

Revised Guidelines for  
Registration and Classification  
of Contractors

## REVISED GUIDELINES FOR REGISTRATION AND CLASSIFICATION OF CONTRACTORS

### 1. GENERAL

The Implementing Rules and Regulations of P.D. No. 1594, governing infrastructure contracts provide for registration and classification of contractors which shall be undertaken by an Inter-Agency Committee composed of representatives from the different designated government agencies/offices.

Registration and classification of contractors by the Inter-Agency Committee shall substantially reduce registration requirements through the use of uniform guidelines and criteria, provide quick access to updated records of contractors, and avoid possible irregularities attributed to multiple/inconsistent registration.

The Inter-Agency Committee shall formulate uniform guidelines, criteria and procedures for the classification of contractors to be adopted by all offices/agencies/corporations concerned.

### 2. DEFINITION OF TERMS

- 2.1 Infrastructure Projects - refer to construction, improvement or rehabilitation of roads and highways, airports and air navigation facilities, railway, ports, flood control and drainage, water supply and sewerage, irrigation systems, dams, buildings, communication facilities, dredging and reclamation, power generating plants, power transmission and distribution facilities and other related construction projects that form part of the government capital investment.
- 2.2 Filipino Contractor - refers to a Filipino citizen, partnership or corporation duly organized and licensed under the laws of the Philippines and at least seventy five percent (75%) of the capital stock of which belongs to Filipino citizens.
- 2.3 Inter-Agency Committee - refers to the Committee, composed of representatives from the different designated government agencies/offices, created under Section IB 1.5 of the Implementing Rules and Regulations of P.D. No. 1594, as amended to classify, register and predisqualify contractors.
- 2.4 IAC-Category - refers to the size of a contractor classified as small, medium and large.
- 2.5 IAC-Classification - refers to the types or classes of projects such as roads, buildings, etc.

### 3. WHO MAY APPLY FOR IAC REGISTRATION

The following may apply for registration as contractor with the Inter-Agency Committee.

#### 3.1 Filipino contractors as defined under Section 2.2 above:

- a. Citizens in the case of single proprietorship.
- b. Partnership or corporation duly organized under the laws of the Philippines, and at least seventy five percent (75%) of the capital stock of which belongs to Filipino citizens.

3.2 Contractors forming themselves into a joint venture, i.e., a group of two or more contractors that intend to be jointly and severally responsible for a particular contract, which shall for purposes of bidding/tendering comply with LOI No. 630, and currently and properly accredited by the Philippine Contractors Accreditation Board in pursuance to the provision of Article IX, Section 38 of R.A. No. 4566.

3.3 Foreign contractors, who are duly licensed by the Philippine Contractors Accreditation Board, may apply for registration for internationally bid foreign-assisted projects under the same procedures and/or in accordance with procedures established by, and agreed upon with, the lending/financing institution.

### 4. IAC REGISTRATION SYSTEM

#### 4.1 General

THE IAC Registration involves the screening of the qualifications of prospective contractors for government infrastructure projects to determine their general ability to undertake different types and sizes of projects, without referring to any specific contract.

#### 4.2 IAC Classification of Projects

Government infrastructure projects for purposes of registration shall be classified as follows:

<u>IAC CLASSIFICATION OF PROJECTS</u>	<u>COVERAGE</u>	<u>MAJOR AGENCIES INVOLVED</u>
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#### I. General Engineering

A. Road, Highway pavement, Railways, Airport horizontal structures and Bridges	Roads: All types including national, provincial, city, municipal, and barangay roads and related structures Agency involved: DPWH	
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Railways:

All types

Agency involved: PNR, LRTA

Airport Horizontal Structures:

Runways, taxiways, apron, stopways, other aircraft movement areas and related structures

Agency Involved: DPWH, DOTC

Bridges and Similar Structures:

All types of bridges, interchanges, viaducts, and related structures

Agency Involved: DPWH

B. Irrigation and Flood Control

Flood Control and Drainage:

River control including dikes and revetments, channel improvement, drainage systems, pumping stations, and related structures

Agency Involved: DPWH

Irrigation Systems:

Irrigation canals, canal structures, drainage, pumping stations and related structures

Agency involved: NIA, DPWH

C. Dam, Reservoir and Tunneling

Dams:

