



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE
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MEMORANDUM CIRCULAR 2023-07

FOR : All Client Government Corporations

SUBJECT : Guidelines on the referrals and requests made to the Office of the Government Corporate Counsel for case handling, opinion, and contract review

DATE : 24 August 2023

Pursuant to Section 10, Chapter 3, Title III, Book IV of the Administrative Code of 1987 and other relevant laws and jurisprudence, the Office of the Government Corporate Counsel (OGCC) is the statutory counsel and principal law office of all government owned or controlled corporations, their subsidiaries, corporate offsprings, government acquired asset corporations, and government instrumentalities vested with corporate powers or government corporate entities, collectively referred to as government corporations.

The OGCC has the authority and duty to: (a) handle cases on behalf of its client corporations; (b) review, and if necessary, recommend revisions or modifications of contracts referred by its client government corporations, as required by law, or prepare such contracts when so requested in appropriate cases; and (c) render legal opinions as required by law, on all important legal questions referred by its client corporations.

In the exigency of the service, the OGCC hereby promulgates the following guidelines to ensure efficiency and streamline the procedure on requests for the handling of cases, contract review, and opinion referred to it by its client corporations.

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I

GENERAL GUIDELINES

**(on the referral or request to the OGCC
for case handling, opinion, and contract review)**

- A. The client government corporation may refer a matter for the appropriate action of the OGCC through the submission of a Referral Letter.
- B. A Referral Letter is the client corporation's letter requesting for the OGCC's opinion, contract review, or the handling of and representation in a case, which must be signed by any one of the following:
 - 1. The Chairman of the governing board/body of the client corporation;
 - 2. The client's Head (*i.e.* President and/or Chief Executive Officer, General Manager, Administrator);
 - 3. The General Counsel (Head of the client's entire Legal Department).
- C. The Referral Letter shall cite the:
 - 1. Requested action;
 - 2. Overview and incidents of the matter referred;
 - 3. Rationale and necessity of the request;
 - 4. Authorized contact person (client's officer/personnel) with contact details (telephone/mobile number and electronic mail address) for any query or need for clarification or coordination;
 - 5. Additional matters cited in the List of Action Documents (LAD) depending on the referral made or the action requested.
- D. The attachments to the Referral Letter shall be legible copies of authentic documents and properly arranged. The original documents shall remain in the client's custody unless the assigned handling OGCC lawyer requests for them or unless specified in the LAD.

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- E. The LAD cites the minimum number and types of documents which are to be transmitted to the OGCC. The client's request will not be accepted or action thereon may be deferred or held in abeyance if a document on the LAD is not submitted.
- F. The client shall cite in the Referral Letter if a particular document on the LAD is unavailable.
- G. When the request is for contract review, the client shall submit together with the Referral Letter, a draft of the contract to be reviewed. The client may submit, for the OGCC's reference, documents in addition to those specified in the LAD.
- H. The OGCC may request for documents in addition to those specified in the LAD.
- I. The client may transmit, in advance, electronic copies of the Referral Letter and attached documents to records@ogcc.gov.ph subject to the condition that hard copies of the Referral Letter and the attached documents shall be submitted to the OGCC at the 3rd Floor, MWSS Administration Building, Katipunan Avenue, Quezon City: (a) within 24 hours from the date of the electronic transmission, if the client's office is located within Metro Manila; (b) within at most 72 hours from the date of the electronic transmission, if the client's office is located outside of Metro Manila. The OGCC Records Section shall be informed of the client's preferred manner of subsequent submission - by personal delivery or courier service, in the same electronic message transmitting the referred documents.
- J. The client, in its letter requesting for opinion or contract review, shall inform the OGCC if the latter had previously issued an Opinion or Contract Review involving the same issue or contract subject of the request. If so, the client shall indicate the corresponding OGCC Opinion or Contract Review number and the date of its issuance. It shall further inform the OGCC if a

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similar request was made to, is pending with, or addressed by another government agency.

- K. All referrals shall be addressed to the Government Corporate Counsel and duly received by the OGCC Records Section.¹
- L. An OGCC lawyer, assigned as *Lawyer of the Day*, shall be tasked to examine incoming requests from OGCC's clients. He/she shall be authorized to determine if a request complies with these Guidelines and the LAD, and whether the request shall be accepted by the OGCC Records Section.

II

LIST OF ACTION DOCUMENTS (LAD)

A. INITIAL REFERRAL OF A CASE

OGCC Memorandum Circular 2023-02, Series of 2023, provides for the *Guidelines on the Endorsement of Cases for Appropriate Handling*.

