



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

Regional Office I, City of San Fernando, La Union
Telephone Number (072) 888 2108 • 700 5746 • 888 2289 • 700 2701 • 700 3979 • 607 1245
www.dilgregion1.com



June 27, 2014

HON. GLENN B. GUZMAN
Vice Mayor
Sinait, Ilocos Sur



Dear VM Guzman:

This has reference to your request for legal opinion, dated March 15, 2014 referred by Atty. Cynthia F. Laureano-Pulido, Officer-in-Charge, Legal Research, Assistance and Legislative Liaison Division on June 9, 2014 which was received by this office on June 16, 2014, pertaining to the following issues, to wit:

1. Whether or not being the Vice Mayor, you can appoint job order employees whose salaries are chargeable under the Office of the Sanggunian Bayan?
2. Is the order of the Municipal Mayor withholding the papers for the salaries of job order employees valid?
3. Can the majority of the Sangguniang Bayan Members hinder the appointment of these job order employees?

Before dwelling on the issues, please be informed that the office had already an occasion to answer a similar query in DILG Opinion No. 17, series 2010 dated March 8, 2010. It provides that *“with respect to the casual and job order employees, we have to qualify. As also contained in our Opinion No. 32, series of 2005 dated June 8, 2005, we considered job order employees as among those falling under the second type of casual employees. Thus, we clarified therein that there are two (2) types of casual employees, to wit: [a] those provided for in the plantilla of the local government unit concerned and filled up via “appointment”, and [b] those not provided for in the plantilla and hired thru job order contracts.*

In the first type of casual employees, we were, and are still, of the view, consistent with our earlier Opinions No. 87 and 173, series of 2002, that the Vice Mayor has the authority to appointment. In the second type, on the other hand, the Mayor, has the authority to hire them through the execution of job order contracts. This is because while there is nothing in the LGC of 1991 that confers authority upon the Vice Mayor to sign any contract, section 7 of the LGC explicitly confers authority upon the local chief executives to hire workers through job order contracts.

DILG Opinion No. 31, s. 2009 provides that “the Atienza ruling would necessarily mean casuals and job order employees whose items/positions are filled up via the

f



appointment process, which is clearly different when we speak of hiring through a contract engaging the services of a job order of personnel.xxx We wish to point out that the power to appoint is different from the power to sign job order contract. Along this line, the power to appoint job order employee whose item/position is contained in the plantilla for the Sanggunian and to be assigned to the Sanggunian whose salaries will be paid out of the Sanggunian funds pertains to the Local Vice Chief Executive. On the other hand, if a person is to be hired under a job order contract, his entry is not by appointment but by execution of a job order contract. In this regard, the power to sign the corresponding job order contract remains in the Mayor. This finds basis in Section 444 (a) in relation to Section 22 of the LGC of 1991. xxx Section 444 (a) of the aforesaid Code provides that the municipal mayor, as the local chief executive of the municipal government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws. Relative thereto, section 22 of the same law provides that, unless otherwise provided therein, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the Sanggunian concerned.

Hence, it is the Municipal Mayor who has the power to hire job order employees thru job order contract since it is only him/her who has the power to enter contract in behalf of the Municipal Government.

Anent the second query, the validity of the letter of the Municipal Mayor is based upon opposition by the Sanggunian Bayan members on the hiring of job order employees in the Office of the Sangguniang Bayan. Per letter of the majority of the Sangguniang members addressed to Municipal Mayor, they opposed the hiring of job order employees because they were not consulted. Upon this letter, the Mayor acted with basis in ordering the Departments Heads concerned to withhold the preparations of pertinent papers for the payments of the salaries of the job order employees.

With your third query, we take into consideration the nature of job order contract per Civil Service Commission (CSC) rules and regulation.

The CSC defines job order as the one issued to a person to do piece of work or intermittent job of short duration not exceeding six (6) months paid on a daily basis for local projects authorized by the Sangguniang concerned. (Civil Service Commission, A Guide for Local Chief Executives (LCEs) on Public Personnel Administration, page 17.)

Clearly, the Sangguniang Bayan Members can oppose the hiring of job order because it is only issued for local projects duly authorized by the Sanggunian concerned. Without such authorization, the local government units could not hire the services of individuals via job-order contracts.

Based on the given facts, the hiring of job order in the office of the Sangguniang was not mentioned if based on local project duly authorized by the Sanggunian. Such being the case, the Sanggunian can oppose the hiring of job order employees. If the hiring of job order employee was based on a local project duly authorized by the Sanggunian,

f




then the Sanggunian can not oppose the same and the Vice Mayor can appoint job order employees based from their approval thereof.

Therefore, by the nature of job order employment, the Sanggunian had sufficient basis to oppose the hiring of job order employees through service contract by the Vice Mayor.

We hope to have enlightened you on the issues at hand. Our opinion, however, is without prejudice to any ruling or opinion rendered by the Civil Service Commission or a competent tribunal.

Warm regards.


ARD JULIE J. DAQUIOAG, CESO IV
Officer-in-Charge

Legal/jos

- ATTACHMENTS:
1. DILG OPINION NO. 31, S. 2009, DATED JULY 07, 2009
2. DILG OPINION NO. 17, S. 2010, DATED MARCH 08, 2010