Reservoirs; storage/ diversion dams and related structures

Agency Involved: NIA, NPC

MWSS, DPWH

Tunneling: -

Diversion Tunnels

Agency Involved: NIA, NPC

MWSS, DPWH

Power Generating Plants:

Hydro-electric plants and related structures

Agency Involved: NPC, NEA

D. Water Supply

Water Supply:

Wells, developed springs, and other source development works distribution system and related structures

Agency Involved: DPWH, MWSS

LWUA

E. Port, Harbor and Offshore Engineering

Ports

Piers, wharves, causeways, and related structures

Agency Involved: PPA, DPWH

Dredging and Reclamation

Harbor dredging, reclamation  
Rockworks and related structures  
Agency Involved: DPWH, PPA,  
PEA

II. General Building

A. Building and Industrial Plant

Air Navigation Facilities:

Air traffic control facilities  
(Area approach and aerodome) and  
other related structures  
Agency Involved: NAIA, DOTC

Power Generating Plants:

Thermal (oil, coal, etc.), geo-  
thermal plants and related  
structures  
Agency Involved: NPC, NEA

Power Transmission and Distribution:

Poles, towers, sub-stations and  
related structures  
Agency Involved: NPC, NEA

Buildings:

All types including school  
buildings, hospitals, airport  
terminal buildings, post  
offices, market, housing, multi-  
-storey buildings and related  
structures  
Agency Involved: DPWH, DOTC  
NHA

Communication Facilities

Antennae, towers, telephone  
exchanges, and related  
structures  
Agency Involved: DOTC, DPWH,  
PPA, PAGASA

B. Sewerage and Sewage Treatment/ Disposal Plant

Sewerage:

Sewerage systems, treatment  
plants, and related structures  
Agency Involved: MWSS, LWUA

C. Water Treatment Plant and System

Water Supply:

Water pumping stations, elevated  
water tanks, filtration plants,  
and related structures  
Agency Involved: MWSS, LWUA  
DPWH

D. Park, Play-ground, and Recreational Work

Others:

Parks, playground, landscaping,  
monuments, and similar  
structures  
Agency Involved: DPWH, LGUs

### III. Specialties

- A. Foundation Work
- B. Structural Steel Work
- C. Concrete Pre-casting and Prestressing
- D. Plumbing and Sanitary Work

#### Water Supply:

Pumping, filtration and treatment plant equipment installation and distribution systems

Agency Involved: MWSS, LWUA  
DPWH

#### Sewerage:

Sewerage systems and treatment plant equipment installation

Agency Involved: MWSS, LWUA

- E. Electrical Work

#### Electrical Installation:

##### Power Generating Plants:

Electro-mechanical works

Agency Involved: NPC, NEA

##### Power Transmission and Distribution:

High Voltage lines and sub-station equipment installation

Agency Involved: NPC, NEA

- F. Mechanical Work

#### Mechanical Installation:

##### Power Generating Plants:

Electro-mechanical works

Agency Involved: NPC, NEA

- G. Air Conditioning and Refrigeration Work

- H. Elevator and Escalator Work

- I. Fire Protection Work

- J. Waterproofing Work

- K. Painting Work

- L. Well Drilling Work      Water Supply:  
Wells, developed springs, and other source development works  
Agency Involved: MWSS, LWUA  
DPWH
- M. Navigation Equipment and Instrument Installation      Air Navigation Facilities:  
Very high frequency omnirange/distance measuring equipment, non-directional beams, radio detector and ranging (radar) instrument landing systems installation  
Agency Involved: NAIA, DOTC
- N. Communication Equipment and Instrument Installation      Communication Facilities:  
Landlines, cables, and other communication equipment and instrument installation  
Agency Involved: DOTC, DPWH, PPA, PAGASA

The Inter-Agency Committee may add, delete, modify and/or alter the foregoing Classifications, whenever deemed necessary by the Committee to render them more relevant and responsive to prevailing conditions.

