

DEPARTMENT OF LABOR AND EMPLOYMENT	
Administrative Service Central Records Section-GSD	
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DEPARTMENT ORDER NO. 126-13
Series of 2013

REVISED GUIDELINES ON THE CONDUCT OF FACILITY EVALUATION

Pursuant to Administrative Order No. 357, Series of 2010, DOLE Rationalization Plan, Executive Order No. 366, and Article 121 (b) of the Labor Code of the Philippines, as amended by Republic Act No. 6727, this Guidelines shall govern the procedures and standards for the conduct of Facility Evaluation (FE).

RULE I GENERAL PROVISIONS

Section 1. Title. This Guidelines shall be known as the Revised Guidelines on the Conduct of Facility Evaluation.

Section 2. Construction. This Guidelines shall be liberally construed to carry out the objectives of Administrative Order No. 357, Series of 2010, DOLE Rationalization Plan, Executive Order No. 366, and Article 121 (b) of the Labor Code of the Philippines, as amended by Republic Act No. 6727.

Section 3. Scope. This Guidelines shall govern the conduct of evaluation by the Regional Tripartite Wages and Productivity Boards of facilities provided by the employer to his employees but shall exclude supplements.

Section 4. Definition of Terms As used in this Guidelines:

- (a) **"NWPC"** means the National Wages and Productivity Commission.
- (b) **"RTWPB"** means the Regional Tripartite Wages and Productivity Board.
- (c) **"DOLE"** means the Regional Office of the Department of Labor and Employment.
- (d) **"Cash Wage"** means the minimum wage rates prescribed by law or wage order without deducting therefrom whatever benefits, supplements or allowances which the employees enjoy free of charge aside from the basic pay.

- (e) **"Facilities"** refer to articles or services provided by the employer for the benefit of the employee or his/her family but shall not include tools of the trade of articles or services primarily for the benefit of the employer or necessary to the conduct of the employer's business. (Section 5, Rule VII, Implementing Rules of Book III, Labor code).

The term shall include:

1. Meals;
 2. Housing for dwelling purposes;
 3. Fuel including electricity, water, gas furnished for the non-commercial personal use of the employee;
 4. transportation furnished to the employee between his home and work where the travel time does not constitute hours worked compensable under the Labor Code and other laws;
 5. School, recreation and sanitation when operated exclusively for the benefit of the worker or his family;
 6. Medical and dental services rendered to the non-industrial cases; and
 7. Other articles and services given primarily for the benefit of the worker or his family.
- (f) **"Facility Evaluation"** refers to an evaluation conducted by the appropriate RTWPB to determine the fair and reasonable value of facilities furnished by the employer to his/ her employees.
- (g) **"Facility Evaluation Order"** refers to the Order issued by the DOLE Regional Director as Chairperson of RTWPB authorizing an employer to consider the monetary value of the facilities availed of as part of the wages of his/her employees pursuant to Article 97 (f) of the Labor Code.
- (h) **"Fair and Reasonable Value of Facilities"** is the cost of operation and maintenance, including adequate depreciation plus reasonable allowance (but not more than 5-1/2% interest on the depreciated amount of capital invested by the employer; provided that if the total so computed is more than the fair rental value (or the fair price of the commodities or facilities offered for sale), the fair value shall be the reasonable cost of the operation and maintenance. The rate of depreciation and depreciated amount computed by the employer shall be those arrived at under good accounting practices. (Sec. 6, Rule VII, Implementing Rules of Book III, Labor Code)

- (i) **"Supplements"** constitute extra remuneration or special privileges or benefits given to or received by labourers over and above their ordinary earnings or wages¹.

It shall include:

1. Emergency medical and dental services furnished by employer by virtue of the requirement of the Labor Code, as amended and its Implementing Rules and Regulations;
2. Cost, rental and/or laundry of uniform where the nature of the business requires the employees to wear a uniform;
3. Transportation charges where such transportation is in incident to or necessary to the employment;
4. Shares of capital stock of the employee in an employer's company;
5. Paid vacation, sick and maternity leaves; and
6. Tools of the trade or articles or services primarily for the benefit of the employer or necessary to the conduct of the employer's business.

- (j) **"Wages"** means remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece or commission basis or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for services rendered or to be rendered and includes the fair and reasonable value of board, lodging or other facilities customarily furnished by the employer to the employee as determined by the Secretary of Labor².

Section 5. Assessment and Accreditation. The NWPC shall develop a system of assessment and accreditation of private facility evaluators. Accredited evaluators shall comply with the procedural requirements consistent with Rules II and IV of this Guidelines.

¹ ATOK Big Wedge Assn. vs. ABW Co. [97 Phil 294]

² Article 97 (f), Labor Code

RULE II

CONDUCT OF FACILITY EVALUATION

Section 1. Filing of Application for the Conduct of Facility Evaluation

- a. **How filed.** Application may be filed personally, by registered mail, or electronic mail (email) using NWPC-FE Form-01. It shall be accompanied by the following document:
1. Business permit for the current year issued by the appropriate government agency;
 2. List of the company's employees with their corresponding wages;
 3. Job activities with their existing wage rates;
 4. Method of payment of wages (e.g. pakyaw, takay, commission); and
 5. Proof of notice of filing of application

Applications with incomplete documentary requirements shall not be accepted. If the application was sent through registered mail or e-mail, it shall be returned upon receipt using the Reply Form NWPC-FE Form-02 with all the submitted documents, indicating the reason/s for non-acceptance of the application.

