



Republic of the Philippines
COMMISSION ON AUDIT
Commonwealth Avenue, Quezon City, Philippines



No. 2009-082
Date November 3, 2009

MEMORANDUM

FOR : All COA Assistant Commissioners, Directors, Supervising Auditors, Audit Team Leaders and All Others Concerned

SUBJECT : **The 2009 Revised Rules of Procedure of the Commission on Audit**

Enclosed is a copy of the 2009 Revised Rules of Procedure of the Commission on Audit dated September 15, 2009 for the information and guidance of all concerned.


REYNALDO A. VILLAR
Chairman

THE 2009 REVISED RULES OF PROCEDURE OF THE COMMISSION ON AUDIT

Pursuant to Section 6 of Article IX-A of the 1987 Constitution, and by virtue of the powers vested in it by existing laws, the Commission on Audit hereby promulgates the following rules governing pleadings and practice before it.

RULE I INTRODUCTORY PROVISIONS

Section 1. ***Title.*** - These rules shall be known and cited as the “2009 Revised Rules of Procedure of the Commission on Audit.”

Section 2. ***Applicability.*** - These Rules shall govern the pleadings and practice in the Commission on Audit in all matters, actions and proceedings originally acted upon by or appealed to it in the exercise of its quasi-judicial function, including administrative cases.

Section 3. ***Construction.*** - These Rules shall be liberally construed in order to effectively carry out the power, authority and duty of the Commission on Audit as vested upon it by the Constitution and the existing laws, and to achieve just, timely and inexpensive determination and disposition of any matter or case before it.

Section 4. ***Meaning of Words.*** - Whenever used in these Rules, the words or terms below shall have the meaning indicated:

- a. Accounts - the bookkeeping records, including journals, ledgers, vouchers, and other supporting papers; a detailed statement of items of debits and credits
- b. Adjudication and Settlement Board (ASB) – a body composed of Assistant Commissioners authorized to exercise adjudication functions
- c. Appeal – the process of elevating to a higher authority as provided in these Rules any decision order or ruling of the Commission or any of its duly authorized representatives
- d. Appellant - the party who appeals the final order or decision of the Auditor, Director or the Adjudication and Settlement Board (ASB)
- e. Appellee - the Auditor, Director, or ASB whose order or decision is the subject of the appeal
- f. Auditor - the head of an auditing unit, group, or team of the Commission on Audit
- g. Chairman - the Chairman of the Commission on Audit or Presiding Officer of the Commission Proper

- h. Charge - inclusion or addition to an accountability pertaining to the assessment, appraisal or collection of revenues, receipts and other incomes such as those arising from under-appraisal, under-assessment or under-collection
- i. COA Order of Execution (COE) – a written instruction to withhold payment of salary and other money due to persons liable, for the settlement of their liability
- j. Commission - the Commission on Audit
- k. Commission Proper (CP) - the Chairman and the two Commissioners. In case any member of the CP has not been appointed and assumed his functions, the incumbent members shall be deemed the CP
- l. Commissioner - a Commissioner of the Commission on Audit
- m. Director - the head of a Central Office Audit Cluster in the National, Local or Corporate Sector, or of a Regional Office of the Commission
- n. Disallowance - the disapproval in audit of a transaction, either in whole or in part. The term applies to the audit of disbursements as distinguished from “charge” which applies to the audit of revenues/ receipts
- o. Government agency or agency of the government or agency - any department, bureau or office of the National Government, or any of its branches and instrumentalities or any local government unit, as well as any government-owned or controlled corporation, including its subsidiaries, or other self-governing board or commission of the government
- p. Interlocutory order - an order issued by the Commission Proper or any of its Members, other than the final decision
- q. Member - the Chairman or a Commissioner
- r. Money claim - a demand for payment of a sum of money, reimbursement or compensation arising from law, or contract due from or owing to a government agency;
- s. Notice of Finality of Decision (NFD) – a written notification that a decision of the Commission on Audit has become final and executory
- t. Petitioner - the party who submits a money claim or who appeals the final order or decision of the Director or the ASB to the Commission Proper;
- u. Record of the case - consists of the pleadings, documents and papers filed with the Commission, which support the decision or action subject of appeal. In case of audit disallowances/charges, the papers shall include certified true copies of the notice of suspension, notice of disallowance/charge and the pertinent working papers and relevant evidence;
- v. Respondent - in administrative cases, the term refers to an employee of the Commission charged with offenses punishable

- under Civil Service laws. In cases of petitions or money claims, the term refers to the party required to answer the petition;
- w. Secretary - the head of the Commission Secretariat.

RULE II

JURISDICTION AND POWERS OF THE COMMISSION ON AUDIT

Section 1. *General jurisdiction.* - The Commission on Audit shall have the power, authority, and duty to examine, audit and settle all accounts pertaining to the revenues and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned and controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity directly or indirectly, from or through the government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government, and for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

The Commission shall have exclusive authority subject to the limitations in Article IX of the Constitution, to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

Specifically, such jurisdiction shall extend over but not be limited to the following cases and matters:

- a. Disallowance of expenditures or uses of government funds and properties found to be illegal, irregular, unnecessary, excessive, extravagant or unconscionable;
- b. Money claims due from or owing to any government agency;
- c. Determination of policies, promulgation of rules and regulations, and prescription of standards governing the performance by the Commission of its powers and functions;
- d. Resolution of novel, controversial, complicated or difficult questions of law relating to government accounting and auditing;

- e. Charges made in the audit of revenues and receipts resulting from under-appraisal, under-assessment or under-collection;
- f. Audit of the books, records and accounts of public utilities as provided by law;
- g. Visitorial power over non-governmental organizations (1) subsidized by the government, (2) those required to pay levies or government share, (3) those funded by donations through the government, (4) those for which government has put up a counterpart fund, or (5) those entrusted with government funds or properties;
- h. Authorization and enforcement of the settlement of accounts subsisting between agencies of the government;
- i. Compromise or release in whole or in part, of any settled claim or liability to any government agency;
- j. Power to require the submission of papers relative to government obligations;
- k. Opening and revision of settled accounts;
- l. Retention of money due to a person for satisfaction of his indebtedness to the government;
- m. Seizure by the Auditor of the office of the local treasurer found to have a shortage in cash;
- n. Checking and audit of all property or supplies of the government agency;
- o. Constructive distraint of property of any accountable officer with shortage in his accounts upon a finding of a prima facie case of malversation of public funds or property against him;
- p. In coordination with appropriate legal bodies, collection of indebtedness found to be due a government agency in the settlement and adjustment of its accounts by the Commission

Section 2. ***The powers and functions of the Chairman as Chief Executive Officer.*** - As Chief Executive Officer of the Commission, the Chairman shall (1) control and supervise the general administration of the Commission, (2) direct and manage the implementation and execution of policies, standards, rules and regulations promulgated by the Commission, and (3) control and supervise the audit of highly technical or confidential transactions or accounts of any government agency.

The two (2) Commissioners may assist in the general administration of the Commission, upon proper delegation by the Chairman.

Section 3. ***Powers, functions and duties of Auditors as representatives of the Commission.*** - The Auditors shall exercise such powers and functions as provided by law and as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions and resources of the agencies under their respective audit jurisdiction.

Section 4. ***Appellate Jurisdiction.*** - The Directors shall have appellate jurisdiction over decisions of Auditors in accordance with these Rules. Decisions of the Directors may be appealed to the ASB or to the Commission Proper as the case may be.

Section 5. ***Entities within the jurisdiction of the Commission.*** - The authority and powers of the Commission to examine, audit and settle all accounts extend to the following entities:

- a. National Government, its departments, bureaus, agencies and offices, including Philippine embassies, consulates and other foreign-based government agencies;
- b. Local government units, their agencies, and other instrumentalities;
- c. Government-owned and/or controlled corporations and their subsidiaries;
- d. Constitutional bodies, commissions and offices that have been granted fiscal autonomy under the Constitution;
- e. Autonomous state colleges and universities;
- f. Public Utilities and Franchise grantees for rate determination and franchise tax;
- g. Non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those which the government has put up a counterpart fund, or those funded by the government; and
- h. Such other entities as may be provided by law to be under COA's jurisdiction.

RULE III ORGANIZATIONAL STRUCTURE OF THE COMMISSION PROPER AND HOW IT TRANSACTS BUSINESS

Section 1. ***The Commission Proper.***- (1) For purposes of these rules and as a component of the organizational structure of the Commission, the Chairman and the two Commissioners shall together be known as the Commission Proper and as such shall be distinguished from the other components of the Commission consisting of the central and regional offices subsisting or which may hereinafter be created. (2) The Commission Proper shall sit as a body to determine policies, promulgate rules and regulations, and prescribe standards governing the performance by the Commission of its powers and functions. (3) The Chairman shall act as the presiding officer of the Commission Proper and the Chief Executive Officer of the Commission.

Section 2. ***Regular session.*** - The Commission Proper shall hold its regular sessions at the Commission Proper Board Room, COA Central Office, Quezon City, every Tuesdays and Thursdays without need of call, unless it decides otherwise.

Section 3. ***Special session.*** - Whenever public interest requires, the Chairman on his own initiative or upon recommendation of any of the two Commissioners may call a special session at the time and place designated by the Commission Proper.

Section 4. ***Quorum and voting.*** - The Commission Proper shall decide by a majority vote of all its members any case or matter brought before it within sixty (60) days from the date of its submission for decision or resolution. A case or matter is deemed submitted for decision or resolution upon the filing of the last pleading, brief or memorandum required by these Rules or by the Commission Proper.

Section 5. ***Powers and duties of the Chairman as Presiding Officer.*** - As Presiding Officer, the powers and duties of the Chairman when discharging his functions in actions or proceedings before the Commission Proper shall include the following:

- a. To issue calls for the special sessions of the Commission Proper;
- b. To approve the agenda for the sessions of the Commission Proper;
- c. To preside over the sessions of the Commission Proper;
- d. To participate in the deliberations of and vote during all regular and special sessions of the Commission Proper where any case issue or matter within its jurisdiction is under consideration;
- e. To preserve order and decorum during the session;
- f. To decide all questions of order by any Member;
- g. To summon the parties to a case brought before the Commission Proper for resolution;
- h. To issue subpoena and subpoena duces tecum;
- i. To administer oaths and otherwise take testimony in any investigation or inquiry on any matter within the jurisdiction of the Commission;
- j. To sign interlocutory orders, resolutions or ruling in cases not yet assigned to a Member;
- k. To exercise such other powers and duties as are vested upon him by law or by the Commission Proper.

Section 6. ***Powers and duties of the two (2) Commissioners.*** - As members of the Commission Proper, the powers and duties of the two (2) Commissioners shall include the following:

- a. To attend, participate in the deliberations of, and vote during all regular and special sessions of the Commission Proper where any case, issue, or matter within its jurisdiction is under consideration;
- b. To recommend to the Chairman the inclusion in the agenda of any case or matter deemed appropriate in the performance of his function;
- c. To sign interlocutory orders, resolutions or ruling in cases and matters assigned to them for study and reporting;

- d. To require the appearance of any official or employee of the Commission in order to obtain information pertinent to a case assigned to him, the formulation of policy and the promulgation of accounting and auditing rules and regulations, or to direct the submission of any document, report, or record in the possession of such official or employee; and
- e. To exercise such other powers as are vested upon him by law or by specific provisions of these Rules.