- A.1 For filing of an action, except for injunctive relief, before a lower court, tribunal, or office:
 - 1. Referral Letter;
 - 2. Executive Brief citing the:
 - a. Nature of the dispute or cause of action;
 - b. Amount involved;
 - c. Possible venue;
 - d. Summary of the dispute with

¹ Section 2, OGCC Memorandum Circular (MC) 2023-02, Series of 2023; dated 12 January 2023.



detailed historical background and facts;
e. Latest status or action taken on the case;²

3. Electronic copy of the Executive Summary in Microsoft Word format;³
4. Table of Contents⁴ of the transmitted documents indicating if the documents are original or photocopies;
5. Complete list of documentary evidence;
6. Copies of the documentary evidence;
7. List of possible witnesses and the relevance of their testimonies; and
8. Name and contact details (to include mobile, phone number, and email address) of the client's in-house lawyer or contact person assigned to coordinate and assist the OGCC with the case.

A.2 For the filing of a responsive pleading (*i.e.*, Answer) before a lower court, tribunal, or office

If the required pleading is an Answer, the referral shall be made within three (3) days from the client's receipt of the Summons.

1. Referral Letter;
2. Executive Brief citing the:
 - a. Title of the case

² Section 3, OGCC MC 2023-02

³*Id.*, Section 6

⁴*Id.*, Section 7



- b. Docket number
 - c. Nature of the case
 - d. Amount involved
 - e. Venue
 - f. Summary of the case with detailed historical background and facts
 - g. Latest status or action taken on the case;⁵
- 3. Electronic copy of the Executive Summary in Microsoft Word format;⁶
 - 4. Table of Contents⁷ of the transmitted documents indicating if the documents are original or photocopies;
 - 5. Complete list of documentary evidence;
 - 6. Copies of the documentary evidence;
 - 7. List of potential witnesses and the content, substance, and relevance of their testimonies; and
 - 8. Name and contact details (to include mobile, phone number, and email address) of the client's in-house lawyer or contact person assigned to coordinate and assist the OGCC with the case.

A.3 Filing of a Petition or initiatory pleading before an appellate court, tribunal, or office:

Ordinary appeal

⁵ Section 3, OGCC Memorandum Circular 2023-02

⁶*Id.*, Section 6

⁷*Id.*, Section 7



1. Referral Letter;
2. Executive Brief
 - a. Title of the case
 - b. Docket number
 - c. Nature of the case
 - d. Amount involved
 - e. Venue
 - f. Summary of the case with detailed historical background and facts;
 - g. Latest status or action taken on the case;⁸
3. Electronic copy of the Executive Summary in Microsoft Word format;⁹
4. Table of Contents¹⁰ of the transmitted documents indicating if the documents are original or photocopies;
5. List of witnesses and copies of their Judicial Affidavits;
6. List and copies of documentary evidence;
7. Pre-trial briefs before the lower court;
8. The parties' Formal Offer of Evidence before the lower court;
9. Memoranda;

⁸ Section 3, OGCC Memorandum Circular 2023-02

⁹*Id.*, Section 6

¹⁰*Id.*, Section 7



10. Motion for Reconsideration of the assailed Decision before the lower court, tribunal, or office;
11. Certified true copy of the Decision in the case;
12. Certified true copy of the Order/Resolution on a Motion for Reconsideration;
13. Table of Contents with pagination as certified to by the Branch Clerk of Court; and
14. Name and contact details (to include mobile, phone number, and email address) of the client's in-house lawyer or contact person assigned to coordinate and assist the OGCC with the case.

Petition for Review

1. Referral Letter;
2. Executive Brief
 - a. Title of the case
 - b. Docket number
 - c. Nature of the case
 - d. Amount involved
 - e. Venue
 - f. Summary of the case with detailed historical background and facts
 - g. Latest status or action taken on the case;¹¹

¹¹ Section 3, OGCC Memorandum Circular 2023-02



3. Electronic copy of the Executive Summary in Microsoft Word format;¹²
4. Table of Contents¹³ of the transmitted documents indicating if the documents are original or photocopies;
5. List of witnesses and copies of their Judicial Affidavits;
6. List and copies of documentary evidence;
7. Pre-trial briefs before the lower court;
8. The parties' Formal Offer of Evidence before the lower court;
9. Memoranda;
10. Motion for Reconsideration of the assailed Decision before the lower court, tribunal, or office;
11. Certified true copy of the Decision in the case;
12. Certified true copy of the Order/Resolution on a Motion for Reconsideration; and
13. Name and contact details (to include mobile, phone number, and email address) of the client's in-house lawyer or contact person assigned to coordinate and assist the OGCC with the case.

