

ARTA Memorandum Circular 2020-06

*Guidelines on the Issuance and/or
Reinstitution of Permits and Licenses
under the “New Normal”*

Legal Update

18 September 2020



The Anti-Red Tape Authority (ARTA)

- ❖ ARTA is a government agency created under Republic Act No. 11032 (“**RA No. 11032**”), otherwise known as the “Ease of Doing Business and Efficient Government Service Delivery Act of 2018”.
- ❖ ARTA is tasked to implement policies, processes, and procedures in order to obtain the objectives of RA No. 11032, among which are the following:
 - i. Implement and oversee a national policy on anti-red tape and ease of doing business;
 - ii. Recommend policies, processes, and systems to improve regulatory management to increase productivity, efficiency and effectiveness of business permitting and licensing agencies; and
 - iii. Provide technical assistance and advisory opinions in the review of proposed national or local legislation, regulations, or procedures.
- ❖ Consistent with its mandate, ARTA has issued on 27 August 2020, **Memorandum Circular No. 2020-06 (“MC 2020-06”)** to all government offices and agencies in the executive department, including local government units (“**LGUs**”), government-owned and controlled corporations (“**GOCCs**”), and other government instrumentalities, whether located in the Philippines or abroad (collectively, “**Government Agencies**”).
- ❖ The purpose of MC 2020-06 is to provide a streamlined and automated standards and procedures to be adopted by Government Agencies in issuing or approving permits and licenses under the “New Normal”.

The New Normal and The General Guidelines

“New Normal” refers to the new norms and standards that are to be adopted by the government and the people in order to prevent or contain the transmission of COVID-19 or any other highly transmissible/communicable disease even after a vaccine has been developed.

Under the “New Normal,” Government Agencies are expected to implement heightened zero-contact measures, to put up and disseminate relevant on-site signages and online information materials and establish various forms of electronic or digital or e-governance platforms or mechanisms.

General Guidelines under MC 2020-06 –

Government Agencies are required to implement the following measures in permitting and licensing under the New Normal:

1. Reduction of Requirement for Permits, Licenses, and Authorizations;
2. Electronic Submission and Acceptance;
3. Reduction of Signatories and Use of Electronic Signatures;
4. Digital Payments for Licenses, Permits and Other Fees;
5. Zero-Contact Policy in Conduct of Interactions; and
6. Observance and Compliance with RA No. 11032 and its Implementing Rules.

Reduction of Requirements for Permits and Licenses

Guiding Principles –

Government Agencies must be guided by the following principles:

1. Government Agencies shall only retain steps, procedures and requirements that are necessary to allow it to fulfill its mandate and policy objectives of the enabling law;
2. Redundant and burdensome processes and requirements must be removed;
3. Government Agencies must adopt processes and impose requirements that are least costly to the public; and
4. The processes, time and requirements must be reduced to align with ARTA's Project NEHEMIA ("National Effort for Harmonization of Efficiency Measures of Inter-related Agencies").

Streamlining and Simplification –

- ❖ Government Agencies shall review its Citizen's Charter and remove unnecessary processes and requirements, and publish a revised list of requirements easily accessible by the public;
- ❖ Government Agencies shall not require information from applicants that can be sourced from offices within the same agency; and
- ❖ Notarization of documentary requirements must not be required, unless it is required by law to be notarized.

Observance of Participatory Rulemaking –

Government Agencies must identify stakeholders that will be affected by any amendment in, or reiteration of, its existing regulations, and conduct virtual consultations with such stakeholders.

Electronic Submission and Use of Electronic Signatures

Electronic Submission and Acceptance –

- ❖ All Government Agencies are required to set up an online processing system for accepting applications for permits, licenses, clearances, certifications or authorizations and to adopt electronic versions of permits, licenses and clearances, with the same level of authority as that of a signed hard copy, which may be printed by applicants at their convenience;
- ❖ All Government Agencies shall accept electronic copies of the documentary requirements, including photographs, in place of hard copies, unless a hard copy is required by law; and
- ❖ In the absence of a fully-functioning online portal for processing applications, the Government Agencies shall accept applications submitted to their official email address.

Reduction of Signatories and Use of Electronic Signatures –

- ❖ Government Agencies shall use digital signatures in signing digital documents;
- ❖ For documentary requirements that require physical signatures, electronic signatures may be used. Electronic signatures or pre-signed licenses, clearances, permits, certifications or authorizations with adequate security and control mechanism may be used as much as feasible; and
- ❖ The number of signatories in any document shall be limited to a maximum of three signatures which shall represent officers directly supervising the office or agency responsible for the issuance of the document.

