

MAR 04 2016

DOST Administrative Order No. 007
Series of 2016

SUBJECT : Revised Rules and Regulations on the Implementation of Section 24 of Republic Act No. 2067, as amended by the Republic Act No. 3589

1.0 RATIONALE

- 1.1 Pursuant to Article XIV, Section 10 of the 1987 Philippine Constitution, Science and Technology are essential for National Development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to Science and Technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.
- 1.2 Moreover, Section 11 thereof also declares that the Congress may provide for incentives, including tax deductions, to encourage private participation in programs of basic and applied scientific research. Scholarships, grants-in-aid, or other forms of incentives shall be provided deserving science students, researchers, scientists, inventors, technologists, and specially gifted citizens
- 1.3 Further, Section 12 thereof provides that the State shall regulate the transfer and promote the adaptation of technology from all sources for the national benefit. It shall encourage the widest participation of private groups, local governments, and community-based organizations in the generation and utilization of science and technology.
- 1.4 Under Section 9 of Republic Act No. 2067 (R.A. No. 2067), approved in 13 June 1958, otherwise known as the "Science Act of 1958," the Board (now DOST) shall have, for all legal purposes, all the duties, powers and prerogatives of a Board of Directors and shall function as such, unless otherwise provided for in this Act. The Board shall promulgate such rules and regulations as may be necessary for the conduct and exercise of its functions, duties, and powers under this Act.
- 1.5 Furthermore, Section 24 thereof provides that the Board shall promote and, in its discretion, assist in the establishment of private foundations for scientific advancement as well as specific research and development projects by private individuals, firms, and institutions. All funds contributed to the support and maintenance of such foundations and their projects as well as specific research and development projects undertaken by private individuals and educational institutions, shall be tax-exempt and deductible from the donor's income tax return, upon certification by the Board that such foundations and funds are dedicated to scientific pursuits.
- 1.6 Under Section 24 of R.A. No. 3589, in addition to Section 24 of R.A. No. 2067, All income of whatever kind and character which such foundations may derive from any of their properties, real or personal, or from their investments shall also be tax exempt.
- 1.7 Pursuant to the provisions of Section 9 of the *Science Act of 1958*, the DOST Regulations No. 1 (4th Revision) dated 03 December 1982 was issued providing for the rules and regulations for the implementation of Section 24 of the "Science Act of 1958".
- 1.8 Recognizing the role of the science foundations in the attainment of national development and progress, there is a need to strengthen and expand the programs of the DOST in order to

provide the necessary and relevant services and assistance to strengthen the collaborative linkages with certified science foundations.

2.0 TITLE

This rules shall be cited as the *"Revised Rules in the Certification of Science Foundation of 2016"*.

3.0 PURPOSES/OBJECTIVES

- 3.1 To review the existing implementing rules and policies governing the Science Foundation Unit (SFU) of the Department of Science and Technology (DOST);
- 3.2 To update, strengthen, expand the role, programs and services of the SFU for the availment and benefit of the certified science foundations; and
- 3.3 To integrate DOST certified Science Foundations to DOST programs and projects aligned with the latter's agenda and major final outputs.

4.0 COVERAGE

This Rules cover all science foundations for scientific advancement as well as private individuals, firms, and institutions implementing specific science and technology projects.

5.0 DEFINITION OF TERMS

For purposes of these rules and unless otherwise indicated, the terms herein enumerated shall have the following meaning:

- 5.1 Applied research – research directed towards practical application of knowledge.
- 5.2 Basic /Fundamental Research – research directed primarily towards developing new or fuller scientific knowledge or understanding of the subject rather than the practical application thereof.
 - 5.2.1 Free fundamental research – that which results from intellectual curiosity aimed at proving the unknown which initially, may not have specific applicational objectives.
 - 5.2.2 Oriental fundamental research – that which seeks new knowledge required for application purposes but which may of course contribute to general scientific advancement in the process.
- 5.3 Development – technical activity on non-routine problems encountered in translating research findings or other scientific knowledge into products or processes including their dissemination.
- 5.4 DOST – Department of Science and Technology (formerly National Science and Technology Authority)
- 5.5 DOST Certified Science Foundation – a private science foundation that complies with the requirements set forth in Item 9.1.1.1 of these rules and duly certified by DOST as such.
- 5.6 Development of scientific and technological manpower - identification, development and utilization of scientific and technological manpower.
- 5.7 Economic evaluation – process of appraising, estimating or determining the economic value of a given process or product with a view to its commercial exploitation.
- 5.8 Family foundation – one established and/or supported mainly by relatives within the 4th civil degree of consanguinity or affinity.



