



MEMORANDUM ORDER NO. 2013- 42

CLASSIFYING THE BOY SCOUTS OF THE PHILIPPINES (BSP) and the GIRL SCOUTS OF THE PHILIPPINES (GSP) AS *SUI GENERIS* GOCCS

WHEREAS, the **BOY SCOUTS OF THE PHILIPPINES (BSP)** is a chartered,¹ non-stock, non-profit Government-Owned-or-Controlled-Corporation (GOCC) as held by the Supreme Court in the cases of *Boy Scouts of the Philippines v. NLRC*² and *Boy Scouts of the Philippines v. Commission on Audit*,³

WHEREAS, the **GIRL SCOUTS OF THE PHILIPPINES (GSP)** is a non-stock, non-profit GOCC pursuant to its charter⁴ and has features similar to the BSP;

WHEREAS, while BSP and GSP are GOCCs by operation of law and pursuant to jurisprudence, falling within the regulatory jurisdiction of the GCG and the provisions of R.A. No. 10149, the BSP and GSP may be properly classified as *SUI GENERIS* GOCCs for the following reasons:

- a. They possessed mixed characteristics pertaining to both private corporations and GOCCs;
- b. Their predecessors were private entities. The BSP began in the Philippines as a chapter of the Boy Scouts of America, while the GSP was initially organized by the American Army and Navy families in various parts of the Philippines and also registered directly with the Girl Scouts of America;
- c. While BSP and GSP were created to serve "public needs/ interests and objectives" and in furtherance of the State's objective for the promotion and development of the youth towards nation building, they are not receiving funding from the Government.
- d. While BSP and GSP are GOCCs, they are at the same time, independent, non-political, and voluntary organizations.
- e. The principle of volunteerism, which is not normally found in other GOCCS, is at the core and foundation of the membership of both BSP and GSP.

¹ Republic Act No. 7278, AN ACT AMENDING COMMONWEALTH ACT NO. 111 AS AMENDED BY PRESIDENTIAL DECREE NO. 460, ENTITLED "AN ACT TO CREATE A PUBLIC CORPORATION TO BE KNOWN AS THE BOY SCOUTS OF THE PHILIPPINES AND TO DEFINE ITS POWERS AND PURPOSES," BY STRENGTHENING THE VOLUNTEER AND DEMOCRATIC CHARACTER OF THE BOY SCOUTS OF THE PHILIPPINES AND FOR OTHER PURPOSES, 24 March 1992.

² 651 SCRA 146 (2011).

³ G.R. No. 80767, April 22, 1991, 196 SCRA 176

⁴ Republic Act No. 20073, AN ACT INSTITUTING THE NEW GIRL SCOUTS OF THE PHILIPPINES CHARTER, PENALIZING VIOLATIONS THEREOF AND FOR OTHER PURPOSES, 27 July 2009.

WHEREAS, the respective governing boards of BSP and GSP are an embodiment of the will of its volunteer-members as they are products of an electoral process wherein members in the thousands get to elect the various representatives to the governing Board;

WHEREAS, Section 5(b) of Republic Act (R.A.) No. 10149 or *The GOCC Governance Act of 2011*, empowers the **GOVERNANCE COMMISSION FOR GOCCs (GCG)** to "[C]lassify GOCCs into: (1) Developmental/Social Corporations; (2) Proprietary Commercial Corporations; (3) Government Financial, Investment and Trust Institutions; (4) Corporations with Regulatory Functions; and (5) Others as may be classified by the GCG, without prejudice to further subclassifications in each category and/or any other classification based on parameters as it may find relevant or material such as, but not limited to, industry type. The classification shall guide the GCG in exercising its powers and functions as provided therein";

WHEREAS, the application of the provisions of R.A. No. 10149 on the selection and appointment of members of the governing boards of GOCCs will weaken the core principles of volunteerism, independence, and neutrality inherent in the BSP and GSP;

WHEREAS, since BSP and GSP are GOCCs by operation of law and jurisprudence, the Commission may still include BSP and GSP within the coverage of the Compensation Position and Classification System (CPCS) that it is developing pursuant to R.A. No. 10149, and the members of their respective Governing Boards, can still be subjected to the Compensation Framework for Directors applicable to all GOCCs;

NOW, BE IT –

RESOLVED, that BSP and GSP are hereby classified as *SUI GENERIS* GOCCs.

RESOLVED FURTHER, that the selection and nomination process of the GCG for Appointive Directors will not be made applicable to BSP and GSP;

RESOLVED FURTHER, that the officers and employees of BSP and GSP are still subject to the CPCS that the GCG will recommend to the President for his approval;

RESOLVED FINALLY, that the Members of the Governing Boards of BSP and GSP are still subject to the guidelines of the GCG on Directors' compensation and performance-based incentives.

DONE, in the City of Manila, this 5th day of November in the year of our Lord, Two Thousand Thirteen



CESAR L. VILLANUEVA
Chairman



CESAR V. PURISIMA
DOF Secretary

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MA. ANGELA E. IGNACIO
Commissioner



FLORENCIO B. ABAD
DBM Secretary



RAINIER B. BUTALID
Commissioner