

MEMORANDUM

FOR : MS. MONETTE B. CADIANG
Chairperson, Inventory Committee for Central Office

FROM : THE OFFICER-IN-CHARGE¹, LEGAL SERVICE

**SUBJECT : LEGAL OPINION RE. CHAIRMANSHIP AND VICE-
CHAIRMANSHIP OF INVENTORY COMMITTEE FOR CENTRAL
OFFICE**

DATE : 26 JUNE 2024

This pertains to your MEMORANDUM² requesting the Legal Service (LS) for guidance on the following:

- 1.) The interpretation of the phrase "direct custody or control over the Property, Plant, and Equipment (PPE)"; and
- 2.) Whether the Secretary can designate the Assistant Secretary for General Administration and Support Services Group (GASSG) and the Director of Administrative Service as the new Chairperson and Vice-Chairperson of Inventory Committee for Central Office (ICCO).

As per the discussions in the Meeting³ held last 20 May 2024, specifically on the Reconstitution of the ICCO, the following, among others, were discussed:

- a. The current composition of the Committee was by virtue of DSWD Administrative Order No. (AO) 06, series of 2017, or the "Comprehensive Guidelines on the Management of DSWD Properties.
- b. According to Ms. Maribeth F. de Jesus, the resource speaker in the webinar entitled "COA Guidelines & Procedures: One-Time Cleansing of Property, Plant and Equipment Account Balances for All Government Institutions" held last 18-19 April 2024, the Head of the Property Division/Unit, who is responsible for the agency's properties, should not be designated as the Head of the Inventory Committee as an internal policy control to avoid conflict of interest.
- c. Anybody, who is a ranking officer (from Director-level up to Undersecretary), duly designated by the Head of the Agency can be the head of the Inventory Committee (IC).
- d. The Division Manager of Admin can be designated as the Head of the IC provided that he/she does not have direct custody or control over the PPE of the agency.
- e. There is a need to reconstitute the IC so as to reflect the information above.

LS Comments

According to Black's Law Dictionary (4th edition), the terms "control" and "custody" are defined as follows:

¹ Special Order No. 6021, Series of 2023 - Order of Succession of the Legal Service

² Annex "A" - Memorandum from ICCO Chairperson

³ Annex "B" - Minutes of the Meeting held last 20 May 2024

"Control" is the "power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee".

"Custody" is the "care and possession of a thing, and means the keeping, guarding, watch, inspection, preservation or security of a thing, and carries with it the idea of the thing being within the immediate personal care".

On the other hand, the Commission on Audit's Manual on Cash Examination provides for the following relevant definition of terms:

"Public Officer" refers to any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Republic of the Philippines or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official of any rank or class.

"Public Property" refers to any real or personal property in the possession, custody or control of a public officer by virtue of his position/designation.

Further, in **4.4 Accountability of Public Property** it states, thus:

"Every officer, agent and employee, accountable for public property shall be liable for its money value in case of improper or unauthorized use or misapplication thereof, by himself or any person for whose acts he may be responsible. He shall likewise be liable for all losses, damages or deterioration due to negligence in the keeping or use of the property, whether or not it be, at the time of such loss, damage or deterioration, in his actual custody."

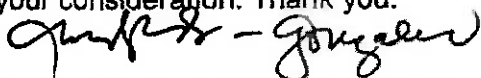
That is, based on the rules, the phrase "direct custody or control over the PPE" can be interpreted to mean that the public officer has actual possession of the public property, and he or she is required to take care of the public property with the diligence of a good father of a family. The public officer is even obliged to secure or preserve the thing or property because he or she is explicitly accountable for the public property.

In view of the established interpretation of the qualifications of public officer and public property above, this level opines that the Assistant Secretary for GASSG and the Director of Administrative Service appears to have **no direct custody or control over the PPE** to be inspected. Hence, there is no conflict of interest that may arise when they are designated and subsequently serve as the new Chairperson and Vice-Chairperson of the ICCO, respectively.

Please be informed that the foregoing legal opinion is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration. Thank you.



ATTY. MARIA CASSANDRA M. URBIZTONDO-GONZALES

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