



**LEGAL SERVICE
GENERAL ADMINISTRATION AND SUPPORT
SERVICES GROUP**
DSWD-GF-004 | REV 03 | 22 SEP 2023

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MEMORANDUM

FOR : EDMON B. MONTEVERDE
Director IV, Program Management Bureau

**FROM : THE ASSISTANT SECRETARY FOR GENERAL
ADMINISTRATION AND SUPPORT SERVICES GROUP
(GASSG) AND CONCURRENT OFFICER IN CHARGE,
LEGAL SERVICE**

**SUBJECT : REQUEST FOR OPINION AND GUIDANCE ON THE USE OF
THE SOLO PARENT MONITORING SYSTEM**

DATE : 16 DECEMBER 2024

This refers to your Memorandum¹ requesting for opinion and guidance on the use of the Solo Parent Monitoring System (SPMS).

The Department through the Program Management Bureau (PMB) in coordination with Information and Communication Technology Management Service (ICTMS), developed the SPMS to establish a centralized database for solo parents in compliance with Republic Act (R.A.) No. 11861 otherwise known as Expanded Solo Parents Welfare Act and its Implementing Rules and Regulations (IRR). The system is designed for the collection and monitoring of solo parent profiles submitted by Local Government Units (LGUs) and relevant government agencies. However, concerns were raised regarding the legal requirements for data sharing, particularly under the Data Privacy Act of 2012 (R.A. No. 10173).

Relatively, your Office seeks legal guidance on the following issues:

1. Whether a Data Sharing Agreement (DSA), Memorandum of Agreement (MOA), or similar agreements are necessary for LGUs to submit information of their registered solo parents.
2. If a DSA or MOA is needed, who among the LGUs or Inter-Agency Coordinating and Monitoring Committee (IACMC) on Solo Parents members or the DILG will be the Signatory/ies?
3. What documents or agreements will be needed for the Department to share the database with other government agencies like Philippine Health Insurance (PhilHealth), Technical Education Authority (TESDA), and Commission on Higher Education (CHED) for updating their respective systems.

¹ Annex "A" – Memorandum from PMB dated 21 November 2024.



Our Opinion

1. Section 46 of the IRR of R.A. No. 11861 mandates the LGU to submit the list of solo parents to the DSWD. Thus, the execution of a DSA is warranted; In the same section, the law also requires a joint coordination by the Department, together with the Department of Interior and Local Government (DILG), with the Department of Information and Communications Technology (DICT) in establishing a centralized databased of all solo parents.

Section 18 of R.A. No. 11861 and Section 46 of its RIRR provides for the obligation of the Department and DILG to coordinate with the DICT, the purpose of which is to establish and maintain a centralized database of all solo parents who have been issued with Solo Parent Identification Cards (SPIC) and booklets by the Solo Parent Office and Solo Parent Division. To implement this, execution of MOU or any other document, depending on the agreement of these agencies, may be had.

The obligation of the LGU to submit a list of solo parents receiving benefits should comply with the Data Privacy Act of 2012. This is crucial when processing or sharing personal and sensitive information. As a matter of fact, in its Advisory Opinion No. 2017-61, the National Privacy Commission (NPC) discussed the importance of DSAs, thus:

“With regard to the data sharing agreements (DSAs) and non-disclosure agreements (NDAs), **DSAs are required when there is sharing of personal data between government agencies for the purpose of a public function or provision of a public service.**”

In support thereof, the NPC subsequently issued Advisory Opinion No. 2020-03² which covers personal data that are being shared, disclosed, or transferred to another Personal Information Controller. Under the said Advisory Opinion, the NPC deems it proper that execution of a DSA is a sound recourse and demonstrates accountable personal data processing in compliance with the Data Privacy Act of 2012 and its IRR, thus:

“SECTION 8. Data sharing agreement; key considerations - Data sharing may be covered by a data sharing agreement (DSA or a similar document containing the terms and conditions of the sharing arrangement, including obligations to protect the personal data shared, the responsibilities of the parties, mechanisms through which data subjects may exercise their rights, among others.

The execution of a DSA is a sound recourse and demonstrates accountable personal data processing, as well as good faith in complying with the requirements of the DPA, its IRR, and issuances of the NPC
xxx”

In view thereof, we opine that execution of a DSA is warranted between the Department, through its Field Offices, and with concerned LGUs in view of the latter' s obligation to

² Data Sharing Agreement dated 23 December 2020

submit the list of solo parents receiving benefits within their respective territorial jurisdiction as expressly sanctioned by the law (R.A. 11861). A DSA is necessary to define the scope, purpose, and legal basis for data sharing. It will specify the responsibilities of LGUs and DSWD in safeguarding personal and sensitive information, establish security measures to prevent unauthorized access, misuse, or breaches, and ensure transparency and accountability in the data-sharing process.

The absence of explicit exemption under R.A. 10173 reinforces the need for such agreement to govern the lawful processing and transfer of data. This aligns with Section 21 of R.A. 10173³, which emphasizes accountability when personal data is shared between entities.

However, the Department is not precluded from communicating with the DILG for their assistance in the dissemination and reiteration of the LGUs participation, a law-mandated obligation in the implementation of the Solo Parent Act in view of its delegated power of general supervision over LGUs⁴. Through these collaborative efforts, the possibility of an additional document may be required from the DILG, such as, execution of a MOU and/or issuance of a Joint Memorandum Circular (MC) or Department MC for purposes of dissemination to LGUs.

