

# REGULATORY FRAMEWORK FOR BUSINESS TRANSACTIONS (RFBT)

## CPALE Concept Notes

### EASE OF DOING BUSINESS ACT

Source: ReSA Lecture and REO Pre-Recorded (Atty. Nicko)

#### Topics Covered:

8. Law on Other Business Transactions
- 8.8. Ease of Doing Business and Efficient Delivery of Government Service Act
  - 8.8.1. Policy, Construction, and Interpretation
  - 8.8.2. Definition of Terms
  - 8.8.3. Coverage and Scope
  - 8.8.4. Reengineering of Systems and Procedures
  - 8.8.5. Citizen's Charter
  - 8.8.6. Accessing Government Services
  - 8.8.7. Streamlined Procedures for the Issuances of Permits and Licenses
  - 8.8.8. Violations, Jurisdictions, Penalties, and Immunity

#### Policy, Coverage, and Reengineering of Systems and Procedures

##### Declaration of Policy

- Promote integrity, accountability, and proper management in public service and public property
- Establish effective practices, aimed to ensure efficient delivery and turnaround of government services
- Prevent graft and corruption in government
- Maintain honesty and responsibility among public officials and employees
- Take appropriate measures to promote transparency in government transactions with the public
  - Adopt simplified requirements and procedures
  - Reduce red tape and expedite both business and non-business government transactions

##### Coverage:

- ALL government offices and agencies (including LGUs, GOCCS, and other gov't instrumentalities) located in the **Philippines or Abroad**, providing services covering business and non-business transactions
  - Business-Related Transactions
    - Regulatory requirements that a business entity must comply with to engage, operate, or continue to operate a business
  - Non-Business Transactions
    - All other government transactions

Previously, during **ARTA (Anti-Red Tape Act)**, only government offices and agencies in the Philippines were included (those abroad were excluded).

##### Primary Implementing Agency:

- Anti-Red Tape Authority (ARTA)

##### Reengineering of Systems and Procedures

- All government offices and agencies are mandated to regularly
  - Conduct cost compliance analysis
  - Perform time and motion studies
  - Evaluate and improve transaction systems and procedures
  - Reengineer systems when necessary to reduce red tape and processing time
- All proposed government agencies' regulations shall undergo
  - Regulatory impact assessment to avoid undue regulatory burden and cost (to both the agencies and applicants)
  - Pilot implementation when necessary to assess regulatory impact

### Citizen's Charter and Accessing Government Services

#### CITIZEN'S CHARTER

Respective government agencies' most current and updated service standards in the form of information billboards (published materials)

Posted at:

- The main entrance of offices, or at the most conspicuous place
- Their respective websites

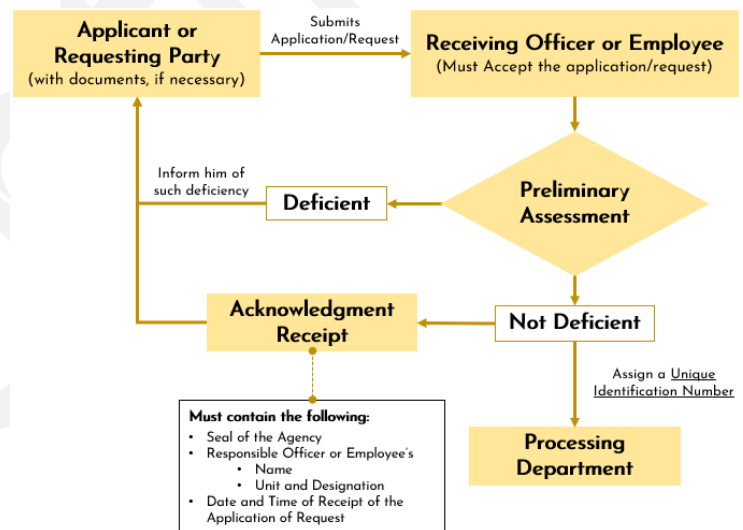
Written either in English, Filipino, or in the local dialect

#### Details or Contents:

- Comprehensive and uniform checklist of requirements for each type of application or request
- Procedure to obtain a particular service
- Person/s (position) responsible for each step
- Maximum time to conclude the process
- Document/s to be presented by the applicant
- Amount of fees
- Procedure for filing complaints

#### ACCESSING GOVERNMENT SERVICES

##### Acceptance of Applications or Requests



- Only deficiencies from the accompanying requirement based on what's in the Citizen's Charter shall be assessed in the preliminary assessment (*could not be changed or added*)
- The **unique identification number** serves as the control or identifying number for all subsequent transactions between the government and the applicant as to such application or request
- The **acknowledgment receipt** must contain the following:
  - Seal of the Agency
  - Responsible Officer or Employee's
    - Name
    - Unit and Designation
  - Date and Time of Receipt of the Application of Request

