



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-B-2001-11

SUBJECT : Local Government Budgeting – Internal Revenue Allotment

ISSUE : Whether or not the DBM has the authority to transfer the Internal Revenue Allotment (IRA) of the Municipality of Tapaz, Capiz, to the Philippine National Bank (PNB) based solely on the existence of an outstanding obligation with the PNB by virtue of the loan agreement executed by the said Municipality and the bank entered into by the former Mayor on 04 February 1998, **even without a request for transfer from the LGU itself.**

FACTS : The former Mayor of the Municipality of Tapaz, Capiz was authorized by the Sangguniang Bayan to negotiate and obtain a loan from the PNB through SB Resolution No. 33, s. 1996. Upon this authority, the former Mayor applied with a P5.M loan with the PNB which the latter approved on 11 September 1997. Consequently, the loan was released on 04 February 1998.

The present administration refused to honor the loan agreement entered into by the previous Mayor and the PNB stating that the loan was anomalous since there was no legitimate transfer and acceptance by the Municipality of the equipment procured under the loan funds; technical inspection of the equipment disclosed that the same were overvalued; and the Municipality cannot afford the loan repayments and therefore, requested the PNB to repossess the equipment.

The PNB requested for the transfer of the IRA account of the Municipality of Tapaz due to the latter's outstanding obligation with the former on the strength of DILG Opinion which reads:

"...all official actions of the sanggunian, be it permanent or temporary in nature, should be in the form of an ordinance or resolution duly approved in accordance with law. Once approved and signed by the chief executive, it binds all persons within the territorial jurisdiction of the local government unit concerned, and this could only be modified, altered, revoked or set aside by another ordinance or resolution.-

If based on Resolution No. 98-105 (a previous authority from the Sanggunian), the municipal mayor had already entered into a negotiated contract, thus becoming valid and binding, the revocation/rescission of the subject resolution would be ineffective in the sense that the same would prejudice the rights of the parties to the contract."

OPINION : A formal endorsement by the LGU of its current account with the PNB where their IRA will be transferred is necessary before the DBM can take appropriate action thereon. Relatedly, the refusal by the subject Municipality to honor its obligation to the PNB is a matter which the two parties should resolve.

Budget Execution Guidelines (BEG) 98-18 dated 18 September 1998, [SUBJECT: Guidelines on the Transfer of the Internal Revenue Allotment (IRA) to Local Government Unit (LGU) Borrowers of the Philippine National Bank (PNB)] provides, among others, to wit:

- "2.2 *In order to facilitate the transfer of the IRA of LGU borrowers to PNB, the following procedures shall be observed:*
- 2.2.1 *The DBM ROs shall identify the LGUs with outstanding loans from PNB in the region.*
 - 2.2.2 *LGUs shall be required to submit their current account numbers in the PNB branches where their IRA will be transferred.*
 - 2.2.3 *Upon receipt of the advice of NCAs covering IRA allocation for the month for provinces/cities/municipalities, the DBM ROs shall issue MDS check (LBP or DBP or PVP) payable to the PNB account of the LGU. For barangays, while NCAs are issued on a quarterly basis, funding checks shall be issued by the DBM ROs monthly.*
 - 2.2.4 *DBM ROs shall prepare and transmit Notice of Funding Checks issued to the LGU to inform them that the IRA share of the LGU borrower has been deposited to the LGU current account in PNB."*

Worth noting above is the requirement that LGUs shall be required to submit their current account numbers in the PNB branches where their IRA will be transferred. With this, it is clear that the primary obligation to comply with the requirements is imposed on the part of the LGU; before the DBM can take appropriate action.

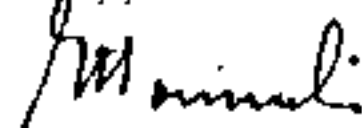
In the instant case, it is apparent that the Municipality of Tapaz did not submit to Regional Office VI its current account number with the PNB if there is any. Much more, it was informed that the present administration of the Municipality refuses to honor the obligation with the PNB.

REFERENCE: Memorandum of the Secretary dated 19 February 2001 to DBM RO VI

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary