



BUREAU OF CUSTOMS

MAKABAGONG ADUANA, MATATAG NA EKONOMIYA

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PROFESSIONALISM INTEGRITY ACCOUNTABILITY

IA G Memo No. 05-2021

MEMORANDUM

FOR : ALL DEPUTY COMMISSIONERS
ALL DISTRICT COLLECTORS
ALL ADMINISTRATIVE OFFICERS
CONTRACT OF SERVICE PERSONNEL

BUREAU OF CUSTOMS
Central Records Mng't Div.
RECEIVED
FEB 02 2021
By: *[Signature]* Time: *2:45pm*

FROM : *[Signature]*
DONATO B. SAN JUAN
Deputy Commissioner
Internal Administration Group

SUBJECT : UPDATED GUIDELINES ON THE RETENTION/
RENEWAL OF JOB ORDER AND/OR CONTRACT
OF SERVICE PERSONNEL IN THE BUREAU OF CUSTOMS

DATE : JANUARY 22, 2021

References:

- Commission on Audit (COA), Department of Budget and Management (DBM) Joint Circular No.2, s.2020 with the subject Updated Rules and Regulations Governing Contract of Service (COS) and Job Order (JO) Workers in the Government; and (*Annex A*)
- CMO No. 07 - 2021 with the subject: Updated Guidelines on Retention/ Renewal Job Order and/or Contract of Service (COS) Personnel in the Bureau of Customs-Central Office and Collection Districts. (*Annex B*)

In compliance with the above-cited references, the Bureau shall observe the following guidelines on the engagement of services of the existing COS personnel:

- 1.0 The initial contract period of the abovementioned COS personnel, which is from **January 1, 2021 to March 31, 2021**, may now be processed with the following conditions:
 - 1.1 Only the COS personnel with existing **approved Contracts** as of even date shall be entitled for renewal for the abovementioned contract period.
 - 1.2 The position title and amount of salary to be indicated in the Contracts must be the same as that of the position title and salary authorized for the previous contract period (July to December 2020). Change of position title and salary shall not be allowed unless approved by the



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Deputy Commissioner, IAG, and Budget Division, subject to availability of funds;

- 2.0 Further, the Office concerned shall prepare six (6) copies of Contract for each of their respective COS personnel together with the following documentary requirements (*Annex D*); to be transmitted to the HRMD not later than January 25, 2021:
 - 2.1 Six (6) copies of Statement of Functions attached as Annex A of the Contract;
 - 2.2 One (1) duly notarized and properly accomplished Personal Data Sheet (PDS);
 - 2.3 Three (3) original copies of Certification stating that services cannot be rendered by organic personnel;
 - 2.4 Three (3) original copies of Certificate of Assumption (to be submitted after the assumption date of the concerned COS personnel);
 - 2.5 One (1) copy of Performance Certificate; and
 - 2.6 One (1) copy of Performance Evaluation (applicable period).
- 3.0 Relative thereto, all requests for COS/JO personnel shall be endorsed to the Office of the Deputy Commissioner, Internal Administration Group (IAG) through the HRMD.
- 4.0 Please be guided accordingly.



COMMISSION ON AUDIT
DEPARTMENT OF BUDGET AND MANAGEMENT
JOINT CIRCULAR NO. 2, s. 2020
October 20, 2020

TO : ALL HEADS OF CONSTITUTIONAL BODIES, NATIONAL GOVERNMENT AGENCIES (NGAs), GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS (GOCCs) WITH ORIGINAL CHARTERS and STATE UNIVERSITIES AND COLLEGES (SUCs)

SUBJECT : Updated Rules and Regulations Governing Contract of Service (COS) and Job Order (JO) Workers in the Government

1.0 Background

Civil Service Commission (CSC)-Commission on Audit (COA)-DBM JC No. 1, s. 2017 was issued to provide the rules and regulations regarding the engagement of the services of COS and JO workers in the government.

Item 11.1 thereof provided a transitional period which allowed agencies concerned to renew the individual contracts of their existing COS/JO workers up to December 31, 2018.

In view of this, CSC-COA-DBM JC No. 1, s. 2018 was issued to further extend the transition period allowing agencies to engage the services of new COS/JO workers and renew the existing contracts of COS/JO workers until December 31, 2020.

In light of the challenges brought about by the COVID-19 pandemic affecting the operations of government agencies, there is a need to update the existing policies on the engagement of COS and JO workers to ensure the smooth, effective, and efficient delivery of services to the public.

2.0 Policy Statement

Government agencies are authorized to enter into service contracts with other government agencies, private firms, non-government agencies or individuals for services related or incidental to their respective functions and operations, whether on a part-time or full-time basis.

3.0 Purpose

This Joint Circular is issued to prescribe the updated rules and regulations governing COS and JO workers in the government.



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4.0 Coverage

This Joint Circular covers all NGAs, GOCCs with original charters, SUCs, and constitutional bodies, which avail of the services of COS or JO workers.

5.0 Definition of Terms

- 5.1 **Contract of Service** refers to the engagement of the services of an individual, private firm, other government agency, non-governmental agency or international organization as consultant, learning service provider or technical expert to undertake special project or job within a specific period.
- 5.2 **Contractor or Service provider** refers to an individual, a government agency or a private or a non-government entity that is duly-registered and recognized by authorized government agencies to provide consultancy services in their respective field of expertise.
- 5.3 **Institutional contract** refers to the agreement between the government agency and contractor or service provider duly-registered and recognized by authorized government agencies to provide services such as janitorial, security, consultancy, and other support services.
- 5.4 **Job Order** refers to piece work (*pakyaw*) or intermittent or emergency jobs such as clearing of debris on the roads, canals, waterways, etc. after natural/man-made disasters/occurrences, and other manual/trades and crafts services such as carpentry, plumbing, electrical, and the like. These jobs are of short duration and for a specific piece of work.
- 5.5 **Support services** may include janitorial, security, driving, data encoding, equipment and grounds maintenance, and other services that support the day to day operations of the agency.

6.0 Contract of Service

6.1 Institutional Contract of Service

As a general rule, government agencies may avail of outsourced services through institutional COS, subject to the following conditions:

- 6.1.1 Institutional COS covers lump sum work or services to perform janitorial, security, consultancy, and other support functions, subject to the provisions of Republic Act (RA) No. 9184¹ and its Implementing Rules and Regulations, and pertinent budgeting, accounting, and auditing rules and regulations.

The contractor or service provider should meet the following requirements:

- a) Duly registered with the Department of Labor and Employment;
- b) Duly registered with the Bureau of Internal Revenue;

¹ Government Procurement Reform Act



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- c) For sole proprietorship, duly registered with the Department of Trade and Industry;
- d) For corporations and partnerships, duly registered with the Securities and Exchange Commission; and
- e) Must be an active employer registered with the following agencies:
 - 1) Social Security System,
 - 2) Home Development Mutual Fund (Pag-IBIG Fund), and
 - 3) Philippine Health Insurance Corporation.

6.1.2 Workers hired through institutional COS shall remain to be employees of the contractor or service provider.

6.1.3 The discipline of workers under institutional COS shall be the responsibility of the contractor or service provider. The head of the procuring entity may report to the contractor or service provider any misconduct or wrongdoing of the said worker/s.

6.1.4 The contractor or service provider shall be responsible for providing the workers with compensation and benefits compliant with existing labor law², including the necessary social security and other benefits mandated by law, in addition to the direct compensation as payment for their services.

6.2 Individual Contract of Service

Government agencies may enter into COS with individuals as consultants/contractors, subject to the following guidelines:

6.2.1 The term of contract between the agency and the individual contractor shall be for a maximum period of one (1) year, renewable at the option of the Head of the procuring entity, but in no case shall exceed the term of the latter³.

6.2.2 Engaging the services of an individual contractor shall be subject to pertinent provisions of RA No. 9184 and its implementing guidelines, as applicable⁴, and the existing budgeting, accounting, and auditing rules and regulations.

6.3 Job Order

Government agencies may hire JO workers subject to the following conditions:

6.3.1 The services of a JO worker is either paid according to an agreed contract amount for the piece of work or on a daily wage basis.

6.3.2 Contracting the services of JO workers shall be subject to pertinent budgeting, accounting, and auditing rules and regulations.

