



## **GCG MEMORANDUM CIRCULAR NO. 2014 – 04**

**SUBJECT: WHISTLEBLOWING POLICY FOR THE GOCC SECTOR**

**DATE : 14 April 2014**

1. **STATEMENT OF POLICY.** – It is the State's policy that the governance of GOCCs shall be carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness.<sup>1</sup> Furthermore, the Governing Boards of every GOCC and its subsidiaries must be competent to carry out the GOCCs functions, be fully accountable to the State as its fiduciaries, and act in the best interest of the GOCC and the State.<sup>2</sup>

GOCCs, acting through their Governing Boards and duly authorized Officers and Employees, shall conduct the affairs, operations and business of the GOCC in full compliance with applicable laws, rules, regulations. As public officers, all GOCC Directors/Trustees, Officers and Employees, as well as Officers and Employees of the Governance Commission, must exemplify the behaviour and professional demeanor consistent with such laws, rules, regulations, policies and procedures of the highest standard.

2. **BACKGROUND AND PURPOSE.** – The purpose of this Whistleblowing Policy (Policy) is to enable any concerned individual to report and provide information, anonymously if he/she wishes, and even testify on matters involving the actions or omissions of the Directors/Trustees, Officers, and Employees of GOCCs, as well as of the Chairman, Commissioners, Officers and Employees of the Governance Commission, that are illegal, unethical, violate good governance principles, are against public policy and morals, promote unsound and unhealthy business practices, are grossly disadvantageous to the GOCC and/or the Government.

All persons, stakeholders, and institutions concerned are encouraged and empowered, through this Policy, to report to the Governance Commission, using the modes and procedures herein established, any and all issues and concerns respecting the aforementioned actions or omissions.

3. **COVERAGE.** – This Policy shall be applicable to all GOCCs, GFIs, GICPs/GCEs, including their Subsidiaries and Affiliates, which are covered by the provisions of Republic Act (R.A.) No. 10149 and are subject to the regulatory jurisdiction of the Governance Commission.

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<sup>1</sup>R.A. No. 10149, Sec. 2(c).

<sup>2</sup>R.A. No. 10149, Sec. 2(e).

The Governance Commission, its officers, and employees, including workers under Contracts of Service and Consultancy Agreements, shall likewise be covered by this Policy.

**4. DEFINITIONS OF TERMS. –**

- (a) **GOCC Integrity Monitoring Committee (GIMC)** – refers to the Committee tasked with handling the implementation of this Policy.
- (b) **GCG or the Governance Commission** – refers to the Governance Commission for GOCCs (GCG);
- (c) **Management Committee (MANCOM)** – refers to the GCG Committee, which manages the daily operations of the Governance Commission, composed of the Chairman and his Head Executive Assistant (HEA), the Appointive Commissioners and their HEAs, the General Counsel, the Director for the Corporate Standards Office (CSO) and the Director for Administration and Finance (AFO). The Mancom reports directly to the GCG Commission *En Banc*.
- (d) **Reportable Conditions** – Matters that may be brought to the attention of the GCG through this Policy as enumerated in *Section 6.1 below*.
- (e) **Reporting Channels** – can be any of the following: (1) GCG Website; (2) Face-to-face meetings; (3) E-mail; (4) Mail; (5) Telephone, and; (6) Fax.
- (f) **Respondent.** – the person who is the subject of a report filed with the GCG pursuant to this Policy;
- (g) **Retaliation Actions** – actions carried out by a Respondent in retaliation against a Whistleblower, such as, but not limited to, discrimination or harassment in the GOCC workplace carried out by a respondent officer against a whistleblowing employee;
- (h) **Whistleblower** – a person who reports a Reportable Condition to the Governance Commission through this Policy.
- (i) **Whistleblowing Report (WR)** – refers to a complaint filed by a Whistleblower about a Reportable Condition.

**5. THE GOCC INTEGRITY MONITORING COMMITTEE. – The GIMC shall be composed of the following:**

- (a) General Counsel as Chairman;
- (b) HEA of the Chairman of the Governance Commission as Vice Chairman;
- (c) Division Chief of the Management Information System (MIS);
- (d) Two (2) Lawyers from the Office of the General Counsel;



- (e) A representative from CSO;
- (f) A representative from Corporate Governance Office (CGO) A; and
- (g) A representative from CGO B.

The Office of the General Counsel will make an initial evaluation of the submitted WRs in accordance with Section 10.3 below and convene the GIMC accordingly as may be needed.

