

ADMINISTRATIVE ORDER

No. 04
Series of 2017

SUBJECT: GUIDELINES IN THE UTILIZATION OF THE LEGAL DEFENSE FUND

I. LEGAL BASIS

- 1.1 Republic Act No. 10717 (the General Appropriations Act for Fiscal Year 2016, or the 2016 GAA) and Republic Act No. 10924 (the General Appropriations Act for Fiscal Year 2017, or the 2017 GAA), which appropriated the amount of PhP200,000,000.00 for the Legal Defense Fund (LDF) under the Miscellaneous Personnel Benefits Fund (MPBF).
- 1.2 National Budget Circular No. 566 dated 15 December 2016 titled, "Guidelines in the Utilization of the Legal Defense Fund for FY 2016 and Succeeding Years."

II. THE LDF CLAIMS BOARD

- 2.1 *Establishment.* The Department shall establish the Central Office Claims Board (COCB) and Field Office Claims Board (FOCB) in each Field Office. The Claims Board (CB) shall not be separate or independent offices. Rather, designation to a Claims Board shall be an additional function to those designated thereto.
- 2.2 *Composition.*

2.2.1 The COCB shall be composed of the following:

Chairperson	Undersecretary for GASSG
Vice-Chairperson	Assistant Secretary for GASSG
Members	Director of the Legal Service (LS)
	Director of Human Resource Development Bureau (HRDB)
	Director of Financial Management Service (FMS)
	Technical Staff from the Office of the Secretary
	President of the accredited employee association

The HRDB shall provide the personnel needed to form the Secretariat of the COCB.

2.2.2 Each FOCB shall be composed of the following:

Chairperson	Regional Director
Vice-Chairperson	Assistant Regional Director for Administration
Members	Chief of the General Administration and Support Services Division (GASSD)
	Head of the Human Resource Development Unit (HRDU)
	President of the local chapter of the accredited employees association

The Retainer Lawyer shall provide technical assistance to the FOCB. The GASSD shall provide the personnel needed to form the Secretariat of the FOCB.

2.3 *Functions.* The appropriate Claims Board shall process claims for legal expenses of employees, whether incumbent or otherwise separated from service, of the Department and its attached agencies.

2.3.1 The appropriate Claims Board shall determine the eligibility of Claimants and of the amounts to be charged against the LDF.

2.3.2 The COCB may issue further internal guidelines, consistent with the NBC, which shall govern the performance of the above functions of the COCB and all FOCBs.

III. CRITERIA AND REQUIREMENTS

3.1 *Eligibility Criteria.* For a claim to be eligible, the following criteria must be met:

- (a) The Claimant must be an employee of the Department or of an attached agency, whether incumbent or otherwise separated from service.
- (b) The administrative, civil or criminal case arose from the regular performance of the Claimant's official responsibilities and functions.
- (c) The administrative, civil or criminal case is filed before any court or those under the supervision of the Supreme Court.
- (d) The claim is being made against the appropriation under the GAA for the year in which the legal expenses were, or would be, actually incurred.
- (e) The claim is for a cash advance or for reimbursement for eligible legal expenses, as qualified below, in relation to the Claimant's defense in the administrative, civil or criminal case.

3.2 *Eligibility Legal Expenses.* Only the following legal expenses shall be allowed:

PAYEE	TYPE OF EXPENSE	MAXIMUM AMOUNT INCLUSIVE OF TAXES	NOTES
Claimant	Bail bond	Amount of bond premiums	No reimbursement of cash bond shall be allowed.
Claimant	Transportation expenses for every hearing, appearance, meeting or conference with Claimant's lawyer	Actual amount	Claim must be supported by receipts and travel authority issued by the DSWD Secretary or his/her duly authorized representative. Expenses may be claimed up to a maximum of four (4) meetings or conferences in a month only. All accounting and auditing rules and regulations must be complied with.
Claimant	Expenses for photocopying of documents, required certifications, and transcript of stenographic notes	For photocopying expenses, actual amount incurred. For other expenses, based on rates for legal fees prescribed under Rule 141 of the Rules of Court, as amended, but not to exceed a total amount of Ten Thousand Pesos (P10,000) per case	
Claimant	Fees to be paid to private counsel for the preparation or filing of pleadings and/or motions	Total amount not to exceed Twenty Thousand Pesos (P20,000) per case	Claimant may engage a private or government legal counsel, subject to pertinent laws, rules and regulations. Motions to Reset Hearing and for Extension of Time are not covered.
Claimant	Acceptance and/or attorney's fee to be paid to private counsel	Actual amount, but not to exceed Fifty Thousand Pesos (P50,000) per case	

