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REVISED GUIDELINES ON THE FINAL DISPOSITION OF ABANDONED CADASTRAL SURVEY PROJECTS

DENR ADMINISTRATIVE ORDER NO. 2011-05, May 17, 2011

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Pursuant to Cadastral Act 2259, otherwise known as the Cadastral Act of 1913, the following revised guidelines on the final disposition of abandoned cadastral survey projects are hereby issued for the guidance of all concerned.

SECTION 1. Basic Policy - It is the policy of the State to accelerate the conduct of Cadastral Survey in support to its land use planning and public land disposition activities pursuant to Executive Order No. 192.

SECTION 2. Objectives. These guidelines aim to systematize the final disposition of abandoned cadastral survey projects that will contribute to the completion of the cadastral survey program of the DENR.

These guidelines shall have the following objectives:

a. To fast track the inventory and cancellation/handling of abandoned cadastral survey projects nationwide;

b. To implement efficient recording of the status of cadastral survey projects, including abadoned surveys; and

c. To establish strict monitoring of the progress of cadastral projects.

SEC. 3. Scope and Coverage - This Order shall cover all abandoned cadastral survey projects by geodetic engineers/contractors. For purposes of this Order, a cadastral survey is deemed abandoned under any of the following conditions:

a. Field activities are left unfinished after the period stipulated in the contract; or
b. Contractors fail to correct survey defects within the period to be determined by the DENR Regional Offices; or
c. Such cadastral project was awarded in the earlier DENR Cadastral programs and listed as not completed in the DENR inventory.

SEC. 4. Establishment of National Database on Abandoned Cadastral Survey Projects - Within 30 days after the effectivity of this Order, all regional offices shall conduct an inventory and establish a database on abandoned cadastral surveys. The database shall be submitted to the Land Management Bureau (Geodetic Surveys Division) for consolidation. The database shall be updated annually, in the process indicating action taken and status of previously listed projects as well as including other projects that are abandoned from the time of last update. The database shall have the following data/ information using the format attached as Annex A[*].

a. Project No./Case No./Location/Project Category
b. Estimated No./Hectares of A & D Lands/Timberland
c. Name of Engineer/Contractor
d. Address
e. Name and position of government’s signatory to the contract
f. Date of of approval of contract

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g. Duration of the contract
h. Date of abandonment
i. Reasons for abandonment
j. Phase of work accomplished
k. Remaining work to be done
l. Reasons for the delay in the cancellation process
m. Action taken/status (e.g. cancelled, re-bidded) as of _____.

The RTD for Lands shall prioritize and recommend abandoned projects for completion and funding using the cadastral survey budget.

SEC. 5 Procedures in handling abandoned cadastral surveys - This section provides for the conditions where a survey work is deemed abandoned. The procedures on the cancellation of abandoned cadastral projects is shown in Annex B[*]. The database on abandoned cadastral survey projects shall serve as basis to determine and monitor status of the cadastral survey and to make the appropriate actions in favor or against its cancellation.

A. Incomplete Cadastral Surveys

1. The Regional Technical Director (RTD) for lands concerned shall submit to the Regional Executive Director (RED) a status report of the projects indicating therein the phase of work accomplished and the remaining work to be done to finish the project;

2. Based on the status report, the RED shall notify the contractor in writing to show cause, within fifteen (15) days from receipt of notice, why the contract should not be cancelled. In his reply, the contractor shall indicate the date of resumption of operations and shall also inform the Community Environment and Natural Resources Office (CENRO) of said date.

3. The contractor's non-compliance or disregard of said notice and his failure to resume the survey operations shall mean cancellation of the contract.

4. Thereafter, the Regional Bids and Awards Committee-Technical Working Group (RBAC-TWG) shall recommend the issuance of an order for cancellation of the contract including other appropriate sanctions;

5. Upon receipt of the recommendation of the RBAC-TWG, the RTD for Lands shall refer the report to the Chief of Legal Division for legal disposition following the established administrative legal process which includes the following:

- Investigation;
- Hearing;
- Issuance of Decision by the RED;
- The contractor may file a Motion for reconsideration of the REDs Decision within the reglementary period for 15 days from receipt of the Notice of Decision or directly file an Appeal to the DENR Secretary within the same reglamentary period;
- The same legal remedies (motion for reconsideration/appeal) are available to the losing party at the level of the DENR Secretary and Office of the President; and
- The losing party of the OP's decision may elevate the case before the Court of Law.

Failure on the part of the losing party to file the appropriate legal remedy within the reglementary period shall make the Decision at any level final and executory with the issuance of Order/Writ of Execution by the DENR Regional Office/DENR/OP/Court.

6. The Regional Surveys Division of the Land Management Service (LMS) shall recover and consolidate the abandoned project's survey records for possible completion either by administration or by contract.

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7. If the survey will be done by administration, an ORDER shall be issued by the RED, upon the recommendation of the RTD for Lands, creating a Survey Party to conduct the survey.

If it is to be done by Contract, the procurement procedures under DENR Administrative Order No. 2008-14 dated August 5, 2008 shall apply, whereby a Contract shall be executed between the RED and the winning contractor for the purpose.

