

---

**SPEED LIMITS ON RA 8794 IMPLEMENTATION:  
An Assessment of the Implementation of the  
Motor Vehicle User's Charge Law**

**I. Executive Summary**

A year and a half has passed since Republic Act 8794 was signed into law providing for the creation, from out of collections of motor vehicle user's charges, of four Special Road Funds for road maintenance and safety and vehicle pollution control projects. So far, government's implementation of its provisions and those of its implementing rules and regulations (IRRs), leaves scope for improvement (Please refer to Annex A for a summary of the status of implementation of RA 8794.).

Although a Road Fund Board has been created, its Secretariat still has to be formed, thereby depriving the Board of vital full-time administrative and secretariat support. At present the functions of the Secretariat are being fulfilled by a Task Force composed of Department of Public Works and Highways (DPWH) personnel who are tasked to perform administrative and clerical work for the Board over and above their normal functions at the DPWH. The most vital component of the Secretariat is the Executive Director, who is to be charged with the day-to-day business of the Fund Board.

There is also a need for the creation of the Road Program Office (RPO) at the DPWH to implement the road maintenance and safety programs that are to be funded by the Special Road Funds.

The Manual of Operating Procedures (MOP) of the Board likewise needs to be approved. The IRRs of RA 8794 provide that six months after its effectivity, on 16 August 2000, an MOP needs to be developed and issued by the Fund Board. It has now been 16 months since the IRRs were issued and took effect.

Moreover, the Board still has to approve the contracting methods and competitive bidding procedures that will govern the awarding of road maintenance and safety projects that will be funded by the Special Road Funds.

Finally, an Agency Code, which will authorize the Board to disburse funds from the Special Road Funds has yet to be assigned by the DBM. The DBM states it cannot entertain a request for fund release until the Executive Director is appointed.

The delays in the creation of the Board Secretariat and the RPO are the result of the government's financial belt-tightening policy, which discourages the creation of new agencies, unless these are covered by available funds. As far as the creation of the Board Secretariat is concerned, a case can be made for its exemption from the policy since the IRRs provide that its personnel and operating costs be sourced from the Road Fund. In the case of the RPO, current DBM policy provides that the DPWH Bureau of

---

Maintenance (BOM), which has similar functions, be dissolved before the Office can be created.

The delays in the issuance of the Manual of Operations, the approval of the contracting and competitive tender procedures, and the issuance of the Agency Code are the result of the absence of a full-time Secretariat and Executive Director.

Two issues also need resolution if the functioning of the Fund Board is to be facilitated. The first one is the decision by the DBM to cease the release of the regular General Appropriations Act (GAA) budget of the DPWH for road maintenance. This decision is based on the fact that the GAA allocation for road maintenance has been sourced from vehicle registration charges, which now have been replaced by the motor vehicle user's charges. Since these charges are now accumulated into the Special Road Funds, the government needs to identify other sources of funds for the DPWH's regular road maintenance budget. In the meantime, the DBM is of the position that it will stop the release of such regular maintenance budget.

The second issue is the disposition of the earnings from the Special Road Funds. The law has not been explicit in stating that such earnings will accrue to the Special Road Funds. As such, these earnings are treated as unprogrammed funds and can therefore be spent on other government programs.

In order to facilitate the implementation of RA 8794 and the functioning of the Fund Board, several imperatives are apparent. First is the resolution of the administrative bottlenecks in the creation of both the Board Secretariat and the DPWH-RPO. In the case of the Secretariat, advocacy within the Executive Branch, especially the Office of the President, would need to be undertaken to emphasize the urgent need for such a unit to be created. The legal basis for the creation of the Secretariat should be made clearer. So should the fact that the Secretariat's operating expenses are already provided for from available funds, and its creation is therefore not in contravention with the government's austerity policy.

In the case of the RPO, the DPWH must develop the political will to resolve the issue. It must effect the dissolution of the BOM and provide for the creation of the RPO. If it cannot do so, then it should try to forge a compromise arrangement with the DBM to allow it to retain the BOM and then create the RPO.

It is also apparent that an agency code must be assigned to the Fund Board. The DBM must be convinced that it is possible to assign the agency code to the Board and then institute measures that would prevent the disbursement of the Special Funds without the authority from the duly-appointed Executive Director.

The issue of the cessation of the release of the regular maintenance fund of the DPWH must be resolved. It must be made clear to the DBM that its position is in complete contradiction with RA 8794 which provides for the continuing appropriations for road maintenance over and above the Special Road Funds. Moreover, sources other

---

than vehicle registration charges must be found to finance the regular road maintenance budget of the DPWH.

Finally, the issue about the earnings from the Special Road Funds must be resolved. One option is for the IRRs to be amended such that it becomes explicit that such earnings will accrue to the Special Road Funds.

## **II. Assessment Background and Rationale**

On June 27, 2000, Republic Act (RA) 8794, entitled “An Act Imposing a Motor Vehicle User’s Charge on Owners of All Types of Motor Vehicles and for other Purposes,” was enacted. Aimed at rationalizing road user taxation in the country, while ensuring adequate funding for the maintenance of national and provincial roads, the law provides for, among others, the:

1. collection of motor vehicle user’s charges (MVUCs), in lieu of the registration fee, based on the actual damage caused by a vehicle type as determined by the gross vehicle weight (GVW);
2. increase by 100% from current levels of registration fees, the increment to be phased in four years, with the fees being increased by 25% annually;
3. creation of a Road Fund from the collection of MVUCs for use in the maintenance of roads, improvement of road drainage, installation of road safety devices, and control of vehicular pollution;
4. creation of a multi-sectoral Road Board composed of representatives of government and the private sector, particularly transport and motorists’ organizations, to manage the use of the Road Fund; and
5. adjustment, by the President, of the MVUCs to consider inflation.

The revenues that will be generated from the implementation of these provisions are expected to raise funds to finance a progressively increasing portion of the annual requirement of P 10 billion to maintain the national road network. The P 3.4 billion needed annually for the next 10 years to eliminate the accumulated backlog of road maintenance measures are also expected to increasingly be covered by the same revenues.

It has been a year and five months since the enactment of the legislation. An assessment of the progress made in the creation and use of the Road Fund, and an analysis of the factors that affect the undertaking are therefore called for. From such assessment and analysis, measures could be identified to refine the modes of implementing RA 8794, should these be warranted. On the part of AGILE and the USAID, which have actively supported the passage and implementation of the law, the assessment and analysis should be able to identify technical and advocacy support needed to push further the reforms called for under RA 8794.

---

### III. The Establishment and Use of the Road Fund as Prescribed by RA 8794

RA 8794 and its implementing rules and regulations (IRRs) call for eight main measures to establish and use the Road Fund. These are:

1. ***Establishment of the Road Board.*** The law calls for the President of the Philippines to organize a Road Board to ensure the prudent and efficient management and utilization of the Road Fund. The Board has the secretary of the Department of Public Works and Highways (DPWH) as the chair. For its members, it has the secretaries of the Departments of Finance (DOF), Budget and Management (DBM), and Transportation and Communication (DOTC) as well as three representatives of transport and motorists' organizations with at least five years' active existence.
2. ***Establishment of Four Special Funds.*** The law requires the segregation and distribution of the Road Fund revenues into 4 special trust accounts maintained with the Bureau of Treasury (BTr):
  - Special Road Support Fund;
  - Special Local Road Fund;
  - Special Road Safety Fund; and
  - Special Vehicle Pollution Control Fund.

The Special Road Support Fund, to which is earmarked 80% of all collections, is to fund the maintenance, and improve the drainage, of national roads. The Special Local Road Fund, which is to account for 5% of the total MVUC collection, meanwhile, is to fund the cost of the maintenance of, as well as traffic management and road safety measures related to, local roads. The Special Road Safety Fund, for its part, is expected to finance the installation of traffic lights and road safety devices. It will account for 7.5% of total collections. Finally, the Special Vehicle Pollution Control Fund, for which the remaining 7.5% of the total MVUC revenues will be allocated, will finance measures aimed at preventing, controlling, and managing air pollution caused by vehicles.

3. ***Collection of MVUCs.*** Under Section 7 of Article I of the IRRs, the Road Board is tasked to collect MVUCs, as specified in RA 8794, from July 16, 2000 or the law's effectivity date.
4. ***Establishment and Operation of a Fund Board Secretariat.*** The IRRs provide for the creation of a Road Fund Secretariat to render accounting, auditing and administrative functions for the Road Board.
5. ***Creation of the DPWH-RPO.*** Aside from the Secretariat, the IRRs call for the creation of the Road Program Office (RPO) under the DPWH. The RPO will assist the Road Board in planning for road maintenance and road safety projects.

---

budget allocation, reporting of fund status and progress of activities, and development of systems for monitoring fund disbursements and quality of work.

6. ***Development of a Manual of Operating Procedures (MOP).*** The IRRs also mandate that a Manual of Operating Procedures be developed within six months after the rules have gone into effect. The manual is to outline the administrative procedures that will be followed in implementing RA 8794 and its IRRs.
7. ***Approval of Contracting Methods and Competitive Bidding Procedures.*** Under the IRRs, the Road Board is responsible for prescribing procedures controlling the competitive bidding for the implementation of road maintenance and safety projects to be funded out of the Road Fund.
8. ***Approval of the 2001 Work Programs.*** The Road Board is also expected to approve the work programs for the use of the four Special Funds.

#### **IV. The Road Fund as Established and Used by the Government**

The government has implemented the eight major undertakings prescribed by RA 8794 and its IRRs thus:

1. ***Establishment of the Road Board.*** Then-President Estrada created a Road Board in November 2000 and appointed the Board's members.

At present, the Board has six of the seven members required by law. One member, a representative of transport and motorists' organizations, had died and no replacement has yet been designated.

2. ***Establishment of Four Special Funds.*** The DBM created such funds in January 2001 by assigning program codes for each. This action prevented the MVUC collections from being co-mingled with national funds, thereby precluding such revenues being expended for purposes other than those specified under RA 8794.

However, to draw from the special funds, an agency code needs to be assigned to the Road Board by the DBM. In all requests for funds, this agency code will be needed as reference. The DBM has yet to assign such a code to the Board.

3. ***Collection of MVUCs.*** The Land Transportation Office (LTO) started collecting the MVUCs in January 2001, more than five months behind the effective start date set by law. The one-month lag between the issuance of the IRRs in August 16, 2000, and the establishment of the Road Board in November 2000 resulted in this slack in the collection of the MVUCs.

---

For the period January to April 2001, MVUCs totaled P 990 million, as certified by the LTO. As of July 2001, the total collection rose significantly to P2.09 billion.

4. ***Establishment and Operation of a Fund Board Secretariat.*** No Fund Board Secretariat exists. The President, moreover, has yet to appoint an Executive Director for the Board. The recommendation for Engr. Remedios Belleza, a member of the Land Transportation and Franchising Regulatory Board (LTFRB), to be designated as Executive Director was made in August 2001.

At present, secretariat support is being provided to the Fund Board by a Secretariat-Task Force, which is headed by DPWH Administrative and Manpower Services Group Director Burt Favorito, and manned by DPWH Administrative and Services Group personnel.

5. ***Creation of the DPWH-RPO.*** No RPO has been created at the DPWH. Technical support to the Road Fund Board is currently being provided by an RPO-Task Force headed by Luisito Visorde, Director of the DPWH Bureau of Maintenance (BOM).
6. ***Development of an MOP.*** The Board developed a draft-manual in September 2001, six months after the required completion date. Mr. Kennaird, a consultant under the Opus project funded by the New Zealand government, prepared this draft. He also prepared a 3-year Business Plan (2002-2004) for the Road Board.
7. ***Approval of Contracting Methods and Competitive Bidding Procedures.*** The Board has not yet approved the contracting methods and competitive bidding procedures that will govern its funding of road maintenance and safety projects, as well as air pollution control measures.
8. ***Approval of the 2001 Work Programs.*** The Board has tentatively approved last August, the 2001 Annual Work Programs (AWPs) for both the Special Road Support Fund and the Special Road Safety Fund. The AWPs proposed by the RPO-Task Force for this Fund was revised to include the length of the road and vehicle population as bases for the regional allocation of said funds.

In its November 8 meeting, the Board finalized its approval of the first part of the 2001 AWP. Phase I of the AWP corresponds to programs that will be funded by 2001 collections and will commence in March 2002. Phase II of the AWP, which consists of programs that will be funded by collections in the first half of 2002, is still under review by the DPWH Secretary.