Decisions of the GIMC on the WRs shall be submitted for approval to the MANCOM.

## 6. SCOPE.

**6.1. REPORTABLE CONDITIONS.** – This Policy is intended to be implemented in connection with acts or omissions that are of a serious and sensitive character, with considerable negative impact on the concerned GOCC in particular, or the GOCC Sector, in general, as to warrant special attention and action under this Policy.

Such acts or omissions must involve violations of the provisions 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) Book II, Title VII, Crimes Committed By Public Officers, The Revised Penal Code
- (e) Executive Order (E.O.) No. 292, s. 1987, "*Administrative Code of 1987*";
- (f) R.A. No. 10149, the GOCC Governance Act of 2011
- (g) GCG M.C. NO. 2012-05, "*Fit and Proper Rule*";
- (h) GCG M.C. NO. 2012-06, "*Ownership and Operations Manual Governing the GOCC Sector*";
- (i) GCG M.C. NO. 2012-07, "*Code of Corporate Governance for GOCCs*";
- (j) Violations of the Charter of the GOCC; and
- (k) Other GCG Circulars and Orders, and applicable laws and regulations.

All WRs must state the specific condition/s, action/s and/or omission/s being complained about, as well as the corresponding laws, rules or regulations allegedly violated. If possible, documentary and other evidence in support of the WRs must be submitted to the Governance Commission for evaluation.

**6.2. REPORTING CHANNELS.** – The following are dedicated Reporting Channels which the Whistleblower can use to file any Reportable Condition:

(a) **Website:** <http://www.gcg.gov.ph/>;

(b) **Face-to-Face Meetings:** with GCG Officers and Employees;

(c) **E-Mail:** [feedback@gcg.gov.ph](mailto:feedback@gcg.gov.ph);

(d) **Mail:** 3/F Citibank Center 8741 Paseo De Roxas, Makati City  
Philippines 1226;

(e) **Telephone:** (632) 328-2030 to 33; and

(f) **Fax:** (632) 328 2030 to 33.

**6.3. ANONYMOUS REPORTING.** – The GCG shall accept WRs made anonymously. The Whistleblower who files a WR anonymously may choose to provide a manner by which he can be contacted without jeopardizing his anonymity. Such means shall include, but is not limited to using an e-mail, a prepaid mobile number, and the like.

It must be noted, however, that *Anonymous Reporting* is limited to the identity of the Whistleblower. All Respondents must be clearly identified by their full names and positions. Furthermore, the alleged violations, actions and/or omissions must also be clearly identified, together with the law, rule, and regulations allegedly violated.

**6.4. 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 determined by the GIMC.

**6.5. 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 GIMC.

**7. CONFIDENTIALITY.** – The GCG 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 by the Courts to be revealed, or unless the Whistleblower authorized the disclosure of his/her identity.

**8. PROTECTION OF A WHISTLEBLOWER AGAINST RETALIATION.** – Retaliation Actions against a Whistleblower will be taken cognizance of by the GIMC if the WR is made in good faith, and the GCG shall extend all possible assistance to the Whistleblower under the law and given the circumstances.

**9. UNTRUE ALLEGATIONS.** – If a Whistleblower makes allegations that are determined to be fabricated or malicious falsehoods, and/or he/she



persists in making them, legal action may be taken against him by the Governance Commission.

## **10. PROCEDURE ON HANDLING WHISTLEBLOWING REPORTS.**

### **10.1. FILING OF WHISTLEBLOWING REPORTS.** – All WRs must be submitted to the Governance Commission through any one of the Reporting Channels enumerated in **Section 6.2**.

While WRs may be filed anonymously, the Whistleblower, whenever applicable, must state his/her connection to the GOCC concerned, as well as his/her general relationship to the Respondent, if any (e.g., Board Member, Officer, Employee, Customer, Supplier, Investor, Creditor, or Concerned Citizen).

To aid the GIMC in evaluating and investigating the WRs, it is the duty of the Whistleblower to include all relevant documents, files, photographs, videos, records, recordings, news clippings, and articles, among others, to support his/her reports and complaints.

### **10.2. HANDLING INITIAL RECEIPT OF WHISTLEBLOWING REPORTS.** – The following GCG Officials will handle initial receipt of WRs from the different Reporting Channels:

<b>Reporting Channel</b>	<b>Concerned GCG Official</b>
(a) Website	MIS
(b) Face-to-face meetings	Any Division Chief and Higher
(c) E-mail	Office of the General Counsel
(d) Mail	Office of the General Counsel
(e) Telephone	Any Division Chief and Higher
(f) Fax	Office of the General Counsel

It is the responsibility of the concerned GCG Officials in cases of face-to-face meetings and teleconferences, to refer and fully disclose the WR to GIMC. The concerned GCG Officials shall ask the Whistleblower if he is willing to sign the transcript of the discussions between them.