5.9 Research and development – the aggregate of basic and applied research and development.

5.10 Science and Technology – Science is the systematic way of acquiring knowledge through observation and experimentation, whereas technology is the practical application of science. Technology is used to design products that improve the quality of human life.

5.11 Scientific and technological linkages and services - dissemination, documentation, conferences and all other activities intended to promote national and international linkages for scientific and technological advancement.

5.12 Scientific and Research Purpose – shall refer to undertaking or assisting in pure or basic, applied and scientific research in the field of agriculture, forestry, fisheries, industry, engineering, energy development, food and nutrition, medicine, environment and biological, physical and natural sciences for the public interest.

5.13 Unrestricted donations – funds contributed for no specific projects/purposes and the use thereof is left to the discretion of the recipient foundation.

6.0 CERTIFICATION

6.1 PRIVATE FOUNDATIONS, INDIVIDUALS, FIRMS AND EDUCATIONAL INSTITUTIONS

6.1.1 APPLICATION FOR CERTIFICATION

6.1.1.1 Who may Apply – In order to avail of the benefits of Section 24 of the Science Act of 1958, as amended, the following may apply for certification:

- a. Private foundations engaged in, and whose funds are dedicated to scientific pursuits; and
- b. Private individuals, firms and educational institutions undertaking specific Science and Technology projects.

6.1.1.2 Application Requirements for Foundations - The application for certification of a private foundation, which shall be under oath and filed with the DOST in two (2) copies shall be accompanied by:

- a. A certified true copy of the applicant's:
 - i. Articles of incorporation,
 - ii. By-laws, and
 - iii. Certificate of registration of said articles of incorporation and by-laws as well as their amendments issued by the Securities and Exchange Commission (SEC);
- b. Science and Technology program with proposed budget for a period of three (3) years covered by the certification signed by the Executive Director or equivalent officer of the foundation, together with a description of the specific Science and Technology project, whenever required;
- c. A list of officers and working staff other than the trustees; and
- d. A certification by the Treasurer of the foundation that it has an initial capital of at least ONE MILLION PESOS (PHP1,000,000.00).

6.2 CERTIFICATION FOR SPECIFIC RESEARCH AND DEVELOPMENT PROJECTS

6.2.1 APPLICATION REQUIREMENTS

The application for the certification of specific research and development projects undertaken by private individuals, firms and educational institutions, or by foundations which do not qualify for certification under **Item 9.1.1.1a**, shall be under oath and, in each case, filed with the DOST in two (2) copies. It shall be accompanied by a project study in the form prescribed by the NSTA and subsequently approved by the DOST.

6.2.2 SEPARATE ACCOUNTING FOR PROJECT

Separate books of accounts shall be kept indicating the amounts contributed to the certified project and the purpose or purposes for which they were used, which shall be subject to inspection by the DOST.

7.0 PROCESSING OF APPLICATION

Application under these rules shall be processed by the Science Foundation Unit of the DOST. The staff may conduct an investigation of the applicant foundation. It may request the views and recommendation of any government official or private individuals and may require the applicant or its representative to appear before it to clarify or substantiate the statements in the application.

8.0 FEES

8.1 REGISTRATION FEE

A registration fee shall be collected from every foundation for every new registration or renewal thereof in accordance with the existing rules, regulations or guidelines issued by DOST.

8.2 ANNUAL SERVICE FEE

The foundation shall pay an annual and/or service fee in accordance with the existing rules, regulations or guidelines issued by DOST.