#### 4.3 IAC Categorization of Contractors

For each of the above types or classes of projects, a contractor shall be categorized on the basis of its evaluated capability to carry out contracts of different costs, as follows:

<u>IAC CATEGORY OF CONTRACTORS</u>	<u>ALLOWABLE RANGE OF CONTRACT COSTS</u>
Small	
Sub-Category A	Less than or equal to P. 0.5 M
Sub-Category B	Less than or equal to P 3.0 M
Medium	
Sub-Category A	Above P 3.0 M up to P 15.0 M
Sub-Category B	Above P 3.0 M up to P 30.0 M
Large	
Sub-Category A	Above P 3.0 M up to P 50.0 M
Sub-Category B	Above P 3.0 M

#### 4.4 Validity of Certificate of Registration

##### 4.4.1 Regular IAC Certificate of Registration

A Filipino contractor as defined in Sec. 3.1 hereof which has been duly registered by the Committee

shall be issued a regular Certificate of Registration valid for a period of three (3) years from the date of its issuance. The contractor may submit a request for upgrading of its IAC Category and/or for additional IAC Classification at any time during the validity of the said certificate of registration.

#### 4.4.2 Special IAC Certificate of Registration

Contractors forming themselves into a Joint Venture as well as Foreign Contractors duly registered by the Committee to bid /undertake a specific project as provided for in Secs. 3.2 and 3.3 hereof shall be issued a Special Certificate of Registration valid for a period of three (3) years from the date of its issuance, or for the entire duration of the specific project/undertaking, whichever is shorter. The Special Certificate of Registration must be renewed after three (3) years from the date of its issuance until the specific project/undertaking for which it was issued has been finally completed.

#### 4.4.3 Monitoring of the Registered Contractor's Capability

The Inter-Agency Committee shall monitor the capability of the contractor according to its present Category and Classification and shall downgrade its Category and/or cancel any of its IAC Classification if it fails to sustain the prescribed minimum requirements for such Category and Classification at any time during the validity of its Certificate of Registration. Failure on the part of IAC Registered Contractors to renew their Contractors License as well as failure to sustain the minimum qualification requirements for registration shall be grounds for the automatic suspension of the Contractor's Certificate of Registration with the Inter-Agency Committee.

#### 4.4.4 Eligibility for Pre-qualification

A duly registered contractor shall be deemed eligible for pre-qualification by any tendering agency involved, for any project subject to the limitations of the classification and category as provided in the contractor's Certificate of Registration.

### 5. CRITERIA FOR REGISTRATION

#### 5.1 Legal Qualification

To be legally qualified for registration with the Inter-Agency Committee, a contractor must meet all of the following requirements:

##### 5.1.1 Possession of a valid Contractor's License for the current year pursuant to R.A. 4566;



- 5.1.2. For a joint venture, a subscribed joint venture agreement making the parties jointly and severally liable for a particular contract and compliance with LOI 630 (at least 75% Filipino capital);
- 5.1.3 Also for a joint venture, a separate Joint Venture License per R.A. 4566 on a project to project basis; and ✓
- 5.1.4 In the case of foreign contractors, who satisfy the conditions stated in Section 3.3 above, a special license duly issued by the Philippine Contractors Accreditation Board for a particular project and a certificate as bonafide contractor in their own country duly authenticated by their respective embassies/consulates. ✓

5.2 Contractor's License Category

The IAC Category of a contractor shall take into account the contractor's License Category as determined by the Philippine Contractors Accreditation Board based on capital/networth, actual experience of sustaining technical employees; net book value of equipment, number of years in actual construction operation and annual turn-over volume. The lowest License Category required to qualify for each IAC Category as provided for in Sec. 4.3 above shall be as follows:

<u>IAC CATEGORY</u>	<u>LOWEST LICENSE CATEGORY</u>
Small	
Sub-Category A	Trade
Sub-Category B	D and C
Medium	
Sub-Category A	B
Sub-Category B	A
Large	
Sub-Category A	AA
Sub-Category B	AAA

5.3 Track Record

- 5.3.1 Experience - The IAC Category of a contractor shall likewise take into account its actual construction experience, in the government and private sectors, over the last fifteen years,

as indicated by the present value of the single largest relevant project it has satisfactorily completed.

