



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. 1.-B/C-2001-02

SUBJECT : Local Government Budgeting - Annual Budget and Compensation

ISSUE : Whether the grant of Subsistence and Laundry Allowances, Additional Cash Gift and Economic Amelioration Equivalent to One-Month Salary can be allowed in budget review.

FACTS : The Provincial Governor of Misamis Oriental requested the reversal of the budget review action of DBM Regional Office X, disallowing on the ground of lack of legal basis, the appropriations in the 1994-1996 Annual Budget of the Province for the following expenditure items:

1. Grants for subsistence and laundry allowances of all personnel – 1994 to 1996 Annual Budgets;
2. Additional Cash Gift of P4,000 for all personnel – 1996 Annual Budget; and
3. Economic Amelioration equivalent to one month salary for all personnel – 1996 Annual Budget.

The request was premised on the following justifications:

1. The Province has provided funds for subject benefits;
2. The personal services cap was not exceeded; and
3. The local government has compensation-setting power under Section 468 (a)(1)(viii) of Republic Act (R.A.) No. 7160, to wit:

"Determine the positions and the salaries, wages, allowances and other emoluments and benefits of officials and employees paid wholly or mainly from provincial funds and provide for expenditures necessary for the proper conduct of programs, projects, services, and activities of the provincial government."

OPINION : The grant of the subject benefits finds no basis in existing compensation laws.

R.A. No. 7305 which grants laundry and subsistence allowances covers only Public Health Workers. Hence, these Magna Carta benefits cannot be granted across-the-board to non-health provincial personnel.

Likewise, the additional P4,000 cash gift and economic amelioration allowance were not yet authorized in 1996. The adjustment in cash gift was allowed in 1997 corresponding to P1,000 pursuant to R.A. No. 8441, while amelioration assistance was authorized in 1997 only pursuant to Administrative Order (A.O.) No. 365. Without the appropriate legal bases, the Province cannot implement these benefits.

Provision of an appropriation in the budget and financial capability of a local government unit do not legitimize the grant of benefits which are not authorized by law. Basic is the principle in fiscal administration that public funds should only be spent for lawful purposes. Hence, the reason for the DBM disallowance.

Further, grants under Section 369 of the General Accounting and Auditing Manual, should be used for public interest/purposes which would result in the advantage of the agency. While the intention of the Province for the use of this fund is noble, which is to augment the compensation of its personnel, the purpose, however, is more administrative and does not redound to general public interest and welfare.

Lastly, the compensation-setting power of local government units under R.A. No. 7160 is not without limitation. Such power must be circumscribed by the provisions of R.A. No. 6758 (Salary Standardization Law) which was enacted in pursuance of the Constitutional mandate for standardized compensation in government. R.A. No. 7160 harmonizes the autonomy powers of LGUs with this Constitutional mandate as provided under Section 81 thereof, to wit:

"Sec. 81. Compensation of Local Officials and Employees. – The compensation of local officials and personnel

Employees. – The compensation of local officials and personnel shall be determined by the sanggunian concerned: Provided, That the increase in compensation of elective local officials shall take effect only after the terms of office of those approving such increase shall have expired: Provided, further That the increase in compensation of the appointive officials and employees shall take effect as provided in the ordinance authorizing such increase: Provided, however, That said increases shall not exceed the limitations on budgetary allocations for personal services provided under Title Five, Book II of this Code: Provided, finally, That such compensation may be based upon the pertinent provisions of Republic Act Numbered Sixty-seven fifty-eight (R.A. No. 6758), otherwise known as the "Compensation and Position Classification Act of 1989"." (underscoring supplied)

To implement the above provision of R.A. No. 7160 and to maintain the integrity of the standardized compensation plan, A.O. No. 282 dated July 25, 1996 was issued. It orders the strict compliance with the compensation standardization law by local governments. Specifically, it directs, among others, the following:

1. Strict adherence by provinces, cities, municipalities and barangays to the provisions of R.A. No. 6758 and the guidelines issued therefor by the DBM;
2. Strict prohibition of the grant of salary adjustments and other forms of compensation to officials and employees inconsistent with the provisions of laws, rules and regulations; and
3. Conformance of the budget review for personal services with the provisions and guidelines on Compensation Standardization Law.

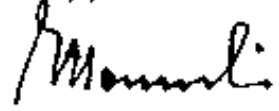
The foregoing considered, the budget review action of DBM Regional Office X on the subject expenditure items in the 1994-1996 Budgets of the Province is affirmed.

REFERENCE: Letter dated 10 November 2001 to Hon. Antonio P. Calingin

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary