



JAN 31 2022

DENR MEMORANDUM CIRCULAR

NO. 2022 - 02

SUBJECT : GUIDELINES ON THE UTILIZATION OF THE LEGAL DEFENSE FUND AND THE CREATION OF THE LEGAL DEFENSE FUND CLAIMS BOARD IN THE DEPARTMENT AND ITS REGIONAL OFFICES

Pursuant to the FY 2016 to 2021 General Appropriations Acts (GAAs) which have appropriated the amount of Two Hundred Million Pesos (P200,000,000.00) for the Legal Defense Fund under the Miscellaneous Personnel Benefits Fund (MPBF), and the Department of Budget and Management (DBM) National Budget Circular (NBC) No. 566 dated 15 December 2016, or the “Guidelines in the Utilization of the Legal Defense Fund for FY 2016 and Succeeding Years”, as amended by NBC No. 582 dated 29 December 2020, or the “Updated Guidelines on the Utilization of the Legal Defense Fund”, this Circular is hereby promulgated:

SECTION 1. Basic Policy. DENR officials and employees may, in the performance of their official functions or by reason of such performance, face administrative, civil or criminal charges, in relation to which they might incur actual expenses in the defense of their cases.

In order to promote the welfare and extend assistance to DENR officials and employees, the Legal Defense Fund Claims Board in the Department and its Regional Offices are created, and the guidelines on the utilization of the Legal Defense Fund is provided.

SECTION 2. Objective. To prescribe the guidelines in the use of the Legal Defense Fund, including the establishment of the appropriate organizational and procedural set-up for its release and utilization.

SECTION 3. Scope and Coverage. The Legal Defense Fund shall be used for actual expenses, including payment of premiums for posting of bail bonds and cash advance for expenses incurred by the personnel of the DENR Central Office, line bureaus and its regional offices, staff bureaus, attached agencies, and regional offices 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 or by reason of such performance.

SECTION 4. Definition of Terms

- 4.1. **Strategic Lawsuit Against Public Participation (SLAPP)** – an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.
- 4.2. **Legal Defense Fund** – the amount appropriated in the FY 2016 to 2021 GAAs under the MPBF which shall be used for actual expenses, 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.

SECTION 5. Composition of the DENR Legal Defense Fund Claims Board. There shall be a Legal Defense Fund Claims Board (Claims Board) in the Central Office and Regional Offices, which shall process the claim of their respective personnel.

5.1. The DENR Legal Defense Fund Claims Board – Central Office shall be composed of the following:

- Chairperson : Undersecretary for Legal
- Vice Chairperson : Assistant Secretary for Legal Affairs
- Members : Director, Administrative Service
- Director, Internal Audit Service
- Director, Financial and Management Service
- Head of the Office to which the Claimant belongs, particularly, either the (1) Chief, Personnel Division for claimants from DENR Central Office; (2) concerned Director of Line Bureau for claimants from Line Bureaus and its Regional Offices; (3) concerned Director of Staff Bureau for claimants from Staff Bureaus; or (4) concerned Head of the Attached Agencies for claimants from Attached Agencies
- Head of Accredited Employees Organization

Any of the members may assign an alternate subject to the internal rules of the Claims Board.

5.2. The DENR Legal Defense Fund Claims Board – Regional Office shall be composed of the following:

- Chairperson : Assistant Regional Director for Management Services
- Vice Chairperson : Chief, Legal Division
- Members : Chief, Administrative Division
- Chief, Finance Division
- Head of the Office to which the Claimant belongs, particularly either the (1) Assistant Regional Director for Technical Services (ARD-TS) for claimants from Regional Offices; (2) concerned Provincial Environment and Natural Resources (PENR) Officer for claimants from Provincial Environment and Natural Resources Offices (PENROs)/Implementing PENROs; or (3) concerned Community Environment and Natural Resources (CENR) Officer for

claimants from Community Environment and Natural Resources Offices (CENROs)

Head of Accredited Employees Organization

Any of the members may assign an alternate subject to the internal rules of the Claims Board.

5.3 Jurisdiction of the Claims Board

The DENR Legal Defense Fund Claims Board – Central Office shall have jurisdiction over claimants under the following offices:

- 5.3.1. DENR Central Office;
- 5.3.2. Line Bureaus and its Regional Offices;
- 5.3.3. Staff Bureaus; and
- 5.3.4. Attached Agencies

The respective DENR Legal Defense Fund Claims Board – Regional Office shall have jurisdiction over claimants in the Regional Offices.

5.4. Meetings

The respective Claims Board in the Central Office and Regional Offices shall hold its regular meeting every month. The exact date of the regular meeting shall depend on the availability of the members. The Chairperson may call for a Special Meeting, if necessary.

The Claims Board shall carry out its business by a majority vote of the members present. However, all decisions shall be arrived at by a majority decision of the members.