The minimum track record required to qualify for each IAC Category as provided for in Section 4.3 above shall be as follows:

<u>IAC Category</u>	<u>Present Value of Single Largest Relevant Project Completed Within The Last fifteen (15) Years</u>
Small	
Sub-Category A	Less than or equal to P 500,000
Sub-Category B	Less than or equal to P 1.5 M
Medium	
Sub-Category A	Above P 1.5 M up to P 7.5 M
Sub-Category B	Above P 7.5 M up to P 15.0 M
Large	
Sub-Category A	Above P 15.0 M up to P 25 M
Sub-Category B	Above P 25 M

5.3.2 The Category of a contractor according to the above criteria shall be governed by the range of requirements that it meets. Thus, where a contractor meets the Track Record requirements for "medium" but is found to meet only the License Category requirement for "small" the contractor will be categorized as "small" until such time that it submits enough evidence to warrant upgrading.

#### 5.4 Performance Records

Commission by the contractor of any act or omission which constitutes a cause for disciplinary action as provided for in Sec. 8.1 hereof shall be a ground for the Inter-Agency Committee to deny the registration of said contractor.

#### 6. INVITATION FOR REGISTRATION OF CONTRACTORS

At least once a year, the Committee shall advertise, in at least two newspapers of general circulation, an invitation for registration to interested contractors.

#### 7. TECHNICAL WORKING GROUP

A separate Technical Working Group shall be created at the PCAB Secretariat to assist the Committee in the performance of its functions.

The Technical Working Group shall be composed of civil engineers, lawyers, mechanical/electrical engineers, and financial analysts plus administrative support, who must possess the necessary working knowledge. It shall be responsible for the processing, evaluation, preparation, and issuance of necessary documents relative to the contractor's application for registration. It shall also undertake investigation/verification of information and documents as well as physical inspection of projects undertaken/completed by registered contractors and safekeeping of records.

## 8. DISCIPLINARY ACTION/ADMINISTRATIVE SANCTION

### 8.1 Causes/Grounds For Disciplinary Action

Any of the following acts or omissions shall constitute as ground/cause for the suspension or revocation of registration of an IAC-Registered Contractor:

8.1.1 Misrepresentation of a material and substantial fact and/or submission of spurious documents in obtaining his Certificate of Registration and Classification from, and in any application or representation with, the Inter-Agency Committee;

8.1.2 Malpractice in the course of operation/business which shall consist of any or all of the following:

8.1.2.1 Willful and deliberate abandonment, without just excuse, of any government construction project engaged in or undertaken by the contractor;

8.1.2.2 Willful material and substantial departure from or disregard of plans and/or specifications of government construction project without the consent of the government agency or instrumentality concerned which is entitled to have the particular construction project completed in accordance with such plans and/or specifications or duly authorized representations, causing prejudice to the government;

8.1.3 Any finding of an act or omission committed in violation of the provisions of P.D. 1594 and its Implementing Rules and Regulations, based on a verified complaint filed by a tendering agency.

8.1.4 Active participation in the performance by any person, natural or juridical, of any act or omission constituting a cause for disciplinary action.

## 8.2 Procedure

### 8.2.1 Jurisdiction

The imposition of a disciplinary action for any of the above grounds shall be commenced either by a charge made by the committee itself, motu proprio, or by a complaint filed by a government tendering agency.

### 8.2.2 Prescription

Any charge or complaint shall be filed or proceedings initiated within two (2) years from discovery of the commission of any of the above grounds for disciplinary action.

### 8.2.3 Charge or Complaint

The charge made by the Committee, motu proprio, shall set forth in clear and concise manner the bases therefor.

The complaint made by a government tendering agency shall be made in writing and under oath and must be filed in triplicate with the Secretariat. It shall set forth clearly, distinctly and concisely the grounds therefor, and shall be accompanied by a supporting affidavit or material evidence, if any.

### 8.2.4 Referral to PCAB for further proceedings

The charge or complaint shall be referred, and all documents submitted appertaining thereto forwarded, by the Committee to the Philippine Contractors Accreditation Board (PCAB) and the latter shall take charge of the investigation/proceedings on the matter.

### 8.2.5 Decision

The decision of the Philippine Contractors Accreditation Board on the case shall be taken by the Committee as basis for formulating its own action.

## 9. APPLICABILITY

These Revised Guidelines shall apply to all contracts for infrastructure and other construction projects of all government agencies and instrumentalities, including government-owned and controlled corporations (GOCCs).

10. EFFECTIVITY

These Revised Guidelines shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation.

11. TRANSITORY PROVISIONS

11.1 Applications filed with and received by the Inter-Agency Committee prior to the effectivity of the Revised Guidelines shall be evaluated on the basis of the old IAC Guidelines. The IAC Category/Classification granted to contractors registered under the old IAC Guidelines shall remain valid until expiration unless the contractor voluntarily applies for upgrading of IAC Category, or additional IAC Classification, or renewal of IAC Registration, in which case, the requirements of the Revised IAC Guidelines shall apply.

11.2 The Revised Guidelines for Registration and Classification of Contractors shall be implemented starting on the date of effectivity for all applications for IAC Registration, upgrading of IAC Category, additional IAC Classification and renewal of IAC Registration filed with and received by the Inter-Agency Committee on that date and thereafter.

Adopted by the Inter-Agency Committee for Registration of Contractors this 1st day of March, 1991.

(SGD) ANTON C. KHO  
Chairman

(SGD) JOSE F. MABANTA  
Member

(SGD) JOSE R. VALDECANAS  
Member

(SGD) MARIO J. PADILLA  
Member

(SGD) AUGUSTO B. SANTOS  
Member

Attested:

(SGD) FROILAN S. CASTRO  
IAC Secretary

NOTE: These revised guidelines were published in the Philippine Daily Inquirer and Philippine Star in 8 April 1991.

PD 1167

Overseas Construction Incentive  
Decree(POCB)

MALACAÑANG  
Manila

PRESIDENTIAL DECREE NO. 1167  
(AS AMENDED BY PRESIDENTIAL DECREE NO. 1657)

DEVELOPING AND REGULATING THE OVERSEAS CONSTRUCTION  
INDUSTRY, PROVIDING INCENTIVES THEREFOR, AND FOR  
OTHER PURPOSES

WHEREAS, it is a primary concern of the government to promote and stimulate national economic development by embarking on an aggressive export promotion program;

WHEREAS, overseas construction operations provide an opportunity for the exportation not only of materials and commodities, but also of labor skills and technical and managerial expertise;

WHEREAS, these construction opportunities abroad would be most effectively availed of with organized, coordinated and sustained efforts, and government encouragement and support;

WHEREAS, many Filipino construction contractors who have the experience and skills have organized themselves, and are in a position to undertake overseas construction work;

WHEREAS, success in overseas construction operations will bring not only economic benefits, but also confidence and pride in the nation's capabilities;

NOW THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order as follows:

SECTION 1. *Short Title.* - This Decree shall be known as the "Overseas Construction Incentives Decree."

SEC. 2. *Declaration of Policy.* - It is the policy of the State to actively encourage and support activities that lead to the export not only of goods and services, but also of technical and managerial expertise; accordingly, the State encourages and promotes Filipino contractors who have the necessary capability to undertake overseas construction and help increase foreign exchange earnings and employment opportunities, and thereby hasten the economic development of the Filipino people.

SEC. 3. *Definition of Terms.* - For the purpose of this Decree:

(a) "Construction contractor" shall mean a natural or juridical person organized and licensed under Philippine laws, who undertakes or offers to undertake, or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, remove, move, wreck or demolish any structure, facility, project development or improvement

or to do any part thereof. The term contractor includes general engineering contractor, general building contractor and specialty contractor, construction management, engineering and specialized consultancy group;

(b) "Filipino contractor" shall mean a construction contractor, who is a citizen of the Philippines, or a corporation or other juridical entity, of which, in the case of a corporation, at least sixty percent (60%) of its capital stock outstanding and entitled to vote, is owned and held by citizens of the Philippines and at least sixty percent (60%) of the Board of Directors thereof are citizens of the Philippines, and in the case of any juridical entity, at least sixty percent (60%) of its equity is owned and held by citizens of the Philippines;

(c) "Overseas Project" shall mean a construction or consultancy project undertaken by a contractor or consultant outside the territorial boundaries of the Philippines; the term shall include overseas work which are in support of and necessary to construction undertakings.

(d) "Overseas construction operations" shall mean any activity related to an overseas project, including provisions of technical, managerial and highly professional services;

(e) "Board" shall mean the Philippine Overseas Construction Board created under this Decree; and

(f) "Gross contract price" shall refer to income, revenues, or receipts derived by a contractor from an overseas project.

