

# [ DOLE DEPARTMENT ORDER NO. 126-13, April 01, 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 wages.<sup>[1]</sup>

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 Labor.<sup>[2]</sup>

**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.

## **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 be 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.