

**[ CIAC RESOLUTION NO. 1-98, March 31, 1998 ]**

**AMENDMENTS TO THE RULES OF PROCEDURE GOVERNING  
CONSTRUCTION ARBITRATION (PROMULGATED ON 23 AUGUST  
1988 AND AMENDED BY CIAC RESOLUTION NOS. 2-91, 3-93, 1-  
94, 2-95, 1-96, 2-96, 3-96, AND 6-96 ADOPTED ON JUNE 21,  
1991, AUGUST 25, 1993, OCTOBER 25, 1996, NOVEMBER 7, 1995  
AND AUGUST 8, 1996, RESPECTIVELY)**

WHEREAS, Sections 6 and 21 of Executive Order No. 1008 empower the Construction Industry Arbitration Commission (CIAC) "to enunciate policies and prescribe rules and procedures for construction arbitration" and "to formulate necessary rules and procedures for construction arbitration";

NOW, THEREFORE, WE THE UNDERSIGNED CIAC COMMISSIONERS, by virtue of the powers vested in us by law, do hereby promulgate the following amendments to the Rules of Procedure Governing Construction Arbitration, to wit:

**Article V  
Choice/Selection of Arbitrators**

*SECTION 1. Number of Arbitrators* — A Sole Arbitrator or an Arbitral Tribunal of three Arbitrators may settle a dispute.

The Commission shall appoint the arbitrator/s based on the mode of arbitration agreed upon by the parties as specified in the arbitration clause of the contract or in the agreement to arbitrate. In the absence of a stipulation thereon, the Commission, taking into consideration the complexities and intricacies of the dispute/s or the Sum in Dispute, has the option to appoint a Sole Arbitrator or an Arbitral Tribunal.

*SECTION 2. Sole Arbitrator* — Where the parties have agreed that the dispute(s) shall be settled by a Sole Arbitrator, each party shall have the right to nominate three arbitrators. If any or both of the parties fail to submit the names of their nominees within the period/s prescribed by the Commission, a sole arbitrator shall be appointed by the CIAC.

If there is a common nominee, CIAC shall appoint him as Sole Arbitrator, provided he is not disqualified and has declared his availability. In the absence of a common nominee or in cases where the common nominee is disqualified or is not available, CIAC may appoint a Sole Arbitrator or an Arbitral Tribunal. If CIAC decides to appoint a Sole Arbitrator, it shall select the appointee who is not a nominee of one of the parties and who is not disqualified and is available for appointment.

*SECTION 3. Arbitral Tribunal* — Where the parties agree that the dispute shall be settled by an Arbitral Tribunal, each party shall have the right to nominate six arbitrators from the list of CIAC-accredited arbitrators. If there is no common

nominee, the CIAC shall choose and appoint, as members of the Tribunal, one arbitrator from the claimant's nominees and another arbitrator from respondent's nominees. The Third Arbitrator shall be selected by the two Arbitrators first chosen within fifteen (15) days from acceptance of their appointment. The three arbitrators shall decide among themselves who will be the Chairman. In case of failure to agree on the third member within such period, the CIAC shall, within fifteen (15) days thereafter, appoint the third member from its list of accredited arbitrators.

If there is a common nominee, the Commission shall appoint the common nominee and one from each list submitted by the parties. The three arbitrators appointed shall be designated by their Chairman. If there are two common nominees, the Commission shall appoint them and the third member who shall be selected by the first two appointees within the period prescribed above. If there are three common nominees, all of them shall be appointed. The appointees shall designate their Chairman.

#### SECTION 4. x x x

*SECTION 5. Challenge* — An Arbitrator may be challenged by a party at any time after his appointment but before award upon the ground of his partiality, bias, incompetence, or professional misconduct. A party may also request the inhibition of an arbitrator upon the same grounds.

A motion for inhibition or a request for the disqualification and replacement of an arbitrator shall be treated as a challenge.

The challenge, motion or request shall be in the form of a complaint under oath, stating distinctly and concisely the facts complained of, supported by affidavits, if any, or persons having personal knowledge of the facts therein alleged and shall be accompanied with copies of such documents as may be substantiate said facts.

The arbitrator concerned shall be given by CIAC an opportunity to be heard. He may, without admitting the existence of the ground of the challenge, motion or request, choose to inhibit but his decision shall be subject to approval by CIAC.

In case the challenged arbitrator is allowed to inhibit himself or is removed, CIAC shall promptly appoint his replacement. If the arbitrator concerned is the third member of the Arbitral Tribunal, the first two members thereof shall select his replacement.

The decision of the CIAC to retain or replace an arbitrator shall be final.

#### SECTION 6. x x x

### **Article VI The Arbitrators**

*SECTION 1. General Qualification of Arbitrators* — The Arbitrators shall be men of distinction in whom the business sector and the government can have confidence. They shall be technically qualified to resolve any construction dispute expediently and equitably. The Arbitrators shall come from different professions. They may include engineers, architects, construction managers, engineering consultants,