



DEPARTMENT OF BUDGET AND MANAGEMENT
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

Joint Memorandum Circular (JMC) No. 2021 - 3

Date: September 13, 2021

TO : All Heads of Departments, Agencies, Bureaus, and Offices Concerned of the National Government, including Government-Owned or -Controlled Corporations (GOCCs), Local Chief Executives, Members of Local Sanggunian, and All Others Concerned

SUBJECT : **GUIDELINES ON THE IMPLEMENTATION OF PERSONNEL POLICIES AND OPTIONS PURSUANT TO EXECUTIVE ORDER (EO) NO. 138¹, S. 2021 DIRECTING THE FULL DEVOLUTION OF CERTAIN FUNCTIONS OF THE EXECUTIVE BRANCH TO THE LOCAL GOVERNMENTS**

1.0 BACKGROUND/RATIONALE

- 1.1 This JMC is being issued pursuant to Section 12 of EO No. 138 dated 01 June 2021, which provides, among others, that the Department of Budget and Management (DBM) and Department of the Interior and Local Government (DILG), in coordination with the Civil Service Commission (CSC) and with prior consultation with the local government units (LGUs) through their Leagues, shall develop and issue the guidelines, as may be necessary, to ensure the fair, orderly, and transparent implementation of the personnel policies and options provided under said EO.
- 1.2 Further, Section 27 of the implementing rules and regulations (IRR)² of EO No. 138 provides that said guidelines shall be issued within thirty (30) days³ from the effectivity of said IRR, including the timetable for the implementation and the phasing of activities and availment of the separation incentive package as indicated under Section 13 of EO No. 138, provided that the national government agencies (NGAs) are authorized to institute their respective internal operationalization guidelines, subject to existing CSC and DBM rules and regulations.

¹ Full Devolution of Certain Functions of the Executive Branch to Local Governments, Creation of a Committee on Devolution, and for Other Purposes

² Dated 02 July 2021

³ Until 12 September 2021

2.0 GENERAL POLICIES

- 2.1 There shall be no involuntary separation, termination, or lay-off of permanent national government personnel affected by the full devolution effort.

In this regard, the affected personnel may avail of any of the options provided under item 3.0 hereof.

- 2.2 In no case shall there be any diminution in the basic salaries of incumbent affected employees who would opt to be transferred to any department or agency within the Executive Branch as a result of the implementation of full devolution under EO No. 138.

They would have full rights to all the benefits which may be available to other government employees, except for certain allowances that were used to be given corresponding to the performance of specific functions which would no longer form part of their new functions.

The forfeiture or non-grant of specific purpose allowances which are anchored on the performance of particular functions or the presence of certain conditions will not constitute diminution in pay.

- 2.3 The personnel shall enjoy security of tenure in the agencies where they have been transferred to as a result of the implementation of full devolution under EO No. 138, in accordance with the Civil Service laws, rules and regulations.

- 2.4 The positions of personnel who may be affected by the full devolution effort and will not opt to retire or separate from the service shall be marked coterminous with the incumbent (CTI), either in the parent or the recipient agency, to be abolished once vacated.

- 2.5 The option to be taken by an affected employee pursuant to Section 12 of EO No. 138 is considered final once the department/agency/GOCC devolution transition plan (DTP) is approved by the DBM, and shall preclude the availment of other options provided under said EO.

- 2.6 The LGUs shall have the discretion/authority to hire any personnel from the NGAs affected by the implementation of the full devolution effort under EO No. 138.

- 2.7 The hiring by the LGUs of affected personnel from the NGAs shall be subject to the related provisions of Republic Act (RA) No. 7160 or the Local Government Code of 1991, and the Civil Service laws, rules, and regulations, as well as the positive evaluation of the LGU Personnel Selection Board.

- 2.8 Any internal operationalization guidelines that may be instituted or issued by departments/agencies/GOCCs concerned shall be made consistent with the provisions of this JMC.

3.0 **OPTIONS FOR AFFECTED PERSONNEL**

- 3.1 Pursuant to Section 12 of EO No. 138, personnel hired on a permanent basis and with appointments attested by the CSC who may be affected by the full devolution of the functions and services to the LGUs shall have the option to:
- 3.1.1 Transfer to other units/offices within the department/agency/GOCC concerned, without reduction in pay;
 - 3.1.2 Transfer to other departments/agencies/GOCCs in the Executive Branch, without reduction in pay; or
 - 3.1.3 Avail of the retirement benefits and separation incentives as provided under Section 13 of EO No. 138, and may apply to vacant positions that will perform the devolved functions in the LGUs, subject to the discretion and recruitment process of the LGU concerned.
- 3.2 Affected employees occupying medical/allied-medical items in the Department of Health (DOH) and other departments/agencies/GOCCs may apply for transfer to a DOH-supervised hospital of their choice, consistent with items 3.1.1 and 3.1.2 hereof, respectively.

