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Department of Social Welfare and Development

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Administrative Order

No. 11

Series of 2012

SUBJECT : REVISED GUIDELINES IN THE MANAGEMENT
AND PROCESSING OF DONATIONS

I. RATIONALE:

Department of Social Welfare and Development (DSWD) Administrative Order No. 06, series of 2010, entitled "*Revised Omnibus Guidelines in the Management and Processing of Donations*," was issued on 17 February 2010 to provide a unified direction in the processing and management of donations to the agency, duly-registered, licensed and accredited social welfare and development agencies (SWDAs), local government units (LGUs), national government agencies (NGAs), and government-owned and controlled corporations (GOCCs). The guidelines aimed to manage the influx of local and foreign donations to support the government's relief and rehabilitation efforts in the wake of the devastation wrought by tropical storms "*Ondoy*," "*Pepeng*," and "*Santi*," which affected millions of people.

In line with the current Administration's efforts to promote accountability, transparency, efficiency and responsiveness in the management of government resources, the DSWD aims to streamline systems and procedures in the management and utilization of these donations. The intention is to put in place internal control measures that will ensure an efficient and transparent system of processing, managing, utilizing, monitoring and reporting on donations.

Further, the Department also wants to institutionalize mechanisms to further strengthen its partnership with registered, licensed and/or accredited SWDAs that also undertake relief and rehabilitation work and request certification for duty-free entry of donations pursuant to Section 105 (1) of the Revised Tariff and Customs Code of the Philippines (TCCP) and Presidential Memorandum Order No. 36, series of 1992.

II. LEGAL BASES:

These guidelines are hereby promulgated in accordance with the following:

1. Revised Tariff and Customs Code of the Philippines (TCCP), as amended, specifically the following provisions:
 - a. Section 105 (l). Importation of Commodities states that *"Imported articles donated to, or for the account of any duly registered relief organization, not operated for profit, for free distribution among the needy, upon certification by the Department of Social Services and Development (now DSWD) or the Department of Education, Culture and Sports (now Department of Education), as the case may be, shall be exempt from payment of import duties."*
 - b. Section 1205. Importations by the Government provides that *"Except those provided for in Section One Hundred and Five of said Code, all importations by the government for its own use or that of its subordinated branches or instrumentalities, or corporations, agencies or instrumentalities owned or controlled by the government, shall be subject to duties, taxes, fees and other charges provided for in this Code."*
 - c. Section 2610 (Disposition of Unsold Articles for Want of Bidders specific to the last sentence of 2nd paragraph) provides that *"If the article is suitable for shelter or consists of foodstuffs, clothing materials and medicines, then that article shall be given to government charitable institutions through the Department of Social Services and Development" (now DSWD).*
2. Republic Act No. 4653 of 1966, otherwise known as an *"Act to Safeguard the Health of the People and Maintain the Dignity of the Nation by Declaring it a National Policy to Prohibit the Commercial Importation of Textile Articles Commonly Known as Used Clothing and Rags"*, Section 1 of which provides that it shall be unlawful for any person, association or corporation to introduce into any point in the Philippines textile, articles commonly known as used clothing and rags except when these are imported under paragraph "1" of Section 105 of Republic Act No. 1933, Tariff and Customs Code of the Philippines.
3. Republic Act No. 7277, entitled, *"Magna Carta for Disabled Persons"*, Section 42 (b) of which provides that *"donations from foreign countries shall be exempt from taxes and duties on importation subject to the provisions of Section 105 Revised Tariff and Customs Code of the Philippines (TCCP), as amended, and Section 103 of the National Internal Revenue Code, as amended, and other relevant laws and international agreements."*

4. Presidential Memorandum Order No. 23 of 1992, otherwise known as *"Providing for the Transfer of Forfeited and/or Abandoned Used Clothing in Customs Custody to DSWD"* Section 1 of which provides that *"All forfeited used clothing shall be immediately turned over by the BOC to the DSWD, as soon as the forfeiture decision becomes final and executory."*
5. Presidential Memorandum Order No. 36 of 1992, *"Authorizing the Importation and Donation of Food, Clothing, Medicine and Equipment for Use in the government Relief and Rehabilitation Programs for Calamity-Affected Areas under Section 105 of the TCCP, as amended, and the applicable provisions of the prevailing General Appropriations Act covering the National Internal Revenue Taxes and Import Duties of the National and Local Government Agencies and Establishing a Special Facility Therefor,"* Section 2 of which provides that the Office of the President shall insure the necessary clearances to cover the aforesaid importations upon favorable endorsement by the DSWD with respect to relief clothing and food, Department of Health (DOH) with respect to medicines and the Department of National Defense (DND) with respect to rehabilitation equipment, as basis for the BOC to process and effect the release of the importations.
6. General Appropriations Act of 2012, which provides that *"National internal revenue taxes and import duties payable by National Government Agencies to the national government arising from foreign donations, grants and loans are deemed automatically appropriated."*
7. Memorandum Circular No. 1, series of 2012, as amended by Memorandum Circular No. 6, series of 2012, on the Re-Clustering of the DSWD Central Office, which re-defines the mandates of all offices, bureaus, services, and units and creates the Warehouse Management and Donation Facilitation Division under the Administrative Service.

III. OBJECTIVES:

1. To provide a more comprehensive evaluation and enhanced procedures in the acceptance, processing and distribution of donations.
2. To efficiently and effectively regulate and monitor donations of imported articles to duly registered, licensed and/or accredited SWDAs.
3. To ensure that the foreign donated goods shall be received exclusively and entirely by the intended beneficiaries.
4. To prevent donated articles to be sold in the open market so as not to jeopardize the country's economy.



5. To put in place internal control measures that will ensure an efficient and transparent system of processing, managing, utilizing, monitoring and reporting on donations.

IV. SCOPE AND COVERAGE

These guidelines cover the following:

1. Foreign donations to or for any registered, licensed and/or accredited private SWDAs under Section 105 (l) of the Revised TCCP.
2. Foreign donations of Food, Clothing, Medicine and Equipment for Use in the Government Relief and Rehabilitation Programs for Calamity Affected Areas under Presidential Memorandum Order No. 36.
3. Foreign donations for the DSWD under the General Appropriations Act.
4. Local donations from the BOC pursuant to PMO 23 and Section 2610 of the Revised TCCP.

Donations of cash, as well as other donations from local sources shall be governed by separate guidelines to be issued by the Department pursuant to law and relevant regulations.

