

Office Order No. 03
Series of 2018

13 April 2018

Subject: OFFICE POLICIES AND GUIDELINES ON
INTERNAL WHISTLEBLOWING AND REPORTING

1. RATIONALE

Pursuant to the constitutional precept that a public office is a public trust, PFDA is committed to uphold the highest ethical standards in public service. Its officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence and loyalty.

These office policies and guidelines are issued to underscore this commitment, to impress upon PFDA officials and employees that it is their bounden duty as public servants to disclose wrongdoings on the part of their co-officials and/or co-employees and to encourage greater confidence in reporting any corrupt, illegal, improper or fraudulent act committed by any official or employee.

These policies and guidelines shall serve as safeguards to all whistleblowers' rights and shall correspondingly define the conditions for protecting whistleblowers so as to deter frivolous, malicious and false disclosures.

2. LEGAL BASES

- 2.1. Section 1, Article XI of the 1987 Constitution
- 2.2. Republic Act 6713 (Code of Conduct of and Ethical Standards for Public Officials and Employees)
- 2.3. Presidential Decree No. 749 (Granting Immunity from Prosecution to Givers of Bribes and Other Gifts and to Their Accomplices in Bribery and Other Graft Cases Against Public Officers)
- 2.4. Title VII, The Revised Penal Code (Crimes Committed by Public Officers)
- 2.5. Presidential Decree No. 46 (Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give Gifts on any Occasion, including Christmas)
- 2.6. The Administrative Code of the Philippines
- 2.7. Civil Service Commission Rules and Regulations
- 2.8. Republic Act 3019 (Anti-Graft and Corrupt Practices Act)
- 2.9. GCG Memorandum Circular No. 016-02 (Revised Whistleblowing Policy for the GOCC Sector)

3. COVERAGE

These guidelines shall cover all PFDA officials and employees. Disclosures from non-PFDA employees shall be dealt in accordance with pertinent existing laws, rules and regulations on whistleblowing/reporting issued by competent authorities.

4. DEFINITION OF TERMS

4.1. **Whistleblowing** is the disclosure of and/or giving of evidence to information that a whistleblower reasonably believes constitutes graft and corrupt practices or any illegal doings.

4.2. **Protected Disclosure** refers to the deliberate and voluntary disclosure by an official or employee who has relevant information of an actual, suspected or anticipated wrongdoing. Whistleblowers may report such acts or omissions that are illegal, unethical, violate good governance principles, against public policy and morals, promote unsound and unhealthy business practices, grossly disadvantageous to the Agency and/or the Government, such as, but not limited to:

- (1) Abuse of Authority;
- (2) Bribery;
- (3) Conflict of Interest;
- (4) Destruction/Manipulation of Records;
- (5) Fixing;
- (6) Inefficiency;
- (7) Making False Statements;
- (8) Malversation;
- (9) Misappropriation of Assets;
- (10) Misconduct;
- (11) Money Laundering;
- (12) Negligence of Duty;
- (13) Nepotism;
- (14) Plunder;
- (15) Receiving a Commission;
- (16) Solicitation of Gifts;
- (17) Taking Advantage of Corporate Opportunities;
- (18) Undue Delay in Rendition of Service;
- (19) Undue Influence;
- (20) Violation of Procurement Laws.

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

- (1) R.A. No. 6713, "Code of Conduct and Ethical Standards for Public Officials and Employees";
- (2) R.A. No. 3019, "Anti-Graft and Corrupt Practices Act";
- (3) R.A. No. 7080, as amended, "The Plunder Law";
- (4) Book II, Title VII, Crimes Committed By Public Officers,
- (5) The Revised Penal Code;
- (6) Executive Order (E.O.) No. 292, s. 1987, "Administrative Code

- of 1987";
- (7) R.A. No. 10149, the 'GOCC Governance Act of 2011';
 - (8) GCG M.C. No. 2012-05, "Fit and Proper Rule";
 - (9) GCG M.C. No. 2012-06, "Ownership and Operations Manual Governing the GOCC Sector";
 - (10) GCG M.C. No. 2012-07, "Code of Corporate Governance for GOCCS";
 - (11) Violations of the Charter of the GOCC; and
 - (12) Other GCG Circulars and Orders, and applicable laws and Regulations.

4.3. **Whistleblower** refers to any PFDA employee or group of employees who makes protected disclosures.