- b. **Who may file.** The application may be filed by the union, worker or owner/manager or the duly authorized representative of a micro, small, or medium establishments in person, by registered mail, or by email. In case the application is filed by a union or worker, mere application will suffice and the RTWPB shall immediately notify the owner/manager who shall be required to submit the documentary requirements.
- c. **Where to file.** The application shall filed with the RTWPB having jurisdiction over the workplace using NWPC-FE Form-01. Applications filed with the DOLE Regional Office and field offices shall immediately be forwarded to the appropriate RTWPB.
- d. **When to file.** Applications may be filed either before the introduction of the proposed facilities or at any time in the case of existing facilities.

Section 2. Actions on Application. The RTWPB secretariat shall, within 30 days from determination of the completeness of the application, act on the same as follows:

1. Determine if the facilities sought to be valuated are among those included in the definition herein, otherwise, the RTWPB Secretariat shall recommend to the DOLE Regional Director, in his capacity as Board Chairman, the denial of the application.
2. If the facilities are among those included as herein defined, the RTWPB shall:
 - a. Secure from the DOLE Regional Director an authority to Conduct a Meeting and Facilities Evaluation
 - b. Coordinate with the applicant-firm for schedule and confirmation of the meeting to ensure the attendance and participation of management and workers' representatives;
 - c. Meet with an equal number representatives from management and workers to discuss the details of the application with a view to come out with a voluntary agreement on the conduct of facility evaluation.
 - d. Ensure that the Minutes of the Meetings are correctly recorded
 - e. Record relevant observations, e.g. working conditions, workers benefits, labor relations, and other concerns during the actual evaluation of facilities in the company, for the information of the DOLE Regional Office.
 - f. In case of doubt on reasonable value of meals and facilities, conduct an actual price/cost validation against the prevailing market price in the region.
 - g. The RTWPB Secretariat shall, after the FE evaluation, conduct post or closing meeting to discuss the expected FE output to be delivered by the Secretariat, and the roles and responsibilities of the worker and employer.
 - h. Submit to the DOLE Regional Director as RTWPB Chairman for his consideration, a post-evaluation report using NWPC-FE Form-03 together with the complete records/documents.

RULE III

DEDUCTIBILITY OF THE VALUE OF FACILITIES

Section 1. Deductibility of the value of facilities. In order that the fair and reasonable value of the facilities may be deducted from the wages of employees, the following requisites must concur:

- a. Facilities subject of valuation are customarily furnished by the employer;
- b. Deductibility of the value of the facilities must have been voluntarily accepted in writing by the employee; and
- c. Facilities must be charged at a fair and reasonable value.

Section 2. Standards for Fair and Reasonable Value of Meals. – For the value of meals to be deductible from the wages of employees, the meals provided must be nutritionally adequate.

In determining the fair and reasonable value of meals, at least 30% of the actual cost shall be subsidized by the employer.

Section 3. Standards for Fair and Reasonable Value of Housing Facilities. – For the value of housing facilities to be deductible from the wages of the employees, the same must be used exclusively for the living quarters of employees.

In determining the fair and reasonable value of housing facilities, the total yearly expenses of the employer comprising of 5 ½ % of the depreciated amount plus the cost of operation and maintenance and payment of electric and water bills are deducted from the total cost of expenses incurred in the construction or acquisition of the housing facility.

RULE IV

FACILITY EVALUATION ORDER

Section 1. Issuance of Facility Evaluation Order. The DOLE Regional Director shall issue a Facility Evaluation Order (*NWPC-FE Form-04*), within five (5) days from submission by the RTWPB of its recommendation.

Section 2. Contents. The Facility Evaluation Order shall expressly state the following conditions, wherever appropriate:

- a. Voluntary acceptance of the facilities by the worker/employees.

- b. Cost of each facility, e.g., breakfast, lunch, supper, snacks and lodging.
- c. The amount to be charged based on the actual expenses incurred by the employer.
- d. The meals actually served should be nutritionally adequate.
- e. The deduction for housing/ lodging facilities should not be more than the cost of rentals in the vicinity.
- f. Unless the cost of living so warrants, the cost of facility in subsequent Orders shall not be more than the cost of the same facility previously fixed by the RTWPB in the same vicinity.
- g. Where the facilities are given free of charge by the employer and there is no prior agreement to deduct the cost of said facilities from the wages of the employees, the employer cannot subsequently charge the cost of the facilities or otherwise avail of the order.
- h. Acceptance of the reasonable rates deducted from the wages of the employees/workers should be written and voluntary.

Section 3. Duration of Facility Evaluation Order. The duration of a Facility Evaluation Order shall remain valid and effective unless sooner revoked or suspended or revised or reviewed.

