



Republika ng Pilipinas  
**Hanapbansang Pangasiwaan ng Pantubig**  
(NATIONAL IRRIGATION ADMINISTRATION)  
Lungsod ng Quezon

OFFICE ADDRESS: NATIONAL GOVERNMENT CENTER  
E. DE LOS SANTOS AVENUE  
QUEZON CITY PHILIPPINES

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OUR REFERENCE:

MC # 7, Series of 2009

**MEMORANDUM CIRCULAR**

**TO :** The Acting Sr. Deputy Administrator, Acting Deputy Administrators/ Department Managers/Regional/ Operations/Project Managers, Provincial Irrigation Officers, Irrigation Superintendents and All Concerned

**SUBJECT :** Guidelines on Proposed Retainership Agreements

It has been observed that both the Office of the Government Corporate Counsel (OGCC) and Commission on Audit (COA) have withheld review and/or concurrence to proposed Retainership Agreements from our field offices due to the following reasons:

1. Non-submission of document as required by the OGCC;
2. Late submission of the same for concurrence to the COA; and,
3. Submission of fixed and contingent fee-based Retainership Contracts.

In addition there are reports of COA disallowance on the payment for the services of retainers due to non-concurrence by COA of the subject Retainer Contracts. To remedy these predicaments and in order to facilitate the immediate approval of proposed Retainership Contracts as a means to intensify the collection of Irrigation Service Fees (ISF) thereby contributing to the financial viability of the Agency, the following guidelines are hereby adopted:

**I. Qualifications of Retainers**

1. The proposed retainer shall be a member of the Philippine Bar of good standing in the place where he/she is to be retained;
2. The proposed retainer should not have previously acted as counsel in a case filed by or against NIA.

**II. Documentary Requirements**

The proposed retainer must submit to the Regional Manager or Operations Manager concerned, three (3) copies of the following documentary requirements:

**a. For New Retainers**

1. Bio Data with 2" x 2" picture of proposed retainer or Firm profile if applicant is a law firm;
2. Current/Latest photocopy of the proposed retainer's Mandatory Continuing Legal Education (MCLE) Compliance, unless exempted by law (*ex: retired members of the Judiciary, incumbent Deans, Bar Reviewers and professors of Law who have teaching experience for at least 10 years in accredited law schools, in which case, the retainer must show proof of exemption pursuant to Section 3 & 5 of Supreme Court En Banc Resolution No. 850 dated August 22, 2000*); and
3. IBP Roll No. of proposed retainer.

#### **b. For Old Retainers /Renewal of Retainership Contracts**

1. Same documentary requirements of new retainers; and,
2. Annual Status Report of cases the retainer has handled.

#### **III. When to submit Documentary Requirements to Legal Department, Central Office**

For new Retainers, the Field Office concerned shall submit the said documentary requirements to the Legal Department, Central Office, together with the signed but unnotarized and undated five (5) copies of the Retainership Agreement for evaluation and approval.

For Old/ Renewal of Retainership Contracts, the Field Office concerned shall submit the said documentary requirements, the signed but unnotarized and undated Retainership Agreement in five (5) copies and the request for renewal at least three (3) months before the end of the Retainership Agreement for evaluation and approval.

#### **IV. Types of Retainership Agreements that may be entered by Retainers**

1. Fixed Fee Retainership Agreement

The retainer is paid on a fixed monthly basis and is required to report and render at least sixteen (16) hours per week legal service at the Field Office concerned, copy of said Retainership Agreement is hereto attached as Annex "A";

2. Contingent Fee Retainership Agreement

The Retainer is paid depending on the outcome of his/her efforts where he/she is entitled to certain percentages of the amount collected as provided for in the Retainership Agreement, copy of this kind of agreement is hereto attached as Annex "B".

The heads of the NIA Field Office are hereby directed to inform the proposed retainer of these types of Retainership Agreement to allow the latter to choose which type to adopt in their contract.

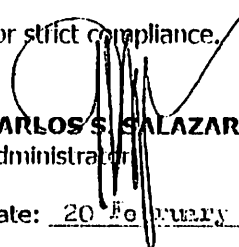
#### **V. Effectivity of Retainership Agreement and Submission to COA for concurrence**

All Retainership Agreements shall be effective only after concurrence by the Commission on Audit (COA). Hence, Retainers should not assume their duties as such until after COA concurrence has been secured. A copy of the duly approved Retainership Contract and OGCC Contract Review shall be submitted to the Resident Auditor of the Field Office concerned for concurrence. In the event the Resident Auditor will not issue the said concurrence, all documents shall be immediately forwarded to the Legal Department, Central Office for submission to the NIA C.O. Resident Auditor.

All other clarifications on this matter shall be referred to the Legal Department, Central Office.

This memorandum takes effect immediately.

For strict compliance,

  
**CARLOS S. SALAZAR**  
Administrator

Date: 20 February 2009

**RETAINERSHIP AGREEMENT (FIXED)**

KNOW ALL MEN BY THESE PRESENTS:

This Agreement made and entered into by and between:

Atty. \_\_\_\_\_ of legal age, Filipino, A member of the Philippine Bar, of good standing and with Office address at \_\_\_\_\_, hereinafter known as the **FIRST PARTY**:

And

THE NATIONAL IRRIGATION ADMINISTRATION (NIA), a government-owned and controlled corporation created by virtue of R.A. 3601, amended by P. D. 552 with principal address at NIA Building, EDSA, Quezon City, represented herein by its Regional Irrigation Manager \_\_\_\_\_, with Office Address at \_\_\_\_\_ herein after known as the **SECOND PARTY**:

**WITNESSETH:**

WHEREAS, the **FIRST PARTY** is a reputable practicing lawyer in \_\_\_\_\_ engaged in providing legal services to all clientele who may avail of her services;

WHEREAS, the **SECOND PARTY** is a government owned and controlled corporation who desires and is willing to avail of the services of the **FIRST PARTY**;

**NOW THEREFORE**, for and in consideration of the foregoing premises, the **FIRST PARTY** shall provide to the **SECOND PARTY** legal services in the form of appearances before the Courts of Justice and Quasi Judicial tribunals/bodies; legal counseling, administrative investigation and preparation of legal instruments subject to the following terms and conditions:

**TERMS AND CONDITIONS**

1. That the **SECOND PARTY** will pay the **FIRST PARTY** a monthly retainer's pay of \_\_\_\_\_ (Php \_\_\_\_\_), inclusive of acceptance fees, billings for conferences and meetings, for consultation and documentation, for pleadings, memoranda, position papers and briefs;
2. That for Court cases within \_\_\_\_\_, the **FIRST PARTY** shall be entitled to an appearance fee equivalent to FIVE HUNDRED PESOS (Php 500.00), which appearance fee shall be in lieu of transportation and meal expenses; provided that for out of town cases, the **FIRST PARTY** in lieu of the above appearance fee, shall be allowed reasonable traveling and accommodation expense amounting to EIGHT HUNDRED PESOS (P 800.00) which shall not exceed those granted a NIA Corporate Attorney Pursuant to National Budget Circular No. 391;
3. That the **FIRST PARTY** shall report and render Sixteen (16) hours per week legal services at the Office of the **SECOND PARTY**; provided that in the exigency of the service, the **SECOND PARTY** shall require the **FIRST PARTY** to report and render more than Sixteen (16) hours legal services per week but not exceeding Twenty Four (24) hours per week;
4. This Agreement shall be for a period of One (1) year effective *upon concurrence of the COA*, renewable for another year at the option of the **SECOND PARTY**, with the prior written approval of the Office of the Government Corporate Counsel (OGCC), provided, however, that the **SECOND PARTY** or the OGCC may terminate the Agreement at any time without need of judicial action;
5. The **FIRST PARTY** shall not, at any time during the term of this Agreement, use or disclose to any person, firm or corporation any confidential information concerning the affairs of the **SECOND PARTY** for which he may have acquired in the course of or as an incident to this Agreement for his own benefit or to the detriment of the **SECOND PARTY**;

6. It is understood and agreed that nothing in this Agreement shall be construed as establishing an employer-employee relationship between the SECOND PARTY and the FIRST PARTY;
7. In handling of the cases, the FIRST PARTY shall be under the control and supervision of the OGCC as required by law and the FIRST PARTY shall **submit annual reports** on the status of cases handled by him and a copy of each of important pleadings to the OGCC, through the Administrator of the SECOND PARTY;
8. During the effectivity of the Agreement and within one (1) year from its expiration or termination, the FIRST PARTY shall not handle any case against the SECOND PARTY or any of its officials and employees;
9. Upon the expiration of the Agreement, the FIRST PARTY shall, without need of demand turn over to \_\_\_\_\_ Office all records of cases and legal matters referred to and handled by him; and
10. This Contract shall be subject to the approval of the Administrator and review and concurrence of the Office of the Government Corporate Counsel (OGCC) and by the Commission on Audit (COA), respectively.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ at \_\_\_\_\_.

