

WHISTLEBLOWING POLICY OF THE PHILIPPINE NATIONAL CONSTRUCTION CORPORATION

The Philippine National Construction Corporation (PNCC) aims to promote transparency and responsibility to uphold the highest ethical standards among its Board of Directors, Officers and employees as well as promote good governance at all levels of the organization pursuant to the Code of Conduct and Employee Discipline of PNCC and similar applicable issuances through prevention and control of serious misconduct and unethical habits by providing a confidential reporting channel.

Pursuant to Governance Commission for Government Owned and Controlled Corporations (GCG) Memoranda Circular Nos. 2014-04 and 2016-02, or the Revised Whistleblowing Policy for the GOCC Sector, this Policy is hereby promulgated to prescribe the guidelines and procedure for the implementation of the Whistleblowing Policy for the PNCC.

SECTION A. OBJECTIVE

The PNCC Whistleblowing Policy is issued to enable any concerned individual, either PNCC employees or non-PNCC employees, to report and provide information, anonymously if opted to, and testify on matters involving acts or omissions of the PNCC Board of Directors, Officers and Employees that are illegal, unethical, contrary to public policy and morals, violative of good governance principles, and promoting unsound and unhealthy business practices that are grossly disadvantageous to PNCC and/or the Government.

SECTION B. COVERAGE

The PNCC Whistleblowing Policy shall be applicable to all the members of the PNCC Board of Directors, Officers and employees, whether appointee, regular, contractual or co-terminus including those employed under Contracts of Service.

SECTION C. DEFINITION OF TERMS

1. **Whistleblowing** – the disclosure of and/or giving of evidence to information that a whistleblower reasonably believes constitutes illegal, unethical, violate good governance principles, contrary to public policy and morals, promote unsound and unhealthy business practices that are grossly disadvantageous to PNCC and/or the Government.
2. **Whistleblower** - any concerned individual, PNCC employee or group of PNCC employees who reports a Reportable Condition through any of the Reporting Channels.
3. **Reportable Conditions** - matters that may be brought to the attention of the PNCC IMC through this Policy as enumerated in Section D.
4. **PNCC employee** - shall refer to PNCC Board of Directors, Officers and employees, whether appointee, regular, contractual or co-terminus including those employed under Contracts of Service.
5. **PNCC Integrity Monitoring Committee (PNCC IMC)** - shall refer to the Committee tasked with handling the implementation of this Policy.

The **PNCC IMC** - shall be composed of the following:

Chairman	–	Head of Legal Division
Vice Chairman	–	Head of Human Resource Division
Members	–	3 Managers or Executives to be appointed by the President and CEO

6. **Reporting Channels** - The following are the dedicated Reporting Channels which the Whistleblower can use to file any Reportable Condition:
 - a. PNCC Website : <https://www.pncc.ph/>
 - b. Face-to-Face meetings : the PNCC IMC or Security Officer or any PNCC employee
 - c. E-mail : pncc@pncc.ph
 - d. Mail : PNCC Complex, Km. 15 East Service Rd., Bicutan, Paranaque
 - e. Telephone : (02) 846-0209 / 846-3045 loc. 230
 - f. Fax : 806-1395
7. **Respondent** - the person who is the subject of a Whistle blowing Report filed through any of the Reporting Channels.
8. **Retaliatory Actions** - refers to negative or obstructive responses or actions carried out by a respondent in retaliation against a Whistleblower, such as, but not limited to, administrative or criminal proceedings commenced or pursued, reprisals or threats against the whistleblower and/or those PNCC employees supporting him or any of the whistleblower's relatives, such as, but not limited to, forcing or attempting to force any of them to resign, retire or transfer, giving negative performance appraisals, fault-finding, undue criticism, alienation, blacklisting and other similar acts, discrimination or harassment in the PNCC workplace carried out by a Respondent against a Whistleblowing Employee.
9. **Whistleblowing Report (WR)** - refers to a formal written complaint/allegation filed by a Whistleblower about a Reportable Condition.

SECTION D. SCOPE OF REPORTABLE CONDITIONS

1. Whistleblowing is the disclosure of and/or giving of evidence to information of such acts or omissions that are illegal, unethical, violative of good governance principles, contrary to public policy and morals, and unsound and unhealthy business practices that are grossly disadvantageous to PNCC and/or the Government, such as, but not limited to:

- a. Abuse of Authority;
- b. Bribery;
- c. Conflict of Interest;
- d. Destruction/Manipulation of Records;
- e. Fixing;
- f. Inefficiency;
- g. Making False Statements;
- h. Malversation;
- i. Misappropriation of Assets;
- j. Misconduct;
- k. Money Laundering;
- l. Negligence of Duty;
- m. Nepotism;
- n. Plunder;
- o. Receiving a Commission;
- p. Solicitation of Gifts;

- q. Taking Advantage of Corporate Opportunities;
- r. Undue Delay in Rendition of Service;
- s. Undue influence;
- t. Violation of Procurement laws.