Section 7. ***The Commission Secretary.*** - The duties and functions of the Commission Secretary shall include the following:

- a. To prepare the agenda for the sessions of the Commission Proper based on the priority set by it;
- b. To prepare and keep the minutes of all sessions, hearings and conferences of the Commission Proper;
- c. To receive all communications for action of the Commission Proper and determine compliance of appellant/petitioner with the required payment of filing fee prior to referral to the Legal Services Sector or to other concerned Office as the case may be;
- d. To keep a Docket wherein he shall enter in chronological order the cases and the proceedings thereon and a Book of Decisions which shall contain the original copy of the decisions or resolutions rendered by the Commission Proper in the order of their dates;
- e. To maintain for the Commission Proper a file of all Supreme Court Decisions involving the COA; and
- f. To perform such related functions as may be authorized by law or regulations or upon instruction of the Commission Proper.

Section 8. ***Assistance to the Commission Proper.*** - The Commission Proper may request the assistance of the Assistant Commissioners, and the Directors of the Central and Regional Offices in the performance of its adjudicatory functions, in cases or matters related to the latter's respective functions and responsibilities.

Section 9. ***Power to issue subpoena and subpoena duces tecum.*** - The Chairman or any Commissioner of the Commission, the Assistant Commissioners, the Central Office Directors, the Regional Directors, the Auditors of any government agency, and any other official or employee of the Commission specially deputed in writing by the Chairman for the purpose shall, in compliance with the requirement of due process, have the power to summon the parties to a case brought before the Commission for resolution, issue subpoena and subpoena duces tecum, administer oaths, and otherwise take testimony in any investigation or inquiry on any matter within the jurisdiction of the Commission.

RULE IV PROCEEDINGS BEFORE THE AUDITOR

Section 1. ***Auditors as representatives of the Commission.*** - The Auditors shall exercise such powers and functions as may be authorized by the Commission in the examination, audit and settlement of the accounts, funds, financial transactions, and resources of the agencies under their respective audit jurisdiction.

Section 2. ***Role of the Auditor.*** - The Auditor shall maintain complete independence and exercise professional care and be guided by applicable laws, regulations and the generally accepted principles of auditing and accounting in the performance of the audit work as well as in the preparation of audit and financial reports.

Section 3. ***Responsibility to Obtain Sufficient Evidence.*** - The Auditor shall obtain, sufficient evidence to provide an appropriate factual bases for his opinions, conclusions, judgments and recommendations. He shall likewise be responsible for safeguarding the evidence needed to support his findings which may include (1) physical evidence such as the thing itself or sample thereof which is subject of the investigation or audit observation; (2) testimonial evidence such as sworn statements from witnesses, depositions and signed interview notes; (3) documentary evidence consisting of letters, contracts, reports, photographs, extracts from books of accounts, invoices, receipts, and computer print-outs; (4) analytical evidence such as analysis sheets/working papers prepared; and (5) electronic evidence such as e-mail, text messages or multimedia messages.

The technicalities of law and the rules governing the admissibility and sufficiency of evidence obtaining in the courts of law shall not strictly apply.

Section 4. ***Audit Disallowances/Charges/Suspensions*** – In the course of the audit, whenever there are differences arising from the settlement of accounts by reason of disallowances or charges, the auditor shall issue Notices of Disallowance/Charge (ND/NC) which shall be considered as audit decisions. Such ND/NC shall be adequately established by evidence and the conclusions, recommendations or dispositions shall be supported by applicable laws, regulations, jurisprudence and the generally accepted accounting and auditing principles. The Auditor may issue Notices of Suspension (NS) for transactions of doubtful legality/validity/propriety to obtain further explanation or documentation.

Section 5. ***Relief from Accountability*** - The auditor shall act on requests for relief from accountability for losses due to fortuitous events or natural calamities, or due to acts of man, i.e. theft, robbery, arson, etc. involving amounts not exceeding one hundred thousand pesos (₱100,000.00). The action of the auditor shall be deemed an audit decision.

Section 6. ***Number of Copies and Distribution.*** - The ND, NC, NS or other order or decision of the Auditor shall be prepared in such number of copies as may be necessary

for distribution to the following: (1) original copy-to the head of agency being audited; (2) duplicate copy-to the Auditor for his record; (3) other copies to the agency officials directly affected by the results of the audit and from whom specified action or a response from the results of audit is expected as may be provided by law or the pertinent rules and regulations of the Commission.

Section 7. **Service of Copies of ND/NC/NS, Order or Decision** – The ND, NC, NS, order, or decision shall be served to each of the persons liable/responsible by the Auditor, through personal service, or if not practicable through registered mail. In case there are several payees, as in the case of a disallowed payroll, service to the accountant who shall be responsible for informing all payees concerned, shall constitute constructive service to all payees listed in the payroll.

Section 8. **Finality of the Auditor's Decision.** - Unless an appeal to the Director is taken, the decision of the Auditor shall become final upon the expiration of six (6) months from the date of receipt thereof.

Section 9. **Motion for Reconsideration Not Allowed** –The Auditor shall not entertain a motion for reconsideration of his audit decision, and any such motion shall be returned to the movant without action and with the advise for him to file an appeal instead to the Director pursuant to Rule V hereof.

RULE V PROCEEDINGS BEFORE THE DIRECTOR

Section 1. **Who May Appeal.** - An aggrieved party may appeal from the decision of the Auditor to the Director who has jurisdiction over the agency under audit.