9.0 ISSUANCE OF CERTIFICATION

9.1 FOR PRIVATE FOUNDATIONS

9.1.1 CONDITIONS FOR ISSUANCE OF CERTIFICATION

9.1.1.1 Conditions to be stated in the Articles of Incorporation

- a. It is a non-stock and non-profit and organized and operated in the public interest and no portion of its funds shall inure to the benefit of private individuals or juridical entities whether domestic or foreign;

A foundation shall be considered to be organized and operated in the public interest if it is essentially engaged in the activities specified in **Item 9.1.1.1b** of these rules and, if it undertakes research (i) the results of its researches (including patents, copyrights, process or formulae resulting from such researches) are made available to the public on a non-discriminatory basis, unless the granting of the exclusive right is the only practicable manner in which patent, copyright, process or formula can be utilized to benefit the public; or (ii) its researches are performed for the Republic of the Philippines or any of its agencies or instrumentalities or political subdivision; or (iii) its researches are directed toward benefiting the public;

- b. That at least sixty(60%) percent of its gross income, as defined in the Revised Internal Revenue Code, and unrestricted donations, shall be devoted to undertaking, directly financing, or assisting pure, fundamental, or basic and applied scientific and technological research and development activities and/or economic evaluation, improvement of laboratory and library facilities, development of scientific and technological manpower including the establishment of professorial chairs, and scientific and technological linkages and services, in any or all of the following fields:

- i. Industry
- ii. Agriculture and Natural Resources
- iii. Health Science
- iv. Biological and Physical Sciences
- v. Energy
- vi. Food and Nutrition
- vii. Environment
- viii. Engineering
- ix. Social Sciences and the Humanities

Not more than thirty (30%) percent of the gross income and not more than ten (10%) percent of the unrestricted donations to the foundation shall be devoted to general and administrative expenses;

- c. That (a) upon its dissolution as a DOST-certified foundation, its remaining assets shall be disposed of and turned over to any DOST-certified foundation of its choice or to the Republic of the Philippines or any of its agencies or instrumentalities or political subdivisions; and (b) in case of the failure on the part of the foundation to secure renewal of its certification as a DOST-certified foundation, or failure to comply with the requirements as prescribed in Items 13, 14, and 15 of these regulations, the foundation shall be charged an amount equivalent to the taxes that should have been paid without the benefit of DOST certification from the date of last certification, the amount to be determined jointly by DOST and the BIR;
- d. That any management contract, trust agreement or any other contract to be entered into by the foundation for the management of any of its activities shall be submitted to the DOST for information;
- e. That all donations received by the foundation from another foundation certified under these rules shall be subject to approval by the DOST;
- f. That the foundation shall allow the DOST to inspect its investment portfolio for verification purposes; and
- g. That any proposed amendment to it or to its by-laws shall be subject to approval by the DOST prior to registration with the Securities and Exchange Commission (SEC).

9.1.1.2 Conditions to be stated in the By-Laws:

- a. That the foundation shall furnish the DOST a certified true copy of the minutes of and resolutions adopted in all meetings of the Board of Directors, committees or members of the foundation within thirty (30) days after such minutes have been approved; and



- b. That in the Board of Trustees or Directors, in case it is a family foundation, the members of the family shall always be in the minority and the Treasurer shall not be an immediate member of the family.

9.1.1.3 S&T Program/Project/Activity:

The foundation has a S&T program/project/activity approved by the DOST consistent with its purposes as stated in its articles of incorporation and that the actual operations justify its continuing existence as a viable and actual science foundation rather than as a mere conduit for receiving tax-free contribution or funds raised by occasional fund drives. Results of its researches shall be copyrighted or patented in the name of the foundation.

9.1.2 ISSUANCE OF CERTIFICATION

If the application is in order, the DOST Secretary, after taking into consideration the findings and recommendation of the Undersecretary, shall issue a certification that the applicant is a DOST-certified Science Foundation as defined in these rules and regulations.

9.2 FOR SPECIFIC SCIENCE AND TECHNOLOGY PROJECTS

The DOST Secretary may certify specific science and technology projects undertaken by private individuals, firms and educational institutions or foundations which do not qualify for certification under the provision of Item 9.1.1.1 of these rules upon submission of a project study following DOST project proposal forms and its subsequent approval by the DOST.

10.0 LIFE OF CERTIFICATION

The certification for Private Foundations issued under these rules shall be effective not earlier than the date of filing of the application and shall be in force for a period of not longer than three (3) years unless sooner revoked.