The Road Board has requested the DOTC to propose a work program for vehicle pollution control in November 2001. Meantime, the Department of Interior and Local Government (DILG) may be asked to propose projects to be financed by the Special Local Road Fund.

---

V. **Factors Constraining the Full Implementation of RA 8794**

Three *main factors* hamper the full implementation of RA 8794. These are:

1. ***The Absence of a Road Fund Secretariat and its Executive Director.*** Approval from the DBM and the Office of the President (OP) of the Road Board's request for the creation of new positions for the Road Fund Secretariat has been slow. The delay has been the result of the current administration's financial belt-tightening policy. This austerity policy is evident in Administrative Order (AO) No. 5, series of 2001, which, among other provisions, prohibits government agencies from the (a) operationalization of new agencies or offices; (b) expansion of organizational units and creation of positions; and (c) establishment of task forces, inter-agency committees and interim bodies.

Citing the existence of this AO, the OP has referred back to the DBM its endorsement of the Board request for approval of the Secretariat positions. The OP has issued instructions to the DBM to justify the exemption of the Board Secretariat from the dictates of AO 5.

The DBM has already prepared a new justification for the Board request. This justification is yet to be transmitted to the OP.

2. ***The Absence of an RPO.*** The creation of the RPO is also being held back by the policy of austerity by the current administration. Aside from AO 5, the DBM is also implementing a "scrap-and-build" policy under which new government units and agencies can be created only if existing positions are abolished. For the specific purpose of the RPO, this means that the Bureau of Maintenance (BOM) of the DPWH would need to be dissolved and the abolished position from its dissolution used to create the new positions for the proposed RPO.

There is some reluctance on the part of the DPWH in abolishing the BOM to make way for the creation of the RPO. This reluctance mainly stems from the fact that the number of proposed positions for the RPO is not enough to absorb all of the more than 300 BOM personnel. The excess BOM personnel will have to be retired.

At present, the DBM is awaiting the official request of the DPWH for the creation of the RPO positions and, necessarily, its plan for the dissolution of the BOM and the affected personnel. After it has considered this request, and when it has found it meritorious, the DBM will transmit the request and its recommendation for approval to the OP. It is of the opinion that this recommendation and the justification for the creation of the Board Secretariat will best be submitted to the OP together. It believes that a more comprehensive picture of the whole issue will be transmitted to the President in this manner.

- 
3. ***The Absence of an Agency Code for the Board.*** The Agency Code, which will authorize the Board to disburse the Special Funds deposited in the Bureau of Treasury, has not been issued by the DBM. The DBM has expressed its preference to issue the said agency code after the creation of the regular positions of the Board Secretariat has been approved. It prefers that the Board first acquire the services of an Executive Director who is tasked with, among other functions, requesting in behalf of the Board, the release of allocated budgets from the DBM. In this manner, the request for, and the release of funds, are done through responsible and accountable authorities/agents of the government.

## VI. Issues in the Implementation of RA 8794

Several issues need to be resolved in order to foster the smoother functioning of the Fund Board. These are:

1. ***The DBM Decision to Cease the Release of the Regular GAA Budget of the DPWH for Road Maintenance.*** The DBM informed the Road Board that the regular fund of the DPWH drawn from the General Appropriations Act (GAA) or national budget would cease to be released once the Road Fund is utilized. It emphasized that the GAA allocation for road maintenance is traditionally sourced from vehicle registration charges. Since these charges are now collected under the Special Funds, government will have to identify other sources of funds for the regular DPWH road maintenance fund. The DBM claims that government does not have alternative revenue sources to cover the regular budget of the DPWH.

In terms of the formulation of future GAA budgets, the implication of the DBM's position is that no road maintenance fund will be provided for the DPWH out of the regular GAA budget.

The DBM position is in complete contradiction with Section 8 of RA 8794 that provides for the continuing appropriations for road maintenance. More particularly, it states that, "The four (4) special funds established under this Act shall be distinct and separate from and in addition to any appropriation authorized and granted yearly to the DPWH and DOTC . . . Congress shall continue to appropriate an amount in the General Appropriations Act (GAA) for road maintenance of the DPWH".

In recognition and compliance of this provision, the IRRs have provided for a clear delineation of projects to be funded by the Road Fund and by the regular fund of the DPWH (complementary funding). It provides that recurring maintenance projects must be sourced out first from the regular maintenance fund, while non-recurring road works are to be financed from the Road Fund.

