment.

15.1.1 Whenever the parties request for the services of an expert, they shall equally shoulder the expert's fees and expenses, half of which shall be deposited with the Secretariat before the expert renders service. When only one party makes the request, it shall deposit the whole amount required. If the request for an expert is by the Arbitral Tribunal, the cost of such service(s) shall be considered part of the arbitration expenses which may be ordered to be paid by the losing party or by both parties as the Arbitral Tribunal in his/their award may adjudge, in the absence of a provision in the TOR signed by the parties relative to the sharing of these expenses; provided, however, both parties consented to the hiring of an expert.

RULE 16 – THE ARBITRATION AWARD

SECTION 16.1. Time of award - The award shall be rendered promptly by the Arbitral Tribunal within thirty (30) days from the time the case is submitted for resolution but not more than six (6) months from the date of signing of the TOR, or in cases where a TOR is absent, not more than six (6) months from the date of the last preliminary conference called for the purpose of finalizing and/or signing of the TOR. There shall be no extensions of time unless approved by the CIAC.

²⁸ Section 15, E.O. No. 1008

SECTION 16.2 Form of award²⁹ - The Final award shall be in writing and signed by the Arbitral Tribunal or a majority of its members. A dissent from the decision of the majority or a portion thereof shall be in writing specifying the portion/s dissented from with a statement of the reason/s thereof and signed by the dissenting member.

SECTION 16.3 Contents of the final award - Generally, the Final Award shall contain the issues involved, a brief statement and discussion of the facts, and the authority relied upon for the resolution or disposition of the issues.

SECTION 16.4 Award upon settlement - If the parties settle their dispute(s) during the course of the arbitration, the Arbitral Tribunal, upon their request, may set forth the agreed settlement as an Arbitral Award.

16.4.1 Settlement as award³⁰ - A compromise agreement settled by mediation in the course of arbitration or by direct negotiation between the parties shall be treated as an arbitral award if so moved by the parties and subject to the approval of the Arbitral Tribunal, after a summary hearing, that the same is not contrary to law, morals, good customs, public order, or public policy.

SECTION 16.5 Decision as to costs of arbitration - In the case of non-monetary claims or where the parties agreed that the sharing of fees shall be determined by the Arbitral Tribunal, the Final Award shall, in addition to dealing with the merits of the case, fix the costs of the arbitration, and/or decide which of the parties shall bear the cost(s) or in what proportion the cost(s) shall be borne by each of them.

SECTION 16.6 Termination of jurisdiction³¹ - Except for execution or post-award proceedings, the jurisdiction of the Arbitral Tribunal over the dispute is terminated upon the finality of the Final Award or Decision. Where an appeal is taken from a decision or Final Award, and the appellate court directs a re-hearing or a hearing on the merits on any issue arising in the case, jurisdiction terminates only upon a final disposition of the case by the appellate court and/or a final determination of all incidental matters thereto.

SECTION 16.7 Notification of award to parties - Once a Final Award has been made, provided that the costs of the arbitration have been fully paid to the Secretariat by the parties or by one of them, the Secretariat shall provide the parties through their respective counsel a copy of the Final Award signed by the Arbitral Tribunal.

16.7.1 Additional copies certified true by the Executive Director of the Secretariat shall be made available, on request and at any time, to the parties or their counsel but to no one else.

SECTION 16.8 Filing of award - The original of an arbitral award shall be filed with the Secretariat.

RULE 17 – POST-AWARD PROCEEDINGS

SECTION 17.1 Motion for correction of final award - Any of the parties may file a motion for correction of the Final award within fifteen (15) days from receipt thereof upon any of the following grounds:

- a. an evident miscalculation of figures, a typographical or arithmetical error;
- b. an evident mistake in the description of any party, person, date, amount, thing or property referred to in the award.

