

The Employee Union as an Anti-Corruption Instrument

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The employees of the public enterprise discussed here formed one not solely to protect their own interests but also to uphold the well-being of their agency. The processes they followed and the results of their efforts are the subject of this article.

Introduction

Employees form a union primarily to protect and advance their rights and welfare. This paper presents a case of a union transcending self-seeking objectives by venturing in activities that concern broader management and ethical issues. First alarmed by the perceived incompetence of top officials, the employees subsequently moved into probing and exposing anomalies in their agency. The corruption case presented in this paper was considered to be the biggest case ever investigated by the Office of the Ombudsman under the Aquino administration (Vasquez 1989).

The Agency

The agency involved is a public corporation whose primary task is to investigate, study, improve, construct and administer irrigation systems in the country. It is also tasked to undertake comprehensive water resources projects and other activities like flood control, drainage, land reclamation and hydraulic (hydro-electric) power development. As of 1980, the corporation had a capitalization of ₱10 billion (P.D. No. 1702).

As a service and implementing agency, it receives fund releases out of foreign loans and equity investments from the national government. It also earns its own income which accrues to its corporate funds. In 1985, it was ranked as number four among the top earning government corporations (COA 1985). Its position went down to number 18 in 1986 (COA 1986). In 1987, the corporation earned a net income of ₱138,742,279. But in 1988, corporate income was down to ₱7,353,977. Funds received and income earned for 1987 and 1988 are given in Table 1.

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Table 1a. Agency's Sources of Funds, 1987 and 1988

<i>Source</i>	<i>Amount</i>	
	<i>1987</i>	<i>1988</i>
Fund releases out of foreign loans	₱ 894,424,717	₱ 1,297,074,564
Appropriation from the National Government	400,033,000	420,000,000
Income realized during the year (before expenses)	572,014,484	214,410,304
Total Funds	₱1,866,472,201	₱1,931,484,868

Table 1b. Agency's Statement of Operations, 1987 and 1988

	<i>Amount</i>	
	<i>1987</i>	<i>1988</i>
Income	₱ 572,014,484	₱ 214,410,304
Less Operating Expenses		
Personal Services	282,962,601	139,727,339
Maintenance and Other Operating Expenses	153,309,604	67,328,988
Total Operating Expenses	₱ 436,272,205	₱ 207,056,327
Net Income	₱ 135,742,279	₱ 7,353,977

Source: Special Audit Report No. 88-153, COA, 10 July 1989.

The agency is governed by a Board of Directors with an administrator, a deputy administrator¹ and four assistant administrators implementing the corporate policies. For the calendar year 1987, it had a total manpower complement of 18,821.

In May 1986, a practicing lawyer assumed the post of administrator and four other new appointees acted as assistant administrators. A Special Task Force, alleged to be composed of townsmen and friends of the administrator, was also created. Its members were appointed as executive assistants and served in sensitive committees like the Prequalifications Bids and Award Committee (PBAC), which evaluates bids for supplies and materials contracts and, civil and mechanical works contracts. The Administrator also filled in positions purposely left vacant by past administrators as part of the agency's austerity measures.

Organization of the Union

Old-time officials and employees were thus placed under the tutelage of people who were totally new to the agency. When the administrator issued a memorandum circular subjecting middle management officials to a screening procedure to be conducted by the Task Force, six officers immediately organized their colleagues to protest the said circular. The planned evaluation did not materialize.

A membership campaign was launched during the third quarter of 1986. Recruitment was not brisk as many employees feared possible harassment from management should they join a union. Besides, there was no immediate issue then that had implications on the rank and file employees. The union was registered with the Securities and Exchange Commission (SEC) in September 1986 with a membership of close to 300, which is only 21 percent of the 1,400 employees in the central office. One of the founders served as the first president of the employee organization.

An intensive membership campaign was launched in 1987 when Executive Order (E.O.) No. 180 (1 June 1987) providing the guidelines on organization of government employees was issued. One guideline stated that middle management officials were not eligible for membership in an employee association. Since the first set of officers was composed mostly of middle management officials, another election was conducted. A principal engineer (equivalent to a section chief) emerged as the new president. Thirty-two other employees² were subsequently elected as board members, and five were appointed as heads of the committees on membership, finance, employee welfare, legal complaints, and education and propaganda.³ The union was finally registered with the Department of Labor and Employment and the Civil Service Commission on 29 April 1988. As a rank and file association, it sought to protect both employee and agency welfare and at the same time advance corporate objectives by promoting professionalism and efficiency in the service (Interview with Union President 1989).

Union chapters were subsequently formed in the regional offices. As of August 1990, the association had about 800 members in the central office, which is roughly 60 percent of the central office's total manpower, and close to 3,000 members in the regional offices.

The First Challenge

The perceived lack of expertise and arrogance of the new managers coupled by reports of questionable transactions⁴ created tension in the agency. The situation prompted the employee union to stage a strike in December 1986 which lasted for eight (8) days. The adverse publicity that generated forced the

administrator to negotiate with the union. That in turn resulted in the resignation of the four assistant administrators. The Task Force was likewise disbanded and the services of its members, except for four⁵, were terminated. Four department managers from the ranks of career personnel in the agency were promoted as Assistant Administrators. These new appointees assured the union that with them at the helm the anomalies would soon stop (Union Background Information 1989).

Uncovering Irregularities

Success in ousting top officials and Task Force members did not totally appease the union. Cognizant of the many opportunities for corruption in their agency and given initial reports of irregularities taking place, association leaders called on its members to sustain vigilance. When the Commission on Audit (COA) issued the 1986 Annual Report on Government-Owned and -Controlled Corporations, which put the agency down to number 18 in terms of earnings, and the regular audit of the agency, which reported some questionable transactions, the union started its investigation.

At that time, however, no committee was coordinating the drive. A member exposed to civil works contracts took the initiative of investigating reported anomalies.⁶ He met with other members in critical offices and inquired into the background of the anomalies and available materials that would strengthen evidence on the cases. Members responded by transmitting photocopies of pertinent documents such as requisition slips, purchase orders, receipts, vouchers, bidding documents, special allowances to agency officers and employees, and vehicle assignments. A section chief who used to be close to the administrator joined the union when he learned of the anomalies, and actively participated in the investigation and documentation.

