

**DSWD OPINION NO. 76 S. 2024
MEMORANDUM**DRN: LS-L-LO-24-10-90521-C

**FOR : MONINA JOSEFINA H. ROMUALDEZ
UNDERSECRETARY FOR OPERATIONS GROUP AND COACH
MONITOR OF THE CRISIS INTERVENTION UNIT OF FIELD
OFFICE NATIONAL CAPITAL REGION (FO NCR)**

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

**SUBJECT : LEGAL OPINION ON THE DESIGNATION OF ALL PERMANENT
AND CONTRACTUAL PERSONNEL OF THE FIELD OFFICE-
NATIONAL CAPITAL REGION FOR AYUDA PARA SA KAPO
PROGRAM (AKAP) AND ASSISTANCE TO INDIVIDUALS IN
CRISIS SITUATIONS (AICS) PAY-OUTS**

DATE : 28 OCTOBER 2024

This pertains to your MEMORANDUM¹ seeking for clarification regarding the following:

1. Whether the Secretary of the Department is the proper authority to designate the SDOs;
2. Whether the undersigned, in her capacity as Coach Monitor, is authorized to designate SDOs for the Field Office – NCR; and
3. Whether the designation of ALL permanent and contractual personnel of Field Office – NCR as SDOs is legally permissible.

Record shows that on 03 October 2024, the Secretary issued a Special Order (SO) No. 5725 s. 2024 designating the good Undersecretary Monina Josefina H. Romualdez (Usec. Romualdez) as Coach Monitor of the Crisis Intervention Unit (CIU) of FO-NCR for auditing purposes, in addition to her function as the Undersecretary for Operations Group.

The Undersecretary in her Memorandum dated 09 October 2024, stressed and we quote:

"Following the conduct of field visits and assessments it was discovered that there is a lack of designated Special Disbursing Officers in the Field Office - NCR. Consequently, the undersigned anticipates delays in the AKAP and AICS deliverables if no additional Special Disbursing Officers (SDOs) requested."

Our Opinion:

In reply to the first query, please be informed that the Secretary of the Department is the proper authority to designate the SDOs.

Pursuant to Executive Order No. 292 or the "Administrative Code of 1987", the Secretary has authority to delegate authority to officer and employees under his direction, to wit:

¹ Annex "A" - Memorandum dated 09 October 2024

BOOK IV Chapter 2-Secretaries, Undersecretaries, and Assistant Secretaries

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

SECTION 7. Powers and Functions of the Secretary. —The Secretary shall: x x x

(8) Delegate authority to officers and employees under the Secretary's direction in accordance with this Code; and x x x

BOOK IV Chapter 8- Supervision and Control

SECTION 40. Delegation of Authority. —The Secretary or the head of an agency shall have authority over and responsibility for its operation. He shall delegate such authority to the bureau and regional directors as may be necessary for them to implement plans and programs adequately. Delegated authority shall be to the extent necessary for economical, efficient and effective implementation of national and local programs in accordance with policies and standards developed by each department or agency with the participation of the regional directors. The delegation shall be in writing; shall indicate to which officer or class of officers or employees the delegation is made; and shall vest sufficient authority to enable the delegate to discharge his assigned responsibility.

In addition, may we direct you to Commission on Audit (COA) Circular No. 97-002 entitled "Restatement with amendments of the rules and regulations on the granting, utilization and liquidation of cash advances provided for under COA Circular No. 90-331 dated May 3, 1990" dated 10 February 1997 which provides that the Head of Agency will designate the SDO for purpose of special cash advances, thus:

3. DEFINITIONS AND SCOPE

Cash Advance shall be of two types, namely, the regular cash advances, and the special cash advances.

x x x

3.2 Special cash advances are those granted on the explicit authority of the Head of the Agency only to duly designated disbursing officers or employees for other legally authorized purposes, x x x

4. GRANTING AND UTILIZATION OF CASH ADVANCES

4.1 General Guidelines

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LS-L-LO-24-10-90521-C, LEGAL QUERY ON THE DESIGNATION OF ALL PERMANENT AND CONTRACTUAL PERSONNEL OF THE FIELD OFFICE-NATIONAL CAPITAL REGION FOR AYUDA PARA SA KAPUS PROGRAM (AKAP) AND ASSISTANCE TO INDIVIDUALS IN CRISIS SITUATIONS (AICS) PAY-OUTS

x x x

4.1.5 Only duly appointed or designated disbursing officers may perform disbursing functions. Officers and employees who are given cash advances for official travel need not be designated as Disbursing Officers. [Emphasis Supplied]

It is clear from the Section 3.2 of the COA Circular No. 97-002 that the Secretary, as the Head of Agency, has the explicit authority to designate the SDOs.

In reply to the second query, please note that there is no explicit or categorical authority granted upon the Undersecretary for Operations with regard to the designation of SDOs.