²⁹ As amended by CIAC Res. No. 07-2007 (effectivity: 26 July 2007) and with clarification under CIAC Res. No. 10-2007 (passed 26 July 2007) that dissenting opinions do not form part of the decisions/final awards and hence, are NOT for promulgation

³⁰ As amended by CIAC Res. Nos. 04-2010 (effectivity: 11 September 2010), and 07-2010 (effectivity: 1 January 2011)

³¹ As amended by CIAC Res. No. 01-2010 (effectivity: 5 March 2010)

- c. where the arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted;
- d. *where the arbitrators have failed or omitted to resolve certain issue/s formulated by the parties in the Terms of Reference (TOR) and submitted to them for resolution;*³² and
- e. where the award is imperfect in a matter of form not affecting the merits of the controversy.

*The motion shall be acted upon by the Arbitral Tribunal or the surviving/remaining members.*³³

17.1.1 The filing of the motion for correction shall interrupt the running of the period for appeal.

17.1.2 A motion for correction upon grounds other than those mentioned in this section shall not interrupt the running of the period for appeal.

SECTION 17.2 *Motion for reconsideration or new trial.*- A motion for reconsideration or new trial shall be considered a prohibited pleading.

RULE 18 – EXECUTION OF FINAL AWARD

SECTION 18.1 *Execution of Award.* - A final arbitral award shall become executory upon the lapse of fifteen (15) days from receipt thereof by the parties.

SECTION 18.2 *Petition for review.*- A petition for review from a final award may be taken by any of the parties within fifteen (15) days from receipt thereof in accordance with the provisions of Rule 43 of the Rules of Court

SECTION 18.3 *Entry of judgment.* - If a petition for review is filed from a final award and a temporary restraining order (TRO) is issued by the appellate court, such award shall become executory only upon the issuance of the entry of judgment of the appellate court, or upon the lapse/lifting of the TRO or lifting of the preliminary injunction.

SECTION 18.4 *Effect of petition for review.* - The petition for review shall not stay the execution of the final award sought to be reviewed unless the Court of Appeals directs otherwise upon such terms as it deems just.

SECTION 18.5 *Execution/enforcement of awards.* - As soon as a decision, order or final award has become executory, the Arbitral Tribunal (*or the surviving remaining member/s*), shall, motu proprio or on motion of the prevailing party issue a writ of execution requiring any sheriff or proper officer to execute said decision, order or final award. *If there are no remaining/surviving appointed arbitrator/s, the Commission shall issue the writ prayed for.*³⁴

*Notwithstanding the Commission's disagreement with the substance or merit of the award/decision, if execution is ripe or proper under the CIAC Rules, it shall release the writ of execution issued by the arbitrator/s. Hence, once an award/decision becomes executory, the release of the writ of execution by the Commission is purely ministerial, regardless of whether or not the arbitrator/s considered the comments of the Commission, or any of its members, on points of substance in the award during scrutiny.*³⁵

³² As amended by CIAC Res. No. 02-2008 (effectivity: 30 April 2008)

³³ As amended by CIAC Res. No. 07-2007

³⁴ ibid

³⁵ As amended by CIAC Res. No. 13-2007 (effectivity: 27 February 2008)

18.5.1 The writ of execution shall direct the sheriff or other officer to conduct the sale of property on execution in accordance with Section 15 of Rule 39 of the Rules of Court. In the case of sale of real property or personal property not capable of manual delivery, the auction sale shall be held at the office of the sheriff serving the writ. Upon proper application by the sheriff, with notice to the parties, CIAC may authorize the sale to be held in the place where the property is located.

SECTION 18.6 *Stay of execution pending review.* - Execution issued under the preceding Section may be stayed upon approval by the Arbitral Tribunal (or the surviving/remaining member/s), with the concurrence of CIAC, of a surety bond posted by the petitioner in an amount equal to the award, conditioned upon the performance of the judgment of the appellate court in case it upholds the award in whole or in part. Such surety bond shall be posted within such period of time, which shall in no case be less than fifteen (15) days, as may be granted by the Arbitral Tribunal during the hearing on the motion for execution and the opposition thereto. The Surety Company posting the bond *must be included in the latest list of surety companies accredited by the Supreme Court and must comply with the requirements set by the CIAC for bond approval, concurrence, and/or acceptance, such as, but not limited to, the prescribed 'Surety Undertaking' form. If there are no remaining/surviving appointed arbitrators, the Commission may approve the required bond.*³⁶

*The concurrence of the Commission to the approval by the arbitrator/s of the surety bond to stay execution is only for the purpose of ensuring compliance with the requirements set by the CIAC for bond approval.*³⁷

SECTION 18.7 *Effect of reversal of award.*³⁸ - Where an award is partially or totally reversed on appeal, the Arbitral Tribunal (or the surviving/remaining members, or the Commission if there are no remaining/surviving appointed arbitrators) may, on proper motion, issue such order of restitution or reparation of damages as equity and justice may warrant under the circumstances.

