PRESCRIBING AMENDED GUIDELINES FOR THE ASSESSMENT OF FEES AND TREATMENT OF CASES FILED AS A SINGLE CASE BUT INVOLVING CLAIMS/COUNTERCLAIMS ARISING FROM DIFFERENT CONTRACTS BETWE...

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WHEREAS, the Commission has observed that a number of cases involving claims/counterclaims arising from several contracts between the same parties have been filed as single or consolidated cases with the CIAC;

WHEREAS, concurring with the recommendation of Atty. Alfredo F. Tadiar, CIAC Legal Counsel, on the need for rules/guidelines governing the consolidation or severance of cases filed with the CIAC, the Commission pursuant to agreements reached in its 135th Regular Meeting held on 19 May 2011, requested the Philippine Institute of Construction Arbitrators & Mediators, Inc. (PICAM) to study the matter and provide the CIAC with inputs/recommendations;

WHEREAS, pending submission by the PICAM of its recommendations, the Commission, in its 138th Regular Meeting held on 28 September 2011, initially prescribed the following guidelines based on current CIAC practices;

> "(T)he consolidation or severance of cases involving the same parties but different contract shall be decided by the Arbitral Tribunal during the Preliminary Conference. At the same time of filing, assessment shall be based on the consolidated claims with the advice to the Claimant that the final determination on whether the said cases will be consolidated or severed will be made by the appointed arbitrator/s during the Preliminary Conference." (5th paragraph p.6 of the Minutes of the 138th Regular Meeting);

WHEREAS, the above guidelines were discussed anew by the Commission in its 150th Regular Meeting held on 1 February 2013, in light of the following adverse consequences of consolidation pointed out by Atty. Tadiar:

> a. The assessment of fees based on the consolidated claims/counterclaims filed as a single case results in lesser arbitration fees, depriving the CIAC of operational funds from administrative fees and the special assessment fees for the Arbitration Development Fund or ADF; the national government of revenues from filing fees; and the University of the Philippines Law Center of the support mandated by law from the Legal Research Fund fees;
> b. Consolidated cases have multiple causes of action each of which may entail several issues resulting in more work for the arbitrator/s but with diminished fees;
> c. Confusion may arise from the multifarious and/or overlapping issues; and d. Resolution of disputes may become highly complex;

WHEREAS, the Commission recognizes the need to amend the guidelines to address the above concerns and to expand the same to cover mediation cases;

NOW, THEREFORE, THE COMMISSION, adopting the CIAC Legal Counsel's treatment of consolidated cases which he has handled in the past, and after due deliberation in its 150th Regular Meeting, RESOVES, as it is hereby RESOLVED, to prescribe the following amended guidelines for the assessment of fees on, and the treatment of, cases that will be filed as consolidated case after the effectivity of this Resolution, that would

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involve claims/counterclaims arising from different contracts between the same parties:

1. Arbitration or mediation fees for cases filed as a single consolidated case but involving different contacts between the same parties shall be assessed based on the amount of claims/counterclaims per contract. For this purpose, the Sum in Dispute (SID) which is one of the bases for the computation of fees in the CIAC Table of Fees for arbitration as well as for mediation, shall be determined per contact and the fees computed on a per contract basis.
2. The Claimant and the Respondent shall be advised that the final determination on whether the case will be severed or not shall be made by the appointed arbitrator/s during the Preliminary Conference, or by the mediator during the first mediation meeting.
3. For arbitration cases, a consolidated Terms of Reference (TOR) shall be formulated indicating, among others, the different causes of action/contacts; separate issues per cause of action/contract; and separate computation of arbitration costs per cause of action/contract.
4. A consolidated case shall have only one case number but sub-markings per contract shall be indicated in the TOR.
5. If necessary, the arbitrator/s may allow the filing of an Amended Complaint and Amended Answer.
6. Arbitration hearings shall be consolidated.
7. A consolidated Award with different holdings/resolutions per cause of action shall be rendered by the arbitrator/s.

This Resolution shall take effect fifteen (15) days from receipt of certified true copies thereof by the Office of the Administrative Register, University of the Philippines Law Center.

UNANIMOUSLY APPROVED.

THE COMMISSION:

(SGD.) MANUEL M. COSICO
Chairman

(SGD.) ANTONIO A. ABOLA
Member

(SGD.) EMILIO LOLITO J. TUMBOCON
Member

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