

**DOLE AND DPWH JOINT MEMORANDUM OF AGREEMENT
ON THE APPROVAL OF CSHP OF
GOVERNMENT INFRASTRUCTURE PROJECTS**

This Memorandum of Agreement is entered into by and between:

The **DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE)** with office address at DOLE Bldg., Gen. Luna St. cor. Muralla St., Intramuros, Manila represented herein by the **HONORABLE SECRETARY ROSALINDA DIMAPILIS-BALDOZ** herein referred to as the "DOLE"

and

The **DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH)** with office address at DPWH Bldg., Bonifacio Drive, Port Area, Manila represented herein by the **HONORABLE SECRETARY ROGELIO L. SINGSON**, herein referred to as the "DPWH".

WITNESSETH

WHEREAS, Article 168¹ of Presidential Decree 442, otherwise known as the Labor Code of the Philippines, as amended provides that the Secretary of Labor and Employment shall by appropriate orders, set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces and institute new, and update existing, programs to ensure safe and healthful working conditions in all places of employment;

WHEREAS, Section 1, Chapter 1, Title V, Book IV of Executive Order No. 292, otherwise known as the Revised Administrative Code, provides that the planning, design, construction and maintenance of infrastructure facilities, especially national highways, flood control and water resources development systems, and other public works in accordance with national development objectives, shall be the responsibility of the Department of Public Works and Highways (DPWH) as an engineering and construction arm of the State. However, the exercise of this responsibility shall be decentralized to the fullest extent feasible;

WHEREAS, DOLE Department Order No. 13 Series of 1998, dated 23 July 1998, requires that every construction project shall have a suitable Construction Safety and Health Program (CSHP);

WHEREAS, DPWH Department Order No. 56 Series of 2005, dated 20 April 2005, entitled Guidelines for the Implementation of DOLE DO No. 13, Series of 1998 on Occupational Safety and Health in Construction Industry, provides that CSHP shall be in accordance with DOLE DO No. 13 Series of 1998 and the winning bidder shall submit the same for approval of the DPWH, subject to concurrence by DOLE-Bureau of Working Conditions;

WHEREAS, Joint Administrative Order No. 1 Series of 2011, dated 29 April 2011, issued by DOLE, DPWH, Department of Trade and Industry-Construction Manpower Development Foundation-Philippine Constructors Association Board, (DTI-CMDF-PCAB), Department of the Interior and Local Government (DILG) and Professional Regulation Commission (PRC), and promulgated pursuant to the Inter-Agency Memorandum of Agreement on 07 April 2011, provides that the DOLE Regional Offices shall approve/disapprove the proposed CSHP submitted by the contractor within five (5) days upon receipt of the complete requirements;

¹ Formerly Article 162

WHEREAS, DOLE Administrative Order No. 152 Series of 2011, dated 26 April 2011, decentralized the approval of CSHP to DOLE Regional Offices by providing that the evaluation and approval of application for CSHP of a specific construction project shall be within the jurisdiction of the concerned DOLE Regional Offices;

WHEREAS, DOLE Memorandum, dated 17 July 2014, prescribes the procedure in the evaluation of CSHP of contractors engaged by DPWH pursuant to DPWH Department Order No. 56 Series of 2005 and restates the preliminary authority of DPWH to approve the CSHP of its winning contractors, subject to review and concurrence of DOLE Regional Office, and directs the DOLE Regional Offices to strictly observe the prescribed five-day process cycle time (PCT);

WHEREAS, DPWH Department Order No. 129 Series of 2014 allows the use of initially approved CSHP subject to the review and concurrence of DOLE as basis for the processing and approval of contract;

WHEREAS, the Government Procurement and Policy Board (GPPB) issued Resolution No. 28-2014, dated 05 December 2015, recognizing the administrative issuances of DPWH and DOLE, which allow the DPWH to have preliminary authority to approve the CSHP of the winning bidder to be concurred with by DOLE, without prejudice to similar arrangements that may be entered into between DOLE and other government agencies, subject to the necessary capacity building mechanisms relative to the approval of the CSHP;

WHEREAS, Sec. 2 of Republic Act No. 9485, otherwise known as the Anti-Red Tape Act of 2007, declares as a state policy to promote integrity, accountability, proper management of public affairs and public property as well as to establish effective practices aimed at the prevention of graft and corruption in government and that towards this end, the State shall maintain honesty and responsibility among its public officials and employees, and shall take appropriate measures to promote transparency in each agency with regard to the manner of transacting with the public, which shall encompass a program for the adoption of simplified procedures that will reduce red tape and expedite transactions in government;

WHEREAS, the DOLE and the DPWH recognize the need to promote and ensure the safety and health of workers in all operations and undertakings in the Construction Industry including infrastructure projects and public works; and

WHEREAS, in consideration of the emerging working conditions and the increase of work-related incidents in the construction sites, the DOLE has deemed it necessary to strengthen existing linkages to promote the welfare of the construction workers and the growth of the construction industry;

NOW THEREFORE, for and in consideration of the above premises, the **PARTIES** hereby agree as follows:

- 1. Approval of CSHP.** Pursuant to the above-stated laws, rules and regulations, the DOLE shall strictly observe the PCT within which to concur or disapprove the CSHP of contractors initially approved by DPWH, taking into consideration the technical authority of the DPWH to ensure the safety of employees working in government infrastructure projects.