SECTION 18.8 *Executory Powers*³⁹ – *The Arbitral Tribunal (or the surviving/remaining member/s, or the Commission, if there are no remaining/surviving appointed arbitrators) shall have the authority and power to decide matters and issue appropriate orders which are necessary and related to the execution of the Award, including but not limited to the determination of sufficiency of the bond, approval of the surety or bonding company, satisfaction of the award, quashal of the execution, partial execution, issuance of alias writs, assessment of properties levied, appointment of a quantity surveyor or assessor, examination of, and issuance of subpoena ad testificandum and subpoena duces tecum to banks, debtors of the judgment debtor and any person holding properties or assets of the judgment debtor.*

³⁶ As amended by CIAC Res. Nos. 19-2006 (effectivity: 22 December 2006); 07-2007 (effectivity: 26 July 2007); and 08-2014 (effectivity: 15 February 2015). Additional requirements for bond approval, concurrence and/or acceptance were also issued under CIAC Res. No. 12-2010 (effectivity: 1 Jan. 2011) as follows:

1. The surety company must be in the latest list of surety companies accredited by the Supreme Court for civil actions/special proceedings only;
2. The effectivity of the bond shall be from its approval by the Arbitral Tribunal and until the case in the appellate court is finally decided, resolved, or terminated, and this condition shall be expressly stated in the terms and conditions of the bond; failing which, the same shall be deemed *ipso facto* incorporated in the bond and shall be binding on all the parties thereto; and
3. The party securing the bond must pay the premiums due to keep the bond from being cancelled until the case in the appellate court is decided, resolved or terminated, otherwise the Tribunal shall, upon motion of the prevailing party, order execution of the award.

³⁷ As amended by CIAC Res. No. 13-2007

³⁸ As amended by CIAC Res. No. 07-2007

³⁹ As amended by CIAC Res. No. 01-2010

RULE 19 - RELIEF NOT COVERED BY THE RULES ⁴⁰

SECTION 19.1 Motion for relief not covered by the Rules⁴¹ - Every motion or other paper filed in connection with the execution of an award not expressly authorized by the Rules shall be charged a filing fee of Php 3000.00 or as may be prescribed by CIAC.

The motion shall be acted upon by the Arbitral Tribunal (or the surviving/remaining members, or the Commission if there are no remaining/surviving appointed arbitrators).

RULE 20 – SMALL CLAIMS ⁴²

SECTION 20.1 Small Claims - Cases where the claim does not exceed ₱1 million shall be categorized as a small claim thereby entitled to special procedures of disposition and reduced fees.

20.1.1 A small claims case shall be handled by a sole arbitrator whose fees shall be at a fixed rate of 3% of the claim but not less than ₱10,000.00 or as may be prescribed by CIAC. The expenses of the sole arbitrator and CIAC staff consisting of actual expenses for travel, accommodations, and administrative costs for at most two (2) days incurred for hearing if held outside of Metro Manila shall be borne by CIAC.

20.1.2 All prescribed periods under normal procedure shall whenever practicable, be abbreviated to fifty percent (50%) of that required.

RULE 21– GENERAL MATTERS

SECTION 21.1 Recording of proceeding - Proceedings before an Arbitral Tribunal may be recorded by means of any audio and /or audio-visual recording equipment such as, but not limited to, tape recorders and video cameras, or if a stenographer is available, either through stenographic notes or minutes taken of the proceedings. All recordings on tapes, films, cassettes, disks, or diskettes shall be done by CIAC and shall remain in its custody for safekeeping and eventual disposal after the resolution of the case. Copies of such recordings including transcripts and minutes of the proceedings shall be made available to the parties upon request for a nominal fee.

