



Republic of the Philippines
OFFICE OF THE SECRETARY
Elliptical Road, Diliman, Quezon City,
1100 Philippines
Tax Identification Number: 000-845-895

November 15, 2018

GENERAL MEMORANDUM ORDER NO. 02
Series of 2018:

**SUBJECT: RULES AND PROCEDURES ON THE UTILIZATION AND
AVAILMENT OF THE LEGAL DEFENSE FUND**

PREFATORY STATEMENT

These rules shall govern the manner of utilization and availment by the officers and employees of the Department of Agriculture of the Legal Defense Fund created under the 2016 General Appropriations Act (GAA) which sets aside the utilization of the Legal Defense Fund for FY 2016 and succeeding years under the Miscellaneous Personnel Benefits Fund in the amount of Two Hundred Million Pesos PHP (200,000,000.00) for the use of all government personnel who will be incurring expenses in their defense of administrative, criminal, or civil cases filed against them as a result of the performance of their official duties. These rules are issued in compliance with and to supplement, reiterate, and amplify the guidelines set forth in National Budget Circular Number 566 dated December 15, 2016 of the Department of Budget and Management (DBM) which forms an integral part of this Administrative Order.

SECTION 1. QUALIFIED PERSONNEL

Any incumbent, separated, or retired government employee of the DA with plantilla position may avail of the Legal Defense Fund. The Fund is not available to contractual employees, project employees, or consultants even if the acts complained of were committed during the period of engagement of said contractual, or project employee or consultant. The Fund is also not available to employees or officers of the DA who have been separated from service for cause based upon a final determination or judgement.

SECTION 2. COVERAGE

The Legal Defense Fund is available for the defense of the covered employee or officer for an administrative, civil, or criminal case actually filed in court or those under the supervision of the Supreme Court arising from official or regular acts performed at the time of their employment or tenure. The Fund is also available for the defense of cases commenced due to an allegation that the employee or personnel has failed to act, or that there is an omission at the time of their employment or tenure. The Fund may only be used for the payment of actual legal expenses incurred by the claimant during the same year.

SECTION 3. LEGAL EXPENSES CHARGEABLE UNDER THE LEGAL DEFENSE FUND

The Legal Defense Fund shall be used for actual expenses incurred including payment of premiums for posting of bail bonds and cash advance for expenses incurred by government personnel in relation to the defense of administrative, civil, or criminal cases filed against them in courts for acts committed in the performance of their actual functions. The Fund may be used solely for the payment of any or all

of the following legal expenses to be incurred in one's defense in any administrative, civil, or criminal case subject to certain limits as to amount of availment thus:

PAYEE	TYPE OF EXPENSE	MAXIMUM AMOUNT INCLUSIVE OF TAXES
Claimant	Bail Bond	Payment of bond premiums. No reimbursement of cash bond shall be allowed.
Claimant	Transportation expenses for every hearing, appearance, meeting or conference with the claimant's lawyer	Amount supported by receipts and subject to the following: (I)travel authority by the head of agency or his duly authorized representative; (ii)for meetings and conferences, limited to four (4) in a month; and (iii) compliance with accounting and auditing rules and regulations.
Claimant	Expenses for photocopying of documents, required certifications and transcript of stenographic notes.	Photocopying expenses shall be based on the actual amount incurred while the other expenses shall be based on the prescribed legal fees under Rule 141 of the Rules of Court as amended, but not to exceed a total amount of Ten Thousand Pesos (P10,000) for every case.
Claimant	Fees to be paid to private counsel for the preparation or filing of pleadings and/or motions, excluding Motions to Reset Hearing and for Extension of Time.	Total amount not to exceed Twenty Thousand Pesos (P20,000) per case
Claimant	Acceptance and/or attorney's fee to be paid to private counsel.	Total amount not to exceed Fifty Thousand Pesos (P50,000) per case.

Claimant		Appearance fee to be paid to private counsel for every hearing or appearance before a court	Amount based on the prescribed minimum rates of the local Integrated Bar of the Philippines (IBP) chapter, or if not available, the rates of the nearest IBP chapter where the case is being heard or tried. If the IBP rates are not available, the appearance fee shall not be more than Five Thousand Pesos (P5,000) per hearing.
Government Counsel	Legal	Transportation and other travel expenses for every hearing or appearance before any court and for interviews with client or preparation of documents.	<p>For transportation expenses, the amount supported by receipts and subject to the following: (i) travel authority by the head of agency or his duly authorized representative; (ii) for meetings and conferences limited to four (4) in a month; and (iii) compliance with accounting and auditing rules and regulations.</p> <p>For Other travel Expenses those provided under EO No 248, s. 1995 (Prescribing Rules and Regulations and New Rates of Allowances For Official Local and Foreign Travels Of Government Personnel) and any amendments and guidelines hereto.</p>
Government Counsel	Legal	Appearance Fee	Amount authorized for Special Counsel Allowance under the General Provisions of the GAA

