DEPARTMENT OF BUDGET AND MANAGEMENT
OFFICIAL
RELEASE
CENTRAL RECORDS DIV.
MALACAÑANG, MANILA

REPUBLIC OF THE PHILIPPINES
Department of Budget and Management
Malacañang, Manila

**LEGAL OPINION NO. L-B/C-2002-01**

**SUBJECT : Local Government Budgeting and Compensation**

**ISSUE :** Whether or not the City Mayor has the power to issue Executive Orders (EOs) creating various commissions, committees/monitoring teams and to authorize the payment of honoraria of the members thereof.

**FACTS :** The Sangguniang Panlungsod (SP) of the City of Cebu, under Resolution No. 00-5230, requested for comment/opinion on the legality of issuance of EOs by the Mayor creating various commissions/committees/monitoring teams and providing honoraria for its members.

The Office of the City Attorney of Cebu opined that the City Mayor has the power to issue EOs for the faithful and appropriate enforcement and execution of law and ordinances pursuant to Section 455(b)(2)(iii) of Republic Act (R.A.) No. 7160 otherwise known as the Local Government Code of 1991. However, he further opined that the grant of honoraria may only be allowed through a resolution passed by the SP, which has the power to approve the Annual and Supplemental Budgets of the City and appropriate funds for specific programs and projects.

**OPINION :** The issuance of the EOs creating the aforementioned bodies is within the executive powers of the City Mayor.

This is contemplated under Section 455(b)(2)(iii) of the Local Government Code of 1991 which provides that the City Mayor shall have the power to:

> "(iii) Issue such executive orders for the faithful and appropriate enforcement and execution of law and ordinances."

With respect to the grant of honoraria, the same is discretionary on the part of the local chief executive concerned as long the grant of same is specifically authorized in the Order and subject to availability of local funds. It may be inferred from paragraphs 4.2, 4.3 and 4.4 of Local Budget Circular (LBC) No. 62 (Guidelines on the Grant of Honoraria in the Local Government Units) dated 29 July 1996 that the grant of honoraria is

Local Government Units) dated 29 July 1996 that the grant of honoraria is incidental to the executive powers of the City Mayor in the creation of executive bodies intended for special projects. Said provisions are *hereunder quoted:*

"4.2 The project plan as approved by the Local Chief Executive should specify objectives, outputs, activities, schedules, resource and manpower requirements and cots.

4.3 The payment of honoraria shall be performance-based and shall be in accordance with the schedule of submission and acceptance of the outputs stipulated in the approved project plan.

4.4 The determination of the amount of honoraria to be paid to each personnel on assignment to a project shall be based on the schedule of outputs contained in the approved project plan and the guidelines to be prescribed by the Local Chief Executive for the project which may include factors such as, but not limited to, performance, productivity and number of hours rendered using the following categories:

| | Percentage of Permissible Ceiling |
|---|---|
| High | 100% |
| Medium | 80% |
| Low | 60% |
| x x x | x x x." (underscoring supplied) |

Hence, so long as there are existing appropriations covering payment o honoraria for members of the special committees, a separate approval by the SP for the grant thereof is no longer necessary.

It should be noted, however, that honoraria should be based on the rate prescribed under LBC No. 62. Moreover, the limitation on persona services expenditures should be complied with by the City of Cebu a provided in paragraph 7 of the same Circular, which provides:

"7.0 LIMITATION ON PERSONAL SERVICES EXPENDITURES

The local government unit concerned shall see to it that the annual income or finances of the LGU as certified by

the annual income or finances of the LGU as certified by the Treasurer will allow or permit the grant of the honoraria under this Circular without violating the 45%/55% limitation on personal services expenditures prescribed under the Local Government Code."

**REFERENCE:** Memorandum of the Secretary dated 02 January 2002 to DBM RO-VII

*Recommended:*

**JANET B. ABUEL**
Director, LLS

*Approved:*

**EMILIA T. BONCODIN**
Secretary