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MEMORANDUM

TO : ALL UNDERSECRETARIES
ALL BUREAU DIRECTORS
ALL REGIONAL EXECUTIVE DIRECTORS

FROM : THE UNDERSECRETARY
Policy, Planning and International Affairs

SUBJECT : IMPLEMENTING RULES AND REGULATIONS (IRR)
OF SECTION 4 (NNN) OF REPUBLIC ACT NO. 11494,
OTHERWISE KNOWN AS "THE BAYANIHAN TO
RECOVER AS ONE ACT

DATE : 20 January 2021

This is to provide you herewith a copy of the Implementing Rules and Regulations (IRR) of Section 4 (NNN) of Republic Act No. 11494, otherwise known as "*The Bayanihan to Recover as One Act.*"

Please take note of item d of Section 6 (Requirements Not Allowed to be Waived), which provides that requirements relating to environmental laws and regulations are not allowed to be waived.

For information, please.


ATTY. JONAS R. LEONES

MEMO NO.2021- 66

Let's Go Green!!!

1/11/2021

Gmail - IRR of Sec. 4 (nnn)



OUEIEA Secretariat <oueiea.dnr@gmail.com>

IRR of Sec. 4 (nnn)

Allena Bocalan <abocalan@finance.gov.ph>
To: oueiea.dnr@gmail.com
Cc: Bayani Agabin <bagabin@dof.gov.ph>

Mon, Jan 11, 2021 at 3:23 PM

Dear Usec. Leones,

I hope this email finds you well

Attached is the signed copy of the IRR of Sec. 4 (nnn), for your perusal.

Thank you very much

Allena K. Bocalan
Legal Affairs Office
Department of Finance

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 **IRR of Section 4 (NNN) of the RA No. 11494 - Bayanihan to Recover as One Act.pdf**
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IMPLEMENTING RULES AND REGULATIONS (IRR) OF SECTION 4 (NNN) OF REPUBLIC ACT NO. 11494, OTHERWISE KNOWN AS "THE BAYANIHAN TO RECOVER AS ONE ACT"

Section 1. Legal Basis.

- a. Section 4 (nnn) of Republic Act (RA) No. 11494 dated September 15, 2020, known as the "Bayanihan to Recover as One Act", which took effect last 15 September 2020;
- b. Memorandum from the Executive Secretary dated 23 October 2020 which authorizes the Secretary of Finance to create and chair the committee, with the Secretaries of the Department of Trade and Industry (DTI) and the Department of Environmental and Natural Resources (DENR) as members, and the Department of Finance (DOF) as secretariat, that will identify the projects that shall be granted the regulatory relief and the specific permits, licenses, certificates, clearances, consents, authorizations, or resolutions that shall be waived in accordance with Section 4 (nnn) of RA No. 11494, and issue rules and regulation for its implementation; and
- c. Implementing Guidelines of Republic Act No. 11494, "An Act Providing for COVID-19 Response and Recovery Interventions and Providing Mechanism to Accelerate the Recovery and Bolster the Resiliency of the Philippine Economy, Providing Funds Therefor, and for Other Purposes" attached to the Memorandum from the Executive Secretary dated 23 October 2020.

Section 2. Definition of Terms. As used in this IRR, the following terms shall have the following meaning:

- a. "*Covered project*" shall refer to project/s undertaken by private entities which are either nationally significant, with high economic returns, or with high employment potential.
- b. "*National Government Agencies*" shall refer to any of the various units of the National Government, including a department, bureau, office, or instrumentality.
- c. Projects with "*high economic returns*" shall refer to any Covered project that, as may be determined by the Committee, is economically desirable in terms of its net contribution to the economic and social welfare of the country as a whole. In determining projects with high economic returns, the Committee may consider the indicators for economic desirability used by other government bodies such as the National Economic and Development Authority – Investment Coordination Committee, among others.
- d. Projects with "*high employment potential*" shall refer to any Covered project that, as may be determined by the Committee, can substantially contribute to job generation.

In determining projects with high employment potential, the Committee may consider the number of jobs generated per peso of investment, among others.

- e. Projects of "*national significance*" shall generally refer to any Covered project that, as may be determined by the Committee, supports the various sectors of the society such as, but not limited to, health care, infrastructure, agriculture, food production, export, digital infrastructure, logistics, and energy, among others, including projects that are aligned with the government's response and recovery interventions against COVID-19.
- f. "*Requirement/s*" shall collectively refer to permits, licenses, certificates, clearances, consents, authorizations, or resolutions issued by National Government Agencies that may be subject to regulatory relief.

Section 3. Composition of the Committee. The Committee shall be composed of the following:

- a. Secretary of Finance as Chairperson;
- b. Secretary of Environment and Natural Resources as member; and
- c. Secretary of Trade and Industry as member.

The members of the Committee may designate an alternate whose rank shall not be lower than an Undersecretary or its equivalent, and whose acts shall be considered the acts of their principals in case the Committee member/s is/are unavailable.

