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2022 OGCC YEAR-END REPORT

The year 2022 concluded with the beginning of a new administration at the Office of the Government Corporate Counsel (OGCC). The previous administration had marked significant progress in OGCC's mission to provide effective legal service to all government-owned or controlled corporations (GOCCs). The OGCC under the leadership of Government Corporate Counsel Rogelio V. Quevedo is poised to continue the progress undertaken by the previous administration and is committed to building on that advancement by implementing bold reforms that will streamline its operations with the use of digital technology and information and communications technology (ICT) to further improve its services.

The implementation of these programs already resulted in significant improvement in the efficiency, communication, and overall productivity of the OGCC despite the existing limitations and challenges brought by the pandemic.

I. LEGAL SERVICES

A. LITIGATION

The first core function of the OGCC as the statutory counsel of all GOCCs is to represent them in all actions before courts of law, arbitral tribunal, and quasi-judicial bodies. Significantly, the number of cases handled by the OGCC has steadily increased because of the following factors: 1) strict adoption of the policy limiting the deputization of private lawyers; 2) healthier working relations between the OGCC and GOCCs resulting in increased trust and confidence in the OGCC's ability to competently represent them; (3) streamlining of GOCCs' operations; and (4) increase in the legal concerns referred to OGCC.

The Table below shows the number of cases the OGCC has handled for from 2019 to 2022;

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CASES HANDLED BY THE OGCC FOR 2019-2022

CASES HANDLED BY OGCC	2019	2020	2021	2022
Number of Cases	5,278	6,546	7,272	6,212
Newly Endorsed Cases	332	1,362	954	451
Cases decided with Finality	285	92	228	458
Favorably Decided	172	57	157	347
Unfavorably Decided	113	35	71	111
Percent of Favorable Decisions (%)	60	62	69	76

In comparison to the total number of cases handled in 2021, the OGCC noticeably fewer cases vis a vis 2022 totaling a one-point seventeen percent (1.17%) decrease and received less a forty-seven percent (47%) decline on newly endorsed cases. This is attributed by the return of Land Bank of the Philippines-Department of Agrarian Reform Adjudication Board (LBP-DARAB) cases previously handled by the office, as well as the discontinuity in endorsing of related new LBP-DARAB cases, pursuant to the 2 June 2021 Memorandum of Agreement (MOA) between LBP and Department of Agrarian Reform (DAR). OGCC's agreement to the MOA provided for the exclusive handling of the LBP-Field Legal Services Department of all agrarian just compensation cases pending before the PARAD, RARAD, DARAB, RTC-SAC, CA and SC. Discrediting the disparity generated by the endorsement and return of more or less one thousand (1,000) LBP-DARAB cases, a steady increase in the cases being endorsed and handled by the OGCC could still be observed since 2019.

Similarly, an impressive seven percent (7%) increase in the favorable decisions was received by the Office for 2022 as a result of the increase in OGCC lawyers' competency and efficient handling of assigned cases.

Some of the significant cases successfully handled by the OGCC are as follows:

- *Coconut Industry Investment Fund-Oil Mills Group v. Bureau of Internal Revenue, OSJ Case No. 08-2019*

Petition for Arbitration re: BIR's Warrants of Garnishment for alleged Tax Liabilities for taxable year 2012 and 2013 involving Php 2,577,291,152.62

- *Neri Colmenares et. al. vs. Rodrigo R. Duterte, et. al (GRs 245981 & 246594)*

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The Supreme Court En Banc issued a 9 August 2022 Decision declaring that (1) Preferential Buyer's Credit Loan Agreement on Chico River Pump Irrigation Project and (2) Preferential Buyer's Credit Loan Agreement on the New Centennial Water Source - Kaliwa Dam Project are valid and NOT unconstitutional.

- *National Bank of Abu Dhabi PJSC & First Abu Dhabi Bank PJSC vs AFAB (Trademark Opposition Case No. C/2019/303)*

Entry of Judgment/Execution of Decision from the Intellectual Property Office of the Philippines - Bureau of Legal Affairs (IPOP/BLA). AFAB's Trademark Application has been approved and its Certificate of Registration was already issued and received by AFAB in June 2022.

- *TMA Australia Pty Limited and TMA Group Philippines, Inc. (TMA) v. Philippine Charity Sweepstakes Office (PCSO), PDRCI Case No. 2021-120*

The case issue arose from when PCSO and TMA executed a Contractual Joint Venture Agreement (CJVA) for the establishment of the first thermal coating plant in the Philippines. The CJVA was later found to be null and void for being violative of PCSO's Charter, the National Economic and Development Authority's (NEDA) Joint Venture Guidelines, and Republic Act No. 9184.

B. CONTRACT REVIEW AND LEGAL OPINION

Issuing Contract Reviews and rendering Legal Opinions are the core functions of the OGCC. Notably, the OGCC is ISO 9001:2015 certified pursuant to its process of preparing Contract Reviews and Legal Opinions. To ensure prompt and efficient action on requests and compliance with the requirements of Republic Act (RA) No. 11032, or the "Ease of Doing Business and Efficient Government Service Delivery Act of 2019" the OGCC has a mandated timeline of twenty (20) working days within which to render a legal opinion or issue a contract review, known as the "Receipt-to-Release", or simply the "R2R", process.