Section 2. **How Appeal Taken.** – The appeal to the Director shall be taken by filing an Appeal Memorandum with the Director, copy furnished the Auditor. Proof of service of a copy to the Auditor shall be attached to the Appeal Memorandum. Proof of payment of the filing fee prescribed under these Rules shall likewise be attached to the Appeal Memorandum.

Section 3 . **Caption.** - The party appealing shall be called the "Appellant" and the Auditor who rendered the decision appealed from, as the "Appellee".

Section 4. **When Appeal Taken** - An Appeal must be filed within six (6) months after receipt of the decision appealed from.

Section 5. **Interruption of Time to Appeal.** - The receipt by the Director of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the Director's decision.

Section 6. ***Auditor's Answer and Transmittal of Record.*** - The Director shall, within five (5) days after receipt of the Appeal Memorandum, order the Auditor to submit an Answer together with the entire records of the case including the EDSE, every page of which shall be numbered at the bottom. The Auditor shall comply with the order within fifteen (15) days from receipt thereof.

Section 7. ***Power of Director on Appeal.*** - The Director may affirm, reverse, modify or alter the decision of the Auditor. If the Director reverses, modifies or alters the decision of the Auditor, the case shall be elevated directly to the Commission Proper for automatic review of the Directors' decision. The dispositive portion of the Director's decision shall categorically state that the decision is not final and is subject to automatic review by the CP.

Section 8. ***Relief from Accountability*** - The Director shall have original jurisdiction over requests for relief from accountability for losses due to fortuitous events or natural calamities involving amounts in excess of one hundred thousand pesos (₱100,000.00) and for losses due to acts of man; i.e., theft, robbery, arson, etc. involving amounts exceeding one hundred thousand pesos (₱100,000.00) but not more than five hundred thousand pesos (₱500,000.00).

Section 9. ***Period to Decide Case.*** - The Director shall render his decision on the case within fifteen (15) days after submission of the complete documents necessary for evaluation and decision.

Section 10. ***Motion for Reconsideration Not Allowed*** – The Director shall not entertain a motion for reconsideration of his decision and any such motion shall be returned to the movant without action and with the advise for him to file an appeal instead to the ASB or CP as the case may be, pursuant to Rule VI or Rule VII hereof.

RULE VI PROCEEDINGS BEFORE THE ADJUDICATION AND SETTLEMENT BOARD (ASB)

Section 1. ***Composition of the Adjudication and Settlement Board (ASB)*** – The ASB is hereby reconstituted composed of the Assistant Commissioner of the Legal Services Sector (LSS) as Chairperson, and the Assistant Commissioners of the National Government Sector, Corporate Government Sector and Local Government Sector as Members. Whenever the subject under consideration involves engineering/technical or accounting matters, the Assistant Commissioners of the Special Services Sector or Government Accountancy Sector, respectively, shall sit as members of the ASB. The LSS Assistant Commissioner shall notify them accordingly.

Section 2. ***How the ASB Transacts Business*** – The ASB shall act as a body to render decisions on matters within its jurisdiction. The LSS Assistant Commissioner shall act as

presiding officer of the meetings of the ASB which shall be held at least once a month. The ASB shall meet every first Wednesday of the month, or as often as necessary in the public interest or upon recommendation of any of the members.

Section 3. **ASB Secretariat** – The LSS Assistant Commissioner shall designate a senior staff of the Office of the General Counsel to serve as head of the ASB Secretariat who shall be responsible for the receipt and issuance of all communications of the ASB, the preparation of the agenda and minutes of its meetings, the maintenance of ASB records, and such other related functions as may be authorized by regulations or upon instruction of the ASB Chairperson.

Section 4. **Original Jurisdiction** - The ASB shall exercise original jurisdiction over cases involving the (1) write-off of unliquidated cash advances and dormant accounts receivable in an amount not exceeding One Million Pesos; and (2) requests for relief from accountability for losses due to acts of man, i.e. arson, theft, robbery, etc. involving amounts in excess of five hundred thousand pesos (₱500,000.00) but not exceeding five million pesos (₱5,000,000.00).

Section 5. **How requests filed** – Requests for write off of accounts or relief from accountability shall be filed with the ASB Secretariat under the Office of the Assistant Commissioner of the LSS, in five (5) copies. It shall include a complete citation of the facts of the case, the grounds for the action sought; laws, rules and regulations relied upon and shall be accompanied by all documents referred to in the request and necessary for adjudication of the case.

Section 6. **Appellate Jurisdiction** - The ASB shall have appellate jurisdiction over the decision of the Director in case of disallowances and charges involving amounts not exceeding one million pesos (₱1,000,000.00) and over requests for relief from accountability.

Section 7. **How appeal taken** – The appeal to the ASB shall be taken by filing an Appeal Memorandum in five (5) copies with the ASB Secretariat under the Office of the LSS Assistant Commissioner, copy furnished the Director. Proofs of service of a copy to the Director and of the payment of filing fee shall be attached to the Appeal Memorandum.

Section 8 . **Caption** – The party appealing shall be called the “Appellant” and the Director who rendered the decision appealed from shall be called the “Appellee”

Section 9. **When appeal taken** - An appeal must be filed within the remaining of the six (6) months period, after receipt of the decision appealed from.

Section 10. **Interruption of Time to Appeal**. - The receipt by the ASB of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the ASB’s decision.

Section 11. ***Director's Answer and Transmittal of Record*** - The ASB Chairperson shall, within five (5) days after receipt of the Appeal Memorandum, direct the Director to submit an Answer together with the entire records of the case including an EDSE, every page of which shall be numbered at the bottom. The Director shall comply with the order within fifteen (15) days from receipt thereof.

Section 12. ***Power of ASB on appeal*** – The ASB may affirm, reverse, modify or alter the decision of the Director.

Section 13. ***Decision of the ASB*** – The ASB shall review the case and render a decision within fifteen (15) days from receipt of the complete documents necessary for evaluation and decision.

Section 14. ***Motion for Reconsideration Not Allowed*** – The ASB shall not entertain a motion for reconsideration of its decision and any such motion shall be returned to the movant without action and with the advise for him to file a petition for review instead to the CP pursuant to Rule VII hereof.

RULE VII PETITION FOR REVIEW TO THE COMMISSION PROPER

Section 1. ***Who May Appeal and Where to Appeal.*** - The party aggrieved by a decision of the Director or the ASB may appeal to the Commission Proper.

Section 2. ***How Appeal Taken.*** - Appeal shall be taken by filing a Petition For Review in five (5) legible copies, with the Commission Secretariat, a copy of which shall be served on the Director or the ASB who rendered the decision. Proof of service thereof shall be attached to the petition together with the proof of payment of the filing fee prescribed under these Rules.

Section 3. ***Period of Appeal.*** - The appeal shall be taken within the time remaining of the six (6) months period under Section 4, Rule V, taking into account the suspension of the running thereof under Section 5 of the same Rule in case of appeals from the Director's decision, or under Sections 9 and 10 of Rule VI in case of decision of the ASB.

Section 4. ***Caption.*** - The party appealing shall be called the "Petitioner " and the Director or ASB as the "Respondent ".

Section 5. ***Contents of Petition.*** - The petition for review shall contain a concise statement of the facts and issues involved and the grounds relied upon for the review, and shall be accompanied by a certified true copy of the decision appealed from, together with certified true copies of such relevant portions of the record as are referred to therein and other supporting papers. The petition shall state the specific dates to show that it was filed within the reglementary period.

Section 6. **Order to Answer.** - Within five (5) days from receipt of the petition for review, the Commission Secretary shall issue an Order requiring the Director or the ASB Chairperson to file his Answer to the Petition and transmit the entire records of the case to the Commission Secretary.

Section 7. **Filing of Answer and Transmittal of Record.** - Within fifteen (15) days from receipt of the Order to Answer, the Director/ASB Chairperson shall submit his Answer to the petition to the Commission Secretary together with the records of the case. A copy of the Answer shall be served on the petitioner by the Director or the ASB Chairperson. The answer shall (a) point out the insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed.

Section 8. **Reply.** - Petitioner may file a reply with the Commission Secretary, copy furnished the Director concerned or the ASB Chairperson within fifteen (15) days from receipt of the Answer. The Commission Proper, however, may direct any or all the parties to submit additional pleadings or documents which it may deem necessary in the proper adjudication of the case.

RULE VIII ORIGINAL CASES FILED DIRECTLY WITH THE COMMISSION PROPER

Section 1. **Original Jurisdiction** - The Commission Proper shall have original jurisdiction over: a) money claim against the Government; b) request for concurrence in the hiring of legal retainers by government agency; c) write off of unliquidated cash advances and dormant accounts receivable in amounts exceeding one million pesos (₱1,000,000.00); d) request for relief from accountability for loses due to acts of man, i.e. theft, robbery, arson, etc, in amounts in excess of Five Million pesos (₱5,000,000.00).

Section 2. **Money claim** – A money claim against the government shall be filed directly with the Commission Secretary in accordance with the following:

- a) **Petition.** - A claimant for money against the Government, whose claim is cognizable by the Commission Proper, may file a petition. The party seeking relief shall be referred to as "Petitioner" and the government agency or instrumentality against whom a claim is directed shall be referred to as "Respondent". The petition shall also be assigned a docket number as provided in these Rules.
- b) **Contents of Petition.** - The petition shall contain the personal circumstances or juridical personality of the petitioner, a concise statement of the ultimate facts constituting his cause of action, a citation of the law and jurisprudence upon which the petition is based and the relief sought. The petition shall be accompanied by certified

true copies of documents referred therein and other relevant supporting papers.

- c) **Filing of Petition.** - The petition shall be filed with the Commission Secretary, a copy of which shall be served on the respondent. Proof of service of the petition on the respondent together with proof of the payment of filing fee shall be attached to the petition.
- d) **Order to Answer.** - Upon the receipt of the petition, the Commission Secretary shall issue an Order requiring respondent to answer the petition within fifteen (15) days from receipt thereof.
- e) **Answer.** - Within fifteen (15) days from receipt of the said Order, the respondent shall file with the Commission Secretary an Answer to the petition. The answer shall be accompanied by certified true copies of documents referred to therein together with other supporting papers. The answer shall (a) point out insufficiencies or inaccuracies in the petitioner's statement of facts and issues and (b) state the reasons why the petition should be denied or dismissed or granted. Copy of the answer shall be served on the petitioner and the proof of service thereof shall be attached to the answer.
- f) **Reply.** - Petitioner may file a Reply, copy furnished the respondent, within fifteen (15) days from receipt of the Answer.
- g) **Comment by Concerned Offices.** – Money claims, except court-adjudicated claims, shall first be assigned by the Commission Secretary to the appropriate Central or Regional Office, for comment and recommendation prior to referral to the Legal Services Sector for preparation of the decision and formal deliberation by the Commission Proper.

Section 3. **Hiring of Legal Retainer** – A request for concurrence of the Commission in the hiring of legal retainer shall be filed with the Office of the General Counsel who shall evaluate the same and issue the written concurrence or denial thereof in behalf of the Commission. A request for reconsideration or appeal therefrom shall be cognizable by the Commission Proper.

Section 4. **Other Cases** – Requests for write off of accounts receivable or unliquidated cash advances exceeding ₱1 million; or relief from accountability for acts of man such as robbery, theft, arson in excess of ₱5 million; or approval of private sale of government property; or other matters within the original jurisdiction of the CP, shall be filed with the Commission Secretary. The Commission Secretary shall refer the case to the Central/Regional Office concerned for comment and recommendation and thereafter to the Legal Services Sector, for preparation of the draft decision for consideration of the Commission Proper.

RULE IX
PLEADINGS, MODE OF FILING, DOCKETING OF CASES AND FILING FEE

Section 1. ***Form of Pleadings.*** - Pleadings, motions and other petitions shall contain a caption setting forth the name and address of the Commission on Audit, the title of the case, the docket number and the description of the pleading. They shall be printed or typewritten double-spaced on legal size bond paper. Proof of service of such papers on the adverse party or auditor, Director, ASB Chairperson or other parties having a direct interest in the case is necessary and must be shown therein.

Section 2. ***Number of copies of pleadings.*** - Every petition, answer, reply, motion, notice and other papers required by these rules to be filed in a case before the Commission Proper, thru the Commission Secretary, shall be made in five (5) legible copies.

Section 3. ***Mode of Filing.*** - The filing of pleadings, motions and other papers may be done either by personal delivery or by registered mail. If the filing is made by personal delivery, the receiving clerk shall promptly and legibly stamp on the face of the first page of the pleading the exact date and time it was received and filed and thereafter affix his initials.

If the filing is by registered mail, the date of mailing stamped by the post office of origin, shall be considered as the date of filing. The envelope or a portion thereof showing the date of mailing and registry stamp containing the pleading, motion and other papers shall be attached thereto. The date of actual receipt shall also be legibly stamped or indicated on the first page of the pleading.

When a petition does not have the complete annexes or the required number of copies, the petitioner shall be required to complete the annexes or file the necessary number of copies of the petition before the case is docketed.

Section 4. ***Other Modes of Filing.*** - Pleadings, motions and other papers sent by ordinary mail, by private messengerial services, or by any mode other than personal delivery or registered mail, shall be deemed filed only on the date and time they are actually received. The date and time of actual receipt shall be stamped and signed by the receiving clerk.

Section 5. ***Payment of Filing Fee*** - Every petition/appeal filed before an adjudicating body/office of this Commission pertaining to the cases enumerated below shall be imposed a filing fee equivalent to 1/10 of 1% of the amount involved, but not exceeding ₱10,000.00:

- a) appeal from audit disallowance/charge
- b) appeal from disapproval of request for relief from accountability

- c) money claim, except if the claimant is a government agency
- d) request for condonation of settled claim or liability except if between government agencies

Payment shall be made at the COA Central Office Cashier or at the Cashier of the COA Regional Finance Office. If not practicable, payment may be remitted through postal money order payable to the Commission on Audit.

Any appeal/petition without the required filing fee will be returned to the party concerned for compliance with such requirement.

Section 6. ***Docket and Assignment of Number*** - Upon the filing of the initial pleading or petition, the Office of the Commission Secretary, after having determined compliance with the requirements of these Rules, shall docket the same and assign to it a number. The numbering of initial pleadings or petitions must be consecutive according to the date they are received, and prefixed as follows:

COA CP Case No. _____ - _____
(Year) (Number)

After docketing and numbering, the original copy of the petition shall be fastened or bound to a folder. Subsequent pleadings, motions and other papers that will be filed in the course of the proceedings shall also be entered in the docket book, including the excerpts of the decision, and the original copies thereof shall be fastened to the same folder of the case and pagged accordingly.

RULE X PROCEEDINGS BEFORE THE COMMISSION PROPER

Section 1. ***Referral of Appealed Cases from Regional and Central Offices.*** - Within five (5) days from receipt of the complete records of the case from the Director concerned or the ASB Chairperson; as well as the Reply of the appellant/petitioner or in case no Reply is filed, upon expiration of the period to Reply, the Commission Secretary shall refer the case to the Legal Services Sector (LSS) for review and evaluation. The LSS shall prepare a draft decision, which shall be forwarded to the Commission Secretary within thirty (30) days from receipt of the complete records of the case.

Section 2. ***Referral of Money Claim Filed Directly with the Commission Proper.*** - Within five (5) days from receipt of the complete records of the case including the Answer of the Respondent or other parties in interest, the Commission Secretary shall refer the said records to the Director of the appropriate office in the Central/Regional Office who shall, within fifteen (15) days from receipt thereof, submit his comment and recommendation to the Commission Secretary.

The Commission Secretary shall, thereafter, refer the case to the LSS which shall evaluate the claim and prepare a draft decision to be submitted to the Commission Proper thru the Commission Secretary, within fifteen (15) days from receipt of the referral.

Section 3. ***Oral Argument.*** - Upon motion by a party, or motu proprio, the Commission Proper may call for oral arguments of the parties before the Commission Proper en banc subject to such limitation of time and issues as the Commission may prescribe. In lieu of oral arguments, the parties may be allowed to submit their respective memoranda within fifteen (15) days from notice thereof.

Section 4. ***Period for Rendering Decision.*** - Any case brought to the Commission Proper shall be decided within sixty (60) days from the date it is submitted for decision or resolution, in accordance with Section 4, Rule III hereof.

Section 5. ***Procedure in Making Decisions.*** - The conclusion of the Commission Proper in any case brought before it for decision shall be reached after formal deliberation by its members.

Any member may write a separate concurring or dissenting opinion which shall form part of the decision. Any member who took no part, or dissented, or abstained from a decision or resolution must state the reason therefor.

Section 6. ***Form of Decision.*** - Every adjudication on the merits of a case shall be in the form of a decision which shall state clearly and distinctly the facts and the law on which it is based and signed by the members of the Commission Proper.

The copies of the agenda and excerpts of the minutes of the session of the Commission Proper and the resolution or decision pertaining to a case shall be duly attested by the Commission Secretary and shall be attached to the records of the case.

Section 7. ***Seal of the Commission.*** - The seal of the Commission on Audit, which shall be in the custody of the Commission Secretary, shall be affixed to all decisions or resolutions of the Commission as an indication of their official character.

Section 8. ***Number of Copies and Distribution of Decision.*** - Copies of the Decision or Resolution of the Commission shall be distributed as follows: (1) first original copy to the permanent Book of Decisions which shall be maintained and kept by the Commission Secretary; (2) second original copy to the Central Office Records Division of the Commission; (3) third original copy to the rollo or folder containing the original copies of the pleadings and other papers in the custody of the Commission Secretary; (4) one copy each to the Legal Services Sector, Auditor and Director concerned; (5) one copy each to the parties or their counsels in the case.

Section 9. ***Finality of Decisions or Resolutions.*** - A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory

after the lapse of thirty (30) days from notice of the decision or resolution, unless a motion for reconsideration is seasonably made or an appeal to the Supreme Court is filed.

Section 10. ***Motion for Reconsideration.*** - A motion for reconsideration may be filed within the time remaining of the period to appeal, on the grounds that the evidence is insufficient to justify the decision; or that the said decision is contrary to law. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

Section 11. ***Form and Contents of the Motion for Reconsideration.*** - The motion shall be verified and shall point out specifically the findings or conclusions of the decision which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or the provisions of law that such finding or conclusions are alleged to be contrary to.

Section 12. ***Effect of Motion for Reconsideration and How It is Disposed Of.*** - A motion to reconsider a decision, complying with the immediately preceding section, suspends the running of the period to elevate the matter to the Supreme Court. Within two (2) days from its filing, the Commission Secretary shall refer the motion to the Director/ASB for comments. Upon receipt of the comments, he shall forward the same together with the motion to the Legal Services Sector for study and recommendation. The latter shall, within fifteen (15) days from receipt thereof, submit a draft decision, for the consideration of the Commission Proper.

Section 13. ***Entry of Decision.*** - If no appeal is filed within the time provided in these rules, the decision of the Commission shall be entered by the Commission Secretary in the Docket which shall contain the dispositive part of the decision and shall be signed by the Secretary with a certificate that such decision has become final and executory. Such recording of the decision shall constitute the entry.

RULE XI CONTEMPT

Section 1. ***Direct Contempt Punished Summarily.*** - A person guilty of misbehavior in the presence of or so near the Commission Proper or any of its members as to obstruct or interrupt the proceedings before it or them, including disrespect toward the Commission or its members, offensive personalities toward others or refusal to be sworn or to answer as a witness, or to subscribe to an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by the Commission or any of its members and shall be punished in accordance with the penalties prescribed in the Rules of Court.

Section 2. ***Indirect Contempt.*** - After a charge in writing has been filed by an aggrieved party before the Commission Proper or its members, and after an opportunity shall have been given to the respondent to be heard by himself or counsel, a person guilty of the following acts may be punished for contempt:

- a. Misbehavior of any officer of the Commission in the performance of his official duties or in his official transactions;
- b. Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its members;
- c. Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its members not constituting direct contempt under Section 1 of this rule;
- d. Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its members;
- e. Failure to obey a subpoena duly served.

Section 3. ***Penalty for Indirect Contempt.*** - If adjudged guilty, the accused may be punished in accordance with the penalties prescribed in the Rules of Court.

RULE XII JUDICIAL REVIEW

Section 1. ***Petition for Certiorari.*** - Any decision, order or resolution of the Commission may be brought to the Supreme Court on certiorari by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.

When the decision, order or resolution adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency.

RULE XIII ENFORCEMENT AND MONITORING OF DECISION

Section 1. ***Execution of Decision*** – Execution shall issue upon a decision that finally disposes of the case. Such execution shall issue as a matter of right upon the expiration of the period to appeal therefrom if no appeal has been fully perfected.

Section 2. ***Notice of Finality of Decision (NFD)*** - An NFD directing the persons liable to pay/refund the amount disallowed shall be issued by the following officials, upon a decision that has become final and executory:

- a) Auditor – for ND/NC or Decision issued by him
- b) Director who supervised the special audit team-for ND/NC issued by the audit team
- c) Director – for decision rendered by him
- d) General Counsel – for decision of the ASB

- e) Commission Secretary – for decision of the CP

Section 3. **COA Order of Execution (COE)** - In case of failure of the person(s) liable to refund the amount disallowed/charged as provided in the preceding section, the COE directing the Cashier/Treasurer/Disbursing Officer to withhold payment of any money due such person(s) shall be issued by the following:

- a) Director – for NFDs issued by him and the by Auditor
- b) General Counsel – for NFD issued by him and by the Commission Secretary, and for judgments rendered by the Supreme Court

Section 3. **Non-compliance with the COE.** - In case of failure by the Cashier/Treasurer/Disbursing Officer to comply with the COE, the Auditor shall notify the agency head concerned of the non-compliance. At the same time, the Auditor shall report the matter through the COA Director concerned, to the General Counsel who shall take any or all of the following actions:

- a. Recommend to the Commission Proper to cite defaulting party in contempt;
- b. Refer the matter to the Solicitor General for the filing of appropriate civil suit;
- c. Refer the case to the Ombudsman for the filing of appropriate administrative or criminal action.