The arbitral Tribunal may opt to dispense with the use of recording devices or stenographic services and take down notes of the proceedings. Such notes taken shall be filed with CIAC and shall be part of the records of the case. Copies of the notes filed shall be made available to the parties, upon request, at reproduction cost.

SECTION 21.2 Control over proceedings⁴³ - The Arbitral Tribunal shall exercise complete control over all proceedings to insure a speedy, adequate and justifiable disposition of the disputes and cases submitted to them for resolution.

21.2.1 *In all arbitration proceedings before or after an award has been rendered but prior to the termination of the jurisdiction of the arbitrator/s over a case pursuant to Section 16.6 hereof, the arbitrator/s shall have the power to issue subpoena and/or subpoena duces tecum requiring any person to attend the hearing as a witness or to produce relevant documents.*

⁴⁰ Ibid

⁴¹ As amended by CIAC Res. No. 07-2007

⁴² For small claims below ₱100,000.00, the Commission has prescribed guidelines under CIAC Res. No. 13-2010 (attached hereto as Appendix 2; effectivity: 9 February 2011) as amended by CIAC Resolution No. 07-2013 (effectivity: 11 December 2013) providing, among others, for the Sole Arbitrator's fee to be borne by CIAC and for a one-day hearing only to be conducted. Under CIAC Res. No. 01-2011 (effectivity: 16 March 2011), parties in small claims cases are required to attend an orientation meeting on mediation to be conducted by the CIAC Officer-of-the-Month prior to arbitration.

⁴³ As amended by CIAC Res. No. 03-2008 (effectivity: 30 April 2008)

SECTION 21.3 Extent of power of arbitrator - The Arbitral Tribunal shall decide only such issues and related matters as are submitted to them for adjudication. They have no power to add, to subtract from, modify, or amend any of the terms of the contract or any supplementary agreement thereto, or any rule, regulation or policy promulgated by the CIAC.

SECTION 21.4 Interpretation and application of Rules - The Arbitral Tribunal shall interpret and apply these Rules in so far as they relate to his/its powers and duties. Where there is a difference of opinion among the Arbitrators in an arbitral tribunal concerning the meaning or application of these Rules, the same shall be decided by a majority vote.

SECTION 21.5 Attendance of hearings - Persons having direct interest in the arbitration are entitled to attend the hearings. It shall be discretionary upon the Arbitral Tribunal to determine the propriety of the attendance of any other person. The Arbitral Tribunal shall have the power to require the exclusion of any witness.

SECTION 21.6 Waiver of Rules - Any party who proceeds with the arbitration after knowledge that any provision or requirement of these Rules has not been complied with and fails to state his objection thereto in writing, shall be deemed to have waived his right to object.

SECTION 21.7 Freedom to settle⁴⁴ - The parties shall be free to settle the dispute(s) anytime even if the same is under arbitration. In such case, the actual expenses incurred for arbitration shall be charged against the deposit. If the deposit is insufficient, the parties shall equally shoulder the balance.

21.7.1 The parties may either jointly withdraw or *move that* their compromise agreement *be the basis for rendering* an award by the Arbitral Tribunal, if the latter have already been appointed. Where the arbitrators have been appointed and proceedings have commenced, the arbitration fees to be charged the parties shall be in accordance with the stage of proceedings.⁴⁵

21.7.2 *The Arbitral Tribunal shall act upon the motion after conducting a summary hearing.*⁴⁶

RULE 22 – COSTS

SECTION 22.1 Expenses and deposit - Arbitration expenses shall include the filing and administrative fees, arbitrator's fees, ADF Charges and fee and expenses of the expert, and others which may be imposed by CIAC.

22.1.1 The filing and administrative fees, ADF charges, and arbitrator's fees for monetary, non-monetary and small claims and the schedules of payment therefor shall be in accordance with the CIAC-approved Table of Administrative Charges and Arbitrator's Fees.

22.1.2 Expert's fees shall be determined and paid for in accordance with Section 15.1.1 of the Rules.

SECTION 22.2 The CIAC may fix the fees of the Arbitral Tribunal at a figure higher or lower than that which would result from the application of the Table of Fees if in the exceptional circumstances of the case, the same appears to be necessary.

⁴⁴ Clarification under CIAC Res. No. 06-2007 (effectivity: 27 June 2007): Sec. 21.7 only applies to cases where arbitration proceedings are still on-going and an award has not been rendered. As such, the parties are free to settle/come to terms and/or consequently jointly move for the withdrawal of the case anytime during the proceedings but before the lapse of the period given for submission of memoranda or draft decision.

⁴⁵ As amended by CIAC Res. No. 07-2010 (effectivity: 1 January 2011)

⁴⁶ Ibid.

RULE 23. REPEALING CLAUSE

SECTION 23.1 The old rules and all policies issued in connection therewith, as well as policies inconsistent herewith are hereby repealed.

RULE 24. SEPARABILITY CLAUSE

SECTION 24.1 Separability – If for any reason or reasons, any portion or provision of these Rules shall be held unconstitutional or invalid, all other parts or provisions not affected shall thereby continue to remain in full force and effect.

RULE 25. EFFECTIVITY

SECTION 25.1 These Rules shall take effect fifteen (15) days after its publication at least once in a newspaper of general circulation and the filing of three (3) certified copies thereof with the Office of the National Administrative Register, U.P. Law Center.

APPROVED AS REVISED BY CIAC RESOLUTION NO. 06-2017.

July 31, 2017, Makati City, Philippines.

THE COMMISSION

MANUEL M. COSICO
Chairman

ANTONIO A. ABOLA
Member

EMILIO LOLITO J. TUMBOCON
Member

Note: The Revised Rules, published in the Manila Standard on November 30, 2005, became effective on December 15, 2005.



Republic of the Philippines
Department of Trade and Industry
Construction Industry Authority of the Philippines

CONSTRUCTION INDUSTRY ARBITRATION COMMISSION

2/F Executive Building Center, 369 Gil J. Puyat Ave. cor. Makati Ave., Makati City
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RESOLUTION NO. 11-2010

ADOPTING GUIDELINES ON THE FILING AND DELIVERY OF COMMUNICATIONS IN CIAC CASES

WHEREAS, the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules) generally provide for the filing/submission and delivery of communications in arbitration cases, as follows:

“Rule 3.1 Filing – Any party to a construction contract desiring to avail of arbitration shall file its Request for Arbitration in the prescribed form and number of copies to the Secretariat of the CIAC.

xxx xxx xxx.

Rule 6.2 Notices – Notifications or communications from the Secretariat and/or the Arbitrator(s) shall be validly made if they are delivered against receipt or forwarded by registered mail to the address or last known address of the party/ies for whom the same are intended as notified by the party/ies in question or by the other party/ies as appropriate.

If the Notice to Respondent/Request to Answer the complaint under Section 3.3 hereof is not received by Respondent due to wrong address or because Respondent has moved out from, or cannot be found at, the last known address provided by the Claimant, the CIAC Secretariat shall inform the Claimant of the non-delivery/non-receipt of the notice and require Claimant to provide CIAC with Respondent’s correct/new address within fifteen (15) days from receipt of advice. If Claimant fails to comply, the Commission shall dismiss the case without prejudice to its refiling once the whereabouts of Respondent/s are known to Claimant/s.

6.2.1 Notification or communication shall be deemed to have been effected on the date when actually or constructively received.”

WHEREAS, raising the need to clarify, by way of specific implementing guidelines, the abovementioned general provisions of the CIAC Rules on filing and notices/communications, the Philippine Institute of Construction Arbitrators and Mediators, Inc (PICAM), an organization composed exclusively of CIAC-accredited arbitrators and mediators, expressed apprehension over problems encountered in the delivery of notices/communications to parties who are no longer residing or cannot be found at the addresses given or at their last known addresses;

WHEREAS, to address these concerns and mindful that the delivery/provision of notices/pleadings/processes/communications is essential to comply with the requirements of due process, the PICAM, during its 10th Board of Trustees Meeting held on 07 October 2010, approved the draft guidelines on the matter prepared by one of its trustees, Atty. Custodio O. Parlade, for endorsement to the Commission;

WHEREAS, the Commission, in its 131st Regular Meeting held on 08 November 2010, discussed the draft guidelines and found the same to be in order;

