

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, 06-2017, 01-2019, 04-2019, 05-2019, and 07-2022)

01 January 2023

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 **Ordonez 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);

[7] the **Cosico Commission** (Judge Manuel M. Cosico, Chairman; Engrs. Antonio A. Abola and Emilio Lolito J. Tumbocon, Members); and

[8] the **Baldos Commission** (Justice Teresita V. Diaz-Baldos, Chairperson; 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 fro

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*

The 8th Commission, headed by former Sandiganbayan Justice Teresita V. Diaz-Baldos, approved the following recent amendments to the Rules:

1. Clarifying that if an arbitrator does not communicate his/her acceptance or refusal of his/her appointment to CIAC within the period prescribed in Section 10.3, the appointment

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)*

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

SECTION 9.4 Conditions for appointment of foreign arbitrator ²¹ - 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:

- 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 foll*

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.

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 c

RULE 11 PRELIMINARY CONFERENCE / TERMS OF REFERENCE

SECTION 11.1 *Notice of conference* -

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

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

SECTION 13.17

SECTION 18.4. Effect of appeal or petition for certiorari. – The appeal or petition for certiorari shall not stay the execution of the final award sought to be reviewed unless the Supreme Court or the Court of Appeals directs otherwise upon such terms as it deems just.⁴⁰

SECTION 18.5. Execution/enforcement of awards. - As soon as a decision, order or final award has become executory:

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SECTION 18.7. Effect of reversal of award.⁵⁰ - Where an award is partially or totally reversed by the Supreme Court or Court of Appeals, the Arbitral Tribunal (or the surviving/remaining

21.7.2 *The Arbitral Tribunal shall act upon the motion after conducting a summary hearing.*⁵⁹

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