

LUNA, Mayumi Juris A.

Re: Consultancy; Query

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RESOLUTION NO. 021264

Director IV Mayumi Juris A. Luna, National Economic and Development Authority (NEDA), Pasig City, requests clarification regarding consultancy. Specifically, her request reads, thus:

"This is to seek clarification on whether an employee/official can go on vacation leave with or without pay at the same time accept a consultancy job in a project of another government agency or foreign institution here or abroad."

By definition, a consultant is one who provides professional advice on matters within the field of his special knowledge or training. There is no employer-employee relationship in the engagement of a consultant but that of a client-professional relationship. Thus, consultancy services are not considered government service¹.

It is worth emphasizing that consultancy may be likened to the rule on limited practice of profession. Under this concept, full-time consultancy is obviously not allowable. This occurs when an employee/official, who is performing the functions of his/her position, accepts a consultancy job in nother government agency or private institution, whether local or foreign. In this instance, the full-time consultancy job is not legally permissible due to the following factors: *(1) an employee/official cannot perform his functions efficiently while at the same accepting a consultancy job since he/she cannot devote to each job the attention it properly deserves; and (2) the consultancy job may be in conflict with the functions of his/her office and the interest of the government.*

Nonetheless, this does not mean that an employee/officer can not accept a consultancy job as he/she may do the following: (1) take a leave of absence; or (2) become a consultant under a part-time status.

Taking a leave of absence, whether with pay or not, to accept a consultancy job is subject, however, to the following rules:

1. Leave of absence must be contingent upon the needs of the service which means that it must not adversely affect agency operations, thus, the grant of vacation leave shall be at the discretion of the head of the department/agency;

2. Leave without pay shall not exceed one (1) year; and
3. Leave without pay shall not be granted whenever an employee has leave with pay to his credit;

On the other hand, accepting a consultancy job under a part-time status is subject to the following conditions:

1. It must not violate the rule against holding multiple positions²;
2. The employee/officer must obtain permission or authority from his/her head of agency as the same constitutes private practice of profession³;
3. The consultancy job must not conflict or tend to conflict with his/her official functions⁴; and
4. It must not affect the effective performance of his/her duty.

The first three (3) conditions abovementioned are also applicable to those who take a leave of absence for the purpose of accepting a consultancy job.

Finally, the employee or officer can also be seconded to another government agency or international organization recognized by our government. In this case, it shall be limited to personnel occupying managerial, professional, technical and scientific positions. Further, the rules on secondment as provided in Section 6 of CSC Memorandum Circular No. 40, s. 1998 (as amended by CSC MC No. 15, s. 1999) should be followed.

WHEREFORE, the Commission hereby rules that:

1. Full-time consultancy job of a government official or employee is not allowable.
2. An employee/officer may become a consultant of another agency, institution, local or foreign, or foreign government under part-time status, provided the following are present:
 - a. It must not violate the rule against holding multiple positions;
 - b. He/She must obtain permission or authority from his/her head of agency as the same constitutes a limited private practice of profession;
 - c. The private practice of profession must not conflict or tend to conflict with his/her official functions and the interest of the Republic of the Philippines; and
 - d. It must not affect the effective performance of his/her duty.
3. An employee/officer may take a leave of absence, whether with pay or not, to accept a consultancy job, subject to the following rules:
 - a. Leave of absence must be contingent upon the needs of the service, i.e., it must not adversely affect agency operations, thus, the grant of vacation leave shall be at the discretion of the head of the department/agency;
 - b. Leave without pay shall not exceed one (1) year;
 - c. Leave without pay shall not be granted whenever an employee has leave with pay to his credit; and
 - d. It must not violate the rule against holding multiple positions;

- e. He/She must obtain permission or authority from his/her head of agency as the same constitutes a limited private practice of profession.
 - f. The private practice of profession must not conflict or tend to conflict with his/her official functions and the interest of the Republic of the Philippines.
4. An employee/officer may be seconded to another agency or international organization provided Section 6 of CSC Memorandum Circular No. 40, s. 1998 (as amended by CSC MC No. 15, s. 1999) should be followed.

Quezon City, SEP 27 2002

(Signed)
J. WALDEMAR V. VALMORES
Commissioner

(Signed)
KARINA CONSTANTINO-DAVID
Chairman

(Signed)
JOSE F. ERESTAIN, JR.
Commissioner

Attested by:

(Signed)
ARIEL G. RONQUILLO
Director III

¹CSC Resolution No. 97-4179 dated October 21, 1997

²Section 13, Article VII of the 1987 Constitution provides, to wit:

"The President, Vice President, the Members of the Cabinet, and their deputies and assistants shall not, unless otherwise provided in this

Constitution, hold any other office of employment during their tenure . . ."

³Section 18, Rule XIII of Civil Service Commission (CSC) Memorandum Circular (MC) No. 15, s. 1999 provides, to wit:

"SEC. 18. Unless otherwise provided by law, no officer or employee shall engage directly or indirectly in any private business or profession without a written permission from the head of agency. Provided that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities required that their entire time be at the disposal of the government: Provided further, that if an employee is granted permission to engage in outside activities, the time devoted outside of office hours should be fixed by the head of the agency so that it will not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions."

⁴Section 7, b(2) of Republic Act 6713 provides:

"Prohibited Acts and Transactions. - x x x (b) Outside employment and other activities related thereto.- x x x (3) Engage in the private practice of profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions."

FPG/RTM/X4/Y6/rco(fuji20)

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