11.0 BENEFITS AVAILABLE FOR CERTIFIED SCIENCE FOUNDATIONS/INSTITUTIONS

11.1 TAX EXEMPTION OF CONTRIBUTION

All funds contributed to the support and maintenance of private foundation certified under these rules and their projects as well as specific science and technology projects undertaken by private individuals, firms or institutions shall be tax-exempt and deductible in their entirety from the income tax return of the donors upon certification issued by the DOST pursuant to existing applicable law rules and regulations as may be issued by competent authority.

11.1.1 APPLICATION REQUIREMENTS

The application for the certificate of tax-exemption of donations shall be accompanied by the Deed of Donation and Acceptance duly notarized. In addition thereto, the following shall also be submitted:

- 10.1.1.2 When the amount donated is in check, a certification by the Treasurer of the donee foundation that said check has been duly cashed and/or credited to the account of the foundation;
- 10.1.1.3 When the donation consists of shares of stocks, the original and a photo copy of the stock certificate in the name of the donee foundation;
- 10.1.1.4 When the donation consists of land, water and aerial transport system, photo copy of the certificate of ownership or the certificate or registry, as the case may be, in the name of the donee foundation;

- 10.1.1.5 When the donation consists of registered land or any legal properties, the original and a photo copy of transfer certificate of title (TCT) in the name of the donee foundation;
- 10.1.1.6 if unregistered land, a certificate of the Register of Deeds concerned that the deed of donation has been duly recorded in the register book in the name of the donee foundation, a certified true copy of the latest tax declaration of the donated property, and a declaration of the fair market value thereof by the donor.
- 10.1.1.7 If the donation involves cultural properties, such as artifacts, paintings, etc., the following shall be submitted:
 - a. Pictures of the donated items;
 - b. A certification from the curator of the particular foundation that he has actually received the said donations; and
 - c. A valuation by the Board of Curators of the National Museum.
- 10.1.1.8 When the donor is a corporation or partnership and the amount involved is 5,000.00php and above, it is required that a board resolution or a certification by the managing partner authorizing such donation be submitted; and
- 10.1.1.9 Such other requirements as may be prescribed from time to time by the DOST.

11.1.2 VALUATION OF DONATION

- 11.1.2.1 Donation/gifts made in kind shall be determined at its fair market as of the date such donations or gifts are made. Cash donation or gift shall be determined solely on the cash receipts and disbursement method of accounting, provided, however, that donation of services shall not be allowed;
- 11.1.2.2 If the donation consists of real property, the value thereof shall be based on the assessor's most recent valuation;
- 11.1.2.3 If the donation consists of personal property, the value shall be based on the acquisition cost thereof; but if said personal property had already been used at the time of donation, the depreciated or book value thereof; and
- 11.1.2.4 If the donation comprises of cultural properties, it is required that the donation be evaluated by the Board of Curators of the National Museum. Prior to the issuance of the certificate of tax-exemption, a visit to the foundation is made by the DOST for an inventory of the items donated.

11.2 INCOME TAX EXEMPTION

All income of whatever kind and character which the foundation may derive from any of its properties, real or personal, or from its investments shall also be tax-exempt pursuant to existing applicable law, rules and regulations as may be issued by competent authority.

11.3 INTEGRATION AND AVAILMENT TO DOST PROGRAMS

Certified science foundations, in coordination with the SFU, may be integrated in the programs of the DOST aligned with the latter's major final outcomes (MFOs) and agenda. Upon the discretion of the DOST and in accordance with the pertinent laws and implementing rules, the certified science foundations may avail of the DOST's programs, projects and services, such as DOST Grants-in-Aid Programs or Projects.

11.4 EXEMPTION FROM PAYMENT OF CUSTOMS DUTIES

Exemption from payment of customs duties on the importation of scientific instruments or apparatus intended exclusively for pure and scientific research upon certification to the Department of Finance by UNESCO National Commission of the Philippines pursuant to Annexes C(v) and D(b) of the UNESCO Florence Agreement classified as "Patterns and Models" and

"Scientific Instrument of Apparatus" in relation to Section 105(s) of the Tariff and Customs Code. However, such importation shall be subject to the payment of the Value Added Tax (VAT) pursuant to Section 99 of the Internal Revenue Code of the Philippines as amended.