V. DEFINITION OF TERMS

The following terms are defined as used in this Guideline:

1. *Approved Plan* - is a distribution plan prepared by applicants for duty-free entry of foreign donation under Section 105 of the TCCP or PMO 36, and must be approved by the concerned DSWD Field Office(s).
2. *Bill of Lading or Airway Bill* - is a commercial instrument issued by a transport entity to a donor to transport and deliver the goods designed to protect the consignee/SWDA. It is a receipt that recites the place and date of shipment, describes the goods as to quantity, weight, dimensions, identification, marks, conditions, quality and value.
3. *Donated Imported Articles* - are food and non-food items, except used clothing, that can be used to respond to any situation affecting disadvantaged or distressed individuals and families in order to meet their basic needs.

4. *Donations for the DSWD* - are commodities which the Department receive from both foreign and local sources, intended to benefit the Department and/or its programs and projects.
5. *Forfeited goods* - are commodities consisting of food and non-food articles, seized and confiscated by operatives of the Bureau of Customs (BOC), which remains unsold after at least two public biddings and are channeled to other offices of the national government pursuant to existing laws.
6. *Outer Port* - is any port of entry within the Philippines other than the Port of Manila (POM), Manila International Container Port (MICP) and Ninoy Aquino International Airport (NAIA).
7. *Non-Commercial Quantity of Relief Goods* - refers to the volume of food and non-food items that are donated, not in excess of the amount needed by the beneficiaries as specified in the plan of distribution of the organization, as approved by the DSWD Field Office(s) concerned.
8. *Non-Food Items* - refer to items other than food that are intended for relief and rehabilitation program of a SWDA. These may include mats, blankets, shoes, medicines, soap, cooking and kitchen utensils, and others, except used clothing.
9. *Packing List* - an itemized list of goods/articles with corresponding volume/units sent to the consignee/recipient of goods.
10. *Social Welfare and Development Agency (SWDA)* - refers to a person, corporation or organization, engaged in providing directly or indirectly, social welfare services and obtains its finances either totally or in part, from any agency or instrumentality of the government and/or from the community by direct or indirect solicitations and/or fund drives and/or endowment.

VI. GENERAL POLICIES

To ensure the optimum and proper use of foreign donations in promoting the general well-being of the intended beneficiaries without prejudice to local potentials and initiatives, the following policies shall be observed to govern donations to the DSWD and duly registered, licensed, or accredited social welfare and development agencies (SWADAs):

1. Only the following donations may be processed or accepted by the DSWD:

- Foreign donations consigned to any duly registered, licensed, or accredited social welfare and development agency pursuant to Section 105 (l) of the TCCP;
 - Foreign donations of food and clothing for use by government agencies in relief and rehabilitation during calamities pursuant to PMO No. 36;
 - Foreign donations for DSWD under the General Appropriations Act (GAA); and
 - Local donations from the BOC pursuant to PMO 23 and Section 2610 of the Revised TCCP.
2. The acceptance of donations shall be in accordance with established laws, rules and regulations, including the conduct of cost-benefit analysis by concerned DSWD offices and units, to ensure maximization of government resources.
 3. All donations shall be properly acknowledged, inventoried, monitored and reported. In all cases, a report shall be submitted to donors regarding the receipt and utilization of donated items.
 4. All donations to the DSWD shall be processed by the Warehouse Management and Donation Facilitation Division (WMDFD) of the Administrative Service (AS), in coordination with concerned offices and units, pursuant to Memorandum Circular No. 6, series of 2012.
 5. Efforts shall be undertaken to ensure that the donations can be efficiently transported to Field Offices for use in relief and rehabilitation programs. Toward this end, an inventory of donated goods shall be conducted and reported every month by the Warehouse Management and Donation Facilitation Division of the Administrative Service to ensure that the Protective Services Bureau (PSB) under the Operations and Programs Group (OPG) and the Field Offices are apprised of the available of donated items which may be used in relief and rehabilitation efforts.
 6. The Standards Bureau (SB) shall continue to provide assistance to registered, licensed, or accredited social welfare and development agencies in the endorsement for duty-free entry of foreign donations to such organizations under Section 105 of the TCCP.
 7. Private organizations that want to avail of duty-free entry should be immediately informed of all legal and regulatory requirements; and duly advised to apply for registration as SWADA with the DSWD, to avail of this privilege.
 8. Internal control mechanisms shall be put in place at all stages - from assessment, acceptance, receipt, inventory, valuation, utilization, and

documentation - of donations to the DSWD or any of its registered, licensed or accredited SWADAs.

9. There is a no-tolerance policy on dealing with any individual or organization which is in any way or appears to be in any way connected with commercial importation of used clothing ('*ukay-ukay*'). All DSWD personnel are directed to report to the Office of the Secretary any encounter with such individuals or organizations. Any attempt to harass personnel shall be reported to appropriate authorities for investigation.

VII. STANDARD OPERATING PROCEDURES

1. *Application* - SWADAs or LGUs that want to avail of duty-free entry of foreign donations shall file an application through the submission of duly-accomplished application forms.
 - 1.1. Registered, licensed and/or accredited SWDA are eligible to apply for availment of duty free entry of foreign donations under Section 105 (I) of TCCP
 - 1.2. National Government Agencies (NGAs), Government Owned and Controlled Corporations (GOCCs), Local Government Units (LGUs) and registered, licensed and/or accredited SWDAs are eligible to avail of duty and tax free of importation of donations under PMO 36

For applications pursuant to Section 105 of the TCCP, DSWD DFE Form 1-A (*Annex A*) shall be submitted. For applications pursuant to PMO No. 36, the submission of DSWD DFE Form 1-B (*Annex B*) is required.

The certification/endorsement to be issued by the DSWD for duty-free entry shall pertain only to the importation which is the subject of a particular request and shall not be used for another importation.

2. *Fees and Charges* - An applicant applying for duty and/or tax free certification shall be charged a non-refundable facilitation fee of PhP 1,000.00. The endorsement for duty-free entry of donation to the Department of Finance (DOF) pursuant to Section 105 of the TCCP, or to the Presidential Management Staff (PMS) pursuant to PMO No. 36, is subject to the assessment of the application and its supporting documents.
3. *Accepted Foreign Donations*
 - 3.1. Donations should be limited to food and non-food items only.
 - 3.2. Donation/importation of used clothing shall be strictly prohibited in order to safeguard the health of the people and maintain the dignity of the nation.
 - 3.3. Goods that are duty-free shall be limited to non-commercial quantity of relief commodities that are related and relevant to the purposes,

programs and services written in the manual of operation and implemented by the SWDA

