



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
CENTRAL OFFICE
Manila



097.7 DPWH
05.23.2024

23 MAY 2024

DEPARTMENT MEMORANDUM)

CIRCULAR NO.)
Series of 2024)

40

5/23/24

FOR / TO : SENIOR UNDERSECRETARY
UNDERSECRETARIES
ASSISTANT SECRETARIES
REGIONAL DIRECTORS
BUREAU DIRECTORS
SERVICE DIRECTORS
HEADS OF UPMOs
DISTRICT ENGINEERS
HEADS OF ATTACHED AGENCIES
OTHERS CONCERNED
This Department

For information and guidance, attached is a copy of **Memorandum Circular No. 51** dated May 13, 2024 signed by Executive Secretary Lucas P. Bersamin, with the subject: **"REQUESTS FOR AUTHORITY TO NEGOTIATE AND/OR SIGN INTERNATIONAL AGREEMENTS, FOREIGN LOAN AGREEMENTS, FOREIGN GRANT AGREEMENTS, AND GUARANTEES"**.

A copy of the said Memorandum Circular may also be downloaded from the DPWH website: <http://dpwhweb>. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS, upon request.

For dissemination to all concerned.


Atty. MICHAEL S. VILLAFRANCA, CESO III
Officer-in-Charge, Office of the Assistant Secretary for Support Services

Encl: As stated

cc: Office of the Secretary

10.1.4 FJED/CDP/GME



MALACAÑAN PALACE
MANILA

MEMORANDUM CIRCULAR NO. 51

**REQUESTS FOR AUTHORITY TO NEGOTIATE AND/OR SIGN
INTERNATIONAL AGREEMENTS, FOREIGN LOAN AGREEMENTS,
FOREIGN GRANT AGREEMENTS, AND GUARANTEES**

WHEREAS, Section 17, Article VII of the 1987 Constitution provides that the President shall have control of all executive departments;

WHEREAS, Section 20, Article VII of the 1987 Constitution states that the President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law;

WHEREAS, the President, as the sole organ of the country's foreign relations and the constitutionally assigned chief architect of the country's foreign policy, is vested with the exclusive power to conduct and manage the country's interface with other states and governments;

WHEREAS, Section 2, Chapter 1, Title 1, Book IV of Executive Order (EO) No. 292 or the "Administrative Code of 1987," mandates the Department of Foreign Affairs (DFA) to be the lead agency that shall advise and assist the President in planning, organizing, directing, coordinating and evaluating the total national effort in the field of foreign relations;

WHEREAS, under Section 3 (5), Chapter 1, Title II, Book IV of EO No. 292, the Department of Finance (DOF) is directed to undertake and supervise activities related to the negotiation, servicing, and restructuring of domestic and foreign debt incurred or guaranteed by the government and its instrumentalities;

WHEREAS, Section 51, Chapter 12, Book I of EO No. 292 provides that contracts in behalf of the Republic of the Philippines shall be executed by the President, unless authority therefor is expressly vested by law or by him in any other public officer;

WHEREAS, the General Appropriations Act requires departments, bureaus, offices and instrumentalities of the National Government, including Constitutional Offices enjoying fiscal autonomy, state universities and colleges (SUCs) and government-owned or -controlled corporations (GOCCs), except those engaged in banking, to secure the approval of the President, the concurrence of the Monetary Board, the issuance of a Forward Obligation Authority (FOA) by the Department of

Budget and Management (DBM) for project loans, or the issuance of a Development Budget Coordination Committee (DBCC) resolution covering the full amount in the case of program loans, and an equivalent document for those undertaken by GOCCs, as well as other conditions provided by pertinent laws, prior to the execution of foreign or domestic loan agreements;

WHEREAS, the General Appropriations Act requires prior clearance and approval by the President, or his authorized representative, based on the recommendation of the Secretary of Finance, prior to the acceptance of grants, in cash or in kind, from governments of foreign countries, their agencies and instrumentalities or multilateral institutions or organizations;

