

[CIAC RESOLUTION NO. 08-2010, November 08, 2010]

PRESCRIBING A CAP/LIMIT FOR THE APPOINTMENT OF A SOLE ARBITRATOR

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

WHEREAS, Section 6 of the law also mandates the CIAC "to supervise the arbitration program, and exercise such authority related thereto as regards the appointment, replacement or challenging of arbitrators;

WHEREAS, in cases where the parties agree that the dispute shall be settled by a Sole Arbitrator but fail to agree on a nominee, Section 14 of E.O. 1008 further authorizes the Commission to appoint either a Sole Arbitrator or an Arbitral Tribunal "taking into consideration the complexities and intricacies of the dispute/s";

WHEREAS, although the law is silent on the failure of the parties to agree on the mode of arbitration, Rule 9 of the CIAC Rules of Procedure Governing Construction Arbitration (CIAC Rules), however, pertinently provides as follows:

"Section 9.1 Number of Arbitrators - A Tribunal of one or three Arbitrators may be appointed to settle a dispute in accordance with the provisions hereunder.

9.1.1 xxx..xxx.

9.1.2 In the absence of an agreement on the number of arbitrators. CIAC taking into consideration the complexities and intricacies of the dispute/s or the sum involved, has the option to appoint a Sole Arbitrator or an Arbitral Tribunal.

9.1.3 In case of multiple parties, whether as Claimant or as Respondent, including three (3) or more parties in the arbitration, where all parties are unable to agree to a method for constitution of the Tribunal within ten (10) days from notice, CIAC shall appoint the arbitrators."

WHEREAS, in cases where the parties have agreed that the dispute be settled by a Sole Arbitrator, the Commission, consistent with the principle of party autonomy and pursuant to Rule 9.2 of the CIAC Rules, has in the past appointed Sole Arbitrators regardless of the Sum in Dispute (SID);

WHEREAS, recognizing, however, that a panel of three (3) arbitrators, more often than not, would be in a better position than a single arbitrator to handle complex