



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-C-2002-01

SUBJECT : **Local Government Compensation – Extra Christmas Bonus (ECB)**

- ISSUES :**
- (1) Whether Budget Circular (BC) No. 2001-02 dated 12 November 2001 can be used as legal basis for the grant of ECB.
 - (2) Whether barangay officials and employees are entitled to ECB if barangay funds are available.
 - (3) Whether a Local Government Unit (LGU) can prioritize the grant of ECB over the implementation of the 5% salary adjustment in case the funds for the latter had not yet been appropriated in the budget.
 - (4) Whether an LGU is authorized to establish a scheme on how the ECB should be granted. In other words, whether an LGU can grant ECB on a uniform rate regardless of the position of the personnel or based on his/her salary rate.

OPINION : **Issue No. 1**

BC No. 2001-02 is a valid basis for the grant of ECB per directive of the President. This finds legal support from Section 5 of PD No. 1597 which provides:

"Section 5. Allowances, Honoraria, and Other Fringe Benefits. Allowances, honoraria and other fringe benefits which may be granted to government employees, whether payable by their respective offices or by other agencies of the government, shall be subject to the approval of the President upon recommendation of the Commissioner of the Budget. x x x."

It is well-settled in jurisprudence that rules and regulations, and general orders enacted by administrative authorities pursuant to the powers delegated to them have the force and effect of law (Neptali A. Gonzales,

Administrative Law – A Text, 1979, p. 67). Moreover, in line with the presumption of validity of administrative rules and regulations, it is likewise settled that the constitutionality of a law or executive order may not be collaterally attacked. They shall therefore be deemed valid unless declared null and void by a competent court. (Edgardo L. Paras, Civil Code of the Philippines Annotated, 1989, p. 48).

Issue No. 2

A barangay official may be granted ECB on top of the Christmas Bonus provided that the grant thereof shall be subject to the availability of funds (particularly savings) and the 45%-55% limitation on Personal Service (PS).

Issue No. 3

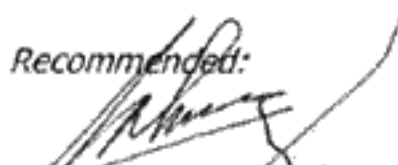
The grant of salary adjustments/ allowances/benefits which are given specific mandate by the law should be given priority over those which are not mandated by law like the ECB. It should be noted that the grant of ECB as per BC No. 2001-02 is merely directory.

Issue No. 4

LGUs are given wide discretion on what scheme/ method of implementation to adopt in the grant of ECB as long as it is within the requirements provided in BC No. 2001-02 and the LGC of 1991, to wit: (a) availability of funds (savings) and (b) must be within PS limitation.

REFERENCE: Memorandum dated 01 July 2002 of the Secretary to DBM RO-II.

Recommended:


RUBY U. ALVAREZ
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary