



Republika ng Pilipinas
Pambansang Pangasiwaan ng Patubig
(NATIONAL IRRIGATION ADMINISTRATION)
Lungsod ng Quezon

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MC NO. 28, s. 2006

MEMORANDUM CIRCULAR

TO : THE DEPUTY ADMINISTRATOR, ASSISTANT ADMINISTRATORS, DEPARTMENT MANAGERS, REGIONAL IRRIGATION MANAGERS, OPERATIONS MANAGERS, PROJECT MANAGERS, PROVINCIAL IRRIGATION ENGINEERS, IRRIGATION SUPERINTENDENTS, AND ALL OTHERS CONCERNED.

SUBJECT : LEGAL BASES OF THE IDAP MEASURE ON COMMAND RESPONSIBILITY

Attached is a copy of IDAP Circular No. 02-2006 dated June 14, 2006 from the Presidential Anti-Graft Commission (PAGC) for the information and guidance of all concerned.

Be guided accordingly.


BALTAZAR H. USIS
Administrator

Date July 3, 2006

Office of the President of the Philippines
PRESIDENTIAL ANTI-GRAFT COMMISSION
(PAGC)

IDAP CIRCULAR NO. 02 - 2006

TO : ALL FOCAL PERSONS OF THE INTEGRITY DEVELOPMENT
ACTION PLAN (IDAP) IN VARIOUS DEPARTMENTS,
BUREAUS, AND AGENCIES

SUBJECT : LEGAL BASES OF THE IDAP MEASURE ON COMMAND
RESPONSIBILITY

Pursuant to PAGC's earnest desire to ensure the effective implementation and sustainability of the Integrity Development Action Plan (IDAP) and in response to the queries received relative to the operationalization of IDAP measure no. 4 under Deterrence/ Investigation and Enforcement strategy that is "Holding Superiors Accountable for Corrupt Activities of Subordinate", the following shall be used as legal bases on the matter, especially on Department/Office/Special Orders for dissemination and implementation:

• The rules governing the liability of public officers in general as laid down in Sec. 38, Chapter 9, Book I of the Administrative Code of 1987, to wit:

- (1) A public officer shall not be civilly liable for acts done in the performance of his official duties unless there is a clear showing of bad faith, malice or gross negligence.
- (2) Any public officer who, without just cause, neglects to perform a duty within a fixed period by law or regulation, or within a reasonable period if none is fixed, shall be liable for damages to the private party concerned without prejudice to such other liability as may be prescribed by law.
- (3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of."

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As a general rule, superior officers cannot be held liable for the acts of their subordinates, however, Mecham (Cruz, Liability of Public Officers, 2003 Edition) noted several exceptions and suggests that the superior officer may be held liable:

- (1) where, being charged with the duty of employing or retaining his subordinates, he negligently or willfully employs or retains unfit or improper persons;
- (2) where, being charged with the duty to see that they are appointed and qualified in a proper manner, he negligently or willfully fails to require of them the due conformity to the prescribed regulations;
- (3) where he so carelessly or negligently oversees, conducts or carries on the business of his office as to furnish the opportunity for the default; and
- (4) a fortiori where he has directed, authorized or cooperated in the wrong.

Should an IDAP-covered agency propose other legal bases aside from Section 38 of the Administrative Code of 1987 and the exceptions noted by Mecham, such should be submitted to the Commission for approval.

For immediate compliance.

14 June 2006, Quezon City, Philippines

DR. CONSTANCIA P. DE GUZMAN, MNSA
Chairman

AMDG

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