

# COA GUIDELINES FOR THE PREVENTION AND DISALLOWANCE OF IUEEEU EXPENDITURES.

---

# COA'S EXCLUSIVE AUTHORITY

---

To promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance **of irregular, unnecessary, excessive, extravagant, or unconscionable** expenditures or uses of government funds and properties (*Section 2(2) Article IX-D of the 1987 Philippine Constitution*)

# FUNDAMENTAL PRINCIPLES

---

- APPROPRIATION LAW OR SPECIFIC STATUTE**
- SOLEY FOR PUBLIC PURPOSE**
- TRUST FUNDS MAY BE SPENT FOR THE PURPOSE IT WAS CREATED**
- SHARED FISCAL RESPONSIBILITY**
- APPROVAL OF THE PROPER OFFICIALS**
- COMPLETE DOCUMENTATION**
- ADHERENCE TO APPLICABLE LAWS, RULES AND REGULATIONS**
- OBSERVANCE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND PRACTICES, SOUND MANAGEMENT AND FISCAL ADMINISTRATION**

# IRREGULAR EXPENDITURES

---

## Non - adherence to

- established rules
- regulations,
- procedural guidelines
- policies
- Principles or practices that have gained recognition in laws

# UNNECESSARY EXPENDITURES

---

- ❑ could not pass the test of prudence or the diligence of a good father of a family, thereby denoting non-responsiveness to the exigencies of the service
- ❑ not supportive of the implementation of the objectives and mission of the agency relative to the nature of its operations
  - incurrence of expenditure not dictated by the demands of good government
  - the utility of which cannot be ascertained at a specific time
- ❑ can be dispensed with without loss or damage to property
- ❑ The mission and thrusts of the agency must be considered in determining whether or not an expenditure is necessary

# EXCESSIVE EXPENDITURES

---

**Unreasonable expenses - immoderate quantity and exorbitant price**

- Expenses exceeding what is usual or proper**
- Unreasonably high expenses and beyond just measure or amount**
- Expenses in excess of reasonable limits**

# EXTRAVAGANT EXPENDITURES

---

- Those incurred without restraint, judiciousness, and economy
- Exceed the bounds of propriety
- Are immoderate, prodigal, lavish, luxurious, grossly excessive, and injudicious

# UNCONSCIONABLE EXPENDITURES

---

- unreasonable and immoderate**
- no man in his right sense would make, nor a fair and honest man would accept as reasonable**
- those incurred in violation of ethical and moral standards.**



# ILLEGAL EXPENDITURES

---

**expenditures which are  
contrary to law.**

# DISALLOWANCE

---

- ❑ The disapproval in audit of a transaction, either in whole or in part.
- ❑ The term applies to the audit of disbursements as distinguished from "charge" which applies to the audit of revenues/receipts.

# LIMITATION OF DISALLOWANCE

---

**The COA's power and authority to disallow upon audit can only be exercised over transactions deemed as irregular, unnecessary, excessive, extravagant, illegal or unconscionable expenditures or uses of government funds and property. Otherwise put, NDs should issue only for these kinds of transactions. (*Miralles vs. COA*)**

# NOTICE OF DISALLOWANCE

---

- ❑ Issued by the Auditor for IIUEEU transactions
- ❑ Addressed to the head of agency and the accountant
- ❑ Served on the persons liable
- ❑ Contents
  - the transaction and amount disallowed
  - Reasons for the disallowance
  - Laws/rules/regulations violated
  - Persons liable

# NOTICE OF DISALLOWANCE

---

- Signed by both the Audit Team Leader and the Supervising Auditor**
- Issued as often as disallowances are made by the Auditor**
- Should be settled within six months from receipt of the ND by the persons liable**
- Date of receipt of the ND by the persons liable or their authorized representatives shall be the reckoning date of the 6-months period for appeal.**

# DETERMINATION OF PERSONS RESPONSIBLE/LIABLE

---

## Basis

- ❑ the nature of the disallowance/charge;
- ❑ the duties and responsibilities or obligations of officers/employees concerned;
- ❑ the extent of their participation in the disallowed/charged transaction; and
- ❑ the amount of damage or loss to the government,

# DETERMINATION OF PERSONS RESPONSIBLE/LIABLE

---

## PERSONS RESPONSIBLE/LIABLE

- ❑ **Custodians of government funds for failure to ensure that funds are:**
  - **Safeguarded against loss or damage**
  - **Expended, utilized, disposed of, or transferred in accordance with law and regulations**
  - **Supported with the prescribed documents and necessary records**
  
