



## **NWPC Guidelines No. 04 Series of 2020**

### **Operational Guidelines in the Conduct of Facility Evaluation**

In the exigency of the service and pursuant to Department Order No. 126, Series of 2013 (DO 126-13), this Operational Guidelines is hereby issued to facilitate the conduct of facility evaluation (FE) in enterprises for the purpose of determining the fair and reasonable value of facilities furnished by employers to their employees excluding supplements.

#### **I. Coverage**

This Guidelines covers facilities provided by employers to their employees pursuant to Article 97(f) of the Labor Code, as amended, and those employers engaged in contracting arrangements.

Workers in establishments where no employer-employee relationship exists are not covered by this Guidelines.

#### **II. Application**

This Guidelines provides an option for the Regional Tripartite Wages and Productivity Boards (RTWPBs) to conduct FE through online platforms when existing circumstances do not permit the conduct of FE procedures under DO 126-13.

#### **III. Criteria for Prioritization of Applicants**

Applicant micro, small and medium enterprises which shall meet any of these criteria shall be prioritized in the conduct of FE:

- Those whose business activities or operations were suspended due to enhanced or local community quarantines; or
- Those which started to engage, reconfigure or upgrade their business processes towards the production of health essential items such as personal protective equipment, face masks, disinfectants, alcohol, sanitizers and other medical supplies; or

- Those belonging to industries/sectors severely affected by the disruption due to the pandemic as determined by the concerned government agencies.

#### **IV. Specific Procedures Enhanced**

The use of facilities for online collaboration shall be maximized by the RTWPBs for the following FE procedures:

##### **A. Filing of FE Applications**

1. Applications may be filed via RTWPB's electronic mail (e-mail) using the prescribed form along with the scanned certified true copies of the following documentary requirements listed under DO 126-13:
  - a. Mayor's Permit for the current year;
  - b. List of company's employees with their corresponding wages;
  - c. Facilities provided and corresponding existing values;
  - d. Method of payment of wages (e.g. pakay, takay, commission); and
  - e. Notice to its employees, including those deployed by engaged contractors, that the enterprise applied for FE for the determination of the value of facilities provided to them.

In addition, the applicant, through its designated safety officer, shall submit a certification to the RTWPB indicating that it adheres to the existing occupational safety and health standards and protocols. (See Annex A)

2. Employers engaged in contracting arrangements who intend to consider the facilities they provide to deployed workers as part of wages, shall also submit the documentary requirements to the concerned RTWPB and undergo the same FE procedures.
3. Within 3 working days from receipt of the e-mail, the concerned RTWPB shall inform the applicant of the initial assessment of its application using the prescribed FE reply form. While this shall be done via e-mail, other facilities for online collaboration may also be used.

The concerned RTWPB shall recommend to the DOLE Regional Director the denial of the application if, upon initial assessment, the facilities for valuation are not among those included in the definition under DO 126-13 as listed below:

- a. Meals;
  - b. Housing for dwelling purposes;
  - c. Fuel including electricity, water, and gas furnished for the non-commercial personal use of the employer;
  - d. Transportation furnished to the employee between his/her home and work where travel time does not constitute compensable work hours under the Labor Code and other laws;
  - e. School, recreation and sanitation when operated exclusively for the benefit of the worker and his/her family;
  - f. Medical and dental services rendered to the non-industrial cases; and
  - g. Other articles and services given primarily for the benefit of the worker or his/her family.
4. The concerned RTWPB shall determine whether the applicant has the capacity and facilities for online collaboration.
  5. The concerned RTWPB that will perform the FE shall also secure from the DOLE Regional Director the necessary authority to conduct FE, including initial and closing meetings.

## **B. Actions on Applications with Complete Requirements**

1. In case the applicant has no existing facilities for online collaboration, the concerned RTWPB shall proceed with the procedures under DO 126-13, provided the concerned RTWPB staff and those of the applicant strictly observe the prescribed precautionary safety and health measures. In the case of CoVID-19, for example, wearing of face masks, social distancing procedures, area disinfections and regular hand washing, among other measures, shall be observed at all times.

At any time, the Board may refuse to proceed with the conduct of FE if the applicant, particularly its designated safety officer, failed to implement appropriate safety and health measures pursuant to Department Order No. 198, Series of 2018<sup>1</sup>.

2. For those with facilities for online collaboration, the concerned RTWPB shall proceed with online initial meeting provided that representatives of workers/labor unions and management are equally present and participate therein. They shall be required to present government-issued identification cards to the RTWPB. The approval of both parties to the agreements shall be secured

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<sup>1</sup> Implementing Rules and Regulations of Republic Act No. 11058 - An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof

by the concerned RTWPB before the adjournment of the meeting. The same shall apply to agreements during the closing meeting.

3. The minutes of initial and closing meetings shall be prepared by the concerned RTWPB and shall be routed to the conference participants for their approval and signature. The concerned RTWPB shall secure authority from the participants to affix their electronic signatures in the minutes.

### **C. Actual and On-Site Conduct of Facility Evaluation**

The actual and on-site conduct of FE shall strictly follow the prescribed precautionary health measures indicated under Section B, item 1.

For applicant with facilities for online collaboration, the concerned RTWPB may proceed to conduct the FE online, if, at its discretion, the same may be correctly and adequately conducted pursuant to the prescribed procedures under DO 126-13. However, this does not preclude said RTWPB from conducting on-site validation to ascertain whether the declared facilities correspond to the facilities actually provided to the employees.

In case an applicant with facilities for online collaboration prefers the actual and on-site conduct of FE, the concerned RTWPB may accommodate such request provided that all prescribed precautionary safety and health measures are observed.

The concerned RTWPB shall also require the applicant to submit the original copies of the documents earlier submitted.

Any of the following circumstances shall constitute sufficient ground to defer the conduct of FE:

1. Final findings by the DOLE Regional Director of underpayment of wages and wage-related benefits; or
2. Non-adherence by the applicant to any of the prescribed safety and health measures indicated under Section B, item 1; or
3. Failure of the applicant to submit necessary documents that may be requested by the RTWPB; or
4. Continuous refusal of the applicant (two instances at least) to comply with the directive of the concerned RTWPB; or
5. Enterprises located in areas under enhanced or local community quarantine or similar measures where entry is prohibited; or
6. Other justifiable reasons that may be determined by the RTWPB or the applicant.

The period of deferment shall not be treated as part of the 30-day process cycle time commencing from receipt of complete documentary requirements from the applicant.

Applications which have been deferred for more than 30 days from the date the application was filed shall be temporarily archived without prejudice to its revival once the ground/s for deferment have been addressed and corresponding proofs presented, as may be required by the RTWPB.

#### **D. Recommendations for the Issuance of Facility Evaluation Orders**

The concerned RTWPB which performed the FE shall endorse the corresponding recommendations including the value of each facility for review and approval of the DOLE Regional Director.

Further, the primary consideration for the valuation of each facility is the safety and health of workers as underscored in these examples:

- Accommodation should not be located in hazardous areas (e.g. gasoline stations, flood-prone areas, fault lines, etc.) and its structure made of sturdy materials.
- Sleeping/resting facilities should be well-lit, ventilated and have enough space to allow workers to move around with ease given physical distancing requirements.
- Whenever possible, separate rooms with secured and lockable doors should be provided for male and female workers.
- Clean toilets and/or bath facilities with clean running water should be accessible to workers at all times.
- Eating/dining facilities should be located in a clean and hazard-free area to prevent food contamination. Likewise, washing areas with clean running water should be located adjacent to these facilities.
- Meals to be provided should be comprised of food items containing carbohydrates (e.g. bread, rice or its alternatives), protein (e.g. meat, chicken or fish) with vegetables or fruits to help meet workers' daily nutritional needs.

Related to this, concerned food handlers should also observe proper hygiene, follow proper cooking and meal storage procedures and practice regular cleaning of cooking equipment and kitchen surfaces.

