



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. I.-B-2001-07

SUBJECT : Local Government Budgeting - Appropriations

ISSUE : Whether or not the City Government of Davao may invoke Section 365 of the Government Accounting and Auditing Manual (GAAM) Volume II in allocating the amount of P250,000 to cover the Medical Expenses of Sangguniang Panlungsod (SP) Member Juan P. Pala, Jr. and his driver, who were wounded in an ambush attack.

FACTS : SP Member Pala and his driver were ambushed in the morning of 14 June 2001. The SP is planning to allocate the amount of P250,000 to cover the Medical Expenses of the victims and invoked Section 365 of the GAAM which reads:

"Sec. 365. Anti-Insurgency/Contingency/Emergency Expenses (3-20-000). This account includes unforeseen expenditures arising from the occurrence of insurgency/calamities or financial dislocation on account thereof which are chargeable against the appropriation."

Mr. Pala filed a certificate of candidacy during the 14 May 2001 elections. Under Section 26 of COMELEC Resolution No. 3636, entitled "*Rules and Regulations Implementing R.A. No. 9006 Otherwise Known as 'Fair Elections Act' for the May 14, 2001 National and Local Elections*", any elective official whether national or local, who has filed a certificate of candidacy for the same or any other office shall not be considered resigned from his office.

OPINION : Section 365 of the GAAM may not be the appropriate legal basis for the allocation of the Medical Expenses in the case at bar.

It is very clear that the "Anti-Insurgency/Contingency/Emergency Expenses" account includes unforeseen expenditures arising from the occurrence of insurgency or calamities.

Insurgency or insurrection connotes a movement which seeks to effect some change of minor importance or to prevent the exercise of governmental authority with respect to particular matters or subjects (*30 AM jur. 1*). In rebellion or insurrection, the Revised Penal Code expressly

declares that there must be a public uprising and taking up of arms (*Cariño vs. People, 7 SCRA 900*).

"Calamity" is the devastation of a country by hurricanes or earthquakes, and the desolation of its inhabitants by famine or plague (*Ballantine's Law Dictionary, 1969, p. 168*).

On the other hand, the provisions of Section 699 of the Revised Administrative Code may be used as the legal basis for appropriating funds for the same expenditure, subject to the conditions provided therein, to wit:

"Sec. 699. Allowance in case of injury, death, or sickness incurred in the performance of duty.—When a person in the service of the national government or in the service of the government of a province, city, municipality, municipal district is so injured in the performance of duty as thereby to receive some actual physical hurt or wound, the proper Head of Department may direct that absence during any period of a disability thereby occasioned shall be on full pay, though not more than six months, and in such case he may in his discretion also authorize the payment of medical attendance, necessary transportation, subsistence and hospital fees of the injured person. Absence in the case contemplated shall be charged first against vacation leave, if any there be." (underscoring ours)

However, whether or not Mr. Pala and his driver were ambushed while in the performance of duty so as to consider the case as falling within the ambit of Section 699 of RAC is a question of fact which needs to be ascertained under the circumstances. Moreover, the beneficent provisions of the Employees' Compensation and State Insurance Fund may also be availed of.

REFERENCE: Memorandum of the Secretary dated 29 October 2001 to DBM RO-XI

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary