



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-B-2001-12

SUBJECT : Local Government Budgeting – Internal Revenue Allotment

ISSUE : Whether or not the unappropriated balance of P4,018,340.00 pertaining to the difference between the tentative Internal Revenue Allotment (IRA) of P242,515,947.00 and the IRA appropriated in the FY 2000 Annual Budget (AB) amounting to P238,497,607.00, may be appropriated in a Supplemental Budget considering that the final FY 2000 IRA which actually accrued to the LGU is even lesser than the IRA appropriated in the AB.

FACTS : In Memorandum dated 22 November 2000, DBM RO-XIII forwarded Resolution No. 338-2000 of the Sangguniang Panlalawigan (SP) of Agusan del Norte, entitled, "Resolution Requesting the Department of Budget and Management Region 13, to Reconsider Its Decision on Supplemental Budget (SB) No. 3 of the General Fund and Supplemental Budget No. 1 of the Provincial Economic Enterprise Development and Management Office of the Province of Agusan del Norte."

The FY 2000 SB Nos. 1 and 3 of the General Fund and Economic Enterprise, respectively, of the Province, were declared inoperative by DBM RO-XIII, based on the following grounds:

a) The LGU used as fund source the amount of P4,018,340.00 which is non-existent for the reason that the amount was taken from the balance of the tentative IRA figure of P242,515,947.00 of which P238,497,607.00 was appropriated in its FY 2000 General Fund AB. Below is the illustrative computation:

CY 2000 IRA per LBM 32 (Tentative)	P242,515,967.00
IRA appropriated in FY 2000 AB	238,497,607.00

Unappropriated Balance	<u>P 4,018,340.00</u>

b) The Final FY 2000 IRA accruing to the Province only amounted to P215,684,307.00 which means there was already an over-appropriation of P22,813,400.00 taking as reference figure the IRA appropriated in the FY 2000 AB in the amount of P238,497,607.00.

- c) By using the unappropriated balance of P4,018,340.00, as fund source for SB No. 3, the amount of IRA not backed-up with cash would balloon to P26,831,740.00 which could result to severe financial dislocation of the Provincial Government if not immediately corrected.
- d) Supplemental Budget No. 1 for its Economic Enterprise was also declared inoperative because the appropriations exceeded the income.

However, the SP presented the following comments in answer to the budget review action, to wit:

- a) The contention that the IRA of the Province is only P215,684,207.00 is contradictory to the review of the AB for FY 2000 dated April 6, 2000 because the computation of the 20% Development Fund was based on the P242,515,947.00 tentative figure;
- b) That after the review of the AB, DBM RO-XIII failed to advise the Province to make revisions on the AB for FY 2000 to conform with Local Budget Memorandum (LBM) No. 33;
- c) That the issue of withholding or reduction of IRA of LGU had been resolved in the Supreme Court decision promulgated on July 19, 2000 that "the IRA of LGUs shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose and that the P10-B IRA placed under the Unprogrammed IRA was automatically resorted and LBM No. 33 can no longer be implemented because it contravenes the said decision of the Supreme Court;
- d) That the Notice of Funding Check Issued dated May 12, 2000 is a clear indication of the restoration of the P10B IRA even before that decision of the Supreme Court as promised by former President Estrada to the Governor's League.

OPINION : The challenged budget review action is in order.

A Supplemental Budget can only be enacted in the following three (3) instances, as follows:

- (1) When supported by funds actually available as certified by the local treasurer; or
- (2) If covered by new revenue sources; or
- (3) In times of public calamity, by way of budgetary realignment for expenditures allowed under R.A. No. 7160.

On this matter, Section 321 of R.A. No. 7160 and Section 1 of AO No. 47 dated 12 April 1993, which amended Article 417 of the IRR of R.A. No. 7160, state:

"SEC. 321. Changes in the Annual Budget. – All budgetary proposals shall be included and considered in the budget preparation process. After the local chief executive concerned shall have submitted the executive budget to the sanggunian, no ordinance providing for a supplemental budget shall be enacted, except when supported by funds actually available as certified by the local treasurer or by new revenue sources.

A supplemental budget may also be enacted in times of public calamity by way of budgetary realignment to set aside appropriations for the purchase of supplies and materials or the payment of services which are exceptionally urgent or absolutely indispensable to prevent imminent danger to, or loss of, life or property, in the jurisdiction of the local government unit or in other areas declared by the President in a state of calamity. Such ordinance shall clearly indicate the sources of funds available for appropriations as certified under oath by the local treasurer and local accountant and attested by the local chief executive, xxx xxx.

"SECTION 1. Article 417 of the Rules and Regulations Implementing the Local Government Code of 1991 is hereby amended to read as follows:

"ART. 417. Changes in the Annual Budget. – Changes in the annual budget may be done through supplemental budgets.

"No ordinance providing for a supplemental budget shall be enacted except for the following:

"(a) When supported by funds actually available as certified by the local treasurer:

"Funds actually available refers to the amount of money actually collected as certified by the local treasurer at any given point during the fiscal year which is over and above the estimated income collection for that point in the year. Thus, funds are actually available when realized income exceeds estimated income as of any given day, month or quarter of the said fiscal year. Funds are likewise deemed actually available when there are savings. xxx xxx"

*(b) If covered by new revenue sources
xxx xxx*

"An ordinance providing for a supplemental budget may also be enacted in times of public calamity by way of budgetary realignment to set aside appropriations for the purchase of supplies and materials or the payment of services, which are exceptionally urgent or absolutely indispensable to prevent

imminent danger to, or loss of, life and property, x x x. Such ordinance shall clearly indicate the sources of funds available for appropriations, as certified under oath jointly by the local treasurer and the local accountant and attested by the local chief executive, and various items of appropriations affected, and the reasons for the changes." (underscoring supplied)

The difference between the tentative IRA and that appropriated in the FY 2000 AB of the Province obviously is not a fund actually available nor a new revenue source which supports the enactment of a Supplemental Budget, hence, the request for reconsideration should be denied.

REFERENCE: Memorandum of the Secretary dated 13 September 2001 to DBM RO XIII

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary