



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. I.-B/M-2001-03

SUBJECT : Local Government Budgeting – Local Water Districts

ISSUES : (1) Nature of the operation of the Teresa Water District relative to the Municipality of Teresa, Rizal.

(2) Whether or not the Municipal Mayor can authorize the use of the Municipality's P10,000,000 share in the Local Government Service Equalization Fund (LGSEF) for the improvement of the waterworks facilities of the Teresa Water District, subject to approval by the Sangguniang Bayan (SB).

FACTS : The Teresa Water District was created and established under Sangguniang Bayan Resolution No. 21-99, dated 15 February 1999 pursuant to Presidential Decree (P.D.) No. 198 (Provincial Water Utilities Act of 1973). Through a Deed of Transfer executed by and between the Teresa Municipal Mayor and the Water District officials, all local waterworks facilities and properties owned by the Municipality of Teresa were transferred to the said Water District without any consideration.

Sometime in June 2000, the Department of Budget and Management (DBM) released to the Municipality of Teresa the amount of P10,000,000 representing its share from the 1999 LGSEF per Oversight Committee on Devolution (OCD) Resolution Nos. 99-003 and 99-012. The said amount was primarily intended for the upgrading of the Municipality's local waterworks system and was credited to the account of the Municipality of Teresa with Land Bank-Antipolo City Branch.

OPINION : First Issue. The local water district is a government-owned and controlled corporation.

It is an offspring corporation of the local government forming it, to operate basically as a non-profit organization for public service. (Agra, Alberto C., Compendium on Local Autonomy and Local Government 1992-1997, Second Edition, 1997, citing OGCC Opinion Nos. 2168-1995 October 12, 1995, p. 146) Local Water Districts (LWDs) are created by virtue of a special law, Presidential Decree (P.D.) No. 198, as amended by P.D. Nos. 768 and 1479. Section 6 (a) and (b) of P.D. No. 198, as amended by PD No. 1479, reads:

"Sec. 6. Formation of District. – This Act is the source of authorization and power to form and maintain a district. Once formed, a district is subject to the provisions of this Act and not under the jurisdiction of any political subdivision. To form a district, the legislative body of any city, municipality or province shall enact a resolution containing the following:

(a) The name of the local water district, which shall include the name of the city, municipality, or province, or region thereof, served by said system, followed by the words "Water District".

(b) A description of the boundary of the district. In the case of a city or municipality, such boundary may include all lands within the city or municipality. A district may include one or more municipalities, cities or provinces, or portions thereof.

X X X

X X X."

"Section 1. The first paragraph of Section 6 of Presidential Decree No. 198, as amended, is hereby amended to read as follows:

"Sec. 6. Formation of District. This Act is the source of authorization and power to form and maintain a district. For purposes of this Act, a district shall be considered as a quasi-public corporation performing public service and supplying public wants. As such, a district shall exercise the powers, rights and privileges given to private corporations under existing laws, in addition to the powers granted in, and subject to such restrictions imposed, under this Act.

X X X

X X X

(c) A statement completely transferring any and all waterworks and/or sewerage facilities managed, operated by or under the control of such city, municipality or province to such district upon the filing of resolution forming the district." (Underscoring supplied)

Second Issue. We opine that the LGU can use its share in the LGSEF to improve its waterworks facilities through the Teresa Water District subject to SB approval.

It is noteworthy that said amount is primarily intended for the upgrading of the local waterworks system, hence, the local water district of Teresa, being the offspring corporation of the local government and created for the implementation of waterworks services, may be authorized to

implement the upgrading of the waterworks system of Teresa. This is in line with the "WHEREAS" clause of P.D. No. 198 which states that:

"WHEREAS, local water utilities should be locally controlled and managed as well as have support on the national level in the area of technical advisory services and financing." (Underscoring ours)


Regarding the implementation of the release, a MOA should be executed between the Municipality of Teresa and the Teresa Water District.

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

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary