



RESOLUTION NO. 05 – 2018

CLARIFYING THE CIAC RULES FOR COMPUTING THE SUM IN DISPUTE (SID) UNDER ANNEX A OF CIAC RESOLUTION NO. 07-2013, AS AMENDED BY CIAC RESOLUTION NO. 04-2016

WHEREAS, Section 16 of Executive Order No. 1008, the Construction Industry Arbitration Law, provides for “arbitration expenses” which shall include the “*filing fee, administrative charges, arbitrator’s fees, fee and expenses of the expert and others which may be imposed by the CIAC*” pursuant to its power under Section 13 of the law “*to determine and collect fees, deposits, costs of arbitration, as well as administrative and other charges as may be necessary in the performance of its functions and responsibilities*”;

WHEREAS, Section 16 of E.O. 1008 provides further that “*the administrative charges and the arbitrator’s fees shall be computed on the basis of percentage of the sum in dispute to be fixed in accordance with the Table of Administrative Charges and Arbitrator’s Fees*” or the CIAC Table of Arbitration and Mediation Fees;

WHEREAS, consistent with Section 16 of E.O. 1008, Rule 22 (Costs) of the CIAC Revised Rules of Procedure Governing Construction Arbitration (CIAC Rules) also provides, among others, that the “*arbitration expenses shall include the filing and administrative fees, arbitrator’s fees, ADF charges and fee and expenses of the expert, and others which may be imposed by CIAC*” and that said fees/charges for monetary, non-monetary and small claims and the schedules of payment therefor shall be in accordance with the CIAC Table of Arbitration and Mediation Fees which was adjusted under CIAC Resolution No. 07-2013;

WHEREAS, Annex A of CIAC Resolution No. 07-2013, as amended by CIAC Resolution No. 04-2016, provides for the Rules for Computing the Sum in Dispute (SID) as follows:

- “1. *The sum of the total claims made by claimant/s and the total counterclaims posed by Respondent/s shall constitute the sum in dispute (SID)*
 - 1.1 *All counterclaims posed by the Respondent/s in a case shall be added to the claims regardless of whether or not such counterclaims are permissive or compulsory*
2. *Where two Respondents are sued by Claimant and a cross-claim is made by Respondent 1 against Respondent 2:*
 - 2.1 *amount of a cross-claim that seeks only to pass on the liability of Respondent 1 to Respondent 2, shall not be added to the computation of the SID*
 - 2.2 *amount sought by Respondent 1 against Respondent 2 that is based on a different cause of action, shall be added to compute the SID*

2.3 amount sought by Respondent 1 that is not merely intended to defeat the cross-claim but seeks the award of amounts based on a different cause of action, shall be added to compute the SID”;

WHEREAS, under the law and the CIAC Rules, arbitration fees, expert fees and expenses, and other charges imposed by CIAC are classified as arbitration expenses/costs which shall “either be shared equally by the parties or be paid by any of them” (Section 17, E.O. 1008) in the amounts determined and fixed by the Commission pursuant to the authority vested in it under Section 13 of E.O. 1008;

WHEREAS, said fees/charges classified as arbitration expenses/costs do not constitute claims, counterclaims, and crossclaims of the parties which, under Annex A of CIAC Resolution No. 07-2013, as amended, are to be included in the computation of the SID; and

WHEREAS, the inclusion of arbitration expenses in the computation of the SID and the resultant undue increase in arbitration fees would be contrary to CIAC law, rules, and policy;

NOW THEREFORE, THE COMMISSION, by virtue of the powers vested in it by law and after due deliberation in its 208th Regular Meeting held on 29 August 2018, **RESOLVES**, as it is hereby **RESOLVED**, to clarify the CIAC Rules for Computing the Sum in Dispute (SID) under Annex A of CIAC Resolution No. 07-2013, as amended by CIAC Resolution No. 04-2016, as follows:

1. The arbitration expenses/costs which include the filing fee, administrative charges, Arbitrator’s fees, fee and expenses of the expert, and others which may be imposed by the CIAC as provided in Section 16 of E.O. 1008 and Rule 22 of the CIAC Rules, shall not be included in the computation of the Sum in Dispute (SID);
2. The Arbitral Tribunal shall defer the inclusion of a claim, counterclaim, or crossclaim in the computation of the SID until the deposit of arbitration fees and/or charges imposed by the CIAC therefor shall have been fully paid; and
3. Claims, counterclaims and/or crossclaims for which the arbitration fees are unpaid shall not be entitled to affirmative relief and evidence presented/submitted to support the same shall only be considered for defense purposes.

This resolution shall take effect fifteen (15) days from receipt of certified copies thereof by the Office of the National Register, U.P. Law Center.

UNANIMOUSLY APPROVED.

29 August 2018, Makati City.



THE COMMISSION:

Teresita V. Diaz-Baldos
TERESITA V. DIAZ-BALDOS
Chairperson

Antonio A. Abola
ANTONIO A. ABOLA
Member

Emilio Lolito J. Tumbocon
EMILIO LOLITO J. TUMBOCON
Member

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