The Secretary of Finance shall designate a Secretariat to the Committee from any unit within the DOF.

All resolutions and decisions of the Committee shall require the affirmative vote of a majority of all members of the Committee.

Section 4. Technical Working Group. The Committee may create a technical working group (TWG) composed of designated representatives from the DOF, DTI, DENR, and such government agencies as may be identified by the Committee. The TWG shall have the following responsibilities:

- a. Act as technical arm of the Committee to support in the evaluation of applications received by the Committee;
- b. Conduct necessary inter-agency coordination and consultation in evaluating the applications for regulatory relief;
- c. Submit a comprehensive report to the Committee with the TWG's recommendations and the factual, technical, and legal reasons therefor; and
- d. Such other tasks that may be assigned by the Committee to assist in the performance of its mandate.



Section 5. General Principles. The Committee shall consider the following general principles in identifying which Covered projects shall be granted regulatory relief and the specific Requirement/s that shall be waived:

- a. The Committee shall evaluate the grant of regulatory relief on a per Requirement basis.
- b. In the determination of the national significance of a Covered project, the Committee shall consider the significant sectors that would accelerate the recovery and bolster the resilience of the Philippine economy. In addition to the targeted sectors, the Committee may consider the project's direct and indirect contribution to economic growth and development, implementation readiness, and such other facets that would stimulate the local economy. As such, the total project cost of the Covered project is not necessarily the sole basis in determining national significance.

Following the new normal, Covered projects under the following sectors may also be considered by the Committee as projects of national significance: (a) housing and resettlement in support of the *Balik Probinsya, Bagong Pag-asa Program (BP2P)*; (b) water supply and sanitation to accelerate achievement of full coverage; (c) watershed rehabilitation and protection; (d) power generation, transmission and electrification to support the digital economy; and (e) provision of other critical services that contribute to providing security and promoting peace.

- c. The Committee shall consider the following factors in the selection of Covered projects:
 - i. The project has high economic returns;
 - ii. The project will have direct and indirect economic impact beyond the local government unit where it is located;
 - iii. The project has high employment potential with due consideration to the location of jobs. Projects that will generate jobs in areas where employment has been significantly affected may be considered as greater priority. Higher priority for job-generating projects outside major urban centers may also be accorded in order to decongest these cities and stem the further spread of COVID-19, promote growth in other areas, and support the BP2P Program; and
 - iv. Projects requiring expeditious completion, wherein delays in implementation would impede the delivery of critical services under the Act.
- d. In the determination of waiver of a Requirement of the Covered project, the Committee may also consider the following:
 - i. Impact of the lack of Requirement in the operations and quality of the output of the Covered project;
 - ii. Impact of the lack of Requirement in the health and safety of the personnel working on the Covered project;



- iii. Reason/s why the Requirement remains pending or has not been granted by the appropriate National Government Agency;
 - iv. Any mitigating measures available to compensate lack of Requirement;
 - v. Measures to ensure that the quality and standard of work will not be compromised;
 - vi. Occupational safety and necessary measures compliant with health and safety protocols for the protection of workers;
 - vii. Timeframe involved or complexity of the subject Requirement; and
 - viii. Such other factors as may be determined by the Committee.
- e. The Committee may approve any application for regulatory relief subject to such reasonable conditions as it may determine for the effective implementation of Sec. 4(nnn) of RA No. 11494. Any approval of regulatory relief by the Committee may be revoked at any time if the Covered project is determined to have violated any condition given in the grant of such relief.

Section 6. Requirements Not Allowed to be Waived. Requirements relating to the following are not allowed to be waived:

- a. *Taxes.* Taxes refer to both (1) national taxes supervised and administered by the Bureau of Internal Revenue or any other government agency, and (2) local taxes levied and administered by the Local Government Units;
- b. *Duties.* Duties administered by the Bureau of Customs (BOC) relating to the following:
 - i. Assessment and collection of the lawful revenues from imported articles and all other dues, fees, charges, fines and penalties accruing under the tariff and customs laws payable to the BOC; and
 - ii. Enforcement of the tariff and customs laws and all other laws, rules, and regulations relating to the tariff and customs administration;
- c. *Border control.* National border controls administered by various National Government Agencies, including the Bureau of Immigration, Bureau of Customs, and Bureau of Quarantine; and
- d. *Environmental laws and regulations.* Environmental laws and regulations administered by the DENR and its attached bureaus and agencies.

Section 7. Process for Applying for Regulatory Relief.