5.5. Secretariat

The Office of the Director for Legal Affairs Service and the respective Legal Division in Regions shall respectively act as the Secretariat, which shall provide complete staff work to the Legal Defense Fund Claims Board. The Secretariat shall perform the following duties and responsibilities:

- 5.5.1. Receive all claim applications for action of the Legal Defense Fund Claims Board;
- 5.5.2. Review completeness of the documents submitted in support of claim applications;
- 5.5.3. Prepare correspondence, memorandum, order requesting claimants to submit additional documents in support of the claim application to be signed by the Chairperson, in his/her absence the Vice-Chairperson;
- 5.5.4. Prepare draft Resolutions recommending approval or denial of the claim application for the Claims Board's final approval and signature;
- 5.5.5. Prepare minutes of the Claims Board regular and special meetings;
- 5.5.6. Coordinate and schedule the Claims Board regular and special meetings; and
- 5.5.7. Act as repository of all records pertaining to the DENR Legal Defense Fund.

SECTION 6. Powers and Functions of the Claims Board

- 6.1. Receive, evaluate and decide all applications for availment of the Legal Defense Fund. The approval or denial shall be supported by factual and legal considerations which led to the approval or denial of the application;
- 6.2. Determine the initial and continuing eligibility of the personnel;
- 6.3. Determine if the availment of the legal service and the amount is reasonable and/or within the prescribed limits;
- 6.4. Receive status reports on the covered personnel;
- 6.5. Monitor status of the Legal Defense Fund and submit quarterly reports to the Secretariat and Head of Office;
- 6.6. Coordinate with offices and agencies to ensure the timely release of the Legal Defense Fund;
- 6.7. Issue policy on the use of prescribed forms, *viz.*: (1) Request for Claim; (2) Resolution Approving Claim; and (3) Resolution Denying Claim, and other forms deemed necessary to implement the provisions of this DMC.
- 6.8. Ensure compliance with the requirements of DBM NBC No. 566 dated 15 December 2016, as amended by NBC No. 582 dated 29 December 2020, the relevant provisions of the GAA and this Memorandum Circular;
- 6.9. Issue internal guidelines consistent with DBM NBC No. 566 dated 15 December 2016, as amended by NBC No. 582 dated 29 December 2020; and
- 6.10. Perform such other powers and functions as may be necessary to fully carry out the provisions of the Legal Defense Fund and DBM NBC No. 566 dated 15 December 2016, as amended by NBC No. 582 dated 29 December 2020.

SECTION 7. Qualifications of a Claimant

- 7.1. The following personnel may avail of the Legal Defense Fund:
 - 7.1.1. **Regular Personnel** are/were duly appointed incumbents of regular positions in the approved Personnel Services Itemization and Plantilla of Personnel of the DENR, including those who have already retired or separated from the government service, *i.e.*, with the following requirements:
 - 7.1.1.1. his/her salary is charged against Personnel Services (PS);
 - 7.1.1.2. there must be an existing employer-employee relationship between the hiring agency and the person hired; and
 - 7.1.1.3. the appointment of the employee is subject to the approval of the Civil Service Commission.

In the case of separated or retired government employees, the aforecited requirements must have been complied with, prior to separation or retirement from government service.

- 7.1.2. **Contractual personnel** are those employees whose employment is:
 - 7.1.2.1. In accordance with specific contracts for specified periods and with definitive expected outputs;

7.1.2.2. With appointment duly attested by the Civil Service Commission (Section 9, Rule IV of CSC Resolution No. 1800692); and

7.1.2.3. Funded from the Personnel Services (PS) appropriation/budget of the agency concerned.

7.2. The administrative, civil, or criminal case arose out from or by reason of the claimant's performance of his/her regular or official responsibilities and functions at the time of their employment or tenure. It may also cover cases where SLAPP is available as a defense in accordance with Rule 6 of A.M. 09-6-8-SC, or the *Rules of Procedure for Environmental Cases*;

7.3. The administrative, civil or criminal case is filed before any court or those under the supervision of the Supreme Court; and

7.4. The claim is filed before the agency where the claimant performed responsibilities and functions subject of the case.

SECTION 8. Legal Expenses Allowed

8.1. Eligible legal expenses shall be limited to the following types and amounts of expenses:

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 prescribed legal fees under Rule 141 of the Rules of Court, as amended, but not to exceed a total amount of Ten Thousand Pesos (P10,000.00) per case.
Claimant	Fees to be paid to private counsel for the preparation for filing of pleadings	Total amount not to exceed Twenty Thousand Pesos (P20,000.00) per case

	and/or motions, excluding Motions to Reset Hearing and for Extension of Time	
Claimant	Acceptance and/or attorney's fee to be paid to private counsel	Total amount not to exceed Fifty Thousand Pesos (P50,000.00) 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 (P5,000.00) per hearing.
Government Legal Counsel	Transportation and other travel expenses for every hearing or appearance before a court and for interviews with client or preparation of documents	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. For other Travel Expenses those provided under EO No. 77, s. 2019 (<i>Prescribing Rules and Regulations and Rates of Expenses and Allowances for Official Local and Foreign Travels of Government Personnel</i>), and any amendments and guidelines thereto.
Government Legal Counsel	Appearance Fee	Amount authorized for Special Counsel Allowance under the General Provisions of the annual GAA