By 1988, the employee association had more than enough documents to warrant an official investigation. The association was able to uncover and document irregularities in eleven major transactions with a total estimated value of ₱176,597,069 (Table 2). These were encountered in the years 1986, 1987 and 1988. Except for the purchase of drill bits, parts and accessories, all the other cases were financed solely by local funds. Only the first four cases had been investigated as of March 1990. Table 2 provides a summary of the allegations.

Drill bits, parts and accessories. The items were purchased allegedly for use in drilling operations in eleven projects. As prescribed in the Committee Report jointly prepared by the agency and suppliers on 27 May 1982, the said items are classified as "open" and therefore subject to public bidding. However, most of the items were acquired through negotiated purchases. Misleading technical descriptions were used to make it appear that the items were "exclusive" and the

suppliers involved were the exclusive distributors. It was also noted that the procurements were unnecessary and excessive as drill tools purchased far exceeded the programmed requirements. In addition, there were purchases made for projects without approved program of work (POW) or cost estimates and in some instances, for non-existent projects. Splitting of requisitions, purchase orders and payments were made to avoid need for approval of higher authorities. Massive overpricing was likewise allegedly committed.

Table 2. Summary of Transactions Questioned by the Union

<i>Transaction</i>	<i>Total Amount Involved</i>
Purchase of drill bits, parts and accessories	₱69,380,091
Purchase of paints	5,410,776
Purchase of oil/lubricants	3,698,491
Purchase of janitorial supplies	1,184,045
Purchase of a microscope	149,274
Purchase of spare parts	75,200,000
Purchase of steel bars	3,596,391
Construction of a training center	10,000,000
Security services	5,842,000
Revival of a dead claim	1,126,000
Total	₱176,597,069

Source: Union, Summary of Questionable Transactions, April 1989.

Paints, lubricants and janitorial supplies. These were procured allegedly for use in the 11 projects and for the maintenance of agency equipment and structures. The employee union noted the same findings as in the purchase of drill bits, parts and accessories.

Microscope. The Geology Section requested the acquisition of a trinocular microscope to be used in analyzing soil and rock samples gathered in drilling operations. A canvass was made and the lowest price was ₱12,000. For unknown reasons, the requisition was changed to a binocular microscope carrying a particular brand with an estimated cost of ₱40,000. It was procured through an exclusive distributor. During the processing of the requisition, the estimated cost was altered from ₱40,000 to ₱140,000 by inserting 1 before the number 4. The final price amounted to ₱149,000. The microscope was delivered but with incomplete accessories and with no serial number. It was never used by the agency.

Spare parts and steel bars. Spare parts worth ₱75.2 million were purchased in 1987 without considering spare parts in stock worth ₱26.42 million. Splitting of purchases and payments were rampant in the transactions. The union also received reports that the delivered spare parts were not genuine but were just repainted to make them appear brand new.

Deficiencies in the deliveries of steel bars were noted and liquidated damages were authorized to be collected from the supplier.

Construction of a training center. A training center was constructed in the hometown of the administrator despite the existence of similar facilities in other municipalities of the province and a training center in Bulacan. The original estimate was ₱5.3 million but actual expenditures amounted to more than ₱10 million.

Security services. The COA in its regular audit of the agency observed several deficiencies in the bidding and awarding of contracts for security services. In view of the deficiencies, COA sent a memorandum to the administrator suggesting that a rebidding be conducted. Despite this, payments were made in favor of the two security service agencies which "won" in the first bidding.

Revival of a 'dead claim.' In 1982, a contractor filed a claim for price adjustment stating, among others, that during the dredging operation they encountered hard materials. The agency created a technical group to investigate the matter. The group reported that the encountered material was soft and the job classified as common excavation. The claim was thus denied. Sometime in November 1986, the contractor filed a complaint at the Regional Trial Court of Quezon City. Through a compromise agreement, the contractor was paid the amount of ₱1,173,169 instead of ₱1,951,915, the original claim.

Issuance of vehicles. Another issue raised by the union concerns the issuance of agency vehicles to favored officials including those from other government agencies. For example, 17 units of Mitsubishi Pajero jeeps were purchased in 1986 intended for a project in Ilocos Norte. The completion of the said project was very much delayed and field personnel pointed to the lack of vehicle as one of the reasons for delay. The project office received only one unit of the newly purchased vehicles. The remaining 16 units were assigned to officers in the central office and other government officials (Villarama 1989).

Requests for Official Investigation

Department of Public Works and Highways (August 1987 to March 1988). Union officers led by its president discussed the issues with then Secretary Vicente Jayme and Undersecretary Fiorello Estuar sometime in August 1987. The Secretary was transferred to the Department of Finance before any investigation could begin.

In January 1988 the employee association made representations to the board to bring to its attention, especially to the new DPWH Secretary, the anomalies in the agency. However, no action was taken. The union also approached the

chairman of the DPWH Fact-Finding Committee but his committee was disbanded before any concrete headway in the investigation could occur.

Office of the Justice Secretary (December 1987 to August 1988). In December 1987 two union members personally brought the documents to the Justice Secretary. They were given the assurance of proper investigation after a thorough evaluation. The papers were later returned to them without any comment.

National Bureau of Investigation [NBI] (March 1988 to March 1990). On 25 January 1988, the union made a formal request to the NBI Anti-Fraud Office to conduct an investigation on the reported cases. The letter was signed by the agency administrator only on 22 March 1988, after much pressure from association leaders. Serious investigation started only in November 1988 when the Ombudsman ordered the NBI Director to look into the procurement of the drill bits, parts and accessories. After a month of investigation, the team prepared a report on one project. That report was transmitted to the NBI's legal division for review. The evaluation report was released on 9 February 1989. On 18 April 1989, the investigating team submitted a supplemental report on the purchase of drill tools in all the eleven projects cited in the complaint. These three NBI reports were submitted to the Ombudsman on 24 April 1989. Another report was submitted by the investigating team in March 1990.

