MEMORANDUM CIRCULAR

TO:  THE DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS, DEPARTMENT/REGIONAL/OPERATIONS/ PROJECT MANAGERS, PROVINCIAL IRRIGATION OFFICERS, IRRIGATION SUPERINTENDENTS AND ALL OTHERS CONCERNED.

SUBJECT:  HOLDING SUPERIORS ACCOUNTABLE FOR CORRUPT ACTIVITIES OF SUBORDINATE

Attached is a copy of IDAP Circular No. 02-2006 dated June 14, 2006 from the Chairman, Presidential Anti-Graft Commission (PAGC), Malacañang, Manila, treating on the above subject.

All NIA officers and employees are hereby directed to, at all times, be aware of the foregoing provisions and discussion with the end-view of ensuring a transparent and efficient discharge of the public office.

For your information and guidance.

Date: February 14, 2007

GEN. ARTURO C. LOMIBAO
Administrator
Office of the President of the Philippines

PRESIDENTIAL ANTI-GRAFT COMMISSION
(PAGC)

IDAP CIRCULAR NO. 02 – 2006

TO : ALL FOCAL PERSONS OF THE INTEGRITY DEVELOPMENT
ACTION PLAN (IDAP) IN VARIOUS DEPARTMENTS,
BUREAUS, AND AGENCIES

SUBJECT : LEGAL BASES OF THE IDAP MEASURE ON COMMAND
RESPONSIBILITY

Pursuant to PAGC's earnest desire to ensure the effective implementation and
sustainability of the Integrity Development Action Plan (IDAP) and in response to the
queries received relative to the operationalization of IDAP measure no. 4 under
Deterrence/Investigation and Enforcement strategy that is "Holding Superiors
Accountable for Corrupt Activities of Subordinates", the following shall be used as
legal bases on the matter, especially on Department/Office/Special Orders for
dissemination and implementation:

♦ The rules governing the liability of public officers in general as laid down in Sec.
38, Chapter 9, Book 1 of the Administrative Code of 1987, to wit:

(1) A public officer shall not be civilly liable for acts done in the performance of
his official duties unless there is a clear showing of bad faith, malice or
gross negligence.

(2) Any public officer who, without just cause, neglects to perform a duty
within a fixed period by law or regulation, or within a reasonable period if
none is fixed, shall be liable for damages to the private party concerned
without prejudice to such other liability as may be prescribed by law.

(3) A head of a department or a superior officer shall not be civilly liable for
the wrongful acts, omissions of duty, negligence, or mistreatment of his
subordinates, unless he has actually authorized by written order the
specific act or misconduct complained of."
As a general rule, superior officers cannot be held liable for the acts of their subordinates, however, Machem (Cruz, Liability of Public Officers 2003 Edition) noted several exceptions and suggests that the superior officer may be held liable:

1. Where, being charged with the duty of employing or retaining his subordinates, he negligently or willfully employs or retains unfit or improper persons;

2. Where, being charged with the duty to see that they are appointed and qualified in a proper manner, he negligently or willfully fails to require of them the due conformity to the prescribed regulations;

3. Where he so carelessly or negligently oversees, conducts or carries on the business of his office as to furnish the opportunity for the default; and,

4. A fortiori where he has directed, authorized or cooperated in the wrong.

Should an IDAP-covered agency propose other legal bases aside from Section 38 of the Administrative Code of 1987 and the exceptions noted by Machem, such should be submitted to the Commission for approval.

For immediate compliance.

14 June 2008, Quezon City, Philippines

DR. CONSTANCIA P. DE GUZMAN, MNSA
(Chairman)

AMDG