**NATIONAL IRRIGATION ADMINISTRATION**

By:

\_\_\_\_\_  
**First Party**

\_\_\_\_\_  
**Second Party**

SIGNED IN THE PRESENCE OF:  
\_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
**CARLOS S. SALAZAR**

Administrator

**CONCURRED:** \_\_\_\_\_

**ACKNOWLEDGMENT**

**RETAINERSHIP AGREEMENT (CONTINGENT)**

KNOW ALL MEN BY THESE PRESENTS:

This Agreement made and entered into by and between:

**Atty.** \_\_\_\_\_ of legal age, Filipino, married/single, a member of the Philippine Bar, of good standing and with Office address at \_\_\_\_\_, hereinafter referred to as the **FIRST PARTY**:

And

THE NATIONAL IRRIGATION ADMINISTRATION (NIA), a government owned and controlled corporation with postal address at NIA-EDSA, Diliman, Quezon City represented herein by **Engr.** \_\_\_\_\_, Regional Irrigation Manager of NIA-Region \_\_\_\_\_, hereinafter known as the **SECOND PARTY**:

**WITNESSETH:**

WHEREAS, the **FIRST PARTY** is a reputable practicing lawyer in \_\_\_\_\_, engaged in providing legal services to all clientele who may avail of his services;

WHEREAS, the **SECOND PARTY** is a government-owned and controlled corporation who desires and is willing to avail of the services of the **FIRST PARTY**;

NOW THEREFORE, for and consideration of the foregoing premises, the **FIRST PARTY** shall provide to the **SECOND PARTY** legal services consisting of: 1) Sending of demand letters to users of irrigation water with irrigation service fee (ISF) back accounts due to the **SECOND PARTY**; 2) Filing cases in court for the collection of said back accounts with consent and authority of the **SECOND PARTY**; 3) Appearances before the regular trial courts for purposes of pursuing collection cases filed for and in behalf of the **SECOND PARTY**; and 4) Entering into compromise agreement for purposes of settling a collection case in court.

**TERMS AND CONDITIONS**

1. The **FIRST PARTY** shall be entitled to five percent (5%) of the amount collected through her demand letters without the need of court litigation; twenty percent (20%) of the amount collected through compromise agreement for cases filed in court and pending litigation; and thirty percent (30%) of the amount collected through final judgment, whether in the trial or appellate courts; provided, that no payment shall be made to the **FIRST PARTY** if no amount is collected by reason of his own efforts, and provided further, that all payments to the **FIRST PARTY** shall be subject to the usual government accounting and auditing rules and regulations.
2. Back accounts as referred herein shall include ISF's due and payable to the **SECOND PARTY** for the first cropping period of 200\_\_ and earlier years;
3. The **FIRST PARTY** may avail of the services of the **SECOND PARTY** at NIA- \_\_\_\_\_ Office, for the purpose of collating data/records which maybe needed in the collection of said back accounts;
4. The **FIRST PARTY** shall shoulder all expenses in rendering legal services to the **SECOND PARTY**, except for the filing fees in cases to be filed in court which shall be at the expense of the latter;
5. The **FIRST PARTY** shall not settle or compromise any suit without the consent of the Second Party ;

6. This agreement shall be for a period of one (1) year, effective **upon concurrence of the COA**, renewable for another year at the option of the SECOND PARTY with the written approval of the Office of the Government Corporate Counsel (OGCC); provided, however that the SECOND PARTY or the OGCC may terminate this agreement at any time without need of any judicial action;

6. The FIRST PARTY shall not at any time during the term of this Agreement use or disclose to any person, firm or corporation any confidential information concerning the affairs of the SECOND PARTY for which he may have acquired in the course of or as an incident to this Agreement for his own benefit or to the detriment of the SECOND PARTY;

7. It is understood and agreed that nothing in this agreement shall be construed as establishing an employer-employee relationship between the SECOND PARTY and the FIRST PARTY;

8. In handling of these collection cases, the FIRST PARTY shall be under the control and supervision of the OGCC as required by law and the FIRST PARTY shall **submit annual reports** on the status of cases handled by him and a copy of each important pleading to the OGCC, through the Administrator of the SECOND PARTY;

9. During the effectivity of the Agreement and within one (1) year from its expiration or termination, the FIRST PARTY shall not handle any case against the SECOND PARTY or any of its officials and employees;

10. Upon the expiration of the Agreement, the FIRST PARTY shall, without need of demand, turn over to the SECOND PARTY all records of cases and legal matters referred to and handled by him; and

11. This contract shall be subject to the approval of the Administrator and review and concurrence by the Office of the Government Corporate Counsel and the Commission on Audit (COA), respectively.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ at \_\_\_\_\_.

**NATIONAL IRRIGATION ADMINISTRATION**  
By:

\_\_\_\_\_  
**FIRST PARTY**

\_\_\_\_\_  
**SECOND PARTY**

SIGNED IN THE PRESENCE OF:

\_\_\_\_\_  
APPROVED:

\_\_\_\_\_  
**CARLOS S. SALAZAR**  
Administrator

CONCURRED: \_\_\_\_\_

**ACKNOWLEDGMENT**