Republic of the Philippines
Supreme Court
Manila

EN BANC

PHILIPPINE INSTITUTE FOR DEVELOPMENT STUDIES, Petitioner,	**G.R. No. 212022**
	Present:
-versus-	BERSAMIN,* *J.*, CARPIO, *Acting Chief Justice,* PERALTA, PERLAS-BERNABE, LEONEN, JARDELEZA,** CAGUIOA,*** REYES, A., JR., GESMUNDO,**** REYES, J., JR., HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, and ZALAMEDA, *JJ.*
COMMISSION ON AUDIT, Respondent.	**Promulgated:** August 20, 2019

x----------x

DECISION

LEONEN, *J.*:

The doctrine of qualified political agency acknowledges the multifarious executive responsibilities that demand a president's attention,

---

* On official business.
** No part.
*** On leave.
**** On official business.

such that the delegation of control power to his or her Cabinet becomes a necessity. Unless the Constitution or law provides otherwise, Cabinet members have the president's imprimatur to exercise control over the offices and departments under their respective jurisdictions, which authority nonetheless remains subject to the president's disapproval or reversal.[1]

This Court resolves a Petition for Certiorari[2] challenging the Decision[3] of the Commission on Audit, which upheld the validity of Notice of Disallowance No. 11-001-(06-10) disallowing the Philippine Institute for Development Studies' procurement of group healthcare maintenance totaling ₱1,647,235.06.

On June 11, 1978, former President Ferdinand E. Marcos (Marcos) issued Presidential Decree No. 1597,[4] which provided, among others, that government employees may be granted allowances, honoraria, and other fringe benefits, subject to the approval of the President. It read:

> Section 5. Allowances, Honoraria, and Other Fringe Benefits. Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. For this purpose, the Budget Commission shall review on a continuing basis and shall prepare, for the consideration and approval of the President, policies and levels of allowances and other fringe benefits applicable to government personnel, including honoraria or other forms of compensation for participation in projects which are authorized to pay additional compensation.[5]

Pursuant to this provision, former President Fidel V. Ramos issued Administrative Order No. 402,[6] which authorized government agencies and government-owned and controlled corporations to establish an annual medical checkup program:

> Section 1. Establishment of the Annual Medical Check-up Program. An annual medical check-up for government officials and employees is hereby authorized to be established starting this year, in the meantime that this benefit is not yet integrated under the National Health Insurance Program being administered by the Philippine Health Insurance Corporation (PHIC).[7]

---

1 *Carpio v. Executive Secretary*, 283 Phil. 196 (1992) [Per J. Paras, En Banc].
2 *Rollo*, pp. 3–29.
3 Id. at 30–35. Decision No. 2014-047, dated March 18, 2014, was signed by Chairperson Ma. Gracia Pulido-Tan and Commissioner Heidi L. Mendoza of the Commission on Audit.
4 Further Rationalizing the System of Compensation and Position Classification in the National Government.
5 *Rollo*, p. 7.
6 Establishment of a Medical Check-Up Program for Government Personnel.
7 *Rollo*, p. 7.

In conformity with Section 6 of Administrative Order No. 402,[8] the Department of Health, Department of Budget and Management, and Philippine Health Insurance Corporation (PhilHealth) issued Joint Circular No. 01-98, which enumerated the examinations to be included in the annual medical checkup program, among others.[9]

Sometime in 1999, the Philippine Institute for Development Studies, through its former Acting President Mario B. Lambarte, wrote then Health Secretary Alberto G. Romualdez (Health Secretary Romualdez) and PhilHealth. It requested that it be authorized to establish a health maintenance program in the form of a free annual medical checkup through their membership in a private health maintenance organization, in lieu of the annual medical checkup under Administrative Order No. 402.[10]

In an August 31, 1999 letter,[11] then Health Secretary Romualdez sought the Department of Budget and Management's opinion on whether the Philippine Institute for Development Studies may be exempted from the coverage of Joint Circular No. 01-98. He expressed in the letter, however, that he had no objection to the request.

In its September 30, 1999 letter,[12] PhilHealth, through Senior Vice President Reynaldo N. Dalma, Jr., informed the Philippine Institute for Development Studies that, like the Department of Health, it had no objection to the request.

Similarly, in a January 20, 2000 letter,[13] the Department of Budget and Management, through Budget Secretary Benjamin E. Diokno, expressed that it had no objection to the request. However, the Philippine Institute for Development Studies was advised that since the medical checkup program's establishment was made through an administrative order issued by the President, it must likewise seek exemption from the Office of the President.

Thus, the Philippine Institute for Development Studies sought the President's approval.[14]

---

8 Administrative Order No. 402 (1998), sec. 6 provides:

SECTION 6. *Implementing Rules and Regulations.* — The DOH, Department of Budget and Management (DBM) and the PHIC shall jointly formulate and issue the implementing rules and regulations for this program.

9 *Rollo*, p. 8.

10 Id.

11 Id. at 48.

12 Id. at 49.

13 Id. at 50.

14 Id. at 9.

On March 1, 2000, the Office of the President, through Senior Deputy Executive Secretary Ramon B. Cardenas (Senior Deputy Executive Secretary Cardenas), responded:

> Upon the recommendation of the Department of Budget and Management (DBM), Department of Health (DOH) and *Philippine Health Insurance Corporation (PHIC)*, please be informed that the request of the Philippine Institute for Development Studies (PIDS) for establishment of an ***Annual Medical Check-Up Program*** thru enrollment with duly accredited Health Maintenance Organizations (HMO), in lieu of the Annual Medical Health Program authorized under Administrative Order No. 402, dated 2 June 1998, as implemented by DOH-DBM-PHIC Joint Circular No. 01, dated 9 September 1998, ***is hereby approved***, *subject to the usual accounting and auditing rules and regulations.*[15] (Emphasis supplied)

Armed with the Office of the President's approval, the Philippine Institute for Development Studies executed a Health Care Agreement with PhilamCare Health System, Inc. (PhilamCare) on April 19, 2005.[16] Under the agreement, PhilamCare would provide 54 employees of the Philippine Institute for Development Studies with outpatient, hospitalization, and emergency services.[17]

Upon post-audit, the Audit Team Leader issued Audit Observation Memorandum No. 2005-001 finding that the payment to PhilamCare was contrary to Commission on Audit Resolution No. 2005-001. The Philippine Institute for Development Studies was directed to discontinue further payment for the transaction.[18]

In a letter-reply, the Philippine Institute for Development Studies argued that the procurement of the health maintenance program from PhilamCare was undertaken pursuant to Administrative Order No. 402.[19]