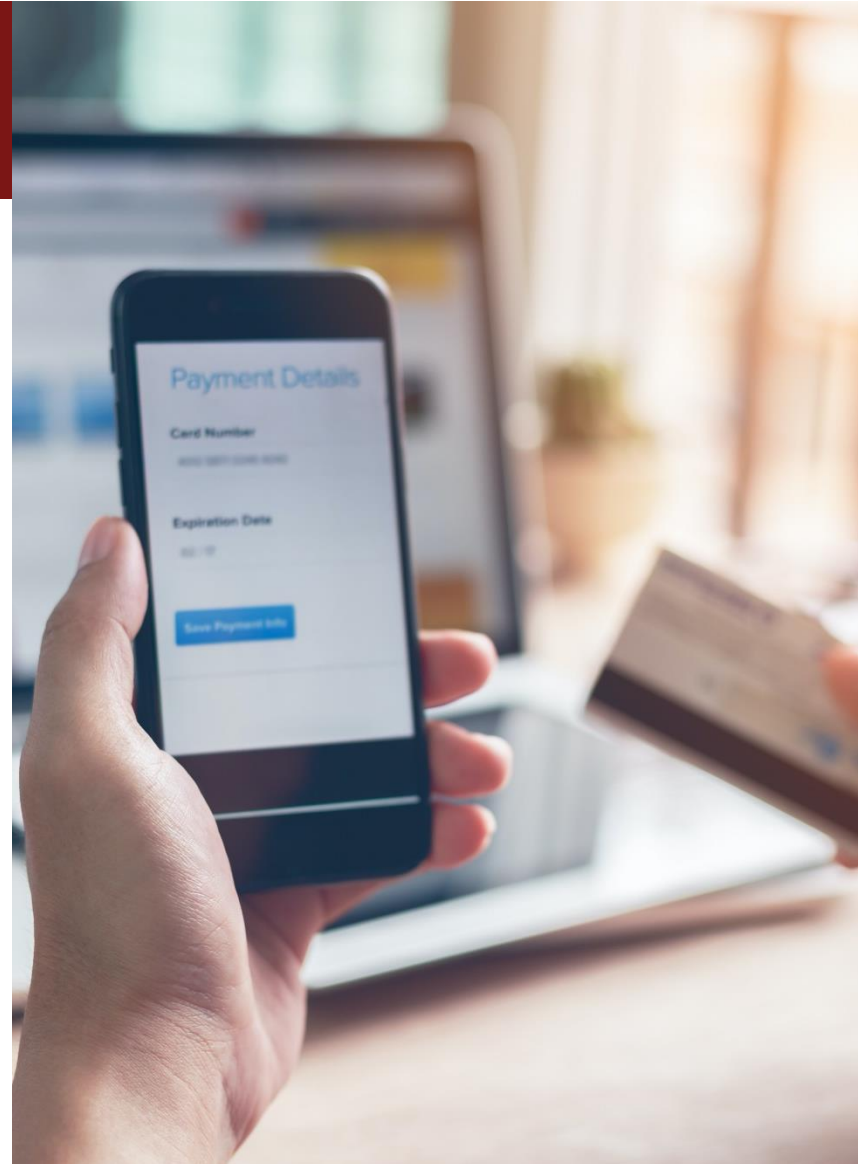
Digital Payments and Zero-Contact Policy

Digital Payments for Licenses, Permits and Other Fees –

All Government Agencies are required to set up a payment gateway to accept digital payments (credit cards, debit cards, prepaid/e-money, and/or bank transfer) for the acceptance of all permits, licensing, and other fees. As a short-term solution, electronic payments may be made by depositing the fees to a designated account after confirming the agency's capability for matching payments and invoices.

Zero-Contact Policy in Conduct of Interactions –

Requirements for meetings or interviews with applicants shall be removed, unless strictly necessary for a complex or highly technical application. Any meeting or interview shall be made through telephone or video calling technologies and other available secure technology platforms.



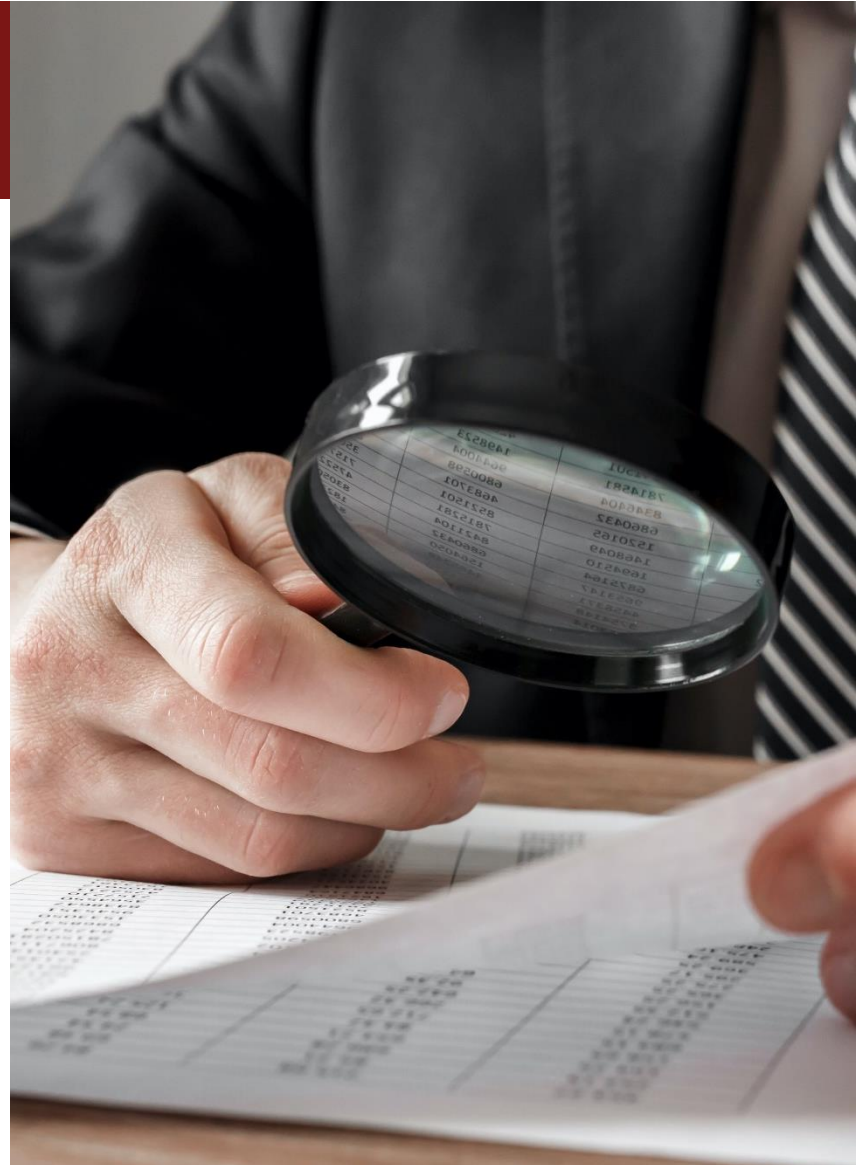
Observance with RA No. 11032 and its IRR

❖ **Comply with Prescribed Processing Time**

All Government Agencies shall comply with the prescribed processing times provided in RA No. 11032, subject only to a one-time extension as allowed under said law. Failure to issue the permits within these timelines will constitute a violation of RA No. 11032.

❖ **Zero Back Log Program**

All heads of Government Agencies are directed to submit their compliance to the implementation of the Zero Back Log Program in their offices, which took effect on 04 August 2020.



Special Rules on Validity of Permits and Licenses

❖ Automatic Approval or Renewal

All pending applications for permits and licenses that remain unacted upon (i.e., neither approved nor disapproved) by the Government Agency beyond the prescribed processing time stated in its Citizen's Charter, and that meet the conditions for an automatic approval under Section 10 of RA No. 11032 (i.e., submission of complete requirements and payment of appropriate fees), shall be deemed automatically approved.

The maximum prescribed processing times may only be extended once for the same number of days upon a written notice by the Government Agency to the applicant of (1) the need to extend processing time, (2) reason for extension, and (3) final date of release of the government service requested.

❖ Extended Validity for Licenses and Permits

All Government Agencies are directed to consider extending validity of their licenses and permits to at least five years, unless otherwise specified by law.

❖ Expedited Renewal Procedure

Government Agencies are directed to update their Citizen's Charter to provide expedited procedures for renewal of permits and licenses, through electronic means.

All applications for renewals of permits, licenses, clearances, certifications, or authorizations shall be automatically renewed upon due payment of fees and after the lapse of the appropriate prescribed processing time without any action from the Government Agency, except if the applicant has been duly notified prior to or upon its application for renewal of its non-compliance with the Citizen's Charter or any applicable law.

Whole of Government Approach

❖ Interconnectivity

Systems of Government Agencies must be linked or interconnected through secure technological platforms, after all related procedures and documentary requirements have been streamlined. Pending development of interconnectivity infrastructure by the Department of Information and Communications Technology, interconnectivity among concerned government agencies shall first be established through electronic platforms such as Viber, MS Teams, and other secured online platforms.

❖ Data-Sharing

Data-sharing must be adopted by all Government Agencies in order to eliminate the submission of documents that have already been provided as part of the application process by other Government Agencies.

Data-sharing shall be made in accordance with the Data Privacy Act, and only if there are adequate safeguards for data privacy and security, as set by the National Privacy Commission.

❖ Single Window Approach

LGUs are mandated to establish business one-stop shops, which is a single common site or online website, or portal designated for business permit and licensing system which shall receive and process applications, receive payments, and ultimately, issue the approved licenses.

There shall be a single window in the form of a single online portal where the customer interacts with the government from submission of application, to payment, and finally to issuance of permits and licenses. Documents shall be routed within the Government Agencies, either physically co-located or with interlinked systems, without the customer having to do the routing.

Questions?

This material is for general information purposes only. It is not meant to substitute for direct advice of legal counsel and not designed to be an exhaustive exposition of the law.



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