



(NATIONAL IRRIGATION ADMINISTRATION)
Lungsod ng Quezon

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OUR REFERENCE:

MC No. 83, s. 2007

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

SUBJECT : RULES ON INTERNAL WHISTLEBLOWING AND REPORTING

I. PURPOSE

The National Irrigation Administration (NIA) has to formulate internal rules and standards that would impress upon its officials and employees that it is their bounden duty as law-abiding citizens and responsible public servants to disclose wrongdoings/misdeeds on the part of their co-officials and employees; encourage its officials and employees to disclose any corrupt, illegal, improper or fraudulent act of their co-officials and co-employees; protect whistleblowers from any form of retaliation or reprisal; and encourage greater confidence in reporting any wrongdoing committed by its officials and employees.

These Rules shall serve as safeguards to the whistleblowers' rights and shall correspondingly define the conditions for protecting whistleblowers so as to deter frivolous and false disclosures.

II. SCOPE

These Rules shall apply to all officials and employees of the NIA.

III. DEFINITION OF TERMS

(a) "**Protected disclosure**" refers to the deliberate and voluntary disclosure by an official or employee who has relevant information of an actual, suspected or anticipated wrongdoing by any official or employee, or by any NIA organizational unit.

(b) "**Whistleblower**" refers to an official or employee who makes protected disclosure to his immediate supervisor, other superior officers, the Administrator and/or his duly authorized/designated representative.

(c) "**Retaliatory Action**" pertains to negative or obstructive responses or reactions to a disclosure of misconduct or wrongdoing taken against the whistleblower and/or those officials and employees supporting him, or any of the whistleblower's relatives within the fourth civil degree either by consanguinity or affinity. It includes, but is not limited to, civil, administrative or criminal proceedings commenced or pursued against the whistleblower and/or those officials and employees supporting him, or any of the whistleblower's relatives within the fourth civil degree either by consanguinity or affinity, by reason of the disclosure made under these Rules. It also includes reprisals against the whistleblower and/or those officials and employees supporting him, or any of his relatives within the fourth civil degree

alienation, blackmailing, and such other similar acts.

IV. POLICIES AND RULES

SECTION 1. A whistleblower may complain on or report acts or omissions that are:

- (a) Contrary to laws, rules or regulations;
- (b) Unreasonable, unjust, unfair, oppressive or discriminatory; or
- (c) Undue or improper exercise of powers and prerogatives.

SECTION 2. *Rights of Whistleblowers:*

- (a) ***Protection Against Retaliatory Actions.*** – No criminal, administrative or civil action shall be entertained against a whistleblower involving a protected disclosure.
- (b) ***Defense of Privileged Communication.*** – A whistleblower has the defense of absolute privileged communication in any action against him arising from a protected disclosure he has made.
- (c) ***No Breach of Duty of Confidentiality.*** – A whistleblower who has an obligation by way of oath, rule or practice to maintain confidentiality of information shall not be deemed to have committed a breach of such duty if he makes a protected disclosure of such information.

SECTION 3. *Confidentiality.* – At all times during and after the protected disclosure, and throughout and after any proceeding taken thereon, the whistleblower is entitled to confidentiality as to:

- (a) his identity;
- (b) the subject matter of his disclosure; and
- (c) the person to whom such disclosure was made.

SECTION 4. *Necessity for Testimony.* – Notwithstanding the provisions in the immediately preceding section, the whistleblower may be compelled to testify if his testimony is necessary or indispensable to the successful prosecution of any charge arising from the protected disclosure.

SECTION 5. *Confidential Information.* – Any official or employee to whom a protected disclosure has been made or referred shall not disclose any information that may identify or tend to identify the whistleblower or reveal the subject matter of such disclosure, except only in the following instances:

- (a) The whistleblower consents in writing prior to the disclosure of the information;
- (b) The disclosure of the information is indispensable and essential, having regard to the necessary proceedings to be taken after the disclosure; or
- (c) The disclosure or referral of the information is made pursuant to an obligation under these Rules.

SECTION 6. *Protection Against Retaliatory Actions.* – A whistleblower who has made or is believed or suspected to have made protected disclosure under these Rules shall not be liable to disciplinary action for making such disclosure. No retaliatory action shall be taken against a whistleblower such as, but not limited to, discriminatory action, including those made under the guise of policy and procedural determinations designed to avoid claims of victimization; reprimand; punitive transfer; referral to a psychiatrist or counselor; undue poor performance reviews; obstruction of the investigation; withdrawal of essential resources; adverse reports; attachment of adverse notes in the personnel file; ostracism; questions and attacks on motives; accusations of disloyalty and dysfunction; public humiliation; and the denial of work necessary for promotion.

Any official or employee who refuses to follow orders to perform an act that would constitute a violation of this Section shall likewise be protected from retaliatory actions.

