

Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Manila

3108
097.13 DPWH
03.24.2021

MAR 23 2021

DEPARTMENT ORDER)

NO. **29**)

Series of 2021)

SUBJECT: DPWH Policy on Telecommunications and Internet Infrastructures Pursuant to Republic Act (RA) No. 11494, "Bayanihan to Recover as One Act"

To speed-up improvements of telecommunication services in the country and in accordance with the National Broadband Program of the Department of Information and Communications Technology (DICT), there is a need to harmonize Department Order (DO) No. 26, series of 2011, and DO No. 73, series of 2014, with Section 4(ii)(1) of RA No. 11494, to facilitate the erection of infrastructure that will allow speedy expansion of telecommunication services and facilities while ensuring public safety, availability of government's Right-of-Way (ROW), and the structural integrity of roads and bridges.

For this purpose and in support of the objectives of RA No. 11494, DO No. 73, series of 2014, is hereby amended insofar as it allows the ICT Service Providers to construct and undertake excavations and/or restoration works for ICT Infrastructure Projects within the allowable ROW limits of the national roads, as determined by the concerned District Engineering Office and subject to the guidelines provided in this Order.

In compliance with Section 4(ii)(1) of RA 11494¹, ICT Service Providers or their respective contractors (collectively referred to as ICT Service Providers or Service Providers) are temporarily allowed to conduct excavation and/or digging or related construction works without the need to submit the requirements provided in Items 1(a), (b), (c), (d), (e), (g), and (h) of DO No. 26, series of 2011, except for the posting of bond as required in Item 1(f) thereof. In addition to the requirement of posting of bond, the applicant ICT Service Provider shall submit a Notarized Sworn Statement (format of the Notarized Sworn Statement is attached herein), executed by its duly authorized officer, indicating/or attaching the location, scope, and duration of the construction activity/ies, with the following undertakings, that:

1. The Service Provider has a clear legal right to use government ROW such as, but not limited to, a specific provision in their franchise or otherwise expressly authorized by law;
2. It shall closely work and coordinate with the concerned District Engineering Office to determine the areas that are most suitable to cater to the ICT infrastructure and that which has the least intrusion to government ROW, as well as identify specific lots over which the ICT infrastructure shall be erected/constructed, provided that steps to ensure the public safety and adequate access for pedestrians and motorists are considered for the duration of construction until the restoration works thereof are completed;
3. Should the area over which the ICT infrastructure is erected/constructed be determined to be necessary for the use of the general public, including but not limited to, expansion, widening, or redesign of the ROW to accommodate traffic

¹ Temporary suspension of requirements to secure permits and clearances for the construction of telecommunications and internet infrastructure.

patterns and volumes; or if the said ICT infrastructure has been determined to be dangerous to the public, the Service Provider shall relocate the said infrastructure at no cost to the government. In case of failure to relocate within thirty (30) days after due notice to the Service Provider, the above-mentioned infrastructure shall be relocated at the cost of the Service Provider;

4. Before the implementation of any excavation activity, all necessary traffic safety devices, including notices and other relevant safety devices, shall be installed in the vicinity of the work area. For the duration of the excavation and/or until the trench is satisfactorily backfilled, and the pavement is restored to its original configuration and design strength, signs indicating the names of the ICT Service Provider and its contractor (if any) shall be conspicuously displayed on the site. The signs shall be reflectorized and arranged in accordance with the DPWH Road Works Safety Manual;
5. The Service Provider shall undertake the restoration and/or reconstruction works of the portion subject of its application, in accordance with the existing policy of the DPWH, at no cost to the government;
6. The Service Provider shall hold the government free from any liability for any damage or injury related to the construction, operation, and maintenance of the said ICT infrastructure, including losses caused by accidents, theft, force majeure, or other acts; and
7. The Service Provider shall comply with all applicable law, rules and regulations, including those emanating from this Department.

Upon receipt of the Notarized Sworn Statement, the concerned DEO and the Service Provider shall inspect the area to ensure that the location subject of the application is within the allowable ROW limit as provided in Item 9 of DO No. 26, series of 2011. In case of deviation as to the location, the ICT Service Provider shall prepare the plans and detailed drawings of the proposed deviation and submit the same to the concerned DEO, for evaluation/recommendation and subsequent approval of the Regional Director.

Within seven (7) days from submission of the said Notarized Sworn Statement and posting of bond, the DEO shall immediately allow the telecommunication or internet providers to excavate or construct for ICT infrastructure projects.