4. *Allowable Activities*

- 4.1. The DSWD shall transact only with the SWDAs concerned or their duly authorized representatives. Recipient NGAs, GOCCs, LGUs or SWDAs shall make the necessary representation and follow-up of the request for endorsement from the DSWD, DOF and release shipment from BOC.
 - 4.2. Items not listed in the packing list or in excess of the approved plans shall not be released to the consignee and shall be forfeited in favor of DSWD. Notice on this shall be given by the DSWD to the BOC and the DOF, subject to existing laws.
 - 4.3. Donations received under PMO 36 shall solely be for distribution/use in areas declared in a state of calamity.
 - 4.4. Foreign donors for resource agencies shall consign their donations only to duly DSWD registered SWDA and in certain cases, to DSWD. Re-consignment of the goods that have already arrived shall not be allowed pursuant to Memorandum Order dated March 21, 1998 issued by the DOF.
 - 4.5. All releases, whether or not the port of entry is Manila, shall require the presence and signature of the duly authorized representative/s of the DSWD.
 - 4.6. All the subject goods shall be for free distribution exclusively to the identified beneficiaries of the SWDA. If in case there are changes on the target beneficiaries as reflected on approved distribution plan, the SWDA shall submit the amendment of approved plan of distribution and justification to the concerned DSWD-Field Offices for evaluation and approval. Said changes shall be approved first by the concerned DSWD-Field Office prior to actual distribution.
 - 4.7. Importation of all goods shall be supported by the required documents as mentioned in the guidelines, including contracts/agreements if there are any, and shall not violate existing laws or policies and guidelines governing such importation.
 - 4.8. The concerned DSWD Office shall issue a special order to the authorized representative/s, personnel/s or intermediaries who will be involved in the processing of donations such as members of DSWD Team who will escort the goods from BOC to SWDA warehouse, Valuation/Monetization Team, among others.
5. In the following cases, the application may no longer be considered for endorsement under Section 105 (l) of TCCP and PMO 36
- 5.1. When goods have already been released by BOC to SWDA;
 - 5.2. When goods have already arrived and have been in BOC warehouse for more than one (1) week, unless all the attendant costs such as storage fees, wharfage, demurrage, among others, shall be



shouldered by the consignee/applicant for duty-free entry of foreign donation; and

5.3. When the consignee is not a registered/licensed/accredited SWDA.

VII. FOREIGN DONATIONS UNDER SECTION 105 (I) OF THE REVISED TCCP

1. Requirements

To facilitate the issuance of certification for duty free entry of foreign donations, the registered, licensed and/or accredited SWDA applicant shall submit three (3) copies of the following documents to the concerned DSWD Field Office for assessment at least two (2) weeks prior to the scheduled arrival of donations in the country:¹

- 1.1. Authenticated Deed of Donation from the Philippine Consular Office of the country of origin, with the accompanying certificate as to fitness of food and medicine for consumption and compliance with the country of origin's sanitary and phytosanitary standards
- 1.2. A separate Notarized Deed of Acceptance.
- 1.3. Copy of valid DSWD Registration, License and/or Accreditation Certificate.
- 1.4. Shipping documents such as original and/or duly certified true copy of Bill of Lading or Airway Bill and Packing List.
- 1.5. Plan of Distribution (DSWD DFE Form 2, *Annex C* hereof).
- 1.6. In case of medicines, a certification of the Department of Health - Bureau of Food and Drugs (now the Food and Drug Administration or FDA) that the commodities are allowed for free distribution and use by the intended beneficiaries without the need of a prior prescription and that these are safe for human consumption.
- 1.7. Notarized distribution report on the latest shipment previously received by the applicant (DSWD DFE Form 3, *Annex D* hereof).
- 1.8. In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with appropriate government agencies.

2. Procedures:

2.1. Pre-application Process

- a. The duly registered, licensed and/or accredited SWDA shall consult with the concerned DSWD Field Office for the confirmation and approval of their plan of distribution before negotiating for, or accepting any foreign donations. The concerned DSWD Field Office shall confirm and approve the plan of distribution submitted by the SWADA. For this purpose, DSWD DFE Form 2 (*Annex C*) shall be accomplished and submitted to support the application for duty-free entry.

¹ Copies will serve as file of DSWD-Field Office, Standards Bureau and receiving copy for DOF.

- b. In cases where the registered, licensed and/or accredited SWDA operates nationwide, said SWDA shall secure approval from each DSWD-Field Office having jurisdiction over the area where the distribution of goods shall take place. The DSWD shall not allow SWDA with specific areas of operation, to expand their area of coverage for the purpose of accepting foreign donations.

2.2. Application Process

- a. The application form, DSWD DFE Form 1-A, together with the supporting documents and other requirements, shall be filed by the registered, licensed and/or accredited SWDA at the respective DSWD-Field Office where the intended distribution of goods shall take place. Likewise, the applicant shall pay the required processing fee at the DSWD-Field Office Cash Unit, which will then issue an official receipt.
- b. The designated staff of the concerned DSWD-Field Office Standards Unit shall review and assess submitted application and requirements within three (3) working days upon receipt of the application for:
 - i. Completeness of documents
 - ii. Consistency of information indicated
 - iii. Proper plan of distribution (donations to be received vis-à-vis the target clientele to be served)
 - iv. Conduct of area visit/validation, if necessary
- c. Should the assessment be favorable, the DSWD Field Office shall immediately forward the documents submitted by the qualified applicant with the assessment report and accomplished assessment tool to the DSWD Standards Bureau. Should there be deficiencies in the documents submitted, the DSWD Field Office shall return the application to the applicant and provide necessary technical assistance to comply with the requirements.
- d. Within three (3) working days upon receipt of the validation and assessment of the DSWD-Field Office, the Standards Bureau shall conduct final review and evaluation before any appropriate action be made.
 - i. *If approved*

The accomplished assessment tool with corresponding recommendations together with the following documents shall be forwarded to the DSWD Secretary or his/her authorized representative for approval:

 - ❖ Endorsement letter addressed to the DOF indicating that the foreign donations consigned to qualified registered,



licensed and/or accredited SWDA may be allowed duty-free entry.²

- ❖ Conforme letter addressed to qualified applicant that they should comply with post-facilitation requirements to maximize the use of donations.
- ❖ Letter addressed to concerned DSWD-Field Office (FO) informing them that the recommended registered, licensed, or accredited SWDA has been favorably endorsed to DOF for duty free entry, and requesting said FO to monitor the actual distribution of goods to targeted beneficiaries.

ii. *If disapproved*

The Standards Bureau shall send a letter to concerned DSWD Field Office, copy furnished the applicant, indicating the reasons for the disapproval of the application. The Field Office-Standards Unit shall then discuss the results of the application and provide necessary technical assistance to the applicant for the compliance of requirements within three (3) working days upon receipt of the said letter.

2.3. Release of Goods from BOC to designated SWDA Warehouse

- a. The authorized representatives of the DSWD Team from Central Office, if Manila port or the concerned DSWD-Field Office if outer port, shall guard/escort the goods directly from the concerned BOC to the registered, licensed or accredited SWDA's designated warehouse. The DSWD-Team shall compose of two (2) permanent DSWD staff from IDG and GASSG Clusters (for Central Office) or Technical and Management Divisions (for Field Office).
- b. Five (5) days prior to the release of donation at the BOC, the SWDA shall write a letter to DSWD-Standards Bureau and/or concerned DSWD-Field Office informing them of the tentative schedule of release of goods and shall request DSWD to escort and witness the releases of goods.
- c. DSWD-Standards Bureau or concerned DSWD-Field Office shall inform the DSWD Team on the schedule of release of goods and provide the latter copies of the approved endorsement to DOF, shipping documents and signed conforme letter.
- d. The DSWD Team shall witness and escort the release of donations from BOC to the registered, licensed or accredited SWDA's designated warehouse. The Team shall inspect and observe the 100% unloading and stripping of donated shipment as well as conduct random sampling of the donations at the SWDA designated warehouse.

² The signed endorsement letter shall be hand-carried to DOF by the authorized personnel of DSWD-Records Division provided that the conforme is signed by the head or authorized representative of the SWDA.

- e. Within five (5) working days after the inspection and random sampling, the DSWD Team shall submit report and photo documentation to the DSWD-Standards Bureau and concerned DSWD-Field Office which shall indicate the following information:
 - i. Name of SWDA and address of designated warehouse
 - ii. Date goods were released from BOC and delivered to designated warehouse
 - iii. Total amount paid by the SWDA e.g. VAT, arrastre, wharfage etc.
 - iv. BOC-Informal Import Declaration and Entry
 - v. Donations declared in Bill of Lading/Airway Bill and packing list vis-à-vis actual accounting/inventory of donations received
 - vi. Other observations on the conditions of the goods received.

2.4. Post Facilitation Process

- a. Within one (1) month from withdrawal at the BOC, the registered, licensed or accredited SWDA shall submit to the concerned DSWD-Field Office a status report of the distribution or utilization of commodities in accordance with approved distribution plan.
- b. A report of utilization shall be submitted monthly thereafter until all the donated goods are utilized or distributed, as the case may be. Non-submission of the utilization report shall be a ground for refusal of certification for duty-free entry of succeeding donations or suspension of DSWD registration or license certificate.
- c. A notarized copy of the Distribution Report (DSWD DFE Form 3, *Annex D* hereof), together with photo documentation, shall be submitted to the concerned DSWD Field Office, copy furnished the DSWD Standards Bureau as basis for validating the distribution of donations.
- d. The distribution of all donations shall be monitored by the concerned DSWD Field Office and/or authorized intermediaries and properly documented by the registered, licensed or accredited SWDA.

The processing of applications for duty-free entry of foreign donation under Section 105 of the TCCP is summarized in *Annex F* hereof.

VIII. FOREIGN DONATIONS UNDER PRESIDENTIAL MEMORANDUM ORDER NO. 36

1. *Consigned to Registered, Licensed and/or Accredited SWDA and Local Government Unit (LGU)*

1.1. Requirements

- a. Requirements in facilitating donations under PMO 36 shall be the same as those indicated in item VII. 1. However, in the exigency of the service, to ensure prompt delivery of goods in areas declared in a state of calamity, the submission of requirements may be temporarily deferred depending on the assessment of the DSWD WMDFD-Administrative Service, which shall coordinate with the OPG, particularly the Protective Services Bureau (PSB) and the concerned Field Office(s); provided that, necessary undertakings shall be submitted to the DSWD by the applying NGAs, GOCCs, LGUs or SWDAs. The undertaking is a commitment letter of SWDA that indicates the timeline of submission of the required documentary requirements; non-submission thereof would be a ground for blacklisting or non-approval of succeeding application for endorsement under PMO 36 or other related regulations.
- b. Plan of Distribution (DSWD DFE Form 2) duly-approved by the concerned DSWD-Field Office(s).
- c. Certification from the National Disaster Risk Reduction and Management Council (NDRRMC) or the Local Sanggunian that the intended or proposed areas of distribution had been declared as calamity areas either by virtue of a Presidential Proclamation or a Resolution by the Local Sanggunian.

1.2. Procedures:

- a. The application form (DSWD DFE Form 1-B) together with the supporting documents and other requirements shall be filed by the LGUs or registered, licensed and/or accredited SWDA at the WMDFD-Administrative Service in the Central Office. Likewise, the applicant shall pay the required processing fee at the DSWD Central Office-Cash Division, which will then issue an official receipt
- b. The WMDFD-Administrative Service, in coordination with the Operations and Programs Group, particularly the Protective Services Bureau (PSB) and the concerned Field Office(s), shall review and assess submitted application and requirements within two (2) to three (3) days upon receipt of the documents as to:
 - i. Completeness of documents
 - ii. Consistency of information indicated

- iii. Proper plan of distribution (donations to be received vis-à-vis the target clientele to be served in disaster-affected areas, as indicated in DSWD DFE Form 2 and the Certification from the NDRRMC or Local Sanggunian).

If favorable

The application form submitted by the applicant SWADA or LGU, with all supporting documents and the corresponding assessment and recommendation (DSWD DFE Form 4) of the WMDFD-AS, which shall coordinate with OPG/PSB and concerned FOs for this purpose, shall be forwarded to the Assistant Secretary and Undersecretary for General Administration and Support Services Group (GASSG) for review and confirmation of the recommendation. Thereafter, all the documents shall be submitted to the Office of the Secretary or his/her authorized representative for approval and signature of the following:

- ❖ Endorsement letter addressed to the Office of the President-Presidential Management Staff (OP-PMS), indicating that the applicant LGU or SWDA is recommended for availment of duty and/or tax free of foreign donations pursuant to PMO No. 36.³
- ❖ Conforme letter addressed to qualified applicant that they should comply with post-facilitation requirements to maximize the use of donations.
- ❖ Letter addressed to concerned DSWD-Field Office informing them that the concerned LGU or SWDA has been favorably recommended to OP-PMS for duty-free entry of foreign donation and requesting them to ensure the proper distribution of goods to intended beneficiaries.

If not favorable

The WMDFD-Administrative Service shall write and inform the LGU or SWDA on the reasons for disapproval of the application, discuss the results of the application and provide necessary technical assistance to the applicant for the compliance of requirements.

1.3. Release of Goods

The procedures and requirements for release of goods shall be the same as those outlined in item 2.3 of Section VII.

1.4. Post Facilitation Process

The post facilitation process on the availment of duty and tax free under PMO 36 is the same with item 2.4 of Section VII. However, the

³ The signed endorsement letter shall be hand carried to the Office of the President by the authorized personnel of DSWD-Records Unit provided that the conforme is signed by the head or authorized representative of the LGU or SWDA.

report shall be submitted to the WMDFD-Administrative Service, copy furnished the OP-PMS and the concerned DSWD-Field Office(s).

2. *Consignment to National Government Agencies (NGAs)/Government Owned and Controlled Corporation (GOCCs)*
 - 2.1. Other NGAs and GOCCs accepting/receiving donations for the government under PMO No. 36 are encouraged to consign their donations/importations to DSWD to facilitate release of shipment from the BOC. However, all port charges and attendant fees accruing to the shipment shall be borne by the concerned requesting agency. .
 - 2.2. Compliance to submission of all documentary requirements such as bill of lading, packing list or invoice, deed of donation and other necessary clearances which may be required by the BOC is mandatory.
 - 2.3. Processing of documents at the BOC will be handled by the concerned NGA's or GOCC's personnel. However, DSWD may provide technical assistance, if necessary.
 - 2.4. Report of relief goods distribution, including photo documentation, shall be directly submitted to the DSWD WMDFD-Administrative Service, copy furnished the Presidential Management Staff, Office of the President, for monitoring purposes.

The processing of applications for duty-free entry of foreign donation under PMO No. 36 is summarized in *Annex G* hereof.

IX. FOREIGN DONATIONS FOR THE DSWD UNDER THE GENERAL APPROPRIATIONS ACT

1. *General Policies*

- 1.1. Donations with expiration date of less than a month at the time of delivery shall not be accepted.
- 1.2. Donors abroad who intend to send food commodity shall be informed that only food commodity with remaining lifespan of at least a year and complies with sanitary and phytosanitary standards will be accepted.
- 1.3. Foreign donations intended for a specific Field Office shall be forwarded to the WMDFD-Administrative Service, for facilitation/processing at the BOC regardless of port of discharge.
- 1.4. DSWD attached agencies with available funds for handling and hauling should facilitate their own consignment, provided that the DSWD Central Office is apprised of such.
- 1.5. Except those facilitated thru bilateral/multi-lateral schemes, no donation shall be accepted if the cost of facilitation (handling, freight and hauling) including duties and taxes, is higher than the value of goods/donation.

- 1.6. Consistent with the provisions of R.A. No. 4653, the DSWD shall likewise adhere to the “no used clothing donation” policy. This is to support the local garment industry and to prevent health hazards which may be transmitted thru used clothing, as provided in R.A. No. 4653.
- 1.7. Pursuant to Republic Act No. 9280, which requires all importers to hire the services of a licensed customs broker, the DSWD shall avail of the services of a private brokerage firm or a licensed customs broker to assist in the processing of foreign donations consigned to the agency. The hiring of forwarders/haulers may also be allowed, as the need arises.
- 1.8. Highly perishable goods, regardless of long shelf life, such as milk, flour and foodstuff in tetra, plastic or foil packages shall be inventoried and valued within three (3) working days upon receipt. Allocation of such goods shall be completed within three (3) working days after valuation and inventory is conducted.
- 1.9. Food commodity/medicines with deteriorating appearance regardless of its expiration shall be subjected to FDA testing, to ensure fitness for consumption. In areas where FDA offices are not accessible, the concerned FO shall forward to the WMDFD-Administrative Service samples of commodities for submission to FDA for testing purposes.
- 1.10. Food commodity with deteriorating/peculiar appearance upon delivery shall not be accepted for safety reasons.

2. Requirements

To facilitate and effect immediate withdrawal of donation from the BOC, the following documents are required to be submitted:

- 2.1. Original Bill of Lading/ Airway Bill/Parcel Notice
- 2.2. Packing list/invoice declaration
- 2.3. Deed of Donation duly authenticated by the Philippine Consular Office from point of origin.
- 2.4. Deed of Acceptance
- 2.5. Duly Accomplished Certificate of Official Importation
- 2.6. Duly Accomplished Certificate of Undertaking
- 2.7. Container guarantee (if containerized)
- 2.8. Special Power of Attorney (SPA) for Authorized Representative

3. Procedures

- 3.1. The WMDFD-Administrative Service, in coordination with the Committee on Monetary Valuation created pursuant to DSWD Memorandum Circular No. 28, series of 2005,⁴ shall evaluate the appropriateness as well as cost-effectiveness of donations (including donations for Field Offices), and recommend to the Secretary or to

⁴ Entitled, “Guidelines on Monetary Valuation of Foreign and Local Donations for Disaster Relief and Rehabilitation.”

his/her authorized representative, the acceptance or rejection of the donation.

- 3.2. Bilateral donations facilitated and coordinated by Philippine Embassies and the Department of Foreign Affairs (DFA) are automatically accepted to promote/foster diplomatic ties with donor country/ies, except in the following instances: (a) donations of used clothing; (b) when the donations cannot be used for relief and rehabilitation efforts, such as donations of food items that are already expired or about to expire, or goods that are not appropriate for distribution to affected beneficiaries; and (c) when the cost of processing/facilitating the release of the donation is higher than the value of the donated items.
- 3.3. Donors shall be informed by the DSWD on the acceptance or rejection of the donations.
- 3.4. The WMDFD-Administrative Service shall prepare the necessary documentation, undertake proper coordination with concerned units and offices, and facilitate release of donations from the BOC to the National Resource Operations Center (NROC).
- 3.5. Once approved and released at the BOC, the donations shall be delivered to NROC for storage and distribution to intended beneficiaries.

4. *Post Facilitation Process*

Within fifteen (15) days upon withdrawal of goods from BOC and delivered to the DSWD National Resource Operation Center (NROC), for Manila Port releases or DSWD-Field Office warehouse, for outer port release, the following activities shall be undertaken:

- 4.1. NROC/FO conducts 100% inventory of goods/donation received and submits report to the Secretary or to his/her authorized representative.
- 4.2. The Committee on Monetary Valuation shall assess the monetary value of the goods and submits report to the DSWD Secretary or his/her authorized representative, as well as the Financial Management Service (FMS) and the Commission on Audit (COA) Resident Auditor.
- 4.3. The FMS shall enter/record the value of the donation in the DSWD books of accounts, in compliance to the provisions of the General Appropriations Act, the Government Accounting and Auditing Manual, and related regulations.
- 4.4. An acknowledgement of receipt of the donation and a report on the utilization shall be submitted to the donor by the WMDFD-Administrative Service, which shall coordinate with the OPG, PSB and concerned FOs for this purpose.



X. LOCAL DONATIONS FROM THE BUREAU OF CUSTOMS PURSUANT TO PMO 23 AND SECTION 2610 OF THE REVISED TCCP

The relentless anti-smuggling activities of the BOC operatives result to seizure and confiscation of various commodities, consisting of non-food, taxable and highly taxable, regulated and prohibited items.