4.0 **PROCEDURES**

4.1 ***Transfer of Personnel to Other Units/Offices within the Department/Agency/GOCC***

- 4.1.1 Affected personnel with permanent appointment may apply for transfer to other units/offices within the department/agency/GOCC concerned.

The list of personnel preferring this option shall be indicated under Annex G-2 of the DTP to be submitted by the agency concerned to the DBM, subject to acceptance/approval of the department secretary/agency head concerned.

- 4.1.2 Under this option, the position of the affected personnel which is transferred to other units/offices within the department/agency/GOCC shall be considered CTI, to be abolished once vacated by the present incumbent.

In the case of NGAs, the attendant Notice of Organization, Staffing and Compensation Action (NOSCA) shall be issued by the DBM.

In the case of GOCCs covered by Republic Act (RA) No. 10149 or the "GOCC Governance Act of 2011", the same shall be subject to the existing applicable guidelines of the Governance Commission for GOCCs (GCG), while those exempt from the coverage of RA No. 10149 shall be subject to the existing guidelines of the DBM.

4.2 *Transfer to Other Departments/Agencies/GOCCs in the Executive Branch*

- 4.2.1 Affected personnel with permanent appointment may apply for transfer to other agencies in the Executive Branch where additional personnel are required.

The personnel concerned may identify a maximum of three (3) departments/agencies/GOCCs of his/her choice for possible redeployment.

The respective human resource management offices/units of the departments/agencies/GOCCs concerned shall assist the affected personnel in the identification of possible recipient agencies where said personnel may apply for transfer to. The recipient department/agency shall be determined by order of preference among the three (3) options identified by the affected personnel.

The parent department/agency/GOCC shall notify the proposed recipient departments/agencies/GOCCs identified by an affected employee prior to the submission of the DTP to the DBM.

The proposed recipient agency/ies where an affected personnel intends to apply for transfer to shall be indicated under Annex G-3 of the DTP to be submitted by the parent department/agency concerned to the DBM.

- 4.2.2 The transfer of personnel shall be based on the requirements of the recipient agency, taking into consideration the position, qualifications, and/or skills of the affected personnel.
- 4.2.3 Upon receipt of an agency's DTP, the DBM shall confirm the acceptance/approval of the proposed transfer of the position and the incumbent thereof with the specified recipient agency/ies.
- 4.2.4 The recipient agency shall confirm to the DBM its acceptance/approval of the proposed transfer of the position and personnel within thirty (30) calendar days from receipt of the request for confirmation from the DBM.

The DBM shall inform the parent agency, and the GCG in the case of GOCCs covered by RA No. 10149, of the acceptance/approval of the transfer of its affected personnel.

The DBM shall issue the attendant NOSCA within thirty (30) calendar days from the date of the approval of the department's/agency's DTP, subject to submission of complete required documents.

- 4.2.5 The parent department/agency/GOCC shall directly coordinate the transfer of an affected personnel to the recipient agency.

In this regard, the departments/agencies concerned shall submit to the CSC, through its CSC regional office concerned, the list of affected personnel whose positions will be transferred to other agencies.

- 4.2.6 The personnel shall start to report to the recipient agency within thirty (30) calendar days from the issuance of the NOSCA by the DBM.

The recipient agency shall issue the necessary appointment for the transferred personnel, based on the NOSCA issued by the DBM, in case of NGAs.

In the case of GOCCs covered by RA No. 10149, the issuance of necessary appointment for the transferred personnel shall be based on the existing guidelines of the GCG, while those exempt from the coverage of RA No. 10149 shall be subject to the existing guidelines of the DBM.

- 4.2.7 In case the proposed transfer of the position and personnel is not accepted/approved by all of the specified departments/agencies, he/she shall remain in his/her parent agency. Similarly, in said case, the position of the affected personnel shall be marked CTI, and shall be abolished once vacated.

In the case of the transfer of an affected personnel from a GOCC to a regular department/agency, a corresponding position of equivalent rank shall be created in the agency through a NOSCA to be issued by the DBM. Said position shall be marked CTI, to be abolished once vacated.