- 8.2. All legal expenses in excess of those, and not included above, shall not be allowed;
- 8.3. The maximum allowable amounts above-mentioned shall be applied per case, and consolidated cases shall be considered as one case;
- 8.4. The Legal Defense Fund may likewise be used in the case of legal assistance of the Bids and Awards Committee (BAC) members and their support staff authorized

under R.A. 9184 and its Implementing Rules and Regulations and subject to the pertinent guidelines issued by the Government Procurement Policy Board;

- 8.5. In the event of competing claims among employees of a specific agency, priority shall be given to rank and file employees over the agency's senior officials.
- 8.6. The amount of legal expenses charged against the Legal Defense Fund shall be refunded to the government when the claimant is found guilty by final judgment by the Court in relation to the offense charged.
- 8.7. Claims against the LDF of separated or retired government employees shall be limited to actual expenses including payment for premiums for posting of bail bonds and cash advance for expense of the said separated or retired employee, involving cases for acts made before separation or retirement of said employee and which remain pending even after separation or retirement.

SECTION 9. Procedure for Availment

- 9.1. The claimant shall submit a Request for Claim to the appropriate Claims Board, which shall contain the following:
 - 9.1.1. Employment details (Position, date of employment, date of appointment to present position, etc.);
 - 9.1.2. 2x2 Photo of the claimant;
 - 9.1.3. Nature of case;
 - 9.1.4. Brief statement of defense, e.g., whether the case is a SLAPP;
 - 9.1.5. Name, address and contact information of lawyer;
 - 9.1.6. Statement of account from the lawyer of the Legal Services rendered and amount thereof;
 - 9.1.7. Costs incurred and/or to be paid; and
 - 9.1.8. If the request is from an employee/personnel in the field offices, it shall be accompanied by a recommendation for approval by the concerned CENR Officer or PENR Officer.
- 9.2. In case of claims for BAC Legal Assistance under R.A. 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.
- 9.3. The request shall be filed in seven (7) copies. Incomplete requests shall be returned to the claimant for completion of the requirements.
- 9.4. The Claims Board shall evaluate the request and issue a Resolution approving or denying the request, within one month from the receipt of the request. The concerned Legal Defense Fund Claims Board shall specifically determine whether the qualifications of claimants in Section 7 of this Memorandum Circular are met in the approval or denial of a claim.
- 9.5. A Resolution shall be reached upon a vote of a majority of the members of the Claims Board;
- 9.6. Any favorable decision by the appropriate Claims Board shall be final and executory;
- 9.7. The Resolution will be submitted to the Head of Office who shall submit a request for release of funds before the DBM, together with the resolution;

SECTION 10. Appeal. In case of denial of a claim, the same shall be appealable to the Office of the President. The appeal to the Office of the President shall be taken within fifteen (15) days from notice of the claimant of the Resolution denying the claim.

SECTION 11. Release of Funds. Upon receipt of the Special Allowance Release Order (SARO) and Advice of Notice of Cash Allocation Issued (ANCAI), the DENR shall:

- 11.1. 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;
- 11.2. Observe pertinent budgeting, accounting, or auditing rules and regulations in the release of funds to the claimants; and
- 11.3. The availment may be made in the form of a cash advance or reimbursement for legal expenses incurred by the qualified claimant subject to the usual auditing and accounting rules of DENR.

SECTION 12. Reportorial Requirements. The qualified claimant shall submit to the Claims Board within ten (10) days from payment of the legal service to the concerned lawyer the following:

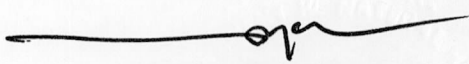
- 12.1. Report for the lawyer regarding the services rendered;
- 12.2. Proof of official receipt of payment by the lawyer or firm;
- 12.3. Pleading prepared and filed by the lawyer, if any;
- 12.4. Order, Minutes, or proof of attendance of the hearing or proceeding attended by the lawyer;
- 12.5. Pertinent orders issued by the court; and
- 12.6. Outcome of the case within ten days from receipt of Order/Decision.

SECTION 13. Prohibitions and Penalties. Any misrepresentation or the failure to comply with the requirements of this Circular, as well as the provisions of DBM NBC No. 566 dated 15 December 2016, as amended by NBC 582 dated 29 December 2020, 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 claimant.

SECTION 14. Interpretation. In case of doubt in the interpretation of the provisions of this Circular, the same shall be interpreted strictly against the claimant.

SECTION 15. Separability Clause. Should any part of this Circular be declared as unconstitutional, contrary to law, or violative of DBM NBC No. 566 dated 15 December 2016, as amended by NBC 582 dated 29 December 2020, such other portions unaffected by the invalidity shall remain in full force and effect.

SECTION 16. Effectivity. This Circular shall take effect immediately upon signing hereof.


ROY A. CIMATU
Secretary