SEC. 4. *Incentives for Filipino Overseas Contractors.* - a duly registered Filipino contractor who is engaged in an overseas project shall be granted, at his option, the incentives provided in subsection (a) and (b) or in subsection (c), or in subsection (d) of this section.

(a) Tax credit - (1) Taxes paid by the Filipino contractor to foreign governments on income derived from overseas projects subject, however, to the limitation of Section 30 (c) and 4 (a) and (b) of the National Internal Revenue Code;

(2) Tax credit for taxes withheld on interest payments on foreign loans incurred directly and exclusively for overseas projects: Provided, That (i) no such credit is enjoyed by the lender-remittee in his country; and (ii) the overseas contractor has assumed the liability for payment of the tax due from the lender-remittee; and

(3) Tax credit equivalent to the sales taxes paid on domestically manufactured or produced materials or products which are purchased by the overseas contractor and actually exported by him to be used in his overseas projects: Provided, That the sales taxes are indicated as a separate item on the sales invoice of the manufacturer or producer.

(b) Deduction from gross overseas income - (1) Accelerated depreciation - At the option of the Filipino contractor and in



accordance with the procedures established by the Bureau of Internal Revenue fixed assets actually used in overseas operation may be (i) depreciated to the extent of not more than twice as fast as the normal rate of depreciation if expected life thereof is ten (10) years or less; or (ii) depreciated over any number of years, between five (5) years and expected life if the latter is more than ten (10) years. Such depreciation cost as may be chosen by the said tax payer shall be allowed as a deduction from taxable income: Provided, That he notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this Section will be used by him;

(2) Additional deduction of labor training expenses - An additional deduction from taxable income of one-half of the value of labor training expenses incurred for improving the performance and efficiency of unskilled labor: Provided, That such deduction shall not exceed ten percent (10%) of the direct labor wage; and

(3) Net operating loss carry-over - A net operating loss incurred on overseas projects in any year of operation may be carried over as a deduction from taxable income earned from overseas projects within the three (3) years immediately following the year of such loss: Provided, That the loss carried over is computed net of incentives herein granted: Provided, further, That no impairment of loans or guarantees extended by the Philippine Government or any of its instrumentalities has occurred or will occur as a result of overseas construction operations during the taxable year. The net operating loss shall be computed in accordance with the procedures established by the Bureau of Internal Revenue and shall be allowed only for purposes of income declaration in the Philippines.

(c) In lieu of the income tax payable as a result of the application of the incentives provided for in the preceding subsections, the Filipino contractor may elect to pay a one and one-half percent (1-1/2%) tax on his gross contract price less any portion subcontracted to another registered Filipino contractor.

(d) A registered contractor may for the <sup>first</sup> five (5) years from registration with the Philippine Overseas Construction Board or with the Board of Investments as service exporter under R. A. 6135, whichever was earlier, be entitled to deduct from its taxable income an amount equivalent to fifty percent (50%) of its total export fees during the year in which the incentive is claimed: Provided, That to be entitled to this deduction, the registered contractor must have remitted or repatriated to the Philippines in acceptable currencies its total export fees earned during the year in which the incentive is claimed less reasonable costs and expenses incurred or payable in foreign currencies under such Rules and Regulations as the Monetary Board may prescribe; Provided, further, That contractors registered with the Board of Investments as service exporters may elect, within one year from the effectivity of this Decree to avail of incentives under this subsection.

Any contractor who elects to avail of the incentives provided in subsection (d) above shall not be qualified to avail of the incentives provided in subsection (a) and (b) or (c) above even after the expiration of the period of availment under subsection (d).

SEC. 5. *Internationally-bid Local Projects.* - The incentives provided in subsections (a) and (b) of the preceding Section 4, shall be available to Filipino contractors participating as principals in projects that are internationally-bid and foreign assisted under such rules and regulations as shall be promulgated by the Board.

SEC. 6. *Priority in Hiring.* - Construction contractors shall have priority in the hiring or placement of construction workers for their overseas construction projects: Provided, That such activity is undertaken in accordance with the Labor Code as amended.

SEC. 7. *Registration.* - Construction contractors undertaking or who intend to undertake overseas construction projects shall register with the Board. No construction contractor shall tender or bid on any overseas construction project unless registered and authorized by the Board.

