

MEMORANDUM CIRCULAR No. 31
Series of 2024

TO : The SENIOR DEPUTY ADMINISTRATOR, DEPUTY ADMINISTRATORS, REGIONAL/DEPARTMENT/PROJECT MANAGERS, DIVISION/IMO MANAGERS AND ALL OTHER CONCERNED

SUBJECT : REVISING MEMORANDUM CIRCULAR NO. 5 S.2009 AND MEMORANDUM CIRCULAR NO. 83 S.2007 ON THE RULES ON WHISTLEBLOWING AND REPORTING

In compliance to the guidelines outlined in Memorandum Circular (MC) No. 2016-02, pertaining to the Revised Whistleblowing Policy for the GOCC Sector issued by the Governance Commission for Government Owned or Controlled Corporation (GCG) on April 22, 2016, it is imperative to revise/supplement the existing NIA policy on the matter, which shall now be read as follows:

I. Purpose

NIA Memorandum Circular (MC) No. 5, series of 2009 and Memorandum Circular (MC) No. 83, series of 2007, Rules on Internal Whistleblowing and Reporting, are hereby amended to:

1. Promote the NIA's dedication to maintaining the utmost levels of ethics and excellence within its workforce;
2. Advocate the principles of good governance at every level within the organization, aligning with the Code of Conduct for NIA Employees and other pertinent guidelines;
3. Facilitate the reporting and provision of information by any concerned employee or individual, allowing for anonymity if desired. This includes the ability to testify on issues related to the actions or omissions of NIA Board of Directors and employees that are deemed illegal, unethical, contravene good governance principles, go against public policy and morals, endorse unsound and unhealthy business practices, and are potentially detrimental to the NIA and/or the Government;

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4. Promote the practice of whistleblowing by offering protection and support to NIA employees who willingly disclose their knowledge or provide evidence regarding such actions or omissions; and
5. Adhere completely to the guidelines outlined in Memorandum Circular (MC) No. 2016-02, the Revised Whistleblowing Policy for the GOCC Sector, issued by the Governance Commission for Government Owned or Controlled Corporations (GCG) on April 22, 2016. This compliance serves as a prerequisite for the award of Performance-Based Bonus and Performance-Based Incentives from 2017 onward, reflecting a commitment to good governance.

II. Covered Personnel

1. These directives apply to all NIA Board of Directors and employees, irrespective of their employment status—whether permanent, temporary, co-terminus, or directly hired on a contractual basis.
2. Service company workers assigned to NIA will be subject to a separate policy in their service agreement with NIA.

III. Definition of Terms

a. **Graft and corruption** are defined as follows:

- i. **Graft** refers to the acquisition of gain or advantage by dishonest, unfair or sordid means, especially through the abuse of his/her position or influence.
- ii. **Corruption** involves behavior on the part of officials in the public sector in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them.

b. **Protected disclosure** refers to a deliberate and voluntary giving of information by a NIA employee or individual, whether written or verbal, of an actual or suspected acts or omissions committed by any NIA employee, group of NIA employees or Department/Unit

- c. **Relatives** shall refer to any and all persons related to a Board of Director or NIA employee within the fourth civil degree of consanguinity of affinity including bilas, inso and balae.
- d. **Reporting Channels** shall refer to online-based platforms, face-to-face meetings, telephone calls, e-mail, mail, fax, and other similar media where any concerned individual can report and provide information (orally, in writing, or electronically), anonymously if he/she desires. Details/procedure can be seen under item IV.1 hereof.
- e. **Retaliatory action** refers to negative or obstructive responses or reactions to a disclosure of acts of misdeed including, but not limited to, administrative or criminal proceedings commenced or pursued, reprisals or threats against the whistleblower and/or those NIA employees supporting him/her or any of the whistleblower's relative, such as, but not limited to forcing or attempting to force any of them to resign, retire or transfer, giving negative performance appraisals or evident bias in performance evaluation, discrimination or harassment in the workplace, demotion, reduction in salary or benefits, fault-finding, undue criticism, alienation, blacklisting and any acts or threats that adversely affect the rights and interest of the whistleblower.
- f. **Whistleblower** refers to a NIA employee or individual or group of NIA employees/individuals who disclose a reportable condition as defined in these guidelines.
- g. **Whistleblowing** is the disclosure of and/or giving of evidence to information that a whistleblower reasonably believes constitutes actions or omissions that are illegal, unethical, violate good governance principles, are against public policy and morals, promote unsound and unhealthy business practices, and are grossly disadvantageous to NIA and/or the Government.

IV. General Guidelines and Procedures

- 1. Individuals with concerns who wish to report and share information about any reportable condition can utilize any of the following reporting channels:
 - a. GCG's whistleblowing web portal www.whistleblowing.gcg.gov.ph, an online-based platform by which whistleblowers may securely submit

reports electronically, while at the same time ensuring their anonymity and the confidentiality of their report, with an online link through the NIAs' official website, www.nia.gov.ph.com;

b. Face-to-face meetings with the following:

- i GCG officers and employees; or
- ii Head of the Human Resources Division (HRD)

c. Telephone:

- i. GCG – (6320) 328-2030 to 33 or

- ii. NIA

- a. Public Affairs and Informations Staff (PAIS) (02) 8921-3741; or
- b. HRD - (02) 8926-1996

d. E-mail: GCG- feedback@gcg.gov.ph or NIA – pais@nia.gov.ph

e. Mail: GCG- 3/F Citibank Center, 8741 Paseo De Roxas, Makati City 1226; NIA- National Government Center, EDSA, Diliman, Quezon City, Philippines; or

f. Fax: GCG- (632) 328-2030 to 33 or NIA – (02) 8928-9343.

2. All NIA employees who observe or become aware of any attempted, ongoing, or completed act or omission described in item IV.3 of these guidelines are obligated to promptly report it through any of the reporting channels outlined in item IV.1 of these guidelines.

3. Reportable Conditions

- a. Whistleblowers may report such acts or omissions that are illegal, unethical, violate good governance principles, are against public policy and morals, promote unsound and unhealthy business practices, are grossly disadvantageous to NIA and/or Government, such as but not limited to:

- 1. Abuse of authority;
- 2. Bribery;

3. Conflict of interest;
4. Destruction/ manipulation of records;
5. Fixing;
6. Inefficiency
7. Making false statements;
8. Malversation;
9. Misappropriation of assets;
10. Misconduct;
11. Money Laundering;
12. Negligence of duty;
13. Nepotism;
14. Plunder;
15. Receiving a commission;
16. Solicitation of gifts;
17. Taking advantage of corporate opportunities;
18. Undue delay in rendition of service;
19. Undue influence; and
20. Violation of procurement laws.

b. Whistleblowers may also report such other acts or omissions that otherwise involve violations of the following laws, rules and regulations:

1. Republic Act (RA) No. 6713, *Code of Conduct and Ethical Standards for Public Officials and Employees*;
2. RA No. 3019, *Anti-Graft and Corrupt Practice Act*;
3. RA No. 7080, as amended, *The Plunder Law*;
4. Book II, Title VII, *Crimes Committed by Public Officers, The Revised Penal Code*;
5. EO No. 292, S.1987, *Administrative Code of 1987*;
6. RA No. 10149, *The GOCC Government Act of 2011*;
7. GCG MC No. 2012-05, *Fit and Proper Rule*;
8. GCG MC No. 2012-06, *Ownership and Operations Manual Governing the GOCC Sector*;
9. GCG MC No. 2012-07, *Code of Corporate Governance for GOCCs*;
10. Violations of the NIA Charter; and
11. Other GCG and NIA circulars, orders, policies and applicable laws and regulations.

4. Reports obtained via the NIA's HRD Hotline will be addressed following the guidelines set forth in Executive Orders Nos. 069, s. 2012, *Guidelines on the Implementation of the Ethics Hotline*, and 064, s. 2013, *Revised Rules on Administrative Disciplinary Cases*.

