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Republika ng Pilipinas
Kagawaran ng Edukasyon
Tanggapan ng Pangalawang Kalihim

OUA MEMO 00-0421-0121
MEMORANDUM
26 April 2021

For: **Secretary LEONOR MAGTOLIS BRIONES**
Executive Committee
Management Committee

Attention: **JESUS L. R. MATEO**
Undersecretary for Planning Service, BHROD

Subject: **OUA POSITION ON THE SUBMISSION OF ITS**
DEVOLUTION TRANSITION PLANS

In reference to the Memorandum from the Office of the Undersecretary for Planning, Human Resource and Organizational Development requesting the Office of the Undersecretary for Administration (OUA) on the Submission of the **Devolution Transition Plans (DTPS) For the Basic Education Facilities, School-Based Feeding and Palarong Pambansa Programs** dated April 14, 2021, the OUA hereby provides the following opinion on the matter, after due consultation with and as agreed upon by all the offices under the said Strand.

The said Memorandum emanates from the letter of the Secretary of the Department of Budget and Management (DBM) to the Secretary of the Department of Education (DepEd) dated April 5, 2021, requesting the latter to submit the agency's devolution transition plan which the national government agencies (NGAs) are directed to prepare pursuant to the proposed Executive Order (EO) directing the full devolution of certain functions of the Executive Branch to the local governments starting FY 2022, as a result of the Supreme Court (SC) ruling on the Mandanas and Garcia cases.

It is noted in the **Guidelines on the Preparation of the Devolution Transition Plans of the National Government Agencies Concerned in Support of the Executive Order on Full Devolution** that the proposed EO intends to effect the full devolution of certain functions of the Executive Branch to the local governments starting FY2022, as a result of the Supreme Court (SC) ruling on the Mandanas and Garcia cases. In the said Guidelines, the intent, scope, and context of the proposed devolution is expressed in the various provisions, to wit:



Office of the Undersecretary for Administration (OUA)

[Administrative Service (AS), Information and Communications Technology Service (ICTS), Disaster Risk Reduction and Management Service (DRRMS), Bureau of Learner Support Services (BLSS), Baguio Teachers Camp (BTC), Central Security & Safety Office (CSSO)]

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1.0. Strategic Review of Thrusts and Priorities Towards Full Devolution

- 1.1 *xxx. This means that there will be greater funds available for use by the LGUs to implement the **functions devolved under Republic Act No. 7160** of the LGC or 1991 and other pertinent legislative measures.*
- 1.2 *This presents to the national government agencies (NGAs) xxx with functions devolved to the LGUs, a unique opportunity to finally hand over the responsibility to the local governments the provision of basic goods and services which have been devolved to them.*
- 1.3 *Thus, to strengthen the chances for economic recovery and fiscal sustainability, the LGUs should, starting 2022, fully and permanently assume all functions which have already been devolved under the 1991 LGC and other pertinent laws.*
- 1.4 *The overriding objective of the devolution transition process is to enable a timely and seamless handover of the devolved functions to the LGUs starting 2022 xxx.*

2.0. Identification of Functions/Services/Facilities and Budget Items (or PAPs) for discontinuance by the NGAs and Unbundling of the Devolved Functions

- 2.1 *The functions/services/facilities and PAPs to be discontinued by the NGAs shall be consistent with those devolved under the LGC, as mandated by pertinent laws.*
- 2.2 *Simultaneously, the NGA functions/services/facilities which have been devolved shall be unbundled/disaggregated with specific responsibilities identified to the level of LGU. xxx*

The direction of the DBM and the corresponding Guidelines to guide the submission of an agency DTP are anchored on the proposed EO. However, as expressed in the Guidelines, **the intention is to effect, starting FY2020, the full implementation of the devolution under the LGC of 1991 and other pertinent laws.** Corrolary to this, **the devolution contemplated under the proposed EO, the Guidelines and the directive from the DBM should be construed as being limited to the functions/services/facilities categorically identified in Section 17 of the LGC.** Thus, it may be said that **the functions/services/facilities under the basic education sector not contemplated under the said provision of the LGC is not mandatorily governed by any further devolution, for lack of statutory or legal basis.**

For one, the programs under School Health Division of the Bureau of Learner Support Services (BLSS-SHD) are either inherent to **basic education services which have not been evolved under the LGC**, or have been added by subsequent legislation. In any case, these programs are generally supported in previous years' appropriations act. The same goes with the Palarong Pambansa Program.



On Infrastructure services, particularly school buildings and other facilities for public elementary and secondary schools, as cited in Section 17 (2)(viii) of the LGC, this has been, as a general rule, categorically devolved to the LGUs.

The Annex of the proposed EO identifies Local Infrastructure Services or provision of school buildings and other facilities for public elementary and secondary schools, particularly under Municipalities, as the functions, services, and facilities to be fully devolved from DepEd to the LGU, consistent with Section 17 of the Local Government Code (LGC) or RA 7160 and other pertinent laws.

Section 17 of the LGC enumerates the basic services and facilities covered by the devolution. Such basic services and facilities include, but are not limited to, the following:

- (2) *(viii) Infrastructure facilities intended primarily to service the needs of the residents of the municipality and which are funded out of municipal funds including, but not limited to, municipal roads and bridges; school buildings and other facilities for public elementary and secondary schools; clinics, health centers and other health facilities necessary to carry out health services; communal irrigation, small water impounding projects and other similar projects; fish ports; artesian wells, spring development, rainwater collectors and water supply systems; seawalls, dikes, drainage and sewerage, and flood control; traffic signals and road signs; and similar facilities;* (emphasis supplied)
- (4) *“All the services and facilities of the municipality and province, and in addition thereto, the following: (i) Adequate communication and transportation facilities; (ii) Support for education, police and fire services and facilities;”* (emphasis supplied)

Given the foregoing, it is conceded that infrastructure services and functions related to school buildings and other school facilities are technically governed by the Guidelines and the proposed EO.


However, letter (c) of Section 17 provides for the exception, to wit:

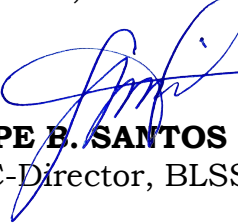
- “(c) Notwithstanding the provisions of subsection (b) hereof, **public works and infrastructure projects and other facilities, programs and services funded by the National Government under the annual General Appropriations Act, other special laws, pertinent executive orders, and those wholly or partially funded from foreign sources, are not covered under this section,** except in those cases where the local government unit concerned is duly designated as the implementing agency for such projects, facilities, programs, and services.”* (emphasis supplied)


Based on this exception, the DepEd is not precluded from undertaking infrastructure programs, projects and activities if these are funded under the General Appropriations Act (GAA) and other laws or issuances.



In this light, its is respectfully conveyed that the **Administration Strand shall endeavour to provide justification for the retention of basic education-related infrastructure services and hope that funding therefor shall be provided in the appropriation act.**


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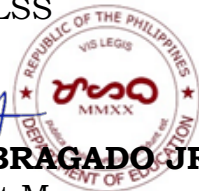

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