On April 25, 2006, after further evaluation, the Legal and Adjudication Office-Corporate issued Notice of Disallowance No. PIDS 2006-01 to the Philippine Institute for Development Studies. The notice disallowed the amount of ₱324,700.01, which represented the annual membership fees of its 54 employees under the Health Care Agreement.[20]

In a June 19, 2007 Decision, the Legal and Adjudication Office-

---

15 Id. at 51.
16 Id. at 9.
17 Id. at 52.
18 Id. at 30.
19 Id.
20 Id. at 52.

Corporate affirmed this disallowance.[21]

Thus, the Philippine Institute for Development Studies filed before the Commission on Audit a Petition for Review.[22] The Petition was eventually denied in a February 16, 2012 Decision,[23] which the Philippine Institute for Development Studies then assailed before this Court[24] in a case docketed as G.R. No. 200838. This Court, in a April 21, 2015 Unsigned Resolution, found that the Petition lacked merit.

Meanwhile, as the Commission on Audit's resolution on Notice of Disallowance PIDS No. 2006-01 was still pending, the Philippine Institute for Development Studies again wrote the Office of the President on March 19, 2007. It requested authority for the continued implementation of its health maintenance program from 2005 onwards notwithstanding the issuance of Notice of Disallowance PIDS No. 2006-01.[25]

The Office of the President referred the letter to then Health Secretary Francisco T. Duque III (Health Secretary Duque) and then Budget Secretary Rolando Andaya, Jr. (Budget Secretary Andaya) for recommendation and appropriate action.[26]

Acting on the Office of the President's endorsement, Health Secretary Duque recommended[27] the continued implementation of the Philippine Institute for Development Studies' health maintenance program.

Budget Secretary Andaya[28] likewise recommended that the Philippine Institute for Development Studies be granted authority to continue the implementation of its annual medical checkup program through enrollment in duly accredited health maintenance organizations from 2005 onwards.[29]

Meanwhile, in its July 13, 2007 letter,[30] PhilHealth informed the Philippine Institute for Development Studies that it has not yet included the annual medical checkup in the benefit package it was developing:

> Please be informed that in our opinion, this is not within the authority of the Philippine Health Insurance Corporation (PhilHealth) to make

---

21 Id.
22 Id.
23 Id. at 52–58. The Decision was signed by Chairperson Ma. Gracia M. Pulido Tan and Commissioners Juanito G. Espino, Jr. and Heidi L. Mendoza.
24 Id. at 10.
25 Id.
26 Id. at 60.
27 Id. at 61.
28 Id. at 62–63.
29 Id. at 63.
30 Id. at 65.

> recommendations whether or not a government institution like the PIDS should continue implementing their Health Maintenance Program. The issue, we believe is between PIDS and Office of the President, who has sole authority to grant or not to grant the request.
>
> *We have written your office in 2006 informing that we have not yet included the annual medical check up in the benefit packages being developed by PhilHealth, and this situation is still existing up to now.*[31] (Emphasis supplied)

Based on the Department of Health's and the Department of Budget and Management's recommendations, the Office of the President, through Executive Secretary Eduardo R. Ermita (Executive Secretary Ermita), finally granted the Philippine Institute for Development Studies' request to continue implementing their annual medical checkup program through enrollment with duly accredited health maintenance organizations. As with the previous approval, this also came with the same condition that it is subject to the usual accounting and auditing rules and regulations.[32]

Thus, the Philippine Institute for Development Studies continued to implement its health maintenance program and eventually executed healthcare agreements with different insurance companies from 2006 to 2010.[33] All the procurements totaled ₱1,647,235.06.[34]

This amount, however, was disallowed upon audit by the Audit Team Leader and Supervising Auditor in Notice of Disallowance No. 11-001-(6-10) dated May 23, 2011. The amount was disallowed for being violative of the February 3, 2005 Commission on Audit Resolution No. 2005-001, which the Audit Team Leader and Supervising Auditor said prohibits the procurement of healthcare insurance from private agencies.[35]

Aggrieved, the Philippine Institute for Development Studies appealed before the Commission on Audit's Corporate Government Sector Cluster C (CGS-Cluster C).[36]

In its August 11, 2011 Decision,[37] the CGS-Cluster C granted the appeal and lifted Notice of Disallowance No. 11-001-(6-10).

As per protocol, the August 11, 2011 Decision was elevated to the

---

31 Id.
32 Id. at 64.
33 Id. at 12.
34 Id. at 31.
35 Id.
36 Id. at 36.
37 Id. at 36–37. The Decision was penned by Director IV Jose R. Rocha, Jr.

Commission on Audit Proper for automatic review.[38]

In its March 18, 2014 Decision,[39] the Commission on Audit Proper set the CGS-Cluster C's Decision aside and upheld the validity of Notice of Disallowance No. 11-001-(06-10).[40]

In so ruling, the Commission on Audit Proper noted that Administrative Order No. 402 only provides government employees with a medical checkup program limited to diagnostic medical procedures, such as physical examination, chest x-ray, complete blood count, urinalysis, stool examination, and ECG.[41] Since the Philippine Institute for Development Studies entered into agreements that provide more than just medical checkups and include hospitalization, outpatient, and emergency benefits, their disallowance was deemed proper.[42]

Moreover, the Philippine Institute for Development Studies' invocation of Commission on Audit Decision No. 2002-272, which lifted the disallowance of a similar benefit, was given scant consideration. The Commission on Audit Proper noted that the Decision was issued in 2002, when the prohibition under Commission on Audit Resolution No. 2005-001 did not yet exist. Here, it noted, Notice of Disallowance No. 11-001-(06-10) was issued precisely for violation of the 2005 resolution.[43]

Thus, the Philippine Institute for Development Studies filed this Petition for Certiorari[44] under Rule 64 of the Rules of Court. With it comes a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin the Commission on Audit from enforcing its March 18, 2014 Decision.[45]

Petitioner argues that the Commission on Audit erred in ruling that it violated Administrative Order No. 402. It stresses that the President, as an exercise of authority under Presidential Decree No. 1597, allowed it to avail of medical benefits other than those in the administrative order.[46]

---

38 Id. at 30. Protocol is under Rule V, Section 7 of the 2009 Revised Rules of Procedure of the Commission on Audit.
39 Id. at 30–35.
40 Id. at 35.
41 Id. at 33.
42 Id.
43 Id. at 34.
44 Id. at 3–29.
45 Id. at 23.
46 Id. at 14.

Petitioner further contends that the Commission on Audit Proper gravely erred when it applied Commission on Audit Resolution No. 2005-001.[47]

Petitioner stresses that the healthcare insurance it acquired from health maintenance organizations cannot be considered as disbursement of public funds because PhilHealth itself, in its July 13, 2007 letter, informed petitioner that it has not yet included the annual medical checkup in the benefit package it was developing.[48]

Petitioner likewise contends that the Commission on Audit's March 18, 2014 Decision violates the constitutional guarantee to equal protection.[49]

Petitioner cites *Province of Negros Occidental v. Commission on Audit*,[50] where this Court set aside the Commission on Audit's disallowance of the Province of Negros' insurance premium payment to PhilamCare for hospitalization and health care benefits.[51] It also again invokes the Commission on Audit's 2002 Decision, which lifted the disallowance of payment of group health insurance coverage for the Department of Labor and Employment and National Conciliation and Mediation Board employees.[52]

Claiming that its employees are similarly situated with their counterparts in the cited cases, petitioner asserts that the Commission on Audit's failure to rule in a similar manner violates its constitutional right to equal protection.[53]

Finally, petitioner stresses that even if Notice of Disallowance No. 11-001-(6-10) were valid, its officers and employees, who relied in good faith on the Department of Budget and Management's, the Department of Health's, and the Office of the President's approval, should be absolved of any liability.[54]

In this Court's June 3, 2014 Resolution,[55] a Temporary Restraining Order was issued enjoining the Commission on Audit from enforcing its March 18, 2014 Decision. The Commission on Audit was also required to comment on the Petition.

---

47 Id. at 14.
48 Id. at 15.
49 Id. at 16.
50 646 Phil. 50 (2010) [Per J. Carpio, En Banc].
51 *Rollo*, p. 16.
52 Id.
53 Id. at 17.
54 Id. at 18.
55 Id. at 79–80.

In its Comment,[56] respondent avers that the Office of the President's approval of petitioner's request to continue its annual medical checkup program came with the condition that it would be "subject to the usual accounting and auditing rules and regulations."[57] Consequently, petitioner is required to comply with Commission on Audit Resolution No. 2005-001 despite the approval from the Department of Health, the Department of Budget and Management, and the Office of the President.[58]

Respondent denies that petitioner's constitutional right to equal protection has been violated, arguing that petitioner's employees are not similarly situated with the employees in the cases it cited in the Petition.[59]

Respondent likewise insists that petitioner's defense of good faith is unavailing.[60]

In an August 12, 2014 Resolution,[61] this Court directed petitioner to reply to the Comment.

In its Reply,[62] petitioner argued that Commission on Audit Resolution No. 2005-001 cannot supplant the President's constitutional prerogative to implement Presidential Decree No. 1597.[63]

In a November 18, 2014 Resolution,[64] this Court directed the parties to file their respective memoranda.

In its Memorandum,[65] petitioner reiterates that the Commission on Audit erred in applying Administrative Order No. 402.[66] It likewise maintains that Commission on Audit Resolution 2005-001 does not apply to it.[67]

Respondent, through the Office of the Solicitor General, manifested that it would be adopting its Comment as its Memorandum.[68]

---

56 Id. at 90–110.
57 Id. at 96.
58 Id. at 98.
59 Id. at 99–100.
60 Id. at 103.
61 Id. at 111–112.
62 Id. at 125–138.
63 Id. at 125.
64 Id. at 148–149.
65 Id. at 164–191.
66 Id. at 172.
67 Id. at 174.
68 Id. at 150–155.

The principal issue for this Court's resolution is whether or not respondent Commission on Audit erred in upholding the validity of Notice of Disallowance No. 11-001-(6-10).

I

The cases petitioner cited, *Province of Negros Occidental*[69] and Commission on Audit Decision No. 2002-072, do not apply here.

The facts in *Province of Negros Occidental*, for one, are not analogous to the facts here.

There, petitioner Sangguniang Panlalawigan of Negros Occidental obtained health insurance coverage from PhilamCare, which agreed to provide the province's officials and employees with hospitalization and healthcare benefits. Upon post-audit investigation, the Provincial Auditor disallowed payment to PhilamCare for the petitioner's failure to obtain approval from the Office of the President, per Administrative Order No. 103. The disallowance was affirmed by the Commission on Audit, which ruled that the president's approval is required before a local government unit may grant additional benefits to its personnel.[70]

In its September 28, 2010 Decision, this Court ruled that the petitioner did not violate Administrative Order No. 103. It found that the requirement needing the president's prior approval does not apply to local government units, but only "to departments, bureaus, offices[,] and government-owned and controlled corporations under the Executive branch."[71]

Here, unlike in *Province of Negros*, petitioner is not a local government unit, but a government-owned and controlled corporation which sought the President's approval before establishing its annual medical checkup program. It likewise sought the Office of the President's approval to continue the annual medical checkup program's implementation after Notice of Disallowance No. 2006-01 had been issued, which the petitioner in *Province of Negros* never did.

Evidently, *Province of Negros* cannot apply here.

Likewise misplaced is the invocation of Commission on Audit Decision No. 2002-072, which petitioner uses to argue that respondent's

---

69 646 Phil. 50 (2010) [Per J. Carpio, En Banc].
70 Id.
71 Id. at 61.

failure to decide its case in a similar manner violates its constitutional right to equal protection.

Contrary to petitioner's postulation, its employees are not similarly situated to the employees of the Department of Labor and Employment and the National Conciliation and Mediation Board.

The disallowance of the amount of ₱1,647,235.06, the total payment for petitioner's healthcare agreements with health maintenance organizations, was based on Commission on Audit Resolution No. 2005-001, which precludes the procurement of healthcare insurance from private agencies.[72]

On the other hand, the Commission on Audit Decision lifting the disallowance of Department of Labor and Employment and National Conciliation and Mediation Board was issued on March 14, 2002. Hence, the basis for the present disallowance did not yet exist when Commission on Audit Decision No. 2002-072 was issued.[73]

II

On April 21, 2015, as this Petition was pending, this Court rendered an Unsigned Resolution in G.R. No. 200838, entitled *Philippine Institute for Development Studies v. Pulido Tan*.[74] It ruled that the agreement petitioner entered into with PhilamCare could not be allowed because it was considered an irregular expenditure.[75]

This Court further decreed that, contrary to petitioner's argument, the approval for exemption issued by the Office of the President, through then Senior Deputy Executive Secretary Cardenas, did not exempt it from the provisions of Administrative Order No. 402. It held that the Senior Deputy Executive Secretary had no authority to exempt an agency from the application of an administrative order:

> Also, the Court cannot agree with PIDS that when the OP approved its procurement of a health care package in lieu of that provided by the PHIC, it also exempted it from the said health program under A.O. No. 402. *The Senior Deputy Executive Secretary had no power or authority to declare an agency to be exempt from an administrative order or a presidential issuance and, thus, had no basis for approving the procurement of a private health care package.* Contrary to what he had stated in his letter of approval, the DOH, the PHIC and the DBM never

---

72 *Rollo*, p. 34.
73 Id.
74 G.R. No. 200838, April 21, 2015 Resolution.
75 Id.

