



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
Visayas Avenue, Diliman, Quezon City
Tel. No. 929-66-26

URGENT MEMORANDUM

TO : All Regional Executive Directors
DENR CAR, 1 to 13, except NCR

ATTN: All PENR Officers
All CENR Officers

FROM : The Undersecretary
Legal, Administration, Human Resources and Legislative Affairs

SUBJECT : GUIDELINES ON THE HIRING OF LAWYERS UNDER
CONTRACTS OF SERVICE, OR RENEWAL OF SUCH
CONTRACTS IN THE CENR AND IMPLEMENTING PENR
OFFICES COVERING THE PERIOD JANUARY TO JUNE 2022

The following provides guidance on the hiring of lawyers under Contracts of Service, or renewal of such contracts in the CENR Offices (CENROs) and Implementing PENR Offices (PENROs):

1. Hiring/Renewal of Contracts

CENROs/Implementing PENROs shall require all lawyers with existing contracts to signify in writing their intention to continue services in the DENR from January to June 2022 to determine whether or not recruitment should be initiated for hiring in the second semester.

Vacancies shall be posted by the Chiefs of the Management Services Division (MSD) in the PENROs from 22 November to 03 December 2021 using all available media. Regional Offices may seek the assistance of the Personnel Division on recruitment. Deadline for submission of applications for contracts is on 10 December 2021.

All applicants will be required to submit the following documents to the CENROs or Implementing PENROs:

1. Duly accomplished Personal Data Sheet or PDS (CSC Form 212 rev 2017);
2. Certificate of Good Standing issued by the Integrated Bar of the Philippines (IBP) issued not earlier than three (3) months prior to the date of application;
3. Mandatory Continuing Legal Education (MCLE) Compliance Certificate for the current period for those who are members of the bar for a period of three (3) years or more. Otherwise, such lawyer-applicant shall submit a document showing proof of the year he/she passed the bar examination;
4. Disclosure of Conflict of Interest; and
5. Proof of life and accident insurance coverage during the six (6)-month period of engagement.

Screening and interview will be conducted by the CENROs/Implementing PENROs. Results of the assessment and recommendation shall be forwarded by the CENROs to the PENROs which in turn shall submit to the Regional Executive Director (RED),

through the Assistant Regional Director for Management Services. The Regional Office shall make the final selection/approval of hiring.

2. Renewal

Lawyers who signified their intention to continue their engagement with the DENR shall be evaluated by the CENR Officer/Implementing PENR Officer concerned based on their performance in the second semester covering July to December of CY 2021. On such basis, the CENR Officers/Implementing PENR Officers will decide on the renewal of contract of service:

Lawyers whose contract will be renewed shall be required to submit to the CENRO/Implementing PENRO concerned the following "*updated*" documents:

1. Duly accomplished Personal Data Sheet (PDS) per CSC Form 212 rev 2017;
2. Mandatory Continuing Legal Education (MCLE) Compliance Certificate for the current period for those who are members of the bar for a period of three (3) years or more. Otherwise, such lawyer-applicant shall submit a document showing proof of the year he/she passed the bar examination;
3. Status Report of Cases previously handled, if any;
4. Proof of life and accident insurance coverage during the six (6)-month period of engagement;
5. Accomplishment Reports for the previous contract.

Those whose contract will not be renewed shall be given a written notice not later than 08 December 2021.

3. The Office of the Solicitor General's (OSG's) written conformity and acquiescence, OSG deputation, and Commission on Audit's (COA's) written concurrence

I. *OSG conformity and acquiescence* - The OSG expressed its conformity and acquiescence to the DENR's hiring of private lawyers in a Letter dated 30 August 2017 of Solicitor General Jose Calida of the OSG to Undersecretary Ernesto D. Adobo, Jr. of the DENR.

II. *OSG deputation* - OSG Memorandum dated 15 December 2015 of Solicitor General Florin Hilbay addressed to all government agencies sets forth the following requirements:

a. Request for original deputation with the following:

1. Curriculum Vitae (CV) or PDS;
2. MCLE Certificate for the current compliance period;
3. IBP Certificate of Good standing for the current year;
4. Copy of the proposed Contract of Service (for the private lawyers); and
5. Letter request for deputation of private counsel must also state the reason of the need to engage their services.

b. Request for renewal deputation with the following:

1. Updated MCLE Certificate, if applicable;
2. Integrated Bar of the Philippines (IBP) Certificate of Good standing for the current year;
3. Status Report of Cases previously handled, if any; and
4. Copy of the proposed Contract of service.

III. Pursuant to COA Circular NO. 2021-003 dated 16 July 2021, the written concurrence of COA is not required as long as the following conditions set in Item 4 of the said circular are met.

“ 4.0. CONDITIONS

4.0 Lawyers under Contract of Service of Job Order Contract

- a) *The Engagement is covered by a contract between the government agency and the lawyer, under a Contract of Service or Job Order Contract arrangement, not to exceed one (1) year, renewable at the option of the head of the national government agency ... but in no case to exceed the term of the head;*
- b) *The engagement shall have the written approval of the OSG, in the case of national government agencies ...;*
- c) *The duties and responsibilities to be assigned to the lawyer are similar to those ordinarily performed by lawyers employed by the government agency ... and holding attorney, legal officer, or other lawyer positions in the plantilla;*
- d) *The government agency ... does not have sufficient plantilla positions to support its current requirement for legal services;*
- e) *The lawyer meets the minimum eligibility and qualification standards imposed by the Civil service Commission (CSC) for comparable positions in the government;*
- f) *The compensation of the lawyer shall be the same as the salary of the comparable positions in the government agency ... with no other entitlements except for a premium of up to twenty percent (20%) which may be paid monthly, lump sum, or in tranches (i.e. mid-year and end of the year) as may be stated in the contract. Comparable position is determined based not solely on salary grade but also on the duties and responsibilities of the positions and level of position in the organizational structure or plantilla of the agency. Positions may be considered to be comparable if they belong to the same occupational grouping and the duties and responsibilities of the positions are similar and/or related to each other (CSC Memorandum Circular No. 03, s. 2014); and*
- g) *The lawyer is not employed nor engaged by any private entity or other government agency ... for the duration of the contract. “*

Otherwise, the following requirements stated in the 1st Endorsement dated 30 May 2018 of Dir. Mileguas Leyno of the COA's National Government Sector (NGS) Cluster 8 for Agriculture and Environment be observed and complied with.

a. In Case of New Contracts:

1. Notarized Contracts duly signed by both parties and attested to by witnesses;
2. Conformity and acquiescence from the ODG;
3. Certificate Availability of Funds (CAF) duly verified by Audit Team Leader; and
4. Current MCLE Certificate of Compliance by Legal Retainer

b. In case of Renewal:

1. Same requirements from Nos 1 to 4 above;
2. Accomplishment Report of the Legal Retainer for the previous contract

4. Processing of Contracts

I. Submission to the Regional Executive Director (RED)

The Chief of the MSD in the PENROs shall be responsible for the initial evaluation and checking of documentary requirements of applicants. The PENR Officers shall submit to the RED, through the Chief of Administrative Division, of the Regional Office the names of all lawyers, together with the contracts and complete documents both required for deputation by the OSG, and for subsequent written concurrence by the COA, not later than the end of business day of 23 December 2021.

II. Request for OSG Deputation

The REDs, through the Chiefs of Administrative Division, shall endorse the contracts and complete documentary requirements to the OSG on or before 19 December 2021, copy furnished the Director for Legal Affairs Service (LAS) of the DENR Central Office. Once the deputation order/s from the OSG has/have been secured by the Regional Offices, the REDs, through the Chiefs of Legal Division, shall furnish the Director for LAS a copy of the said deputation order/s.

III. Execution of Contract

Immediately upon receipt of the deputation order/s from the OSG, the REDs shall inform the PENR Officers for the signing of the contract of service covering the date indicated in the deputation order to 31 December 2021. The PENR Officers shall ensure that the contract shall be signed by the party, attested to by the witnesses, notarized, and transmitted to the RED.