In the case of the transfer of an affected personnel from a regular department/agency to a GOCC, the recipient GOCC shall include in its corporate operating budget the Personnel Services (PS) cost for the transferred personnel.

4.3 ***Availment of Retirement/Separation Benefits and Incentives***

- 4.3.1 The list of permanent personnel who are affected by the full devolution effort and would opt to retire or separate from the service shall be prepared by the department/agency and shall be contained in Annex G-3 of their respective DTP to be submitted to the DBM.

It shall indicate the retirement benefit to be availed of by the personnel under existing laws, and the applicable separation incentives rate pursuant to Section 13 of EO No. 138, as follows:

Length of Service	Rate
Less than eleven (11) years of service	½ of the actual monthly basic salary for every year of government service
Eleven (11) to less than twenty-one (21) years of service	¾ of the actual monthly basic salary for every year of government service, computed starting from the 1 st year
Twenty-one (21) to less than thirty-one (31) years of service	Actual monthly basic salary for every year of government service, computed starting from the 1 st year
Thirty-one (31) years of service and above	1 ¼ of the actual monthly basic salary for every year of government service, computed starting from the 1 st year

The processing of the retirement benefits and separation incentives shall be in accordance with existing budgeting, accounting, and auditing laws, rules and regulations.

4.3.2 The incentive of the employee shall be computed as follows:

$$I = IF \times BMS \times Y$$

Where:

I = Incentive

IF = Incentive factor of 0.50 month/year, 0.75 month/year, 1.00 month/year, or 1.25 month/year, as may be applicable

BMS = Present basic monthly salary of the employee

Y = Length of government service in years, months, and days converted in years

The actual monthly basic salary shall refer to the salary of the affected personnel as of the date of approval of the department's or agency's revised organizational structure and staffing pattern by the DBM.

A minimum of five (5) years of government service is required in order for an affected personnel to be entitled to avail of the incentives provided under EO No. 138.

For the purpose of computing the total amount of incentive that an affected personnel would receive, only his/her government service up to age 59 and a fraction thereof shall be counted. Government service starting at the age of sixty (60) shall no longer be subject to the separation incentives provided under said EO, without affecting the original incentive factor determined as applicable

based on the actual years of service of the affected personnel; Provided, further, that for the purpose of complying with the required number of years under RA No. 8291, or "The Government Service Insurance System (GSIS) Act of 1997," the portability scheme under RA No. 7699 or the "Portability Law" may be applied, subject to existing policies and guidelines.

The retirement gratuity benefit of affected personnel who are qualified and shall avail of RA No. 1616, as amended, shall be paid by the GSIS. The GSIS shall no longer pay the refund of retirement premiums, both personal and government shares, of the affected personnel who will opt to retire under RA No. 1616.

4.3.3 The department/agency concerned shall likewise process the other benefits due to the affected personnel who retired/separated from the service, on top of applicable statutory benefits, pursuant to Section 14 of EO No. 138, as follows:

- a. Refund of Pag-IBIG contributions, both personal and government shares, of all affected members, pursuant to existing rules and regulations of the Home Development Mutual Fund; and
- b. Commutation of unused vacation and sick leave credits of the affected personnel in accordance with existing civil service rules and regulations.

4.3.4 To facilitate the attestation of appointments of the affected personnel, the department/agency/GOCC concerned shall submit to the CSC a list of personnel with permanent appointment who opted to retire or separate from the service within fifteen (15) calendar days after the approval of the DTP of the NGA concerned by the DBM, for reference in the determination of their reemployment to other agencies or branches of government, and in the LGUs.

4.4 ***Policy for Affected Non-Permanent Employees***

4.4.1 Departments/Agencies shall prepare a list of affected non-permanent personnel, particularly contractual and casual, who are involved in the implementation of devolved services, for ready reference of the DBM, DILG, and the LGUs.

Said list may be included as an attachment to Annex G-3 of the DTP to be submitted by the department/agency/GOCC to the DBM.

4.4.2 The DILG shall set up a mechanism to enable the NGAs to access information on positions proposed to be created by the LGUs, as reflected in their LGU DTPs.

Agencies concerned shall make said information available to affected non-permanent personnel who may wish to apply for an LGU position.

- 4.4.3 Affected non-permanent personnel may apply to vacant positions in the LGUs, subject to the compensation system and required qualifications and recruitment systems and processes of the LGU concerned.

