



NATIONAL DEVELOPMENT COMPANY WHISTLEBLOWING POLICY

**Date of Approval:
February 12, 2018**

WHISTLEBLOWING POLICY

SECTION 1. *Legal Bases* – This Whistleblowing Policy of the National Development Company is hereby adopted in compliance with GCG Memorandum Circular No. 2016-02 otherwise known as the “Revised Whistle Blowing Policy for the GOCC Sector”, which states among others, that Government Owned and Controlled Corporations (GOCCs) acting through their Governing Board and duly authorized Officers and Employees, shall conduct the affairs, operations and business thereof in full compliance with applicable laws, rules and regulations, policies and that as public officials, all Members of the Board of Directors, Officers and Employees must exemplify the behavior and professional demeanor consistent with such laws, rules, regulations, policies and procedures of the highest standard in line with 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 and that the Governance Board of every GOCC and its subsidiaries must be competent to carry out the GOCC’s functions, be fully accountable to the State as its fiduciaries, and act in the best interest of the GOCC and the State.

SECTION 2. *Purpose* – The purpose of this Policy is to enable any concerned individual to report and provide information anonymously and/or in strict confidentiality if he/she wishes, and even to testify on matters involving actions or omission of the Directors, Officers and Employees of NDC, that are illegal, unethical, violate good governance principles, are against public policy and morals, promote unsound and unhealthy business practices or grossly disadvantageous to NDC and/or the Government without fear of retaliatory action by observing due process of law and with the agency extending all possible assistance to the whistleblower as the situation may warrant, subject to applicable laws, rules and regulations.

SECTION 3. *Coverage* – This Policy shall be applicable to all officials and employees of NDC, whatever status of employment, whether permanent or temporary, career or non-career service, receiving compensation from the NDC, including the Members of the Board.

SECTION 4. *Definition of Terms – Whistleblowing*

Whistleblowing is the disclosure of and/or giving of evidence or information that a whistleblower reasonably believes constitutes a Reportable Conditions which are illegal, unethical, violate good governance principles, are against public policy and morals, promote unsound and unhealthy business practices, are grossly disadvantageous to the NDC.

SECTION 5. *Reportable Conditions* – Whistleblowers may report to the Whistleblowing Committee such acts or omissions 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 NDC, such as but not limited to:

- a. Abuse of authority;
- b. Bribery;
- c. Conflict of interest;
- d. Destruction/Manipulation of records;
- e. Fixing;
- f. Inefficiency;
- g. Making false statements;
- h. Malversation;
- i. Misappropriation of assets;
- j. Misconduct;
- k. Money Laundering;
- l. Negligence of duty;
- m. Nepotism;
- n. Receiving a commission;
- o. Solicitation of gifts;
- p. Taking advantage of corporate opportunities;
- q. Undue delay in rendition of service;
- r. Undue influence

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

- a. PD 1648 (Revised Charter of NDC);
- b. R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees);
- c. R.A. No. 3019 (Anti-Graft and Corrupt Practices Act);
- d. R.A. No. 7080 (The Plunder Law);
- e. R.A. No. 9485 (Anti-Red Tape Act of 2007);
- f. R.A. No. 7877 (Anti-Sexual Harassment Act of 1995);
- g. R.A. No. 9262 (Anti-Violence Against Women and Their Children Act);
- h. Book II, Title VII of the Revised Penal Code: Crimes Committed by Public Officers;
- i. Executive Order No. 292, s. 1987 (Administrative Code of 1987);
- j. R.A. No. 10149 (GOCC Governance Act of 2011);
- k. R.A. 9184 and its IRR (Government Procurement Reform Act);
- l. GCG MC No. 2012-05 (Fit and Proper Rule);
- m. GCG MC No. 2012-06 (Ownership and Operations Manual Governing GOCC Sector);
- n. GCG MC No. 2012-07 (Code of Corporate Governance for GOCCs);
- o. GCG MC No. 2015-07 (Corporate Governance Scorecard);
- p. Manual of Corporate Governance of NDC; and
- q. Other issuances, orders, and applicable laws and regulations

SECTION 6. *NDC Whistleblowing Committee (NDC-WC)* – The NDC Whistleblowing Committee (NDC-WC) is hereby created which shall be composed of:

1. Manager of the Legal Department – Chairman

Members:

2. Manager of the Finance and Administration Department

3. Manager of the Internal Audit Department
4. Attorney V of the Legal Department

Whenever the whistleblowing report/complaint is submitted/initiated by an employee or official of the NDC, a representative from their sole bargaining agent or recognized association of managers/executives, as the case may be, shall also sit as the fifth member of the NDC-WC.