After the lapse of the three-year period as provided in RA No. 11494 or if public safety requires, the concerned DEO shall evaluate and conduct an inspection as to the compliance of the ICT Service Provider with the undertakings provided in its submitted Sworn Statement.

All other provisions stated in DO Nos. 26, series of 2011, and 73, series of 2014, shall still be in effect, including the terms and conditions for the conduct of excavation and restoration works, except those that are inconsistent with this Order, and shall be subject to any Joint Circular that various pertinent national agencies (including this Department) may agree on this subject matter.

This Order shall take effect immediately and shall automatically cease application after the lapse of three (3) years from RA No. 11494's signing and approval, in accordance with Section 4(ii)(1) thereof, without need for any subsequent Department issuance, unless, extended anew by government issuances.

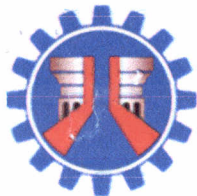


MARK A. VILLAR
Secretary

Department of Public Works and Highways
Office of the Secretary



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Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Manila

Omnibus Sworn Statement

REPUBLIC OF THE PHILIPPINES)
CITY/MUNICIPALITY OF _____)

I, (Name of Affiant), of legal age, (Civil Status), (Nationality), and residing at (Address of Affiant), after having been duly sworn in accordance with the law, do hereby depose and state that:

1. I am the duly authorized and designated representative of (Name of Company) with principal office address at (Address of Company);
2. I am granted full power and authority to do, execute, and perform all acts necessary and/or to represent the (Service Provider) in the construction activity/ies for (Name of Project) (indicate the document as proof of authority, i.e., SPA, Board Resolution, etc.);
3. The Service Provider has a clear legal right to use government ROW as provided in (Indicate the Legal Basis i.e., Statute providing/granting ICT Service Provider's Franchise) ;
4. Upon executing this Omnibus Sworn Statement (OSS), (Name of Company), through me as its duly authorized and designated representative, hereby undertakes that:
 - a. It shall closely work and coordinate with the concerned District Engineering Office to determine the areas that are most suitable to cater to the ICT infrastructure and that which has the least intrusion to government ROW, as well as identify specific lots over which the ICT infrastructure shall be erected/constructed, provided that steps to ensure the public safety and adequate access for pedestrians and motorists are considered for the duration of construction until the restoration works thereof are completed;
 - b. Should the area over which the ICT infrastructure is erected/constructed be determined to be necessary for the use of the general public, including but not limited to, expansion, widening, or redesign of the ROW to accommodate traffic patterns and volumes; or if the said ICT infrastructure has been determined to be dangerous to the public, the Service Provider shall relocate the said infrastructure at no cost to the government. In case of failure to relocate within thirty (30) days after due notice to the Service Provider, the above-mentioned infrastructure shall be relocated at the cost of the Service Provider;
 - c. Before the implementation of any excavation activity, all necessary traffic safety devices, including notices and other relevant safety devices, shall be installed in the vicinity of the work area. For the duration of the excavation and/or until the trench is satisfactorily backfilled, and the pavement is restored

to its original configuration and design strength, signs indicating the names of the ICT Service Provider and its contractor (if any) shall be conspicuously displayed on the site. The signs shall be reflectorized and arranged in accordance with the DPWH Road Works Safety Manual;

- d. The Service Provider shall undertake the restoration and/or reconstruction works of the portion subject of its application, in accordance with the existing policy of the DPWH, at no cost to the government;
 - e. The Service Provider shall hold the government free from any liability for any damage or injury related to the construction, operation, and maintenance of the said ICT infrastructure, including losses caused by accidents, theft, force majeure, or other acts; and
 - f. The Service Provider shall comply with all applicable law, rules and regulations, including those emanating from this Department.
5. I execute this OSS for purposes of facilitating the construction/excavation/restoration works for (Name of Company) involving (Name of Project) for the duration of (Duration of Project) until completed.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2021 at _____, Philippines.

Representative Signature

SUBSCRIBED AND SWORN to me before this ____ day of _____, 2021 at (place of execution), Philippines. Affiant/s is/are personally known to me and was/were identified by me through competent evidence of identity as defined in the 2004 Rules on Notarial Practice (A.M. No. 02-8-13-SC). Affiant/s exhibited to me his/her (insert type of government identification card used) issued on _____ at _____.

WITNESS my hand and seal this ____ day of (month) 2021.

NOTARY PUBLIC

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