

**BASIC : LETTER DATED JUNE 19, 2008, FROM MS. MARIA ELENA L. AMODIA, MUNICIPAL ACCOUNTANT OF UBAY, BOHOL**

**2<sup>nd</sup> Indorsement**

July 2, 2008

Respectfully returned to Ms. Rustica N. Mascariñas, Provincial Director, DILG Bohol Provincial Office, the herein basic communication from Ms. Maria Elena L. Amodia, Municipal Accountant of Ubay, Bohol requesting legal opinion on the following concerns –

- Can the Vice Mayor make use or disburse discretionary funds allocated in the sangguniang bayan?
- Can the Vice Mayor appoint/hire job order workers and assign them to offices or departments other than his office or the sanggunian?
- Can the Vice Mayor issue travel order for sangguniang bayan members?

In reply to the first concern, the power to sign checks/warrants and disbursement vouchers relative to all expenditures appropriated for the operation of the sangguniang bayan and the Office of the Vice Mayor is vested unto the Vice Mayor. This is one of the mandated tasks under Section 445 of the Local Government Code of 1991. Corollary thereto, Section 39 of COA Circular No. 92-382, dated July 03, 1992, provides that disbursement vouchers for expenditures appropriated for the operation of the sanggunian shall be approved by the vice-governor or the vice mayor, as the case may be. Hence, if there is appropriation for discretionary funds for the sanggunian, it is the Vice Mayor that has authority to approve the disbursement of the same applying the aforecited provision of law and regulation promulgated by the Commission on Audit.

As regards the second issue, the answer is in the affirmative. The Local Government Code of 1991 provides that the Vice Mayor has the power to appoint all officials and employees of the sanggunian, except those whose manner of appointment is specifically provided (Section 445). Moreover, the Civil Service Commission has consistently held that it is the Vice Mayor who has the power to appoint employees of the

sanggunian, whether permanent, temporary, casual or contractual (CSC Resolution No. 92-1111, CSC Res. No. 691-93 & CSC Res. No. 1753-94 cited in DILG Legal Opinion No. 87 S2002, June 14, 2002). And these employees of the sanggunian may be detailed to the Office of the Mayor or to any other offices provided, however, that there must be a written request relative thereto, stating therein the unit where the personnel is proposed to be detailed, the period of detail and shall specifically explain the reason for the detail. Further, such request for detail must be with the written concurrence of the supervisor of the personnel sought to be detailed (CSC MC No. 5; Sec. 216(e)(f), GAAM, Vol. 1 cited in DILG Legal Opinion No. 49 S1999, March 23, 1999).

On the last query, it is the Mayor who has the authority to issue travel order, even to the members of the sanggunian. This is in line with the exercise of the mayor's power of general supervision and control over the services and activities of the municipality as provided in Section 444(b)(1) of the Local Government Code of 1991. However, taking into account the Vice Mayor's statutory duty to sign all warrants drawn on the municipal treasury for all expenditures appropriated for the operation of the sangguniang bayan, prior recommendation of the Vice Mayor may be necessary where the expenses for such official travel are chargeable to the sanggunian funds. And in which case the approval of the Mayor is ministerial, compared to when the expenses of the travel is drawn from the general fund of the municipality, the approval of the Mayor is discretionary (DILG Legal Opinion No. 129 S2002, August 22, 2002).

PEDRO A. NOVAL, JR.  
Regional Director

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