House of Representatives (March 1988 to May 1988). Union leaders also approached Rep. Hermogenes Concepcion, chairman of the graft and corruption committee. They were referred to Congressman Efren Sarte who was then the vice-chairman. Unfortunately, Congressman Sarte died before the affidavits could be executed.

Agency Management (July 1988 to August 1988). A media personality wrote the administrator on 20 June 1988 about the alleged anomalies brought to his attention by the employee organization. A dialogue was set on 15 July. In that dialogue, the management agreed to form a Management Audit Team, composed of department managers, to conduct a one-month investigation. The team concluded that the questioned transactions were legal. No formal report of investigation was presented. As a protest, the union formally launched its anti-corruption campaign that commenced in a noontime assembly outside the gate of the agency.

The experience disappointed the union. Its leadership was getting desperate about succeeding in calling the attention of government bodies until an officer learned about the Gising Bayan Foundation, Inc. (GBFI), an anti-corruption non-government organization.⁷

Ombudsman/Tanodbayan (July 1988 to date). After a thorough review of documents and consultation with legal and anti-corruption experts, the GBFI president decided to file a complaint with the Office of the Ombudsman against the agency administrator and twelve other officers and employees for the following (Interview with GBFI President 1989):

- (1) violation of the Anti-Graft and Corrupt Practices Act;
- (2) violation of COA rules and regulations;
- (3) blatant disregard of the official requirements for public bidding in the procurement of supplies;
- (4) falsification of public documents;
- (5) gross overpricing of procurements;
- (6) granting of undue favors to certain equipment and material suppliers; and
- (7) technical and other malversation of public funds (GBFI President 1988).

The cases included the purchases of drill bits, parts and accessories, spare parts, lubricants, paints, janitorial supplies and the microscope; and payment of the claim of a contractor.

Since the Office of the Ombudsman was still in the process of organization, the case was referred to the Tanodbayan. The administrator filed a motion to dismiss the complaint with countercharges against the GBFI president and his witnesses for perjury and false testimony (Letter of the Agency Administrator to the Ombudsman 1988). The motion was denied for absence of supporting documents. The countercharges were also dismissed for being premature (Tanodbayan Order on OSP Case No. 88-01771, 5 September 1988).

The administrator defended the resort to negotiated purchases/contracts as a means to assure that the products delivered are genuine and compatible with existing agency equipment. He disclaimed any participation in the alleged unnecessary and excessive procurements and the use of misleading technical descriptions. He claimed that the items were determined by the end-users who were in the best position to determine the quantity and quality of items to be procured. On the case of the "dead claim," he said that the settlement was done to avoid adverse judgment against the agency and the compromise agreement was approved and adopted by the court (Letter of the Agency Administrator to Sen. Teofisto Guingona 1988).

Four months after the case was referred to the Tanodbayan, within which no concrete progress was seen, the GBFI president and union leaders requested the Office of the Ombudsman (which by that time had already organized its Investigating Division) to assume jurisdiction over some of the cases mentioned in their complaint. In November 1988, the Ombudsman ordered the NBI Director to investigate the procurement of the drill tools. On 24 April 1989, the NBI submitted to the Office of the Ombudsman the three reports prepared by its investigating team and legal department. The Ombudsman's investigator submitted an evaluation report on 7 June 1989 adopting the findings and recommendations of the NBI with some modifications on the people who should be charged. Preliminary investigation was granted on 21 June 1989. Copies of the evaluation report were also transmitted to the Office of the President, the Chairman of the Board of Directors of the agency, and the COA Chairman, for appropriate administrative sanctions against the respondents.

Commission on Audit (July 1988 to July 1989). Also in July 1988, the association president sent a formal request to the COA for a special audit. Chairman Eufemio Domingo informed the union president on 30 August 1988 that a special audit team has been formed to conduct investigation for two months. The audit was conducted from 5 September to 15 December 1988 and the report was released on 10 July 1989 (S.A. No. 88-153, July 1989).

Senate Blue Ribbon Committee (September 1988). The union also called the attention of the Senate Blue Ribbon Committee on 15 September 1988. After an initial hearing, however, the administrator requested the Senate committee chairman to suspend the case pending the Tanodbayan and COA investigation and audit reports. The request was granted.

The union supported all these investigations by providing detailed background of each transaction and all documents that would support their allegations. Knowing that the top officials involved have various connections in government, the complainants appealed to their own contacts to guard and facilitate the investigation.

More recent attempts by the respondents to stop or delay investigation of the corruption cases have failed. Early in 1990, an appeal was filed with the Supreme Court for a writ of preliminary injunction and restraining order on the Ombudsman's investigation. The appeal was dismissed for lack of merit (Supreme Court Resolution on G.R. No. 91445, 6 February 1990). The respondents then sought reinvestigation by the NBI through its new director. The Ombudsman denied the request citing that during the preliminary investigation by his office, the respondents were accorded full opportunity to present their evidence to counter any partiality of the documents obtained by the NBI (Ombudsman's Letter to the NBI Director, 25 May 1990).

Charges, Countercharges and Intimidation

Delays in investigation gave room for harassment and intimidation from management. For instance, when the union staged the August noontime "aggrupation"⁸ (assembly), management filed a civil case with the Quezon City Regional Trial Court against 50 association members and sympathizers. An injunction was obtained from a judge who ruled that "although the activity does not disrupt work it disrupts public service" (Order dated 6 October 1988, Civil Case No. Q-667 [88], RTC, Quezon City). Management also claimed damages of ₱300,000 for the "aggrupation." Simultaneously, an administrative charge was filed with the Civil Service Commission (CSC) against the 50 employees for "gross insubordination, grave misconduct, conduct prejudicial to the interest of service, and violation of CSC Memorandum Circular No. 6." When the preliminary injunction was issued, management asked the CSC to place the employees under preventive suspension for a maximum period of 90 days. This was denied for lack of merit (CSC, Merit Systems Protection Board Order dated 16 November 1988).

When the GBFI president and union leaders filed a complaint to the Office of the Ombudsman, the agency administrator filed countercharge for perjury and false testimony against the complainants and their witnesses. As was said earlier, this was immediately dismissed by the Ombudsman.

Scholarship nominations of union leaders and sympathizers were also withdrawn arbitrarily, according to the union. The union's Public Relations Officer was scheduled to leave for the United States in September 1988 to attend a three-week course on Monitoring, Evaluation, Feedback and Management of Irrigation Systems. A day before his scheduled departure, the person found out from the funding agency that the administrator had withdrawn his nomination. In another instance, the union president and a member were nominated in early 1988 by the administrator himself to attend a short course on Dam Safety, Monitoring and Evaluation in Colorado. Despite a previous confirmation of their attendance, the administrator subsequently withdrew their nomination. Another association member was invited by his counterpart in Japan for a training but his supervisor, who is close to an assistant administrator, refused to let him go. Another person was nominated. The Japanese counterpart requested the supervisor to let the person attend the training since his agency was willing to finance two engineers. Again, the supervisor refused, this time citing that the person is identified with the union, therefore, the administrator will not sign his travel papers.

The association treasurer applied for early retirement on 10 January 1989 but after a month, he decided to withdraw his application. Still, the administrator approved his early retirement on 3 March 1989. When the person talked to the administrator's executive assistant, he was informed that he cannot withdraw his application because "it is the prerogative of the administrator to approve or

disapprove withdrawal of the early retirement application and in his case, the administrator has decided that he should retire" (Company Union 1989).

Renewal and termination of appointments of contractual and daily employees are also functions of the management. In December 1988, the administrator issued an office memorandum on the renewal of appointments of daily employees effective for three months. All those terminated, except one, signed the position paper circulated by the union in September 1988, asking the President to place the administrator on preventive suspension to ensure the impartiality of the investigation of corruption charges against him. Another case was the termination of all staff members in a Bukidnon project when the union chapter there exposed perceived anomalies in the said project. Management declared the project as completed although it was not. The project manager was forced to retire but was later hired as consultant in the agency. Those who participated in the protest did not receive the terminal payments due them because management filed administrative charges against them.

A more subtle form of harassment was the reshuffling of personnel. A division manager of the Systems Management Department, who fully endorsed the renewal of appointments of eight engineers hired on a daily basis, courted the ire of his manager and an assistant administrator because he did not follow the directive to recommend only those who support the management. The eight engineers signed the position paper circulated by the union. The division manager was transferred to the Project Development Staff.

In another instance in April 1989, an assistant administrator issued a memorandum reassigning six employees that included three union members. The justification was for them "to attend to urgent matters." The union members, who were then incumbents of sensitive positions, believed that they were, in effect, frozen while the three non-union members were given better jobs (Interview with the Chief of Estimates Section 1989).

Positive inducements to desist from union activities were also utilized by the management. Immediately after the union's strike in December 1986, the administrator created special committees and appointed union leaders as members of the committees. Committee members were given allowances that ranged from P200 to P600 per month (depending on the committee and the position). Many union leaders accepted the appointment and have since minimized their participation in union activities. The COA auditor was also given an allowance of P2,500 per month while her assistant was offered P500 per month (Memorandum Order issued by the Administrator 1986).

The head of the union's investigating group experienced all sorts of intimidation. He was a respondent in all the complaints lodged by the management. He had been reassigned. His promotion as division manager was

blocked. In January 1988, he was surprised to receive an invitation from a supplier "to observe the current developments in hydro-electric projects in China" (CNMEIE Letter to the Administrator 1988). He did not accept the invitation because, according to him, the government is discouraging the practice of suppliers sponsoring any trip abroad and the experience that may be gained from the said tour is not related to the functions of his section (Section Chief's Letter to Assistant Administrator 1988). The following month, he received a death threat allegedly from a member of the New People's Army. His wife, who is also an employee assigned in his section, once expressed her liking for orchids. One day, she was surprised to find somebody approaching her to receive a jeepney load of orchids. She had them returned to the sender.

Official Investigations and Findings

The COA looked into the procurement of 4,371 pieces of drill bits, parts and accessories worth ₱69.26 million and paints, lubricants and janitorial supplies worth ₱10.134 million. The drill tools were allegedly for use in drilling operations in eleven projects (Table 3) while the paints, lubricants and janitorial supplies were for both the said projects and for the maintenance of agency equipment and structures. The NBI, on the other hand, was tasked to investigate the purchase of drill bits, parts and accessories.

Table 3. Amount of Drill Bits, Parts and Accessories Purchased by Project

<i>Project for which the Items are Intended</i>	<i>Total Amount of Purchases (In Millions)</i>	
	<i>COA</i>	<i>NBI</i>
Project No. 1	₱17.759	₱17.759
Project No. 2	16.311	16.311
Project No. 3	.173	.173
Project No. 4	3.972	3.972
Project No. 5	.990	.990
Project No. 6	.461	.461
Project No. 7	7.885	7.885
Project No. 8	17.235	17.235
Project No. 9	3.759	3.759
Project No. 10	0.117	0.118
Project No. 11	.598	.718
Total	₱69.260	₱69.380

Sources: COA, Special Audit No. 88-153, July 1989.
NBI, Supplemental Report, 18 April 1989.
NBI, Second Report, March 1990.

Drill Bits, Parts and Accessories

Mode of Purchase. In a committee report jointly approved by agency officials and suppliers on 27 May 1982, various drill bits, parts and accessories were classified as either "open" (subject to public bidding) or "exclusive" (not subject to public bidding). Executive Order No. 301 (26 July 1987) provides that public bidding for the procurement of supplies and materials may be dispensed with if the materials are sold by an exclusive distributor or manufacturer who does not have a subdealer selling at lower prices and for which no suitable substitute can be obtained elsewhere at more advantageous terms to the government. In 1987 and 1988, the agency purchased drill bits, parts and accessories amounting to about ₱69.3 million through exclusive distributorship from three suppliers (Table 4). It was found out that out of ₱69.3 million, 75 percent or ₱52.054 million should have been acquired through public bidding as classified in the above mentioned committee report of May 1982. One of the suppliers, the exclusive distributor of a certain brand of products, merely acted as middleman. Other government agencies made direct purchases from the manufacturer.