WHEREAS, EO No. 459 (s. 1997) establishes the Guidelines in the Negotiation and Ratification of International Agreements;

WHEREAS, Memorandum Circular (MC) No. 16 (s. 2017) directs departments, agencies, instrumentalities, bureaus, and offices of the government, including GOCCs and SUCs, to secure authorization from the Office of the President (OP) prior to the negotiation and/or signing of international agreements, and agreements covering borrowings, guarantees, and foreign grants;

WHEREAS, MC No. 72 (s. 2019), as reiterated by MC No. 02 (s. 2022) and MC No. 21 (s. 2023), requires the conduct of complete staff work (CSW) for all requests for Presidential issuances, authorizations and/or approvals, to be signed by the President or the Executive Secretary "by authority of the President"; and

WHEREAS, it is imperative to clarify and streamline the existing processes with regard to requests for authority to negotiate and/or sign international agreements, as well as foreign loan agreements, foreign grant agreements, and guarantees, and strictly enforce the same, with the end in view of ensuring the efficient and effective delivery of crucial government programs and projects;

NOW, THEREFORE, I, FERDINAND R. MARCOS, JR., President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. Authority to Negotiate and/or Sign. Authorization from the President must be secured prior to the negotiation and/or signing of international agreements or foreign loan agreements, foreign grant agreements, and guarantees.

Section 2. Endorsing Agencies. All heads of departments, agencies, instrumentalities, bureaus, and offices of the government, including GOCCs and SUCs, are hereby directed to coordinate closely with the DFA, as endorsing agency, prior to the negotiation and/or signing of international agreements.

For foreign loan agreements, foreign grant agreements, and guarantees, all heads of departments, agencies, instrumentalities, bureaus, and offices of the government, including GOCCs and SUCs, shall coordinate closely with the DOF, as endorsing agency, prior to the negotiation and/or signing of the said agreements.

The DFA or the DOF, as the case may be, shall endorse the request for Special Authority to the OP, unless it determines that the nature or scope of the agreement does not require prior authority from the OP.

Section 3. Requirements for International Agreements. The DFA shall evaluate the request for authority to negotiate and/or sign international agreements to ensure timeliness of its submission, and completeness of all its supporting documents. If the DFA finds merit in the request, it shall endorse the same to the President, accompanied by the following documents: (i) letter of the proponent agency; and (ii) copy of the draft agreement.

While the submission of certificates of concurrence is not mandatory for the evaluation of a request for Special Authority, the DFA may, upon its determination, require any relevant agency to provide its concurrence to the international agreement.

Section 4. Requirements for Foreign Loan Agreements, Foreign Grant Agreements, and Guarantees. The DOF shall evaluate the request for authority to negotiate and/or sign foreign loan agreements, foreign grant agreements and guarantees to ensure timeliness of its submission, and completeness of all its supporting documents. If the DOF finds merit in the request for Special Authority to negotiate and/or sign foreign loan agreements, it shall endorse the same to the President, accompanied by the following documents:

- a. Letter of the proponent agency;
- b. Copy of the draft loan agreement, reflecting the latest terms and conditions of the proposed borrowing or guarantee;
- c. Concurrence of the Monetary Board;
- d. Statement of compliance with the conditions provided by pertinent laws; and
- e. FOA from the DBM for project loans, or a DBCC resolution covering the full amount in the case of program loans, and equivalent document for those undertaken by the GOCCs. In the issuance of a FOA, the DBM shall consider the budgetary implications of foreign-assisted projects.

On the other hand, if the DOF finds merit in the request for authority to negotiate and/or sign foreign grant agreements, it shall endorse the same to the President, accompanied by the following documents: (i) letter of the proponent agency; and (ii) copy of the draft grant agreement. If the project or program being funded by such grant includes the payment of government counterpart financing, the DOF shall require all government agencies/entities obligated to co-finance to submit their respective certifications confirming their commitment to assume/pay the applicable government counterpart.

