

REPUBLIKA NG PILIPINAS  
**Pambansang Pangasiwaan ng Patubig**  
(NATIONAL IRRIGATION ADMINISTRATION)  
LUNGSOD NG QUEZON

MC # 79, s. 1978

MEMORANDUM CIRCULAR

T O : THE ASSESTANT ADMINISTRATORS; HEADS OF DEPARTMENTS AND STAFFS; HEADS OF SPECIAL PROJECTS; REGIONAL IRRIGATION DIRECTORS; PROVINCIAL AND PROJECT IRRIGATION ENGINEERS; IRRIGATION SUPERINTENDENTS AND/OR OFFICERS-IN-CHARGE OF IRRIGATION SYSTEMS/OFFICES; CHIEF CORPORATE ACCOUNTANT AND REGIONAL ACCOUNTANTS; CORPORATE AUDITOR AND REGIONAL AUDITORS; AND ALL OTHERS CONCERNED  
- National Irrigation Administration

SUBJECT : Pertinent Provisions under Presidential Decree Nos. 1445 and 1177 Relative to Requirements Before Entering into Contracts, Illegal Disbursements and Liability for Acts Done by Direction of Superior Officer, Certification of Availability of Funds and Prohibition Against the Incurrence of Overdraft; and Program of Work Requirement Before Prosecuting Public Works Pursuant to Sec. 30 of P.D. No. 1342

It has come to the attention of this Office that on numerous occasions, contracts had been entered into and/or concluded between NIA and private contractors without first securing the certificate showing appropriation to meet contract, signed by the Chief Corporate Accountant and verified by the Corporate Auditor as an integral part of the proposed contract. The requirements before entering into a contract pursuant to Section 85 and 86 of the Government Auditing Code under Presidential Decree 1445 are as follows:

- 1) There must be an Appropriation before entering into contract (Section 85); and
- 2) There must be a certificate showing appropriation to meet contract (Section 86)

Without the requirements as stated above, any contract entered into shall be void pursuant to Sec. 87 of P.D. 1445, quoted as follows:

"Section 87. Void contract and liability of officer - Any contract entered into contrary to the requirements of the two immediately preceeding sections shall be void, and the officer or officers entering into the contract shall be liable to the government or other contracting party for any consequent damage to the same extent as if the transaction had been wholly between private parties."

It has also come to the attention of this Office the following infractions which should be restrained in our field offices, as follows:

- 1) That in most cases, the causes for cash items in the hands of our Cashiers/Disbursing Officers are due to the absence of allotment against which to charge the disbursements already made;

- 2) That Purchase Orders and RIV's have already been approved by authorized officials to support disbursements made without securing the certification of the head of the accounting unit concerned as to availability of funds; and
- 3) That in some cases, improper disbursements made by our Cashier in disposing the funds with which he is chargeable and our Head of the Accounting Unit is falsely certifying as to availability of funds is due to their having acted under the direction of a superior officer in violation of Sec. 639 of the Administrative Code and Section 106 of P.D. No. 1445, quoted as follows:

"Section 106. Liability for acts done by direction of superior officer - No accountable officer shall be relieved from liability by reason of his having acted under the direction of a superior officer in paying out, applying, or disposing of the funds and property with which he is chargeable, unless prior to the act, he notified the superior officer in writing of the illegality of the payment, application or disposition. The officer directing any illegal payment or disposition of the funds or property shall be primarily liable for the loss, while the accountable officer who fails to serve the required notice shall be secondarily liable."

As a precaution against the incurrence of expenditures in excess of allotments, the attention of all concerned is invited to the pertinent provisions of Sections 46 and 47 of Presidential Decree No. 1177, dated July 30, 1977, quoted as follows:

"Section 46. Certification of Availability of Funds - No funds shall be disbursed and no expenditures or obligations chargeable against any authorized allotment shall be incurred or authorized in any department, office or agency without first securing the certification of its Chief Accountant or Head of Accounting Units as to the availability of funds and the allotment to which the expenditures or obligation maybe properly charged. xxxxxxxxxxxxxxxx."

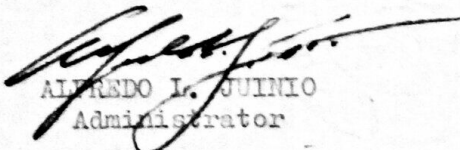
"Section 47. Prohibition Against the Incurrence of Overdraft - Head of departments, bureaus, offices and agencies shall not incur nor authorize the incurrence of expenditures or obligations in excess of allotments released by the Commissioner for their respective departments, offices and agencies. Parties responsible for the incurrence of overdrafts shall be held personally liable therefor."

In connection with disbursements charged to the allotment of the project under construction, the Program of Work should be furnished to the accounting unit concerned to be used as basis in determining that charges conform with the approved work program in accordance with the delegated authorities to our field and central office officials and the pertinent provision of Sec. 3 of P.D. 1342 which requires the preparation of Program of Work before prosecuting a public works project.

Compliance by all concerned in observing the above-stated pertinent provisions under Presidential Decree 1445, 1177 and 1342 is hereby enjoined.

Concurred by:

  
EMMANUEL F. CAPITAN  
Corporate Auditor

  
ALFREDO L. JUINIO  
Administrator