> made any recommendation pushing for an independent HMO. Instead, they merely stated that they "interpose no objection" to PIDS' plan of engaging a private HMO. In fact, in the DBM letter, then Secretary Benjamin E. Diokno stressed that its acquiescence would not be enough to exempt or excuse an agency from the operation of A.O. No. 402.[76] (Emphasis supplied)

THIS CASE IS DIFFERENT. UNLIKE THE 2015 PHILIPPINE INSTITUTE FOR DEVELOPMENT STUDIES CASE, WHERE THE SENIOR DEPUTY EXECUTIVE SECRETARY GRANTED PETITIONER EXEMPTION FROM ADMINISTRATIVE ORDER NO. 402, HERE, THE EXECUTIVE SECRETARY HIMSELF SIGNED THE LETTER ALLOWING PETITIONER TO CONTINUE IMPLEMENTING ITS HEALTH MAINTENANCE PROGRAM.

In his July 23, 2007 letter, Executive Secretary Ermita, acting by authority of the President, wrote:

> Upon the recommendation of the Department of Budget and Management (DBM) and Department of Health (DOH), please be informed that the request of the Philippine Institute for Development Studies (PIDS) for grant of authority for the continued implementation of their Annual Medical Check-Up Program thru enrollment with duly accredited Health Maintenance Organizations (HMO) from 2005 onwards, in lieu of the Annual Medical Health Program authorized under Administrative Order No. 402, dated 02 June 1998, as implemented by DOH-DBMPHIC Joint Circular No. 01, dated 09 September 1998, is hereby approved, *subject to the usual accounting and auditing rules and regulations.*[77] (Emphasis supplied)

The executive secretary wields such power that enables him or her to act on behalf of the president—though this position did not always have such authority, as its long history, tracing back to the Spanish era, will tell.

The Office of the Executive Secretary was first established in 1901. Created to assist in the then civil governor's executive duties, the office was led by an executive secretary with an assistant executive secretary as deputy. The executive secretary, who must be able to speak and write fluently in English and Spanish, acted as an "interpreter at all public sessions of the [Philippine] Commission when that body desires his presence"[78] and supervised the translation of its laws. On the other hand, the assistant executive secretary received estimates of appropriations and prepared forms of appropriation bills for the Philippine Commission's consideration.[79]

---

76 Id.
77 *Rollo*, p. 64.
78 Act No. 167 (1901), sec. 2.
79 Act No. 167 (1901), sec. 2.

On January 31, 1903, Act No. 609 merged the Office of the Secretary of the Philippine Commission with the executive bureau.[80]

When the Administrative Code of 1917 was enacted, it changed the title of executive secretary to chief of the executive bureau.[81] It also provided that the executive bureau had "the administrative supervision and control of the Secretary of the Interior over provinces, municipalities, chartered cities, and other local political divisions, not being in the territory under the administrative supervision of the Bureau of Non-Christian Tribes"[82] and "a general administrative supervision over the offices of all provincial treasurers."[83]

Act No. 4007, or the Reorganization Law of 1932, abolished the executive bureau and decentralized its functions to other government agencies. Nevertheless, Acts No. 167 and 2711 still provided private secretaries for the governor-general.[84]

During the Commonwealth Era, the private secretaries were continued but in the form of the secretary to the president, whose task was to assist in performing the president's duties and responsibilities.[85] In 1937, Executive Order No. 137 was enacted, providing the secretary to the president the duty to attest the president's signature on all executive orders, proclamations, and commissions—effectively increasing the position holder's authority.[86] This marked the beginning of the amplification of the duty, function, and authority given to the executive secretary.

After World War II, then President Manuel Roxas changed the name of the secretary to the president to the chief of the executive office. In 1947, Executive Order No. 94 changed the title to executive secretary[87] and further provided that the executive secretary "shall have the rank of a Secretary of Department and shall exercise such powers, functions, and duties as may be assigned to him by the President from time to time, and such others as may be imposed upon him by law."[88]

In 1975, then President Marcos abolished the positions of executive secretary, deputy executive secretary, and assistant executive secretary. He replaced them with the position of presidential assistant.[89]

---

80 Official Gazette, <https://www.officialgazette.gov.ph/about/gov/exec/the-executive-secretary>.
81 Id.
82 ADM. CODE (1917), sec. 820.
83 ADM. CODE (1917), sec. 821.
84 Official Gazette, <https://www.officialgazette.gov.ph/about/gov/exec/the-executive-secretary>.
85 Id.
86 Executive Order No. 137 (1937).
87 Official Gazette, <https://www.officialgazette.gov.ph/about/gov/exec/the-executive-secretary>.
88 Executive Order No. 94 (1947), sec. 27.
89 Official Gazette, <https://www.officialgazette.gov.ph/about/gov/exec/the-executive-secretary>.

The current Administrative Code of 1987 reinstated the Office of the Executive Secretary and laid down its function of, among others, directly assisting the president in managing government affairs, as well as directing the operations of the executive office.[90]

One (1) of the executive secretary's numerous functions, as laid down in Section 27 of the Administrative Code, is to sign papers "by authority of the President":

> SECTION 27. Functions of the Executive Secretary. — The Executive Secretary shall, subject to the control and supervision of the President, carry out the functions assigned by law to the Executive Office and shall perform such other duties as may be delegated to him. He shall:
>
> (1) Directly assist the President in the management of the affairs pertaining to the Government of the Republic of the Philippines;
>
> . . . .
>
> (10) Exercise primary authority to sign papers "By authority of the President", attest executive orders and other presidential issuances unless attestation is specifically delegated to other officials by him or by the President;
>
> . . . .
>
> (18) Perform such other functions as the President may direct.[91]

In the performance of these functions, the Administrative Code states that the executive secretary shall be assisted by one (1) or more deputy executive secretaries and one (1) or more assistant executive secretaries.[92] Other duties and responsibilities of senior officials, including the senior deputy executive secretary, in the executive office of the Office of the President are further enumerated under different executive issuances.