4.4. **Retaliatory Action** pertains to negative or obstructive responses or reactions to a disclosure of misconduct or wrongdoing taken against the whistleblower and/or those officials and employees supporting him/her. It includes reprisal against the whistleblower, officials and employees supporting him/her 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.

5. SPECIFIC GUIDELINES

5.1. It shall be the duty of all PFDA officials or employees who witness or become aware of any attempted, ongoing or consummated act of graft and corrupt practices, act contrary to laws, rules and regulations, unreasonable, unjust, oppressive or discriminatory acts, or undue or improper exercise of powers and prerogatives involving any PFDA official or employee to report the same at the earliest possible time to:

- The General Manager or his duly authorized representative
- To the Chairman of the Board of Directors, if the official involved is the General Manager

5.2. The whistleblower shall have the following rights:

- Protection Against Retaliatory Actions
 - a) No administrative action shall be entertained or pursued by the Agency against any PFDA official or employee who make disclosures or reports deemed protected under these Office Order.
 - b) A whistleblower shall be protected from retaliatory actions such as, but not limited to, punitive transfer; undue poor performance reviews; obstruction of the investigation; withdrawal of essential resources; adverse reports; attachment of adverse notes in the personnel 201 files; ostracism; public humiliation; accusations of disloyalty and dysfunction; and the denial of work necessary for promotion.
 - c) A whistleblower that has an obligation by way of oath, rule or practice to maintain confidentiality of information shall not be

liable for the breach of confidentiality if he/she makes a protected disclosure of such information.

- d) Any official or 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.
- e) At all times during and after the protected disclosure, and throughout and after any proceeding taken thereon, the whistleblower is entitled to confidentiality as to:
 - His/her identity
 - The subject matter of his/her disclosure

5.3. Protected Disclosure. The whistleblower shall be entitled to protection and assistance under this Office Order after the investigation conducted showed valid basis and provided that all the following requisites are fulfilled:

- a) The whistleblower has personal knowledge of facts and information covered by the disclosure;
- b) The disclosure is made voluntarily, in writing and under oath;
- c) The disclosure pertains to a matter not yet the subject of a complaint already filed with, or investigated by concerned Department/Unit of PFDA unless the disclosure is necessary for the effective and successful prosecution, or necessary for the effective and successful prosecution, or would constitute a material evidence not yet in the possession of the Agency;
- d) The whistleblower formally undertakes to assist and participate in proceedings commenced in connection with the subject matter of the disclosure;
- e) The information given by the whistleblower contains sufficient particulars and, he/she submits or undertakes to submit material evidence that may be in his/her possession.

5.4. Unprotected Disclosure. The following shall not be deemed protected disclosure under this Office Order:

- a) Disclosure concerning merits of office policies;
- b) Absolutely false and misleading disclosures;
- c) Disclosures that are later retracted by the whistleblower for any reason. Such person shall lose the right to claim benefit or protection under this Office Order for the same disclosure and his/her retraction shall be considered in determining whether or not he will be admitted as a whistleblower with respect to future disclosures;
- d) Disclosures which later appear to be absolutely groundless or without basis. An investigation maybe declined or discontinued if it is shown that the disclosure was made without reasonable grounds;
- e) Disclosures made by an official or employee in connection with a matter subject of his official investigation; and
- f) An official or employee who makes a disclosure deemed unprotected shall not enjoy any immunity, or other right or privilege accorded under this Office Order.

5.5. Procedure for Protected Disclosures. Immediately upon receipt of the disclosure, the General Manager, or the official he may designate, shall:

- a) Evaluate the disclosure if the same qualifies as protected disclosure under this Office Order within a period of FIFTEEN (15) WORKING DAYS from receipt thereof;
- b) Conduct appropriate actions in accordance with applicable laws, rules and regulations, should the report qualifies as protected disclosure;
- c) Ensure that the whistleblower's report and other related documents are at all times placed in a folder labeled "CONFIDENTIAL" and properly kept in a locked drawer or cabinet for the safety of the documents;
- d) Ensure that all the rights of a whistleblower contained herein are accorded to him/her, should the report qualifies as protected disclosure.

5.6. Disclosure Made by a Party to an Act Being Reported. A disclosure made by an officer or employee who is a party to the act being reported may be deemed protected disclosure and maybe entitled to all the rights provided herein, subject to the following:

- a) The whistleblower complies with the conditions set herein;
- b) The whistleblower should not appear to be most guilty;
- c) The whistleblower testifies in accordance with his/her disclosure;
- d) The disclosure is necessary for the proper prosecution of the act.

