



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-B-2001-03

SUBJECT : Local Government Budgeting – Annual Budget

ISSUE : Whether or not the appropriation for the acquisition of motor vehicles under a lease-purchase project of the Sangguniang Panlungsod (SP) may be allowed in budget review.

FACTS : The SP of Butuan City passed SP Resolution No. 556-2000 requesting reconsideration of a DBM action disallowing the appropriation amounting to P750,000 for the Vehicle Lease-Purchase Project of the SP of the said City.

The purpose of the appropriation is for the purchase of a vehicle for any of the SP Members of the City who is interested in acquiring one on a lease-purchase agreement with a period of one year amortization through payroll deduction of the availing party. It is represented that the city government will stand to benefit from the lease-purchase scheme as it will no longer shoulder the maintenance and upkeep of six (6) motorcycles.

Opinion : The request for reconsideration may not be given favorable course for lack of legal basis and for violation of the Local Government Code (R.A. No. 7160).

There is no law authorizing the use of public funds to acquire property that will be subjected to a lease-purchase scheme in favor of private persons.

The scheme in favor of SP members may be considered as an additional benefit/privilege not sanctioned by any law because the plan itself will provide funding for the purchase of vehicles which will eventually be owned by the sanggunian members. This is a situation, which violates a constitutional policy against using public funds for private purposes. In the case of Pascual vs. Secretary of Public Works, 110 Philippine Reports 331, the Supreme Court ruled as follows:

"It is a general rule that the legislature is without power to appropriate public revenues for anything but a public purpose."

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"The test of the constitutionality of a statute is designed to promote the public interests, as opposed to the furtherance of the advantage of individuals, although such advantage to individuals might incidentally serve the public."

Further, it is worthy to note that Section 305(b) of R.A. No. 7160 expressly provides:

"Local government funds and monies shall be spent solely for public purposes;"

While the law grants LGUs genuine and local autonomy including the authority to purchase transport and heavy equipment to enable local government personnel to effectively and more efficiently perform their assigned functions and responsibilities, said authority to purchase is not without limitations and is thus, subject to strict budgeting, accounting and auditing rules and regulations. The purchase of motor transport of the City of Butuan is in furtherance of the advantage of only a few individual-members of the Sangguniang Panlungsod. Although an indirect advantage that might incidentally serve the public, this is not the public purpose that is contemplated by law.

REFERENCE: Letter dated 18 September 2001 to the City Vice Mayor of Butuan City

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary