

**DSWD OPINION NO. 19 S. 2024**

DRN: LS-L-LO-24-01-15732-C

**MEMORANDUM**

**FOR :** **JULIUS B. GOROSPE**  
Assistant Secretary and Chief Information Officer  
Office of the Secretary Group

**CHRISTIAN JOSEPH M. REGUNAY**  
Director IV, Information and Communications Technology  
Management

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

**SUBJECT :** **COMMENTS ON THE PROPOSED G-CASH MOBILE  
PAYMENT SOLUTIONS AGREEMENT FOR HELPS AND MTA  
SYSTEM**

**DATE :** **30 January 2024**

This is in reference to your MEMORANDUM dated 22 January 2024, which we received on 24 January 2024, requesting for our opinion on the proposed Mobile Payment Solutions Agreement (“**Agreement**”) between the DSWD and G-XCHANGE, INC. (“**GXI**”) that would allow DSWD to **accept payments through G-Cash Mobile Payments Solutions** for its two systems: (1) Harmonized Electronic Licensing & Permit System (HELPS) and (2) Minors Travelling Abroad (MTA).

Please consider our comments below.

**Executive Order No. 170, series of 2022, with subject “Adoption of Digital Payments for Government Disbursements and Collections”, specifically directed all covered agencies<sup>1</sup> to adopt digital payment for their respective disbursements and collections, to wit:**

**“Section 4. Digital Payments for Government Collections. All Covered Agencies are mandated to offer a digital mode of collecting payments for taxes, fees, tolls, and other charges and impositions. It is understood that this Order does not foreclose the acceptance of cash and other traditional modes of payment.**

Covered Agencies shall utilize secure payment processing to ensure that various digital payment methods are accepted. For this purpose, Covered Agencies may engage the services of established Payment Service Providers, provided that only interoperable digital payment solutions which are compliant with the National Retail Payment System Framework shall be availed.

<sup>1</sup> Under Section 2 of EO 170, “covered agencies” refer to all departments, agencies and instrumentalities of the government, including state universities and colleges, government-owned or –controlled corporations.

Subject to existing laws, rules and regulations, the partner Payment Service Providers of Covered Agencies shall not be limited to Government Servicing Banks.”

However, while agencies, like the DSWD, have been authorized to offer a digital mode of collecting payments for charges and impositions, we respectfully submit that EO 170 is not a stand-alone policy, and it is crucial that **EO 170 should be read vis-à-vis with other relevant issuances, particularly Commission on Audit (COA) Circular No. 2021-014.** As a matter of fact, EO 170 explicitly recognizes said COA Circular as the national policy which provides clear audit policies and guidance on the use of digital collections and payments for government transactions<sup>2</sup>.

COA Circular No. 2021-014, with subject “Guidelines on the use of Electronic Collection (e-collection) and Electronic Payment (e-Payment) for Government Transactions” provides:

“5.0 Guidelines

5.1. General Guidelines

**5.1.1 Government entities that employ the services of intermediaries for the performance of collection or disbursement function shall execute a contract with the latter.** After signing the contract, the government entity shall furnish the Audit Team concerned with a copy of the completed contract within five (5) working days from approval thereto, pursuant to COA Circular No. 2009-001 dated February 12, 2009. The scope of the collection or disbursement function between the government entity and the intermediary shall be made clear in the terms and conditions of the contract. The scope may cover a particular government program, project, or activity for a specific period, office, recipient/payee group. the contract shall contain, at the minimum, the responsibilities of the parties on reporting facility and security standards to be observed.

**5.1.2 Intermediaries<sup>3</sup>, other than AGDBs [Authorized Government Depository Banks]<sup>4</sup>, engaged under a Collect-Aggregate-Remit or Transfer-Distribute-Liquidate scheme shall be contracted in compliance with RA No. 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations (IRR) or with RA 6957 (BOT Law) as amended by RA No. 7718.** For the purpose of acquiring the services mentioned above, the government entities shall **engage only with BSP-regulated/supervised intermediaries.** The contract shall contain, among other, the Auditability Clause as required under COA Circular No. 2020-010 dated December 2, 2020.” (Emphasis and Underline Supplied)

<sup>2</sup> 7th Whereas Clause of EO 170

<sup>3</sup> Intermediaries refer to AGDBs, EMIs, EPGPs, banks or any other BSP-regulated private entity facilitating government entity’s collection or payment transactions

<sup>4</sup> Department of Finance (DOF) Circular No. 001-2015, as amended by DOF Circular No. 01-2017, or the “Amended Guidelines on Authorized Depository Banks”, AGDBs are banks where NGAs/ GOCCs/ GFIs/ GICPs/ GCEs and LGUs are allowed by law to deposit Government Funds and maintain depository accounts, or by way of exception, a bank allowed by the Department of Finance and the Monetary Board to hold government deposits subject to prescribed rules and regulations.

**Collect-Aggregate-Remit (CAR)** refers to an E-collection scheme where the daily collections are done by the intermediary on behalf of its principal government entity and aggregated in the intermediaries' possession or control for a period of time before being remitted to the government entity's AGDB accounts or that of National Treasurer.<sup>5</sup> COA Circular No. 2021-014, particularly **Item No. 5.2** thereof, provides for the **Guidelines on collections under the CAR scheme.**

**Under the proposed Agreement, a CAR scheme will be utilized** wherein DSWD will allow its clients to pay through GCash Mobile Payment Solutions of GXI. Further, GXI will collect a fee for every successful payment made by the client. Thereafter, GXI will remit payment of all undisputed and successful transactions processed to DSWD and such payment shall then be credited to DSWD's nominated bank account, usually an AGDB like the Landbank of the Philippines ("Landbank").

Item 5.2.1 of **COA Circular No. 2021-014** clearly states that when an intermediary, which is NOT an AGDB, is engaged under a CAR scheme, such intermediary shall be contracted in compliance with Republic Act (RA) No. 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations (IRR).

**Clearly, the proposed Agreement utilizes a CAR scheme involving an intermediary, GXI, considered as "other than an AGDB", thus, the services of GXI must be contracted/procured in compliance with RA 9184 and its IRR.** Mere execution of a partnership agreement with GXI to implement the provisions of the proposed MPSA will be in violation of the foregoing laws and rules as discussed.

As the proposed MPSA involves receipt of payments for two systems, HELPS and MTA, it is proposed that comments from the Financial Management Service (FMS) be secured. Assuming that the services of GXI will be procured and contracted pursuant to RA 9184 and its IRR, the provisions of the attached MPSA are deemed reasonably acceptable.

As a final note, please be informed that the foregoing legal opinion is based solely on the limited information and documents provided.

For your consideration.

Thank you.

  
**ATTY. GINA V. WENCESLAO**

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Approved by:

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

<sup>5</sup> Item 3.0 of COA Circular No. 2021-014