

DSWD OPINION NO. 56 S. 2024DRN: LS-L-LO-24-05-95695-C**MEMORANDUM**

FOR : **IRENE B. DUMLAO, CESO IV**
Assistant Secretary for Disaster Response Management Group

FROM : **THE ASSISTANT SECRETARY FOR GASSG AND CONCURRENT OFFICER-IN-CHARGE, LEGAL SERVICE**

SUBJECT : **LEGAL GUIDANCE ON THE DBM LETTER DATED 30 APRIL 2024 vis-à-vis DOJ OPINION NO. 47, SERIES OF 2023**

DATE : **21 June 2024**

This pertains to your MEMORANDUM¹ requesting for legal guidance on the following:

1. **Letter from the Department of Budget and Management (DBM), dated 30 April 2024², with the following observation and recommendation:**

“xxx While it was clarified by the DSWD-OSEC that the requested amount covers separate incidents/disaster in said region, it appears that the charging of the remaining [Emergency Cash Transfer] ECT funding requirements [Php1,426,331,760.00] for Region XI against the QRF would warrant multiple replenishments of the subject fund.

xxx inasmuch as the agency, at this point, has already computed the funding requirements for the said ECTs for Region XI, and in view of the magnitude of the funding requirements for said purpose vis-a-vis the current level of QRF, **the agency may consider utilizing the National Disaster Risk Reduction and Management (NDRRM) Fund under the FY 2024 General Appropriations Act (GAA), subject to the approval of the Office of the President.**

Further, it may be noted that the expenditures for the recovery activities that need to be undertaken by the agency may be likewise charged **against the NDRRM Fund, or available funds for other programs/activities/projects of the DSWD that may serve the purpose (e.g. Protective Service for Individuals and Families [PSIF] in Difficult Circumstance), in collaboration with other concerned agencies.**

xxx (Emphasis Supplied)”

2. **Department of Justice (DOJ) Opinion No. 47, series of 2023³, dated October 20, 2023, which explains whether or not the allocation for the QRF replenishment under Section 22 (c) of Republic Act (R.A.) No. 10121,**

¹ Annex “A”

² Annex “B”

³ Annex “C”

otherwise known as the "Philippine Disaster Risk Reduction and Management Act of 2010", is limited to thirty percent (30%), to quote:

"We advise that the thirty percent (30%) allocation, of the NDRRM Fund identified and set aside as QRF or stand-by fund merely provides the minimum allotment owing to the nature and purpose of the QRF. It is not a limit of such allocation. for the specified purposes. Thus, the QRF is earmarked to immediately address situations and living conditions of people in communities or areas stricken by disasters, calamities, epidemics, or complex emergencies, and bringing such situations and living conditions of people to normalcy once again.

RA No. 10121, or the "Philippine Disaster Risk Reduction and Management Act of 2010" provides:

Section 22. National Disaster Risk Reduction and Management Fund. – (a) The present Calamity Fund appropriated under the annual General Appropriations Act shall henceforth be known as the **National Disaster Risk Reduction and Management Fund (NDRRM Fund)** and it shall be used for disaster risk reduction or mitigation, prevention and preparedness activities such as but not limited to training of personnel, procurement of equipment, and capital expenditures. It can also be utilized for relief, recovery, reconstruction and other work or services in connection with natural or human induced calamities which may occur during the budget year or those that occurred in the past two (2) years from the budget year.

xxx

(c) Of the amount appropriated for the NDRRM Fund, thirty percent (30%) shall be allocated as Quick Response Fund (QRF) or stand-by fund for relief and recovery programs in order that situation and living conditions of people in communities or areas stricken by disasters, calamities, epidemics, or complex emergencies, may be normalized as quickly as possible." (Emphasis Supplied)

Subsequently, during our discussion and clarification with the focal person⁴, it was emphasized that they were particularly seeking guidance on whether or not "there exist contradictions in the letter-opinion from the Department of Justice and that from the Department of Budget and Management"⁵.

LS Comments

A review of the DOJ Opinion No. 47, s. 2023, and DBM letter dated 30 April 2024 to DSWD shows no contradicting views, rather, they cover different aspects or questions.

DOJ Opinion No. 47, s. 2023, advised, among others, that the **thirty percent (30%) allocation of the NDRRM Fund identified and set aside as QRF or stand-by fund**

⁴ Through an e-mail conversation with Ms. Ijna Alodia P. Santiago

⁵ The proponent's issue or requested guidance from LS was also clarified with Ms. Ijna Santiago of the Office of the Assistant Secretary for Disaster Response Management Group during a meeting with her on 29 May 2024

fund merely provides the minimum allotment owing to the nature and purpose of the QRF. It is not a limit of such allocation for the specified purposes.

On the other hand, in its letter to DSWD, DBM suggested sources of funds other than the QRF in view of the magnitude of ECT funding requirements against the QRF which often warranted multiple replenishments of said fund.

The DBM letter is actually consistent with the DOJ opinion to the extent that it elucidated a provision in the 2024 GAA stating:

"XL. NATIONAL DISASTER RISK REDUCTION AND MANAGEMENT FUND (CALAMITY FUND)

1. National Disaster Risk Reduction and Management Program. The amount of Twenty Billion Five Hundred Million Pesos (P 20,500,000,000) appropriated herein for Purposes 1 and 2 may be used for, and released in accordance with the following:

- a. xxx
- b. Additional funding source to the Quick Response Fund of the implementing agency concerned when the balance thereof has reached fifty percent (50%), subject to the approval of DBM, copy furnished the NDRRMC; and
xxx" (emphasis and underscoring supplied)

We hope to have satisfactorily addressed your concerns. Should you need further legal assistance, your office may request for a meeting to discuss the matter.

Please be informed that the foregoing legal opinion is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated.


Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration. Thank you.


ATTY. GINA V. WENCESLAO
070224

CMUG/JAV/ADR/10065

Approved by:


ATTY. EDWARD JUSTINE R. ORDEN
Undersecretary, GASSG