Table 4. Suppliers, Number of Transactions and Amount of Purchases of Drill Bits, Parts and Accessories

<i>Supplier</i>	<i>No. of Transactions</i>	<i>(%)</i>	<i>Amount</i>	<i>(%)</i>
Supplier 1	80	(58%)	₱46.985	(68%)
Supplier 2	30	(22%)	15.736	(23%)
Supplier 3	28	(20%)	6.538	(9%)
Total	138	(100%)	₱69.26	(100%)

Source: COA, Special Audit Report No. 88-153, July 1989.

A main justification for resorting to negotiated purchases was to ensure compatibility of items (i.e., drill bits and accessories) with existing agency equipment (i.e., drill rig). This had been pointed out by the respondents in their affidavits. It was found out, however, that manufacturers of drill bits and accessories adhere to standards which allow the use of drill bits and other accessories of one brand with a drill rig of another brand. Unlike the parts, bits and accessories could be interchangeably used for any drilling rig. This was confirmed by officials and employees knowledgeable about drilling operations. In fact, such has been resorted to in at least two of the drilling operations. Investigators also wondered why the agency purchased only three brands of drill bits and accessories when the agency had six different brands of drill rigs.

Documentation of purchases. Around P65.83 million worth of purchases (95 percent) covering 120 (87 percent) transactions originated not from the Project

Development Department (PDD), the end-user, but from regional and project managers as programmed by a senior core driller. Moreover, programming of procurements was beyond the scope of duties and functions of the core driller.

The use of "unique" and misleading technical descriptions enabled agency officials and employees to falsely classify the items purchased as "exclusive" and created the impression that the articles could not be obtained elsewhere except from the three suppliers. Geologists and core drillers who had had occasion to participate in core drilling activities were not familiar with the "unique" terms and instead, used the standard descriptions in referring to the items. The counsel for one of the suppliers claimed that the use of "unique" descriptions of a certain brand of products "began in 1979 when 200 pieces of drill bits and accessories found their way into wrong hands" and that the incident was reported to the NBI but nothing came out of the investigation. "For the protection of the interests of all concerned, the descriptions were changed." However, the supplier's counsel failed to comply with a request to submit documents on the said incidents. Moreover, in its sale of the said products to the agency in 1986 and to other government agencies such as the National Power Corporation (NPC) and the Mines Geosciences Bureau (MGB), the standard descriptions were used.

Splitting of requisition issue vouchers (RIVs), purchase orders (POs) and payments was prevalent, and was apparently done to avoid need for approval of higher authorities. Splitting of requisitions and PO's was evidenced by not too wide gaps between dates and numbers of RIVs originating from only one requisitioning officer for the same items and for the same purpose. In one project, 29 RIVs were signed by one person, processed from January to March 1988. In another project, 35 RIVs processed from August 1987 to March 1988 were signed by one person.

Splitting of payments was evidenced by the issuance of more than one check in payment of one voucher as shown in Table 5.

Table 5. Sample Cases of Splitting of Payments

<i>Project</i>	<i>No. of Vouchers</i>	<i>No. of Checks</i>
Project 1	11	32
Project 2	8	24
Project 3	8	27
Project 4	9	27
Project 5	2	6
Project 6	4	11
Total	42	127

Source: COA Special Audit Report No. 88-153, July 1989.

Unprogrammed and unnecessary purchases. These were observed in the following cases:

- (1) Purchases for projects without approved program of work (POW);
- (2) Procurements in excess of the programmed requirements and the approved program of work;
- (3) Purchases beyond the duration of the project;
- (4) Purchase of items which should have been supplied by the contractor; and
- (5) Purchased items which were never utilized.

Purchases for projects without approved program of work. These were purchases intended for non-existent projects or for projects which have no program of work (POW). These are projects 2, 7, and 11 with an aggregate price amounting to ₱24.953 million. Projects 2 and 7 were not in the list of the proposed projects and were deemed non-existent by the COA and the NBI investigating teams. No drilling operations had ever been conducted in the said areas. Project 11 existed but it was not undertaken by the Project Development Department such that it had no records on its POW and the drilling parts used in the drilling operations. Despite repeated requests, concerned agency officials and staff failed to submit the project's POW to the investigating teams.

The administrator and a project manager involved claimed that some of the projects (e.g., Projects 2 and 7) stated in the purchase orders were "misnomers/misstatements" and that the items were instead intended for stocking for nationwide requirements of prospective projects (Letter of the Chief of Estimates Section 1988).

Procurements in Excess of Programmed Requirements. The quantity of drill bits, parts and accessories purchased by the agency exceeded not only the three-month maximum stocks allowed by the provisions of the General Appropriations Act but also the requirements programmed by the senior core driller for a five-year period (up to 1992). The estimated excess was about 1,047 pieces worth ₱14.648 million.

In two projects, actual purchases were in excess of the approved program of work. As per program of work, the items to be procured for the drilling exploration in the two projects had an aggregate cost of ₱105,360 but actual purchases amounted to ₱634,172, or an excess of ₱528,812.

In another instance, the RIVs prepared far exceeded the original request and estimate of the end-user. A division chief in Isabela wrote an assistant administrator requesting for ₱ 32,000 for the drilling of additional drainholes. The

amount requested was based on the estimates and recommendations of the consultants in the area/project. Two RIVs prepared in the central office were presented to the said division chief for him to sign. He was assured by the senders that the materials were needed in the drilling. The RIVs contained items worth ₱1.991 million.

Purchases beyond the duration of the project. In three projects, purchases continued even after the completion of the drilling operations. Total purchases beyond project duration amounted to ₱9.213 million. On the average, the amount of purchases beyond the project duration was about 50 percent of the overall expenditures for items in the three projects. In one project, however, the amount of purchases after its completion was 88 percent of its total expenditures for materials. (See Table 6.)

Table 6. Purchases beyond Project Duration

Project	Total Purchases	Purchases After Project Completion	(% to Total)
Project 1	₱17,758,873	₱5,245,035	(30%)
Project 4	3,972,261	2,483,145	(88%)
Project 5	990,000	490,865	(50%)
Total	₱18,752,845	₱9,219,045	(49%)

Source: COA Special Audit Report No. 88-153, July 1989.

Procurement of items which should have been supplied by the contractor. Even drilling items which should have been shouldered by the contractor as specified in the contract were purchased by the agency. This was the case in Project No. 8 where the agency spent a total of ₱17.235 million for these materials.

Purchase of items which were never utilized. As specified in the POs and related documents, all items purchased were supposed to be used for drilling explorations (i.e., foundation supply, foundation treatment, foundation exploration). After thorough investigations, however, it was found out that of the 4,371 items purchased valued at ₱69.380 million (NBI figures), only 71 items worth ₱850,375 had actually been used in drilling operations (Table 7). As has been said earlier, no drilling was ever undertaken in Projects 2 and 7 since they were non-existent projects. In Projects 6 and 10, not even one of the materials purchased for the said projects was ever used. Investigators failed to get hold of any record in the drilling activities in Project 11 since that project was not undertaken by the PDD and repeated requests for the submission of records on the said project were not heeded by officials concerned. It is thus assumed here that the materials procured were never used or no drilling operation was ever conducted in Project 11.

Overpricing. Since most if not all of the items procured had "unique" technical descriptions, it was very difficult for the investigators to come up with the exact or total amount of overprice. Also, some of the manufacturers involved refused to quote prices. For Project 1, for instance, only 55 items had been identified out of the 901 items purchased. The estimated overprice of the 55 items was ₱1,160,130.

Table 7. Drill Bits, Parts and Accessories Purchased and Utilized

Project	No. of Items Purchased	Amount (*)	No. of Items Utilized (%)	Amount (%)
Project 1	901	₱17,758,873	19 (20)	₱304,340 (2)
Project 2	no data	16,310,516	0 (0)	0 (0)
Project 3	no data	173,375	19 ND	85,560 (49)
Project 4	225	3,972,261	11 (5)	134,925 (3)
Project 5	59	990,000	4 (7)	53,925 (5)
Project 6	no data	460,797	0 (0)	0 (0)
Project 7	no data	7,885,092	0 (0)	0 (0)
Project 8	1,030	17,234,867	8 (.8)	107,850 (.6)
Project 9	606	3,758,847	10 (2)	163,775 (4)
Project 10	no data	117,809	0 (0)	0 (0)
Project 11	no data	717,651	0 (0)	0 (0)
Total	4,371	₱69,380,091	71 (2)	₱850,375 (1)

*NBI Figures

Sources: COA, July 1989; NBI, March 1990.

The NBI took samples of items that composed the bulk of the procurements for the 11 projects and compared the purchasing price of the agency (Agency 1) to that of another government agency (Agency 2) or to the current price of another supplier (Table 8). The purchases of the other government agency were incurred in later dates. The estimated overprice for the items purchased by the agency (Agency 1) ranged from 100 percent to more than 1,000 percent.

In Table 8, it will be noted that the agency bought the core barrel, core lifter and core case separately for a total of ₱26,459 from Supplier 1. Another government agency was able to get the complete set plus the inner tube for ₱13,750. Core barrels were purchased by the agency from the three suppliers at prices ranging from ₱15,890 to ₱25,000. The amount paid for a core lifter ranged from ₱619 to ₱1,520 while the canvass price obtained from another supplier was only ₱375. For the core case, the canvass price was only ₱200 but the agency bought core cases from ₱840 to ₱2,420.

Sources of funds. The drilling operations undertaken by the PDD were programmed and corresponding expenses were allocated under the Investigation and Survey (I and S) Funds. Requisitions for items related to investigation and

Table 8. Sample Items Purchased by the Agency and as Purchased by Another Agency or as Quoted by Another Supplier

Item	Supplier 1		Supplier 2	Supplier 3	AG&P
	Agency 1	Agency 2	Agency 1	Agency 1	
Core barrel	₱25,000	-	22,280	15,890	13,725
Inner tube	none	-	23,412	13,300	none
Core lifter	619	-	-	1,620	375
Core case	840	-	-	2,420	200
Total	₱26,459	₱13,750	₱45,692	₱33,130	₱14,300
Core bit	15,000	5,711	14,000	11,000	
Reamer S.	15,000	3,509			
Casing bit	8,925	4,356			

Source: COA Special Audit Report No. 88-153, July 1989.

survey were approved and signed by the PDD manager in compliance with requirements and for release of funds. COA investigators noted that as soon as the I and S Funds were depleted, the procurements were charged to various funds as approved by the managers concerned (Table 9). Consequently, projects or activities for which such funds were intended had to be shelved or cancelled. The unprogrammed, unnecessary and excessive procurements of drilling items made the matter worse.

Table 9. Sources of Funds for the Drilling Items

Fund Source	Amount (In Millions)
Corporate Funds:	
Investigation and Survey	₱1.101
Calamity Fund	1.991
Misc. and Contingencies	0.218
Subsidy from National Government	15.884
Balances of Foreign Loan Availments/ Multi-sectoral Loans	48.298
DPWH Subsidy	1.768
Total	₱69.26

Source: COA, SA No. 88-153, July 1989.

An example was the purchase of ₱1.991 million worth of items for the drilling of additional drainholes in a project in Isabela when the original estimate by the consultants was only ₱32,000. The money was taken from the calamity fund when Isabela was not even among the list of calamity areas.

In at least one major project of the agency, the balance from foreign loan availments/multisectoral loans worth ₱17.735 million was spent for the purchase of items for foundation study.