12.0 INSPECTION

12.1 Foundations certified under this rules shall be subject to inspection, review and audit of their books which should be duly registered with the BIR, facilities and projects at least semi-annually (first visit should be on the fourth (4th) week of April to third (3rd) week of May and second visit should be on October to November).

12.2 An Inter-Agency Technical Monitoring Group (IATMG) shall be constituted yearly, if deemed necessary, and which shall have the primary duty to inspect and monitor the activities and status of the certified science foundations for compliance with the provisions of law and relevant rules and regulations in accordance with the issuance of certification.

13.0 ANNUAL REPORTS

During the period of certification, the foundation shall submit annually to the DOST within ninety (90) days after the end of its fiscal year in the forms prescribed for the purpose the following:

13.1 Status reports on its projects and other related activities;

13.2 A statement of sources and application of funds; and

13.3 Comparative financial statements from the date of last accreditation, together with all supporting schedules.

The above-stated financial statements shall be certified by an independent Certified Public Accountant.

14.0 RENEWAL OF CERTIFICATION

The certification shall be renewed by the DOST Secretary for the same period of time upon application duly filed in two (2) copies not later than ninety (90) days after its expiration, provided that the application is submitted with the following requirements:

14.1 Detailed report of scientific and technology activities of the foundation during the period covered by the expired certification;

14.2 Program of scientific and technology activities for the period to be covered by the application for renewal;

14.3 A certified true copy of the amended articles of incorporation and by-laws, if any, or a sworn statement that there have been no such amendments; and

14.4 Results of financial operations covered by the expired certification following the prescribed form.

15.0 SUSPENSION OR REVOCATION OF CERTIFICATION

15.1 FOR PRIVATE FOUNDATIONS

The certification FOR PRIVATE FOUNDATIONS shall be revoked or suspended by the DOST Secretary on any of the following grounds:

15.1.1 Failure to commence the operation within two (2) years from the date of certification;

15.1.2 Deviation from the scientific and/or technological purposes or objectives defined in the articles of incorporation and more specifically stated in its project study submitted to the DOST when it applied for certification without the written permission of the DOST;

15.1.3 Channeling of the properties of certified foundations to the purpose or purposes different from that mentioned in the articles of incorporation;

15.1.4 Refusal to allow inspection, review and audit by the DOST;

15.1.5 Any violation of the rules and/or the terms and conditions of the certification; or

15.1.6 Failure to comply with other reasonable requirements of the DOST.

15.2 FOR SPECIFIC RESEARCH AND DEVELOPMENT PROJECT

The certification for Specific Research and Development Project shall be revoked or suspended by the DOST Secretary on any of the following grounds:

15.2.1 Failure to commence the project operation within six (6) months from the date of certification;

15.2.2 Deviation from the purposes or objectives of the certified project without the written permission of the DOST;

15.2.3 Channeling of properties of the certified project to the purpose or purposes different from its objectives;

15.2.4 Refusal to allow inspection, review and audit by the DOST;

15.2.5 Any violation of these rules and/or the terms and conditions of the certification; or

15.2.6 Failure to comply with other reasonable requirements of the DOST.

16.0 PENALTIES

16.1 Any person who evades or defeats or attempts to evade or defeat, in any manner, any tax imposed by law by availing himself of the provisions of Section 24 of the Science Act of 1958 through fraud and misrepresentations or violations shall be punished by a fine of not more than four thousand (4,000.00php) pesos or imprisonment for not more than (1) year or both, in discretion of the court.

16.2 In case the violator is a corporation or association, the penalty shall be fined of not more than ten thousand (10,000.00php) pesos, without prejudice to the criminal responsibility of the member, officer or employee thereof committing such violation.

17.0 REPEALING CLAUSE

Provisions of the DOST Regulations No. 1, s. 1982 as well as all decrees, orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Rules are hereby amended or repealed accordingly.

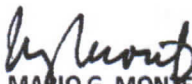
18.0 SEPARABILITY CLAUSE

The provisions of these Rules are hereby declared separable. In the event that any provision hereof is rendered unconstitutional or unlawful, those that are not affected shall remain valid and effective.

19.0 EFFECTIVITY

These rules and regulations and amendments thereto shall take effect fifteen (15) days after publication in the Official Gazette.

Approved:


MARIO G. MONTEJO
Secretary