

DSWD OPINION NO. 44 S. 2024DRN: LS-L-IO-24-04-76277-C**MEMORANDUM**

FOR : DIRECTOR WAYNE C. BELIZAR
Financial Management Service

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

SUBJECT : REVIEW ON THE LANDBANK LINK.BIZ PORTAL NON-
DISCLOSURE AGREEMENT (NDA)

DATE : 29 APRIL 2024

This pertains to your Executive Summary for the Secretary¹, regarding the Harmonized Electronic Licensing Permit Systems (HELPS) to digitize processes such as the Social Welfare and Development Agency (SWDA) registration, licensing, and accreditation with DSWD, public solicitation permits, duty-exempt donation importation, and travel clearances.

The Legal Service initially reviewed the draft Landbank Link.Biz Portal Non-Disclosure Agreement (NDA) on 08 March 2024 and provided inputs and recommendations for its enhancement. After careful review of the enhanced draft NDA, we confirmed that our prior recommendations have been considered by your office and the Landbank. Further, in their Letter dated 12 April 2024, the Landbank's legal team reviewed the recommendation of this level and found to be substantially in order.

However, Landbank legal team already incorporated the restated subsection 9.5 (Breach, Dispute, Resolution and Venue) since the Department is a government agency and the submission of appropriate written authority from DSWD subject to the clearance of the Legal Service.

Under item no. 1, this level has no legal objection on the basis of Landbank regarding the provision on Dispute Resolution. The Presidential Decree No. 242 is still valid and the Department of Justice provides "*Uniform Rules on Dispute Resolution under Presidential Decree No. 242, as Amended, For Government Agencies and Instrumentalities, and Government-Owned or Controlled Corporations*".

Under item no. 2, the submission of written of authority from DSWD is not necessary pursuant to Book IV, Chapter 2- Secretaries, Undersecretaries, and Assistant Secretaries of the Executive No. 292 or known as "Administrative Code of 1987", states:

SECTION 6. Authority and Responsibility of the Secretary. —The authority and responsibility for the exercise of the mandate of the Department and for the discharge of its powers and functions shall

¹ dated 04 March 2024

be vested in the Secretary, who shall have supervision and control of the Department.

Further, BOOK IV, Chapter 13 - Contracts of the Executive No. 292 provides:

SECTION 65. Approval of other types of Government Contracts. — All other types of government contracts which are not within the coverage of this Chapter shall, in the absence of a special provision, be executed with the approval of the Secretary or by the head of the bureau or office having control of the appropriation against which the contract would create a charge. Such contracts shall be processed and approved in accordance with existing laws, rules and regulations.

Thus, with respect to the remaining query on the submission of an appropriate written authority from the DSWD, e.g. Board Resolution or any equivalent document, the foregoing discussion and authorities cited show that the Secretary, as Head of the DSWD under the executive branch, is mandated to represent the Department and to sign contracts and agreements that legally binds the latter.

Should LBP be amenable to the foregoing explanation, the NDA may be executed by the parties. We hope that this satisfactorily address your concerns.

For consideration.

Thank you.

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


ATTY. GINA V. WENCESLAO

MCMUG/MTML/10065