

GUIDELINES FOR THE EVALUATION OF NEW OR INCREASED FEES PROPOSED BY DEPARTMENTS, BUREAUS, COMMISSIONS, AGENCIES, OFFICES, AND INSTRUMENTALITIES OF THE NATIONAL GOVERNMENT INCLUDI...

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Memorandum Circular No. 137 dated July 30, 2007, requires all heads of departments, bureaus, commissions, agencies, offices, and instrumentalities of the National Government including government-owned and/or controlled corporations to seek prior clearance from the National Economic and Development Authority (NEDA) Board before authorizing the imposition of new fees or increases in existing fees.

This Circular is hereby promulgated to set the guidelines to be applied by the NEDA Secretariat, as the technical support arm of the NEDA Board, in the evaluation of proposals for new or increases in fees.

1.0 GUIDING PRINCIPLES

1.1 Section 54 (1), Chapter 12, Book IV of Executive Order no. 292, s. 1987 (Administrative Code of 1987) gives the heads of bureaus, offices or agencies, upon approval of the concerned department head, the continuing authority to revise their rates of fees and charges.

1.2 On the other hand, government owned and/or controlled corporations exercise the same authority pursuant to their respective charters.

1.3 However, fees and charges entail costs to the public. They also affect the cost of doing business in the Philippines. Therefore, in the evaluation of new or increased fees/ charges, the NEDA Secretariat shall be guided by the principle of seeking just and reasonable rates on public goods and services rendered.

2.0 SCOPE

2.1 This Circular shall apply to imposition of new fees or increases in existing fees submitted by all departments, bureaus, commissions, agencies, offices, and instrumentalities of the National Government, including government-owned and/or controlled corporations rendering public goods and services for a fee.

2.2 This Circular shall not apply to the following:

- a. Schedule of charges, tariffs or fares processed by regulatory agencies in the exercise of their mandate to regulate charges, tariffs or fares imposed by public utility companies or operators, such as those in the transport, water, power, and telecommunication sectors;
- b. Fees and charges imposed by local government units pursuant to the Local Government Code and/or their charters, even if the purpose of said imposition is to recover the cost of the service rendered; and
- c. Fees and charges imposed for services exempted by international agreements.

2.3 The following fees and charges are not subject to increase and therefore shall not be processed under this Circular:

- a. Fees and charges related to constitutionally mandated free or subsidized services charged by departments, bureaus, offices, units, and agencies, including government-owned or controlled corporations, such as in education (government colleges and universities) and in health services to indigents; and
- b. Fees and charges imposed by the Department of Foreign Affairs for the processing of passports of Overseas Filipino Workers (Republic Act No. 8042, Section 36).

3.0 DEFINITION OF TERMS

For the purpose of this Circular, the following terms shall be construed to mean as follows:

3.1 Memorandum Circular refers to Memorandum Circular No. 137, series of 2007.

3.2 National Government refers to the entire machinery of the central government, which includes the various departments, bureaus, commissions, agencies, offices, and instrumentalities under its jurisdiction, as distinguished from the different levels of local governments. For expediency, they shall hereinafter be referred to as agencies.

3.3 Government-Owned and/or Controlled Corporations, hereinafter referred to as GOCCs, refer to corporations organized as stock or non-stock corporations vested with functions relating to public needs, whether governmental or propriety in nature, and owned by the National Government directly or through its instrumentalities either wholly or, where applicable, as in the case of stock corporations, to the extent of at least fifty-one (51%) of its capital stock. This term shall also include financial institutions owned and controlled by the national government, but shall exclude acquired asset corporations and sequestered corporations.

3.4 Fees and Charges refer to levies imposed in direct recipients of public goods and services by agencies and GOCCs in the exercise of their mandated regulatory and service delivery function. They shall not include among others, premium payments made to government-owned and/or controlled corporations involved in life, general, or health insurance or pre-need services and price of books, publications and reference materials sold by the government.

3.5 Public good refers to good that is available for consumption by all members of the society once it is provided. If one individual purchases a unit of this good, there is no feasible way to exclude non-purchasers from enjoying the same.

3.6 Indigent refers to individuals and families whose income fall below the poverty threshold as defined by NEDA and/or cannot afford in a sustained manner to provide their minimum basic needs of food, health, education, housing and other essential amenities of life.

4.0 DETERMINATION OF RATES

4.1 Prior to submission to the NEDA Secretariat, the agency/GOCC concerned shall exercise due diligence in proposing new fees or increases in fees subject to the parameters set forth under Executive Order No. 197, Series of 20001 and Executive Order No. 218, Series of 20002.

4.2 The agency concerned may also seek the assistance of the Task Force on Revision of Fees and Charges³ in determining the new or increase in fees.

4.3 The NEDA Secretariat may refer the submitted new or revised fees or charges for proper review/evaluation of the Task Force on Revision of Fees and Charges, under the following conditions:

- 4.3.1 The agency/GOCC concerned is included in the list of those whose fees are periodically reviewed by the Task Force on Fees and Charges for any of the following reasons;

- a. The agency's collections from fees and charges represent a major contribution to government revenues;
- b. The fees collected by the agency are socially sensitive;
- c. The fees have not been adjusted for the last five years from the effectivity of EO No. 197; and,
- d. The fees are not intended merely to recover cost but rather, or also, to fulfill a regulatory function or control a particular activity.