Special Civil Action

¹²*Id.*, Section 6

¹³*Id.*, Section 7



1. Referral Letter;
2. Executive Brief
 - a. Title of the case
 - b. Docket number
 - c. Nature of the case
 - d. Amount involved
 - e. Venue
 - f. Summary of the case with detailed historical background and facts
 - g. Latest status or action taken on the case;¹⁴
3. Electronic copy of the Executive Summary in Microsoft Word format;¹⁵
4. Table of Contents¹⁶ of the transmitted documents indicating if the documents are original or photocopies;
5. Certified true copy of the Order/Resolution in the case;
6. Certified true copy of the Order/Resolution on a Motion for Reconsideration; and
7. Name and contact details (to include mobile, phone number, and email address) of the client's in-house lawyer or contact person assigned to coordinate and assist the OGCC with the case.

¹⁴ Section 3, OGCC Memorandum Circular 2023-02

¹⁵ *Id.*, Section 6

¹⁶ *Id.*, Section 7



B. REQUEST FOR OPINION

1. Referral Letter shall clearly state the: (a) specific issue, matter, or query to be addressed; and, (b) client's position on the issue, matter, or query.

C. REQUEST FOR CONTRACT REVIEW

C.1 CONCURRENCE TO EXTERNAL COUNSEL'S ENGAGEMENT (LAWYER / INITIAL ENGAGEMENT)

1. Referral Letter shall include: (a) necessity of the engagement of a private counsel; (b) a brief description of the lawyer's qualifications, (c) scope of work and the tasks to be performed; and (d) the mode of and rationale for the lawyer's selection;
2. Board Resolution appointing the counsel;
3. Draft Retainer Agreement;
4. *Curriculum Vitae*;
5. Certificate of Admission to the Philippine Bar or Integrated Bar of the Philippines (IBP) Identification Document (ID);
6. Proof of payment of IBP dues for the current year, or a copy of the IBP Lifetime membership official receipt;
7. Professional tax receipt for the current year; and
8. Proof of Mandatory Continuing Legal Education Certificate (MCLE) for the current Compliance Period.

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A letter of authority is required to be secured from the OGCC for every case that the private lawyer will handle. There is no blanket authority for engaged private counsels in handling of cases.

C.2 CONCURRENCE TO EXTERNAL COUNSEL'S ENGAGEMENT (LAWYER / RENEWAL OF ENGAGEMENT)

1. Referral Letter shall include: (a) scope of work and the tasks to be performed by the lawyer; (b) the justification for the renewal; and (c) the incidents of the previous engagement to include any observation or action from the Commission on Audit (COA);
2. Board Resolution approving the renewal;
3. Draft Retainer Agreement;
4. Proof of payment of IBP dues for the current year or a copy of the IBP Lifetime membership official receipt;
5. Professional tax receipt for the current year;
6. Mandatory Continuing Legal Education Certificate (MCLE) for the current Compliance Period;
7. Previous Retainer Agreement;
8. Copy of the OGCC Contract Review of the previous Retainer Agreement or the corresponding OGCC Contract Review number and date of issuance; and
9. Accomplishment Report for the period engaged including the current status of handled cases and legal matters.

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A letter of authority is required to be secured from the OGCC for every case that the private lawyer will handle. There is no blanket authority for engaged private counsels in handling of cases.

C.3 CONCURRENCE TO EXTERNAL COUNSEL'S ENGAGEMENT (LAW FIRM; INITIAL ENGAGEMENT)

1. Referral Letter shall include: (a) scope of work and the tasks to be performed by the Firm; (b) the details of the competitive selection process; and (c) the justification for the selection;
2. Board Resolution approving the engagement;
3. Draft Retainer Agreement; and
4. Corporate/Professional profile.

A letter of authority is required to be secured from the OGCC for every case that the private lawyer will handle. There is no blanket authority for engaged private counsels in handling of cases.

C.4 CONCURRENCE TO EXTERNAL COUNSEL'S ENGAGEMENT (LAW FIRM; RENEWAL OF ENGAGEMENT)

1. Referral Letter shall include: (a) a brief description of the firm's profile and expertise (b) scope of work and the tasks it is to perform;
2. Board Resolution approving the renewal;
3. Draft Retainer Agreement;
4. Previous Retainer Agreement;

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5. Copy of the OGCC Contract Review of the previous Retainer Agreement or the corresponding OGCC Contract Review number and date of issuance; and
6. Accomplishment Report for the period engaged including the current status of handled cases and legal matters.

