



NATIONAL ELECTRIFICATION ADMINISTRATION
"The 1st Performance Governance System-Institutionalized National Government Agency"
57 NIA Road, Government Center, Diliman, Quezon City 1100

23 December 2013

MEMORANDUM No. 2013-028 _____

TO : ALL ELECTRIC COOPERATIVES

SUBJECT : RA 10531 Implementing Policy, Rules and Guidelines

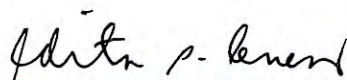
Pursuant to Republic Act No. 10531, otherwise known as the National Electrification Reform Act of 2013, the following policy, rules and guidelines are issued to implement pertinent provisions of the Act and its accompanying Implementing Rules and Regulations (IRR):

1. Policy on the Submission of Reportorial Requirements for the Integrated Assessment Report (Section 12 of the Act ; Rule II, Section 5 and Rule III, Section II (b) of the IRR)
2. Procurement Guidelines and Simplified Bidding Procedures for ECs (Rule II, Section 5 (I); Section 7 (a.v) of the IRR)
3. The Revised NEA Administrative (ADCOM) Rules of Procedures of 2013 (Section 6 (a) (b); Section 7 of the IRR)

The first two took effect on December 13, 2013 while the ADCOM Rules took effect on December 18, 2013.

All three were published for national circulation in Philippine Star on November 28, 2013 and December 3, 2013, respectively.

For your guidance and compliance.


EDITA S. BUENO
Administrator

NATIONAL ELECTRIFICATION
ADMINISTRATION

IN REPLYING, PLS. CITE: #OR023690



NEA- 0R023690



POLICY ON THE SUBMISSION OF REPORTORIAL REQUIREMENTS FOR THE INTEGRATED ASSESSMENT REPORT

I. RATIONALE

Chapter III, Section 12 of RA 10531 in relation to Rule II, Section 5 of the IRR provides that the National Electrification Administration (NEA) shall ensure that all electric cooperatives (ECs) comply with the timely submission of the reportorial requirements set forth in this IRR. For this purpose, the NEA shall prepare monthly and quarterly assessment reports of the abovementioned information. Said reports shall be submitted by the NEA to the DOE and the JPCP together with its recommended policies to attain the objectives of the Act.

Likewise, Rule III, Section 11(b) of the IRR of RA 10531 states that the NEA shall have the authority over the ECs, whether stock or non-stock, to require the submission of reportorial requirements as may be necessary relative to their operations as electric distribution utilities including but not limited to:

Reportorial Requirements		Timeline/Deadline of Submission	Lead Department/Office
i	Monthly Financial and Statistical Report	30 th day of the succeeding month	FSD
ii	Monthly Status of Energization (Barangay, Sitios & House Connections)	15 th day of the succeeding month	ITCSD
iii	Monthly Institutional Report	30 th day of the succeeding month	IDD
iv	Monthly Performance Standard Monitoring Report	30 th day of the succeeding month	IDD
v	Monthly Summary of Complaints received and acted upon	30 th day of the succeeding month	IDD
vi	Monthly Report on compliance with the Philippine Grid & Distribution Codes	30 th day of the succeeding month	ED
vii	Monthly Engineering Report	30 th day of the succeeding month	ED
viii	Quarterly Report on New Power Supply Contract	30 th day of the succeeding month	ED
ix	Annual Work Plan	January 30	CPO
x	Annual Distribution Development Plan (DDP)	January 30	CPO
xi	Five (5) –year Investment Plan submitted annually	January 30	CPO
xii	Annual Cash Operating Budget	September 30 preceding the budget year	FSD
xiii	Audited Financial Statements	April 15 of the succeeding year	FSD
xiv	Collective Bargaining Agreement (CBA) or Collective Negotiation Agreement(CNA)	30 days after the ratification by the general membership	IDD
xv	Copy of Capital Expenditures (CapEx) & Operating Expenditures (OpEx) Plan	January 30	CPO
		September 30	FSD
xvi	For ECs on grid with isolated area/s served by the NPC-SPUG, separate submission of MFSR, Monthly Engineering Report and Barangay and Sitio electrification report		

Finally, Rule VII, Section 27 of the IRR states that consistent with Section 58 of EPIRA, the NEA shall continue to be under the supervision of the DOE, and shall comply with all reportorial requirements under this IRR and may be deemed necessary by the DOE.

II. OBJECTIVES

1. To monitor and diagnose the status of operation of the electric cooperatives in terms of their financial, institutional and technical services based on the prescribed standards set.
2. To propose resolution and craft plan of action as preventive measures before further deterioration of status of the ECs
3. To formulate prescriptive policy by the management as basis for implementation in resolving issues and concerns.

III. GUIDELINES

1. The ECs shall submit all required documents for proper documentation, including those which are personally delivered to the Information Technology and Communication Services Department -Records Management Unit (ITCSD-RMU) of the NEA on or before the date indicated above. For those which opted to submit electronic copies, they shall send reports to the ITCSD-RMU's e-mail address, recordsunit@nea.gov.ph.
2. The ECs shall ensure that all information are correct and accurate to reflect the true state of health of the electric cooperative. These information shall become the bases for assessment and crafting of solutions that will improve EC efficiency and service reliability and will act as early warning signals not only for financial but also for institutional and/or technical operational aspect.
3. ITCSD-RMU distributes the identified EC reports to department/office concerned which collates and consolidates financial, operational and other information and submits the same to the respective member of the composite team.
4. The composite team of senior officers from concerned departments/office shall act as focal persons or representatives to attend to all concerns and communication in relation to the requirements of DOE and JCPC. The team shall prepare initial assessment report based on the performance standards set, including suggested resolution and proposed plan of action which shall be submit to the senior committee.
5. The senior committee composed of department managers shall review the completeness and correctness of the initial assessment report including resolutions and plan of action. After the review, an integrated assessment report plus the committee recommendations will be submitted to the Deputy Administrators for affirmation and endorsement to the Administrator. The Administrator confirms the Integrated Assessment Report and submits to the Board of Administrators for approval.

6. The approved Integrated Assessment Report shall be submitted to the DOE and JCPC within two weeks from EC deadlines in the following dates:

1st Quarter – On or before May 15

3rd Quarter – On or before November 15

2nd Quarter – On or before August 15

4th Quarter – On or before February 15

IV. SANCTIONS FOR NON-SUBMITTAL/NON-COMPLIANCE

Section 14 of RA 10531 states that any person who wilfully violates any rules or regulation promulgated pursuant to the authority granted in this IRR shall, upon conviction, be punished by a fine of not less than fifty thousand pesos (P50,000.00) but not more than five hundred thousand pesos (P500,000.00) or by imprisonment of not less than 6 months but not more than one year, or both at the discretion of the court: Provided, That if the violation is committed by a juridical person, the penalty herein prescribed shall be imposed upon the official and/or employee thereof responsible for the violation.

Further, Section 28 of the IRR states that if the violation is committed by a government official or employee, including those in GOCC, such person shall, in addition to the penalty provided herein, be subjected to administrative disciplinary action.

Pursuant to the above, the following are the sanctions for non-submittal and non-compliance of the required reports and documents:

1. First Offense – issuance of a show cause order from the Legal Services Offices requiring the EC to explain within 15 days from receipt of the order for the reason for the non-submission
2. Second Offense – imposition of a fine of Ten Thousand Pesos (P10,000.00) for every required documents not submitted on time
3. Third Offense - imposition of a fine in the amount of Twenty Thousand Pesos (P20,000.00) for every required document not submitted on time and/or possible criminal prosecution and administrative disciplinary action against the general manager and the responsible department manager/s and/or officer/s of the EC

It is the responsibility of the ITCSD-RMU to certify compliance or non-compliance to the EC reportorial requirements. The Legal Services Office will implement the sanctions provided in this Policy.

VI. EFFECTIVITY

This policy shall immediately take effect fifteen (15) days following its publication in a newspaper of general circulation. Three (3) copies shall be filed with the University of the Philippines (UP) Law Center pursuant to Presidential Memorandum Circular No. 11, dated October 9, 1992.


EDITA S. BUENO
Administrator

NATIONAL ELECTRIFICATION
ADMINISTRATION

IN REPLYING, PLS. CITE: N0R023450



NEA- 0R023450 11/8/13



PROCUREMENT GUIDELINES AND SIMPLIFIED BIDDING PROCEDURES FOR ELECTRIC COOPERATIVES

I. Rationale

Rule II, Section 5 (l) of the IRR of RA 10531 specifically provides that the NEA, in order to strengthen the ECs, shall develop, set and enforce institutional and governance standards for the operation of ECs such as, but not limited to, the observance of appropriate procurement procedure, including transparent and competitive bidding.