Control of the items. Deliveries, storage, distribution and issuance of the items were not properly controlled. These were observed in the following cases:

- (1) The senior core driller who programmed the bulk of the items purchased also acted as custodian/warehouseman and technical inspector.
- (2) Most of the deliveries made by the supplier were not covered with delivery receipts.
- (3) Many items delivered were not thoroughly inspected. Locally manufactured products amounting to ₱22.385 million, instead of imported brands as specified in the purchase orders, were accepted. Apart from these, 39 other items costing more than ₱297,600 were found to be defective or appear to have been used and recycled.
- (4) Switching of accountability through memorandum receipts (MRs) was done which made the accounting for the items complicated. In at least seven MRs attached to disbursement vouchers covering 600 items worth ₱10.13 million, the name of recipients were not the same as those on the file copies of the same MRs. Moreover, the MRs were not acknowledged by the indicated recipient.
- (5) Of the 138 POs, 28 POs covering 1,204 items were without corresponding gate passes in file with the property division. Of those with gate passes (110), only 40 (36 percent) were signed and noted by the guard. These observations raised doubt as to whether the items were delivered to and transferred out of the central office.
- (6) Of the 4,371 items allegedly purchased, 1,045 worth ₱18.39 million could not be accounted for in the physical count. This constituted 24 percent of all items purchased and 27 percent of the total amount involved. Management claimed that investigating teams did not conduct actual physical count since field offices in the Visayas and Mindanao and some provinces in Luzon had not been visited. The COA team reported that confirmation letters were sent to the recipients and necessary adjustments were made in the matching process.

Paints, Lubricants and Janitorial Supplies

The same observations were reported in the purchases of paints, lubricants and janitorial supplies worth ₱10.134 million. Salient findings are as follows:

- (1) Unwarranted negotiated purchases;
- (2) The use of misleading technical descriptions;
- (3) Splitting of requisitions, purchase orders and payments involving ₱1.007 million worth of transactions;
- (4) Purchases even after the completion of the projects where the items were intended, valued at ₱608,061;
- (5) Overpricing of at least ₱4.2 million, based on a sample worth ₱4.7 million;
- (6) Weak control in the handling and issuance of the items purchased, with items worth ₱521,635 could not be accounted for.

On the whole, the complaints and findings point to violations of technical norms (Cariño 1979; see also Tables 10 and 11). To do away with public bidding, the items had been falsely classified as exclusive. The resulting overprice per item ranged from about 100 percent to more than 1000 percent. The procurements were easily accomplished by circumventing rules on requisitioning and payments as evidenced by the non-participation of the end-user, which was the PDD, in most of the transactions, and the rampant practice of splitting of requisitions and payments. Unnecessary purchases were confirmed by the finding that 99 percent of the drill tools procured were never utilized at all. The procurements were made possible by charging the purchases against fund sources other than the lawful source which was the I and S Fund.

Violations of efficiency norms may be a secondary concern. Yet, the findings are alarming. Weak control of the items resulted in the loss of around ₱18.4 million worth of drill tools. In addition, acceptance of locally manufactured, defective and recycled items paid for at about ₱22.7 million could give one an idea of how much was the loss to the government. Also, recipients who did not sign the MRs of items worth at least ₱10 million could easily disclaim accountability for the items.

Initial Results and Present Status of the Union

Based on the first evaluation report of the Ombudsman's investigator, 16 agency officials and employees, the COA auditor and six representatives of the

Table 10. Violations of Technical Norms and Amount Involved, Drill Tools

<i>Particulars</i>	<i>Amount (In Millions)</i>	<i>Percent of Total Transactions</i>
Purchases without public bidding	₱ 52.054	75%
Purchases not originating from end user	65.830	95%
Splitting of RIV, POs and payments		
Unnecessary purchases		
For non-existent projects	24.953	36%
In excess of programmed requirements	14.648	21%
In excess of approved POW	.529	0.8%
Beyond project duration	9.213	13%
Purchases for contractor	17.235	25%
Items not utilized	68.530	99%
Purchases charged to other fund sources	68.250	98%
Overprice (100% to more than 1000% per item)		

Source: COA, Special Audit Report No. 88-153, July 1989.

Table 11. Violations of Technical Norms and Amount Involved, Paints, Lubricants and Janitorial Supplies

<i>Particulars</i>	<i>Amount (In Millions)</i>	<i>Percent to Total Transactions</i>
Purchases without public bidding	₱ 10.134	100%
Splitting of RIVs, POs, DVs	1.007	10%
Purchases after project completion	0.608	6%
Overprice*	4.2000*	

*Based on sample items worth ₱ 4.742 million representing 47% of total transactions.
Source: COA, Special Audit Report No. 88-153, July 1989.

suppliers were recommended for administrative and criminal charges with respect to the anomalies in Project No. 1. They included the administrator, three of the four assistant administrators, the manager of a nationwide project, the project manager for Region 3, three division managers, a senior core driller, a drilling superintendent, a senior geologist, a storekeeper and three other employees.

These persons acted as signatories to the procurement documents. Copies of the Ombudsman's evaluation report dated 7 June 1989 were sent to the Office of the President, Chairman of the Board of Directors of the Agency and the COA Chairman for appropriate administrative sanctions on people under their offices.

Despite the clear participation of the administrator, he was allowed to resign. The assistant administrator who was not implicated in Project 1 also resigned. On 27 July 1989, the President placed the three assistant administrators under preventive suspension and ordered the Department of Justice (DOJ)⁹ to create an ad hoc committee to evaluate their participation in the anomalies and to draft the corresponding resolution. The DOJ committee submitted its report in December 1989 with a recommendation that the three assistant administrators be dismissed. As observed by the committee, the respondents "allowed the irregularities to be committed by approving and affixing their signatures on the documents in question. . ." (DOJ Committee Resolution dated 19 December 1989). On 27 February 1990, the President issued Administrative Order No. 158 ordering the dismissal of the said assistant administrators. While the DOJ committee found no concrete evidence to prove that the agency officials conspired with their subordinates, the Presidential Order stated that:

. . . respondents stand culpable for not exercising that degree of vigilance, that level of caution expected from ranking executive officers . . . (1990:7).

