

DILG RO XHI  
FILE



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DILG-13 OPINION NO. 006-2014  
April 16, 2014

SVETTE S. QUIMZON, CPA  
Municipal Accountant  
Buenavista, Agusan del Norte

DILG - REGION XIII  
RELEASED  
DATE: APR 22 2014  
TIME: 11:57 AM  
BY: BAK

Dear Ms. Quimzon:

This refers to your letter to the undersigned dated April 14, 2014 and received by this level on the same date soliciting legal opinion on the issue of charging Consultancy Services of Php2,000,00.00 in the construction of Buenavista Community Hospital under the 20% Development Fund of the CY 2014 annual appropriation. Specifically, you asked:

1. Can the Two Million be automatically charged to the said appropriation without a corresponding ordinance specifically stating the said expenditure if the consultancy services is for the construction of the said building?
2. Can consultancy services be charged under the 20% development fund citing JMC No. 2011-1 dated April 13, 2011 of the DILG and DBM?
3. Can we utilize part of our appropriation of the 20% Development Fund under Support to Foreign and National Funded Projects for the counterpart with PCSO in the purchase of Ambulance?

Since the first two issues are interrelated, we are going to answer them in one discussion.

/amg lo006-2014

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Annie  
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RUFINO G. PALER  
SBO (BTA), ADN  
4-22-2014

We understand that the Construction of Buenavista Community Hospital utilizes part of the 20% Development Fund (under 3.1.1. of JMC 2011-1 dated April 13, 2011) included in the approved CY 2014 Annual Appropriation. We can correctly assume, then, that the project is 1. already duly approved by the Municipal Development Council (MDC), 2. included in the Annual Investment Plan (AIP), and 3. all scopes, components and processes of the same project are likewise approved.

Naturally, Program of Works which is the basis for all undertakings of the project shall be prepared for project by the local engineer or project development officer and approved by the local chief executive. It may include costs for pre-engineering activities such as survey works, detailed engineering design (DED), acquisition of right of way, and other direct and indirect costs. For these pre-engineering activities, the LGU may need technical services of a consultant, especially in the planning, conceptualizing, and preparing of the DED.

To answer the first and second questions, we opine that:

- 1. because the hiring of a consultant or availing of Consultancy Services is related to and/or connected with the implementation of the development project, program or activity, it may be paid out of the 20% development fund, and*
- 2. because the utilization of the 20% development fund is part of the approved CY 2014 Annual Appropriation Ordinance, a new ordinance specifically for the item Consultancy Services is redundant and unnecessary.*

For the third question, DILG and DBM JMC 2011-1 dated April 13, 2011 sets the guidelines in the utilization of the 20% Internal Revenue Allotment (IRA) for development projects. Items enumerated in the JMC include those for Social Development, Economic Development and Environmental Management as well as Expenditure Items not Covered and did not specifically include the item Support to Foreign and National Funded Projects.

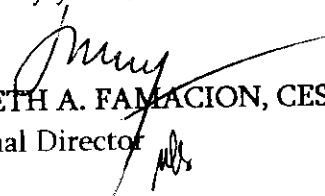
However, if such project qualifies under any of the development projects enumerated in the JMC, then, the same utilization may be allowed. Purchase of ambulance for example may qualify under purchase of calamity-related rescue operations equipment under item 3.1.7.

Lastly, please be reminded, that hiring of services and procurement of works are governed by R.A. 9184 otherwise known as the Government Procurement Reform Act (GPRA).

We have attached a related opinion given by this level to Hon. Jasmine B. Quimzon, SB Member of Buenavista, Agusan del Norte.

We hope that the foregoing sufficiently addressed your concerns. This opinion is rendered without prejudice to the decisions that competent higher authorities and the courts may subsequently decree.

Very truly yours,

  
LILIBETH A. FAMACION, CESO IV  
Regional Director

cc: Mr. Romeo A. Solis  
Provincial Director-DILG  
DILG – Agusan del Norte

Ms. Cherry N. Vitor  
MLGOO-DILG  
Buenavista, Agusan del Norte