1) CONTRACT REVIEWS

Remarkably, in 2022, the OGCC issued the highest number of Contract Reviews. The table below shows the number of Contract Reviews released for periods 2020-2022;

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CONTRACT REVIEWS ISSUED FOR 2020-2022

Year	2020	2021	2022
Total Number of Contract Reviews Issued within the year	1,692	1,979	2,050
Number of New Requests Received	1,665	2,092	1,691
Disposition Rate (%)	100	100	100

The Table shows a four percent (4%) increase in the total number of Contract Reviews issued within the year from 2021 to 2022. One of the important factors which led to the huge number of contracts referred to the OGCC for review is the issuance and implementation of Governance Commission for GOCCs (GCG) Memorandum Circular No. 2018- 02 providing that GOCCs shall ensure from OGCC a favorable legal opinion and/or a contract review is obtained from the OGCC before entering into any agreement.

Throughout 2020-2022, the OGCC's Contract Reviews issued for 2020-2022 maintained a disposition rate of 100%, i.e., all requests for contract reviews were acted upon.

Some of the most significant contracts or agreements which the OGCC reviewed in 2022 are as follows:

- *Contract Review No. 156 dated 2 February 2022 (MWSS); and Contract Review No. 250 dated 22 February 2022 (MWSS)*

Review of the Memorandums of Agreement (MOAs) with National Commission on Indigenous People (NCIP) with the Indigenous Peoples of the Province of Rizal (IP); and with the Dumagat/ Remontado Indigenous Peoples/ Indigenous Cultural Communities of Municipality (IPs/ICCs) of General Nakar, Quezon, respectively. The subject MOA is an integral part of the free prior and informed consent process and indispensable to the acquisition of the certification precondition for the construction and implementation of the New Centennial Water Source-Kaliwa Dam Project.

- *Contract Review No. 671 dated 09 June 2022*

Draft Gas Sale and Purchase Agreement between PNOC and South Premiere Power Corporation (SPPC) for the Ilijan Power Plant.

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There is an urgency to implement the Gas Sale and Purchase Agreement (GSPA) between PNOC and SPPS considering the stoppage of the Malampaya gas supply to the Ilijan Power Plant since midnight of 4 June 2022, by reason of the termination of the existing original GSPA. The GSPA is related to the two public interest goals to secure the power supply in the Luzon grid and the recovery/monetization of public funds, i.e., PNOC's fully paid for banked gas.

2. LEGAL OPINIONS

The table below shows that the number of requested and released Legal Opinions for periods 2020-2022, as follows:

LEGAL OPINIONS RENDERED FOR 2020-2022

Year	2020	2021	2022
Number of Legal Opinions Rendered within the year	381	531	424
Number of Requests Received	417	547	388
Disposition Rate (%)	100	100	100

The Table reveals a slight decrease in the number requests received for opinion thereby affecting the total number of Legal Opinions rendered from 2021. Similarly, the OGCC's Legal Opinions rendered for 2020-2022 maintained a disposition rate of 100%.

Some of the more significant legal opinions which the OGCC rendered in 2022 are as follows:

- *Opinion No. 265, dated 23 November 2022*

Re: Implementation of the BIR Revenue's Warrant of Garnishment against the deposits of the LRTA other government instrumentalities, and government owned- or controlled corporations in the DBP. The opinion solves the dilemma of banks on how to balance its obligation to withhold and its obligation to its client.

C. OTHER LEGAL SERVICES

The other legal services which the OGCC rendered include the filing of pleadings, attending hearings and sending letters and advice to clients.

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For 2022, the OGCC has filed 2,487 pleadings, attended a total of 1,852 hearings and sent a total of 2,171 letters/advice/communication, shown below:

No. Of Pleadings Submitted to Various Courts and Offices	2,487
No. Of Hearings Attended for Cases	1,852
Rendition Of Legal Advice (No. of Correspondence/ Advice/Communication for Management, Legal Departments, Corporate Services and Services as In-House Counsel)	2,171

D. SPECIAL FUNCTIONS

In addition to its core functions and other related legal services, the OGCC has performed notable additional special functions for some of its client GOCCs for the past year.

For instance, the OGCC has been actively attending and giving relevant comments and suggestions during senate deliberations on GOCC's bills and other issues, as well as representing clients in the creation of charters and/or extension of corporate lives.

Moreover, the OGCC is one of the members of the Water Concession Agreement Review Committee. The Committee was instrumental in the crafting of the Revised Concession Agreement (RCA) separately signed by the water concessionaires.

On 30 March 2022, the OGCC issued a Memorandum addressed to the Secretary of Justice discussing the legal implications should the conditions precedent under the Revised Concession Agreement (RCA) are not complied with. The memorandum was considered in issuing the performance undertaking (PU) for the RCA.