Section 5. Agreements to be Negotiated or Concluded During Presidential Trips. For international agreements, foreign loan agreements, foreign grant agreements, and guarantees, proposed to be signed at the host country during a Presidential trip thereat, either the DFA or the DOF, as the respective endorsing agency, shall also request for a prior approval from the Office of Presidential Protocol that the negotiation and/or signing of such agreement be included in the approved

itinerary of the Presidential trip. Such approval shall be submitted together with the request for Special Authority to be endorsed to the OP, in accordance with Sections 3 and 4 of this Circular.

Section 6. Observance of Complete Staff Work. All heads of departments, agencies, instrumentalities, bureaus, or offices, including GOCCs and SUCs, are directed to strictly observe and comply with the requirements and standards of CSW under MC No. 72, before requesting for the subject authority from the President. The DFA or the DOF, as the case may be, shall ensure that the requests endorsed to the OP are evidence-based, inclusive, and holistic.

Failure to comply with the requirements and standards of CSW herein provided shall be sufficient basis for the OP to not act on the request or return the same to the endorsing agencies.

Section 7. Period for Submission of Special Authorities for International Agreements. To give the OP sufficient time to evaluate and process the request for Special Authority, the DFA must endorse the request with complete supporting documents, to the OP at least ten (10) working days before the desired date of issuance of the requested authority.

In the event that the request does not conform with the aforementioned 10-day timeframe, or lacks supporting documents, said request shall be returned to the DFA. The DFA Secretary, instead of the head of the proponent agency, may then proceed with the negotiation and/or signing of the pertinent agreement, in accordance with the authority conferred upon him by virtue of EO No. 459, unless said agreement involves a matter of national security or it qualifies as a treaty, in which case, OP approval is necessary. The DFA shall be responsible in determining whether an international agreement falls under the category of a treaty or an agreement concerning national security.

Section 8. Period for Submission of Special Authorities for Foreign Loan Agreements, Foreign Grant Agreements, and Guarantees. To give the OP sufficient time to evaluate and process the request for authority, the DOF must endorse the request with complete supporting documents, to the OP at least ten (10) working days before the desired date of issuance of the requested authority.

The DOF will ensure that the abovementioned 10-day timeframe is taken into consideration and incorporated into the indicative timeline for negotiating and executing foreign loan agreements, foreign grant agreements, and guarantees. If a request does not comply with the 10-day period, or lacks supporting documents, the same shall be returned to the DOF.

The DOF may, after coordination with the relevant development partners, resubmit the pertinent request to the OP with a revised timeline for evaluation, negotiation and execution of the subject agreement already incorporating in the revised timeline the required 10-day period for the OP to thoroughly study and evaluate such request and its accompanying documents. Any resubmitted request which does not comply with the 10-day period shall also be returned to the DOF.

Section 9. Grant of Authority. Authorization for the negotiation and/or signing of an international agreement, or an agreement covering foreign borrowing, guarantee, and foreign grant shall be in writing through a Special Authority, as well as through a Full Power, Letter, or Memorandum signed by the President or the Executive Secretary "by authority of the President."

Section 10. Repeal. MC No. 16 (s. 2017) is hereby repealed. All other circulars, rules and regulations, or parts thereof, which are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly.

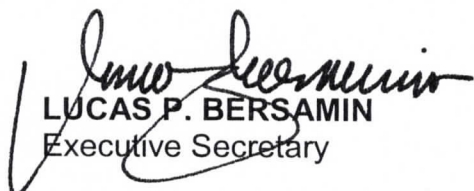
Section 11. Separability. If any provision of this Circular is declared invalid or unconstitutional, the other provisions unaffected thereby shall remain valid and subsisting.

Section 12. Effectivity. This Circular shall take effect immediately.

DONE, in the City of Manila, Philippines, this 13th day of May in the Year of our Lord Two Thousand and Twenty-Four.


7 

By the President:


LUCAS P. BERSAMIN
Executive Secretary

