



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. N-C-2001-08

SUBJECT : National Government Compensation – Year-End Benefits

ISSUE : Whether or not Budget Circular (BC) No. 2000-18 dated 06 September 2000 (Grant of Year-End Bonus and Cash Gift and Advance Payment of One Half (1/2) Thereof for FY 2000 and Years Thereafter), applies to the nature of employment of a contractual employee of the Bulacan National Agricultural State College (BNASC).

FACTS : Mr. Joselito D. Tucit was hired as Instructor I of the BNASC on a contractual basis for a period of six (6) months (19 June 2001 to 19 December 2001) and his salaries are chargeable against the income generated by the College.

OPINION : The engagement of Mr. Tucit as a contractual employee of BNASC is not in the nature of a regular employee as required under BC No. 2000-18, hence, the year-end benefits granted therein cannot be extended to him.

The employment of contractual personnel referred to in BC No. 2000-18 is governed by Section 44 of the General Provisions of Republic Act (R.A.) No. 8760, FY 2000 GAA, as reenacted in FY 2001, which reads:

"Section 44. Employment of Contractual Personnel. – Heads of departments, bureaus, officers or agencies, when authorized in their respective appropriations provided in this Act, may hire contractual personnel as part of the organization to perform regular Agency functions and specific vital activities or services which cannot be provided by the regular or permanent staff of the hiring agency.

The contractual personnel employed pursuant to this Section shall be considered as an employee of the hiring agency, limited to such period when their services are reasonably required." (underscoring supplied)

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In such case, the funding requirements for contractual employment would be chargeable against the lump-sum appropriation for "Contractual, Casual and Emergency Personnel."

On the other hand, Mr. Tucit employment is actually in the nature of contractual services covered by Section 81 of the General provisions and is not chargeable against the aforementioned lump-sum. Said Section provides:

"Section 81. Service Contracts. – *Departments, bureaus, offices or agencies of the National Government, as well as government-owned and/or controlled corporations, are hereby authorized to enter into service contracts with other government agencies, private firms or individuals and non-governmental organizations for services related or incidental to their respective functions and operations, whether on part-time or full-time basis.*

Service contracts may be entered into by the agency for professional consultancy services, which may include contracts with individual consultants. For this purpose, an individual professional consultant is an expert in a field of special knowledge or training who is contracted to render particular outputs or services primarily advisory in nature requiring highly specialized or technical expertise which cannot be provided by the regular staff of the hiring agency. Such hiring creates no employer-employee relationship between the individual professional consultant and the agency. x x x."

REFERENCE: Letter dated 07 December 2001 to Mr. Joselito D. Ducit

Recommended:


JANET B. ABUEL
 Director, LLS

Approved:


EMILIA T. BONCODIN
 Secretary