Section 4. **Holding the Defaulting Party in Contempt.** – Any party who fails to comply with the COE may be held in contempt pursuant to Section 2, Rule XI of these Rules. The LSS shall study and evaluate the report of such non-compliance as cited in the preceding section and submit its recommendation to the Commission Proper within fifteen (15) days from receipt thereof.

Section 5. **Referral to the Solicitor General.** - To enforce civil liability, the Auditor shall submit to the Director concerned a report on COEs which have not been complied with. The report shall be duly supported with certified copies of the subsidiary records, and the payrolls/vouchers disallowed and collections charged, together with all necessary documents for the filing of the appropriate civil suit. The Director shall forward the report to the General Counsel who shall study and evaluate the same and submit his recommendations to the COA Chairman within fifteen(15) days from receipt thereof. Referral to the Office of the Solicitor General for its appropriate action may be made.

Section 6. **Referral to the Ombudsman.** - The Auditor shall report to his Director all instances of failure or refusal to comply with the decisions or orders of the Commission contemplated in the preceding sections. The COA Director shall see to it that the report is supported by the sworn statement of the Auditor concerned, identifying among others, the persons liable and describing the participation of each. He shall then refer the matter to the Legal Services Sector who shall refer the matter to the Office of the Ombudsman or

other appropriate office for the possible filing of appropriate administrative or criminal action.

Section 7. ***Effect of Non-compliance.*** - Any delay in complying or refusal to comply with the order or decision of the Commission shall constitute a ground for contempt, and/or administrative disciplinary action against the officer or employee concerned.

RULE XIV ADMINISTRATIVE CASES

Section 1. ***Applicability of Civil Service Law and Other Rules.*** - The procedures set forth in the pertinent provisions of the Civil Service Law, The Omnibus Rules Implementing Executive Order No. 292 and COA Memorandum No. 76-48 dated April 27, 1976, in administrative cases against officers and employees of the Commission, are hereby adopted and read into these rules.

Section 2. ***Re-Hearing.*** - In meritorious cases as may be determined by the Commission Proper, the Commission Proper may order a re-hearing of the administrative case.

Section 3. ***Proposed Decision.*** - Upon the termination of the formal investigation and the submission of the report of the hearing officer, or evaluation of respondent's Answer in case of waiver of formal investigation, the LSS shall within thirty (30) days thereof propose a decision for the consideration of the Commission Proper.

Section 4. ***Transmittal to the Commission Proper.***- The LSS shall transmit to the Commission Proper through the Commission Secretary the proposed decision which shall contain the following particulars:

- a. Administrative case title and number;
- b. Respondent, position/designation and place of assignment;
- c. A brief statement of materials facts;
- d. Findings and conclusions;
- e. Penalty imposed, if warranted.

Section 5. ***Review by the Chairman and Commissioners.*** - The Commission Secretary shall furnish the members of the Commission with a complete set of the record of the case, together with the proposed decision and the summary of the case, for review.

Section 6. ***Finalization of the Decision.*** - After the review of the case by the Chairman and the Commissioners, the Commission Secretary shall calendar the same as an item in the agenda of the next regular meeting of the Commission Proper.

Section 7. ***Recording and Release.*** - The Commission Secretary shall record the decision in the Docket of Administrative Cases maintained by that office and thereafter send it to

the Central Office Records Division which shall be responsible for its release and full dissemination to all concerned.

Section 8. ***Motion for Reconsideration.*** - The respondent may, within fifteen (15) days after receipt of the decision, file with the Commission Proper a motion for reconsideration thereof in accordance with the procedure set forth under Sections 39, 40, 41 and 42 of COA Memorandum No. 76-48.

Section 9. ***Disposition of the Motion for Reconsideration.*** - The disposition of a motion for reconsideration shall be embodied in an appropriate resolution or issuance of the Commission Proper which shall form part of the records of the case. The procedure outlined for the disposition of administrative cases shall be observed.

Section 10. ***Appeal.*** - Appeals, where allowable, shall be made by the party adversely affected by the decision in accordance with the rules prescribed under existing Civil Service rules and regulations.

RULE XV MISCELLANEOUS PROVISIONS

Section 1. ***Supplementary Rules.*** - In the absence of any applicable provision in these rules, the pertinent provisions of the Rules of Court in the Philippines shall be applicable by analogy or in suppletory character and effect.

Section 2. Any deviation from these rules, which does not affect the substantive rights of the parties, shall not invalidate the action taken by the Commission.

RULE XVI REPEALING CLAUSE AND EFFECTIVITY

Section 1. ***Repealing Clause.*** - All resolutions, rules, regulations, circulars and memoranda and other issuances of the Commission or parts thereof which are inconsistent with any provisions of these rules are hereby deemed repealed or modified accordingly.


Section 2. ***Separability Clause.*** - If any part of these rules is declared unconstitutional, the remaining part not affected thereby shall remain valid and effective.

Section 3. ***Effectivity.*** - These rules shall be published in a newspaper of general circulation and shall take effect thirty (30) days after completion of its publication.

APPROVED this 15th day of Sept., 2009.



REYNALDO A. VILLAR
Chairman



JUNITO C. ESPINO, JR.
Commissioner

Having been published in the *Philippine Star* on Sept. 28, 2009, these rules take effect on Oct. 28, 2009. *and the Daily Tribune*

Attested by:



FORTUNATA M. RUBICO
Director IV
Commission Secretary