To promote collection of duties and taxes and to help prevent or suppress smuggling and other fraudulent acts, the BOC -- subject to approval of the DOF Secretary -- authorizes the official use of articles (which remains unsold after two failed public biddings) by the National Government Pursuant to Section 2610 of the TCCP, as amended. If the article is suitable for shelter or consists of foodstuff, clothing materials or medicines, then the article shall be given to government charitable institutions through the DSWD.

To facilitate the transfer/turn over of used clothing at the BOC which do not require bidding prior to transfer, since importation thereof is prohibited per Sec. 1 of RA 4653, PMO No. 23 was issued. This Presidential Memorandum Order provides for the immediate turn over of used clothing by the BOC to the DSWD.

To ensure proper and optimum use of forfeited/abandoned/seized commodities and prevent its diversion to the domestic market or its illegal use, the following procedures shall be followed:

1. All forfeited/abandoned goods transferred to DSWD Central Office by the BOC shall be under the direct custody and accountability of Secretary or his/her authorized representative through the WMDFD-Administrative Service, while those goods turned over at the Outer Ports shall be that of the DSWD-FO Director concerned. The accountable persons shall then ensure that:
 - a. Commodities are properly receipted with the following documentation as enclosures:
 - i. Gate Pass/Boat Note to contain seizure identification number, abandoned proceeding number, quantity, volume weight, estimated value (if available), signature of required signatories with typewritten name below respective signatories and other relevant information on the shipment.
 - ii. Copy of forfeiture/declaration of abandonment.
 - iii. Certificate of Finality issued by the BOC.
 - iv. Deed of Donation, except for used clothing which are turned by the BOC to the DSWD pursuant to PMO No. 23.

- b. Commodities are stored properly at NROC (National Level) and DSWD-Field Offices warehouses (Regional Level) separate from the other stocks of the Department and with complete documentation.
 - c. Coordination with the Bureau of Quarantine is effected relative to the requests for fumigation and other sanitation measures particularly on the used clothing/shoes before releasing and distributing the same to beneficiaries.
 - d. Commodities are inventoried and repacked into family packages for proper valuation by the Committee on Monetary Valuation, for proper accounting and auditing purposes.
 - e. Distribution plan prepared by DSWD Field Office for donated goods/commodities received from the BOC Outer Ports need to be forwarded to the Secretary or to his/her authorized representative for approval.
 - f. Under no circumstances should the commodities be released for distribution in bales or in original packages.
 - g. Goods are released upon presentation of duly signed release document by the Secretary or to his/her authorized representative with approved work program of distribution.
 - h. Status report on receipts of releases and balances of said commodities shall be submitted within ten (10) days from receipt of the valuation and inventory, and monthly thereafter to the WMDFD-Administrative Service for monitoring purposes.
2. The DSWD Committee on Monetary Valuation shall determine the monetary value of the commodities not more than one (1) month upon receipt of the transferred commodities at the NROC or at any designated warehouse where same is stored, subject to item IX.1.8. The report of valuation/monetization shall be submitted to the Accounting Division, for inclusion in the DSWD book of accounts and proper recording. The Office of the Secretary or his/her authorized representative, the AS Property and Asset Management Division, the Internal Audit Service and the COA Resident Auditor shall likewise be furnished with a copy of said report.
 3. The transfer of forfeited/abandoned goods to DSWD by the BOC is unconditional such that its allocation shall be based on the established need which may be distributed through the following:

- a. DSWD Field Office, to include the requirements of LGUs, and other Government Agencies; and / or
 - b. Registered, licensed or accredited SWDAs operating in the FOs' areas of coverage.
4. Recipient NGAs, LGUs and registered, licensed or accredited SWDAs shall submit to DSWD Field Office, copy furnished the WMDFD-Administrative Service, a status report on receipted commodities for integration in the Regional Report and/or the DSWD Report to the President and BOC within two (2) weeks upon receipt of the goods.
5. Submission of monthly report shall be on or before the 10th day of the succeeding month of the report period.
6. DSWD Field Offices shall monitor distribution of goods/commodities by the recipients, i.e. LGUs, other GAs and registered, licensed or accredited social welfare agencies. The DSWD Field Offices shall submit a status report to the WMDFD-Administrative Service on the utilization of these donations, including concerns and issues, within thirty (30) days from receipt and monthly thereafter, until all receipted commodities are consumed/distributed. Spot checks shall be done by the WMDFD-Administrative Service in coordination with the PSB and the Standards Bureau.

XI. PENALTY CLAUSE

Pursuant to the first paragraph of Section 105 of the Revised of Tariff and Custom Code, *"any article sold, bartered, hired or used for purpose other than that they were intended for without prior payment of the duty, tax and other charges which would have been due and payable at the time of entry if the article had been entered without the benefit of this section, shall be subject to forfeiture and the importation shall constitute a fraudulent practice against customs revenue punishable under Thirty Six Hundred and Two, as amended of this Code. Further, paragraph two of Section 3602 of the said Code provides that, ... "in addition to the punitive action of confiscation (forfeiture) of the imported goods the law has provided that the guilty party should also suffer by paying a fine and temporary loss of liberty; and if the offender is an alien, he is subject to deportation after serving his sentence."*

Violation of any of the above condition shall also bar certification for duty and/or tax free entry of succeeding donations, and shall subject the SWDAs to revocation of its DSWD registration, license and/or accreditation certificate and/or its concerned officers or members to applicable criminal, civil and administrative sanctions.

XII. REPEALING CLAUSE

Administrative Order No. 6, series of 2010, and all other issuances inconsistent with the provisions of this Order are hereby revoked accordingly.

XIII. SEPARABILITY CLAUSE

In the event that any provision of this guideline is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and in effect.

XIV. EFFECTIVITY:

This Administrative Order shall take effect immediately and shall supersede all other DSWD guidelines, issuances or their specific provision(s) inconsistent herewith.

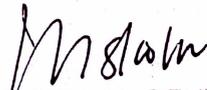
Issued this August 6, 2012, 2012 at Quezon City, Philippines.


