

DSWD OPINION NO. 75 S. 2024
MEMORANDUM

DRN: LS-L-LO-24-08-46006-C

FOR : **ATTY. EDWARD JUSTINE R. ORDEN**
Undersecretary for General Administration and Support Services Group (GASSG)

FROM : **THE ASSISTANT SECRETARY FOR GENERAL ADMINISTRATION AND SUPPORT SERVICES GROUP AND CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE**

SUBJECT : **LEGAL OPINION ON THE ENGAGEMENT OF MR. DANDY C. VICTA AS NATIONAL EXPERT IN A RESEARCH PROJECT**

DATE : **21 OCTOBER 2024**

This is in reference to the LETTER¹ from the Executive Director of National Council on Disability Affairs, Ms. Glenda D. Relova (ED Relova), seeking for legal guidance on whether the engagement of Mr. Dandy C. Victa (Mr. Victa), Officer – In – Charge (OIC) Deputy Executive Director and Concurrent Chief of the Technical Cooperation Division (TCD) of the National Commission on Disability Affairs (NCDA), as National Expert through virtual coordination meetings, in a research project entitled “Research on Enhancing Productivity among Persons with Disabilities” conducted by Asian Productivity Organization (APO) – Japan, will constitute double compensation.

Specifically, in the Letter, it stated that:

“Mr. Victa is currently the OIC-Deputy Executive Director and concurrent Chief of the Technical Cooperation Division (TCD) of the NCDA. As National Expert, Mr. Victa will be receiving \$ 4,000 USD as honorarium.

The NCDA would like to know if this engagement will not qualify as a violation against receiving double compensation by an appointive public officer or employee. While Mr. Victa performs his responsibility as a National Expert from June to December 2024, he will be also be executing his official duties and responsibilities at the NCDA, receiving emoluments for his service.”

Background

Mr. Victa is currently holding the position of Project Development Officer V (PDO V) in NCDA. Pursuant to Special Order No. 5316, series of 2023² with subject “Designation”, he was designated as the NCDA’s OIC Deputy Executive Director and Concurrent Chief of the TCD of NCDA.

Upon coordination with the focal person of NCDA, a copy of the Job Description³ of Mr. Victa was submitted to this level. As PDO V, he is responsible for the following:

“FUNCTIONS AND RESPONSIBILITIES:

¹ Annex A – Letter from Executive Director (ED) Relova dated 06 August 2024

² Annex B – Special Order No. 5316, series of 2023

³ Annex C – Job Description of Mr. Victa

1. Formulates and develops long and short term plans/programs/projects pertaining to technical cooperation in the field of disability prevention, rehabilitation and equalization of opportunities for disabled persons in the Asia – Pacific Region;
2. Provides planning framework, guidelines, methodologies and overall direction in the conduct of research, training, international, networking, expertise exchange and other programs/projects of the division;
3. Coordinates with UN Bodies and affiliated agencies, international rehabilitation organizations, associations of/for disabled persons and other concerned agencies in the implementation of the abovementioned programs/projects;
4. Monitors and evaluates the implementation of the division's programs through regular meetings and assigned staff/cooperating agencies, assessment of documentation reports, on-site inspection of project, etc.;
5. Reviews and finalizes reports, communication and other documents submitted by technical staff, assesses of documentation reports, on-site inspection of project, etc.;
6. Coordinates with other division of the council to integrate plans and activities;
7. Represents the Deputy Executive Director, Executive Director in all matters pertaining to technical cooperation;
8. Prepares reports, official correspondence, etc, as may be deemed necessary; and
9. Performs related tasks that may be assigned from time to time."

Meanwhile, in the Letter of Assignment⁴ dated 03 June 2024 with attached Assignments and Entitlements Research, Mr. Victa, as National Expert was tasked to do the following tasks, to wit:

"Assignments

National Experts:

- a. Attending the first virtual coordination meeting to launch the project in which the research framework guidelines will be introduced by the chief expert to national experts to guide them in undertaking the research at national level.
- b. Undertaking a national study including the collection and analyses of relevant data based on the research framework guidelines.
- c. Attending and presenting the research findings at the second virtual coordination meeting.
- d. Following the advice provided by the Chief Expert in completing the research work or report.
- e. Writing a complete country report on the findings and analyses.
- f. Avoiding plagiarism in all forms, adhering to strict standards of research ethics, and providing full references when citing material from published or unpublished sources.
- g. Submitting the final country report to the chief expert within the timeline.

⁴ Annex D – Letter of Assignment with Reference No. 1424 dated 03 June 2024

- h. Working in close consultation with the chief expert and APO Secretariat.*

xxx

Entitlements

You are entitled to receive an honorarium for your services as mentioned in the Letter of Assignment after the final acceptance of the edited report by the APO prior to its publication.”