SEC. 8. *Composition of the Board.* - There is hereby created a body to be called the "Philippine Overseas Construction Board" to implement the policies enunciated in this Decree. The Board shall be composed of five (5) members to be appointed by the President of the Philippines. The President of the Philippines shall appoint a Chairman from among the five members. The members of the Board shall serve for a term of three (3) years or until their successors shall have been appointed. In case of any vacancy in the Board, the same shall be filled by the President of the Philippines for the unexpired term.

SEC. 9. *Strategies and Programs for Developing Philippine Overseas Construction Industry.* - It shall be the duty of the Board to formulate strategies and programs for developing the Philippine overseas construction industry, to regulate and control the participation of construction contractors in overseas construction projects, and to administer the grant of incentives provided under this Decree.

SEC. 10. *Coordination of Strategies and Policies.* - Unless otherwise specifically prescribed by this Decree, the Board shall coordinate its strategies and policies with those of the National Economic and Development Authority, Philippine Export Council, Philippine Export and Foreign Loan Guarantee Corporation, Overseas Employment Development Board, and all relevant agencies of the government involved in the development and promotion of the overseas construction industry. The strategies formulated by the Board shall be incorporated into the National Export Strategy.

The Board shall be under the control and supervision of the Office of the President.

SEC. 11. *Powers and Functions.* - The Board shall exercise by itself or through existing agencies, the following powers and functions:

(a) Receive, process and, approve, on such terms and conditions it may deem necessary to promote the objectives of this Decree, applications of construction contractors for registration under this Decree, and to impose

and collect reasonable fees which shall be used exclusively to meet the operating and administrative expenses of the Board and in promoting its objectives;

(b) Identify, in coordination with the Department of Foreign Affairs, Overseas Employment Development Board, and Department of Trade, the projects, opportunities, and the countries where construction contractors may operate;

(c) Determine, with the assistance of the representative of the private construction industry and the Department of Public Works, Transportation and Communication from among the interested construction contractors those who will be allowed to bid for overseas projects;

(d) Determine from among the registrants those who will avail of and are eligible for the incentives provided by this Decree and cause the granting of the same;

(e) Check, verify, and evaluate at regular intervals, through the facilities of appropriate existing agencies, the performance of construction contractors engaged in overseas projects;

(f) Check and verify periodically, with the assistance of other instrumentalities of government by inspection of the books or by requiring regular reports or by some other method deemed most effective, on the compliance by construction contractors with the provisions of this Decree and the rules and regulations issued thereunder;

(g) Authorize, upon recommendation of the Department of Trade, the exportation of construction materials and equipment, subject to existing rules on exportation;

(h) After due notice and hearing, cancel the registration of, or suspend or cancel, or cause the suspension or cancellation, wholly or partly, or the enjoyment of incentives and other benefits by any Filipino contractor, including the imposition of penalties as provided for under this Decree, for (i) failure by the contractor to maintain the qualifications required; or (ii) for violation of any provision of this Decree and of other laws granting incentives and benefits to such contractors, of the rules and regulations issued thereunder, or of any law or decree for the protection of labor; (iii) for unjustified abandonment, incompetent management and administration of any overseas project awarded to such contractor;

(i) Recommend or participate, subject to the approval of appropriate authorities, in the negotiation of bilateral or multi-lateral agreements that would facilitate the entry of contractors in overseas markets and to protect the interest of Filipino contractors and the workers operating overseas;

(j) Formulate, examine, and implement, or cause the implementation thereof, a scheme or arrangement for the protection of Filipino contractors from non-commercial risks with respect to their assets, equipment and other property held overseas in connection with approved overseas projects;

(k) Obtain, collate, and evaluate information necessary for the effective discharge of its primary purpose and the proper exercise of its powers and functions;

(l) Generally exercise all the powers necessary or incidental to attain the purposes of this Decree, including the promulgation of its internal rules and procedures governing meetings, organization and staffing;

(m) Recommend to the President in meritorious cases, the liberalization of incentives granted by the Board under Presidential Decree No. 1167; the President may in the interest of national socio-economic development and general welfare liberalize the incentives enumerated in the said Presidential Decree;

(n) Recommend reduction, suspension, or elimination of incentives to the President, who in the interest of general welfare and development may reduce, suspend or eliminate the enjoyment of any of the incentives administered by the Philippine Overseas Construction Board. Such reduction, suspension, or elimination shall not affect projects previously authorized or approved by the Board prior to such action.