CORAZON JULIANO-SOLIMAN
Secretary

Annexes:

- A - DSWD-DFE Form 1-A - Application Form (Foreign Donations under Sec. 105, TCCP)
- B - DSWD-DFE Form 1-B - Application Form (Foreign Donations under PMO 36)
- C - DSWD-DFE Form 2 - Plan of Distribution
- D - DSWD-DFE Form 3 - Notarized Distribution Report
- E - DSWD-DFE Form 4 - Assessment Form
- F - Process Flowchart: Foreign Donations under Section 105 (I) of the Revised TCCP
- G - Process Flowchart: Foreign Donations under PMO 36

Certified Copy:


MYRNA H. REYES
Officer In-Charge
Records Unit

"ANNEX A"

DSWD-DFE Form 1-A S105 (I)
Revised TCCP

Republic of the Philippines
Department of Social Welfare and Development

**APPLICATION FORM
(FOREIGN DONATIONS UNDER SECTION 105 (I) OF THE REVISED TCCP)**

Date of Application: _____

Name of Agency: _____

Office Address: _____

Registration or License No. and Expiration Date: _____

Bill of Lading/Airway Bill No: _____

Name of Donor and Address: _____

Description of Packages and Goods: _____

Date of Expected Arrival of Foreign Goods: _____

Documents Submitted:

(Mark appropriate boxes with " ✓ ".)

- Authenticated Deed of Donation from the Philippine Consular Office of the country of origin, with the accompanying certificate as to fitness of food and medicine for consumption and compliance with the country of origin's sanitary and phytosanitary standards
- A separate Notarized Deed of Acceptance.
- Copy of valid DSWD Registration, License and/or Accreditation Certificate.
- Shipping documents
 - Original and/or duly certified true copy of Bill of Lading or Airway Bill
 - Packing List

- Plan of Distribution (DSWD DFE Form 2) certified and endorsed by the DSWD Field Office(s) that has jurisdiction over the target area for distribution.
- In case of medicines, a certification of the Department of Health - Food and Drug Administration (FDA) that the commodities are allowed for free distribution and use by the intended beneficiaries without the need of a prior prescription, and that these are safe for human consumption.
- Notarized distribution report (DSWD DFE Form 3) on latest shipment certified correct by the concerned DSWD Field Office.
- In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with appropriate government agencies.

Prepared by :

 (Name and Signature of Head of Applicant Organization or his/her Authorized Representative)

 (Date)

Received and Assessed by:

 (Name and Signature of DSWD Staff)

 (Designation)

 (Name of Office)

 (Date)

"ANNEX B"

DSWD-DFE Form 1-B PMO 36

Republic of the Philippines
Department of Social Welfare and Development

**APPLICATION FORM
(FOREIGN DONATIONS UNDER PRESIDENTIAL MEMORANDUM ORDER NO. 36)**

Date of Application: _____

Name of Agency: _____

Office Address: _____

Registration or License No. and Expiration Date: _____
(If applicant is a Private Social Welfare and Development Agency)

Bill of Lading/Airway Bill No: _____

Name of Donor and Address: _____

Description of Packages and Goods: _____

Date of Expected Arrival of Foreign Goods: _____

Documents Submitted:

(Mark appropriate boxes with " ✓ ".)

- Authenticated Deed of Donation from the Philippine Consular Office of the country of origin, with the accompanying certificate as to fitness of food and medicine for consumption and compliance with the country of origin's sanitary and phytosanitary standards
- A separate Notarized Deed of Acceptance.
- Copy of valid DSWD Registration, License and/or Accreditation Certificate, if private SWDA
- Shipping documents
 - Original and/or duly certified true copy of Bill of Lading or Airway Bill
 - Packing List

- Plan of Distribution (DSWD DFE Form 2) endorsed by the DSWD Field Office(s) that has jurisdiction over the target area for distribution.
- In case of medicines, a certification of the Department of Health - Food and Drug Administration (FDA) that the commodities are allowed for free distribution and use by the intended beneficiaries without the need of a prior prescription and that these are safe for human consumption.
- Notarized distribution report on latest shipment (DSWD DFE Form 3) certified correct by the concerned DSWD Field Office.
- In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with appropriate government agencies.
- Undertaking signed by the applying NGAs, GOCCs, LGUs or private SWDAs, if all the requirements are not yet available upon application and the donated goods are urgently needed by the victims of calamities. Undertaking is a commitment letter that indicates the timeline of submission of documentary requirements and non-submission of requirements might cause blacklisting on its succeeding application
- Certification from the National Disaster Risk Reduction & Management Council (NDRRMC) or the Local Sanggunian that the areas of distribution are declared under calamity areas either by virtue of a Presidential Proclamation or a Resolution by the Local Sanggunian

Prepared by :

 (Name and Signature of Head of Applicant Organization or his/her Authorized Representative)

 (Date)

Received and Assessed by:

 (Name and Signature of DSWD Staff)

 (Designation)

 (Name of Office)

 (Date)

"ANNEX C"

DSWD-DFE Form 2

Republic of the Philippines
Department of Social Welfare and Development

PLAN OF DISTRIBUTION

Name of Organization: _____

Address: _____

Registration and/or License No. and Expiration Date: _____

Bill of Lading/Airway Bill No: _____ Expected Date of Arrival: _____

<i>Description of Goods</i>	<i>Purpose</i>	<i>Intended Beneficiary/ies</i>	<i>Target Area/s</i>

Prepared by: _____
(Name and Signature of Head of Organization/Date)

Approved by: _____
(Name and Signature of Field Office Director or his/her representative/Region/Date)



"ANNEX D"

DSWD-DFE Form 3

Republic of the Philippines
Department of Social Welfare and Development

DISTRIBUTION REPORT
As of _____

Name of Organization: _____

Address : _____

Registration and/or License No. and Expiration Date : _____

Bill of Lading/Airway Bill No : _____ Expected Date of Arrival : _____

<i>Description of Goods</i>	<i>Purpose</i>	<i>Intended Beneficiary/ies</i>	<i>Target Area/s</i>	<i>Status of Distribution</i>	<i>Balance</i>

Prepared by : _____
(Name and Signature of Head of Organization/Date)

Certified correct by : _____
(Name and Signature of Field Office Director or his/her representative/Region/Date)

- *This form must be notarized*

"ANNEX E"

DSWD-DFE Form 4

Republic of the Philippines
Department of Social Welfare and Development

ASSESSMENT FORM

Date Request Received : _____

Name of Agency : _____

Office Address: _____

Registration and/or License No. and Expiration Date : _____

Bill of Lading/Airway Bill No : _____ Date Released to Agency : _____

Checklist of Required Documents:

A. Foreign Donations under Section 105 (I) of the Revised TCCP

<i>Items</i>	<i>Remarks</i>
Authenticated Deed of Donation from the Philippine Consular Office of the country of origin, with the accompanying certificate as to fitness of food and medicine for consumption and compliance with the country of origin's sanitary and phytosanitary standards.	
A copy of Notarized Deed of Acceptance.	
Copy of valid and subsisting DSWD Registrations, License and/or Accreditation Certificate.	
Original of valid and subsisting DSWD Registration, License and/or Accreditation Certificate.	
Packing List.	
Plan of Distribution approved by the DSWD Field Office(s) that has jurisdiction over the target area for distribution.	
In case of medicines, a certification of the Department of Health - Food and Drugs Administration (FDA) that the commodities are allowed for free distribution and use by the intended beneficiaries without the need of a prior prescription and that these are safe for human consumption.	
Notarized distribution report on latest shipment certified correct by the concerned DSWD Field Office(s).	