B. Projects with Uncorrected Survey Returns

1. For projects found to be erroneous/defective, the RTD for Lands shall immediately advise the contractor in writing of the detailed correction work to be performed within a reasonable period of time;

2. In case there is a need to withdraw the survey returns for purposes of correction, the Geodetic Engineer (GE/Contractor shall withdraw only one (1) set of said returns, retaining another set at the DENR office concerned for reference purposes;

3. Failure of the GE/Contractor to do the correction work within the prescribed period shall mean cancellation of the survey contract and imposition of other applicable sanctions.

4. The cancellation procedure in Section 5.A.5 shall apply to Section 5.B.

5. If the project is canceled, the correction work may be outsourced to private Contractors or done by administration.

C. Unfinished Cadastral Survey Contract due to Death of the Contractor.

1. Death of the GE/Contractor shall mean automatic rescission/cancellation of the contract. In cases where the contract is with a corporation/partnership/ association, the same may be renewed subject to the terms and conditions therein.

2. If the survey is to be continued by administration, an ORDER shall be issued by the RED, upon the recommendation of the RTD for Lands, creating a Survey party to conduct the survey over the unfinished portion of the area.

If it is to continued by Contract, the usual procurement procedures under DENR Administrative Order No. 2008-14 dated August 5, 2008 shall apply, whereby a New Contract shall be executed between the RED and the winning contractor for the purpose.

D. Unfinished Cadastral Survey Contract due to Force Majeure. When the conduct of Cadastral Survey was discontinued or delayed due to the occurrence of Force Majeure (e.g. earthquake, landslide, peace and order, typhoon, flooding, etc.) the GE/Contractor shall notify the DENR in writing requesting for an extension citing the cause of the delay. Likewise, the GE/contractor shall also inform the DENR in writing immediately after resuming the survey.

Cadastral survey contracts that are discontinued for reasons beyond the control and not through the fault or negligence of the contractor, such as peace and order problems in the area, may be given due consideration and granted extension without penalty, if necessary, provided he/she informs immediately in writing the DENR Regional Office concerned, as to why he/she cannot proceed with the execution of the project.

The GE/contractor may in writing also opt to withdraw the contract. Based on the voluntary withdrawal of the contractor, the RTD for Lands shall recommend the outright cancellation of the Contract to the RED concerned.

All survey records submitted relative thereto and monuments already set on the ground shall be left intact and shall become the property of the government. Payments due shall be computed based on the phase of work done

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with the remaining payments forfeited in favor of the government.

SEC. 6 Official Authorized to cancel abandoned cadastral survey projects - The Regional Executive Director (RED) is authorized to cancel abandoned cadastral survey projects. He/She shall also determine and impose the appropriate sanctions against the erring GE/Contractor who abandoned survey projects.

A copy of the Order of Cancellation shall be furnished to the LMB through the Geodetic Surveys Division for consolidation and updating of the National Database of Blacklisted GEs/Contractors stipulated in Section 10 below.

SEC. 7. Grounds for Imposition of Sanctions - The RED shall impose sanctions against erring GE/Contractor based on the following grounds:

a) Failure to complete the survey within the contract period;
b) Failure to undertake the necessary correction of the survey projects within the prescribed period;
c) Failure to return survey project records; and
d) Other violations of the contract.

SEC. 8 Sanctions - Upon the recommendation of the RBAC-TWG for the cancellation of the contract, the RED shall:

a) Cancel the contract through the issuance of an Order/Decision;
b) Declare the GE/Contractor blacklisted from participating in cadastral survey projects or any other kinds of survey work in the DENR;
c) Forfeit the performance bond; and
d) File a case before the proper court if warranted.

In addition to the above, the RED shall file a petition to the Geodetic Engineers of the Philippines (GEP) for cancellation/suspension of accreditation.

Likewise, the RED concerned shall file a case before the proper court to determine the civil and criminal liability of the GE/Contractor under applicable laws.

SEC. 9. Cost Recovery Proceeding - In all of the cases stated in Section 5 hereof, the RED shall conduct cost recovery proceedings to determine the costs incurred by DENR and the contractor vis-a-vis the phase of work already accomplished prior to abandonment.

SEC. 10. Establishment of National Database of Blacklisted GEs/Contractors - Based on the Orders of Cancellation received from the regional offices, the LMB shall establish and maintain a National Database of Blacklisted GEs/Contractors and update the same annually. It shall also post the list in its website for information to the public. Both the LMB and LMS shall post the same within their respective premises and furnish a copy to the GEP and other agencies that also undertake land surveys and titling.

SEC.11. Monitoring and Validation of Cadastral Survey Projects - The CENRO concerned shall strictly monitor/validate the monthly progress report submitted by the contractor every 5th day of the succeeding month from the start of the project. The CENRO shall forward the report, with the comments and recommendations, to the RED copy furnished the RTD for Lands.

Upon receipt of the monitoring and validation report, the RED shall immediately advise the contractor to correct any errors or deficiencies found in his surveys.

The LMB/LMS shall conduct ocular inspection/validation of cadastral projects at least twice a year or as deemed necessary.

SEC. 12. Repealing Clause - This Order supersedes DAO No. 33, s. of 1990 and all orders and other issuances inconsistent herewith are hereby superseded, repealed and/or modified accordingly.

SEC. 13. Effectivity - This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement of receipt of a copy thereof by the Office of the National Administrative Register (ONAR).

Adopted: 17 May 2011

(SGD.) RAMON J.P.. PAJE
Acting Secretary

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[*] Text Available at Office of the National Administrative Register, U.P. Law Complex, Diliman, Quezon City.

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