

Republic of the Philippines
DEPARTMENT OF SCIENCE AND TECHNOLOGY

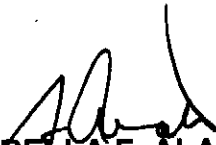
The 2005 Implementing Rules and Regulations of R.A. No. 7459 otherwise known as "Inventors and Invention Incentives Act of the Philippines" is hereby amended to add the following under Section 7 hereof:



7.6 Other Financing Scheme that maybe availed of:

7.6.2 Payment of guarantee premiums for inventors who will avail of the guarantee program on loan granted by the government bank to support the commercialization of their inventions and/or expansion of their project.

Effective immediately.

FEB 03 2010


ESTRELLA F. ALABASTRO
Secretary, DOST



OSEC 10-52943
OFFICE OF THE SECRETARY
Department of Science and Technology

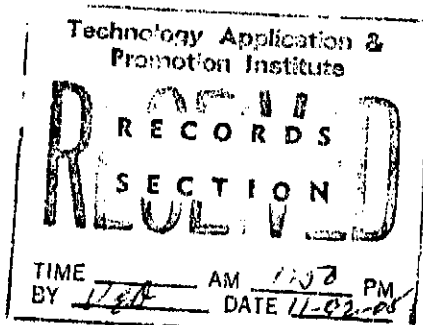
**THE 2005 IMPLEMENTING RULES AND REGULATIONS
OF R.A. NO. 7459 OTHERWISE KNOWN AS INVENTORS AND
INVENTION INCENTIVES ACT OF THE PHILIPPINES**

Pursuant to R.A. No. 7459, otherwise known as the "Inventors and Invention Incentives Act of the Philippines", the following rules and regulations are hereby promulgated.

Section 1. Definition of Terms

As used herein, the following terms shall mean:

- 1.1 **ACT** shall refer to Republic Act No. 7459 otherwise known as the "Inventors and Invention Incentives Act of the Philippines";
- 1.2 **ASSIGNEE** shall refer to any person or entity to whom the inventor has transferred the entire right, title or interest in the patent and the invention covered thereby, or an undivided share of the entire patent and invention;
- 1.3 **COMMERCIAL SCALE** shall refer to the definition adopted by the Bureau of Internal Revenue (BIR).
- 1.4 **DEPARTMENT** shall refer to the Department of Science and Technology (DOST);
- 1.5 **FIS** or Filipino Inventors Society shall refer to the organization duly accredited and recognized by the Department. The membership of the FIS shall be open only to Filipino Inventors, and to Inventors' organizations duly accredited by the Institute;
- 1.6 **INVENTION GUARANTEE FUND** or IGF shall refer to the fund created by Republic Act No. 3850, as amended, deposited with the Development Bank of the Philippines, and interest earnings thereof, and the continuing annual appropriation in the amount of not less than Ten Million Pesos (Php10,000,000) provided for the purpose in the annual budget of the Department, and its interest earning shall form part of the IGF to pay for the finance and guarantee of loan assistance, cash rewards, and other incentives provided under the Act.
- 1.7 **ANNUAL OPERATING FUND** shall refer to the total MOOE (inclusive of grants-in-aid) allotment released by the Department of Budget and Management (DBM) to the Institute for a given budget year.



- 1.8 **INVENTION DEVELOPMENT ASSISTANCE FUND (IDAF)** shall refer to the fund established pursuant to Republic Act No. 7459 which shall be equivalent to at least twelve percent (12%) of the annual operating fund of the Technology Application and Promotion Institute (TAPI) and from donations, bequests and other sources whether public or private, domestic or foreign in order to assist potential and actual inventors in their initial experiment and prototype development and other inventor-development related activities for certain invention or innovation.
- 1.9 **INVENTION** shall refer to any patented machine, product, process including implements or tools and other related gadgets of invention, utility model and industrial design patents;
- 1.10 **INVENTOR** shall refer to the patentee, heir/s or assignee/s of an invention;
- 1.11 **HEIR** shall refer to a person called to the succession either by the provision of a will or by operation of law;
- 1.12 **PATENT OFFICE** shall refer to the Intellectual Property Office (IPO);
- 1.13 **SCREENING COMMITTEE** shall refer to the committee composed of technical representatives from the Department of Science and Technology, the Filipino Inventors Society, the Department of Trade and Industry, the Department of Agriculture, and the Department of Environment and Natural Resources;
- 1.14 **RDIs** shall refer to the Research and Development Institutes of the Department;
- 1.15 **TECHNOLOGY** shall generally include the application of knowledge of science including inventions, innovations and results of researches;

Aldean

Section 2. Cash Rewards

- 2.1 Granting of cash rewards shall be done through a National Invention Contest organized for the purpose;
- 2.2 Contest shall be open to Filipino inventors, researchers and scientists;

- 2.3 There shall be four categories as follows;
- 2.3.1 Invention
 - 2.3.2 Utility Model
 - 2.3.3 Industrial Design
 - 2.3.4 Creative Research
- 2.4 For the purpose of implementing 2.3, the following definitions are hereby provided:
- 2.4.1 Invention shall refer to any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable. It may be, or may relate to a product, or process, and their improvements, (Sec. 21, RA 8293);
 - 2.4.2 Utility model shall refer to any technical solution of a problem in any field of human activity which is new and industrially applicable, within the contemplation of the above statute (Sec. 109, RA 8293);
 - 2.4.3 Industrial design shall refer to any composition of lines or colors or any three – dimensional form whether or not associated with lines or colors: provided, that such composition or form gives a special appearance to and can serve as pattern for an industrial product or handicraft within the contemplation of the above statute (Sec. 112, RA 8293);
 - 2.4.4 Creative research shall refer to research results with demonstrable qualities and potential for improvement and/or widespread commercialization/dissemination not elsewhere qualified;
- 2.5 Cash awards and additional expenses may be adjusted by the Screening Committee subject to the approval of the Institute;
- 2.6 At the discretion of the Institute, local contests at the regional or provincial level may be organized to select/screen contestants for the national contest;
- 2.7 Members of the Screening Committee shall serve as members of the panel of judges and may delegate the role of judging to other technical representatives from said agencies including private sector as approved by the Institute.

Section 3. Screening Committee


3.1 Composition

3.1.1 The Screening Committee (SC) shall consist of technical representatives from the Department of Science and Technology, the Filipino Inventors Society, the Department of Trade and Industry, the Department of Agriculture and the Department of Environment and Natural Resources. The representative from the Department of Science and Technology (DOST) shall be the Chairman of the Screening Committee.

3.2 Functions

- 3.2.1 Prescribe rules and criteria for the presidential awards for inventions.
- 3.2.2 Choose patented inventions in the Philippines to be granted Presidential Awards.
- 3.2.3 Recommend sending of winners to other countries where their winning inventions or areas of interest are advanced.
- 3.2.4 Adjust cash awards for invention contest and the additional expenses subject to the approval of the Institute.
- 3.2.5 To confirm the certification of FIS Issued to inventors for tax incentives request.
- 3.2.6 To certify with FIS that the invention meets the criteria that would enhance the economy of the country such as profitability and viability, dollar-earning capacity and generation of employment opportunities for Filipinos, for purposes of applying for loan assistance from government banks requiring guarantee under IGF.

Section 4. Tax Incentives and Duty Exemption

- 
- 4.1 Tax Incentives – Inventors, as certified by the Filipino Inventors' Society and duly confirmed by the Screening Committee, shall be exempt from payment of license fees, permit fees and other business taxes in the development of their particular inventions. This is an exception to the taxing power of the local government units. The certification shall state that the manufacture of the invention has not been made on a commercial scale.
 - 4.2 Exemption from payment of local fees involved in the application for the manufacture and sale of the inventions shall be governed by issuances from the Local Government Units concerned implementing the provisions of the Act.
 - 4.3 Tax and duty exemptions shall be principally governed by orders, revenue regulations and/or administrative issuances from the Department of Finance through the Bureau of Internal Revenue (BIR)

and the Bureau of Customs (BOC). All inventors availing of these incentives should be pre-registered with BIR and/or BOC.

Section 5. Invention Development Assistance Fund (IDAF)

5.1 Establishment, Sources and Use of IDAF

5.1.1 Pursuant to Section 7 of the Act, there must be an Invention Development Assistance Fund that shall be established. IDAF shall be used to assist potential and actual inventors in their initial experiments and proto-type development as well as in other development-related activities for certain invention or innovation. Such fund shall be sourced from the following:

5.1.1.1 Allotment covering grants-in-aid released by DBM to the Institute during a given budget year. It shall be at least 12% of the annual operating fund of the Institute for a given budget year.

5.1.1.2 Donations, bequests and other sources, whether coming from public or private, domestic or foreign, intended by the donor for use as stated under 5.1.1 above.

Funds from this source shall be exempted from the donor's tax or shall be allowed as deduction from the gross income for income tax purposes, subject to pertinent provisions of the Tax Code.

5.1.2 As a rule, all funds accruing under IDAF shall be received, disposed of, recorded and accounted for in the books of accounts of the Institute pursuant to pertinent accounting and auditing rules and regulations.

5.1.2.1 For this purpose, component of the Fund which has been sourced from the grants-in-aid shall be recorded, accounted for and utilized in accordance with the existing operating procedures of the Institute.

5.1.2.2 Funds coming from donations, bequests and other sources whether from public or private, domestic or foreign specifically made for the purpose shall be deposited, recorded and accounted for in the books of accounts of the Institute as trust fund subject to existing budgeting, accounting and auditing rules and regulations on the matter.

The aforesaid trust fund shall be utilized in accordance with the guidelines and procedures formulated by the Institute and approved by the DOST Secretary.

- 5.1.3 Portion of the IDAF sourced from the grants-in-aid equivalent to not more than twenty percent (20%) of the aforesaid fund may be utilized to cover incidental and other administrative-related cost incurred by the staff in overseeing and supporting the implementation of the programs, projects and activities funded under this Fund.