A letter of authority is required to be secured from the OGCC for every case that the private lawyer will handle. There is no blanket authority for engaged private counsels in handling of cases.

C.5 PROCUREMENT (INFRASTRUCTURE, GOODS, CONSULTING SERVICES)

1. Referral Letter shall include: (a) the Approved Budget for the Contract (ABC); and (b) the mode and incidents of the procurement;
2. Draft Contract compliant with Government Procurement Policy Board (GPPB) Circular 04-2020, dated 16 September 2020 for Goods, Infrastructure Projects, and Consulting Services, or the most recent applicable GPPB Circular on the prescribed Philippine Bidding Documents;
3. Certification stating that the procurement is conducted in accordance with RA 9184 and its RIRR, signed by the BAC Chairperson and noted by the Head of Office (pursuant to OGCC Office Order 425, dated 15 December 2022);
4. Certificate of Availability of Funds.

C.6 CONTRACT OF LEASE (ORIGINAL/INITIAL CONTRACT; CLIENT IS THE LESSEE)

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1. Referral Letter shall include: (a) the location and area covered by the lease; (b) the justification for the rental rate; (c) the mode and incidents of securing the lease; (d) the Multi-year Obligational Authority (MYOA), if a multi-year contract; (e) the results of the market price analysis and cost benefit analysis; and
2. Draft Contract of Lease.

**C.7 CONTRACT OF LEASE
(CLIENT IS THE LESSEE;
RENEWAL OF CONTRACT FOR MORE THAN ONE YEAR;
RENEWAL OF CONTRACT STARTING ON THE FIFTH RENEWAL)**

1. Referral Letter shall include: (a) the location and area covered by the lease; (b) the justification for the rental rate; (c) the mode and incidents of securing the lease; (d) the Multi-year Obligational Authority (MYOA), if a multi-year contract; (e) the results of the cost benefit analysis;
2. Draft Renewal of the Contract of Lease; and
3. Copy of the original notarized Contract of Lease which is the subject of the renewal.

**C.8 CONTRACT OF LEASE
(CLIENT IS THE LESSOR)**

1. Referral Letter shall include: (a) the location and area covered by the lease; (b) the mode, process, and incidents in the selection of a lessee; and (c) the Board Resolution (date and number) approving the transaction and granting authority to sign; and
2. Draft Contract of Lease.

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C.9 JOINT VENTURE AGREEMENT

(Negotiated Joint Venture (JV) initiated by a private entity; unsolicited)

<p>At the end of Stage II</p> <p><i>(Based on the flowchart annexed to the 2023 NEDA JV Guidelines, the review by the statutory counsel occurs at the end of Stage II and prior to subjecting the proposal to Competitive Challenge)</i></p>	<p>At the end of Stage III and prior to award</p> <p><i>(At the request of the client and/or if there are substantial changes in the JVA as reviewed in Stage II)</i></p>
<ol style="list-style-type: none"> 1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Proposal documents submitted by the private entity; 4. Client's Evaluation Report on the JV Proposal, along with a certification that the JV proposal takes the form/nature of a JV in accordance with the 2023 NEDA JV Guidelines; 5. Feasibility Study; 6. Risk Allocation Matrix and List of Contingent Liabilities; 7. Valuation Report of the government contribution, and validation of the valuation report on contribution of the private entity, prepared by a third-party valuator; 8. Invitation to Private Sector Participants; (Sec. 7.4) and 9. Clearance/Approval of the DOF/DBM as the case may be, for JVs that will require National Government undertakings, such as subsidies or guarantees. (Sec. 7.3) 	<ol style="list-style-type: none"> 1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Proposal documents submitted by the private entity; 4. Selection/Tender Documents; 5. Evaluation Report on comparative proposals; and 6. Board Resolution showing the approval of the JV

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C.10 JOINT VENTURE AGREEMENT

**(Negotiated Joint Venture (JV) initiated by a private entity;
submitted to the NEDA Board -ICC)**

JVs with project cost of at least 2.5 Billion Pesos or government contribution of at least 150 Million Pesos or with contribution of the Government Entity exceeding fifty percent (50%) of its entire assets, the Approving Authority shall be the NEDA Board – ICC.