- ❑ **Public officers on their respective certifications as to the:**
  - **Legality, legality and availability of funds**
  - **Adequacy of documents**

# DETERMINATION OF PERSONS RESPONSIBLE/LIABLE

---

- ❑ **Approving officers or those who authorized the expenditure, for losses arising out of their negligence**
- ❑ **Those who confederated or conspired in a transaction**
  - **Disadvantageous or prejudicial to the government**
  - **Jointly and severally liable with those who benefited therefrom**
- ❑ **Payee – personally liable**
  - **Ground for disallowance is failure to submit the required documents**
  - **Auditor is convinced that the disallowed transaction did not occur or has no basis in fact**



# LIABILITY FOR ACTS DONE BY DIRECTION OF SUPERIOR OFFICER

---

No accountable officer shall be relieved from liability by reason of his having acted under the direction of a superior officer in paying out, applying, or disposing of the funds or property with which he is chargeable.

- unless prior to that act, he notified the superior officer in writing of the illegality of the payment, application, or disposition.

# LIABILITY FOR ACTS DONE BY DIRECTION OF SUPERIOR OFFICER

---

## Liability for the loss

- **Primary - the officer directing any illegal payment or disposition of the funds or property**
- **Secondary - the accountable officer *who fails* to serve the required notice shall be secondarily liable**



# PROCEDURES ON DISALLOWANCE AND APPEAL

---

**EDNA D. SANTOS  
DIRECTOR IV**

**CLAIMS AND ADJUDICATION OFFICE – CORPORATE  
COMMISSION PROPER ADJUDICATION SECRETARIAT AND SUPPORT SERVICES  
SECTOR**

# Service

---

**is the act of providing a party with a copy of the pleading or paper concerned.**

# To whom service should be made

---

**If party is represented by counsel – to his counsel or one of them, unless service upon the party himself is ordered by the court.**

**If counsel represents several parties – counsel is entitled to one copy of any paper served upon him by the opposite side**

# Service of pleadings

---

- ✓ **Service of pleadings, motions, notices, orders, judgments and other papers shall be made either personally or by mail <sup>1</sup>**
- ✓ **Whenever practicable, the service and filing of pleadings and other papers shall be done personally <sup>2</sup>**

<sup>1</sup> Section 5, Rule 13 of the Revised Rules of Court in the Philippines

<sup>2</sup> Section 11, Rule 13 of the Revised Rules of Court in the Philippines

# Service upon any person other than the counsel of record

---

- **Not legally effective and binding upon the party, nor**
- **May it start the corresponding reglementary period for the subsequent procedural steps that may be taken by the attorney (Gundayao v. Court of Appeals, 185 SCRA 606)**

# SERVICE OF COPY OF NOTICE OF DISALLOWANCE / CHARGE

---

**A copy of the ND/NC shall be served to each of the persons liable, by the Auditor, through**

- **Personal Service**
- **Registered Mail - if personal service is not practicable**
- **Ordinary Mail - may be done if no registry service is available in the locality of either the sender or the addressee (Section 12.3, RRSA)**
- **Private Courier**



# Constructive service of ND/NC

---

**In case there are several payees, as in the case of a disallowed payroll, service to the accountant who shall be responsible for informing all payees concerned, shall constitute constructive service to all payees listed in the payroll.**

# PERSONAL SERVICE

---

- ✓ **Delivering personally a copy to the party**
- ✓ **Leaving it in his office with his clerk or with a person having charge thereof**
- ✓ **Leaving the copy between the hours of eight in the morning and six in the evening at the party's residence, if known, with a person of sufficient age and discretion then residing therein**
  - **if no person is found in his office, or his office is not known, or he has no office**

# REGISTERED MAIL

---

- ✓ **If personal service is not practicable**
- ✓ **Sending a copy to the**
  - **office address of the party, if known; otherwise**
  - **at his residence with instruction to the Postmaster to return the mail to the sender after ten (10) days, if undelivered**

# PERIOD OF APPEAL

---

Any person aggrieved by the decision of an auditor of any government agency in the settlement of an account or claim may within six months from receipt of a copy of the decision appeal in writing to the Commission.

# COMPUTATION OF PERIOD

---

- When the laws speak of years, months, days or nights, it shall be understood that years are of three hundred sixty-five days each; months, of thirty days; days, of twenty-four hours; and nights from sunset to sunrise.
- If months are designated by their name, they shall be computed by the number of days which they respectively have.
- In computing a period, the first day shall be excluded, and the last day included. (Article 13, New Civil Code of the Philippines)

# RECKONING DATE TO APPEAL

Persons liable (approving/certifying officers, payees, others)

Personal service –

Appeal to the Director - date of actual receipt of ND (proof of service portion of the ND/NC,)

Petition for review - stamp of receipt of the Director's decision

Registered mail – date of mailing stamped by the post office of origin (registry return receipt, affidavit of service, certification of the Office of the Postmaster)

# RECKONING DATE TO APPEAL

Several payees

Personal Service

Appeal to the Cluster/Regional Director - date of actual receipt by the Accountant of the ND/NC

Petition for review - date of actual receipt of CD/RD decision, for individual appeal; date of actual receipt by representative, if filed through a representative; or date of receipt by respective payees, if not represented.

Registered mail – date of mailing

# Form of Pleadings

---

## **Caption**

- Name and address of the Commission on Audit**
- Title of the case**
- Docket number**
- Description of the pleading**

**Typewritten, double-sized on legal size bond paper**

**Proof of service of such papers must be shown therein**

**Pleadings required to be filed before the Commission Proper shall be made in five legible copies**



# Payment of filing fee

---

## Cases requiring payment of filing fee - petition/appeal filed before an adjudicating body of the Commission

- Appeal from audit disallowance charge
- Appeal from disapproval of request for relief from accountability
- Money claim, except if the claimant is a government agency
- Request for condonation of settled claim or liability except if between government agencies

# Payment of filing fee

---

## NATURE

## AMOUNT

**Appeals from notices of disallowance or charge, requests for relief from accountability, condonation, and write-off**

**1/10 of 1% of the amount involved, provided the total filing fee shall not exceed P20,000**

**Money claims and approval of sale**

**1/10 of 1% of the amount involved, provided the total filing fee shall not exceed p50,000 subject to certain exceptions as may be approved by the Commission Proper**

# Payment of filing fee

---

## Where to pay

- **COA Central Office Cashier**
- **COA Regional Finance Office**
- **Through Postal Money Order**

## Payment of filing fee is jurisdictional.

- **Any appeal without the required payment of filing fee will be returned to the party concerned, for compliance with such requirement.**

# APPEAL BEFORE THE DIRECTOR

# Who May Appeal

---

An ***aggrieved party*** may appeal from the decision of the Auditor to the Director who has ***jurisdiction over the agency*** under audit, except for ND/NC of the audit team under the FAO, SAO or ICFAU, which shall be appealed directly to the Commission Proper

# How appeal is taken

---

## **The appeal to the Director shall be taken by**

- filing an Appeal Memorandum with the Director, copy furnished the Auditor.**
- proof of service of a copy to the Auditor shall be attached to the Appeal Memorandum.**
- proof of payment of the filing fee prescribed under the Rules shall likewise be attached to the Appeal Memorandum.**

# Caption

---

**The party appealing shall be called the "Appellant" and the Auditor who rendered the decision appealed from, as the "Appellee".**

# When appeal is taken

---

**An Appeal must be filed within six (6) months after receipt of the decision appealed from.**



# Interruption of Time to Appeal

---

**The receipt by the Director of the Appeal Memorandum shall stop the running of the period to appeal which shall resume to run upon receipt by the appellant of the Director's decision.**

# Auditor's Answer and Transmittal of Record

---

**The Director shall, within five (5) days after receipt of the Appeal Memorandum, order the Auditor to submit an Answer together with the entire records of the case including the EDSE, every page of which shall be numbered at the bottom. The Auditor shall comply with the order within fifteen (15) days from receipt thereof**

# Power of Director on Appeal

---

The Director may ***affirm, reverse, modify or alter*** the decision of the Auditor.

If the Director reverses, modifies or alters the decision of the Auditor

- the case shall be elevated directly to the Commission Proper for automatic review of the Directors' decision.
- The dispositive portion of the Director's decision shall categorically state that the decision is not final and is subject to **automatic review by the CP.**

# Automatic Review

---

**Director's decision subject of automatic review by the Commission Proper- one which**

- **lifts/reduces a liability under a Notice of Disallowance (ND)/Notice of Charge (NC)/Auditor's decision by an amount in excess of P100,000.00**
- **excludes a person liable under the ND/NC/Auditor's decision**

**Not to be promulgated or released to appellant**

**Where the Director's decision pertains to several NDs/NCs/Auditor's decisions, some of which are subject to automatic review and some are not, separate decisions shall be prepared, and only the decision on the disallowances/charges that are for automatic review shall be elevated to the Commission Proper. The decision which is not for automatic review shall already be promulgated by the Director;**