Rule II, Section 7 (a.v) of the IRR also provides that the NEA in the exercise of its quasi-judicial functions, shall have primary and exclusive jurisdiction over administrative cases involving complaints against EC officers which also it referred to Members of the Bids and Awards Committee.

II. Objectives

To enforce governance standards for the efficient operation of ECs such as the observance of appropriate procurement procedures; and to conform with RA 9184 (Government Procurement Reform Act), the following principles shall govern:

- 1) Transparency in the procurement process and in the implementation of procurement contracts.
- 2) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.
- 3) Accountability of BAC and EC officials who are directly or indirectly involved in the procurement process where they shall be held liable for their actions relative thereto.
- 4) Streamlined and Simplified Procurement Process that will uniformly be applied to both stock and non-stock ECs.

III. Definition of Terms

- 1) Approved Budget of the Contract (ABC) - refers to the budget for the contract duly approved by the EC Board as provided for in the EC's approved Cash Operating Budget, Annual Procurement Plan, E-ICPM or ERC approved CAPEX. The ABC shall be the upper limit or ceiling for the Bid prices.
- 2) BAC - Bids and Awards Committee
- 3) TWG - Technical Working Group
- 4) Bidding Documents - refers to documents issued by the EC (duly approved by the Board) as basis for bids, furnishing all informations necessary for a prospective bidder to prepare a bid.
- 5) Bid - refers to a signed offer or proposal submitted by a bidder in response to the Bidding Documents.
- 6) E-ICPM - refers to the NEA approved Enhanced - Integrated Computerized Planning Model of the EC.
- 7) CAPEX - refers to the ERC approved capital expenditures of the EC to be recovered through rate increase.
- 8) Procuring Entity - refers to the Electric Cooperative (EC)
- 9) Head of Procuring Entity - refers to the EC Board or its duly authorized official. (If the Board authorizes the General Manager, it must be through a Board Resolution).
- 10) Lowest Calculated Responsive Bid - refers to the bid which was determined to be the Lowest Calculated Bid after evaluation and passed all the criteria for post qualification.

IV. EC Procurement Planning

All procurements by the EC shall be based on the approved Cash Operating Budget, Supplemental Budget, E-ICPM, and CAPEX which were consolidated into an Annual Procurement Plan (APP) (ANNEX A).

The Annual Procurement Plan, shall also include provisions for foreseeable emergencies based on historical data/records. Implementation of projects not included in the APP shall not be allowed.

V. Public Bidding (Competitive Bidding)

This is a method of procurement which is open to participation by any interested party and which consists of the following processes: advertisement, pre-bid conference, eligibility screening of prospective bidders, receipt and opening of bids, evaluation of bids, post qualification, award of contract, contract signing and Notice to Proceed.

This method shall be used for procurement or contracts amounting to P1 Million and above.

A. GUIDELINES ON PUBLIC BIDDING

1. Preparation of Bid Documents by the EC

The Bidding Documents shall include the following:

- a) Approved Budget for the Contract (ABC)
- b) Eligibility Requirements (ANNEX B)
- c) Instructions to Bidders which include the following:
 1. criteria for eligibility
 2. bid evaluation and post qualification
 3. date, time, and place of the pre-bid conference
 4. submission of bids and opening of bids
- d) Terms of Reference
- e) Plans and Technical Specifications

The specifications and other terms in the Bidding Documents shall reflect minimum requirements or relevant characteristics and or performance requirements to meet the needs of the EC in clear and unambiguous terms. Reference to brand names shall not be allowed.

- f) Form of Bid, Price Form, List of Goods or Bill of Quantities
- g) Delivery time or Completion Schedule
- h) Form, Amount and Validity Period of Bid Security
- i) Form and Amount of Performance Security and Warranty
- j) Form of contract, General Conditions of the contract and Special Conditions of the contract. Include in the contract a provision for liquidated damages/penalty clause and warranty.

k) Certification of availability of funds for the project.

2. Invitation to Bid advertised at least once in a newspaper of general and national circulation and posted in a conspicuous place in the EC premises (certified by BAC Chairman).

❖ **Advertisement of Invitation to Bid (Contents)**

1. Name of Contract to be bid and brief description
2. General statement on the criteria for eligibility check, examination and evaluation of bids and post qualification.
3. Date, time and place of the deadline for the submission and receipt of eligibility requirements, technical and financial proposals, the pre-bid conference, and the opening of bids.
4. The Approved Budget for the Contract (ABC), cite whether exclusive or inclusive of VAT.
5. Source of Funding.
6. Period of availability of bidding documents, place where they may be secured, and price of bidding documents (non-refundable).
7. Delivery Schedule/Completion of Project.
8. Name, address, telephone number, fax number, e-mail and website addresses as well as the designated contact persons.
9. **Reservation Clause**

EC reserves the right to:

1. Reject Any and All Bids
2. Declare Failure of Bidding
3. Not Award Contract

SITUATIONS:

1. Prima Facie Evidence of COLLUSION between any employee or appropriate officer of the EC
2. Collusion between or among the bidder themselves.
3. BAC failed in following the Prescribed Bidding Procedures
4. Project no longer necessary as determined by the EC

3. Pre-Bid Conference

A pre-bid conference should be conducted (at least 12 calendar days) before the deadline for the submission and receipt of bids. The pre-bid conference shall discuss among other things the eligibility requirements and the technical and financial components of the contract to be bid as stipulated in the Bid Documents. Attendance of the bidders to the pre-bid conference is optional, except when specifically stated in the Invitation to Bid. Only those who have purchased the Bidding Documents shall be allowed to participate in the pre-bid conference and raise or submit written queries or clarifications.

❖ Conduct of Pre – Bid Conference

- a. Attendees to the pre-bid conference are only the prospective bidders who have bought bid documents, or their authorized representative (duly notarized).
- b. The secretariat shall take the minutes of the meeting and preferably video taped; and made available to all participants not later than three (3) calendar days after the pre-bid conference.
- c. **Any statement made at the pre-bid conference shall not modify the terms of the bidding documents unless such statement is specifically identified in writing as an amendment or as Supplemental Bulletin.**
- d. Bidders who have submitted bids before the issuance of Supplemental/Bid Bulletin have to be informed in writing and allowed to modify or withdraw their respective bids.
- e. Supplemental Bulletin by BAC must be issued not later than 7 calendar days before the deadline for the submission and receipt of bids.
- f. The BAC and the prospective bidders shall synchronize their timepieces in preparation for the scheduled Bid opening. The BAC shall have an official timer.

4. Receipt / Opening of Bids / Pre-qualification

- 4.a For purposes of determining the eligibility of bidders, the checklist of criteria stated in Section I of Annex B shall be required, using Non-Discretionary "Pass/Fail" Criteria.
- 4.b In the opening of bids, the Two Envelope System shall be adopted using Annex B as the working tool.

Envelope 1 containing the Class A and B documents segregatedly filed and labeled shall be opened in the following order:

- | | | | |
|----------|---|---------------------|----------------------|
| Folder 1 | - | Legal Documents | } See Annex B |
| Folder 2 | - | Technical Documents | |
| Folder 3 | - | Financial Documents | |
| Folder 4 | - | Class "B" Documents | |

The submitted documents of each bidders shall be examined and checked to ascertain they are all present using a non-discretionary "pass/fail" criterion. If a bidder submits the required document, it shall be rated "passed" for that particular requirement. Hence, bids that fail to include any requirement or are incomplete or insufficient shall be considered "failed" otherwise, the first envelope shall be rated as "passed".

The second envelope (ENVELOPE 2) of the Bid proposal of bidders that were rated failed or ineligible shall no longer be opened and should be returned to the bidder.

5. Bid Evaluation

- 5.a After determining compliance with the requirements in the first envelope, the second bid envelope (envelope 2) of each remaining eligible bidder whose first bid envelope (envelope 1) was rated "passed" shall forthwith be opened in the following order:

Envelope 2

- | | | | | |
|--------|---|---|-----------|----------------------|
| Folder | 1 | - | Technical | } See Annex B |
| Folder | 2 | - | Financial | |

- 5.b The bidder whose technical bid proposal passed the technical requirements and specifications shall be rated as "passed", afterwhich Folder 2 of the second envelope containing the financial proposal shall be opened.
- 5.c Financial bid proposals higher than the ABC shall outrightly be disqualified for post-qualification. Computational errors and omissions are considered for proper comparison of bids.
- 5.d In the evaluation of bids, the BAC shall evaluate all bids on an equal footing to ensure fair and competitive bid evaluation. For this purpose, all bidders shall be required to include the cost of all taxes such as but not limited to Value Added Tax (VAT), income tax, local taxes and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including taxes, shall be the bases for bid evaluation. comparison and for determining the LOWEST CALCULATED BID.

- 5.e Bids shall then be ranked in the ascending order of their total calculated bid prices, as evaluated and corrected for computational errors, and other bid modifications to identify the "Lowest Calculated Bid"
- 5.f The bid which is determined to be the Lowest Calculated Bid shall be subjected to post qualification.

EVALUATION OF BIDS

In case of discrepancies

- | | | |
|---|-------|---|
| 1) Figures against word | ----- | Words shall prevail |
| 2) Total price per item against price per item multiplied by the quantity | ----- | Price per item multiplied by the quantity shall prevail |
| 3) STATED TOTAL PRICE against actual sum of prices of component items | ----- | Actual sum of prices of component shall prevail |
| 4) Unit Cost in the detailed estimate against unit cost in Bill of quantities | ----- | Unit cost in its bill of quantities shall prevail |

6. **Post-Qualification** - the stage where the bidder with the Lowest Calculated Bid undergoes verification and validation whether he has passed all the requirements and conditions as specified in the Bidding Documents

Objectives

- 6.a To verify and validate the authenticity of documents submitted by the Bidder with the Lowest Calculated Bid.
- 6.b To determine whether the Bidder with the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions for eligibility and bidding.

Legal Requirements - Licenses and agreements submitted and the fact that he is not included in any Government "blacklist"

Technical Requirements - Performance in on-going and completed projects, competence and experience

- Financial Requirements** - The required bank commitment to provide a credit line to bidder in the amount specified and over the period stipulated in the Instructions to Bidders, Net Financing Contracting Capacity (NFCC), and audited financial statements to ensure that the bidder can sustain the operating cash flow of the transaction

6.c To declare the "LOWEST CALCULATED RESPONSIVE BID"

If the Lowest Calculated Bid failed in the post-qualification, the BAC shall proceed with its post-qualification process to the next Lowest Calculated Bid until a responsive bid shall have been determined.

7. Notice of Award

- 7.a The BAC shall recommend to the EC Board through the General Manager the award of contract to the LOWEST CALCULATED RESPONSIVE BID.
- 7.b After Board approval, the bidder with the Lowest Calculated Responsive Bid shall post a performance security.
8. **Contract Signing** - within ten (10) calendar days from the receipt of Notice of Award and posting of performance security by the bidder with the "Lowest Calculated Responsive Bid".
9. **Notice to Proceed to be issued by the EC** - not later than seven (7) calendar days from the date of approval of the contract.

B. FAILURE OF BIDDING

❖ **There shall be a failure of bidding if:**

- a) No bids are received
- b) No bid qualifies as the Lowest Calculated Responsive Bid.
- c) The bidder determined to be the "Lowest Calculated Responsive Bid" refuses without justifiable cause to accept the award of contract.

Under any of the above instances, the contract shall be re-advertised and re-bid observing the same process.

C. In case of two consecutive Failure of Biddings

❖ **The BAC shall,**

- a. conduct mandatory review & evaluation of the terms, conditions & specifications (TCS), including its cost estimates
- b. revise the TCS and if necessary adjust the ABC, and conduct a re-bidding with re-advertisement
The ABC however cannot be increased by more than 20 % of the ABC for the last failed bidding
- c. allow all eligible bidders who have previously offered their bid to submit new bids and observe the same process and set the new periods according to the same rules followed during the previous bidding.

D. Bid Security

1. All bids shall be accompanied by a bid security payable to the electric cooperative as guarantee that the successful bidder shall enter into contract from receipt of the Notice of Award.

Required Bid Security are the following:

<u>Form of Security</u>	<u>Amount</u>
1) Cash, Cashier's check, Manager's check, bank draft	2% of <u>ABC</u>
2) Bank Guarantee (from universal and/or commercial bank)	2 ½ of <u>ABC</u>

2. Bid securities shall be returned to bidders that were rated ineligible. However, bids that were rated eligible, bid securities shall be returned only after the bidder with the Lowest Calculated Responsive Bid has signed the contract and furnished the performance security.

E. Performance Security

To guarantee the faithful performance of the winning bidder of its obligations under the contract prepared in accordance with the bidding documents, it shall post a performance security upon the signing of the contract.

<u>Form of Security</u>	<u>Amount</u>
1) Cash, Cashier's check, Manager's check, bank draft. irrevocable letter of credit	5% of <u>Contract Price</u>
2) Bank Guarantee (from universal and/or commercial bank)	10% of <u>Contract Price</u>

❖ Failure to Enter into Contract and post Performance Security

- a) If for justifiable causes, the bidder with the Lowest Calculated Responsive Bid fails or refuses or is otherwise unable to enter into contract with the EC, or if the bidder fails to post the required performance security within the period stipulated in the Bidding Documents, the BAC shall disqualify the said bidder and shall undertake post qualification for the next ranked Lowest Calculated Bid. This procedure shall be repeated until an award is made. However, if no award is possible, the contract shall be subjected to a new bidding.
- b) In the case of a failure to post the required performance security, the bid security shall be forfeited without prejudice to the imposition of sanctions.

F. Bid Validity

Bids and Bid Securities shall be valid for a reasonable period as determined by the head of the procuring entity concerned, and shall be indicated in the bidding documents. but in no case shall exceed one hundred twenty (120) calendar days from the date of the opening of bids.

G. Liquidated Damages

All contracts executed shall contain a provision on liquidated damages which will be payable in case of breach of contract.

For the procurement of goods the amount of liquidated damages shall be at least equal to 1/10 of 1% (.01%) of the cost of the unperformed portion for every day of delay.

Once the cumulative amount of liquidated damages reaches ten percent (10%) of the amount of the contract the contract shall be rescinded without prejudice to other courses of action and remedies to be undertaken.

H. Warranty

To assure that manufacturing defects shall be corrected by the supplier a warranty shall be required from the contract awardee.

- a) for supplies ---- minimum of 3 months
- b) for equipment ---- 1 year after performance of the contract

I. Computation of Net Financial Contracting Capacity (NFCC)

NFCC = [(Current assets minus current liabilities) (K)] minus the value of all outstanding projects under ongoing contracts, including awarded contracts yet to be started.

Where:

K = 10 for a contract duration of one year or less, 15 for a contract duration of more than one year up to two years, and 20 for a contract duration of more than 2 years.

Note: Use Illustrations A,B,C as tools to simplify computation and as reference for the validation of the bidder's track record in the post qualification process.

J. Timetable of Activities (Annex C)

K. Selling of Bid Documents

- a. To defray the expenses incurred in the preparation of Bid Documents, the Bid Documents will be for sale to interested bidders.
- b. Setting the price for the Bidding Documents.
 - Direct costs - Includes development costs, reproduction costs, communication costs.
 - Indirect costs - Overhead, supervisions, and administrative costs, honoraria

The price of the Bidding Documents should not have an effect of discouraging competition.

L. The Bids and Awards Committee (BAC) and its Composition

- a. The BAC shall have at least five (5) members, but not to exceed 7 members.
- b. The Chairman and the Vice chairman of the BAC should be an official occupying a department level plantilla position and of permanent status of employment in the cooperative.
- c. The chairman and the members of the BAC shall be designated by the General Manager and confirmed by the Board.
- d. No member of the Board nor the General Manager and nor the Internal Auditor can sit as member of the BAC however, they can sit as observers only during the opening of bids.

Composition of the BAC

Chairman	}	Department level or Area Manager except the Finance Manager
Vice Chairman		
Members	}	Department Manager, Area Manager, Division Manager or Section Head from any of the Departments
Members		
Members		

The members of the BAC shall have a fixed term of one (1) year reckoned from the date of appointment. Term of office can be extended only for another 6 months but for a justifiable reason.

Technical Working Group

Chairman	}	Chairman and Members may be composed of department managers, division managers and section chiefs from a pool of technical, financial and or legal experts to assists the BAC in the procurement process.
Members		
Members		
Members		

Functions of the BAC

- 1) Prepares the bid documents
- 2) Advertise or post the invitations to bid.
- 3) Conduct pre-bid conference
- 4) Determine the eligibility of the prospective bidders
- 5) Receive bids
- 6) Conduct the evaluation of bids
- 7) Undertake post qualification proceedings
- 8) Recommend award of contracts to the General Manager and to the Board

- 9) Under special cases, recommends the use of alternative Methods of Procurement.

M. Functions of the Technical Working Group

Assists the BAC in the conduct of its functions particularly in the preparation of Bid Documents, eligibility screening, evaluation of bids and post qualification.

N. Functions of the BAC Secretariat

- 1) Provides administrative support to the BAC.
- 2) To record attendance during the pre-bid conference and during the opening of bids.
- 3) To maintain all records pertaining to the BAC.
- 4) Organize and make all necessary arrangements for the BAC meetings, attend BAC meetings as secretary and prepare minutes of meeting.
- 5) Prepare BAC resolutions that pertains to recommendations and other matters.
- 6) Responsible for the sale/distribution of Bid Documents to interested bidders.

O. OBSERVERS

To enhance the transparency of the process, the BAC shall, in all stages of the procurement process invite in addition to the representative of the Internal Audit, at least an observer coming from the employees' union or association and from a duly recognized private group in a sector or discipline relevant to the procurement at hand (who shall not have the right to vote) or to sit in its proceedings.

Observers should be invited in writing at least three (3) days before the opening of bids.

Responsibilities of the Observers:

1. To prepare a report indicating their observations made on the procurement activities for submission to the Head of the Procuring entity (General Manager and the Board), copy furnished the BAC chairman.
2. If no report is submitted by the observer, then it is understood that the bidding activity conducted by the BAC followed the correct procedure.

P. QUORUM

A majority of the total BAC composition shall constitute a quorum for the transaction of business, provided that the presence of the Chairman or Vice-Chairman shall be required.

Q. MEETINGS of the BAC

The chairman or, in his absence, the Vice-Chairman, shall preside at all meetings of the BAC. The decision of at least a majority of those present at a meeting at which there is quorum shall be valid and binding as an act of the BAC. Provided, however, that the chairman or, in his absence, the Vice-Chairman shall vote only in case of a tie.

R. Honoraria of the BAC, TWG and BAC Secretariat

The EC may grant honoraria to the BAC, TWG and BAC Secretariat for every successful bidding conducted, funding of which will be sourced from the following:

- 1) Proceeds from sale of Bid Documents (Net of expenses)
- 2) Forfeited Security and Performance Security
- 3) Accreditation Fees
- 4) Protest Fees
- 5) Fees charged for copies of minutes of bid openings, BAC resolutions and other BAC Documents

The Honoraria of each person for every successful bidding conducted shall not exceed the rates indicated below:

BAC Chairman	-	P3,000
BAC members	-	2,500
TWG Chairman and members: and Secretariat	-	2,000

Successful bidding means the contract has been awarded to the winning bidder.

VI. Alternative Modes of Procurement

A. Simplified Bidding (Sealed Canvass)

This method of procurement involves direct invitation to bid from a set of accredited/pre-selected suppliers with known experience and proven capability on the requirements of the particular contract.

This method shall be used under the following circumstances:

- 1) Approved Budget of the Contract is P300,000.00 and above but below P1 Million provided that there is no splitting of procurement.

Splitting of contracts – the division or breaking up of contracts in smaller quantities and amounts, or dividing contract implementation into artificial phases or sub-contracts for the purpose of evading or circumventing the necessity of public bidding.

- 2) Accreditation of suppliers/contractors is updated for the last six (6) months using the prescribed accreditation procedure/requirements.

Accreditation Requirements

- 1) DTI Business name registration or SEC registration certificate
- 2) Valid and current Mayor's permit/municipal license
- 3) Tax payer's identification number
- 4) BIR Value Added Tax registration
- 5) Certification that the supplier/contractor is not black listed or banned from bidding by the government or any of its agencies and other private corporations or electric cooperatives.
- 6) Compliance with EO #398
 - a. Proof of VAT payment for the past six months
 - b. Tax clearance from the BIR for the last two quarters
- 7) On-going, completed or awarded contract not yet started within the relevant period specifying the following:
 - a. Name of the contract
 - b. Date of contract
 - c. Amount of contract and value of outstanding contracts
 - d. Date of Delivery
 - e. End-user's acceptance if completed

For Accreditation – The EC may opt to require accreditation fee and expiration period which shall be determined by the BAC.

B. Repeat Order

This is a method of procurement of goods from the previous winning bidder of contract awarded through competitive bidding.

Repeat order must only be resorted to under the following conditions:

- a) Contract on unit price of the repeat order must be the same or lower than those in the original contract, provided that such prices are still the most advantageous to the coop after price verification
- b) The repeat order will not result in splitting of contracts.
- c) The repeat order shall be availed of only within 6 months from the date of the Notice to Proceed arising from the original contract that was a result of competitive bidding.
- d) The repeat order shall not exceed twenty five percent (25%) of the quantity of each item in the original contract that was a result of competitive bidding.

C. Open Canvass/Shopping/Emergency Purchase

This method of procurement simply requests for the submission of price quotations for readily available off the shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications.

This mode of procurement can be resorted to when there is an unforeseen contingency requiring immediate purchase, provided, that amount shall not exceed P300 Thousand; provided further that at least three (3) price quotations from accredited suppliers shall be obtained.

D. Negotiated Procurement is a method of procurement of goods, infrastructure projects and consulting services, whereby the procuring entity directly negotiates a contract with a capable supplier, contractor or consultant in any of the following cases:

- a) Two- failed Biddings - There has been a second failure of public bidding.
- b) Emergency Cases - There exist imminent danger to life or property during a state of calamity, or when time is of the essence arising from actual or man-made calamities.
- c) Take-Over of Contracts. A contract has been rescinded or terminated for causes provided for in the contract and existing laws, procuring entity decides to take over, infrastructure facilities and other public utilities.

d) Adjacent or contiguous. Where the subject contract is to an on-going infrastructure project, provided, however, that:

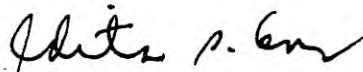
- d.1 The original contract is the result of a competitive bidding;
- d.2 The subject contract to be negotiated has similar or related scopes of work;
- d.3 It is within the contracting capacity of the contractor/consultant;
- d.4 The contractor/ consultant uses the same prices or lower unit prices as in the original contract less mobilization cost;
- d.5 The amount involved does not exceed the amount of ongoing project;
- d.6 The contractor/ consultant has no slippage/ delay.

VII. AMENDMENTS

In the implementation of these guidelines, the National Electrification Administration (NEA) may issue additional guidelines or introduce modification thereto through the amendment of its specific provisions as the need arises.

VIII. EFFECTIVITY

These guidelines shall immediately take effect fifteen (15) days following its publication in a newspaper of general circulation. Let three (3) copies hereof be filed with the University of the Philippines (UP) Law Center pursuant to Presidential Memorandum Circular No. 11, dated 09 October 1992.


EDITA S. BUENO
Administrator

NATIONAL ELECTRIFICATION
ADMINISTRATION

IN REPLYING, PLS. CITE: NOR023443



NER- 0R023443

Approved by the NEA Board of Administrators on November 6, 2013 under Resolution No. 130.

ANNUAL PROCUREMENT PLAN

CALENDAR YEAR _____							
PROJECT	Extent/Size of Contract Scope/Packages	Procurement Method	TIME SCHEDULE				APPROVED BUDGET FOR THE CONTRACT
			1	2	3	4	
A. Procurement of Goods/Supplies/Materials/Equipment							
B. Procurement of Civil Works							
C. Procurement of Contracting Services							
D. Provision for Emergency Purchases							
TOTAL							
Prepared by:		Approved by:		Confirmed by the Board:			
Name and Signature BAC CHAIRMAN		Name and Signature General Manager		Board Resolution No.____			

CHECKLIST OF ELIGIBILITY REQUIREMENTS				
	Supplier A	Supplier B	Supplier C	Remarks
I. Eligibility Requirements (Class "A" Documents)				
A. LEGAL DOCUMENTS: FOLDER 1 (ENVELOPE I)				
1. DTI business name registration/SEC registration certificate, whichever is appropriate under laws of the Philippines;				
2. Valid and current Mayor's permit/municipal license; (principal place of business)				
3. Taxpayer's Identification Number;				
4. BIR Value Added Tax registration;				
5. Statement that the bidder is not "blacklisted" or banned from bidding by the government or any of its agencies, offices, corporation or LGUs, and other private corporations or electric cooperatives; including non-inclusion in the Consolidated Blacklisting Report issued by the Government Procurement Policy Board (GPPB), as provided in Section 69.4 of the IRR-A No. 9184.				
6. Compliance with E.O.#398				
a. Proof of VAT payments for the past six months.				
b. Tax Clearance from the BIR to prove bidder's full and timely payment of taxes to the government				
c. A Certification under oath from the bidders responsible officers that the bidder is free and clear of all liabilities with the government.				
B. TECHNICAL DOCUMENTS: FOLDER 2 (ENVELOPE I)				
1. Statement in matrix form all ongoing and completed government and private contracts (service contracts, maintenance contracts, purchase orders, job orders, etc.) within the relevant period, where applicable, including contracts awarded but not yet started, if any. The statement shall state whether each contract is:				
a. Ongoing, Completed or Awarded but not yet started; within the relevant period, where applicable. Each contract should include the following:				
i. The name of the contract;				
ii. Date of contract;				
iii. Amount of contract and value of outstanding contracts;				
iv. Date of delivery;				
v. End-user's acceptance, if completed				
b. Similar or not similar in nature and complexity to the contract to be bid. For the procurement of goods, a contract shall be considered "similar" to the contract to be bid if it involves goods or related services of the same nature and complexity as those which are the subject of the public bidding concerned.				
2. PCAB license - (Philippines Contractors' Accreditation Board) for infrastructure projects				

BAC

NAME	SIGNATURE	POSITION

TWG

NAME	SIGNATURE	POSITION

OBSERVERS

NAME	BAC SIGNATURE	POSITION

C. FINANCIAL DOCUMENTS: FOLDER 3 (ENVELOPE I)	Supplier A	Supplier B	Supplier C	Remarks
1. Complete set of audited financial statements, stamped "received" by the BIR or its duly accredited and authorized institutions, for the immediately preceding year, showing, among others, the prospective bidders' total and current assets and liabilities.				
Complete set of financial statement includes the following:				
1) Balance Sheet				
2) Income Statement				
3) Statement of Changes in Equity				
4) Cash Flow Statement				
5) Notes to Financial Statement				
6) Statement of Management Responsibility for Financial Statement				
2. The prospective bidder's computation for its Net Financial Contracting Capacity (NFCC) or a commitment from a universal or commercial bank to extend to it a credit line if awarded the contract to be bid, in an amount not lower than that set by the procuring entity, which shall be at least equal to ten percent (10%) of the Approved Budget for the Contract (ABC) to be bid.				
Class "B" Documents FOLDER 4 (ENVELOPE I)				
1. Valid joint venture agreement, in case of a joint venture. Each member of the joint venture shall submit the required eligibility documents; and				
2. Letter authorizing the BAC or its duly authorized representative/s to verify any or all of the documents submitted for the eligibility check.				
3. Notarized statement that each of the documents submitted in satisfaction of the eligibility requirements is an authentic and original copy, or a true and faithful reproduction or copy of the original, complete, and that all statements and information provided therein are true and correct.				
II. BID PROPOSALS (ENVELOPE 2)				
TECHNICAL PROPOSAL (FOLDER 1)				
1. Bid Security as to form, amount and validity period				
2. Authority of the signatory				
3. Confirming statement on Delivery Schedule				
4. Confirming statement on warranty being offered				
5. Details of Technical Specification				
FINANCIAL PROPOSAL (FOLDER 2)				
1. Bid prices in the prescribed bid form				

Kulas Electrical Supplies, Inc.
Summary of projects 2008-2010

ILLUSTRATION A

Name of Company	Project	Contract Price	Date Project Started/ Notice to Proceed	Percentage of Completion	Expected Date of Completion	Outstanding Projects
SANPELCO	10 MVA Substation Supply and Construction	P23M	Aug. 6, 2009	100%		-
MERALCO	20 MVA Substation Supply/ Construction	P28M	Jan. 31, 2010	85%	Dec. 31, 2010	4.2M
KUBELCO	Supply of Concrete Poles 45' – 180 pcs. 45" – 50	26M	June 25, 2010	48%	Dec. 31, 2011	15M
Beauty Electric Co.	Supply of 25 KVA transformers – 100 pcs.	19M	Oct. 5, 2010	35%	Feb. 2, 2011	12.35M
Commissioner's Electric Co.	Construction of 8 Km. 69 KV	20M	Dec. 10, 2010	-	July 21, 2011	20M
Total						P51.55M

Year
2010 - 21 days
2011 - <u>12 months</u>
= 12 months and 21 days
Therefore K=10

NFCC = [(Current Assets – Current Liabilities) K] – Value of Outstanding Projects

$$[(P203M - 196) \times 10] - 51.55 = ABC - P60M$$

$$[7M \times 10] - 51.55 M = P18.45M \quad 10\% - P6M$$

Assumptions:

- Current Assets - P203M
- Current Liabilities - P196M
- ABC - P 60M
- Opening of Bid - December 2010

Compare (P18.45M) NFCC against the required 10% of the ABC. Computed NFCC of P18.45M is greater than P6M therefore, the bidder passed.

MC

Kulas Electrical Supplies, Inc.
Summary of projects 2008-2010

ILLUSTRATION B

Name of Company	Project	Contract Price	Date Project Started/ Notice to Proceed	Percentage of Completion	Expected Date of Completion	Outstanding Projects
SANPELCO	10 MVA Substation Supply and Construction	P23M	Aug. 6, 2009	100%		-
MERALCO	20 MVA Substation Supply/ Construction	P28M	Jan. 31, 2010	85%	Dec. 31, 2010	4.2M
KUBELCO	Supply of Concrete Poles 45' – 180 pcs. 45" – 50	26M	June 25, 2010	48%	Dec. 31, 2011	15M
Beauty Electric Co.	Supply of 25 KVA transformers – 100 pcs.	19M	Oct. 5, 2010	35%	Feb. 2, 2011	12.35M
Commissioner's Electric Co.	Construction of 8 Km. 69 KV	20M	Dec. 10, 2010	-	July 21, 2011	20M

Total

P51.55M

NFCC = [(Current Assets – Current Liabilities) K] – Value of Outstanding Projects

$$\begin{aligned}
 [(P210M - 205) \times 10] - 51.55 &= & ABC - P60M \\
 [5M \times 10] - 51.55 M &= (P1.55M) & 10\% - P6M
 \end{aligned}$$

Assumptions:

- Current Assets - P210M
- Current Liabilities - P205M
- ABC - P 60M
- Opening of Bid - December 2010

Compare (P1.55M) NFCC against the required 10% of the ABC. Computed NFCC of P1.55M is lesser than P6M therefore, the bidder failed

Year

2010 - 21 days

2011 - 12 months

= 12 months and 21 days

Therefore K=10

**Kulas Electrical Supplies, Inc.
Summary of projects 2008-2010**

ILLUSTRATION C

Company Name	Project	Contract Price	Date Project Started/ Notice to Proceed	Percentage of Completion	Expected Date of Completion	Outstanding Projects
PNELCO	10 MVA Substation Supply and Construction	P23M	Aug. 6, 2009	100%		-
ERALCO	20 MVA Substation Supply/ Construction	P28M	Jan. 31, 2010	85%	Dec. 31, 2010	4.2M
IBELCO	Supply of Concrete Poles 45' - 180 pcs. 45" - 50	26M	June 25, 2010	48%	Dec. 31, 2011	15M
Beauty Electric Co.	Supply of 25 KVA transformers - 100 pcs.	19M	Oct. 5, 2010	35%	Feb. 2, 2011	12.35M
Commissioner's Electric Co.	Construction of 8 Km. 69 KV	20M	Dec. 10, 2010	-	Jul. 21, 2012	20M
Total						P51.55M

Year	Duration
2010	- 21 days
2011	- = 1 year
2012	- 21 days + 6 months
	= 42 days + 6 months + 1 year
	= 1 year & 7 months & 12 days
	Therefore K = 15

NFCC = [(Current Assets - Current Liabilities) K] - Value of Outstanding Projects

$$\begin{aligned}
 &P203M - 196 \times 15] - 51.55 = \text{ABC} - P60M \\
 &[7M \times 15] - 51.55 M = \mathbf{P53.45M} \qquad 10\% - P 6M
 \end{aligned}$$

Assumptions:

- Current Assets - P203M
- Current Liabilities - P196M
- ABC - P 60M
- Opening of Bid - December 2010

Compare (P53.45M) NFCC against the required 10% of the ABC. Computed NFCC of P53.45M is greater than P6M therefore, the bidder passed.

MATRIX OF BIDDING ACTIVITIES		
1.	Preparation of Bid documents/TOR	} PREPARATION STAGE
2.	Meeting with TWG	
3.	Meeting with BAC & TWG	
4.	Advertisement of Invitation to Bid in newspaper of general circulation (if ABC is P1,000,000.00 and above)	Within 7 calendar days
5.	Pre-bid Conference	At least 12 calendar days before bid opening
6.	Opening of Bids	15-30 days after last date of advertisement. Preliminary Evaluation shall commence during the opening of bids (computational errors and omissions)
7.	Evaluation of Bid	7 calendar days
8.	Meeting with BAC & TWG	
9.	Post Qualification	30 calendar days from bid opening
10.	Meeting with TWG & BAC	
11.	Recommendation by the BAC of Lowest Calculated Responsive Bid for Approval by the General Manager	} 15 calendar days from post qualification
12.	Approved Recommendation by the General Manager to be confirmed by the Board	
13.	Notice of Award	Within a period not exceeding 15 calendar days from the date of confirmation by the EC Board of the GM's recommendation for the Lowest Calculated Responsive Bid
14.	Contract Signing	Within 10 calendar days from receipt of Notice of Award
15.	Notice to Proceed	Not later than 7 calendar days from the date of approval of the contract by the appropriate authority
16.	Turn-over Activities/Delivery/Inspection/Acceptance	



REPUBLIC OF THE PHILIPPINES
NATIONAL ELECTRIFICATION ADMINISTRATION
QUEZON CITY

THE REVISED NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013

WHEREAS, Section 10, Chapter II of Presidential Decree No. 269, as amended by Presidential Decree No. 1645, empowers the National Electrification Administration (NEA) to issue rules and regulations in all matters affecting Electric Cooperatives;

WHEREAS, Section 4 (q) of Presidential Decree No. 269, as amended by Republic Act No. 10531 in relation to Section 5 (q) of its Implementing Rules and Regulations (IRR) vests upon NEA the primary and exclusive jurisdiction in the adjudication of complaints against electric cooperative officers, whether stock or non-stock, and all matters relating to the effective implementation of the provisions of RA No. 10531;

WHEREAS, under Section 4-A (a) & (b) of Presidential Decree No. 269, as amended by Republic Act No. 10531, and Section 6 (a) & (b) of its Implementing Rules and Regulations, the NEA, has the following powers –

“(a) issue orders, rules and regulations, *motu proprio* or upon petition of third parties, to conduct investigations, referenda and other similar actions on all matters affecting the electric cooperatives;

“(b) issue preventive or disciplinary measures including, but not limited to, suspension or removal and replacement of any or all of the members of the board of directors and officers of the electric cooperative, as the NEA may deem fit and necessary and to take any other remedial measures as the law or any agreement or arrangement with NEA may provide, to attain the objectives of this Act.

WHEREAS, Section 7 of the implementing Rules and Regulations of RA 10531 enumerates the jurisdiction of NEA over administrative cases:

- a) Cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA's exercise of its *motu proprio* powers as provided in Section 6 of the Act. For the purpose of this section, the ECs officers referred to shall be the following:
 - i. Members of the Board of Directors;
 - ii. General Manager;
 - iii. Department Managers;

- iv. Sub-Office Area Managers;
- v. Members of the Bids and Awards Committee; or
- vi. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

NOW, THEREFORE, the following Rules of Procedure are hereby adopted and promulgated:

RULE I
TITLE

SECTION 1. - These Rules shall be known as **"THE NEA ADMINISTRATIVE RULES OF PROCEDURES OF 2013."**

SECTION 2. SUPPLETORY APPLICATION OF RULES OF COURT. - The pertinent provisions of the 1997 Rules of Civil Procedures shall, in the interest of speedy and efficient administrative justice, be applied by analogy and/or in a suppletory character and effect, in the absence of any applicable provision herein.

RULE II
DEFINITION OF TERMS

SECTION 1. DEFINITIONS. – The terms and phrases defined in the Presidential Decree 269, as amended by Presidential Decree 1465 shall be given the same meanings when used herein.

- (a) **"NEA"** shall mean the Board of Administrators of the National Electrification Administration;
- (b) **"ADMINISTRATIVE COMMITTEE"** or **"ADCOM"** shall mean the body or the teams in which NEA has delegated the authority to receive evidence and to make the appropriate recommendation in the administrative cases pending before it. The NEA, upon the recommendation of the Administrator, may increase or reduce the number of ADCOM teams.
- (c) **"ADMINISTRATIVE CASES"** shall mean cases involving complaints against the EC Officers, including those cases or investigation and other similar actions arising from the NEA's exercise of its *motu proprio* powers as provided in Section 6 of the RA 10531.
- (d) **"EC OFFICERS"** shall mean any or all of the following:
 - 1. Members of the Board of Directors;
 - 2. General Manager;
 - 3. Department Managers;

4. Sub-Office Area Managers;
5. Members of the Bids and Awards Committee; or
6. Other designated/responsible officers with functions or rank equivalent to any one of those enumerated above.

**RULE III
PLEADINGS, NOTICES AND APPEARANCES**

SECTION 1. COMPLAINT. – A complaint against any or all of the EC Officers shall not be given due course unless it is in writing and verified to by the complainant(s) with payment of filing fee in the amount of Five Thousand (P5,000.00) Pesos. However, in cases initiated by NEA, the complaint need not be verified.

Payment of filing/docket fees is jurisdictional and its non-payment after the period specified shall *ipso facto* cause the dismissal of the case.

If the case is against a General Manager or other officers of an Electric Cooperative, the complainant shall have the option to file the complaint with the Board of Directors of said EC, whose decision is subject to approval by NEA on automatic review, or directly with the ADCOM. However, if the case is between the GM and the Board, the same should be filed with the ADCOM.

A party having more than one cause of action against the other party, arising out of the same relationship, shall include all of them in one complaint or petition.

No anonymous complaint shall be entertained unless there is obvious truth or merit to the allegations therein or supported by documentary or direct evidence, in which case the person complained of may be required to comment.

In all cases filed with the NEA-ADCOM, the party initiating the action shall be called the "Complainant", and the opposing party the "Respondent". The Complaint shall contain the following:

- (a) Full name and address of the complaint;
- (b) Full name and address of the person complained of as well as his position;
- (c) A narration of the relevant and material facts which shows the acts or omissions allegedly committed;
- (d) Copies of documentary evidence and affidavits of his witness, if any; and
- (e) Certification or statement of non-forum shopping.

SECTION 2. ISSUANCE OF SUMMONS. – Within two (2) days from receipt of the complaint, the ADCOM Secretariat shall issue the required summons, attaching thereto a copy of the complaint/petition and supporting documents, if any. The summons, together with a copy of the complaint, shall specify the date when to file an answer/comment.

SECTION 3. FILING AND SERVICE OF PLEADINGS.— The filing and service of pleadings, motions, notices, orders, judgments and other papers shall be made either personally, by mail or through private courier.

All pleadings shall be filed/submitted to the ADCOM Secretariat in five (5) legible copies with proof of service to the adverse party/ies, as the case may be.

The "Answer", which is in writing and under oath, shall be specific and shall contain material facts and applicable laws, if any, including documentary evidence, sworn statement covering testimonies of witnesses, if there be any, in support of his/her case. It shall also include a statement indicating whether or not he elects a formal investigation.

The Answer shall be submitted within an inextendible period of fifteen (15) from receipt of the summons with the complaint.

SECTION 4. PROHIBITED PLEADINGS AND MOTIONS. – The following pleadings, motions shall not be allowed and shall not be acted upon in the Cases covered by these Rules:

- (a) Motion to Dismiss the complaint except on, the ground of lack of jurisdiction over the subject matter, and forum shopping;
- (b) Motion for a Bill of Particulars;
- (c) Motion for New Trial;
- (d) Petition for Relief from Judgment when filed with the ADCOM;
- (f) Motion to Declare Respondent/s in Default.

SECTION 5. FAILURE TO ANSWER. – If the respondent fails to file his answer to the complaint within the reglementary period, he shall be considered to have waived his right thereto and formal hearing and investigation may commence.

SECTION 6. SERVICE OF NOTICES AND RESOLUTIONS. – (a) Notices or summonses and copies of orders, shall be served on the parties or counsel to the case personally by the duly authorized public officer within three (3) days from receipt thereof or by registered mail or through fax transmittal; provided that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court: *Provided, further,* That in cases of decisions and final awards, copies thereof shall be served on both parties or their counsel/representative personally or by registered mail; *Provided, further,* That in cases where a party to a case or his counsel on record personally seeks service of the decision upon inquiry thereon, service to said party shall be deemed effected upon actual receipt thereof; *Provided, finally,* That where parties are so numerous, service shall be made on counsel and upon such number of complainants, as maybe practicable.