- Water to be provided should be sourced from a reliable water supply and should be safe to drink and/or used for food preparation. At the very least, it should be clear, with no odor or unusual taste.
- All required health protocols are in place, implemented and followed.

#### **E. Withdrawal of Application for the Conduct of Facility Evaluation**

The concerned RTWPB shall immediately discontinue the conduct of FE upon receipt of a notice of withdrawal from the applicant enterprise regardless if filed personally, by registered mail or through facilities for online collaboration. All pertinent application documents submitted shall be archived by the concerned RTWPB.

#### **F. Release of the Approved Facility Evaluation Order**

Copies of the approved FE Order shall be sent to the applicant via facilities for online collaboration as deemed fit by the RTWPBs.

The printed copies of these Orders may be claimed by the applicant upon advice of the RTWPB. The RTWPB may also send the printed copy of these Orders through reliable couriers/mail in the case of enterprises situated in distant or remote locations.

#### **V. Effectivity of Facility Evaluation Order**

The FE Order shall take effect upon its issuance by the DOLE Regional Director. It shall remain valid for a maximum period of two (2) years from the date of its effectivity unless a request for revision or revocation of the Order is filed by any concerned party before the appropriate RTWPB anytime within the Order's validity period.

#### **VI. Amendment and Revocation of a Facility Evaluation Order**

The FE Order may be amended within the period of its effectivity when the concerned parties agree on: (1) updating the values of existing facilities being provided to employees; or (2) when new facilities are provided by the employer to its employees.

The procedures under item IV (Specific Procedures Enhanced) of this Guidelines shall apply in case of amendments.

The amended FE Order shall be assigned a new number before its release to the applicant enterprise by the concerned RTWPB.

In case of revocation which may be initiated either by management or workers/union, the concerned party shall file before the RTWPB a request for revocation of an FE Order citing its reason/s, and proof of notice to the other party of such request for revocation. Upon recommendation of the RTWPB, the Regional Director shall issue a Notice of Revocation to the enterprise. The monetary value of facilities covered by a revoked FE Order shall automatically become part of workers' take-home pay.

In case the reason/s cited by workers' request for revocation of an FE Order involves violation of general labor standards and/or occupational safety and health standards, the RTWPB shall endorse the request to the DOLE-Regional Office for complaint inspection.

## **VII. Monitoring the Implementation of Issued Facility Evaluation Orders**

For purposes of monitoring, the RTWPBs are enjoined to develop and maintain a database of enterprises with valid FE Orders. This database shall be updated every time an order is issued by the concerned RTWPB. (See Annex B)

The RTWPBs shall provide the DOLE Regional Office with the list of establishments with valid FE for the guidance of Labor Inspectors.

## **VIII. Effectivity**

This Operational Guidelines shall take effect immediately.

05 August 2020, Manila, Philippines

  
**MARIA CRISELDA R. SY**  
Executive Director IV

## **C E R T I F I C A T I O N**

This is to certify that (*name of applicant*) located in (*address of applicant*) and owned/managed by (*name of owner or manager*) adheres to the existing occupational safety and health standards/protocols prescribed by the Department of Labor and Employment.

The management of the enterprise likewise commits to extend full support to the Regional Tripartite Wages and Productivity Board during the actual conduct of FE to ensure the safety and health of all concerned.

(*date*)(*month*)(*year*).( *place of issue*)

(*Name and Signature*)  
Designated Safety Officer of the Applicant

Department of Labor and Employment  
National Wages and Productivity Commission

**Database of Enterprises with Valid Facility Evaluation Orders**

<i>Enterprise Name</i>	<i>Address</i>	<i>Owner's Name</i>	<i>Contact Information</i>	<i>Primary Business Activity</i>	<i>Facility Provided to Workers</i>	<i>Value of the Facility</i>	<i>No. of Workers Covered</i>	<i>Facility Evaluation Order No.</i>	<i>Date of Order Issuance</i>