

CONSTRUCTION INDUSTRY ARBITRATION COMMISSION

4/F Jupiter I Building, 56 Jupiter Street, Bel-Air Village, Makati City
Telephone No. 897-0853 / Telefax: 897-9313



RESOLUTION NO. 11-2007

**PRESCRIBING NEW POLICY GUIDELINES IN PLACE OF CIAC
RESOLUTION NO. 04-2004 (POLICY GUIDELINES IN THE TREATMENT OF
POST-AWARD PROCEEDINGS) AND CIAC RESOLUTION NO. 21-2006
(CLARIFICATORY GUIDELINES ON CIAC RESOLUTION NO. 04-2004)**

WHEREAS, CIAC Resolution No. 04-2004 was passed by the Commission in its 75th Regular Meeting held on 30 April 2004, providing for, among others, additional compensation to arbitrators for post-award activities not expressly authorized by the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules);

WHEREAS, to clarify the scope of compensable activities and the basis for additional arbitrators' fees under CIAC Resolution No. 04-2004, the Commission in its special meeting held on 15 November 2006, passed CIAC Resolution No. 21-2006;

WHEREAS, during its 99th Regular Meeting held on 26 July 2007, the Commission agreed to revisit the above resolutions in light of the observation made by CIAC Legal Counsel, Atty. Alfredo F. Tadiar, that specific motions which are not part of the usual work of arbitrators in regular arbitration proceedings and which entail so much work to be done, were recommended as compensable in 2003 by the Committee on Compensation for Post-Award Proceedings which he chaired, but were not considered in the preparation of CIAC Resolution Nos. 04-2004 and 21-2006 which, in effect, limit the coverage of compensable activities to those NOT expressly authorized by the CIAC Rules; and

WHEREAS, in its initial discussions on the matter during its 99th Regular Meeting and its 100th Regular Meeting held on 28 August 2007, the Commission agreed that except for motions borne out of the inadequacy of the final award/decision in threshing out the issues raised in the motions, the arbitrators, under certain conditions, should be compensated for post-award proceedings regardless of whether or not these are expressly authorized by the CIAC rules;

NOW, THEREFORE, WE THE UNDERSIGNED MEMBERS OF THE COMMISSION, after due deliberations in the 102nd CIAC Regular Meeting and by virtue of the powers vested in us by law, **HEREBY RESOLVE**, as it is **HEREBY RESOLVED**, to prescribe new policy guidelines in the treatment of post-award proceedings in place of CIAC Resolution Nos. 04-2004 and 21-2006, as follows:

1. These Guidelines shall apply to motions filed by any party after an award has been rendered and to requests of arbitrators for additional compensation in post-award proceedings.

2. For purposes of these Guidelines, post-award proceedings shall cover activities pertaining to the following motions after award is rendered and before or after execution, which are not part of the usual work of the arbitrators in regular arbitration proceedings and which entail so much work to be done:
 - (a) Motions for correction of final award under Rule 17.1.2 (for grounds other than those mentioned in Rule 17.1), PROVIDED THAT, the motion was not borne out of a failure on the part of the arbitrator/s to thresh out the issue raised in the motion;
 - (b) Motions for clarification/interpretation of the award (other than Motions for Correction);
 - (c) Motions to Quash Execution grounded upon a supervening change in the circumstances of the parties which was not communicated to the arbitrators before the writ of execution was issued, and which would make execution unjust and inequitable;
 - (d) Motions for Partial Execution involving complex issues;
 - (e) Motion for the issuance of an Alias Writ of Execution, Motions for Execution against Surety, or any other similar motion relative to the satisfaction of the award including the computation of interest or other claims;
 - (f) Motions relative to execution (other than Motions for Execution and/or Stay of Execution under Rules 18.5 and 18.6) such as, but not limited to, Motions for Ocular Inspection to assess the value of property to be levied upon; Motions to Appoint a Quantity Surveyor to evaluate properties of judgment debtor; and Motions to Examine Judgment Debtor to discover other properties which could be levied upon;
 - (g) Motions for relief under Rule 19.1 and such other motions after award which are not expressly authorized by the CIAC Rules including motions by an interested party to implement an appellate court decision; and
 - (h) Motions for reconsideration of a denial or grant of any of the abovementioned motions.
3. Applying Rule 19.1 of the CIAC Rules, the party-movant shall, upon filing of any of the abovementioned motions or other papers filed in connection with the execution of an award whether or not expressly authorized by the CIAC Rules, pay a filing fee of P3,000 and a deposit for arbitrators' fees of P6,000 (for Sole Arbitrator) or P10,000 (for Arbitral Tribunal). This deposit shall be refunded if the Commission will deny the arbitrators' request for compensation on post-award proceedings. The party-movant shall advance all necessary costs (expert services, etc.) and expenses for travel and accommodation of the arbitrator/s and staff outside of the CIAC, subject to reimbursement as may be directed by the arbitrator/s.

4. After resolving any of the foregoing motions and all incidents related thereto, the arbitrator/s shall, within thirty (30) days from resolution, submit to the Commission a written request for additional compensation explicitly stating activities undertaken, services rendered, actual work done, and such other information to substantiate/justify the request in accordance with these Guidelines.
5. If the Commission approves the request, the additional compensation for the arbitrators per motion and related incidents (opposition to the motion, counter manifestation/motion, and the like) shall be P4,000 for the tribunal chairman, P3,000 for tribunal member, and P6,000 for sole arbitrator, to be charged against the party-movant's deposit for arbitrators' fees. However, under exceptional circumstances, as may be determined by the Commission, such as, among others, when extended hearings are called for, the arbitrators will be duly compensated for such additional work from additional arbitrators' fees to be paid by the parties/movants.
6. The decision of the Commission on requests for additional compensation under these Guidelines shall be final.
7. These Guidelines shall take effect fifteen (15) days from receipt of certified copies of this Resolution by the National Administrative Register, U.P. Law Center. Motions pending resolution by the arbitrator/s and those filed before these Guidelines take effect shall, however, continue to be governed by the provisions of CIAC Resolution Nos. 04-2004 and 21-2006.

UNANIMOUSLY APPROVED.

30 October 2007, Makati City.


THE COMMISSION:

(ON LEAVE)

SEDFREY A. ORDONEZ

Chairman


ISAAC S. DAVID
Member


SAMSON C. LAZO
Member