5. Confidentiality

Unless the whistleblower explicitly declines anonymity and/or confidentiality while invoking the policy outlined in these guidelines, the NIA is committed to maintaining the confidentiality of all information derived from whistleblowing reports submitted in accordance with these guidelines. The NIA will handle all reports, including the whistleblower's identity and the individuals mentioned in the complaint, with confidentiality and sensitivity, except when compelled by law or court order to disclose such information or when the whistleblower authorizes the release of their identity.

6. Rights of Whistleblowers

a. Protection against Retaliatory Actions subject to the conditions under item IV.7 hereof

- 1) No administrative action shall be entertained or pursued by NIA against a whistleblower relating to a report or disclosure deemed protected under these guidelines.**
- 2) No retaliatory action shall be taken against a whistleblower who submit whistleblowing reports in good faith such as, but not limited to:**
 - a) Discrimination or harassment in the workplace;**
 - b) Reprimand;**
 - c) Punitive transfer;**
 - d) Demotion;**
 - e) Reduction in salary or benefits;**
 - f) Obstruction of the investigation;**
 - g) Withdrawal of essential resources;**
 - h) Adverse reports;**
 - i) Attachment of adverse notes in the personnel 201 file;**
 - j) Ostracism;**
 - k) Questions and attacks on motives;**
 - l) Accusations of disloyalty and dysfunction;**
 - m) Public humiliation;**
 - n) Denial or work necessary for promotion;**
 - o) Termination of contract;**
 - p) Evident bias in performance evaluation; or**
 - q) Any acts or threats that adversely affect the rights and interests of the whistleblower.**

- 3) An NIA employee who declines to comply with directives leading to**

an act in violation of this provision will also be safeguarded against retaliatory actions.

b. No Breach of Duty of Confidentiality

A whistleblower that 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 confidentiality if he/she makes a protected disclosure of such information.

7. Conditions for Protected Disclosure

Whistleblowers shall be entitled to protection and assistance under these guidelines after the investigation conducted showed valid basis and provided that all the following requisites are fulfilled:

- 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 Legal Services Department or by any other concerned Department/Division of NIA or the Committee on Discipline (COD); unless, the disclosure is necessary for the effective and successful prosecution, or would constitute material evidence not yet in the possession of NIA;
- c. The whistleblower formally undertakes to assist and participate in proceedings commenced in connection with the subject matter of the disclosure;
- d. The whistleblower should have personal knowledge of facts and information covered by the disclosure; and
- e. The information given by the whistleblower contains sufficient particulars and, he/she submits or undertakes to submit material evidence that may be in his/her possession.

8. Evaluation of Disclosures

- a. Reports or disclosures shall be subject to evaluation to determine whether or not they constitute a protected disclosure under these guidelines. The evaluation shall consider the following factors, among others:
 - 1) Whether or not the disclosure varies or contradicts in material respects the details contained in official information and authentic documents determined to be truthful;

- 2) Whether or not the documents attached to the disclosure appear to be spurious;
 - 3) Whether or not the figures given in the disclosure appear erroneous after proper examination;
 - 4) Whether or not there is undue delay in divulging the information or offense alleged to have been committed and the delay is not sufficiently explained or justified and there are material omissions, discrepancies of facts and details, which tend to deviate from the natural and logical flow of facts and circumstances;
 - 5) Whether or not the disclosure appears incredible or improbable considering logic, knowledge, ordinary observation and common experience of man;
 - 6) Whether or not the veracity of the disclosure is doubtful and there is no corroborative evidence to support it; and
 - 7) Whether or not there is retraction, refusal or hesitation on the part of the whistleblower to submit material evidence in his/her possession and/or swear to the truth thereof.
- b. A NIA employee who makes a disclosure deemed unprotected shall not enjoy any immunity, or other right or privilege accorded under these guidelines.
9. Disclosure Made by a Party to an Illegal or Unethical Act or Omission

