



MAKATI CENTRAL ESTATE ASSOCIATION, INC.

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May 25, 2020

MEMORANDUM CIRCULAR 2020-11

FOR : ALL MACEA MEMBERS/BUILDING ADMINISTRATORS
SUBJECT : UPDATES TO THE RETURN-TO WORK GUIDELINES FOR EMPLOYERS
INTRODUCED BY DPWH DEPARTMENT ORDER NO. 39

In view of the issuance of DPWH Department Order No. 39 dated 19 May 2020 which contains the Revised Construction Safety Guidelines for the Implementation of Infrastructure Projects During the COVID-19 Public Health Crisis (19 May 2020), this Memo Circular is issued to supplement the recently Memo Circular dated May 16, 2020 released by the Development Control regarding the policies issued by the different government offices related to Construction Safety Guidelines.

SUMMARY

Salient provisions introduced by DPWH Department Order No. 39:

1. "Small Scale Projects", which are not allowed under MECQ, is defined as those construction projects which are intended for private and personal use, and because of scale, would not be able to or would impractically be unable to comply with the herein Revised Construction Safety Guidelines in areas under ECQ, MECQ, GCQ, and MGCQ.
2. Testing of all construction personnel is no longer mandatory, instead construction personnel may undergo 14-day quarantine prior to deployment.
3. The provisions on Monitoring and Enforcement include the requirement to secure Quarantine Passes for construction personnel.
4. Penalties for violation of the Construction Safety Guidelines are provided for.

(Please see attached for Updated Return-to Work Guidelines for Employers)

I. Allowed Construction Activities; Definition of Small Scale Projects

Under MECQ, the following construction projects, except small scale projects, are allowed to operate:

1. Essential Projects, whether public or private, such as quarantine facilities and isolation facilities for PUIs, PUMs, and suspect and confirmed COVID-19 patients;
2. Facilities for health sector workers, including those dealing with PUMs and suspect and confirmed COVID-19 patients;
3. Facilities for construction personnel who perform emergency works, flood control, and other disaster risk reduction and rehabilitation works;
4. Sewerage projects, water service facilities projects, and digital works;
5. Priority public infrastructure projects;
6. Priority private infrastructure projects defined as those that refer to food production, agriculture, fisheries, energy, housing, communication, water utilities, manufacturing, and business process outsourcing (BPO); and
7. Other essential and priority projects.

Small-scale projects are defined as those construction projects which are intended for private and personal use, and because of scale, would not be able to or would impractically be unable to comply with the herein Revised Construction Safety Guidelines in areas under ECQ, MECQ, GCQ, and MGCQ.

Note: For areas under ECQ, Items 1 to 6 above are allowed to operate through a skeleton workforce. For areas under GCQ and MGCQ, all public and private constructions are allowed subject to strict compliance with the Revised Construction Safety Guidelines.

II. Revised Construction Safety Guidelines

The changes in Safety Guidelines as previously provided in DPWH Department Order No. 35 include:

1. COVID-19 test for all construction personnel prior to deployment is no longer mandatory. Construction personnel shall undergo quarantine for 14 days or undergo COVID-19 test.
2. In DPWH Department Order No. 35, the requirement is to assign a full-time "safety officer". In DO DPWH Department Order. 39, the term "safety engineer/officer" is used.

III. Monitoring and Enforcement

1. **Quarantine Pass (QP)** shall be issued to qualified personnel of the concessionaires, contractors, subcontractors, and suppliers based on the list submitted and certified by the said concessionaires, contractors, subcontractors, and suppliers, clearly stating the identification, designation, nature of work, validity, and destination.

Projects	Issuing authority for QP
DPWH infrastructure projects	Head of the concerned DPWH Implementing Office (IO)
LGU implemented projects and private construction projects	LGU concerned, through its City/Municipal Engineering Office
Infrastructure projects implemented by other national government agencies, Government-Owned and Controlled Corporations (GOCC), and other government instrumentalities	Head or representative of the agency, GOCC, or government instrumentality

For monitoring purposes, the following shall be submitted by the concessionaires, contractors, subcontractors, and suppliers to the DPWH IO, LGU, or Implementing Government Agency, Instrumentality or GOCC, as the case may be:

- a. personal records and health report of all personnel necessary for contact tracing to be resubmitted and updated monthly, or as the need arises
- b. the design for disinfection facilities and amenities,
- c. a certification under oath that they have complied and shall continue to comply with the provisions of the Guidelines set forth in DO No. 39

2. The allowed government and private construction projects are subject to the visitorial and enforcement powers of the DOLE and the DTI in order to ensure compliance with the provisions on maximum allowable operational capacity in establishments as well as minimum health standards and protocols.

IV. Penalties

Violation of any provision of this Revised Construction Safety Guidelines shall be subject to the following penalties, without prejudice to the imposition of additional administrative sanctions as the internal rules of DPWH may provide and/or further criminal action that may be filed against such erring concessionaires, contractors, subcontractors, and suppliers, as may be provided by applicable laws:

1. Termination of contract for breach thereof resulting to default pursuant to Item III (A) (2) (c) (i), Annex I of the IRR of Republic Act No. 9184 (The Government Procurement Reform Act) in relation to Section 37.2.3 of the same, which provides that bidding documents requiring bidders to know and be familiar with all existing laws, decrees, ordinances, acts, and regulations, including the Department Orders of DPWH, shall form part of the contract awarded, and refusal or failure to comply with the valid instruction of DPWH, as the procuring entity, shall justify the contract's termination;
2. Contract termination/rescission under Section 12.21 (b) of the Implementing Rules and Regulations of Republic Act No. 6957, as amended by Republic Act No. 7718 (BOT Law)
3. Referral to the PCAB of any such violation by the contractor/subcontractor, which shall constitute as prima facie case of construction malperformance of grave consequence due to negligence, incompetence, or malpractice contemplated under DOLE D.O. No. 13, Series of 1998 and DPWH D.O. No. 56, Series of 2005 in relation to Republic Act No. 4566 (Contractors' License Law); and
4. Institution of criminal action under Republic Act No. 11469 (Bayanihan to Heal as One Act).

We shall keep you posted should there be any latest announcements from the government for proper guidance of all concerned.

For further clarifications, kindly contact us at anunciacion.abe@macea.com.ph and through mobile at 0917-826-3427.

Thank you.



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