



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management  
Malacañang, Manila

**LEGAL OPINION NO. N-C-2001-06**

**SUBJECT : National Government Compensation - Honoraria**

**ISSUE :** Whether or not the DPWH RO IX officials and employees are entitled to honoraria; and if so, against which fund will the aforesaid honoraria and other claims be charged inasmuch as said claims, if granted, would already be in excess of the ceiling of the 3.5% Engineering Supervision and Administrative Overhead (ESAO), especially so when such claims were not specifically stipulated in the Memorandum of Agreement (MOA).

**FACTS :** In Memorandum dated 04 April 2001, DBM RO-IX raised the issue on the payment of honoraria in the amount of P233,187.04 to DPWH RO IX officials and staff involved in the implementation/construction of the DBM RO IX building.

**OPINION :** The claims for honoraria by officials and personnel of DPWH RO IX may not be given favorable course as the same is already deemed incorporated in the 3.5% ESAO.

The MOA between DPWH and DBM provided the following:

Item B(2), (2.1)

*"RESPONSIBILITIES OF DBM*

*X X X*

2. *Release of the DPWH under trust fund such amount as necessary to defray cost in the pre-construction activities and in the construction proper in accordance with the following schedule;*

*scneauie;*

- 2.1 *The DBM shall remit to the DPWH as initial amount equivalent to 15% of the project cost as mobilization cost. In addition, the DBM shall also remit such an amount as necessary chargeable against the 3.5% for administrative overhead, preconstruction activities after detailed engineering, construction project management, testing and quality control, subject to Section 35, Chapter 5, Book VI of E.O. No. 292." (underscoring ours)*

Item B(2), (10)

- "10. *Provide management supervision fee 3.5% of the project cost in accordance with the release schedule under Sub-section 2.1 of Section 2(B) hereof.*"

Although the Construction Fund for the Building of DBM RO IX is not per se an Infrastructure Fund under the DPWH Appropriations, such above-mentioned provisions of the MOA are based, by analogy, on DPWH Special Provision No. 9, General Appropriations Act (GAA) for Fiscal Year (FY) 2000, to wit:

**"Section 9. Engineering and Administrative Overhead. – In order to ensure that at least ninety-six and one-half percent (96.5%) of the infrastructure fund released by the Department of Budget and Management is made available for direct implementation of the project, any authorized deduction from project funds for administrative overhead, pre-construction project management, testing and quality control, acquisition, rehabilitation and repair of heavy equipment and other related equipment and parts used in the implementation of infrastructure projects and contingencies, shall not exceed three and one half (3.5%) of the project cost, subject to Section 35, Chapter 5, Book VI of E.O. No. 292: PROVIDED, That not more than one half percent (.5%) to be retained in the central office shall be used for said acquisition, rehabilitation and repair of equipment and parts. The DPWH shall submit to the Department of Budget and Management, the Senate Committee on Finance and the House Committee on Appropriations, a quarterly report of such disbursement. Violation of, or non-compliance with this provision shall subject the government official or employee concerned to administrative, civil and/or criminal sanction under**

*concerned to administrative, civil and/or criminal sanction under Section 43 of Chapter 5, Section 57 of Chapter 6 and Section 80 of Chapter 7, Book VI of E.O. No. 292." (emphasis supplied)*

Further, details of the claims show that the sum of P215,200.00 covering honoraria was already charged against the 3.5% ESAO. Furthermore, per verification, it was informed by the DPWH Central Office that the DPWH officials and employees should not separately charge honoraria on construction administration and related works by the DPWH.

**REFERENCE:** Memorandum of the Secretary dated 23 May 2001 to DBM RO-IX

*Recommended:*

  
**JANET B. ABUEL**  
Director, LLS

*Approved:*

  
**EMILIA T. BONCODIN**  
Secretary