### **10.3. PRELIMINARY EVALUATION OF WHISTLEBLOWING REPORTS.** – The concerned GCG Officials receiving WRs shall coordinate with the Office of the General Counsel for an initial evaluation of the information provided therein.

The information in a WR, whether anonymously filed or not, may be considered sufficient in form if:

- The GOCC or GCG Office concerned is identified;
- The Respondent is identified by his full name and position;
- Violations and/or charges are specified, including the relevant material facts (e.g., nature of the incident, time and places of the incident, persons involved, evidence, if any, and other important matters necessary to establish a case);

- The corresponding law, rules, or regulations or Memorandum Circular provisions violated are specified; and
- Documents in support of the allegations are submitted.

The Office of the General Counsel will make the initial determination of whether or not information provided may be considered as a Reportable Condition, in which case the General Counsel will refer the same to the GIMC for appropriate action.

If the General Counsel determines that such information does not qualify as a Reportable Condition, the same may be treated as an ordinary complaint which will be acted on in accordance with the rules of the Office of the General Counsel on ordinary complaints.

The Office of the General Counsel reserves the right to disregard WRs that are vague, ambiguous, patently without merit, or are clearly harassment complaints against the Respondent/s. The General Counsel shall communicate his/her 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.

- 10.4. FULL INVESTIGATION.** – If the GIMC finds the WR sufficient in form and substance, the GIMC shall conduct an investigation, part of which will involve informing the Respondent of the allegations against him/her and requiring the Respondent to submit comments within fifteen (15) days from receipt thereof. The GIMC may also seek the assistance of other government agencies in the conduct of investigation of the WRs.

The GIMC shall then furnish the Whistleblower a copy of the comments of the Respondent, and gave him/her opportunity to provide more information or controverting evidence. If the Whistleblower submits additional information or evidence, the GIMC shall likewise give Respondent the opportunity to submit rebutting evidence.

If the GIMC is satisfied that all information and evidence necessary for the resolution of the WR are already on hand, it may proceed to draft the corresponding resolution of the WR, and submit its recommendations to the Mancom.

- 10.5. MONITORING.** – The GIMC shall submit to MANCOM a quarterly status report of all WRs with the corresponding actions taken thereon.

**11. FINAL ACTIONS ON THE WRs.** –

- 11.1.** In cases of WRs against GOCCs, their Directors/Trustees, officers, and employees, the Governance Commission may pursue any of the following actions:
- i. Dismiss the WR outright for want of palpable merit;
  - ii. Submit a formal recommendation to the Governing Board of the concerned GOCC for the discipline of respondent Officer;



- iii. Submit a formal recommendation to the Governing Board of the concerned GOCC for the suspension of the respondent Appointive Director;
- iv. Submit a formal recommendation to the President for the removal of the respondent Appointive Director.
- v. Indorse to the proper Government Agency, such as the Office of the Ombudsman, the pursuit of the criminal and/or administrative processes against the respondents;
- vi. Enjoin the GOCC Governing Board and Management to comply with applicable laws or jurisprudence and/or to undertake corrective measures to address the matters raised in the complaint; and
- vii. Consider the WR closed and terminated if the response of the respondent is found to be adequate.

11.2. In cases of WRs against the Chairman, the Commissioners, and Directors of the Governance Commission, the GIMC may dismiss the WRs for want of merit, or submit their recommendations on proposed sanctions against the respondents to the Office of the President.

11.3. In cases of WRs against other officers and employees of the Governance Commission, the GIMC may dismiss the WRs for want of merit, or submit their recommendations on proposed sanctions against the respondents to the Governance Commission.


12. **EFFECTIVITY.** – This Circular shall take effect immediately upon its publication in the Governance Commission's website [www.gcg.gov.ph](http://www.gcg.gov.ph).

  
**CESAR L. VILLANUEVA**  
*Chairman*

  
**CESAR V. PURISIMA**  
*DOF Secretary*

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**MA. ANGELA E. IGNACIO**  
*Commissioner*

  
**FLORENCIO B. ABAD**  
*DBM Secretary*

  
**RAINIER B. BUTALID**  
*Commissioner*

