



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. N-B-2001-02

SUBJECT : National Government Budgeting – Administrative Order No. 5, s. 2001

ISSUE : Whether or not the Department of Science and Technology (DOST), may hire transferees from Local Government Units (LGUs) notwithstanding the provisions of Administrative Order (AO) No. 5 issued on 28 February 2001, entitled, "Adoption of Fiscal Discipline Measures in the Public Sector for FY 2001", as implemented by Budget Circular (BC) No. 2001-1 dated 06 March 2001.

FACTS : In letter dated 26 July 2001, Hon. Estrella F. Alabastro of the DOST, requested clarification on Item 7.4.1 of BC No. 2001-1.

BC No. 2001-1 prohibited hiring of new personnel whether on a permanent, temporary, substitute, coterminous, contractual or casual status to raise savings. However, there are certain exceptions to the prohibition, among others, is provided under Item 7.4.1 which states that positions may be filled through transfer or promotion by personnel who are currently employed in the National Government (NG).

OPINION : The DOST cannot hire transferees from LGUs in view of A.O. No. 5.

Item 7.4.1 of BC No. 2001-1 expressly provided that positions may be filled through transfer or promotion by personnel who are currently employed by the NG.

Transferees from LGUs are purposely excepted from the category "transferee" under Item 7.4.1 of BC No. 2001-1 since such, if allowed, would entail additional Personal Services funding requirements from the National Government, hence, would be inconsistent with the main purpose of AO No. 5 adopting fiscal prudence.

REFERENCE: Letter dated 25 October 2001 to Hon. Estrella F. Alabastro

Recommended:



JANET B. ABUEL
Director, LLS

Approved:



EMILIA T. BONCODIN
Secretary