IV. Documentary requirements to be submitted to the COA

The REDs, through the Chiefs of Administrative Division, shall subsequently submit to the resident COA in the Region the following documents: 1) copy of the deputation order/s from OSG, and 2) documents showing compliance with the conditions stated in Item 4 of COA Circular 2021-003 to be exempt from the COA's written concurrence, or letter-request for a written concurrence of the COA submitting the documents enumerated and mentioned in the 1st Endorsement dated 30 May 2018 of Dir. Leyno of the COA National Government Sector, Cluster 8 for Agriculture and Environment, copy furnished the Director for Legal Affairs Service.

5. Training

Newly-hired lawyers will undergo orientation and other learning and development interventions, which will be conducted by the Human Resource Development Section of the Regional Office, in partnership with the Legal Division. A standard module will be prescribed by the LAS.

Lawyers whose contracts have been renewed shall continue to participate in learning and development activities as needed in the performance of their responsibilities under the contract.

6. Remuneration

The lawyers shall be paid a monthly salary in the amount NOT exceeding **Php47,779.00**. They shall also be entitled to claim actual transportation expenses, subject to the usual accounting and auditing rules and regulations.

As basis for payment, the lawyers shall submit proof of services rendered during office hours and field work to be certified by the CENR Officer/Implementing PENR Officer concerned and report of status of cases assigned. Proof of attendance may be in the form of Daily Time Record (DTR), logbook, travel orders (TOs), certification signed by the CENR Officer/Implementing PENR Officer concerned and other such official records of services rendered.

Funding for the contracts of service shall be charged against the Natural Resources Management Arrangement/Agreement and Permit Issuances, FY 2020 General Appropriations Act (GAA) of the Region concerned.

7. Work Assignment

The CENR Officer or the Implementing PENR Officer concerned shall directly supervise the lawyers on the day-to-day operations of the office and shall determine the lawyer's workload, which shall not go beyond the scope of work provided under the Contract of Service.

Within five (5) days from completion of a work month, each lawyer shall prepare a report which specifies his/her accomplishments, including but not limited to, documents evaluated, legal advice rendered, personnel assisted, and movements in cases handled. This accomplishment report shall be submitted to the CENR Officer/Implementing PENR Officer concerned, copy furnished the Chief of Legal Division.

The RED, through the Chief of Legal Division, shall then submit a consolidated monthly report of accomplishments to the Director of Legal Affairs Service not later than the 15th of the succeeding month, using the prescribed format.

8. Court Cases

The Chiefs of Legal Division shall have direct control and supervision over the prosecution and monitoring of all court cases that the lawyers will handle. The latter shall ensure that the former has timely access to all notices, pleadings, and other court processes.

Only lawyers with deputation order from the OSG shall be authorized to appear in court to represent the Department.

The lawyers shall submit reports on the status of cases they are handling to the Chief of Legal Division on the date prescribed by the latter.

The lawyers shall coordinate directly with the Chief of Legal Division on all legal matters affecting the CENROs or Implementing PENROs.

9. Termination of Contract of Service

The contract of service may be pre-terminated only for causes provided under existing laws, rules and regulations.

The lawyers may request the voluntary pre-termination of the contract by serving a written notice to the First Party within fifteen (15) days prior to the date of termination, and upon submission of a clearance and endorsement from the CENR Officer/Implementing PENR Officer concerned.

Any dispute arising out of or in connection with the contract of service (including any question regarding its existence, validity or termination), which is not settled amicably by the Parties within thirty (30) days from receipt of a written notice of dispute, shall give the parties the right to file an appropriate action with the courts having jurisdiction over the matter.

Please be guided accordingly.