In his separate concurring opinion to this Decision, Associate Justice Alfredo Benjamin Caguioa (Associate Justice Caguioa) cites Memorandum Order No. 17, series of 1998, which enumerates the duties and responsibilities of Senior Deputy Executive Secretary Cardenas:

> A. HON. RAMON B. CARDENAS
> Senior Deputy Executive Secretary

---

90 Id.
91 ADM. CODE, sec. 27.
92 ADM. CODE, sec. 26.

1. *Directly assist the Executive Secretary in the performance of his functions as provided for in Section 27 Sub-Chapter B, Chapter 9, Book III of the Administrative Code of 1987.*

2. *Perform the duties of the Executive Secretary upon express designation and delegation during his absence or when the Secretary is unable to perform his duties owing to illness and other causes.*

3. Attend with the Executive Secretary Cabinet meetings or in such other occasions where the President needs the presence of the Executive Secretary and he is unable to do so.

4. Advise and assist the Executive Secretary in the management and supervision over the various units of the Office of the President.

5. Advise and assist the Executive Secretary in the formulation and implementation of policies, plans, programs and projects, rules and regulations pertinent to the general management and administration of the Office of the President.

6. Oversee, for the Executive Secretary, the operations of the offices and agencies under or attached to the Office of the President.

7. Advise and assist the Executive Secretary on economic and related matters.

8. Coordinate the corporate planning and budgeting processes under the Office of the President.

9. Act on requests for travel authority of line agency secretaries, undersecretaries, assistant secretaries and other officials of equivalent rank.

10. Attend the cabinet cluster meetings on Agro-Industrial Development, Macro-Economy & Finance, Physical Infrastructure & Energy Support and on International Relations, and advise and assist the Executive Secretary on pertinent matters and concerns that may arise from these meetings.

11. Provide consultative research, fact finding and advisory service to the Executive Secretary in his assigned areas of responsibility.

12. Advise and assist the Executive Secretary on matters relative to legislation involving his assigned areas of responsibility.

13. Advise and assist the Executive Secretary in the preparation and implementation of presidential orders and decisions involving his assigned areas of responsibility.

14. Advise and assist Executive Secretary in the administration of the President's special projects and programs.

15. Perform such other functions as the President and/or Executive Secretary may assign from time to time. (Emphasis supplied)

Associate Justice Caguioa notes that a review of Memorandum Order No. 17 and other presidential issuances shows that there is:

> . . . no absolute or categorical rule . . . [stating that a Senior Deputy Executive Secretary] has no power to act on his own or in default of the [Executive Secretary] by authority of the President generally or specifically whether it be to exempt PIDS from the coverage of A.O. No. 402, or to approve the HMP pursuant to A.O. No. 402.[93]

While this may be true, the authority to issue the exemption must nonetheless be done upon the express designation and delegation by the president through a presidential or executive issuance.[94]

Furthermore, it must be stressed that the Administrative Code explicitly grants the power to sign papers by authority of the president to the *executive secretary*. It grants no similar authority to a senior deputy executive secretary.

In addition, while the executive secretary is likened to a Cabinet secretary, a deputy executive secretary is equated to an undersecretary.[95]

III

Article VII, Section 17 of the 1987 Constitution explicitly states: "The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed."

Corollary to this power is the doctrine of qualified political agency.

The doctrine was first discussed in the 1939 case of *Villena v. The Secretary of the Interior.*[96] There, petitioner Jose Villena (Villena), then mayor of Makati, questioned the authority of the Interior Secretary's authority to, among others, decree Villena's suspension pending the investigation on the numerous charges brought against him. The Interior Secretary argued that the decree of suspension was verbally approved or

---

93 J. Caguioa, Dissenting Opinion, p. 6.

94 *See* Memorandum Order No. 152 (2004), sec. 4, allowing the Senior Deputy Executive Secretary for Legal Affairs, upon clearance from the Executive Secretary, to sign "By Authority of the Executive Secretary" certain decision, resolutions and orders.

95 Letter of Instruction No. 238 (1975). *See also* Budget Circular 2018-4 or the Index of Occupational Services, Occupational Groups, Classes and Salary Grades which categorically enumerates the position of Deputy Executive Secretary, Cabinet Undersecretary, and Department Undersecretary under Salary Grade 30. The same Index pegs the salary grade of the position of Executive Secretary at 31, which is the same as that of a Cabinet Secretary and Department Secretary.

96 67 Phil. 451 (1939) [Per J. Laurel, En Banc].

acquiesced by the president, who has the authority to remove or suspend a municipal official.

Before this Court, Villena posited the issue of whether the president's mere verbal approval or acquiescence renders the decree of suspension valid.[97] Speaking through then Associate Justice Jose P. Laurel, this Court held:

> [A]ll executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or the law to act in person or the exigencies of the situation demand that he act personally, *the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive, presumptively the acts of the Chief Executive.*[98] (Emphasis supplied, citations omitted)

However, some of the Members of this Court expressed fear on the consequences of the doctrine of qualified political agency. They worry that the president may just assume responsibility "for acts of any member of his [or her] cabinet, however illegal, irregular or improper may be these acts."[99]

The majority nonetheless maintained:

> With reference to the Executive Department of the government, there is one purpose . . . , and that is, the establishment of a single, not plural, Executive. The first section of Article VII of the Constitution, dealing with the Executive Department, begins with the enunciation of the principle that "The executive power shall be vested in a President of the Philippines." This means that the President of the Philippines is the Executive of the Government of the Philippines, and no other. The heads of the executive departments occupy political positions and hold office in an advisory capacity, . . . Without minimizing the importance of the heads of the various departments, their personality is in reality but the projection of that of the President.[100]

The majority also noted that "each head of a department is, and must be, the President's *alter ego* in the matters of that department where the President is required by law to exercise authority."[101] Since the president is the head of the executive branch, this Court ruled that "he [or she] controls

---

97 Id. at 463.
98 Id.
99 Id. at 464.
100 Id.
101 Id.

and directs his [or her] acts; he [or she] appoints him [or her] and can remove him [or her] at pleasure; he [or she] is the executive, not any of his secretaries."[102] It is thus proper that the president "should be answerable for the acts of administration of the entire executive Department before his [or her] own conscience[.]"[103]

In *Lacson-Magallanes Company, Inc. v. Pano and the Executive Secretary Paño*,[104] this Court underscored that the president can undo an act of his or her department secretary:

> Naturally, he controls and directs their acts. Implicit then is his authority to go over, confirm, modify or reverse the action taken by his *department secretaries*.[105] (Emphasis supplied)

There, this Court was asked to rule on whether the Executive Secretary's reversal of the Director of Lands' Decision, which the Secretary of the then Department of Agriculture and Natural Resources had affirmed, was valid. This Court held:

> "[U]nder our constitutional setup *the Executive Secretary who acts for and in behalf and by authority of the President* has an undisputed jurisdiction to affirm, modify, or even reverse any order" that the Secretary of Agriculture and Natural Resources, including the Director of Lands, may issue.[106] (Emphasis supplied, citation omitted)

However, the plaintiff-appellant in *Lacson-Magallanes* argued that since "the [e]xecutive [s]ecretary is equal in rank to the other department heads, no higher than anyone of them. . . . on the pretext that he is an alter ego of the [p]resident, [he or she] cannot intrude into the zone of action allocated to another department secretary."[107]

This Court held that the plaintiff-appellant's contention was misplaced. In that case, the President has the authority to affirm, modify, or even reverse an order issued by the Secretary of the Agriculture and Natural Resources, including those issued by the Director of Lands. Furthermore, this Court held that where the executive secretary acts "by authority of the President," his or her decisions are considered the president's. Such decisions must be given full weight and credit unless the actions taken are "disapproved or reprobated by the Chief Executive[.]"[108]

---

[102] Id. at 465.
[103] Id.
[104] 129 Phil. 123 (1967) [Per J. Sanchez, En Banc].
[105] Id. at 127.
[106] Id. at 129.
[107] Id.
[108] Id. at 130.

Planas v. Gil[109] further explained the powers of the president:

> A perusal of our Constitution will show that extensive authority over the public service is granted the President of the Philippines. Article VII of the Constitution begins in its section 1 with the declaration that "The Executive power shall be vested in a President of the Philippines." All executive authority is thus vested in him, and upon him devolves the constitutional duty of seeing that the laws are "faithfully executed." In the fulfillment of this duty which he cannot evade, he is granted specific and express powers and functions. In addition to these specific and express powers and functions, he may also exercise those necessarily implied and included in them. The National Assembly may not enact laws which either expressly or impliedly diminish the authority conferred upon the President of the Constitution. The Constitution provides that the President "shall have control of all the executive departments, bureaus, and offices" and shall "exercise general supervision over all local governments as may be provided by law[.]"[110] (Citations omitted)

In *Planas*, this Court emphasized that in the exercise of his or her executive power, the president can act through the *heads of the executive departments*.[111] It ruled: "The heads of the executive departments are his [or her] authorized assistants and agents in the performance of his [or her] executive duties, and their official acts, promulgated in the regular course of business, are presumptively his [or her] acts."[112]

In *Joson v. Torres*,[113] this Court ruled in the affirmative on the issue of whether the Interior and Local Government Secretary can investigate administrative complaints against elective local officials.[114] This Court said that it has been established that "[t]he [p]resident shall have control of all the executive departments, bureaus, and offices"[115] under the idea of the "establishment of a single executive[.]"[116] Since the president cannot do and exercise his or her power of control alone, he or she has to delegate some of his or her powers to the *Cabinet members*. The Cabinet members, by virtue of these delegated powers, control the bureaus and other offices under their respective jurisdictions in the executive department.[117]

The same doctrine was also applied in *Department of Environment and Natural Resources v. DENR Region 12 Employees*.[118] There, the Environment and Natural Resources Secretary claimed that the trial court erred in proscribing the department from transferring its Region XII offices.

---

109 67 Phil. 62 (1939) [Per J. Laurel, En Banc].
110 Id. at 76–77.
111 Id. at 77.
112 Id.
113 352 Phil. 888 (1998) [Per J. Puno, Second Division].
114 Id. at 912.
115 Id. at 915 *citing* CONST., art. VIII, sec. 17.
116 Id.
117 Id. at 915–916.
118 456 Phil. 635 (2003) [Per J. Ynares-Santiago, First Division].

The secretary claims that the act was done by virtue of Department of Environment and Natural Resources Administrative Order 99-14.

This Court, in applying the doctrine of qualified political agency, decreed that "the power of the [p]resident to reorganize the National Government may validly be delegated to his [or her] *cabinet members* exercising control over a particular executive department."[119] Therefore, this Court held that the Department of Environment and Natural Resources Secretary is authorized to reorganize the department offices.[120]

In *Spouses Constantino v. Cuisia*,[121] this Court ruled that the Finance Secretary, as the President's alter ego, has the authority to "implement the decision of the President to execute the debt-relief contracts":[122]

> The evident exigency of having the Secretary of Finance implement the decision of the President to execute the debt-relief contracts is made manifest by the fact that the process of establishing and executing a strategy for managing the government's debt is deep within the realm of the expertise of the Department of Finance, primed as it is to raise the required amount of funding, achieve its risk and cost objectives, and meet any other sovereign debt management goals.
>
> If, as petitioners would have it, the President were to personally exercise every aspect of the foreign borrowing power, he/she would have to pause from running the country long enough to focus on a welter of time-consuming detailed activities — the propriety of incurring/guaranteeing loans, studying and choosing among the many methods that may be taken toward this end, meeting countless times with creditor representatives to negotiate, obtaining the concurrence of the Monetary Board, explaining and defending the negotiated deal to the public, and more often than not, flying to the agreed place of execution to sign the documents. This sort of constitutional interpretation would negate the very existence of *cabinet positions* and the respective expertise which the holders thereof are accorded and would unduly hamper the President's effectivity in running the government.[123] (Emphasis supplied, citation omitted)

But, in the same case, this Court expressly set limitations to the delegations of authority that can be properly covered by the doctrine of qualified political agency:

> Nevertheless, there are powers vested in the President by the Constitution which may not be delegated to or exercised by an agent or *alter ego* of the President. Justice Laurel, in his *ponencia* in *Villena*, makes this clear:

---

119 Id. at 645.
120 Id. at 645–646.
121 509 Phil. 486 (2005) [Per J. Tinga, En Banc].
122 Id. at 516.
123 Id.

> Withal, at first blush, the argument of ratification may seem plausible under the circumstances, it should be observed that there are certain acts which, by their very nature, cannot be validated by subsequent approval or ratification by the President. There are certain constitutional powers and prerogatives of the Chief Executive of the Nation which must be exercised by him in person and no amount of approval or ratification will validate the exercise of any of those powers by any other person. Such, for instance, in his power to suspend the writ of *habeas corpus* and proclaim martial law (PAR. 3, SEC. 11, Art. VII) and the exercise by him of the benign prerogative of mercy (par. 6, sec. 11, *idem).*