Said non-permanent personnel may check the vacancies or available positions in the LGU, as reflected in the LGU and CSC portals. They may likewise refer to the information on positions proposed to be created in the LGUs as reflected in their respective DTPs, which shall be made available through a mechanism to be set up by the DILG.

- 4.4.4 Subject to the discretion of the LGU, the affected non-permanent personnel may be given preference, after those with permanent appointment, in the application process.

4.5 ***Application of Affected Personnel Who Retired/Separated from the Service to the LGUs***

- 4.5.1 In general, all PS items of appropriations of the LGUs are subject to the limitations set forth under Sections 325 (a) and 331 (b) of RA No. 7160 to ensure that the LGUs operate within budgetary constraints and that adequate funds are allocated for the delivery of basic services and facilities and implementation of developmental projects.

Hence, considering that the LGUs have the option to hire the affected national government personnel, the LGUs shall comply with the aforesaid provisions and the applicable General Provision(s) of the pertinent General Appropriations Act on PS limitation.

- 4.5.2 The creation of new positions and hiring of additional employees shall be in accordance with the pertinent provisions of RA No. 7160, and other applicable rules and regulations, such as the updated *Index of Occupational Services, Position Titles, and Salary Grades in the Local Government (CY 2021 Edition)* provided under DBM Local Budget Circular No. 137 dated July 13, 2021, and the standard leveling of positions prescribed for the LGUs under DBM Circular Letter No. 2007-6 dated February 19, 2007 (Manual on Position Classification and Compensation).

- 4.5.3 Affected national government personnel who opted to retire or separate from the service may apply for reemployment to vacant positions in the LGUs.

Said personnel may check the vacancies or available positions in the LGU, as reflected in the LGU and CSC portals. They may likewise refer to the information on positions proposed to be created in the LGUs as reflected in their respective DTPs, which shall be made available through a mechanism to be set up by the DILG.

They may apply to said employment opportunities, subject to the required qualifications and recruitment systems and processes of the LGU concerned.

- 4.5.4 It is understood that the reemployment of affected personnel from departments/agencies/GOCC in the LGUs shall be considered as a new entry to the civil service, and that they shall be subject to the compensation system of the LGU concerned.

For this purpose, the affected personnel shall sign a waiver or manifestation that they accept these terms as a condition for their employment with the LGU.

4.6 ***Prohibition on Rehiring of Personnel Who Retired or Separated from the Service***

- 4.6.1 Government personnel with permanent appointment who retired/separated from the service as a result of the full devolution efforts shall be prohibited from reemployment in any agency of the Executive Branch, for a period of five (5) years, except as teaching and medical staff in educational institutions and hospitals, respectively.
- 4.6.2 The prohibition on the reemployment of the affected personnel shall not apply in the other branches of government and in the LGUs.
- 4.6.3 The reemployment of the retired/separated personnel in the Executive Branch within the prohibited period shall cause the refund of the separation incentives received by subject personnel under Section 13 of EO No. 138, on a pro-rated basis.
- 4.6.4 The engagement of consultancy services by government personnel who retired/separated from the service as a result of the full devolution efforts shall be governed by Section 7 of RA No. 6713, or the "Code of Conduct and Ethical Standards for Public Officials and Employees", and other pertinent laws, rules, and regulations.

5.0 DATA PRIVACY

In compliance with the RA No. 10173 or the "Data Privacy Act of 2012", departments/agencies/GOCCs are reminded to seek the consent of the personnel concerned before the dissemination of any personal information of the affected employee.

6.0 UPDATING AND REVIEW OF GUIDELINES

This JMC may be updated, as necessary, to address any concern arising from the implementation of these guidelines and other matters affecting personnel policies and options in line with the full devolution effort.

7.0 RESOLUTION OF ISSUES

Issues and concerns that may arise in the implementation of this JMC shall be jointly resolved by the DBM and DILG, in coordination with the CSC.

8.0 REPEAL

All existing guidelines or issuances by the DILG and/or DBM which are not consistent with this JMC are hereby repealed or superseded accordingly. It is understood that any future issuance seeking to amend this JMC or any part thereof shall be issued jointly by the DILG and DBM.

9.0 SEPARABILITY

If, for any reason, any part or provision of this JMC is declared invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

10.0 EFFECTIVITY

This JMC shall take effect immediately following its complete publication in the Official Gazette or in a newspaper of general circulation.




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