4.3.2 For agency/GOCC not included in the list, when the technical expertise of the Task Force on Fees and Charges is deemed necessary for the proper evaluation of the proposal.

5.0 GUIDELINES

5.1 In addition to those mentioned in item 1 of this Circular, the NEDA Secretariat shall use the following in the evaluation of new/revised fees or charges:

- a. Legal basis and/or authority of the agency/GOCC to collect fees and charges;
- b. Purposes/objectives of the proposed new/revised fees and charges;
- c. Current and projected inflation rates;
- d. Cost-versus-quality and efficiency of services; and
- e. Other aspects/factors deemed relevant by the NEDA Secretariat.

6.0 NEDA TECHNICAL COMMITTEE ON FEES AND CHARGES

6.1 A Technical Committee (TC) shall be created to evaluate proposals for new or increase in fees with the assistance of appropriate NEDA units, with the following composition:

Deputy Director-General

-

Chairperson

Director, National Planning and Policy Staff

-

Vice-Chairperson

Director, Public Investment Staff

-

Member

Director, Trade, Industry and Utilities Staff

-

Member

Director, Infrastructure Staff

-

Member

Director, Social Development Staff

-

Member

Director, Agriculture Staff

-

Member

Director, Project Monitoring Staff

-

Member

Director, Regional Development Coordination Staff

-

Member

Director, Management Staff

-

Member

Director, Information Technology Coordination Staff

-

Member

Director, Legal staff

-

Member

The Chairperson shall be designated by the Director-General. The members may designate their respective alternates in the Technical Committee.

6.2 It shall submit recommendation to the Director-General for subsequent presentation to the NEDA Board.

6.3 The Technical Committee shall meet every first week of the month.

6.4 The Technical Committee shall be supported by the NEDA-Legal Staff as the Secretariat.

7.0 PROCEDURE FOR SUBMISSION AND EVALUATION

7.1 Requests for NEDA Board clearance shall be submitted to the NEDA Director-General through the Legal Staff of the Secretariat.

7.2 The requesting agency shall submit to the NEDA the following documents:

- a. Letter of request of the Department Secretary or Agency/GOCC governing board or duly authorized official addressed to the NEDA Director-General;
- b. Legal basis and/or authority of the agency/GOCC to collect fees and charges;
- c. Agency/GOCC evaluation report containing the justification/reasons for imposition of new or revised rates including computational details, financial statement, process flow chart, and date of last increase (if applicable);
- d. An assessment of the socio-political risks or acceptability of the imposition of new or increase in fees and charges;
- e. Report on the conduct of public/stakeholder consultation and the result thereof;
- f. Findings of the Task Force on Revision of Fees and Charges, if any; and
- g. Statement under oath that each of the documents submitted is an authentic and original copy, or a true and faithful reproduction or copy of the original, and that all statements and information provided therein are true and correct.

7.3 The TC Secretariat shall officially accept the request only when the documentary requirements are complete. The request shall then be evaluated by the appropriate TC members. In case the documents submitted are incomplete, the TC Secretariat shall return and inform the agency/GOCC concerned in writing about the same not later than three (3) working days from the receipt thereof.

7.4 When any of the conditions set forth in item 4.3 is present, the TC may endorse the documents to the Task Force on Revision of Fees and Charges, in which case, it shall immediately inform the agency/GOCC of such action.

7.5 The request shall be evaluated within a period of thirty (30) working days from date of official acceptance, excluding the period of evaluation conducted by the Task Force on Revision of Fees and Charges, if applicable.

7.6 The TC, through the Director-General, shall submit the result of the favorable evaluation to the NEDA Board in time for the immediately succeeding NEDA Board Meeting; and

7.7 The TC shall inform the agency/GOCC concerned of the findings in case of non-endorsement. The concerned agency/GOCC may respond to the findings within five (5) working days from receipt of notice.

8.0 AMENDMENTS

The TC reserves the right to make amendments, modifications, revisions or supplements to these guidelines consistent with existing laws, rules and regulations. However, no such revision, amendment or modification shall be effective unless approved by the Director-General.

9.0 RETROACTIVITY

All requests submitted to the NEDA Secretariat pursuant to Cabinet Resolution No. 1, s. 2007 and Memorandum Circular 132, s. 2007 shall be reviewed and processed in accordance with these guidelines.

10.0 EFFECTIVITY

This Circular shall take effect immediately.

Adopted: 31 Oct. 2007

(SGD.) AUGUSTO B. SANTOS
Acting Director-General

[1] Directing All Departments, Bureaus, Commissions, Agencies, Offices and Instrumentalities of the National Government, Including Government-Owned or Controlled Corporations, to Increase their Rates of Fees and Charges by Not Less than 20 Percent.

[2] Reactivating the Task Force of Fees and Charges, Expanding its Membership and Functions and Providing Guidelines for the Review of the Proposed Rate of Increase of Fees and Charges by National Government Agencies and Government-Owned or Controlled Corporations Under EO 197, Series of 2000.

[3] The Task Force of Fees and Charges is mandated to monitor compliance with EO 197, s. 2000; to provide technical assistance in upgrading the rates of fees and charges, upon the request of agencies; and, to pass upon any request for exemption from EO 197.

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