However, in case of funding constraint and at the discretion of the Director of the Institute, such amount allocated for payment of the above incidental and other administrative-related cost may be augmented chargeable against the Institute's regular MOOE, subject to the observance of pertinent budgeting, accounting and auditing rules and regulations on the matter.

Moreover, pursuant to pertinent provision of the Tax Code, portion of the IDAF sourced from the aforesaid donations, bequests and other sources equivalent to at least thirty percent (30%) may be allocated to cover administrative cost in the implementation of programs and projects.

Section 6. Invention Guarantee Fund (IGF)

- 6.1 Purposes
- 6.1.1 To guarantee the loan assistance of government banks to patented Filipino Invention as provided for in Sec. 10 of the Act.
 - 6.1.2 To pay for cash rewards and other incentives to inventors provided under Section 4 of the Act.
 - 6.1.3 To utilize the Fund in undertaking special financing programs for Filipino inventions as may be determined by the Institute.
- 6.2 Eligible Projects Covered by the Guarantee Fund
- 6.2.1 Commercialization, specifically production of patented inventions as defined in Section 1.9 of IRR that:
- a. Conserve, save or substitute fossil energy;
 - b. Promote or increase Philippine exports;
 - c. Result in import substitution/dollar saving;
 - d. Produce gadgets or other products that increase efficiency and/or lowest cost of production;
 - e. Enhance use of technology to agricultural/industrial areas;
 - f. Result in increased productivity in primary industries;

- g. Increase local material content in Imported/manufactured items; and
- h. Contribute to the improvement of the environment.

6.2.2 Projects that fall under DOST priority sectors.

6.2.3 Types of business organizations:

- a. Sole Proprietorship – applicant must a Filipino citizen and holding a valid patent with the Intellectual Property Office (IPO).
- b. Partnership – the inventor must be a full partner of the duly registered partnership-applicant.
- c. Corporation – at least 60% Filipino-owned and with the inventor as a stockholder. For tax purposes, the inventor/patentee must own the majority interest.

6.2.4 The maximum guarantee coverage is P200,000 under the Act, provided that assignment of rights to the invention should be executed in favor of the bank or government financing institution.

6.2.5 Endorsed by the government banks for guarantee coverage and has passed the bank assessment and evaluation.

Section 7. Financial and Loan Assistance from Government Banks That Maybe Covered By IGF (Article V, Sec 10, RA No. 7459)

Subject to the Rules/Guidance of the Government Banks/Financing Institutions:

- 7.1 The amount of loan shall depend on the need and growth potential of the project and paying capacity of the proponent.
- 7.2 The term of the loan shall be determined by the cash flow and/or return of investment (ROI) of the project. In no case shall the term exceed five (5) years unless a longer term is justified.
- 7.3 Equity/Collateral Requirement
 - 7.3.1 The equity requirement shall not be less than 15% of the total project cost.
 - 7.3.2 The loan shall be secured through offer of collateral in the form of chattel and/or real estate mortgage, the loan value of which are 50% to 60% of the appraised value, respectively.
- 7.4 Loans of not more than Php200,000 shall be granted without need of real estate collateral. Provided, however, that an assignment of rights to the invention shall be executed in favor of the government bank or financing institution, subject to other lending terms, conditions and availability of loanable funds by the government bank or financing institution.

7.5 No limit on the amount of the loan applied for shall be granted to the inventor who can provide fifteen percent (15%) equity of the loan applied for, provided, that acceptable collaterals can be presented to fully secure his loan.

7.6 Other Financing Scheme that may be availed of:

7.6.1 Rediscounting of foreign/domestic Irrevocable letters of credit/purchase orders shall not exceed 80% of its peso value.

Section 8. Expanded Function of the Institute

8.1 In order to carry out the incentives in this Act, the Institute shall have the following expanded function:

8.1.1 Assist technologies, inventors and researchers, avail of the laboratories and other facilities of the RDI's including regional offices and other government agencies, offices and instrumentalities upon recommendation of the Director of the Institute. Provided, that the recipient of such assistance agree to give to the Institute at least one-tenth (1/10) of all royalties arising from the technology or invention depending upon the extent of facility or services utilized to help maintain the research laboratories;

8.1.2 Accredite and recognize inventor organizations throughout their activities.

8.2 For these purposes, the Institute shall prescribe guidelines and procedures.

8.3 The operational and administrative procedures of the IRR will be covered by Circulars and Issuances of the Department/Institute.

Section 9. Amending Clause

These guidelines, rules and regulations shall be amended from time to time as condition warrants.

Section 10. Separability Clause


If any part or provisions of this rules and regulations be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue in full force and effect

Section 11. Repealing Clause

Any rules or regulations, executive orders or parts thereof inconsistent with this rules and regulations are hereby repealed or modified accordingly.

Section 12. Effectivity

These rules and regulations shall take effect immediately upon publication in one (1) newspaper of general circulation and registration with the UP Law Center.


ESTRELLA F. ALABASTRO
Secretary, DOST

