

## **[ NPC CIRCULAR NO. 94-45, August 15, 1994 ]**

### **IMPLEMENTING GUIDELINES ON UNIFORM SYSTEM OF SUSPENDING, BLACKLISTING AND LIFTING OF SANCTION OF CONTRACTORS\***

#### **1.0 Objectives**

This Circular is issued to:

- formulate common offenses, grounds or causes as bases for blacklisting or suspending NPC contractors;
- formulate a definite procedure for watchlisting, blacklisting, suspending, and delisting of erring NPC contractors;
- have uniform sanctions which shall be imposed by the Corporation on erring NPC contractors; and
- provide information networking within the Corporation and with other government agencies on offenses committed by the NPC contractors.

#### **2.0 Definition of Terms**

The following terms shall have the following definition as applied to this Circular:

2.1 "BLACKLISTING" means perpetual disqualification of the contractor from participation in the accreditation, prequalification, bidding, obtaining of contracts, and/or to enter into any negotiated contract with NPC;

2.2 "COMMITTEE" means the concerned body authorized by NPC to approve accreditation, prequalification, bidding, and/or award of contracts including imposition of sanctions to erring NPC contractors such as the Contracts Award Committee, Regional Contracts Committee, Vendors Accreditation Committee, etc.;

2.3 "CONTRACTOR", "CONSTRUCTOR" means Filipino proprietor, partnership or corporation, either alone or in a joint venture, that has applied for accreditation, prequalification, bidding, and/or awarded a contract by NPC;

2.4 "CORPORATION", "NPC" means National Power Corporation;

2.5 "DELISTING" means the lifting of sanction, suspension and/or blacklisting, imposed upon the contractor;

2.6 "INVESTIGATING COMMITTEE" means the group designated by the Committee to study and investigate offenses, and recommend appropriate sanctions that shall

be imposed on erring contracting firms; composed of representatives from Internal Audit, Finance, Legal Counsel, Accreditation group, Bidding group, and others.

2.7 "REGULATORY AGENCY" means the licensing or regulatory agency mandated by the government in determining contracting firm's license to operate business;

2.8 "SUSPENSION" means disqualification of the contractor to participate in the accreditation, prequalification, bidding, obtaining of contracts, and/or to enter into any negotiated contract with NPC during suspension period.

### 3.0

#### Scope

This Circular applies to all contractors conducting businesses with NPC herein referred to as TRANSACTION: accreditation; contracting supply and/or procurement of materials, goods or services; disposal of materials or goods; prequalification bidding or obtaining contracts including projects and/or purchases financed wholly and/or partly by international financing institutions, bilateral agreements or similar sources; and/or contract implementation.

### 4.0

#### Performance Evaluation of Contractor

4.1 The Technical Task Force (TTF) designated to conduct evaluation of documents submitted by the contractor and other documents related thereto, shall prepare and submit a report of findings to the Committee that may affect the proper conduct of the transaction.

4.2 The End-user, Project Initiator or Project Manager shall submit to their respective Contractors Performance Monitoring Group (CPMG) monthly contractor's performance report, such as progress report, percentage deliveries reports and other performance related reports. The CPMG shall submit to the Committee a consolidated quarterly contractors performance report.

The Contractors Monitoring Group shall be the Project Engineering and Review Office for infrastructure projects and/or contracts, the Materials Management Office for vendors, and the likes.

4.3 The office directly dealing or conducting business with the contractors, shall implement Contractor's Performance Evaluation System and same shall be applied in evaluating performance of contractors.

### 5.0

#### Procedure for Suspending or Blacklisting Contractors

5.1 Contractors who committed offenses and/or violations, during transaction and contract implementation period, are entitled to due process prior to the imposition of a disciplinary action or sanction. The procedure for suspending or blacklisting shall be as follows:

- a. Verification - The verification of the offense shall be made by the Corporation, the particular offense made shall be accompanied by supporting material evidence or affidavit, if any.

- b. Referral to Investigating Committee - The list of contractors to be suspended or blacklisted shall be referred, and all documents submitted appertaining thereto forwarded, by the Committee to the Investigating Committee and the latter shall study, and investigate the matter, and recommend proper sanction. The Investigating Committee shall submit findings and/or reports to the Committee for deliberations.

When a charge has been verified but before any decision is made, the contractor is not considered suspended or blacklisted and therefore may still participate in the transaction. However, award of contract to the contractor shall be held in abeyance pending completion of the investigation and/or proceedings and subsequent final decision on the matter.

- c. Decision - The Committee shall deliberate and decide based on the merits of the case presented.

Based on the offense committed by the contractor, the corresponding sanction shall be imposed. The date of effectivity of serving the given penalty, i.e. date of start and completion, shall be stated clearly in the decision.

In case a contractor commits more than one offense or a combination of offenses for the same period, each violation shall be probed individually following the established procedures but in the imposition of the penalty, the gravest offense shall be meted the corresponding penalty while the rest shall be considered as aggravating circumstances.

- d. Notification - The Corporation shall notify the suspended or blacklisted contractor. Copy/ies of the decision suspending or blacklisting a contractor shall be furnished to other offices of Corporation: such as the Office of the President, all regional profit centers, materials procurements group, etc., and other government agencies for information networking.

- e. Effectivity of Suspension or Blacklisting - The effectivity of suspending or blacklisting a contractor shall take effect upon approval by the Committee.

5.2 The Corporation reserves the right to elevate the offenses or violations committed by the contractor to the concerned regulatory agencies such as the Philippine Contractors Accreditation Board (PCAB) or Inter-Agency Committee (IAC) for Registration and Classification of Contractors (IAC-RCC), for infrastructure projects; PNP-SOSIA for security services; SEC for corporations, DTI for proprietorships, etc, for revocation or suspension of contracting firm's license, or suspension or blacklisting of Authorized Managing Officer (AMO).

Contractors appearing in the Consolidated Agency-List of Watchlisted Contractors with suspended, blacklisted and revoked licenses and/or certificate are automatically disqualified to participate in NPC transactions.

## 6.0

### Criteria for Imposing Sanctions on Contractors

The following administrative sanctions shall be imposed by the Committee for offenses and/or violations committed by the contractors during:

#### 6.1 Accreditation, Prequalification, Bidding and Award