A disclosure made by a NIA employee who is a party to an act or omission referred to under item IV.3 of these guidelines may be deemed a protected disclosure and be entitled to the assistance to a whistleblower, provided that:

- a. The whistleblower complies with the conditions under item IV.7 hereof;
- b. The whistleblower should not appear to be the most-guilty;
- c. The whistleblower testifies in accordance with his/her disclosures;
- d. The disclosure is necessary for a proper prosecution of the act; and
- e. The whistleblower's testimony can be substantially corroborated on material points in conformity with item IV.7.e hereof.

10. Procedures for Protected Disclosure

Upon receipt of the report, a NIA authorized official, shall cause the following actions to be undertaken:

- a. Ensure that the whistleblower's report and other related documents are at all times placed in a folder labeled as "confidential" and properly kept in a locked drawer or cabinet for the safety of the documents;
- b. Require the evaluation of the report by the Legal Services Department or other duly designated Department/Unit or officer as to whether or not it qualifies as a protected disclosure under these guidelines. The evaluation and recommendation shall be submitted within a period of thirty (30) calendar days from receipt thereof;
- c. The evaluation report and recommendation shall be submitted to the Administrator, as the case may be, for approval within five (5) days from receipt. The matter may be referred to the Internal Audit Services (IAS) or the Legal Services Department for further evaluation in case of need or be referred for prosecution;
- d. Upon completion of the audit and/or Legal Services Department's investigation, the audit or investigation reports shall be submitted to the Administrator who shall refer them to the proper forum for the prosecution of proper administrative, criminal and/or civil cases, as may be warranted, in accordance with applicable laws, rules and regulations;
- e. Certification of the disclosure as a protected report should it qualify as such; provided that the declaration as to whether or not a report shall be considered as a protected disclosure shall be made within thirty (30) calendar days from receipt of the report; otherwise, the matter shall be referred to the pertinent Departments/Units for proper action; and
- f. Conduct of appropriate actions in accordance with applicable rules and regulations.

11. Protection of Witnesses

- a. Any Bank employee who testifies in any proceedings arising from a protected disclosure shall be accorded the same protection against retaliatory actions as provided under item IV.6 hereof.
- b. In cases involving grave threats to life and/or safety of the whistleblower, appropriate or necessary action may be taken by the Bank Management for the protection and support of the whistleblower.

12. Assistance to the whistleblower

- a. A whistleblower shall be granted legal assistance and liability indemnification in accordance with the Guidelines on LBP Litigation Expenses and Liability Indemnity Plan for Directors, Officers and Employees in case of need.
- b. Other appropriate assistance or support as may be warranted under the circumstances and situation shall be provided to a whistleblower upon approval by the Management.

V. Penalties/Sanctions

1. Violations of Confidentiality

Any NIA employee who violates the protection of confidentiality of a protected disclosure shall be subject to disciplinary and/or criminal action as may be provided under existing pertinent, relevant laws, rules and regulations of the NIA, the Civil Service Commission and other regulatory bodies.

2. Retaliatory Actions

Any NIA employee, who does, causes or encourages retaliatory actions as defined under these guidelines against a whistleblower and/or NIA employees supporting him/her or any of his/her relatives shall be subjected to administrative, civil and/or criminal proceedings.

3. False, Misleading and Malicious Reports

False, misleading and malicious reports or disclosures shall be sufficient ground for the termination of the protection or assistance to whistleblowers under these guidelines, including the termination of their immunity from administrative cases, civil and/or criminal actions as may be appropriate.

Further, any NIA employee who, with malice or in bad faith, reports said information against any NIA employee or person shall be subject to administrative, civil and/or criminal action.

VI. Repealing Clause

All issuances inconsistent herewith shall be deemed superseded.

VII. Effectivity

These guidelines shall take effect upon approval.


ENGR. EDUARDO EDDIE G. GUILLEN

Administrator

20 MAR 2024