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Department of Social Welfare and Development

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LEGAL SERVICE

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MEMORANDUM CIRCULAR NO. 01
Series of 2013

OPERATIONAL GUIDELINES DURING ELECTION PERIOD

I. ELECTION PERIOD

Pursuant to COMELEC Resolution No. 9585, dated 18 December 2012 (RULES AND REGULATIONS GOVERNING BAN ON PUBLIC WORKS AND RELEASE, DISBURSEMENT AND EXPENDITURES OF PUBLIC FUNDS, CONSTRUCTION OF PUBLIC WORKS, DELIVERY OF MATERIALS FOR PUBLIC WORKS AND ISSUANCE OF TREASURY WARRANTS AND SIMILAR DEVICES IN CONNECTION WITH THE MAY 13, 2013 AUTOMATED SYNCHRONIZED NATIONAL, LOCAL AND ARMM REGIONAL ELECTIONS) the "Election Period" is from **29 March 2013 to 13 May 2013**.

**II. PROHIBITED ACTIVITIES
DURING THE ELECTION PERIOD**

**A. Release, Disbursement or
Expenditure of Public Funds**

A.1 Public Works

Section 261 of Batas Pambansa Blg. 881 (the OMNIBUS ELECTION CODE) explicitly prohibits the following during the Election Period:

1. The release, disbursements, or expenditure of public funds for any and all kinds of public works, issuance of treasury warrants and similar devices thereof and actual construction activities of said public works, and
2. The creation of new project positions, hiring and promotion of project staff, all pertaining to the different programs/activities/projects

Note that the prohibition does not apply to ongoing concerns and projects, works undertaken by contract through public bidding held or the contract awarded before the Election Period (*i.e.*, before 29 March 2013), or positions created, and appointments and

promotions made before the Election Period.¹ For instance, repair and completion of office buildings, centers and institutions are allowed provided that the construction started before the Election Period.

Also the prohibition does not apply to projects under foreign agreements, nor to maintenance works on existing public works, nor emergency work necessary to restore damage facility and nor to payments for the usual costs of preparation to actual constructions including the purchase of materials and equipment and incidental expenses for wages.² Therefore, projects under the Department's KALAHI-CIDSS, among others, are not covered by the prohibitions.³

A.2. Calamity and Disaster

In the event of calamity or disaster, all releases of the Department shall be turned over to, and administered and disbursed by the Philippine National Red Cross, subject to Commission on Audit (COA) rules. Furthermore, candidates, their spouses and their family members (whether by affinity or consanguinity) shall not be allowed to participate – whether directly or indirectly – in the distribution of any relief or other goods to the victims of the calamity or disaster.⁴

A.3. Normal and Routine Expenses

The release, disbursement or expenditure of public funds for the normal and routine expenses of the Department's regular activities are allowed.

For instance, disbursements under the Department's Assistance to Persons with Disabilities and Older Persons, Protective Services for Families and Individuals in Difficult Circumstances including Children, Youth and Women, and for the Operation and Maintenance of Centers and Institutions, which are all regular activities of the Department, can be deemed as normal and routine expenses which are not prohibited under the law. This includes disbursement of funds involving Priority Development Assistance Fund (PDAF) in support of the Department's regular programs and activities.

The Department shall immediately inform all Department units if the COMELEC finds any program, project and/or activity to not be regular. Until then, all Department personnel are advised to consider all **ongoing** Department programs, projects and activities to be regular.

¹ Section 261(1.b and 1.c), OMNIBUS ELECTION CODE

² Section 261(v), OMNIBUS ELECTION CODE

³ Section 261(1.d), OMNIBUS ELECTION CODE

⁴ Section 261(v.1.d), OMNIBUS ELECTION CODE

B. Personnel Matters

Notwithstanding the ban on the creation or hiring of new employees during the Election Period, request for authority to appoint or hire new employees may be submitted to the COMELEC specifying the necessity and reasons for the same. And in the case of urgent need to appoint new employees, within three (3) days from the appointment the Commission must be notified and likewise the reasons for the urgency must be justified.⁵

In all cases, the projects undertaken, the disbursement mode, and the creation and/or filling up of any position in the Department, should not in any manner influence the results of the elections.

**III. EXCEPTIONS TO PROHIBITIONS/
ALLOWABLE ACTIVITIES**

**A. Release, disbursement or expenditure
of public funds or any public works.**

When allowed:

- A.1 Executed or awarded before the Election Period (*i.e.*, before 29 March 2013)
- A.2 Routine and normal expenditure of the Department
- A.3 Ongoing programs and activities being implemented by the Department
- A.4 Projects under foreign agreements, maintenance works on existing public works, emergency works necessary to restore damaged facility, and payments for usual costs of preparation to actual constructions.

**B. Creation, hiring of employees
or filling up of positions**

When allowed:

- A.1 Done before the Election Period (*i.e.*, before 29 March 2013)
- A.2 Necessary and authority is requested and granted by the COMELEC
- A.3 Urgent and COMELEC is notified within three (3) days of the Appointment

In case of necessary or urgent need, the names and number of personnel and positions, the organized units where the vacancies for fillip up exists, as well as a clear justification why it is necessary or urgent for the Department must be specified.

⁵ COMELEC Resolution No. 6456, dated 10 December 2003, Sections 1 to 4

C. Other Prohibited Activities

- A.1 Use of any funds, equipment, facilities owned or controlled by the government for an election campaign nor for any political partisan purpose.
- A.2 Any release during a calamity or disaster, except through the Philippine National Red Cross (PNRC).
- A.3 Any other activity whatsoever that in any manner could influence the vote of a person or could influence the results of the election.

IV. SAFEGUARDS

In the use of PDAF of incumbent legislators, the Department must ensure that such funds will be used for purposes in accordance with the SARO issued by the Department of Budget and Management (DBM), as well as with pertinent rules and regulations of the Commission on Audit (COA).

All requests for procurement of goods and services shall be in accordance with R.A. No. 9184 (the GOVERNMENT PROCUREMENT REFORM ACT).

Finally, in accordance with the OMNIBUS ELECTION CODE and the COMELEC Resolution, no funds may be used for election-related activities. Toward this end, the following should be observed:

- The conduct of activities shall be in accordance with set guidelines and parameters, thereby ensuring that no favor or benefit shall accrue to any political candidate or party.
- Candidates, their spouses and their family members (whether by affinity or consanguinity) shall not participate directly in the implementation of the program or activity or be its beneficiary, nor sit in the board of a non-government organization or foundation that will assist the Department in the implementation of any program or activity.
- The Department shall not participate in medical missions, and the like, organized by a political candidate or party.
- The Department shall not participate in political gatherings/forums or campaigns.
- The Department shall not hold trainings exclusively for personnel closely identified with a political candidate.
- The Department shall avoid joint activities with offices of incumbent officials running for office. If such a joint activity has already been agreed upon prior

to the Election Period, the incumbent official should be made to understand that the joint activity shall not be used for electioneering. If the incumbent official does use such joint activity for electioneering, such shall be immediately reported to the COMELEC.

- Activities shall not be used in any manner that could in any manner influence the vote of a person or could influence the results of election.

For instance, during Department activities, the following, among others, shall not be allowed:

- Display of election paraphernalia such as tarpaulins, banners, posters, stickers and T-shirts;
- Prominently featuring the names, pictures or logos of candidates or parties on activity materials such as programmes and handouts;
- Distribution of election materials such as flyers, leaflets, and sample ballots; and
- Playing of campaign jingles and other election-related audio or video materials.
- Political campaigning by any political candidate, political party, and/or their supporters.

V. EFFECTIVITY AND AMENDATORY CLAUSE

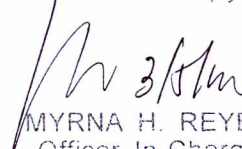
This Memorandum Circular shall take effect immediately and shall supersede any and all previous inconsistent issuances.

Let all Field Offices, Bureau, Services and Units be furnished copies of this Memorandum Circular for their information and guidance.


CORAZON JULIANO-SOLIMAN
Secretary *4/2/13* 

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Certified Copy:


MYRNA H. REYES
Officer In-Charge
Records Unit

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