Reacting to the committee's observations that the assistant administrators "rose from the ranks, having served the agency for more than 22 years," and that the case "is their first administrative offense," the President commented:

Let it be made clear, . . . that service in the government, no matter how long, has not been and can never be a passport for official malfeasance or misfeasance. On the contrary, greater care and vigilance in the performance of official duties and responsibilities ought to be expected of those with long years in the public service if they were to preserve the honor and dignity due them by their unblemished record should they eventually leave the portals of the government. . . Perhaps, alongside with their length of service, there is an occasion for such a compassion if the matter at hand concerns a single isolated transaction of few hundred pesos. But such is not the case . . . (1990:7-8).

The ad hoc committee created by the agency board's chairman had not concluded its investigation of the 12 non-presidential appointees as of August 1990. Preliminary investigation for the criminal charges and evaluation of findings on the 10 other projects were still on-going.

A new administrator was appointed in July 1989. He was a former assistant administrator during the Marcos period. Another former assistant administrator regained his position. Three officers were promoted as assistant administrators.

At the request of union leaders, the present administrator created a temporary office to assist in the on-going investigations. Five union members were placed on detail in this office.

The present administrator also requested the remand of documents pertaining to the case filed with the CSC by the former administrator against the 50 officers, members and sympathizers of the employee union. The case was subsequently turned over to the Office of the Government Corporate Counsel (OGCC) for opinion. In March 1990, the OGCC issued a resolution defending the actions of the said employees and, therefore, dismissing the case (Government Corporate Counsel's Letter to the Administrator dated 14 March 1990). The administrator then requested the counsel for the previous management (also from OGCC) to dismiss the case filed with the Quezon City Regional Trial Court against the employees.

The chairman of the union's ethics and professionalism committee, after being cleared of all charges filed by the former management, was promoted as manager of the construction planning and scheduling division. Now having more clout in the operations of the agency, he intends to pursue the drive for ethical performance through preventive measures. He claimed that since the COA and NBI released their audit/investigation reports on the cases, no transactions of such forms and magnitude were recorded by the union, at least, in the central office, where the bulk of negotiations transpired (Interview with the Chief of Estimates Section 1990). Union members in the task force assisting the on-going investigations confirmed this.

During the 90th anniversary celebration of the Civil Service Commission (CSC), the President presented a special citation to the union for exposing anomalies in their agency (Sta. Ana 1990:1, 8). That further boosted the employees' morale.

With these results, the union leadership has decided to refocus efforts on projects that would benefit the employees without necessarily abandoning vigilance in ensuring sound operations of their agency.

Conclusion

The assertiveness displayed by the union is, indeed, commendable considering the usual indifference of government employees to corruption (Varela 1989). Support from the employees was so strong that even those hired on a contractual and daily basis as well as non-union members participated in protest actions and signed position papers circulated by the union. Also, the documentation of the cases could not have been as fruitful were it not for the valuable pieces of evidence transmitted by the employees to the union's

investigating group. That union membership increased as the anti-corruption campaign intensified further spoke of the high level of support for the undertaking.

To probe corruption is, indeed, an arduous task. It took a year for the union just to gather evidence and document the allegations. It must be pointed out, however, that the union looked into ten major transactions worth more than ₱176 million. In the purchase of drill tools alone, there were eleven projects involved. Alongside the study of the background of each transaction, documentation also entailed assessment of the necessity of the procurements/transactions, canvass of prices, inspection of equipment and materials delivered, and knowledge of rules violated. These required time and a lot of effort considering that the employees were amateurs at the job.

The union exposed the anomalies with enough evidence. But because of the circumstances it faced, coupled with inadequacy of knowledge on legal strategies, the union had to call the attention of ten government offices/investigating bodies. In addition, it still had to seek allies from outside the government (i.e., the media, and a nongovernment organization). It will be recalled that the complaints were ignored by a former Justice Secretary, the department to which the corporation is attached, the board, the management, and, initially, the NBI. In the graft and corruption committee of the House of Representatives, the official who was supposed to look into the alleged anomalies died. Union leaders found relief when they consulted the head of the Gising Bayan Foundation who decided to lodge a formal complaint with the Office of the Ombudsman. At that time, however, the Office of the Ombudsman had yet to organize its investigation division; hence, the complaint was referred to the Tanodbayan. Delay in the start of investigations by the Tanodbayan prompted the complainants to approach again the Ombudsman who in turn directed the transfer of the case to the NBI. Simultaneously, the union requested the COA to conduct its own investigation. To ensure the impartiality of investigation and protect themselves from threats from management, the employees also requested the President to order the preventive suspension of top officials implicated in the cases being investigated, but the request was not granted.

In the process, the employees allegedly experienced various forms of harassment from management, such as termination of services of those hired on a daily/contractual basis, reassignment to ineffective posts, withdrawal of scholarship nominations, and filing of charges and countercharges.

The initial results were somewhat encouraging. The union succeeded in ousting the top officials involved in the anomalies, although, as the NBI put it, the biggest fish "managed to swim past the nets of administrative sanctions." Also, corruption in the agency appears to have been contained. Moreover, the employees' efforts earned a special recognition from the CSC and the President.

Despite the difficulties but given the morale-boosting achievements, the union continues to pursue the drive against corruption. This steadfastness of purpose amidst persistent difficulties attests to the employees' maturity, courage and resolve. With sustained support from the new management and the unswerving commitment of the union, public accountability in the agency should hopefully regain its due recognition.

Endnotes

¹The position was created under the Aquino administration.

²Two from each of the 16 departments of the agency.

³A professionalism and ethics committee was later formed in view of the need to investigate alleged anomalies in their agency. All the board members were requested to be part of this special committee. The Chief of the Estimates Section, Construction Planning, and Scheduling Division was appointed as chairman.

⁴E.g., excessive and overpriced purchases of chico seeds, especially-coated spades for use by farmers and reflectorized paints, repair of an agency airplane, and bidding irregularities in getting security services.

⁵The Administrator's Head Executive Assistant was retained. Three others served as Head Executive Assistants to the new Assistant Administrators.

⁶The Section Chief who was later on appointed as Chairman of the Union's Professionalism and Ethics Committee.

⁷Gising Bayan Foundation, Inc. is an Anti-Corruption NGO.

⁸Management claimed that it was an indignation rally.

⁹DOJ had a new Secretary by then.

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