## **Period to Decide Case**

- **The Director shall render his decision on the case within fifteen (15) days after submission of the complete documents necessary for evaluation and decision.**

## **Motion for Reconsideration Not Allowed.**

- **The Director shall not entertain a motion for reconsideration of his decision and any such motion shall be returned to the movant without action and with the advise for him to file an appeal instead to the CP pursuant to Rule VII of the RRPC.**

# **APPEAL BEFORE THE COMMISSION PROPER (PETITION FOR REVIEW)**

# Who may appeal and where to appeal

---

**The party aggrieved by a decision of the Director may appeal to the Commission Proper.**



# Mode of appeal/Period of Appeal/Caption

---

- ❑ **Mode - Filing a Petition for Review**
  - In five (5) legible copies
  - Filed with the Commission Secretariat, copy furnished the Director
  - Proof of service
  - Proof of payment
  - Payment of filing fees
  
- ❑ **Period of Appeal – to be taken within the time remaining of the six months period**
  
- ❑ **Caption – The party appealing shall be called the “Petitioner” and the Director as the Respondent**

# Contents of Petition

---

- ❑ a concise statement of the facts and issues involved
- ❑ the grounds relied upon for the review, accompanied by
  - a certified true copy of the decision appealed
  - certified true copies of such relevant portions of the record as are referred to therein
  - other supporting papers.
- ❑ the specific dates (material dates) to show that it was filed within the reglementary period.

# Order to Answer

---

**Within five (5) days from receipt of the petition for review, the Commission Secretary shall issue an Order requiring the Director to file his Answer to the Petition and transmit the entire records of the case to the Commission Secretary**

# Filing of Answer and Transmittal of Record

---

- ❑ **The Director shall file an answer to the petition**
  - **within 15 days from receipt of the Order to Answer**
  - **submitted to the Commission Secretary, together with the records of the case**
- ❑ **A copy of the answer shall be served on the petitioner by the Director**
- ❑ **The answer shall**
  - **point out the insufficiencies or inaccuracies in the petitioner's statement of facts and issues and**
  - **state the reasons why the petition should be denied or dismissed.**

# Reply

---

**Petitioner may file a reply with the Commission Secretary, copy furnished the Director concerned within fifteen (15) days from receipt of the Answer.**

**The Commission Proper, however, may direct any or all the parties to submit additional pleadings or documents which it may deem necessary in the proper adjudication of the case.**

# Referral of appealed cases

---

**Commission Secretary refers the case to the CPASSSS for review and evaluation**

- **Within five days from receipt of the complete records of the case from the Director concerned, as well as the Reply of the appellants/petitioner, or in case no Reply is filed, upon expiration of the period to reply**

**CPASSSS prepares a draft decision, which is forwarded to the Commission Secretary within 30 days from receipt of the complete records of the case**

**The Commission Proper concludes on the case brought before it for decision after formal deliberation by the members**

# Finality of Decisions or Resolutions

---

**A decision or resolution of the Commission upon any matter within its jurisdiction shall become final and executory after the lapse of thirty (30) days from notice of the decision or resolution.**

# Petition for Certiorari – Judicial Review

---

**Any decision, order or resolution of the Commission may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of a copy thereof in the manner provided by law and the Rules of Court.**

**When the decision, order or resolution adversely affects the interest of any government agency, the appeal may be taken by the proper head of that agency.**



# Effect of Filing a Petition for Certiorari

---

**The filing of a petition for certiorari shall not stay the execution of the judgment or final order sought to be reviewed, unless the Supreme Court shall direct otherwise upon such terms as it may deem just.**

**MOTION FOR  
RECONSIDERATION**

# Filing of MR and Grounds

---

A motion for reconsideration may be filed within thirty (30) days from notice of the decision or resolution, on the grounds that the **evidence is insufficient to justify the decision**; or that the **said decision is contrary to law**. Only one (1) motion for reconsideration of a decision of the Commission shall be entertained.