To avoid unnecessary delay in the processing of CSHP applications filed with the DOLE by contractors engaged in public works and to ensure efficiency and transparency in the processing of public documents submitted, CSHP applications initially approved by the DPWH shall be considered as approved if it remains unacted upon on the sixth (6th) day following the prescribed PCT of five (5) working days from the date of submission of the complete documents. In such case, the DPWH may rely on the CSHP duly received by the DOLE after it is satisfied that the same was not disapproved as verified from any official communication from the concerned DOLE Regional Office and notice posted in its official website. For this purpose, both the DPWH and the DOLE shall exercise prudence in verifying the true status of the CSHP application before it can be deemed approved.



2. Responsibilities of DPWH:

- 2.1 The DPWH shall require the winning contractor to submit the CSHP in accordance with Section 5 of DOLE D.O. No. 13 Series of 1998 which provides that every construction project shall have a suitable CSHP;
- 2.2 The DPWH shall only receive CSHP applications which comply with the complete requirements prescribed by DOLE under DOLE D.O. No. 13 Series of 1998. Any incomplete applications shall be returned immediately to the applicants, specifying therein the lacking documents;
- 2.3 The DPWH shall identify and send DPWH regional personnel that shall undergo DOLE orientation on the approval of CSHP;
- 2.4 All requirements, provisions, and instructions pertaining to the implementation of CSHP in every project shall be included in the project bidding documents specifically under the Instruction to Bidders and be discussed during pre-bid conferences;
- 2.5 Upon approval of the CSHP, the DPWH Regional Office shall immediately provide the DOLE counterpart with a list of its approved CSHP applications, indicating therein the project name, location and duration, project owner, general contractor, Occupational Safety and Health (OSH) personnel, and contracts for OSH services appropriate for a particular project when applicable;
- 2.6 The approval of the CSHP may be decentralized to DPWH Regional Directors/District Engineers where the project site is located in accordance with DPWH rules and regulations;
- 2.7 All Implementing Offices of the DPWH shall designate a General Construction Safety Officer who shall oversee the full time/overall implementation of the CSHP of the office concerned;
- 2.8 In case of existence of imminent danger or accident which may result/has resulted to disabling injury, the proper DPWH Regional Office and the DPWH General Construction Safety Officer shall immediately inform the DOLE-Regional Director who has jurisdiction over the project site for the conduct of Occupational Safety and Health Investigation (OSHI); and
- 2.9 The DPWH General Construction Safety Officer shall join the DOLE composite team in the conduct of the OSHI.

3. Responsibilities of DOLE:

- 3.1 The DOLE shall provide trainings to technical DPWH personnel who shall evaluate and process CSHP applications;
- 3.2 The DOLE shall provide the DPWH a checklist of requirements for CSHP applications in compliance with DOLE D.O. No. 13 Series of 1998;
- 3.3 The DOLE shall strictly observe the five-working day period to concur or deny the initially approved CSHP applications by DPWH. CSHP applications are deemed approved by DOLE upon the lapse of the five-working day period, provided no formal notice was sent to applicant and the concerned DPWH Regional Office of the disapproval;
- 3.4 The DOLE-Regional Office shall regularly provide the DPWH with a list of approved CSHP applications, indicating therein the project name, location and duration, project owner, general contractor, OSH personnel, and contracts for OSH services appropriate for a particular project when applicable;

DOLE's approval or disapproval of the CSHP shall be posted immediately in the website of the DOLE-Regional Offices and shall likewise be communicated to DPWH through registered mail, electronic mail, facsimile or any other modes of communication;

- 3.5 The DOLE-Regional Office shall undertake the necessary assessment of construction project sites as it monitors the execution of CSHP;
- 3.6 The DOLE Regional Office shall deploy to the project site, within twenty-four (24) hours from receipt of the information of existence of imminent danger or accident which may result to disabling injury, a Labor Laws Compliance Officer (LLCO) for the conduct of OSHI under DOLE D.O. No. 131 Series of 2013;
- 3.7 The DOLE-Regional Office shall notify the DPWH of any work stoppage order within 48 hours from the issuance thereof; and
- 3.8 In cases of violations of labor standards, rules and regulations, the DOLE shall refer the matter to the Philippine Contractors Accreditation Board (PCAB) for blacklisting when the violation constitutes *prima facie* case of construction malperformance of a grave consequence as defined in R.A. 4566 (Contractors' Licensing Law), as amended, and its implementing rules, copy furnished the DPWH.

This Joint Memorandum of Agreement signed on this 15th day of September, 2015 shall take effect immediately.


DEPARTMENT OF LABOR AND EMPLOYMENT

DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS

By:

By:





ROSALINDA DIMAPILIS-BALDOZ
Secretary

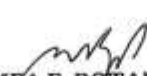

ROGELIO L. SINGSON
Secretary

Department of Public Works and Highways
Office of the Secretary




Signed in the presence of:


CATHERINE Z. LEGADOS-PARADO
BWC Director


NIMFA E. POTANTE
Procurement Service Director

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