SO No. 5725 s. 2024 explicitly provides that Undersecretary is designated as Coach Monitor of the Crisis Intervention Unit (CIU) of Field Officer NCR, thus:

*"In the exigency of service, **UNDERSECRETARY MONINA JOSEFINA H. ROMUALDEZ** is hereby designated as **Coach Monitor of the Crisis Intervention Unit (CIU) of FO-NCR** for auditing purposes, in addition to her function as the Undersecretary for Operations Group, effective immediately and to continue until further orders.*

As Undersecretaries for Operations Group and Coach Monitor of CIU of Field Office NCR, she is hereby authorized to exercise all inherent and delegated functions of the position.

All other Orders inconsistent herewith are hereby amended and/or revoked accordingly."

As Head of Agency, the Secretary has the power to delegate authority to officials, including to his Undersecretaries and this power includes the delegation of the power to designate SDOs of the Department as may be necessary for them to implement plans and programs adequately. Such delegation of authority must *be in writing; shall indicate to which officer or class of officers or employees the delegation is made; and shall vest sufficient authority to enable the delegate to discharge his assigned responsibility*².

Applying the foregoing rules in this case, SO No. 5725 s. 2024 issued by the Secretary in favor of the Undersecretary for Operations is limited only for auditing purposes. Auditing is separate and distinct from the designation of SDOs for the concerned Field Office. Hence, absent any, valid and written delegation of authority from the DSWD Secretary delegating the authority to designate SDOs for FO – NCR, this level opines that the Undersecretary is not sanctioned to perform the same. Be that as it may, the Secretary is not precluded from issuing special order authorizing Undersecretary for Operations to designate SDOs.

² Section 40, Chapter 8, Book IV of Executive Order No. 292 or the Administrative Code of 1987, supra

In reply to the last query, the designation of ALL permanent and contractual personnel of Field Office – NCR as SDOs is legally permissible.

COA Circular No. 97-002³ provides for the rules and regulations for the disbursing officer. Further, it does not provide for any limitation nor definite number of SDOs that may be appointed.

Meanwhile, in terms of the nature of the employment of SDO, the Treasury Circular No. 1 - 2022⁴ mandates for the required employment status of a Disbursing Officer, and even highlights their accountability, to wit:

4.0 Supplemental Provisions

4.1 Determination of Accountability and Amount of Bond Premium

x x x

4.1.1 Cash. x x x

4.1.1.2 Disbursing Officer (DO). The accountability shall be based on the highest amount held in custody and disbursed in the preceding year, which is the possible amount of accountability of the DO exposed to risk in a given day. **Only permanently appointed officials shall be designated as disbursing officers,** except for officers and employees who are given cash advances for official travel. (COA Circular No. 97-002, Item 4.1.4-5)

4.1.1.3 Special Disbursing Officer (SDO). The accountability shall be based on the amount of cash advance released for a given project or activity, which is the possible amount of accountability of the SDO exposed to risk. [Emphasis Supplied]

As general rule, only permanently appointed personnel shall be designated by the Secretary or his authorized representative as the Special Disbursing Officer.

As to the designation of contractual personnel as SDOs, the COA has duly approved the Department's request to extend the authority to designated contractual employees as SDOs who will be granted Cash Advances (CAs) for the implementation of the DSWD Social Protection Program and Services until December 31, 2024⁵. Hence, the Secretary or his authorized representative may likewise designate contractual employees as SDOs of FO-NCR, whose capacity as such shall be up to December 31, 2024.

³ Restatement with amendments of the rules and regulations on the granting, utilization and liquidation of cash advances provided for under COA Circular No. 90-331 dated May 3, 1990.

⁴ Supplemental Guidelines on the Revised Omnibus Regulations Governing the Fidelity Bonding of Accountable Officers (Sections 313-335, Chapter 15, Revised Administrative Code of 1917)

⁵ Annex "B" – Letter from COA dated 08 February 2024

In this regard, may we furnish you a copy of the Memorandum from the Undersecretary for General Administration and Support Services Group (GASSG)⁶ dated 23 April 2024 regarding the approval of COA on Department's request to extend the authority to designated contractual employees as SDOs per its letter dated 08 February 2024.

To avoid disruption of services by our SDOs who are contractual personnel, the undersigned shall be coordinating with FMS seeking the approval of COA through a letter of renewal of the authority granted to contractual employees as SDOs.

As a final note, this opinion is based solely on the facts available to the Legal Service and issued without prejudice to the application of other laws, rules and regulations, and DSWD issuances.

For consideration.

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

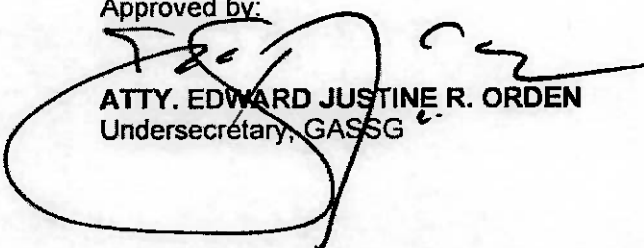
Thank you.



ATTY. GINA V. WENCESLAO

MCMUG/MTML/10065
9/20

Approved by:



ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary, GASSG

⁶ Annex "C" - Reiteration on the FMG No. 37, series of 2023, Designation of Contractual Employee as Special Disbursing Officers for the Implementation of DSWD Social Protection Program and Services until 31 December 2024