(b) The officer serving the notice, order, resolution or decision shall submit his return within two (2) days from date of service thereof, stating legibly in his return his name, the names of the persons served and the date of receipt, which return shall be immediately attached and shall form part of the records of the case, In case of service by registered mail, the officer shall write in the return, the names of persons served and the date of mailing of the resolution or decision. If no service was effected, the service officer shall state the reason therefore in the return.

SECTION 7. PROOF AND COMPLETENESS OF SERVICE. – The return is *prima facie* proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails to claim his mail from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

SECTION 8. APPEARANCES. – An attorney appearing for a party is presumed to be properly authorized for that purpose. However, he shall be required to indicate in his pleadings his/her PTR and IBP numbers for the current year, his roll of attorneys' number **and the details of his/her MCLE Compliance.**

A non-lawyer may appear before the NEA - ADCOM or any Hearing Officer only if:

- (a) he represents himself as party to the case, or;
- (b) he is a duly-accredited member of any legal aid office duly recognized by the Department of Justice or Integrated Bar of the Philippines.

Appearances may be made orally or in writing. In both cases, the complete name and office address of both parties shall be made on record and the adverse party or his counsel/representative properly notified.

Any change in the address of counsel should be filed with the ADCOM and furnished the adverse party or counsel. Any change or withdrawal of counsel/representative shall be made in accordance with the Rules of Court.

RULE IV

VENUE, ASSIGNMENT AND DISPOSITION OF CASES

SECTION 1. VENUE. – All cases which the ADCOM has authority to hear and recommend for decision shall be filed with the ADCOM Secretariat of NEA.

SECTION 2. RAFFLE AND ASSIGNMENT OF CASES. – All complaints received by the ADCOM Secretariat shall within a period of seventy-two (72) hours from receipt thereof be raffled and assigned to either teams of the ADCOM.

All pleadings subsequent to the filing of the complaint shall be forwarded to the ADCOM where the case is pending.

SECTION 3. CONSOLIDATION OF CASES/COMPLAINTS. – Where there are two or more cases/complaints pending before different ADCOM Teams involving the same parties and common principal causes of action or the same parties with different causes of action, the subsequent cases/complaints may be consolidated with the first to avoid unnecessary costs or delay. Such consolidated cases/complaints shall be acted upon by the ADCOM to whom the first case was assigned.

In case of objection to the consolidation, the same shall be resolved by the ADCOM.

An order resolving the motion shall be inappealable.

SECTION 4. DISPOSITION OF CASES. – When a case is assigned to an ADCOM Team, the entire case and any or all incidents thereto shall be considered assigned to him such team; and the same shall be heard and acted upon in accordance with these rules.

**RULE V
PROCEEDINGS BEFORE THE NEA-ADCOM OR
HEARING OFFICE**

SECTION 1. MANDATORY CONCILIATION / MEDIATION CONFERENCE. – Immediately upon receipt of the Answer, the ADCOM shall issue a Notice of Mandatory Conciliation/Mediation Conference for the purpose of amicably settling the case, determining the real parties in interest, defining and simplifying the issues in the case, entering into admissions or stipulations of facts and threshing out all other preliminary matters.

The parties shall file with the ADCOM Secretariat and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the Conciliation and Mediation Conference, their respective Preliminary Conference Brief which shall contain, among others:

- a. A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof;
- b. A summary of admitted facts and proposed stipulation of facts;
- c. The issues to be tried or resolved;
- d. The documents or exhibits to be presented, stating the purpose thereof;

- e. A manifestation of their having availed or their intention to avail themselves of Alternative Dispute Resolution (ADR) from a panel of NEA Mediators; and
- f. The number and names of the witnesses, and the substance of their respective testimonies.

Failure to file the said Brief shall have the same effect as failure to appear at the Conciliation and Mediation proceedings.

Conciliation and mediation efforts shall be exerted by the ADCOM all throughout the proceedings. Should the parties arrive at any agreement as to the whole or any part of the dispute, the same shall be reduced to writing and signed by the parties and their respective counsel, or authorized representative, if any, before the ADCOM.

The compromise settlement shall be approved by the NEA Administrator, upon the recommendation of the ADCOM after being satisfied that it was voluntarily entered into by the parties and after having explained to them the terms and consequences thereof.

A compromise agreement duly entered into in accordance with this Section shall be final and binding upon the parties and the Order approving it shall have the effect of a judgment rendered by the NEA Board of Administrators. Should the parties fail to agree upon an amicable settlement, either in whole or in part, during the conference/s, the ADCOM shall issue an order stating therein the matters taken up and agreed upon during the conference/s and directing the parties to simultaneously file their respective verified position papers.

The mandatory conferences shall, except for justifiable grounds, be terminated within thirty (30) calendar days from the date of the first conference.

No motion for postponement shall be entertained except on meritorious grounds. **Successive** non-appearance of the complainant/s for two (2) scheduled hearings for mediation/conciliation conference shall be a ground for the dismissal of the case without prejudice.

In case of non-appearance of the respondent/s during the first conference, a second conference shall proceed. Non-appearance of the respondent during the second conference shall immediately terminate the mandatory conciliation / mediation conference. The complainant shall thereupon be allowed to file his position paper as well as submit evidence in support of his cause or causes of action after which, the NEA through ADCOM shall render its decision on the basis of the evidence on record.

SECTION 2. INTERVENTION. (a) Who may intervene – A person who has a legal interest on the matter in litigation, or in the success of either of the parties, or an interest against both, may, with leave of the ADCOM, be allowed to intervene in the action. The ADCOM shall consider whether or not the intervention will unduly delay or

prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

(b) Time to intervene – The motion to intervene may be filed at any time before rendition of judgment by the NEA Board of Administrators or the NEA-ADCOM by authority of the latter. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

(c) Pleadings - in - intervention – The intervenor shall file a complaint-in-intervention if he asserts a claim against either-or all of the original parties, or an answer-in-intervention if he unites with the defending party in resisting a claim against the latter.

(d) Answer to complaint - in - intervention – The answer to the complaint-in-intervention shall be filed within ten (10) days from notice of the order admitting the same, unless a different period is fixed by the ADCOM.

SECTION 3. SUBMISSION OF POSITION PAPERS / MEMORANDA. – Without prejudice to the provisions of the last paragraph, Section 2 of this Rule, the ADCOM shall direct the parties to simultaneously submit their Position Papers, with supporting documents and affidavits, within an inextendible **fifteen (15) days** from notice of termination of the mandatory conference.

These verified position papers to be submitted shall cover only those claims and causes of action raised in the complaint excluding those that may be amicably settled, and shall be accompanied by all supporting documents including the affidavits of their respective witnesses which shall take the place of the latter's direct testimony.

The parties shall thereafter not be allowed to allege facts, or present evidence to prove facts, not referred to and any cause of action not included in the complaint or position papers, affidavits and other documents.

SECTION 4. DETERMINATION OF NECESSITY OF HEARING. – Immediately after the submission by the parties of their position papers, the ADCOM shall, *motu proprio*, determine whether there is a need for a clarificatory hearing. At this stage, the ADCOM may, at its discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

SECTION 5. NATURE OF PROCEEDINGS. – The proceedings before the ADCOM shall be non-litigious in nature. Subject to the requirements of due process, the technicalities of law and procedure and the rules obtaining in the courts of law shall not strictly apply thereto. The ADCOM may avail itself or himself/herself of all reasonable means to ascertain the facts of the controversy speedily, including ocular inspection and examination of well-informed persons.

SECTION 6. ROLE OF ADCOM IN PROCEEDINGS. – The ADCOM shall personally conduct the conferences/hearings. Except as provided by law, the ADCOM shall determine the order of presentation of evidence by the parties, subject to the requirement of due process. It shall take full control of the proceedings, examine the parties and their witnesses to satisfy itself with respect to the matters at issue, ask questions only for the purpose of clarifying points of law or fact involved in the case. It shall limit the presentation of evidence to matters relevant to the issue before it and necessary for a just and speedy disposition of the case.

SECTION 7. MINUTES OF THE PROCEEDINGS. – The proceedings before the ADCOM shall be recorded. However, it shall make a written summary of the proceedings, including the substance of the evidence presented.

SECTION 8. NON-APPEARANCE OF PARTIES, AND POSTPONEMENT OF HEARINGS. – (a) Non-appearance at a hearing by the complainant, who was duly notified thereof, may be sufficient cause to dismiss the case without prejudice. Where proper justification, however, is shown by proper motion to warrant the re-opening of the case, the ADCOM shall call a second hearing and continue the proceedings until the case is finally decided, **subject to the submission of Position Papers**. Dismissal of the case for the second time due to the unjustified non-appearance of the complainant or petitioner who was duly notified thereof shall be with prejudice.

(b) The parties and their counsel or representative appearing before the ADCOM shall be prepared for continuous hearing. No postponements or continuances of hearings shall be allowed by the ADCOM except upon meritorious grounds and subject always to the requirement of expeditious disposition of cases and the termination of hearings within ninety (90) calendar days from the date of initial hearing.

SECTION 9. ISSUANCE OF AN ORDER SUBMITTING THE CASE FOR DECISION. – After the parties have submitted their position papers and supporting documents, and upon evaluation of the case, the ADCOM finds no necessity of further hearing, it shall issue an order expressly declaring the submission of the case for decision.

SECTION 10. INHIBITION. – Members of the ADCOM may voluntarily inhibit from the resolution of a case and shall so state in writing the legal justification/s therefore. Upon motion of a party, either on the ground of relationship within the fourth civil degree of consanguinity or affinity with the adverse party or counsel, or on question of impartiality, the members of the ADCOM may inhibit from further hearing the case. Such motion shall be resolved within five (5) days from the filing thereof. An order denying or granting a motion for inhibition is not appealable.

SECTION 11. PERIOD TO DECIDE CASE. – The ADCOM shall recommend decision for the approval of the NEA within thirty (30) calendar days after the submission of the case by the parties for decision, even in the absence of stenographic notes.

SECTION 12. CONTENTS OF DECISIONS. – The decisions /orders shall be clear and concise and shall include a brief statement of the (a) facts of the case; (b) issue/s involved; (c) applicable law or rules; (d) conclusions and the reasons therefore; and (e) specific **administrative liability and its corresponding penalty, if any.**

SECTION 13. SERVICE. – Every order, ruling or decision made by the NEA shall be served upon the parties or counsel affected thereby within ten (10) days from the time said order, ruling or decision is filed, by personal delivery, electronic mail, through facsimile or via private courier upon the attorney of record or, in case there be no attorney of record, upon the party interested; and in case a certified copy is sent by registered mail, the registry mail receipt shall be "*prima facie*" evidence of the receipt of such order, ruling or, decision by the parties in due course of mail.

SECTION 14. EXECUTION OF DECISION. – The Decision of the NEA shall be immediately executory.

No injunction or temporary restraining order shall be issued against the implementation of any order, ruling or decision of the NEA, except by the Court of Appeals, and only upon the posting of a bond sufficient to cover the liabilities and expenditures arising during the pendency of the writ or injunction or temporary restraining order: *Provided*, that the injunction shall only be effective for a period not exceeding sixty (60) days.

SECTION 15. CONTEMPT. – As a quasi-judicial agency, NEA is empowered to deputize local law enforcement agencies to enforce or implement its orders or decisions, with the power to cite for contempt any party or witness to any case before it for contumacious conduct.

The pertinent provisions on Contempt under Rule 71 of the 1997 Rules of Civil Procedure supplementary apply hereto and are adopted herein pursuant to Section 12, Rule 71 of the said 1997 Rules of Civil Procedure.

RULE VI REMEDIES

SECTION 1. MOTIONS FOR RECONSIDERATION. – Any interested party may request the reconsideration of any order, ruling, or decision of the NEA Board of

Administrators by means of a motion filed not later than fifteen (15) days from receipt of notice of the order, ruling, or decision in question. The grounds in which request for reconsideration is based shall clearly and specifically be stated in the petition. Copies of the said petition shall be served on all parties interested on the matter.

The filing of a motion for reconsideration shall not be a ground for the non-implementation of the Decision or Order sought to be reconsidered.

SECTION 2. GROUND FOR MOTION FOR RECONSIDERATION. – The Motion for Reconsideration shall be based on any of the following:

- (a) New evidence has been discovered which materially affects the decision rendered, or
- (b) The decision is not supported by the evidence on record, or
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the movant.

SECTION 3. REVIVAL/RE-OPENING OR RE-FILING OF DISMISSED CASE. – A party may file a motion to revive or re-open a case dismissed without prejudice, within thirty (30) calendar days from receipt of notice of the order dismissing the same.

**RULE VII
OFFENSES AND PENALTIES**

SECTION 1. OFFENSES. The following are the offenses and their respective penalties.

Offenses	1 st Offenses	2 nd Offenses	3 rd Offenses
(a) GRAVE OFFENSES			
(1) Grave Misconduct (work-related)	Removal		
(2) Gross Neglect	Removal		
(3) Conviction of a crime Involving moral turpitude	Removal		
(4) Falsification of official Documents	Removal		
(5) Dishonesty	Removal		
(b) LESS GRAVE OFFENSES			
(1) Gross Incompetence in the Performance of official Duties	Suspension 31-90 days	Removal 91-120 days	Removal
(2) Refusal to perform Official duty	Suspension 31-90 days	Removal	

(3) Gross insubordination	Suspension 31-90 days	Removal	
(4) Conduct prejudicial to The interest of the Electric cooperative and Member-consumers	Suspension 31-90 days	Removal	
(5) Wilful Violation/non- Compliance to NEA Issuances, memoranda And other rules and Regulations	Suspension 31-90 days		
(c) LIGHT OFFENSES			
(1) Simple neglect of duty	Suspension 1-30 days	Suspension 31-90 days	Removal
(2) Simple misconduct	Suspension 1-30 days	Suspension 31-90 days	Removal
(3) Insubordination	Suspension 1-30 days	Suspension 31-90 days	Removal
(d) The penalty of fine may be imposed instead of suspension from 1 – 30 days, payable to NEA.			
(e) The penalties imposed may include refund or payment of any amount of money misappropriated from the Electric Cooperative.			

SECTION 2. DISABILITIES/ACCESSORIES TO ADMINISTRATIVE PENALTIES.

- (a) Disqualification for reinstatement or reemployment in any electric cooperative;
- (b) Disqualification to run as candidate for a Board of Director position in any cooperative; and,
- (c) Forfeiture of retirement benefits.

SECTION 3. ADMINISTRATIVE DISABILITIES INHERENT IN CERTAIN PENALTIES.

- (a) The penalty of removal may carry with it that of cancellation of eligibility to run for the position of EC director, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in any Electric Cooperative unless otherwise provided in the decision;
- (b) The penalty of fine shall be paid to the electric cooperative computed on the basis of the respondent(s)' salary/per diems and/or other allowances at the time the decision becomes final and executory.

RULE VIII
MISCELLANEOUS PROVISIONS

SECTION 1. EFFECT OF PENDENCY OF PETITION FOR REVIEW/CERTIORARI WITH THE COURT. – The filing and pendency of a petition for review with the Court of Appeals or certiorari with the Supreme Court shall not stop the execution of the final decision of the NEA unless the Court issues a restraining order or an injunction.

SECTION 2. COMPUTATION OF PERIOD. – In computing any period of time prescribed by these Rules, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a Legal holiday, in which case the period shall run until the end of the next working day which is neither Saturday, or Sunday nor a Legal holiday.

SECTION 3. FILING FEE. – The filing fee for a Complaint or Petition shall be Five Thousand Pesos (₱5,000.00) subject to revision from time to time when the need arises. Such fee shall be paid at the Cashier of the NEA.

SECTION 4. REPEALING CLAUSE. – All other office Memoranda, Memorandum circulars, Rules or Regulations inconsistent with these Rules are hereby repealed or modified accordingly.

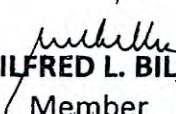
SECTION 5. EFFECTIVITY. – These Rules shall take effect fifteen (15) days from date of publication in official gazette or a newspaper of general circulation, and after submission of three (3) certified copies of these Rules and Regulations to the office of the National Administrative Registry at the University of the Philippines Law Center.


CARLOS JERICO L. PETILLA

Chairman

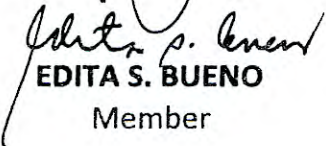
JOSE RAYMUND A. ACOL

Alternate of the Chairman


WILFRED L. BILLEÑA
Member


JOSEPH D. KHONGHUN
Member


JOSE VICTOR E. LOBRIGO
Member


EDITA S. BUENO
Member