ATTY. ERNESTO D. ADOBO JR., CESO I





Republic of the Philippines
COMMISSION ON AUDIT
Commonwealth Avenue, Quezon City

CIRCULAR

No. : 2021 - 003
Date : JUL 16 2021

- TO** : Heads of Departments, Bureaus and Offices of the National Government; Managing Heads and Governing Bodies of Government-Owned and/or Controlled Corporations, including their Subsidiaries, Self-Governing Boards, Commissions or Agencies, and State Colleges and Universities; Local Chief Executives; Commission on Audit Assistant Commissioners, Cluster Directors, Regional Directors, Officers-in-Charge, Supervising Auditors, Audit Team Leaders, Audit Team Members; and All Other Concerned Personnel
- SUBJECT** : Exempting Government Agencies and Instrumentalities, Including Government-Owned or Controlled Corporations from the Requirement of Written Concurrence from the Commission on Audit on the Engagement of: (1) Lawyers under Contracts of Service or Job Order Contracts; and (2) Legal Consultants, subject to specific conditions

1.0 BACKGROUND

Section 2, paragraph 2, Article IX-D of the 1987 Philippine Constitution provides that the Commission on Audit (COA) has exclusive authority to define the scope of its audit and examination, establish the techniques and methods required therefor, and promulgate accounting and auditing rules and regulations, including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant, or unconscionable expenditures, or uses of government funds and properties.

Pursuant to and in compliance with the abovementioned constitutional mandate, the Commission issued COA Circular No. 1986-255 dated April 2, 1986, which was amended by COA Circular No. 1995-011 dated December 4, 1995, requiring the written conformity and acquiescence of the Office of the Solicitor General (OSG) or the Office of the Government Corporate Counsel (OGCC), as the case may be, as well as the written concurrence of the Commission prior to the hiring of private lawyers by government agencies and instrumentalities, including government-owned or controlled corporations (GOCCs). Further, COA Circular No. 1998-002 dated June 9, 1998 was issued amending COA Circular Nos. 1986-255

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and 1995-011, which only requires written concurrence of this Commission in the hiring of private lawyers insofar as Local Government Units (LGUs) are concerned, provided that the conditions under paragraph 3(i), Section 481, Article XI of Republic Act (RA) No. 7160, or the Local Government Code of 1991, are present. Furthermore, COA Memorandum No. 2016-010 dated March 22, 2016 disseminated the revised guidelines of the OSG on the deputation of private lawyers and special attorneys as provided under Memorandum dated December 15, 2015.

The purpose for requiring the written conformity of the OSG or the OGCC prior to the engagement of private lawyers or of legal consultants is to confirm the necessity of such engagement by the government agency or GOCC concerned, while the purpose for requiring COA's written concurrence is to ensure the reasonableness of the amount of legal fees.

In compliance with the abovementioned COA rules and regulations, this Commission has received numerous requests for written concurrence in the engagement of: (1) lawyers under contracts of service or job order contracts; and (2) legal consultants from various government agencies and GOCCs due to absence or lack of *plantilla* positions to meet their legal requirements or the specific legal services not being covered by that provided by the OSG or the OGCC.

However, the reasonableness of the amount of legal fees in the engagement of lawyers under contract of service or job order contract and legal consultants may be guaranteed by safeguards other than the requisite COA's written concurrence; hence, there is a need to revisit such requirement.

In view thereof, national government agencies and GOCCs are exempted from the requirement of prior written concurrence from this Commission under COA Circular Nos. 1986-255, 1995-011; and COA Memorandum No. 2016-010 on the engagement of: (1) lawyers under contract of service or job order contract; and (2) legal consultants, subject to the conditions under Item 4.0 of this Circular.

2.0 PURPOSE

This Circular is issued to avoid unnecessary delay in the hiring of a private lawyer or legal retainer to address the urgent need for legal services in national government agencies and GOCCs under extraordinary or exceptional circumstances, and improve efficiency in government operations.

3.0 COVERAGE

This Circular lays down the conditions on the exemption of national government agencies and GOCCs from the requirement of COA's prior written

concurrence under COA Circular Nos. 1986-255, 1995-011, and COA Memorandum No. 2016-010.

4.0 CONDITIONS

4.1 Lawyers under Contract of Service or Job Order Contract.

- a) The engagement is covered by a contract between the government agency and the lawyer, under a Contract of Service or Job Order Contract arrangement, not to exceed one (1) year, renewable at the option of the head of the national government agency or GOCC, but in no case to exceed the term of the head;
- b) The engagement shall have the written approval of the OSG, in the case of national government agencies, or the OGCC in the case of GOCCs;
- c) The duties and responsibilities to be assigned to the lawyer are similar to those ordinarily performed by lawyers employed by the government agency or GOCC and holding attorney, legal officer, or other lawyer positions in the *plantilla*;
- d) The government agency or GOCC does not have any *plantilla* positions or does not have sufficient *plantilla* positions to support its current requirement for legal services;
- e) The lawyer meets the minimum eligibility and qualification standards imposed by the Civil Service Commission (CSC) for comparable positions in the government;
- f) The compensation of the lawyer shall be the same as the salary of the comparable position in the government agency or GOCC, with no other entitlements except for a premium of up to twenty percent (20%) which may be paid monthly, lump sum, or in tranches (i.e. mid-year and end of the year) as may be stated in the contract. Comparable position is determined based not solely on salary grade but also on the duties and responsibilities of the positions and level of position in the organizational structure or *plantilla* of the agency. Positions may be considered to be comparable if they belong to the same occupational grouping and the duties and responsibilities of the positions are similar and/or related to each other (CSC Memorandum Circular No. 03, s. 2014); and

- g) The lawyer is not employed nor engaged by any private entity or other government agency or GOCC for the duration of the contract.

4.2 Legal Consultants

- a) The engagement is covered by a contract between the government agency or GOCC and the lawyer, as a legal consultant, specifying the activity/project/program, the nature of the engagement (full time or part time), and for a term not to exceed one (1) year, renewable at the option of the head of the government agency or GOCC if the activity/project/program has not yet been completed, but in no case to exceed the term of the head;
- b) The engagement shall have written approval of the OSG, in the case of national government agencies, or the OGCC in the case of GOCCs;
- c) The lawyer possesses the relevant expertise in the matter to which he has been engaged, and such expertise cannot be found among the lawyers employed by the government agency or GOCC, or if comparable expertise does exist, is unavailable;
- d) The procurement process for the engagement of the lawyer as legal consultant has been complied with;
- e) The lawyer is not employed or engaged as a contract of service or job order contract by any other government agency or GOCC, although the lawyer may be engaged as a part-time consultant in up to two (2) government agencies or GOCCs; and
- f) The consultancy fee of the lawyer, including other remunerations and allowances, does not exceed Fifty Thousand Pesos (P50,000.00) per month.

If any of the conditions listed above are not met, the COA's written concurrence shall be required for such engagement.

Notwithstanding the exemption from the requirement of COA's written concurrence, any disbursements made to the private lawyer engaged by the national government agency or GOCC, shall still be subject to post-audit based on existing

rules and regulations of the Commission and to applicable rules and regulations issued by the CSC and other government agencies.

All pending requests for written concurrence and appeals from or reconsideration of Legal Retainer Review or petitions for review of Notice of Disallowances issued on the ground of lack of COA's written concurrence shall be granted after a finding by this Commission of the existence of the abovementioned conditions.

5.0 NON-APPLICABILITY TO LOCAL GOVERNMENT UNITS

This Circular does not apply to LGU, as there are specific provisions for provincial, city and municipal legal officers under RA No. 7160, or the Local Government Code of 1991.

6.0 REPEALING CLAUSE

All circulars, memoranda, and other issuances or any parts thereof inconsistent with this Circular are hereby revoked, amended or modified accordingly.

7.0 SEPARABILITY CLAUSE

In the event that any of the provision of this Circular is declared invalid or unconstitutional, all provisions not affected thereby shall remain valid and with legal effect.


8.0 EFFECTIVITY


This Circular shall take effect after 15 days from publication in a newspaper of general circulation.



COMMISSION ON AUDIT
OFFICE OF THE COMMISSION SECRETARIAT




MICHAEL G. AGUINALDO
Chairperson


ROLAND C. PONDOC
Commissioner