<p>At the end of Stage II</p> <p><i>(Based on the flowchart annexed to the 2023 NEDA JV Guidelines, the review by the statutory counsel occurs at the end of Stage II and prior to subjecting the proposal to Competitive Challenge)</i></p>	<p>At the end of Stage III and prior to award</p> <p><i>(At the request of the client and/or if there are substantial changes in the JVA as reviewed in Stage II)</i></p>
<ol style="list-style-type: none"> 1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Proposal documents submitted by the private entity; 4. Client's Evaluation Report on the JV Proposal, along with a certification that the JV proposal takes the form/nature of a JV in accordance with the 2023 NEDA JV Guidelines; 5. Feasibility Study; 6. Risk Allocation Matrix and List of Contingent Liabilities; 7. Valuation Report of the government contribution, and validation of the valuation report on contribution of the private entity, prepared by a third-party valuator; 8. Invitation to Private Sector Participants; (Sec. 7.4) 	<ol style="list-style-type: none"> 1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Proposal documents submitted by the private entity; 4. Selection/Tender Documents; 5. Evaluation Report on comparative proposals; and 6. Board Resolution showing the approval of the JV

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9. Clearance/Approval of the DOF/DBM as the case may be, for JVs that will require National Government undertakings, such as subsidies or guarantees; (Sec. 7.3) and 10. NEDA-ICC Report.	
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C.11 JOINT VENTURE AGREEMENT

(Solicited Proposal)

At the end of Stage II <i>(Based on the flowchart annexed to the 2023 NEDA JV Guidelines, the review by the statutory counsel occurs at the end of Stage II and prior to subjecting the proposal to Competitive Challenge)</i>	At the end of Stage III and prior to award
1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Client corporation's certification that the JV proposal takes the form/nature of a JV in accordance with the 2023 NEDA JV Guidelines; 4. Feasibility Study; 5. Risk Allocation Matrix and List of Contingent Liabilities; 6. Valuation Report of the government contribution prepared by a third-party valuator; 7. Instruction to Private Sector Participants; 8. Clearance/Approval of the DOF/DBM as the case may be, for JVs that will require National Government undertakings, such as subsidies or guarantees. (Sec. 7.3)	1. Referral Letter; 2. Draft Joint Venture Agreement; 3. Proposal documents submitted by the private entity; 4. Selection/Tender Documents; 5. Evaluation Report on comparative proposals; and 6. Board Resolution showing the approval of the JV

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C.12 AGREEMENT (BOT Law; initiated by private entity; unsolicited)

Prior to Bidding <i>(This is the review required under Sec. 10.11 of the BOT Law IRR.)</i>	Prior to Award
<ol style="list-style-type: none"> 1. Referral Letter; 2. Proposal documents submitted by the private entity; 3. Draft Contract, including all Parameters, Terms, and Conditions; 4. Feasibility Study; 5. Pre-Qualification Requirements; 6. NEDA-ICC approval. 	<ol style="list-style-type: none"> 1. Referral Letter; 2. Bid/Tender Documents; 3. Proof of invitation by publication to submit comparative or competitive proposals; 4. Evaluation of Comparative Proposals; 5. Board Resolution approving the Contract; 6. List of approvals required from other government agencies with attached approvals.

C.13 AGREEMENT [Build-Operate-Transfer (BOT Law); solicited]

Prior to Bidding <i>(This is the review required under Sec. 2.12 of the BOT Law IRR.)</i>	Prior to Award
<ol style="list-style-type: none"> 1. Referral Letter; 2. Draft Contract, including all Parameters, Terms, and Conditions; 3. NEDA-ICC or NEDA Board approval (Sec. 2.9) 	<ol style="list-style-type: none"> 1. Referral Letter; 2. Bid/Tender Documents; 3. Evaluation of Comparative Proposals; 4. Board Resolution approving the Contract; and 5. List of approvals required from other government agencies with attached approvals.

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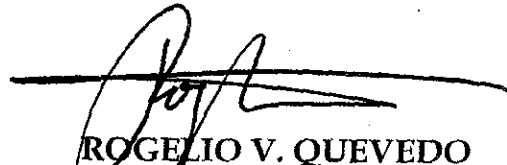
**C.14 DEPUTIZATION
(IN-HOUSE LAWYER/S)**

1. Referral Letter shall include: (a) the names and positions of the client's in-house lawyer/s; and (b) the scope of the requested authority; and
2. List of specific cases to be handled citing their nature, venue, docket numbers, and status.

C.15 OTHER AGREEMENTS

1. Referral Letter;
2. Draft Agreement;
3. Statement on the status and requirement of Board approval. If approved by the Board, a copy of the document showing the Board's approval.

This Memorandum Circular takes effect immediately.


ROGELIO V. QUEVEDO
Government Corporate Counsel
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