



02 November 2021

Advisory Opinion

Reference No.: DPO-21-07

FOR

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RE

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Document review in relation to outstanding unaccounted receivables from [REDACTED]

Dear [REDACTED]:

We write in relation to your email requesting for a review of a list of documents required by the Commission on Audit (COA) to be submitted by the [REDACTED].

We understand that these documents are being requested by the COA in relation to the receivable accounts of UP Diliman including the outstanding unaccounted receivables from [REDACTED].

Republic Act No. 10173 or the Data Privacy Act of 2012 enumerates the conditions for the processing of personal and sensitive personal information, to wit:

SEC. 12. Criteria for Lawful Processing of Personal Information. – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

- (a) *The data subject has given his or her consent;*
- (b) *The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;*
- (c) ***The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;***
- (d) *The processing is necessary to protect vitally important interests of the data subject, including life and health;*
- (e) ***The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or***

- (f) *The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.*

In relation thereto, the Commission on Audit's mandate is provided under Section 2, Article IX-D of the 1987 Constitution which states that:

Section 2. (1) The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) **autonomous state colleges and universities;** (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-governmental entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity. However, where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.

This means that the University of the Philippines Diliman [REDACTED], as a personal information controller, may disclose to the Commission on Audit (COA) the enumerated documents, relying upon Section 12 (c) and (e).

We kindly note, however, that the processing and disclosure of personal data should also be in line with the data privacy principles of transparency, proportionality, and legitimate purpose.¹

This means that the disclosures should only be limited to the *necessary* personal data that will achieve the legitimate purpose of the processing, in this case, to report to the COA the unaccounted receivables from [REDACTED].

Thus, it is humbly submitted that the [REDACTED] reconsider the inclusion of the renegeing fellows' birthdates and employee numbers, being sensitive personal information, if such information is not necessary to fulfill the purpose of the processing. While the 2021 letters forwarded to the units are in compliance with the [REDACTED] memorandum may still be included, the birthdays and employee numbers may be redacted.

However, if the said information has been requested by the COA Audit Observation Issuances, then the same may be provided pursuant to Section 13 (f) of the Data Privacy Act of 2012.²

¹ Section 11, R.A. No. 10173

² **SEC. 13. Sensitive Personal Information and Privileged Information.** – The processing of sensitive personal information and privileged information shall be prohibited, except in the following cases:

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We hope to have been of help on the matter. Should you have additional concerns, please feel free to reach out to our office.

Sincerely,

(Sgd.) Atty. Regine P. Estillore
Legal Officer
Data Protection Officer
Data Protection Office
University of the Philippines Diliman

(f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or **when provided to government or public authority.**