



Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**  
DILG-NAPOLCOM Center, EDSA corner Quezon Avenue, West Triangle, Quezon City  
<http://www.dilg.com.ph>

FEB 26 2020

**DILG OPINION NO. 40 S. 2020**

**HON. VIRGILIO GAGARIN FABROS**

Sangguniang Bayan Member  
Municipality of Guimba  
Province of Nueva Ecija

Dear SB Member Fabros:

This has reference to your letter dated 28 October 2019, requesting for the Department's legal opinion on the following:

- i. Can the local chief executive (LCE) determine the individual daily wages/salaries of Job Order and Contractual Employees without the need of Sangguniang Bayan (SB) authorization or appropriation ordinance enacted by the SB specifying the individual salaries/wages?
- ii. Can the LCE proceed with the bidding and implementation of the projects (mentioned in the letter) without the need for SB authorization or an ordinance appropriating in specific terms as attached in the program of works to be reviewed and approved by the SB?
- iii. Is the approved Annual Budget (AB) or Annual Investment Program (AIP) legally sufficient for the LCE to proceed with the said projects without the need of further SB authorization or is there a need for a separate individual ordinance for each specific project as the undersigned's legal position based on Budget Operations Manual for LGUs 2016 Edition on frequently asked questions on Budget Execution?
- iv. Can the LCE thru the Local Finance Committee (LFC) has the legal authority to withhold declaration or entry of savings for the current fiscal year but declare it after 2 or 3 years together with other savings from the alleged savings of previous Annual Budgets which in the case of LGU Guimba totaled to P52 Million in the Annual Budget for 2019 because of reported savings from past Annual Budgets. What happens to the requirement that unspent budget or funds be reverted back to the general fund of the ensuing fiscal year?
- v. Is the SB the legal entity or department that can solely determine the daily wages of the employees of the SB?
- vi. Can the SB legally require the LCE to submit the individual contracts of the Job Order and Contract of Service Employees for its review, determination and subsequent passage of an ordinance appropriating the lump sum appropriation as provided in the Annual Budget considering that under the Local Government Code, the SB shall determine the wages and/or salaries of all employees of the LGU.

The Department shall answer the queries propounded herein in one discussion only since they are interrelated.

Perusal of your letter, it appears that the Municipality of Guimba has an existing Annual Budget Appropriation for Fiscal Year 2019 containing funds for Job Order and Contract of Service under the Maintenance and Other Operating Expenses (MOOE), and Annual Budget and Annual Investment Program for FY 2018 and 2019 containing infrastructure projects under Civil works (Capital Outlay) and Goods. With the said projects, you are of the position that the funding and/or budget therein are described in general terms. Hence, your queries.

Foremost, we would like to inform you that the case of *Quisimbing vs. Garcia*<sup>1</sup>, which you cited in your letter, will also be the case we will be presenting herein in answering your queries. The Supreme Court in the said case has ruled that:

*"The question of whether a sanggunian authorization separate from the appropriation ordinance is required should be resolved depending on the particular circumstances of the case. Resort to the appropriation ordinance is necessary in order to determine if there is a provision therein which specifically covers the expense to be incurred or the contract to be entered into. Should the appropriation ordinance, for instance, already contain in sufficient detail the project and cost of a capital outlay such that all that the local chief executive needs to do after undergoing the requisite public bidding is to execute the contract, no further authorization is required, the appropriation ordinance already being sufficient.*

*On the other hand, should the appropriation ordinance describe the projects in generic terms such as "infrastructure projects," "inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems projects," "reclamation projects" or "roads and bridges," there is an obvious need for a covering contract for every specific project that in turn requires approval by the sanggunian. Specific sanggunian approval may also be required for the purchase of goods and services which are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses."*

From the said ruling, it can be concluded that your appropriations ordinance is controlling, in order to determine if there is a provision therein which specifically covers the expense to be incurred or the contract to be entered into. Since we are not furnished with a copy of your appropriations ordinance, we cannot assess whether an authorization from the SB is still necessary.

The same is true with respect to the salaries/wages of Job Orders/Contract of Service, specific sanggunian approval may also be required for the payment of

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<sup>1</sup> G.R. No. 175527 dated 8 December 2008

their salaries/wages if their services are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses. However, as presented in your letter, the salaries/wages of Job Orders/ Contract of Service are included in your Annual Budget for fiscal year 2019 under the Maintenance and Other Operating Expenses (MOOE). Hence, specific sanggunian approval may no longer be required in paying their salaries/wages.

As to the rate of individual salaries/wages, it should be in accordance with issuances, rules and regulations governing Job Orders/Contract of Service and other pertinent laws.

Meanwhile, the compensation of local officials and personnel (plantilla position) is determined by the Sanggunian concerned through enactment of an ordinance, provided that, the compensation should be based on RA No. 6758 or the Compensation and Position Classification Act of 1989

Anent the issue on whether or not the LCE thru the Local Finance Committee (LFC) has the legal authority to withhold declaration or entry of savings from previous annual budgets, the Department opines in the negative as Section 322 of the LGC categorically provides that unexpended balances of appropriations authorized in the annual appropriations ordinance **shall be reverted to the unappropriated surplus of the general fund at the end of the fiscal year. However, if the balance is part of the continuing appropriations, the same shall be reviewed as part of the annual budget preparation and the sanggunian concerned may approve, upon recommendation of the local chief executive, the reversion of funds no longer needed in connection with the activities funded by said continuing appropriations in accordance with Section 322 of the LGC.**

Nevertheless, the last query can be best addressed to the Department of Budget and Management – Bureau of Local Government Finance since they have the administrative competence and expertise on the matter, hence, this Department's position on the matter should be without prejudice to the former's position.

We hope we have addressed your concern accordingly.

Very truly yours,

  
**EDUARDO M. AÑO**  
Secretary

CC: Dir. Julie J. Daquioag  
Regional Director  
DILG-Region III

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