SECTION 4. DA LEGAL DEFENSE FUND CLAIMS BOARD

The DA shall have a Legal Defense Fund Claims Board in compliance with DBM National Budget Circular Number 566 dated December 15, 2016. It shall have the following duties and responsibilities:

- 4.1. Decide all claims against the Legal Defense Fund;
- 4.2. Determine the initial and continuing eligibility of the covered employee or officer.
- 4.3. Determine if availment amount is within the prescribed limits and if the legal service is allowed.
- 4.4. Monitor status of the Legal Defense Fund.
- 4.5. Coordinate with offices and agencies to ensure the timely release of financial assistance through the Legal Defense Fund.
- 4.6. Ensure compliance with the requirements of DBM National Budget Circular Number 566 dated December 15, 2016, as well as the provisions of this General Memorandum Order.
- 4.7. Perform such other tasks as may be required by the Secretary necessary for the proper use of the Legal Defense Fund and for the implementation of DBM National Budget Circular Number 566 dated December 15, 2016.

SECTION 5. COMPOSITION OF THE DA LEGAL DEFENSE FUND CLAIMS BOARD

The DA Legal Defense Fund Claims Board shall be comprising of the following:

Chairperson	:	Undersecretary for Admin. and Finance
Vice Chairperson	:	Director for Legal Services
Members	:	Asst. Secretary for Administration
		Director for Internal Audit Service
		Director for Financial and Mngt.
Svcs		Director for Field Operations Service
		President, DAEA-Central Office

The Office of the Legal Service shall act as the Secretariat which shall provide complete staff work to the Legal Defense Fund Claims Board.

SECTION 6. APPROVAL FOR AVAILMENT

The Claims Board shall decide all claims against the Legal Defense Fund in which any favorable Decision shall be final and executory. In case of denial of claim, it shall be appealable to the Office of the President.

SECTION 7. REQUIREMENTS FOR AVAILMENT

- 7.1. The Applicant shall submit a Request for Availment to the Claims Board.
- 7.2. The request shall contain the following information:
 - 7.2.1 . Employment status
 - 7.2.2. Nature of case.
 - 7.2.3. Brief Statement of Defense
 - 7.2.4. Name and Address of Lawyer
 - 7.2.5. Details (Type/Duration/Amount) of Claims.
- 7.4. The Copy of the complaint shall be attached to the Request.

SECTION 8. PROCEDURES FOR AVAILMENT

- 8.1 . The applicant shall submit the written request and attachments to the Claims Board. Incomplete applications shall not be acted upon by the Claims Board.
- 8.2 The DA Secretary shall submit a request before the DBM supported by a favorable decision by the Claims Board.
- 8.3 Upon receipt of the request with complete supporting documents, the DBM shall release the Special Allotment Release Order (SARO) and Advice of Notice of Cash Allocation Issued (ANCAI) to the DA, and the Notice of Cash Allocation to the authorized government depository bank concerned.
- 8.4 The DA shall, upon receipt of the SARO and ANCAI:
 - 8.4.1. Issue the Advice to Debit Account for crediting to the account of the claimant or the government legal counsel, depending on the type of claim granted enumerated under item 4.5 of DBM National Budget Circular No. 566.
 - 8.4.2. Observe the pertinent budgeting, accounting or auditing rules and regulations in the release of funds to the claimants.
 - 8.4.3. The availment may be made in the form of a cash advance or reimbursement for legal expenses incurred by the qualified applicant subject to the usual auditing and accounting rules.

SECTION 9. VIOLATIONS

Any misrepresentation or the failure to comply with the requirements of this Administrative Order, as well as the provisions of DBM National Budget Circular Number 566 dated December 15, 2016 shall be a ground for disqualification and a return of all fund releases without prejudice to the commencement of the proper administrative, civil, or criminal actions against the employee.

SECTION 10. SEPARABILITY CLAUSE

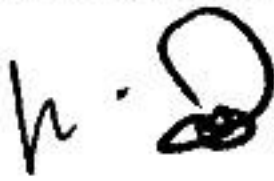
Any part of this Order which shall be declared unconstitutional, contrary to laws, or violative of DBM National Budget Circular Number 566 dated December 15, 2016 shall be invalid. However, such portions unaffected by such invalidity shall remain in full force and effect.

SECTION 11. EFFECTIVITY

This Order shall take effect immediately.

Diliman, Quezon City, 2018.


EMMANUEL F. PIÑOL

Secretary 

DEPARTMENT OF AGRICULTURE
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