- a. The proponent, organizer, developer, or any authorized person of a Covered project qualified under Section 4 of this IRR are eligible to apply for regulatory relief.
- b. The following are the supporting documents to be submitted to the Committee for the availment of the regulatory relief:
 - i. Application letter stating the intention to avail the regulatory relief and disclosing to the Committee the following information relevant to the Covered project:





1. Title of the Covered project, location, and such other details showing the national significance, economic returns, and employment generation potential thereof;
 2. The specific Requirement/s sought to be relieved from and the issuing National Government Agency/ies;
 3. Reason why the Requirement/s has not been issued;
 4. A declaration that the documents for the application of such Requirement/s were already filed with the issuing National Government Agency/ies and corresponding application fees were already paid;
 5. Impact of the Requirement/s (or lack thereof) to the operations of the Covered project;
 6. Board resolution stating the authorized person who will represent the applicant; and
 7. Feasibility or business study of the Covered project showing indicators of economic returns.
- ii. Proof of submission to the concerned National Government Agency/ies of the required documents as basis of its evaluation;
 - iii. Proof of payment. This may be submitted after the filing of the application but prior to the rendering of a decision by the Committee; and
 - iv. Such other relevant documents that will aid in the evaluation of the Committee.

c. Application Procedure.

- i. The applicant shall submit its application/s with the complete supporting documents, as stated under Section 7(b), to the Committee Secretariat.
- ii. The Committee Secretariat will ensure that all documents are complete before forwarding it to the TWG for evaluation. Should there be lacking documents, the Secretariat shall immediately inform the applicant, who shall be given 3 working days to complete the submission.
- iii. Within twenty (20) days from receipt of the application/s with complete documents, the TWG will conduct their evaluation. The TWG's evaluation will be guided by the General Principles specified under Section 4 of this IRR. The application for the availment of regulatory relief shall be evaluated on a per Requirement basis.
- iv. The TWG may consult with or secure the comments and/or recommendations of other government agencies to aid them in the evaluation of the project. The TWG shall likewise verify with the concerned agency/ies if the application/s were already filed to the said agency/ies and the status thereof.
- v. The TWG will submit a comprehensive report to the Committee with their recommendations and the factual, technical, and legal reasons therefor.



- vi. Within ten (10) days from receipt of the TWG's report, the Committee shall review the recommendations of the TWG. The Committee shall issue a Resolution and discuss the reason/s for the approval or denial of the applications. In the said Resolution, the Committee shall require the grantee to submit a regular progress report addressed to the concerned National Government Agency/ies for monitoring purposes.

Section 8. Effect of the Grant of Regulatory Relief.

- a. During the period of effectivity of the relief, the applicant may implement the Covered project only up to the extent allowed by the Requirement waived;
- b. The relief shall be effective only for the period specified in the resolution;
- c. For Requirement/s that is/are waived for a limited period, the applicant shall reapply before the Committee for the succeeding periods, as may be applicable, within the applicability of implementation of Sec. 4 (nnn) of RA 11494;
- d. The Requirement subject of the regulatory relief under this IRR shall serve the purpose of such Requirement as if it is issued by the National Government Agency concerned;
- e. The grantee of the regulatory relief should submit all supporting documents and pay the corresponding fees to the concerned National Government Agency/ies prior to the commencement of any activity.
- f. The grantee of the regulatory relief shall submit to the concerned National Government Agency/ies a progress report of the Covered project for monitoring purposes and on-site progress validation;
- g. The Committee shall not be held liable if there will be a subsequent finding by the appropriate agency that the application should be disapproved.

Section 9. Effect of Denial of Regulatory Relief.

The National Government Agency/ies concerned shall continue processing the application/s filed before its office. The denial of the application for regulatory relief will have no effect on the evaluation of the issuing National Government Agency/ies.

The Committee will not entertain any motion for reconsideration for the denial of the application. As relief, the applicant may continue processing its application/s before the National Government Agency/ies concerned, in accordance with the guidelines of the said National Government Agency/ies.

Section 10. Prohibition on TRO. No court, except the Supreme Court, shall issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the Committee and the operation of the Covered project granted regulatory relief.




Section 11. Other Implementing Rules and Regulations. The Committee may issue subsequent rules, regulations, and/or policy guidelines for purposes of the full implementation of Section 4 (nnn) of RA No. 11494.

Section 12. Separability Clause. In the event that any provision or part of this IRR is declared unenforceable or rendered invalid by any court of law or competent authority, the provisions not affected by such declaration shall remain valid and effective.


Section 13. Repealing Clause. All administrative issuances, circulars, and memoranda inconsistent with this IRR are hereby withdrawn, repealed, and/or revoked accordingly.

Section 14. Effectivity. This IRR shall take effect immediately following its complete publication in a newspaper of general circulation or the Official Gazette. The Office of the National Administrative Registrar of the UP Law Center shall be provided three (3) certified copies of this IRR.

Adopted this 05 day of JAN, 2021 in Manila, Philippines.


SECRETARY RAMON M. LOPEZ
Department of Trade and Industry




SECRETARY ROY A. CIMATU
Department of Environment and
Natural Resources




SECRETARY CARLOS G. DOMINGUEZ
Department of Finance