<i>Items</i>	<i>Remarks</i>
In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with appropriate government agencies.	

B. Foreign Donations under Presidential Memorandum Order No. 36

<i>Items</i>	<i>Remarks</i>
Authenticated Deed of Donation from the Philippine Consular Office of the country of origin, with the accompanying certificate as to fitness of food and medicine for consumption and compliance with the country of origin's sanitary and phytosanitary standards.	
A separate Notarized Deed of Acceptance.	
Copy of valid and subsisting DSWD Registrations, License and/or Accreditation Certificate.	
Original and/or duly certified true copy of Bill of Lading or Airway Bill	
Packing List.	
Relief and Rehabilitation Plan approved by the concerned DSWD-Field Office and/or Chairman of the NDCC or the Local Sanggunian certifying the relevance of the donations to meet the relief needs of the victims.	
In case of medicines, a certification of the Department of Health - Food and Drugs Administration (FDA) that the commodities are allowed for free distribution and use by the intended beneficiaries without the need of a prior prescription and that these are safe for human consumption.	
Notarized distribution report on latest shipment certified correct by the concerned DSWD Field Office(s).	
In case of relief items other than food and medicines, proof of prior agreements or approved arrangements with appropriate government agencies.	
Undertaking signed by the applying NGAs, GOCCs, LGUs or private SWDAs, if all the requirements are not yet available upon application and the donated goods are urgently needed by the victims of calamities. Undertaking is a commitment letter that indicates the timeline of submission of documentary requirements and non-submission of requirements might cause blacklisting on its succeeding application.	

Certification from the NDRRMC of the Local Sanggunian that the areas of distribution are declared under calamity areas either by virtue of a Presidential Proclamation or a Resolution by the Local Sanggunian.	
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Status of Previous Shipment:

- _____ monitored
- _____ goods already distributed
- _____ goods not distributed, still intact
- _____ goods are unaccounted
- _____ not yet monitored

Recommendations:

Assessed by:

(Name and Signature of DSWD Technical Staff)

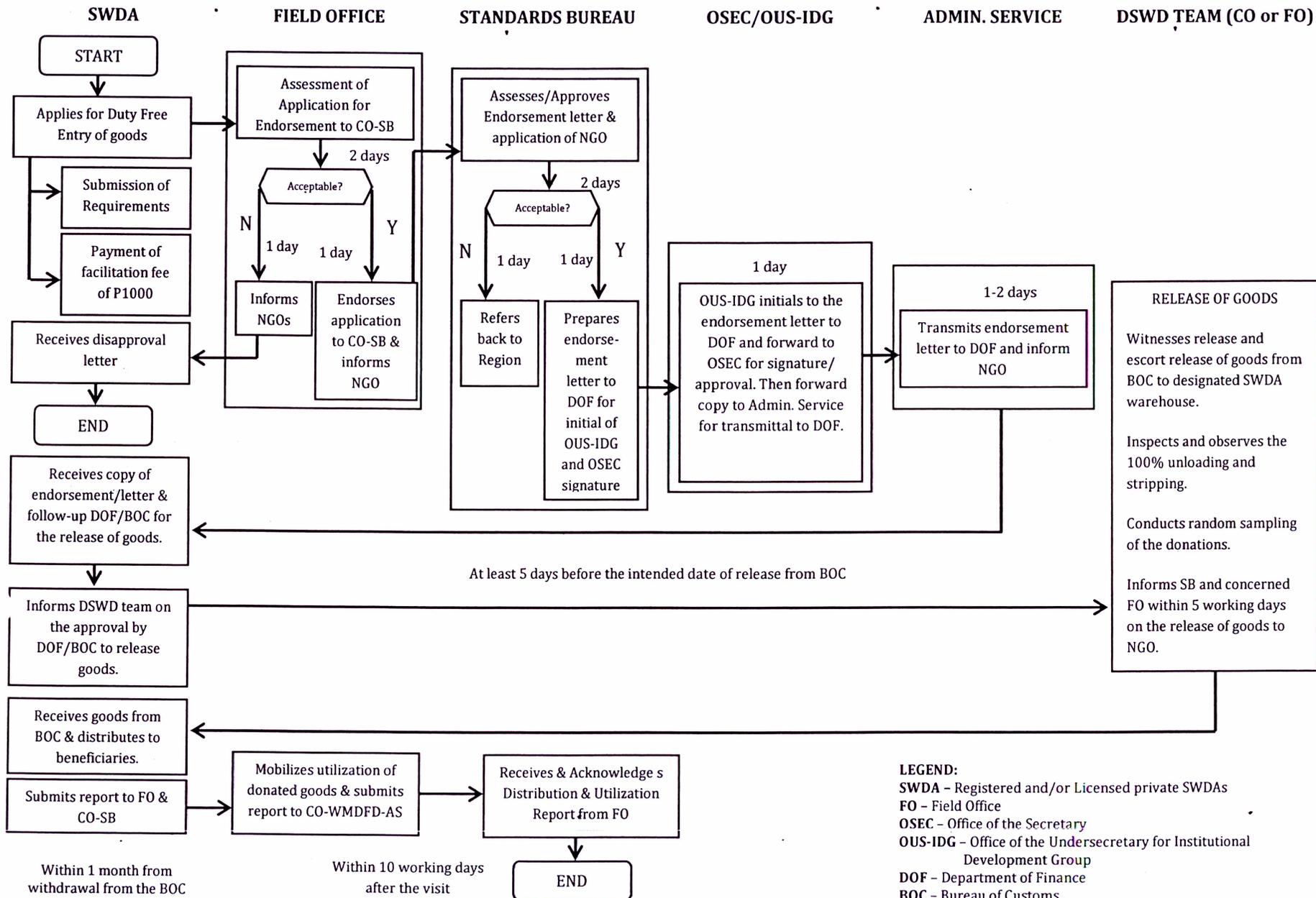
(Designation)

Noted by:

(Name and Signature of Division Chief/Director)

(Date)

**PROCESS FLOW CHART:
FOREIGN DONATIONS UNDER SECTION 105 (L) OF THE REVISED TCCP**



Handwritten signature

**PROCESS FLOW CHART:
FOREIGN DONATIONS UNDER PRESIDENTIAL MEMORANDUM ORDER NO. 36**