2. Identification of Appropriate Signatories.

As to who among the LGUs, IACMC, and DILG will be the proper signatory for DSA, based on the foregoing discussion, it is the **Local Chief Executive (LCE)** of the concerned LGU⁵ subject to the requirement under Section 22 (c)⁶ of R.A. No. 7610, otherwise known as the "Local Government Code of 1991" (LGC), that such power to enter into a contract can be exercised by the LGU concerned through its LCE provided that the said official has been duly authorized by the sanggunian concerned. The LCE of concerned LGU shall enter into a DSA with the DSWD Secretary for the submission of the list of solo parents within their territorial jurisdiction.

The Heads of the Department/Secretaries have the authority to enter into any agreements and represent their department pursuant to their express function and power under Executive Order No. 292, series of 1987 or the Administrative Code of 1987. However, the respective Secretaries of each NGA is not precluded from designating a duly authorized representative of this Department for this purpose.

³ SEC. 21. Principle of Accountability. – Each personal information controller is responsible for personal information under its control or custody, including information that have been transferred to a third party for processing, whether domestically or internationally, subject to cross-border arrangement and cooperation.

⁴ Administrative Order No. 267 dated February 18, 1992, entitled: DELEGATING CERTAIN GENERAL SUPERVISORY POWERS OF THE PRESIDENT OVER LOCAL GOVERNMENTS TO THE SECRETARY OF INTERIOR AND LOCAL GOVERNMENT

⁵ Section 22 (a) (5) of R.A. No. 7610:

Section 22. Corporate Powers. -

(a) Every local government unit, as a corporation, shall have the following powers:

Xxx

(5) To enter into contracts;

⁶ (c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

As discussed in the previous paragraphs, DILG's sole obligation under RA 11861 is to coordinate with the DICT together with the DSWD, thus, their participation as a party to the DSA to be executed is not required as the DILG will not act as a Personal Information Controller (PIC). As provided under NPC Advisory Opinion No. 2020-03, DSA shall be executed only between PICs, the DILG, in this matter, is not to be considered as PIC as they will not directly receive nor transmit personal information to and from LGUs.

Be that as it may, prudence dictates that we discuss the function of the IACMC, which is different from the function of the Department, DILG and DICT as provided in Section 18 of R.A. No. 11861, in maintaining and establishing a centralized database of solo parents. Pursuant to Section 21 of RA 11861, IACMC is mandated to *gather demographic data on the solo parents and their children, by utilizing the Community-based Monitoring System (CBMS) under Republic Act No. 11315, otherwise known as the 'Community-Based Monitoring Systems Act'*. Further, under Section 50, Article XII of the IRR of RA 11861, IACMC shall act as the oversight committee for the implementation of the Solo Parent Act, thus, the involvement of IACMC is limited to oversight duties on the proper execution of the provision of the Solo Parent Act. Whereas, the DSWD is mandated to establish and maintain a centralized database of all solo parents who have been issued with Solo Parent Identification Cards (SPIC) and booklets by the Solo Parent Office and Solo Parent Division.

Accordingly, the IACMC need not execute an MOU or any other document in effecting its mandate as expressly stipulated in Section 21 of RA 11861 and is therefore not an appropriate signatory to the execution of the DSA.

3. Requirements for Sharing Data with Other Government Agencies.

The sharing of the solo parent registry with other agencies (e.g., PhilHealth, TESDA, CHED) must be carefully structured to comply with R.A No. 10173, R.A. No. 11861 and NPC Circular No. 2020-03⁷.

Under NPC Advisory Opinion No. 2020-03, *data sharing may be covered by a data sharing agreement or a similar document*, thus, the DSA, which may be executed by the parties for purpose of data processing, must detail the scope, purpose, and limitations of the data-sharing arrangement, emphasizing the lawful basis for processing. It must also include provisions for data security, retention policies, and breach notification protocols. A MOA may be necessary to formalize partnerships with agencies for the broader implementation of the Solo Parent Welfare Program, covering not only data sharing but also policy coordination and operational support.

Explicit consent from data subjects must be obtained if data sharing involves purposes beyond those explicitly authorized under RA 11861. Both the DSWD and partner agencies must implement robust security measures, including encryption, limited access controls, and regular audits, to ensure the integrity and confidentiality of the shared data.

⁷ NPC Circular No. 2020-03 Section 8

Recommendations

In light of the above, this level respectfully recommends the execution of DSAs with concerned LGUs to govern the submission and use of solo parent data by LGUs, ensuring compliance with R.A. No. 10173. For such agreements, the concerned LCEs (e.g., City/ Municipal Mayors or Provincial Governors) should be the appropriate signatories.

Separate DSAs and MOAs should be executed with agencies such as PhilHealth, TESDA, and CHED. These agreements must outline the legal basis for data sharing, specify the intended purposes, and establish security protocols. Standardized templates should be prepared for DSAs and MOAs to streamline compliance and ensure consistency across all stakeholders.

DSWD, LGUs, and partner agencies must ensure that their respective personnel handling personal/sensitive data or information are trained and competent to ensure proper compliance with data privacy requirements, including data handling and breach response.

These measures will ensure the lawful implementation of the Solo Parent Monitoring System, safeguard the rights of solo parents, and enhance coordination among stakeholders.

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

For your consideration.

Thank you.


ATTY. GINA V. WENCESLAO

MCMUG/RRAAO/MMEP/AADDIV/10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary for CASSG