For the performance of the above duties and responsibilities, Mr. Victa would be receiving a lump-sum⁵ honorarium of 4,000 USD after the completion of the research project from 7 June 2024 – 31 December 2024.

The discussion shall focus on whether the engagement of Mr. Victa as National Expert in a research project conducted by APO – Japan, while being the OIC Deputy Executive Director and Concurrent Chief of the TCD of the NCDA will constitute double compensation.

Comments

As evinced in the Job Description of Mr. Victa, his engagement with APO-Japan as National Expert was on account of the enumerated functions he performs, particularly Item No. 1 of his Job Description. Thus,

- 1. Formulates and develops long and short term plans/programs/projects pertaining to technical cooperation in the field of disability prevention, rehabilitation and equalization of opportunities for disabled persons in the Asia – Pacific Region;*

As expressly shown, Mr. Victa has the competence to act as a National Expert for NCDA for which the latter has agreed to do so. Further, it may be culled that compensation is entirely different from an honorarium.

Compensation is defined in R.A. No. 8291 otherwise known as “The Government Service Insurance System Act of 1997”, thus:

A. “Definitions

Section 2. Definition of Terms – *Unless the context otherwise indicates, the following terms shall mean:*

xxx

Compensation - *the basic pay or salary received by an employee, pursuant to his election/appointment, excluding per diems, bonuses, overtime pay, honoraria, allowances and any other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws.” (emphasis supplied)*

In *Santiago vs COA and GSIS*⁶, “an honorarium is defined as something given not as a matter of obligation but in appreciation for services rendered, a voluntary donation in consideration of services which admit of no compensation in money.” It is a gesture of appreciation for the

⁵ Ibid.

⁶ G.R. No. 92284, 12 July 1991

service of one with expertise of professional standing in recognition of his broad and superior knowledge in specific fields.

Meanwhile, *Department of Budget and Management Circular (DBM Circular) No. 2007-02 issued last 01 October 2007* with subject: *"Guidelines on the Grant of Honoraria Due to Assignment in Government Special Projects"* defined honoraria as "a form of compensation granted to individuals for the performance of tasks or involvement in activities beyond their regular functions." Equity calls for equal compensation for performance of substantially similar duties, with substantially similar degrees of responsibility. Propriety dictates that only persons who have successfully completed their tasks or participated in accomplished activities ought to be accomplished."

Upon coordination with the focal person of the NCDCA last 19 September 2024, Mr. Victa was nominated by the Executive Director as the representative of the NCDCA in the abovementioned Research Project. On 23 September 2024, an Endorsement Letter⁷ from the NCDCA was submitted to this level as supporting document to the representation of Mr. Victa with the Research Project.

Since, the engagement of Mr. Victa is beyond the purview of his responsibility, he is entitled to the honorarium as an appreciation for his services and technical expertise as a National Expert in APO – Japan's research project.

As to the question on double compensation, it refers to two sets of compensations for two different offices held concurrently by one officer.⁸ The express prohibition of Double Compensation is enshrined under **Section 8, Article IX (B) of the Philippine Constitution**, viz:

"Section 8. No elective or appointive public officer or employee shall receive additional, double, or indirect compensation, unless specifically authorized by law, nor accept without the consent of the Congress, any present, emolument, office, or title of any kind from any foreign government.

Pensions or gratuities shall not be considered as additional, double, or indirect compensation. (emphasis and underscoring supplied)

Further, **Republic Act (R.A.) No. 6713 or Code of Conduct and Ethical Standards for Public Officials and Employees**, particularly **Section 7, paragraph (b)(2)** thereof, provides:

"Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

x x x

⁷ Annex E – Endorsement Letter from NCDCA dated 03 April 2024

⁸ Singson vs COA, G.R. No. 159355, 09 August 2010

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; xxx"
(emphasis supplied)

That is, under the law and jurisprudence compensation differs from honorarium. Compensation expressly excludes the receiving of honoraria, thus, in this case, there will be no double compensation if Mr. Victa will receive the lump-sum amount of 4,000 USD since his engagement with APO-Japan is to serve as a National Expert in a research project entitled "Research on Enhancing among Persons with Disabilities" from June 7, 2024 to December 31, 2024, the performance of which are on top or beyond his regular functions at the NCDA.

Consequently, the participation of Mr. Victa, as National Expert in the Research Project, will not qualify as double compensation since compensation as defined under the law expressly excludes honoraria. Lastly, we have attached a Response Letter⁹ addressed to ED Relova relative to her request, for your consideration and approval.

For your consideration. Thank you.


ATTY. GINA V. WENCESLAO

MCMUG/MMBP/ESQE10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary for GASSG

⁹ Annex F – Letter to ED Glenda Relova