Section 4. Posting of Order. The employer and union/workers shall be furnished a copy of the Order. The employer is required to post a copy of the Order in the bulletin board or in a conspicuous place in its establishment and shall submit a certificate of posting to the RTWPB. The posting shall form part of the monitoring activity of the DOLE Regional Office.

RULE V APPEAL

Section 1. Appeal to the DOLE Regional Office. Any party aggrieved by a Facility Evaluation Order issued may, within ten (10) days from receipt thereof, appeal such Order to NWPC by filing a verified appeal with the RTWPB specifying therein the grounds relied upon, in two (2) printed and legible copies.

Section 2. Grounds for Appeal. An appeal may be filed based on the following grounds:

- a. Violation of procedures as set forth under Rule II, Section 2;
- b. Serious error in computing the monetary value of the facility.

Section 3. Period to Act on Appeal. The NWPC shall decide on the appeal within thirty (30) days from receipt thereof.

Section 4. Effect of an Appeal. The filing of an appeal does not operate to stay the Facility Evaluation Order.

RULE VI ENFORCEMENT

Section 1. Complaints for Non-Compliance of Facility Evaluation Order.

Complaints for non-compliance with the Facility Evaluation Order issued shall be filed with the appropriate DOLE Regional Office and shall be subject to enforcement proceedings under Articles 128 and 129 of the Labor Code of the Philippines, as amended.

RULE VII AVAILMENTS OF FACILITIES

Section 1. Provision of Facilities. The employer and the union/workers shall agree on the facilities that may be provided by the former to the latter.

Section 2. Non-availment of Facilities. If the union/workers desire not to avail the facilities, the employer shall not be allowed to credit or make deductions against the wages of its employees the value of said facilities.

RULE VIII SUBMISSION OF REPORTS

Section 1. Submission of Reports. The RTWPBs shall submit to the NWPC a monthly report (*NWPC-FE Form 05*) on the data of facility evaluation applications acted upon including the studies conducted, for purposes of program monitoring and evaluation. The report shall be submitted not later than the 10th day of the month preceding the reference month.

All Orders and their corresponding FE documentation should be filed at the RTWPB. One complete copy shall be sent to NWPC, who shall maintain a database of all FE studies.

RULE IX
REPEAL AND SEPARABILITY

Section 1. Repeal and Separability. All existing rules, regulations or orders or any part thereof inconsistent with these amended Guidelines are hereby amended or modified. If any part or provision of these Guidelines is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

RULE X
EFFECTIVITY

Section 1. Effectivity. This amended Guidelines shall take effect fifteen (15) days after its publication in one newspaper of general circulation.

Manila, Philippines, 01 April 2013.


ROSALINDA DIMAPILIS-BALDOZ
Secretary

National Wages and Productivity Commission

RTWPB _____

Name of Establishment: _____		Telephone: _____	
Address: _____		Fax/ If any: _____	
Nature of Industry (Pls.Check) ☐ Manufacturing ☐ Agriculture ☐ Service ☐ Others (Specify) _____			
Name of Owner/Manager: _____			
Description of Economic Activity: _____			
Union		CBA	
☐ With	☐ With	Name of Union President: _____	
☐ Without	☐ Without		
Capitalization			
Total No. of Employees:		Regular: ☐ Non-regular: ☐	Total: ☐
Reason for Request:			
Facilities provided:			
Name and Signature of Applicant _____		Name of Company: _____	
		Representative: _____	
		Designation: _____	
		Date Requested: _____	
To be filled out by RTWPB			
Date Received	Received by	Docket No.	Board Secretary's Signature

REPLY FORM

The following documents were found lacking in your application for FE:

- 1)
- 2)
- 3)

In this regard, we are returning your application with all its supporting documents without prejudice to the refiling of the same upon completion of all documentary requirements.

POST EVALUATION REPORT

Name of Company: _____

Date of Facility Evaluation: _____

Facilities Provided	Fair and Reasonable Value of Facilities	Remarks

Submitted by:

Approved by:

FACILITY EVALAUTION ORDER NO. _____
FOR

 Name of Applicant

 Address

Pursuant to the provisions of Article 97(f) of the Labor Code, as amended, and Sections 4, 5, 6 and 7 of Rule VII, Book III of its Implementing Rules, and in order to ensure effective enforcement of Wage Order No. _____, you are hereby allowed to deduct from your employees' salary the fair and reasonable value of meals and other facilities, determined as follows:

ARTICLES	VALUE
Allowable Deductions	P

The valuation of the facilities is subject to revision upon application of of interested parties, or revocation by this Office when condition so warrants.

A copy of this **ORDER** shall be posted in a conspicuous place for the information and guidance of the workers concerned.

This **ORDER** shall be effective for one (1) year from date of issuance.

_____, 2012.

BY THE AUTHORITY OF THE SECRETARY

 DOLE- _____ Regional Director

Applications for Facility Evaluation

For the Month of _____

Region _____

Name of Establishment	Date Filed	Date of Conduct of FE	Date of Issuance of FE Order

Certified Correct:

Board Secretary