SEC. 12. *Rules and Regulations.* - (a) The Board shall issue rules and regulations as may be necessary for the proper implementation of the general provisions of this Decree. Said rules and regulations shall contain, among others, criteria for determining the eligibility of contractors and their principals to operate overseas and to avail of the incentives provided for in this Decree, measures to avoid ruinous competition between contractors engaged in overseas construction projects, provisions to encourage the pooling of resources of construction contractors to enhance their competitive advantage in obtaining overseas construction contracts, provisions for the utilization of locally available materials and equipment in overseas construction projects, and measures to expand within a reasonable time, the ownership base of construction contractors by either a public offering of their capital stock entitled to vote, or the sale of such stock to their employees, or other measures to achieve such end.

(b) The Secretary of Finance, upon recommendations of the Commissioner of Internal Revenue, shall promulgate all necessary rules and regulations for the effective enforcement of the tax incentive provisions of this Decree.

SEC. 13. *Meeting and Quorum.* - The Board shall meet as often as is necessary but not less than once a month on such day as it may fix. Special meetings may be convoked upon the call of the Chairman or upon the written request of at least two (2) of its members. The presence of three (3) members shall constitute a quorum, and all decisions shall require the concurrence of at least three (3) members.

SEC. 14. *Remuneration of Members of the Board.* - The part-time members of the Board shall receive a per diem of five hundred pesos (₱500) for each meeting of the Board actually attended: Provided, however, That the total per diems paid to a Board member shall not exceed the sum of two thousand pesos (₱2,000) in any one month. Full time members shall receive annual salaries and commutable monthly allowances as determined by the President of the Philippines.

SEC. 15. *Executive Staff.* - (a) The Board shall have an Executive Staff to implement its decisions. The positions in the Executive Staff are hereby declared to be highly technical and confidential in nature.

(b) The Executive Staff may be augmented on an "as needed" basis, from time to time, in the exercise of its powers and performance of its functions by calling upon appropriate agencies of the government or the private sector.

(c) The Commission on Audit shall appoint its representative to the Board to audit its accounts in accordance with pertinent rules and regulations.

SEC. 16. *Special Attaches.* - (a) The Board may, whenever necessary, designate special attaches and, in coordination with other appropriate government agencies, assign such attaches to countries where Filipino contractors are operating or may be likely to operate, provided that use of existing labor, commercial, or other forms of attaches is optimized for this purpose. The attaches shall perform the following duties:

- (i) Gather information needed to develop the overseas construction market;
- (ii) Assist Philippine government agencies and Filipino overseas contractors in developing the overseas construction market;
- (iii) Monitor the performance of construction contractors overseas and submit relevant reports and recommendations to the Board;
- (iv) Perform such other duties as may be assigned to him by the Board.

(b) The exercise of the foregoing functions by special attaches shall be governed by the terms and conditions of an understanding or agreement between the Board and the Department of Foreign Affairs.

SEC. 17. *Penal Provisions.* - Any violation of the provision of this Decree or of the terms of registration, of the rules and regulations issued by the Board, shall be punished by a fine not to exceed fifty thousand pesos (₱50,000) or imprisonment of not more than three (3) years, or both, at the discretion of the Court.

SEC. 18. *Appropriation.* - There is hereby appropriated the sum of five million pesos (₱5,000,000) out of the funds of the National Treasury not otherwise appropriated, for the organizational and operational expenses of the Board during the period of one year from the approval of this Decree. Thereafter its budget shall be included in the annual General Appropriations Act.

SEC. 19. *Separability Clause.* - The provisions of this Decree are declared to be separable and if any provision or the application thereof is held invalid or unconstitutional, the validity of the other provisions shall not be affected.

SEC. 20. *Repealing Clause.* - All provisions of existing laws, decrees, and executive orders contrary to or inconsistent with this Decree are hereby repealed or modified accordingly.

SEC. 21. *Effectivity Clause.* - This Decree shall take effect upon its approval.

Done in the City of Manila, this 27th day of June, in the year of Our Lord nineteen hundred and seventy-seven.

(Sgd.) FERDINAND E. MARCOS  
President  
Republic of the Philippines

By the President:

(Sgd.) JACOBO C. CLAVE  
Presidential Executive Assistant