> These distinctions hold true to this day. *There are certain presidential powers which arise out of exceptional circumstances, and if exercised, would involve the suspension of fundamental freedoms, or at least call for the supersedence of executive prerogatives over those exercised by co-equal branches of government. The declaration of martial law, the suspension of the writ of habeas corpus, and the exercise of the pardoning power notwithstanding the judicial determination of guilt of the accused, all fall within this special class that demands the exclusive exercise by the President of the constitutionally vested power. The list is by no means exclusive, but there must be a showing that the executive power in question is of similar gravitas and exceptional import.*[124] (Emphasis supplied, citation omitted)

In 2007, however, this Court in *Berdin v. Mascariñas*[125] expanded the application of the doctrine of qualified political agency. In that case, the doctrine was extended to cover the Assistant Regional Director as an *alter ego* of the Finance Secretary in fulfilling the latter's obligations under Sections 49 and 50 of the Local Tax Code. This Court stated:

> Petitioners further fault the Municipal Treasurer for the latter's failure to furnish the Provincial Treasurer with a copy of Tax Ordinance No. 88-11-36 after its approval. By not furnishing the latter official with a copy of the tax ordinance, the Municipal Treasurer frustrated a review thereof.
>
> In this regard, we hold that the submission of Tax Ordinance No. 88-11-36 to *the Assistant Regional Director*, DOF Regional Office No. 7, Cebu City complied with the requirement of review pursuant to Secs. 49 and 50 of the Local Tax Code, as said official *is the alter ego of the Secretary of Finance, under an expanded application of the doctrine of qualified political agency,* where *"the President's power of control is directly exercised by him over the members of the Cabinet who, in turn, and by his authority, control the bureaus and other offices under their*

---

[124] Id. at 518.

[125] 553 Phil. 554 (2007) [Per J. Tinga, Second Division].

respective jurisdictions in the executive department."[126] (Emphasis supplied)

Berdin must be examined as it diverged from the trend in jurisprudence of applying the doctrine of qualified political agency only to executive secretaries.

The cases cited in *Berdin* never referred to *alter egos* of executive secretaries, but only of the president. In these cases—all but one (1) decided *En Banc*—this Court ruled the following as the president's *alter egos*: (1) in *Spouses Constantino*,[127] the Finance Secretary; (2) in *Carpio v. Executive Secretary*,[128] the Interior and Local Government Secretary; (3) in *De Leon v. Carpio*,[129] the Justice Secretary; (4) in *Lacson-Magallanes*,[130] the Executive Secretary; and (5) in *Villena*,[131] the Interior Secretary. None of these cases stated that executive secretaries have their own alter egos. *Mondano v. Silvosa*,[132] the only cited case decided in the Division, is also inapplicable. The main issue there was whether the Provincial Governor and Provincial Board's removal of and investigation against the Mainit Mayor was valid.

In *Manalang-Demigillo v. Trade and Investment Development Corporation of the Philippines*,[133] the petitioner was the Senior Vice President of the Legal and Corporate Services Department of Trade and Investment Development Corporation of the Philippines (Trade and Investment), a government-owned and controlled corporation. The company's Board of Directors, per a legal opinion issued by the Office of the Government Corporate Counsel, passed a resolution approving the Organizational Refinement/Restructuring Plan. The plan effectively abolished the Legal and Corporate Services Department. As a result, the petitioner was assigned to head the Remedial and Credit Management Support Sector while retaining her rank as senior vice president. The petitioner questioned the validity of the resolution allowing and approving the Organizational Refinement/Restructuring Plan.[134]

Trade and Investment countered that its action was effectively the act of the President under the doctrine of qualified political agency. It posits

---

[126] Id. at 574 *citing Spouses Constantino v. Cuisia*, 509 Phil. 486 (2005) [Per J. Tinga, En Banc]; *Carpio v. Executive Secretary*, 283 Phil. 196 (1992) [Per J. Paras, En Banc]; *De Leon v. Carpio*, 258-A Phil. 223 (1989) [Per J. Cruz, En Banc]; *Lacson-Magallanes Company, Inc. v. Paño*, 129 Phil. 123 (1967) [Per J. Sanchez, En Banc]; *Mondano v. Silvosa*, 97 Phil. 143 (1955) [Per J. Padilla, First Division]; and *Villena v. Secretary of Interior*, 67 Phil. 451 (1939) [Per J. Laurel, En Banc].

[127] 509 Phil. 486 (2005) [Per J. Tinga, En Banc].

[128] 283 Phil. 196 (1992) [Per J. Paras, En Banc].

[129] 258-A Phil. 223 (1989) [Per J. Cruz, En Banc].

[130] 129 Phil. 123 (1967) [Per J. Sanchez, En Banc].

[131] 67 Phil. 451 (1939) [Per J. Laurel, En Banc].

[132] 97 Phil. 143 (1955) [Per J. Padilla, First Division].

[133] 705 Phil. 331 (2013) [Per J. Bersamin, En Banc].

[134] Id.

that the Finance Secretary, who heads the Department of Finance of which it is an attached agency, is an *alter ego* of the President.[135]

This Court found the argument untenable:

> The doctrine of qualified political agency essentially postulates that the heads of the various executive departments are the alter egos of the President, and, thus, the actions taken by such heads in the performance of their official duties are deemed the acts of the President unless the President himself should disapprove such acts. This doctrine is in recognition of the fact that in our presidential form of government, all executive organizations are adjuncts of a single Chief Executive; that the heads of the Executive Departments are assistants and agents of the Chief Executive; and that the multiple executive functions of the President as the Chief Executive are performed through the Executive Departments. The doctrine has been adopted here out of practical necessity, considering that the President cannot be expected to personally perform the multifarious functions of the executive office.
>
> But *the doctrine of qualified political agency could not be extended to the acts of the Board of Directors of TIDCORP despite some of its members being themselves the appointees of the President to the Cabinet.* Under Section 10 of Presidential Decree No. 1080, as further amended by Section 6 of Republic Act No. 8494, 24 the five ex officio members were the Secretary of Finance, the Secretary of Trade and Industry, the Governor of the Bangko Sentral ng Pilipinas, the Director-General of the National Economic and Development Authority, and the Chairman of the Philippine Overseas Construction Board, while the four other members of the Board were the three from the private sector (at least one of whom should come from the export community), who were elected by the ex officio members of the Board for a term of not more than two consecutive years, and the President of TIDCORP who was concurrently the Vice-Chairman of the Board. Such Cabinet members sat on the Board of Directors of TIDCORP ex officio, or by reason of their office or function, not because of their direct appointment to the Board by the President. Evidently, it was the law, not the President, that sat them in the Board."[136] (Emphasis supplied, citation omitted)