5.7. Protection of Witnesses. Any official or employee who testifies in any proceeding arising from a protected disclosure shall have the same rights as that of the whistleblower.

5.8. Assistance to the Whistleblower. PFDA shall grant legal assistance to the whistleblower if the need arises and in cases of grave threats to life and/or safety, appropriate action shall be taken for the protection and support of the whistleblower.

5.9. Sanctions.

- a) Any official or employee who violates the protection of confidentiality of a protected disclosure shall be subjected to disciplinary and/or criminal action as may be warranted by pertinent laws, rules and regulations.
- b) Any official or employee, who does, causes or encourages retaliatory actions as defined herein against the whistleblower shall be subjected to administrative, civil and/or criminal proceedings.
- c) False, misleading and malicious disclosures shall be sufficient ground for the termination of the protection or assistance to whistleblowers under this Office Order including the termination of their immunity from administrative cases, civil and/or criminal actions as may be appropriate.

- d) Any official or employee under obligation to report a disclosure under this Office Order, or who fails to act thereon or cause an investigation thereof, shall be liable for disciplinary action.
- e) Any official or employee who, with malice or bad faith, makes a false disclosure may be subject to administrative, civil and/or criminal actions, as may be warranted.

6. EFFECTIVITY AND REPEALING CLAUSE

This Office Order shall take effect immediately. All issuances inconsistent with this Office Order are deemed repealed or amended accordingly.


ATTY. GLEN A. PANGAPALAN
General Manager

BOARD RESOLUTION NO. 18017

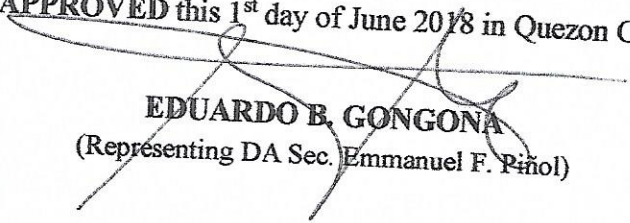
ADOPTING THE PFDA'S POLICIES AND GUIDELINES ON INTERNAL WHISTLEBLOWING AND REPORTING

WHEREAS, GCG Memorandum Circular No. 2016-02 (Revised Whistleblowing Policy for the GOCC Sector) requires all GOCCs to establish their own whistleblowing policy.

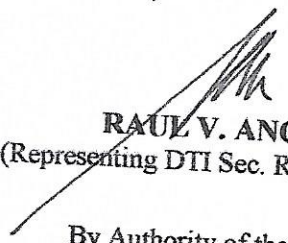
WHEREAS, pursuant to the foregoing and consistent with PFDA's policy that its governance shall be carried out in a transparent, responsible and accountable manner and with utmost degree of professionalism and effectiveness, Management issued the hereto attached Office Order No. 03 (s.2018) establishing PFDA's Policies and Guidelines on Internal Whistleblowing and Reporting.

NOW, THEREFORE, be it resolved, upon recommendation of Management, the Board approves, as it is hereby approved, the adoption of hereto attached Office Order No. 03, the Policies and Guidelines on Internal Whistleblowing and Reporting; **RESOLVED FURTHER**, that any and all existing rules and regulations, memoranda and directives inconsistent herewith are hereby amended, revoked, repealed or suspended; **RESOLVED FINALLY**, that this shall be subject to compliance with applicable laws, rules and regulations on the matter

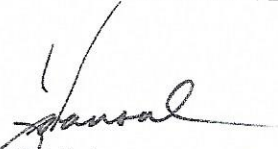
ADOPTED AND APPROVED this 1st day of June 2018 in Quezon City, Philippines.

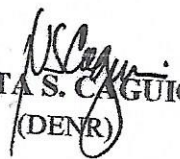

EDUARDO B. GONGONA
(Representing DA Sec. Emmanuel F. Piñol)

EMIL K. SADAIN, CESO II
Undersecretary
(Representing DPWH Sec. Mark A. Villar)


RAUL V. ANGELES
(Representing DTI Sec. Ramon M. Lopez)

By Authority of the Secretary:


JUDY CAROL LAYUS-DANSAL
(Representing NFA Adm. Jason Laureano Y. Aquino)


NONITA S. CAGUIOA
(DENR)


GLEN A. PANGAPALAN
(Private Sector)

Vacant
(Private Sector)