# Form and Contents

---

- Verified**
- Shall point out specifically the findings or conclusions of the decision which are not supported by the evidence or which is contrary to law**
- Express reference to the evidence (testimonial or documentary) or the provisions of law that allegedly do not support the findings or conclusions**

# Effect/Disposal of the MR

---

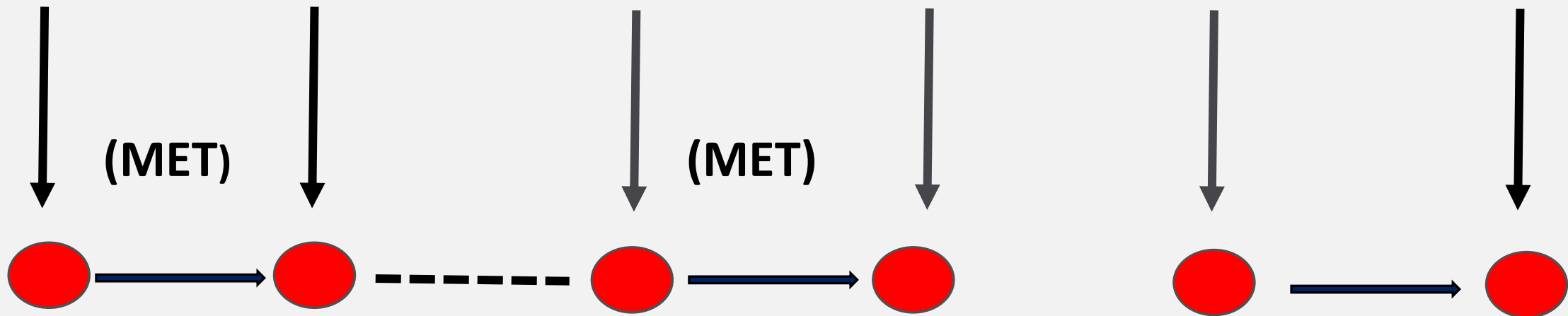
- **Suspends the running of the period to elevate the matter to the Supreme Court**
- **Within 2 days from its filing, the Commission Secretary refers the motion to the Director for Comments**
- **Commission Secretary upon receipt of the Director's comments, shall forward it so the Legal Services Sector (now the Commission Proper Adjudication Secretariat and Support Services Sector), for study and recommendation.**
- **CPASSSS drafts decision for the consideration of the Commission Proper**

# Entry of Decision

---

**If no appeal is filed within the time provided in these rules, the decision of the Commission shall be entered by the Commission Secretary in the Docket which shall contain the dispositive part of the decision and shall be signed by the Secretary with a certificate that such decision has become final and executory. Such recording of the decision shall constitute the entry.**

Receipt of ND      Receipt of the Appeal Memorandum      Receipt of Director's Decision      Receipt of the Petition for Review      Receipt of CP Decision      MR



(MET)

(MET)

(A)

(B)

Suspension of the running of the period

180 days

30 days

**MET – Motion for Extension of Time**

# Notice of Finality of Decision (NFD)

---

- ✓ shall be issued by the authorized COA official to the agency head to notify that a decision of the Auditor, Director, or CP has become final and executory, there being no appeal or motion for reconsideration filed within the reglementary period.
- ✓ shall be addressed to the Agency Head, Attention: the Chief Accountant
- ✓ shall indicate
  - the particulars of the COA Decision that has become final and executory, and
  - the persons liable



# COA Officials Authorized to Issue NFD

---

- Audit Team Leader and Supervising Auditor** - **For ND/NC issued by them**
- Director having supervision over the special audit team** - **For ND/NC issued by the team**
- Cluster/Regional Director** - **For Decision rendered by him**
- Commission Secretary** - **For a Decision of the Commission Proper**

# Service of Notice of Finality of Decision

---

- ✓ **A copy of the NFD shall be served by the Auditor of the agency concerned on the persons liable or their authorized representatives who shall indicate their printed name and signature and the date of receipt thereof. (Section 22.5, RRSA)**
- ✓ **NFDs issued by the Commission Secretary on COA Decisions involving disallowances and charges are endorsed to the Auditor (ATL) with request for assistance in serving the NFD and the return of the copy of the NFD duly received by the persons liable**

# COA ORDER OF EXECUTION (COE)

---

**Definition – a written instruction to withhold payment of salary and other money due to persons liable, for settlement of their liability**

**Purpose - To enforce settlement of an audit disallowance/charge**

**Time to issue – not earlier than five (5) days from receipt of the NFD by the agency head**

## Form and Content

- ✓ **Addressed to the agency head, Attention: the Treasurer/Cashier**
- ✓ **Indicate the NFD**
- ✓ **Particulars of the decision being enforced**
- ✓ **The persons liable**

## **Monitoring the implementation of the COE**

- ✓ **Report of the Auditor to the Director on the action taken by the agency on the COE**
- ✓ **Unsettled COEs shall be referred to the General Counsel for appropriate action, including referral to the Office of the Solicitor General and the Ombudsman**