The DBM position, if allowed to prevail, would have extremely deleterious effect on one of the main objectives of RA 8794, which is to reduce the backlog in the



---

annual road maintenance requirement, which has been estimated at ₱9.8 billion a year. Should the regular road maintenance budget of the DPWH be stopped, this backlog will remain unresolved.

2. ***The Disposition of Earnings from the Special Funds.*** While the law explicitly provides that the Special Funds will be used exclusively for financing road maintenance, road safety and pollution control programs, interest earnings on the special funds deposited with the Bureau of Treasury does not become part of the Road Fund. Rather, these accrue to the government and are treated by the DBM as unprogrammed government funds.

The earnings are substantial. At present the Special Funds amount to P 2.1 billion. If this fund is placed in one-year Treasury bills, it would earn 10.9% in interest, or ₱229 million. Such additional funds could be used to further bolster the government's road maintenance program.

## VII. Recommendations

Clearly, several initiatives need to be undertaken to speed up the implementation of RA 8794. The more vital ones are the following:

1. ***Resolve the Administrative Bottlenecks in the Creation of the Board Secretariat.*** The main hindrance to the full implementation of RA 8794 is the absence of the Fund Board Secretariat and Executive Director. It hinders the full operations of the Board, considering that the personnel of the ad-hoc Secretariat-Task Force provide administrative and clerical support over and above their normal functions at the DPWH. It also hinders the achievement of organizational normalcy, which is vital for the long-term viability of the agency.

There is therefore a need to advocate in the strongest possible manner for the approval, by the President, of the appointment of the Executive Director and personnel of the Fund Board Secretariat. The legal basis for the creation of the Secretariat must be made clearer to the OP. What should also be emphasized is the fact that the salary expense to be incurred in creating the positions of the Secretariat is drawn from the overhead expense allocation, equivalent to 1% of the Road Fund, provided by RA 8794. The creation of the Secretariat would therefore be covered by available funds, and therefore not in conflict with the content and spirit of AO 5. Furthermore, the urgency of creating the Secretariat and appointing the Executive Director must be made clearer. Finally, an advocacy campaign to generate public clamor for the full implementation of RA 8794 should be mounted to provide additional pressure on the Executive Branch.

2. ***Address the Policy and Budgetary Constraints to the Creation of the RPO.*** There is, first and foremost, a need for political will on the part of the DPWH to effect the reorganization of its BOM and, consequently, provide for the creation

of the RPO. If such will does not exist, then the DPWH has to forge a compromise settlement with the DBM to allow for the retention of the BOM and then the creation of the RPO. What could perhaps be considered is the re-assigning of BOM personnel to occupy the estimated 30 positions in the RPO, and then the retention of the BOM together with the rest of its personnel. This, of course, requires the strongest justification, considering that the potential for overlapping of functions between the BOM and RPO is great. Whatever measure is adopted to address the problem, what is clear is that the situation cannot be left unresolved.

3. ***Secure an Agency Code for the Board.*** What is not apparent is the validity of the reasoning behind the DBM's refusal to assign an Agency Code to the Fund Board in the absence of a representative accountable officer in the person of the Executive Director. It is possible to assign the agency code to the Board and then institute measures that would prevent the disbursement of the Special Funds without the authority from the duly-appointed Executive Director. This should address the overriding concern of the DBM of funds transactions being consummated without an accountable officer for the Board.

With an Agency Code assigned to the Board, fund disbursement can commence immediately upon the appointment of the Executive Director. As things stand, a lag will be experienced between the appointment of the Executive Director and the disbursement of the Special Funds, the gap being equivalent to the time spent in assigning the agency code.

4. ***Reverse the DBM Policy on the Regular DPWH Road Maintenance Budget, and Develop Alternative Funding for such Budget.*** Advocacy with the DBM must be strengthened to persuade the agency to reverse its policy of stopping the release of the DPWH's regular road maintenance project once the Special Road Funds are in use. The legal infirmity of this position must be made very apparent.

Moreover, sources other than vehicle registration charges must be found to finance the regular road maintenance budget of the DPWH. Once identified, these need to be earmarked for the purpose. The best way of doing so is through legislation, which can be drafted and advocated by the Department of Finance (DOF), DPWH, and DBM, together.

5. ***Provide for the Accrual of Earnings to the Special Road Funds.*** One way of doing so is to amend the IRRs to provide for such accrual.

**ANNEX A**  
**MATRIX OF ACCOMPLISHMENTS ON THE ROAD FUND**  
**vs. REQUIREMENTS OF RA 8794**

KEY REQUIREMENTS	LEGAL BASIS	TIMETABLE	STATUS	REMARKS
1. Issuance of the Implementing Rules and Regulations (IRRs)	RA 8794	IRR to be promulgated within 30 days from the effectivity of the RA, or on or before by 16 Aug 2000	Done. The DPWH and DOTC issued a joint IRR on 16 Aug. 2000.	
2. Creation of the Road Board to efficiently manage and utilize the Road Fund. The Board is considered operational once majority of the 7 members (3 private sector representatives) have been designated.	RA 8794 and IRR	none	Done. Former Pres. Estrada appointed the Department Secretaries (DPWH, DOF, DBM and DOTC) as ex-officio members and 3 members from the private sector. One of the private sector members passed away and has not been replaced.	Private sector board members will recommend a replacement for 1 board seat. The DPWH & DOTC Secretaries will then nominate the recommended candidate to the President for approval.
3. Creation and operation of a Road Fund Secretariat to assist the Board in managing the Funds and implementing the Board's decisions.	IRR	none	Not yet created pending approval of DBM. Request for creation of new positions is under review by DBM. A task force was created by DPWH to serve as interim Secretariat.	DBM is waiting for the appointment of the Executive Director of the Secretariat before it will approve the creation of the Secretariat positions.
4. Creation of the DPWH Road Program Office (RPO) to determine the annual requirements for road maintenance and road safety, and prepare the work programs for these purposes	IRR	none	Not yet created pending approval of DBM. Request for creation of new positions is under review by DBM. A task force was created by DPWH to serve as interim Secretariat.	Due to AO No. 5, DBM cannot approve the proposed creation of positions for the RPO. DPWH is constrained to abolish existing positions & dissolve the Bureau of Maintenance, to be replaced by the RPO. DPWH is evaluating this option.

KEY REQUIREMENTS	LEGAL BASIS	TIMETABLE	STATUS	REMARKS
5. Collection of Motor Vehicles User's Charge (MVUCs) by the Land Transp. Office (LTO) as part of the annual vehicle registration.	IRR	The MVUCs shall be collected by LTO starting 16 July 2000, effectivity date of RA 8794.	LTO started collecting the MVUCs in January 2001. The Road Board became operational only in Nov. 2000.	
6. Establishment of 4 Special Funds constituting the Road Fund to finance projects on road maintenance, road safety and pollution control, as earmarked by the Road Board.	RA 8794	none	The 4 special road funds were created but the Road Board still does not have access to these funds. DBM has to assign an agency code to the Road Board to give the latter authority to disburse.	DBM will likely assign an Agency Code after approving the creation of new positions for the Secretariat.
7. Approval of Work Programs (WP) for utilization of the following Special Funds: a. Special Road Support Fund  b. Special Road Safety Fund  c. Special Vehicle Pollution Control Fund  d. Special Local Road Fund	IRR	Approval to be done on an annual basis, prior to start of the financial year.	<p>The Road Board tentatively approved the WP for the Special Road Support Fund and the Special Road Safety Fund in August 2001. The RPO was asked to revise the WP to include new criteria - length of the road &amp; vehicle population.</p> <p>DOTC has been asked by the Road Board to present proposed work programs for the Special Vehicle Pollution Control Fund.</p> <p>DILG may be asked to present the proposed projects for provincial and city road maintenance works, to be funded out of the Special Local Road Fund.</p>	<p>The Work Program for the road support and road safety funds has been revised. Last Nov. 8, the Road Board approved Phase I of the WP, which will be financed by collections of the Road Fund for 2001.</p> <p>DOTC is expected to present its proposed projects to the Road Board before end-2001.</p> <p>No date has been set for presentation to the Board of the work program for the Special Local Road Fund.</p>
8. Development of a Manual of Operating Procedures	IRR	Within 6 months after effectivity of the IRRs, or on or before Feb 2001	Draft of operations manual submitted by Opus consultant to the Road Board on 14 Sep 2001; currently under review.	