II. GENERAL ADMINISTRATIVE SERVICES

A. LEARNING AND DEVELOPMENT

Notably in 2022, the Learning and Development (L&D) Committee increased the number of trainings for OGCC employees facilitating a total of forty-three (43) in-house and public trainings/ webinars and courses/programs. The committee members were also able to complete the training on Learning and Development Process for PRIME-

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HRM Level 2, which was conducted by the Civil Service Commission – Civil Service Institute (CSC-CSI) in the 1st quarter of the said year.

Subsequently, the L&D Committee has commenced the revision and updating of the OGCC L&D Guidelines, to provide a streamlined and comprehensive guidebook for L&D interventions for OGCC personnel. The successful completion of the OGCC L&D Guidelines shall also facilitate the OGCC's compliance with the PRIME-HRM Level 2 requirements.

B. GENDER AND DEVELOPMENT

The OGCC Gender and Development Committee in performance of its mandate to promote women's empowerment and ensure that their full participation becomes essential for society, has conducted several in-house activities as well as actively participated in Philippine Commission on Women's (PCW) meaningful celebration of the 2022 Women's Month Celebration; and 18-day Campaign to End Violence Against Women.

C. ISO CERTIFICATION

On 9 November 2022, OGCC retained its ISO 9001:2015 Certification for the year 2022, as it passed the 2nd Surveillance Audit conducted by its external auditor, DQS Management Systems and Solutions.

D. FREEDOM OF INFORMATION

On 02 March 2022, the OGCC authorized the participation of Freedom of Information (FOI) Officers Chief Administrative Officer Marc Alexis Arabe and Administrative Assistant Franz Carmel Gamier to participate in the DAP-PCOO Certificate Course for Information Officers of which, ADAS Gamier successfully completed the course, garnering the Class Valedictorian Award, Best in Comprehensive Exam Award, Best Policy Paper, and Best Oral Defense Presenter Award.

E. DIGITALIZATION

With the changes to service delivery brought upon by the *new normal* after the COVID-19 pandemic, the OGCC recognized the need for an integrated document

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management information system that would help deliver its services efficiently, even in a remote environment/set-up, whilst also improving workflow efficiency through digitalizing the way cases and requests are assigned, managed, and tracked; and documents and files are organized, among others. Hence, the OGCC launched the Document Management Information System (DMIS) Project which is expected to be fully implemented by the end of 2023.

F. CLIENT SATISFACTION

For the year 2022, the OGCC conducted a Client Satisfaction Survey from 103 client GOCCs, covering the period January to June 2022.

The result of the Survey shows that in all the provided performance standards in the survey form (Responsiveness/Timeliness; Reliability/Quality; Outcome; Integrity; Communication; Assurance; Access and Facilities), the OGCC consistently garnered an average of EXCELLENT rating from client GOCCs (with the highest score being that for Integrity with description of *assurance that the service will be provided with honesty, integrity, justice, and fairness*).

G. FUND RELEASES AND UTILIZATION

Funding Source: GENERAL FUND – New General Appropriations

Amounts in Thousand Pesos (Php '000.00)

The table shows the FY 2022 authorization comprehensively released to OGCC and contained in the General Appropriations Act (GAA). The total releases for FY2022 are inclusive of (1) current/new general appropriation (2) automatic appropriations for RLIP and (3) continuing appropriations for unobligated FY2021 allotment. Likewise, the OGCC received additional budget or other budgetary adjustments such as Pensioners' Annuity, Compensation Adjustment for PS Deficiency, Retirement Gratuity, Monetization of Leave Credits and Performance Based Bonus for FY 2020.

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Authorization/ Allotment Class	Released Allotment	Obligation	Unobligated Balance	BUR	Disbursement	Unpaid Obligation	D-BUR
New General Appropriation							
PS	177,063	170,066	6,997	96.05%	167,950	2,116	98.76%
MOOE	25,761	24,937	824	96.80%	22,396	2,541	89.81%
CO	7,735	7,306	429	94.45%	5,912	1,394	80.92%
Automatic Appropriation							
PS	10,048	9,611	437	95.65%	9,262	349	96.37%
Other Releases							
MPBF	5,535	5,300	235	95.75%	5,300		100.00%
PGF	78,694	78,485	209	99.73%	78,485		100.00%
Continuing Appropriation							
MOOE	2,183	2,124	59	97.30%	1,374	750	64.69%
Grand Total	307,019	297,829	9,190	97.01%	290,679	7,150	97.60%

For the FY 2022, the OGCC was able to **utilize 97.01%** of its total released allotment, of which **97.60% was disbursed** within the year. Bulk of unobligated allotment was for the PS allotment balances resulted from unfilled vacant positions resulting from retirement, resignation, and transfer of employees during the year. While the unpaid obligation was due to unpaid billing invoices from various suppliers and service provided for the month of December 2022 which payment depends on presentation of actual invoices / statement of accounts. All invoices or billing statements were received on the ensuing year.

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