##### Prescribed Periods to Process

Subject to a lower number of days as prescribed in the Citizen's Charter, the following are the **maximum days prescribed** for processing of specific transactions:

| Type of Transaction                                                                                                                                                           | Period to Process | Extension                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------------------------------------------|
| <b>Simple Transactions</b> <ul style="list-style-type: none"><li>• Only requires ministerial actions (no discretion)</li><li>• Presents only inconsequential issues</li></ul> | 3 Working Days    | <b>ONCE</b><br>(For the same number of days) |

|                                                                                                                                                                                                   |                 |                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------|
| <u><b>Complex Transactions</b></u> <ul style="list-style-type: none"><li>• Necessitates evaluation in the resolution of complicated issues</li></ul>                                              | 7 Working Days  | <u><b>ONCE</b></u><br>(For the same number of days)         |
| <u><b>Highly Technical Application</b></u> <ul style="list-style-type: none"><li>• Requires use of technical knowledge, specialized skill, and/or training (certain level of expertise)</li></ul> | 20 Working Days |                                                             |
| Those involving <b>activities posing danger to:</b> <ul style="list-style-type: none"><li>• Public health</li><li>• Public safety</li><li>• Public morals</li><li>• Public policy</li></ul>       |                 |                                                             |
| License, Clearance, Permits, or Certifications required the <b>Approval of the Local Sanggunian</b>                                                                                               | 45 Working Days | <u><b>ONCE</b></u><br>(For another <b>20 Working Days</b> ) |

#### Extension:

- Prior to lapse of the processing time, the government agency must notify the applicant **in writing** as to the reason for extension and the final date of release
- Must be **signed by the applicant** as proof of notice

#### XPN to Period to Process

The Prescribed Periods are Suspended

- Delay due to **force majeure or disasters** (natural or man-made), resulting to documents damage or destruction and/or system failure of computerized or automatic processing

#### Inaction of Application or Request:

- Deemed approved or renewed, as long as all required documents have been submitted and all required fees and charges have been paid
  - The **acknowledgment receipt and official receipt**, together shall be enough proof or has the same force and effect of an approved license, clearance, permit, certification, or authorization

#### Denial of Application or Request:

- Must be
  - Fully explained in writing
  - States the name of the person making the denial
  - States the grounds for which the denial was based
- Deemed to have been **made with the permission or clearance from the highest authority** having jurisdiction over the concerned government agency or office

#### Signatories

- Maximum of 3
- Pre-signed** licenses or **electronic signatures** with adequate security and control mechanisms may be used
- An **alternate signatory** shall be designated in case the authorized signatory is on official business or leave

#### Serving Applicants or Requesting Parties

Applicants or requesting parties **within the premises prior to end of official working hours** (ex. 4:59 PM) must be attended to and served, even in times

- During lunch break
- After regular working hours
- Electronic versions** of licenses, clearances, permits, certifications, and authorizations shall have the same level of authority as that of a signed hard copy

### Streamlined Procedures in Local Government Units

#### a. Single Unified Business Application Form

- Made available online
- Hard copies shall also be available at all times in designated areas

#### b. Business One Stop Shop (BOSS)

- One-stop business facilitation service for permits and licenses, established within the city or municipality's Negosyo Center
- Existence of a queueing mechanism
- Colocation of the offices** of treasury, business permits and licensing, zoning, BFP, and other relevant offices and departments

#### c. Automation of Business Permitting and Licensing System (or Electronic BOSS)

- Within 3 years from the effectivity of EODB Law
- Electronic versions** of licenses, clearances, permits, certifications, or authorizations with the same level of authority, which may be printed by businesses on their own convenience

#### d. Other Local Clearances

(Sanitary Permits, Environmental Clearances, etc.)

- Shall be issued together with the business permit

#### e. Validity and Renewal of Business Permits

- Valid for 1 year
- At the option of the city or municipality, **renewal** may be
  - Within the **first month of the year** (January), or
  - On the **anniversary date of the issuance** of the business permit

#### f. Barangay Clearances and Permits

- Shall be applied, issued, and collected **at the city or municipality** with prescribed processing times
- Share in collections shall be remitted to respective barangays

### Violations, Penalties, and Liabilities

#### Violations to EODB Law

- Refusal to accept application or request with complete requirements
- Imposing additional requirements not listed in the Citizen's Charter
- Imposing additional fees not imposed in the Citizen's Charter
- Failure to give written notice to applicant for disapproval
- Failure to render government service within the prescribed processing time without due cause
- Failure to attend to applicant within the office or agency's premises **prior to end of official working hours and during lunch break**
- Failure or refusal to issue official receipts
- Fixing and/or **collusions with fixers**

#### Penalties and Liabilities

|                                                                      | Administrative Liability                                                                                                                                                           | Criminal Liability                                                                                                                                                              |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1st Offense</b><br>(Applies to all, except Collusion with Fixers) | 6 Months Suspension                                                                                                                                                                | None                                                                                                                                                                            |
| <b>2nd Offense</b><br>(XPN: 1st Offense for Collusion with Fixers)   | <ul style="list-style-type: none"> <li>Dismissal from service</li> <li>Perpetual disqualification from holding public office</li> <li>Forfeiture of retirement benefits</li> </ul> | <b>Imprisonment:</b> <ul style="list-style-type: none"> <li>1 to 6 years</li> </ul> <b>AND</b> <b>Fine:</b> <ul style="list-style-type: none"> <li>500k to 2 million</li> </ul> |

#### PH Ranking in World Bank's Annual Doing Business Report

- 2016 - 103<sup>rd</sup>
- 2017 - 99<sup>th</sup>
- 2018 - 113<sup>th</sup>
- 2019 - 124<sup>th</sup>
- 2020 - 95<sup>th</sup>