² Title II (Wages), Book 3 (Conditions of Employment) of PD 442 or the Labor Code of the Philippines

³ Section 53.7, Revised IRR of RA No. 9184, Highly Technical Consultants

⁴ GPPB Resolution No. 09-2012 and GPPB Policy Opinion 2012-11-21 (Applicability of RA 9184 and its Revised IRR in the Engagement of Individuals under Job Order or Contract of Service)

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7.0 Limitations

- 7.1 Hiring under COS shall be limited to consultants, learning service providers, and/or other technical experts to undertake special project or job within a specific period. The project or job is not part of the regular functions of the agency, or the expertise is not available in the agency, or it is impractical or more expensive for the government agency to directly undertake the service provided by the individual or institutional contractor.
- 7.2 Hiring of JO workers shall be limited to emergency or intermittent work, such as clearing of debris on the roads, canals, waterways, etc. after natural/ man-made disasters/occurrences; other trades and crafts, and manual tasks such as carpentry, plumbing, painting, electrical, and the like which are not part of the regular functions of the agency.
- 7.3 COS and JO workers should not, in any case, be made to perform functions which are part of the job description of the agency's existing regular employees.
- 7.4 COS and JO workers should not be designated to positions exercising control or supervision over regular and career employees.
- 7.5 The services of the COS and JO workers are not covered by Civil Service laws, rules, and regulations, thus, not creditable as government service. They do not enjoy the benefits being received by government employees, such as leave, Personnel Economic Relief Allowance, Representation and Transportation Allowances, and other bonuses and incentives.

8.0 Payment of Services under Individual COS

Individuals hired through COS shall be paid the prevailing market rates, subject to the provisions of RA 9184 and its Implementing Rules and Regulations.

The payment of services shall be charged against the Maintenance and Other Operating Expenses (MOOE) in the approved agency budget.

9.0 Payment of Services under JO

Individuals hired through JO shall be paid wages equivalent to the daily wage/salary of comparable positions in government and a premium of up to 20% of such wage/salary, subject to the availability of funds.

The premium payment may be paid monthly, in lump sum or in tranches (i.e. mid-year and year-end payments) as may be stated in the agreement or contract with the agency.

The payment of services shall be charged against the MOOE in the approved agency budget.

10.0 Monitoring

The COA shall monitor the compliance of agencies with the provisions of this Joint Circular.

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11.0 Transitory Provisions

- 11.1 Agencies may engage the services of new COS/JO workers through individual contract and renew the individual contracts of their existing COS/JO workers until December 31, 2022. Thereafter, the engagement of COS/JO workers shall be in accordance with the provisions of this Joint Circular.
- 11.2 The institutional contract to be entered into by government agencies with a contractor or service provider shall include a provision which will state that the existing qualified COS/JO workers engaged by the agencies may be considered in the hiring by the contractor or service provider.
- 11.3 The existing qualified COS/JO workers shall be considered for appointment by the government agencies to their vacant positions subject to existing civil service laws, rules, and regulations, as well as the CSC-approved Merit Selection Plan of the agency.
- 11.4 Government agencies shall review their functions, systems and procedures, organizational structure, and staffing pattern to assess the needs and gaps, if any, and determine the appropriate human resource complement for their programs/ activities/projects.

The creation of permanent positions may be considered for regular functions, while the hiring of casual or contractual personnel may be considered for projects and activities that are temporary in nature, subject to evaluation of the DBM/Governance Commission for GOCCs, as well as existing budgeting and accounting rules and regulations.

- 11.5 Services of individuals engaged through COS basis, excluding persons or entities engaged through RA No. 9184, and JO shall be paid wages equivalent to the daily wage/salary of comparable positions in government.

Subject to the availability of funds, the COS and JO workers may also be granted a premium of up to 20% of their respective wage/salary.

The premium payment may be paid monthly, in lump sum or in tranches (i.e. mid-year and year-end payments) as may be stated in the agreement or contract with the agency. The payment of services shall be charged against the MOOE in the approved agency budget.

12.0 Sanctions

Heads of agencies and/or responsible officers found to violate the provisions of these rules and regulations may be charged before the proper administrative bodies (Office of the Ombudsman, Office of the President or CSC) for violation of the existing Civil Service Laws and rules of serious nature or conduct prejudicial to the best interest of the service.

13.0 Resolution of Issues

Issues and concerns that may arise in the implementation of these rules and regulations shall be resolved by the COA and the DBM, as appropriate.

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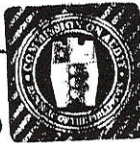
14.0 Repeal


All issuances, orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Joint Circular are hereby repealed or modified accordingly.

15.0 Effectivity

This Joint Circular shall take effect after 15 days from its publication in a newspaper of general circulation.


MICHAEL G. AGUINALDO
Chairperson
Commission on Audit




WENDEL E. AVISADO
Secretary
Department of Budget and Management