While the doctrine of qualified political agency has been traditionally applied only for department and executive secretaries, in *Baculi v. Office of the President*,[137] this Court recognized the executive secretary's or the deputy executive secretary's extensive range of authority as officials who ordinarily act for and on the president's behalf. As such, decisions from the executive secretary's office may be attributed to the executive secretary even though they have been signed only by a deputy executive secretary.[138]

---

135 Id.
136 Id. at 347–349.
137 807 Phil. 52 (2017) [Per J. Bersamin, Third Division].
138 Id.

All the same, while this Court has at times expanded the application of the doctrine of qualified political agency, the doctrine remains limited to the President's executive secretary and other Cabinet secretaries. It does not extend to deputy executive secretaries or assistant deputy secretaries.

Clearly, the president cannot be expected to personally exercise his or her control powers all at the same time. This entails the delegation of power to his or her Cabinet members. In *Carpio*:

> Under this doctrine, which recognizes the establishment of a single executive, "all executive and administrative organizations are adjuncts of the Executive Department, the heads of the various executive departments are assistants and agents of the Chief Executive, and, except in cases where the Chief Executive is required by the Constitution or law to act in person on the exigencies of the situation demand that he act personally, the multifarious executive and administrative functions of the Chief Executive are performed by and through the executive departments, and the acts of the Secretaries of such departments, performed and promulgated in the regular course of business, are, unless disapproved or reprobated by the Chief Executive presumptively the acts of the Chief Executive." . . .
>
> Thus, and in short, "the President's power of control is directly exercised by him over the members of the Cabinet who, in turn, and by his authority, control the bureaus and other offices under their respective jurisdictions in the executive department."[139] (Citations omitted)

Hence, in this case, then Executive Secretary Ermita, as the President's alter ego, had the authority to let petitioner continue implementing its annual medical checkup program through enrollment with health maintenance organizations.

Consequently, the exemption granted by Executive Secretary Ermita, as the President's alter ego, is valid. It will remain so, unless disapproved or reprobated by the President.[140]

IV

Petitioner's agreements violate neither Administrative Order No. 402 nor Commission on Audit Resolution No. 2005-01.

To recap, petitioner requested that it be granted the authority to continue implementing its annual medical checkup program through enrollment with health maintenance organizations, in lieu of the annual medical checkup under Administrative Order No. 402.

---

[139] 283 Phil. 196, 204–205 (1992) [Per J. Paras, En Banc].
[140] Id.

"In lieu" means instead[141] or in the place of.[142] It signifies that petitioner's annual medical checkup program functions as a substitute or an alternative to the annual medical health program provided under Administrative Order No. 402.

Thus, respondent erred when it upheld Notice of Disallowance No. 11-001-(06-10) reasoning that petitioner's agreements with health insurance companies should have been limited to diagnostic medical procedures, such as physical examination, chest x-ray, complete blood count, urinalysis, stool examination, and ECG, as provided under Administrative Order No. 402.[143]

Respondent stresses that the authority granted by the Office of the President, through Executive Secretary Ermita, carried a qualification that it is still subject to the usual accounting and auditing rules and regulations. It cites Commission on Audit Resolution 2005-001, which allegedly prohibits the procurement of health insurance from private agencies.[144]

Contrary to respondent's argument, Commission on Audit Resolution 2005-001 does not entirely prohibit the procurement of health insurance from private insurance agencies. What it proscribes is the procurement of an additional health insurance from private health insurance companies aside from PhilHealth. It states in part:

> ***WHEREAS,*** under existing Civil Service Law, rules and regulations, it is prescribed that there shall be a health program in the government aimed at improving the working conditions of the employees;
>
> ***WHEREAS,*** *such program is provided thru the Philippine Health Insurance Corporation which is the government arm for insuring the availability of funds to extend hospitalization and sickness benefits to public officials and employees;*
>
> ***WHEREAS,*** the government already provides for the health insurance of its employees by appropriating funds therefor in the General Appropriations Act;
>
> ***WHEREAS,*** *procurement of another health insurance by government agencies from private health insurance companies is a disbursement of public funds for the same purpose and must be viewed as a form of additional allowance and compensation;*
>
> . . . .

---

141 *See* LEXICO, *lieu*, <<https://en.oxforddictionaries.com/definition/lieu>.
142 *See* MERRIAM-WEBSTER DICTIONARY, *lieu*, <<https://www.merriam-webster.com/dictionary/lieu>.
143 *Rollo*, p. 33.[144] Id. at 96.
144 Id. at 96.

> ***NOW, THEREFORE, BE IT RESOLVED*** as it is, hereby ***RESOLVED,*** that the procurement of private health insurance by any agency or instrumentality of the government is an irregular expenditure and constitutes unnecessary use of public funds which cannot be countenanced by this Commission[.][145] (Emphasis supplied)

Clearly, procuring health insurance from private health insurance companies, by itself, does not constitute disbursement of public funds. What Commission on Audit Resolution No. 2005-001 forbids is the procurement of another health insurance *in addition to* the health program provided by the government through PhilHealth.

The annual medical checkup program implemented by petitioner is not an additional insurance. It is an alternative to that provided by PhilHealth. PhilHealth, in its July 13, 2007 letter, informed petitioner that it has "not yet included the annual medical check-up benefit in the benefit packages being developed by [it]."[146]

Therefore, the agreements entered by petitioner do not constitute additional allowance prohibited under Commission on Audit Resolution 2005-001. The Commission on Audit gravely abused its discretion when it upheld the validity of Notice of Disallowance No. 11-001-(06-10) for being violative of Administrative Order No. 402 and Commission on Audit Resolution No. 2005-001.

WHEREFORE, the Petition is **GRANTED**. The March 18, 2014 Commission on Audit Decision No. 2014-047 affirming Notice of Disallowance No. 11-001-(06-10) is **REVERSED** and **SET ASIDE**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

---

[145] Id. at 96–97.
[146] Id. at 65.

WE CONCUR:

On official business
LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Acting Chief Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice
with separate concurring opinion
(on leave but left his vote)

No part
FRANCIS H. JARDELEZA
Associate Justice

On leave
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

On official business
ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the court.

ANTONIO T. CARPIO
Acting Chief Justice