SECTION 7. Reporting Channels – The following are dedicated reporting channels which the whistleblower can use to file any reportable condition:

- a. Directly through the NDC reporting channels for whistleblowers:

- a.1. Email: whistleblower@ndc.gov.ph

- a.2 Mail:

Attention: The Chairman of NDC-WC
National Development Company
8th Floor NDC Building, 116 Tordesillas St.
Salcedo Village, Makati City 1227

- a.3 Telephone number: 8840-4338 loc. 276

- a.4 Fax number: 8840-4937

- a.5. Face to face Meetings with NDC Officials, Officers and Employees

- b. Alternatively, to GCG's whistleblowing web portal (<https://whistleblowing.gcg.gov.ph>), a link of which is found in the NDC website;

SECTION 8. Procedures in Handling Whistleblowing Reports

a. Filing of Whistleblowing Reports (WR)

- a.1 **Who may File** – Any concerned individual or NDC employee who witnesses or becomes aware of any attempted, ongoing or consummated Reportable Conditions involving any NDC employee may file the WR.

The Whistleblower who files the WR anonymously may choose to provide a manner by which he/she can be contacted without jeopardizing his/her anonymity. Such means shall include, but not limited to using an e-mail, a pre-paid mobile number and the like.

- a.2 **Where to File** – The WR shall be filed with the NDC-WC or through any of the Reporting Channels.

a.3 Form of the WR – The WR must be in writing and shall contain the following:

- i. The Respondent must be clearly identified by his/her full name and position;
- ii. The specific conditions, actions and/or omissions being complained about, as well as the corresponding laws, rules and regulations allegedly violated;
- iii. Documentary and other evidence to support the allegations.

b. Preliminary Evaluation of the WR

b.1 The NDC-WC will make the initial determination of whether or not the information provided may be considered as a Reportable Condition. If the NDC-WC determines that such information does not qualify as a Reportable Condition, the same shall be treated as ordinary complaint which will be acted on accordingly in accordance with applicable NDC policy, or existing rules and regulations.

The NDC-WC reserves the right to disregard WRs that are vague, ambiguous, patently without merit, or are clearly harassment complaint against the Respondent. The NDC-WC shall communicate its initial findings on such WRs to the Whistleblower who will be given the opportunity to substantiate the same, failing to do so, the matters raised in the WRs will be considered closed and terminated.

c. Full Investigation

c.1 If the NDC-WC finds the WR to be sufficient in form and substance, the NDC-WC 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) calendar days from receipt thereof.

The NDC-WC shall furnish the Whistleblower a copy of the comments of the Respondent, and shall give him/her the opportunity to provide more information or controverting evidence within fifteen (15) calendar days from receipt of the copy of the Respondent's comments. If the Whistleblower submits additional information or evidence, the NDC-WC shall likewise give the Respondent the opportunity to submit rebutting evidence within ten (10) calendar days from receipt thereof.

c.2 If the NDC-WC is satisfied that all the information and evidence necessary for the resolution/decision of the WR are ready on hand, it may proceed to draft the corresponding resolution/decision of the WR and submit its recommendation the General Manager and the NDC Board of Directors.

d. Final action on the NDC-WC's Report

- d.1** In cases of WR filed against NDC employees (other than the members of the Board), the NDC Board of Directors, in consideration of the resolution/decision and/or recommendation of the NDC-WC, may pursue any of the following actions:
- i. Dismiss the WR for want of palpable merit;
 - ii. impose disciplinary action or sanction against the Respondent pursuant to existing rules and regulations;
 - iii. Indorse to the proper Government Agency, such as the Office of the Ombudsman and/or Civil Service Commission, the pursuit of the criminal and/or administrative processes against the Respondent;
 - iv. Enjoin the NDC Management to comply with applicable laws or jurisprudence and/or undertake corrective measures to address the matters raised in the WR; and
 - v. Consider the NDC-WC report closed and terminated if the response of the Respondent is found to be adequate.
- d.2** In cases of WRs filed against the members of the NDC Board of Directors, the NDC-WC shall submit its recommendation to the Governance Commission for GOCCs for appropriate action.

SECTION 9. Confidentiality – Except when the whistleblower does not invoke anonymity and/or confidentiality when invoking this Policy, the NDC and its WC shall ensure confidentiality of all information arising from whistleblowing reports. It shall treat all reports, including the identity of the whistleblowers and the persons complained of, in a confidential and sensitive manner. The identity of the whistleblower will be kept confidential, unless compelled by law or the Courts to be revealed, or unless the whistleblower authorized the release of his/her identity.

SECTION 10. Protection of a Whistleblower against Retaliation – Retaliatory acts against whistleblower who submits WRs in good faith shall not be tolerated by the NDC which shall extend all possible assistance to the whistleblower under the law and given the circumstances. Such retaliatory acts may include:

- a. Discrimination or harassment in the workplace;
- b. Demotion;
- c. Reduction in salary benefits;
- d. Termination of contract;
- e. Evident bias in the performance evaluation; and
- f. Any acts or threats that adversely affect the rights and interests of the whistleblower

Any whistleblowing report/complaint which is to be heard by the WC shall be with the representation from the registered and sole bargaining agent of rank and file personnel, in case the whistleblower is a rank and file employee; or from the recognized association of managers/executives, in case the whistleblower is an official of the NDC.

The whistleblower if he/she desires may be assisted by a counsel of his/her choice. However, the expenses incidental to the prosecution of his report/complaint should be on his/her sole account and in no case shall be charged to the NDC.

SECTION 11. *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/her by the NDC.

SECTION 12. *Disclosure made by a party to a misconduct* – A disclosure made by a person who is himself/herself a party to the disclosed conduct constituting misconduct or wrongdoing, whether as principal, accomplice or accessory, is deemed a protected disclosure under this Policy and such person shall be entitled to the benefits of a whistleblower, provided that:

- a. The whistleblower complies with the conditions hereof.
- b. The whistleblower should not appear to be the most guilty.
- c. The whistleblower has not been previously convicted by final judgment of a crime involving moral turpitude.
- d. The whistleblower testifies in accordance with his/her disclosure.

SECTION 13. *Disclosure made before proper persons* – Any official, director, or employee to whom a disclosure is made shall have the following obligations:

- a. Maintain confidentiality of the identity of the whistleblower and the subject matter of the disclosure;
- b. Undertake measure to ensure the well-being of the whistleblower; and
- c. Report the disclosure in full detail to the WC Chair or the Chair of the Board.

SECTION 14. *Obligation to testify* – Any official or employee who has personal knowledge of any matter pertaining to a protected disclosure shall, if called upon, have the obligation to testify in any proceedings arising from such protected disclosure.

SECTION 15. *Protection of Witnesses* – Any official or employee who testifies in any proceedings arising from a protected disclosure shall be accorded the same protection against retaliatory actions.

SECTION 16. *Remedies and Sanctions* –

- a. **Violations of Confidentiality:** Any official or employee who violates the protection of confidentiality of a protected disclosure and of the confidentiality of the proceedings shall be liable for disciplinary sanctions.
- b. **Retaliatory actions:** Any official or employee who does, causes, or encourages retaliatory actions as defined in this Policy, against a whistleblower, or persons believed or suspected to be one, and/or those

officials and employees supporting him/her, or any of his/her relatives within the fourth civil degree of consanguinity or affinity, shall be immediately subjected to administrative and/or criminal proceedings, and in appropriate cases, immediately placed under preventive suspension.

- c. **Failure to act or report:** Any official or employee under obligation to report a disclosure under this Policy, or who fails to act thereon or cause an investigation thereof, shall be liable for disciplinary action.

- d. **Failure or refusal to testify:** Any official or employee, who fails or refuses to testify, or to continue to testify, or who adversely varies his/her testimony, without just cause, in any proceedings arising from a protected disclosure, shall be liable for disciplinary action.

SECTION 17. *Effectivity Clause* – This Policy shall take effect immediately upon approval by the Board of Directors.