NOW, THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law, and based on the recommendation of the PICAM, **RESOLVES** to adopt the following Guidelines on the Filing and Delivery of Communications in CIAC Cases:

1. The term “communications” shall apply to submissions made to, or filed with, the Construction Industry Arbitration Commission [CIAC] by a party in connection with a case to be filed, and/or to submissions made or filed with the Arbitral Tribunal when the case is already pending before CIAC which shall include all pleadings, motions, manifestations, comments, oppositions, challenges of arbitrators, draft decisions, reports, witness statements, exhibits, and notifications. It shall also apply to notices sent or delivered to the parties from CIAC or from an arbitral tribunal appointed to hear such case which shall include awards, procedural orders, terms of reference, directions and notices.
2. Filing of communications shall be made either by personal delivery to CIAC or by courier. If filing is made by courier, the communication is deemed filed on the date the courier delivers the communication to, and is received by, the CIAC Secretariat [the “Secretariat”]. If filing fees are required to be paid upon filing, the communication is deemed filed on the date such fees are paid to CIAC.
3. Delivery of initial and subsequent communications from CIAC or an arbitral tribunal to a non-resident party registered as a foreign corporation allowed to engage in business in the Philippines, may be made to its resident agent in the Philippines or in default of a resident agent, to the Securities and Exchange Commission in accordance with law.
4. Delivery of initial and subsequent communications from CIAC or from the arbitral tribunal to any other non-resident party may be made electronically or by registered air mail or by some other form of communication to the latter’s last known address.
5. Delivery of initial and subsequent communications from CIAC or from the arbitral tribunal to any party whose whereabouts are unknown shall be made to his/her/its last known address by personal delivery or by courier. The communication is deemed delivered, when made in this manner, when it is duly certified to CIAC or the arbitral tribunal.
6. Communications, other than the initiatory pleading, shall not be considered filed unless there is proof of delivery of such communications upon the other parties in the form of a stamp mark on the face of such communications or a certification of delivery by a courier. Communications to a party shall be made to his/her/its counsel of record.

Communications delivered to a party's counsel of record shall be deemed delivered to all lawyers of record of that party.

7. The arbitral tribunal, upon prior consultation with the parties, may authorize delivery of communications by electronic mail, telefax or some other electronic form that provides a record of the delivery, and require that communications such as pleadings, witness statements or exhibits, when delivered electronically, may be followed by the delivery of the hard copy of such communications within such period that the arbitral tribunal may fix.
8. The arbitral tribunal, in exceptional circumstances, having regard to the means of communication available to a party to a case, may allow delivery of communications by postal special delivery or registered mail or, with the consent of the party concerned, delivery may be made in some other acceptable form or to the address of a third person.

This Resolution shall take effect fifteen (15) days after receipt of certified copies thereof by the Office of the National Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

08 November 2010, Makati City.

(sgd.) **ISAAC S. DAVID**
Acting Chairman

(sgd.) **SAMSON C. LAZO**
Member



Republic of the Philippines
Department of Trade and Industry
Construction Industry Authority of the Philippines
CONSTRUCTION INDUSTRY ARBITRATION COMMISSION
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RESOLUTION NO. 13-2010

PRESCRIBING GUIDELINES FOR ARBITRATION CASES INVOLVING SMALL CLAIMS BELOW ₱100,000

WHEREAS, the Rules of Procedure Governing Construction Arbitration of the Construction Industry Arbitration Commission (CIAC) provide for small claims cases as follows:

*“Rule 20- **SMALL CLAIMS***

SECTION 20.1 Small Claims- *Cases where the claim does not exceed ₱1 million shall be categorized as a small claim thereby entitled to special procedures of disposition and reduced fees.*

20.1.1 *A small claims case shall be handled by a sole arbitrator whose fees shall be at a fixed rate of 3 % of the claim but not less than ₱ 10, 000.00 or as may be prescribed by CIAC. The expenses of the sole arbitrator and CIAC staff consisting of actual expenses of travel, accommodations and administrative costs for at most two (2) days incurred for hearing if held outside of Metro Manila shall be borne by CIAC.*

20.1.2 *All prescribed periods under normal procedure shall whenever practicable, be abbreviated to fifty percent (50%) of that required.”*