SECTION 7. *Conditions for Protected Disclosure.* – Whistleblowers shall be entitled to the benefits under these Rules, provided that all the following requisites concur:

- (a) The disclosure is made voluntarily, in writing and under oath;
- (b) The disclosure pertains to a matter not yet the subject of a complaint already filed with, or investigated by the Agency or by any other concerned office; unless, the disclosures are necessary for the effective and successful prosecutions, or essential for the acquisitions of material evidence not yet in its possession;
- (c) The whistleblower assists and participates in proceedings commenced in connection with the subject matter of the disclosure; and
- (d) The information given by the whistleblower contains sufficient particulars and, as much as possible, supported by other material evidence.

SECTION 8. *Unprotected Disclosures.* – The following shall not be deemed protected disclosure under these Rules:

- (a) Disclosure made by an official or employee in connection with a matter subject of his official investigation;
- (b) Disclosures which later appear to be absolutely groundless or without basis. An investigation may be declined or discontinued if it is shown that the disclosure was made without reasonable grounds;
- (c) Disclosures concerning merits of Office policy;
- (d) Absolutely false and misleading disclosures; and
- (e) Disclosures that were later retracted by the whistleblower for any reason. Such person shall lose the right to claim benefit or protection under these Rules for the same disclosure and his retraction shall be considered in determining whether or not he will be admitted as a whistleblower with respect to future disclosures.

A person who makes a disclosure deemed unprotected shall not enjoy any immunity, or any other right or privilege accorded under these Rules.

SECTION 9. *Disclosure made by a Party to a Misconduct.* – A disclosure made by a person who is himself a party to the disclosed conduct constituting misconduct or wrongdoing, whether as principal, accomplice or accessory, is deemed a protected disclosure under these Rules and such person shall be entitled to the benefits of a whistleblower, provided that:

hereof;

- (b) The whistleblower should not appear to be the most guilty;
- (c) The whistleblower has not been previously convicted by final judgment of a crime involving moral turpitude; and
- (d) The whistleblower testifies in accordance with his disclosures.

SECTION 10. *Disclosures Made Before Proper Persons.* – Any NIA official to whom a disclosure is made shall have the following obligations:

- (a) Maintain the confidentiality of the identity of the whistleblower and the subject matter of the disclosure;
- (b) Undertake measures to ensure the well-being of the whistleblower; and
- (c) Report the disclosure in full detail to the Administrator within a period of five (5) days from date of disclosure.

SECTION 11. *Procedure for Protected Disclosures.* – Immediately upon receipt of the disclosure, the Administrator shall refer the same to the Committee on Discipline which shall:

- (a) Evaluate the disclosure if the same qualifies as protected disclosure under Section 1 of these Rules;
- (b) Should the disclosure qualify as such, to process the protected disclosure in accordance with the applicable provisions of Section 7 hereof; and
- (c) To conduct appropriate actions in accordance with NIA MC No. 23 S. of 2000 creating the COD.

The Administrator may also create a Special Investigation Committee which shall conduct the necessary investigation in accordance with existing laws and CSC rules.

SECTION 12. *Obligation to Testify.* – Any official or employee who has personal knowledge of any matter pertaining to a protected disclosure shall, if called upon, have the obligation to testify in any proceedings arising from such protected disclosure.

SECTION 13. *Protection of Witnesses.* – Any official or employee who testifies in any proceedings arising from a protected disclosure shall be accorded the same protection against retaliatory actions as provided in Section 6 hereof.

SECTION 14. *Incentives for the Whistleblower.* – A whistleblower shall be entitled to a commendation, promotion and/or any other form of incentive as may be deemed appropriate.

V. REMEDIES AND SANCTIONS

SECTION 15. *Violations of Confidentiality.* – Any official or employee who violates the protection of confidentiality of a protected disclosure and of the confidentiality of proceedings shall be liable for disciplinary sanctions.

believed or suspected to be one, and/or those who are related to the whistleblower by blood or marriage, shall be immediately subjected to administrative and/or criminal proceedings, and in appropriate cases, immediately placed under preventive suspension.

SECTION 17. Failure to Act or Report. – Any official or employee under obligation to report a disclosure under these Rules, or who fails to act thereon or cause an investigation thereof, shall be liable for disciplinary action.

SECTION 18. Failure or Refusal to Testify. – Any official or employee, who fails or refuses to testify, or to continue to testify, or who adversely varies his testimony, without just cause, in any proceeding arising from a protected disclosure, shall be liable for disciplinary action.

SECTION 19. Perjurious Statements. – False and misleading disclosures or statements shall be sufficient ground for the termination of benefits of whistleblowers under these Rules, including his immunity from administrative, criminal and/or civil suits.

VI. EFFECTIVITY

This Circular shall take effect immediately.


MARCELINO V. TUGAOEN, JR., Ph. D.
Administrator

10 December 2007