



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 38

**AUTHORIZING THE GRANT OF GRATUITY PAY FOR
FISCAL YEAR 2020 TO CONTRACT OF SERVICE AND JOB ORDER
WORKERS IN GOVERNMENT**

WHEREAS, Section 18, Article II of the Constitution declares it a policy of the State to affirm labor as a primary social economic force, and to promote the welfare of workers;

WHEREAS, various government agencies have engaged workers under contract of service (COS) and job order (JO) schemes;

WHEREAS, the Commission on Audit (COA)-Department of Budget and Management (DBM) Joint Circular (JC) No. 2 (s. 2020) or the "Updated Rules and Regulations Governing COS and JO Workers in the Government," prescribes the existing policies and guidelines on the engagement of services of these workers;

WHEREAS, COS and JO workers in the government are paid salaries/wages equivalent to the daily salaries/wages of comparable positions in government and a premium of up to 20% of such salary/wage. However, they do not enjoy benefits accorded to government employees such as the Personnel Economic Relief Allowance, Mid-Year and Year-End Bonuses and Performance-Based Bonus among others, considering that they have no employer-employee relationship with the government;

WHEREAS, granting a year-end Gratuity Pay to COS and JO workers is a well-deserved recognition of their hard work in implementing programs, projects and activities, including those which are part of the emergency COVID-19 response efforts of the government;

WHEREAS, COS and JO workers, together with other government personnel, are required by their respective agencies to report for work regardless of the varying forms of community quarantine to ensure the continuous and responsive delivery of government services;

WHEREAS, COA-DBM JC No. 1 (s. 2020) or the "Interim Guidelines Governing COS and JO Workers in Government for the Duration of the State of Calamity and Community Quarantine Due to Corona Virus Disease," integrates the work schedule of COS and JO workers in the alternative work arrangements adopted by various government agencies during the period of implementation of community quarantine;

THE PRESIDENT OF THE PHILIPPINES

WHEREAS, Administrative Order No. 20 (s. 2020) authorized the grant of Gratuity Pay to JO and COS workers in government for fiscal year (FY) 2019; and

WHEREAS, Section 17, Article VII of the Constitution vests the President with control over all the executive departments, bureaus and offices;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Grant of Gratuity Pay. All workers whose services are engaged through COS and JO, who have rendered a total or an aggregate of at least four (4) months of actual satisfactory performance of services, as stipulated in their respective contracts, as of 15 December 2020, and whose contracts are still effective as of same date, may be granted a one-time Gratuity Pay not exceeding Three Thousand Pesos (₱3,000) each.

Those who have rendered less than four (4) months of actual satisfactory performance of service, as stipulated in their respective contracts, as of 15 December 2020, and whose contracts are still effective as of same date, may also be granted the one-time Gratuity Pay, on a pro rata basis, as follows:

Length of Service	Amount of Gratuity Pay
3 months or more but less than 4 months	Not exceeding ₱2,000
2 months or more but less than 3 months	Not exceeding ₱1,500
Less than 2 months	Not exceeding ₱1,000

For purposes of this Order, actual service shall refer to services rendered on-site, i.e., the COS and JO workers physically report for work at their designated stations. Subject to the discretion of the Agency Head and the availability of funds, services rendered by COS and JO workers offsite during the period of community quarantine, i.e., work from home arrangement, may also be considered as actual service.

SECTION 2. Coverage. This Order shall cover workers whose services are engaged through COS and JO by national government agencies (NGAs), state universities and colleges (SUCs), government-owned or -controlled corporations (GOCCs) and local water districts (LWDs).

SECTION 3. Funding Source. Funds needed to implement this Order shall be chargeable against the following sources:

- a. For NGAs and SUCs, against their respective available Maintenance and Other Operating Expenses (MOOE) allotment for the same program, activity or project (P/A/P) where the compensation of workers engaged through COS and JO are sourced, subject to approval of the Agency Head;
- b. In case of deficiency, the agencies may request the DBM for additional funds charged against their identified savings generated from the entirety of their respective MOOEs, subject to approval of the President pursuant to pertinent

provisions of Republic Act No. 11465 or the "FY 2020 General Appropriations Act (GAA)," and existing laws and issuances; and

- c. For GOCCs and LWDs, against their respective approved corporate operating budgets.

SECTION 4. Use of Savings. Requests for the use of savings under Section 3(a) hereof shall be submitted by NGAs and SUCs to the DBM not later than five (5) working days from the effectivity of this Order, for endorsement to the Office of the President. All such requests shall be supported by the following documents:

- a. Report on the number and names of workers engaged through COS and JO qualified for Gratuity Pay, as certified by the head of the human resource management unit and endorsed by the Department Secretary or Agency Head concerned; and
- b. Certification from the budget officer that the required amount from the existing MOOE allotment is free from any obligation and may be declared as savings pursuant to Section 67 of the General Provisions of the FY 2020 GAA, to cover the funding requirements for the grant of Gratuity Pay, likewise endorsed by the Department Secretary or Agency Head concerned.

The DBM shall release the corresponding Special Allotment Release Order and Notice of Cash Allocation, as needed, upon approval of the President.

SECTION 5. Grant of Gratuity Pay in Local Government Units (LGUs). LGUs are encouraged to adopt in their respective offices the grant of Gratuity Pay to workers whose services are engaged through COS and JO, utilizing appropriate and available funding sources from their respective local government funds.

SECTION 6. Repeal. All orders, rules and regulations and other issuances or parts thereof, which are inconsistent with this Order are hereby revoked, amended or modified accordingly.

SECTION 7. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 8. Effectivity. This Order shall take effect immediately.

DONE in the City of Manila, this 28th day of December in the year of Our Lord, Two Thousand and Twenty.

By the President:


SALVADOR C. MEDIALDEA
Executive Secretary