PAYEE	TYPE OF EXPENSE	MAXIMUM AMOUNT INCLUSIVE OF TAXES	NOTES
Claimant	Appearance fee to be paid to private counsel for every hearing or appearance before a court	<p>Minimum rates prescribed by the local Integrated Bar of the Philippines (IBP) chapter</p> <p>If not available, the rates of the nearest IBP chapter where the case is being heard or tried</p> <p>If the IBP rates are not available, the appearance fee shall not be more than Five Thousand Pesos (P5,000) per hearing</p>	
Government Legal Counsel	Transportation and other travel expenses for every hearing or appearance before any court and for interviews with client or preparation of documents	<p>Actual amount</p> <p>For Other Travel Expenses, those provided under EO No. 248, s. 1995 (<i>Prescribing Rules and Regulations and New Rates of Allowances For Official Local And Foreign Travels Of Government Personnel</i>), and any amendments thereto and guidelines therefor</p>	<p>Claim must be supported by receipts and travel authority issued by the DSWD Secretary or his/her duly authorized representative.</p> <p>Expenses may be claimed up to a maximum of four (4) meetings or conferences in a month only.</p> <p>All accounting and auditing rules and regulations must be complied with.</p>
Government Legal Counsel	Appearance Fee	Amount authorized for Special Counsel Allowance under the General Provisions of the annual GAA	

- 3.2.1 For the purposes of the foregoing, consolidated cases shall be considered as one case.
- 3.2.2 If an expense claimed is in excess of the limits set above, the excess amount shall not be allowed.

- 3.3 Claims may also be made against the LDF for legal assistance of members and support staff of the Bids and Awards Committee (BAC) authorized under Republic Act No. 9184 (the Government Procurement Reform Act) and its Implementing Rules and Regulations, and subject to the pertinent guidelines issued by the Government Procurement Policy Board (GPPB).

IV. PROCEDURE

- 4.1 *Where to File.* Claims shall be filed with the following:

- (a) The COCB, if the official responsibilities and functions from which the case arose was performed at the Central Office or at any attached agency; or
- (b) With the appropriate FOCB, if the official responsibilities and functions from which the case arose was performed at the Field Office.

- 4.2 *Contents of Claim.* The claims shall be in the form of a letter and must clearly indicate the following:

- (a) The complete name of Claimant, his current position (if applicable), and contact details.
- (b) The position and station of Claimant at the time Claimant performed the official responsibilities and functions from which the case arose.
- (c) The docket number and title of the case, and the court or tribunal in which it is pending.
- (d) A description of the nature of the case.
- (e) A brief summary of the facts leading to the case.
- (f) An itemized list of legal expenses being claimed.

Claimant must also attach all other relevant documents to the claim.

- 4.3 *Evaluation.* Upon receipt of a claim, the appropriate Claims Board shall then evaluate the claim to determine if the Claimant and the expenses claimed are eligible. If the claim is incomplete, the Claims Board may ask claimant to submit additional information and documents.

Claims of rank-and-file employees shall be given priority over claims of officials.

- 4.4 *Recommendation.* The Claims Board shall submit its recommendation to the Secretary within five (5) working days from receipt of a complete claim.

- 4.5 *Final Action.* The Secretary shall act on the recommendation of a Claims Board within five (5) working days from receipt thereof.

- 4.5.1 If Claimant and the expenses claimed are eligible, the Secretary shall submit the appropriate request to the DBM.

In case of claims for BAC Legal Assistance under R.A. No. 9184 and GPPB guidelines, the request shall be supported by approval from the head of the procuring entity as required under GPPB guidelines for the purpose.

4.5.2 If Claimant and/or the expenses claimed are not eligible, the Secretary shall send Claimant a written notice of the denial of the claim.

V. RELEASE OF FUNDS


If the DBM approves the request, the Department – upon receipt from the DBM of the Special Allotment Release Order (SARO) and Advice of Notice of Cash Allocation Issued (ANCAI) – shall:

- 5.1 Issue the Advice to Debit Account for crediting to the account of the claimant or the government legal counsel, depending on the type of legal expense granted.
- 5.2 Observe the pertinent budgeting, accounting or auditing rules and regulations in the release of funds to the claimants.

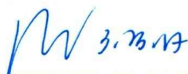
VI. EFFECTIVITY

These guidelines shall take effect immediately. All provisions in existing guidelines that are not consistent with this issuance are hereby revised, modified and/or repealed accordingly.

22nd March 2017, Quezon City, Philippines.


JUDY M. TAGUIWALO
Secretary

Certified True Copy:


MYRNA H. REYES

Records & Archives Mgt. Section