

## RESOLUTION NO. 020790

**WHEREAS**, Section 2 (1), Article IX-B of the 1987 Constitution provides that the Civil Service embraces all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters;

**WHEREAS**, Section 12 (3), Chapter 3, Title I (A), Book V of the Administrative Code of 1987 provides that the Commission shall promulgate policies, standards and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient and effective personnel administration in the government;

**WHEREAS**, Section 12 (14), Chapter 3, Title I (A), Book V of the Administrative Code of 1987 provides that the Commission shall take appropriate action on all appointments and other personnel matters in the Civil Service;

**WHEREAS**, Section 1, Rule XI of the Revised Omnibus Rules on Appointments and other Personnel Actions, CSC Memorandum Circular No. 40, series of 1998, as amended by CSC Memorandum Circular No. 15, series of 1999, provides that contracts of services need not be submitted to the Commission as services rendered thereunder are not considered government service;

**WHEREAS**, the Commission has been made aware that the practice of hiring personnel under contracts of services and job orders entered into between government agencies and individuals has been used to circumvent Civil Service rules and regulations particularly its mandate on merit and fitness in public service;

**NOW, THEREFORE**, the Commission resolves to adopt the following policies and guidelines regarding contracts of services and job orders entered into by all branches, subdivisions, instrumentalities and agencies of the Government, including government-owned or controlled corporations with original charters.

**Section 1. Definitions.** The terms hereunder shall be construed, as follows:

a. **Individual Contract of Services/ Job Order** - refers to employment described as follows:

1. The contract covers lump sum work or services such as janitorial, security, or consultancy where no employer-

employee relationship exists between the individual and the government;

2. The job order covers piece work or intermittent job of short duration not exceeding six months and pay is on a daily basis;

3. The contract of services and job order are not covered by Civil Service law, rules and regulations, but covered by Commission on Audit (COA) rules;

4. The employees involved in the contract or job order do not enjoy the benefits enjoyed by government employees, such as PERA, ACA and RATA.

5. Services rendered thereunder are not considered as government service.

**b. Institutional Contract of Services-** refers to a contract of services entered into between the hiring government agency and a private firm or non-governmental agency, through public bidding or negotiated contracts and subject to pertinent COA rules and regulations.

In an institutional contract of services, the contracted agency is engaged to provide personnel who shall perform lump sum work or service related to or incidental to the hiring agency's functions and operations, for a specific period of time not exceeding six (6) months. Provided, that such contract of services shall be entered into when it is impractical or more expensive for the hiring government agency to directly undertake such service.

The personnel rendering the service remain the employees of the contracted agency and are precluded from entering into an employer-employee relationship with the hiring government agency.

**Section 2. Execution of a Contract of Services or Job Order-** The employment referred to in Section 1(a) requires the execution of either a contract of services or memorandum of agreement (MOA) or job order between the government agency concerned and the individual, in accordance with the rules and regulations of the COA.

With respect to institutional contracts of services defined in Section 1 (b), a contract of services or a memorandum of agreement must be executed between the hiring government agency and the contracted agency, also subject to the COA rules and regulations.

**Section 3.** The contract of services, MOA or job order shall not contain the following provisions:

a. The employee performs work or a regular function that is necessary and essential to the agency concerned or work also performed by the regular personnel of the hiring agency;

b. The employee is required to report to the office and render service during the agency's prescribed office hours

from 8:00 am to 5:00 pm or for forty (40) hours per week;

c. The employee is entitled to benefits enjoyed by government employees such as ACA, PERA and RATA and other benefits given by the agency such as mid-year bonus, productivity incentive, Christmas bonus and cash gifts.

d. The employee's conduct and performance shall be under the direct control and supervision of the government agency concerned.

e. The employee's performance shall be evaluated by the government agency.

**Section 4. Prohibitions-** The following are prohibited from being hired under a contract of services and job order.

a. Those who have been previously dismissed from the service due to commission of an administrative offense;

b. Those who are covered under the rules on nepotism;

c. Those who are being hired to perform functions pertaining to vacant regular plantilla positions.

d. Those who have reached the compulsory retirement age except as to consultancy services.

**Section 5. Submission of Contract / MOA or Job Order for Review-** The contract of services, MOA or job order shall be submitted to the CSC Regional Office (CSCRO) having jurisdiction over the government agency for review of its stipulations within thirty (30) days from the execution and signing of the contract of services, MOA or job order which shall be the date indicated on the said instrument.

**Section 6. No Rendition of Services** - No service shall be rendered under the contract of services, MOA or job order pending its review by the CSCRO.

**Section 7. Findings of the Regional Offices-** If the findings of the CSCRO show that the contract, MOA or job order contains the prohibited stipulations, the CSCRO shall direct the agency concerned to delete the necessary stipulations in order that the same may comply with the guidelines provided herein.

**Section 8. Effect of Non-Submission of Contract / MOA-** Failure of submission of the contract or MOA for review by the CSCRO shall not invalidate the same. However, this would be without prejudice to the filing of the charge for Neglect of Duty against the HRMO of the hiring agency and the officer who signed the same. Furthermore, services rendered under said contract or MOA shall not be accredited as government service.

**Section 9. Contract of Services/Job Orders Subject to CSC Audit.** As far as practicable, all contracts of

services and job orders shall be subject to audit by the CSCRO's insofar as their compliance with these guidelines and to pertinent Civil Service rules and regulations.

**Section 10. Effect on Existing Contracts of Services and Job Orders-** All existing contracts of services and job orders which are in any way inconsistent with these guidelines shall continue to be effective until their termination or expiration. However, the same shall not be renewed unless they comply with the guidelines herein.

**Section 11.** All other existing issuances that are inconsistent herewith are deemed repealed or amended.

**Section 12. Effectivity-** These guidelines shall take effect after fifteen (15) days from the date of publication in a newspaper of general circulation.

Quezon City, JUN 05 2002

(Signed)

**KARINA CONSTANTINO-DAVID**  
Chairman

(Signed)

**JOSE F. ERESTAIN, JR.**  
Commissioner

(Signed)

**J. WALDEMAR V. VALMORES**  
Commissioner

Attested by:

(Signed)

**ARIEL G. RONQUILLO**  
Director III

FPG/ X15 (dsk 7)  
/contract'r