2. A whistleblower may also report such other acts or omissions that otherwise involve violations of the following laws, rules and regulations:

- a. R.A. No. 6713, "Code of Conduct and Ethical Standards for Public Officials and Employees";
- b. R.A. No. 3019, "Anti-Graft and Corrupt Practices Act";
- c. R.A. No. 7080, as amended "The Plunder Law";
- d. Code of Conduct and Employee Discipline of PNCC;
- e. PNCC's Amended Articles of Incorporation and By Laws;
- f. PNCC Manual on Corporate Governance;
- g. PNCC Safety, Health and Environment Code;
- h. Other applicable laws and regulations.

SECTION E. PROCEDURES IN HANDLING WHISTLEBLOWING REPORTS

1. FILING OF WR

- 1.1. **Who may File.** Any concerned individual or PNCC employee who witnesses or becomes aware of any attempted, ongoing or consummated Reportable Conditions involving any PNCC employee may file the WR.

The Whistleblower who files the WR anonymously may choose to provide a manner by which he can be contacted without jeopardizing his anonymity.

- 1.2. **Where to File.** The WR shall be filed with the PNCC IMC or through any of the Reporting Channels.

- 1.3. **Form of the WR.** The WR must be in writing and shall contain the following:

- a. The Respondent must be clearly identified by his full name and position;
- b. The specific condition(s), action(s), and/or omission(s) being complained about, as well as the corresponding laws, rules and regulations allegedly violated;
- c. Documentary and other evidence to support the allegations/complaint.

2. PROCEDURE FOR PROTECTED DISCLOSURE

Upon receipt of the WR, the PNCC IMC Chairman shall cause the following actions to be undertaken:

- a. Ensure that the WR and other related documents are at all times placed in a folder labeled as "confidential" and properly kept in a locked drawer or cabinet for the safety of the documents.
- b. Require the evaluation of the report by the PNCC IMC as to whether or not it qualifies as a protected disclosure under these guidelines. The evaluation and the recommendation shall be submitted within a period of thirty (30) days from receipt thereof.

3. PRELIMINARY EVALUATION OF THE WR

- 3.1 The PNCC IMC shall make the initial determination of whether or not information provided may be considered as a Reportable Condition. If the PNCC IMC determines that such information does not qualify as a Reportable Condition, the same shall be treated as ordinary complaint which will be acted on accordingly in accordance with applicable PNCC policy, or existing rules and regulations.
- 3.2 The PNCC IMC reserves the right to disregard WRs that are vague, ambiguous, patently without merit, or are clearly harassment complaints against the Respondent. The PNCC IMC shall communicate its initial findings on such WRs to the Whistleblower who will be given the opportunity to substantiate the same, failing in which the matters raised in the WR will be considered closed and terminated.
- 3.3 In case the person complained of is one of the members or individuals composing the PNCC IMC, the individual concerned shall inhibit himself from participating as a composite of the Committee handling that particular complaint. He shall be substituted by another person who shall be appointed by the President and CEO only for that particular case involving the individual concerned.

4. FULL INVESTIGATION

- 4.1 If the PNCC IMC finds the WR sufficient in form and substance, the PNCC IMC shall conduct an investigation. PNCC IMC shall issue a notice to explain containing the nature and details of the allegations to the Respondent and requiring the Respondent to explain or give comments in writing within fifteen (15) days from receipt thereof. The notice shall also advise the Respondent to indicate in his explanation/comment whether or not he elects a formal investigation of the allegations/charges.
- 4.2 The Respondent shall submit his explanation/comment to the PNCC IMC. Failure to answer will be considered a waiver or opportunity to be heard.
- 4.3 The PNCC IMC shall furnish the whistleblower a copy of the comments of the Respondent, and shall give him opportunity to provide more information or controverting evidence within ten (10) days from receipt of the copy of the Respondent's comments. If the Whistleblower submits additional information or evidence, the PNCC IMC shall likewise give the Respondent the opportunity to submit rebutting evidence.

Within five (5) working days from receipt of the WR and answer, the PNCC IMC shall conduct a preliminary investigation which shall involve the ex-parte examination of records, documents and written statements by the whistleblower, respondent and the witnesses. The PNCC IMC may form an Investigation Committee or may also refer the WR to an Investigator.

- 4.4 The PNCC IMC shall determine whether or not a prima facie case is established during the preliminary investigation. If it appears that the case is not meritorious, the WR shall be dismissed outright. Otherwise, the PNCC IMC shall summon the whistleblower, respondent and witnesses to a formal investigation. The respondent shall be given notice specifying the offense, indicating the dates of the formal investigation and informing him of his rights to be assisted by a counsel of his choice.

- 4.5 A formal investigation shall nevertheless be conducted even if the respondent does not request the same where from the allegations as well as the records and supporting documents of the contending parties, the merits of the case cannot be decided judiciously without conducting such investigation.
- 4.6 An order of preventive suspension, if necessary, shall be issued by the PNCC IMC to the respondent pending an investigation.
- 4.7 A Resolution/decision and recommendations of the PNCC IMC on the WR shall be submitted to the President and CEO or the PNCC Board of Directors for final action.

5. FINAL ACTION ON THE PNCC IMC's REPORT

- 5.1. In cases of WR filed against PNCC employees with a rank of Manager and below, the President and CEO in consideration of the resolution/decision and/or recommendation of the PNCC IMC, may pursue any of the following actions:
 - a. Dismiss the WR for want of palpable merit;
 - b. Impose disciplinary action or sanction against the Respondent pursuant to existing rules and regulations;
 - c. Endorse to the proper Government Agency, such as the Office of the Ombudsman and/or Office of the Provincial/City Prosecutor
 - d. Enjoin the PNCC Management to comply with applicable laws or jurisprudence and/or to undertake corrective measures to address the matters raised in the WR; and
 - e. Consider the PNCC IMC report closed and terminated if the response of the Respondent is found to be adequate.
- 5.2. In cases of WR's filed against PNCC Executives or Officers, the PNCC Board of Directors in consideration of the resolution/decision and/or recommendation of the PNCC IMC may pursue any of the actions indicated in (a) to (e).
- 5.3 In cases of WR's filed against the President and CEO or members of the PNCC Board of Directors, the PNCC IMC shall also submit its recommendation to the Governance Commission for GOCCs for appropriate action.

SECTION F. GENERAL GUIDELINES

1. **Withdrawal of Report by the Whistleblower.** In the event that the Whistleblower withdraws his WR, the investigation shall continue provided that the evidence gathered is sufficient as may be determined by the PNCC IMC.
2. **Resignation of Respondent pending Completion of Investigation.** In the event that the Respondent resigns prior to the final resolution of the case against him, the investigation shall still continue provided that the evidence gathered is sufficient as determined by the PNCC IMC.
3. **Confidentiality.** The PNCC IMC shall ensure confidentiality of all information arising from WRs. It shall treat all reports, including the identity of the whistleblower and the respondent in a confidential and sensitive manner. The identity of the whistleblower will be kept confidential, unless compelled by law or the Courts to be revealed, or unless the whistleblower authorized the release of his identity.
4. **Protection of Concerned Individual against Retaliatory Actions.** Retaliatory acts against a concerned individual who submits WRs in good faith shall not be tolerated

by the PNCC which shall endeavor to extend any possible assistance to the whistleblower under the law.

5. Protection of PNCC Employee against Retaliatory Actions.

- 5.1 No administrative action shall be entertained or pursued by PNCC against a PNCC Employee who submits WRs and who is deemed protected under these guidelines and he may be extended any and all possible assistance under the law.

No retaliatory action shall be taken against a Whistleblower who is a PNCC Employee such as, but not limited to the following:

- a. discriminatory action;
- b. reprimand;
- c. punitive transfer;
- d. demotion;
- e. evident bias in performance evaluation;
- f. attachment of adverse notes in the personnel 201 file;
- g. accusations of disloyalty and dysfunction;
- h. public humiliation;
- i. the denial of work necessary for promotion;
- j. reduction in salary or benefits;
- k. termination of contract;
- l. any acts or threats that adversely affect the rights and interest of the whistleblower.

- 5.2 Any PNCC employee who refuses to follow orders to perform an act that would constitute a violation of this provision shall likewise be protected from retaliatory actions.

6. Whistleblower is a Party to the Reportable Conditions. A Whistleblower, who is a party in the Reportable Condition, shall be accorded protection and assistance by the PNCC in accordance with this Policy provided that:

- 6.1 The whistleblower shall formally undertake to actively participate in the investigation and testify in the appropriate proceedings to be filed against the Respondent/ s.

- 6.2 He has personal knowledge of material facts and information regarding the Reportable Condition; and

- 6.3 He should not appear to be the most guilty.

7. No Breach of Duty of Confidentiality. A Whistleblower that has an obligation by way of oath, rule or practice to maintain confidentiality of information shall not be deemed to have committed a breach of confidentiality if he makes a Protected Disclosure of such information.

SECTION H. REMEDIES AND SANCTIONS

1. **Retaliatory Actions.** Any PNCC Board member, Officer or employee, who does, causes or encourages retaliatory actions as defined under these Policy against a Whistleblower and/or PNCC employees supporting him or any of his relatives shall be subjected to the appropriate administrative, civil and criminal charges.

2. **False, Untrue, Misleading and Malicious Reports.** If a Whistleblower makes allegations that are determined to be fabricated or malicious falsehoods, and/or he persists in making them, aside from the automatic termination of the protection and assistance, appropriate legal action may be taken against him by the PNCC. If made by an employee, the same shall be a ground for termination of his employment.

SECTION H. EFFECTIVITY

The Policy becomes effective upon approval of the PNCC Board of Directors on 07 August 2019.