WHEREAS, in the past, aside from the expenses mentioned in Section 20.1.1 above, the arbitrator’s fee for small claims was also borne by the CIAC pursuant to CIAC Resolution No. 09-2002, expanding the use of the CIAC Arbitration Development Fund (ADF) which was established by the Commission in 1996 primarily for the resolution of small claims cases originating from remote areas and the development and promotion of arbitration in the regions;

WHEREAS, the use of the ADF for the payment of the Sole Arbitrator’s fees in small claims cases was discontinued in 2006 due to the absence of an express provision under the revised CIAC Rules for the said fees to be borne by the CIAC as well;

WHEREAS, under the CIAC Table of Fees, parties to small claims cases involving amounts below ₱100,000 are assessed total arbitration fees of ₱19, 600 per case broken down as follows:

Filing Fee	₱3, 600.00
Administrative Fee	6,000.00
Arbitrator’s Fee	10,000.00
	<hr/>
Total Fees	₱19,600.00;

WHEREAS, in a recent case involving a claim of ₱18,950 which was filed with the CIAC for arbitration , the claimant had to pay fees higher than the sum in dispute amounting to ₱19,600;

WHEREAS, the Commission believes that the payment of fees higher than the amount claimed would discourage small claimants from filing their disputes involving amounts below ₱100,000 and hence, would be inimical to the intent and spirit of the law for the CIAC to cover all construction contract disputes regardless of the amount of claims;

WHEREAS, the Commission, likewise, believes that the hearing for small claims below ₱100,000 should be limited to one (1) day;

NOW, THEREFORE, THE COMMISSION, after due deliberation in its 132nd Regular Meeting, **RESOLVES** to prescribe the following guidelines for arbitration cases involving small claims below ₱100,000:

9. Cases filed for arbitration involving small claims below ₱100,000.00 shall be handled by a Sole Arbitrator;
10. Upon filing of the Request for Arbitration, the following fees shall be paid by the Claimant who may seek reimbursement from Respondent based on the agreed sharing of fees in the Terms of Reference:

Filing Fee	₱ 4,320.00¹
Administrative Fee	10,200.00²
TOTAL:	₱ 15,520.00;

11. The Sole Arbitrator's fee shall be 3% of the claim but not less than **₱17,000.00³**, and shall be borne by CIAC chargeable against the Arbitration Development Fund (ADF) pursuant to CIAC Resolution No. 09-2002;
12. The Sole Arbitrator shall, if necessary, hold a one-day hearing. If the hearing is to be held outside Metro Manila, the expenses of the Sole Arbitrator and CIAC Staff for travel, accommodations and administrative costs shall, likewise, be borne by CIAC chargeable against the ADF; **PROVIDED**, however, that if the hearing exceeds the prescribed limit of one day, the resultant extra cost shall be borne by the Sole Arbitrator and the parties in the following manner: (i) the Sole Arbitrator shall bear his own resultant extra cost, (ii) the parties shall bear their respective resultant extra cost, including that of their respective lawyers and witnesses, and (iii) the resultant extra cost of the CIAC staff shall be borne equally by the claimant and respondent;
13. Where the sum in dispute (claims and counterclaims) amounts to ₱100,000 and above but does not exceed ₱1 million, the abovesited provisions of Rule 20 on small claims and the pertinent fees for filing, administrative and arbitrator's fee charged to the parties under the CIAC Table of Fees, shall continue to be applied; and

¹ As amended by CIAC Resolution No. 07-2013 (Effectivity: 11 December 2013)

² *Ibid.*

³ *Ibid.*

14. The application of these Guidelines including the availment of benefits hereunder, shall, in all cases, be subject to the approval of the Commission taking into account the circumstances of the parties and the primary purpose of these Guidelines which is to provide assistance to small claimants/disputants who cannot afford the regular arbitration costs.

This Resolution shall take effect fifteen (15) days after receipt of certified copies thereof by the Office of the National Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

16 December 2010, Makati City.

THE COMMISSION:

(sgd.) **ISAAC S. DAVID**
Acting Chairman

(sgd.) **SAMSON C. LAZO**
Member