



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. I-B-2001-10

SUBJECT : Local Government Budgeting - Extraordinary and Miscellaneous Expenses vis-à-vis Discretionary Fund

ISSUE : Whether or not the item of appropriation for Extraordinary and Miscellaneous Expenses (EME) in the Office of the City Mayor already forms part of the Discretionary Fund of the Mayor and therefore, should not have a separate appropriation.

FACTS : The DBM RO-XIII disallowed the item of appropriation for EME in the FY 2000 Annual Budget of Butuan City stating that EME is considered to be a part of the discretionary expenses of the local chief executive. In Resolution No. 557-2000, the Sangguniang Panlungsod of Butuan sought reconsideration of said disallowance.

OPINION : The review action taken by DBM RO-XIII is in order and thus, affirmed. Accordingly, the request for reconsideration cannot be given favorable course.

Section 325(h) of R.A. No. 7160 expressly provides:

"The annual appropriations for discretionary purposes of the local chief executive shall not exceed two percent (2%) of the actual receipts derived from basic real property tax in the next preceding calendar year. Discretionary funds shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law. No amount shall be appropriated for the same purpose except as authorized under this Section."
(Underscoring supplied)

The law clearly states that no amount shall be appropriated for the same purpose as that of Discretionary Fund. Hence, in the case at bar, as the appropriation for extraordinary and miscellaneous expenses serves the same purpose as that of the Discretionary Fund, there is a clear violation of the aforesaid provision.

In the case of LGUs, what is specifically authorized by law to be appropriated is the Discretionary Fund for the local chief executive. There is no specific provision in the Code which authorizes appropriation for EME, separate and distinct from the Discretionary Fund, as both have the same purpose. Under the Government Accounting and Auditing Manual (GAAM), EME and DF are treated under the same Fund Code 218 for having the same purpose. Hence, it cannot be treated separately and provided with separate appropriations.

REFERENCE: Memorandum of the Secretary dated 19 February 2001 to DBM RO XIII

Recommended:



JANET B. ABUEL
Director, LLS

Approved:



EMILIA T. BONCODIN
Secretary