

**DSWD OPINION NO. 09 S. 2024****MEMORANDUM**

**FOR** : **ATTY. EMMELINE AGLIPAY VILLAR**  
Undersecretary for International Affairs, and Attached and Supervised Agencies

**FROM** : **ASSISTANT SECRETARY FOR GASSG AND THE  
CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE**

**SUBJECT** : **LEGAL REVIEW OF THE DRAFT LETTER REQUEST LEGAL  
OPINION TO DEPARTMENT OF JUSTICE**

**DATE** : **02 JANUARY 2024**

This pertains to the DIRECTIVE from the Office of the Secretary for the Legal Service to review the PROPOSED LETTER for the Department of Justice (DOJ) drafted by the Office of the Undersecretary for International Affairs, Attached and Supervised Agencies (OUS-IAASA) which requests for DOJ's legal opinion on whether Section 63 of Republic Act (RA) No. 9344 (*An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department of Social Welfare and Development, Appropriating Funds Therefor, and for Other Purposes*) as amended by RA No. 10630 (*An Act Strengthening the Juvenile Justice System in the Philippines, Amending for the Purpose Republic Act No. 9344, Otherwise Known As The "Juvenile Justice And Welfare Act Of 2006" And Appropriating Funds Therefor*), allows Congress to "provide directly in the budget of the Department of Public Works and Highways (DPWH) the funds for Bahay Pag-asa construction without coursing it through the DSWD/JJWC budget."

**Bases for the clarification being requested by OUS-IAASA**

We note that the main concern of the JJWC in requesting for the interpretation of Section 13 of RA 10630 is anchored on the latter's difficulty to utilize in full the funds appropriated for Bahay Pag-asa on account of some Local Government Unit's delay in the implementation of projects which consequently result in the delay of full liquidation of funds.

COA Circular No. 2016-002 requires full liquidation of cash transferred to LGUs before another transfer is made from the DSWD as the Source Agency to the LGUs as the Implementing Agency/ies. The JJWC believes that the problem will be addressed if "the law would allow Congress to provide DPWH directly in its budget the funds for Bahay Pag-asa construction without coursing through the DSWD/JJWC budget."

Assuming that this is legally tenable for purposes of discussion, there is, however, no legal nor empirical basis to assure that the direct provision of Bahay Pag-Asa funds to DPWH for construction will effectively resolve or address the delay in the liquidation of funds by some LGUs.

## Comment

Section 13 of RA 10630 provides:

“Section 13. Section 63 of Republic Act No. 9344 is hereby amended to read as follows:

Section 63. Appropriations - The amount necessary to carry out the provisions of this Act shall be charged against the current year's appropriations of the JJWC under the budget of the Department of Justice. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the budget of the DSWD under the annual General Appropriations Act: Provided, That the amount of Four Hundred Million Pesos (P400,000,000.00) shall be appropriated for the construction of 'Bahay Pag-asa' rehabilitation centers in provinces or cities with high incidence of children in conflict with the law to be determined and identified by the DSWD and the JJWC on a priority basis: Provided, further, That the said amount shall be coursed through the Department of Public Works and Highways (DPWH) for its proper implementation.

The foregoing provision is unequivocal in stating that the appropriation for construction of Bahay Pag-asa shall be at “*such sums as may be necessary for the continued implementation of this Act*” and “*shall be included in the budget of the DSWD under the annual General Appropriations Act;*” that it would be DSWD and JJWC that would determine, on a priority basis, the construction of Bahay Pag-asa, taking into great consideration the provinces or cities with high incidence of children in conflict with the law (CICL); and that DPWH shall be responsible for the implementation of the construction of Bahay Pag-asa hence, the funds are coursed through such agency.

In the Revised Implementing Rules and Regulations, the same provision of the law is adopted by the JJWC, duly set forth under Rule 80.j. of the said rules.<sup>1</sup>

A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. **There is only room for application.** As the provisions are clear, plain, and free from ambiguity, they must be given their literal meaning and applied without attempted interpretation. This is what is known as the plain meaning rule, as expressed in the maxim, *verba legis*

<sup>1</sup> <https://www.jjwc.gov.ph/wp-content/uploads/2020/01/Revised-Implementing-Rules-and-Regulations-of-RA-9344-as-amended-by-RA-10630.pdf>, retrieved on 16 January 2024

*non est recedendum*, or from the words of a statute there should be no departure.<sup>2</sup> This level therefore submits that an opinion from the DOJ on the interpretation of Section 63 of RA 9344, as amended, is not necessary.

**Recommendations:**


To address the concerns of OUS-IAASA, the following are respectfully recommended:

1. Amendment of Republic Act 9344, as amended by RA 10630, with respect to the funding of Bahay Pag-asa, allowing that the funds for the construction thereof be provided directly to DPWH, with DSWD and JJWC remaining as the agencies responsible for the determination of the construction of Bahay Pag-asa in provinces and cities with high incidence of CICL; and
2. Revisit the implementing rules and reinforce the respective roles of DSWD, JJWC, DILG, LGUs, including the institution of internal controls to ensure the accurate and timely liquidation of funds transferred to LGUs, ensuring strict compliance to existing government accounting and auditing rules.

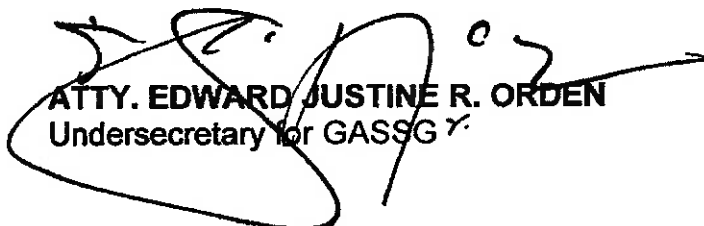
For your consideration.

Please fill-out the attached Customer Feedback Form and return the same to the Legal Service.

Thank you.

  
**ATTY. GINA V. WENCESLAO**  
KAOD/AEB/RLAP/10065

Approved by:

  
**ATTY. EDWARD JUSTINE R. ORDEN**  
Undersecretary for GASSG

<sup>2</sup> Dubongco et al. v. Commission on Audit, G.R. No. 237813, 02 March 2020 (emphasis supplied)