

NPM No. 64-2007

3 December 2007

MS. SALVACION C. CAS

Information Systems Researcher III

BUREAU OF SOILS AND WATER MANAGEMENT

Soils Research and Development Center Building

Elliptical Road corner Visayas Avenue

Diliman, Quezon City

Re: Legal Assistance for the Support Staff of the Bids and Awards Committee

Dear Ms. Cas:

We refer to your letter dated 10 May 2007 requesting for clarification whether you can engage the services of a private lawyer to intervene as a third party in a civil case pending before the Regional Trial Court (RTC) of Quezon City, Branch 223, entitled "Lanting Security and Watchman Agency (LSWA) vs. Bureau of Soils Water and Management."

Please be advised that under the Guidelines for Legal Assistance and Indemnification of Bids and Awards Committee (BAC) Members and BAC Support Staff¹ (Guidelines), the procuring entity shall indemnify a BAC member and/or any of the BAC Support Staff who was or is a party to a pending or completed action brought against him in the performance of his official functions as BAC member or as BAC Support Staff.

The free legal assistance shall cover actual cost of suit and attorney's fees. The attorney representing the BAC member or BAC Support Staff shall be entitled to a maximum of Five Thousand Pesos (Php 5,000.00) per appearance which shall be paid by the procuring entity.

Said free legal assistance shall not, however, cover any action or suit initiated by a BAC member or BAC Support Staff in his personal capacity or in behalf of the procuring entity, unless such action, proceeding, or claim was **authorized by the head of the procuring entity or the approving authority** therein (Item 4.5 [a], Guidelines).

In the instant case, you wish to file a motion for intervention which could be considered an initiatory pleading. Intervention is a remedy by which a third party, not originally impleaded, becomes a litigant to enable such party to protect or preserve a right or interest which may be affected by the proceedings.²

¹ GPPB Resolution No. 21-2007 dated 7 October 2005.

² First Philippine Holdings v. Sandiganbayan, G. R. No. 88345, 01 February 1996.

It appears that you are not a defendant in the pending case filed by LSWA against BSWM. Lastly, should you wish to file an action against any party, you need to secure the approval of the head of the procuring entity if you want to avail of the free legal assistance under the Guidelines.

We hope to have clarified the matter. Should you have additional questions, please do not hesitate to contact us.

Very truly yours,



RUBY U. ALVAREZ
Executive Director III