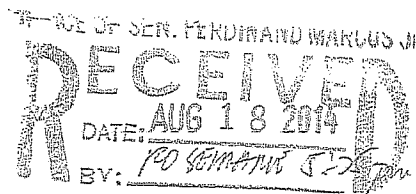




Republic of the Philippines  
**COMMISSION ON AUDIT**  
Local Government Sector – Quezon Province  
Capitol Building, Lucena City



ND NO. 2014-003-PDAF(12)

Date: June 30, 2014

**NOTICE OF DISALLOWANCE (ND)**

Hon. **LEOVEGILDO R. RUZOL**  
Municipal Mayor  
General Nakar, Quezon

Attention: **Mr. Orlando P. Ungriano**  
Municipal Accountant

We have audited the release of Special Allotment Release Order (SARO) No. BMB-G-12-T002502 dated June 4, 2012 in the amount of P10 million out of the Priority Development Assistance Fund (PDAF) of Senator Ferdinand R. Marcos, Jr. to the Municipality of General Nakar, Quezon and subsequent transfer of P10 million under Check No. 391730 dated August 3, 2012 to Social Development Program for Farmers Foundation, Inc. with office address at Block 40, Lot 28, Iligan St., South City Homes, Binan, Laguna for the implementation of livelihood projects (Organic Farming for High Value Crops for Micro-entrepreneurs and Small Farmers) of General Nakar, Quezon.

The transaction amounting to P10 million is being disallowed as this was undertaken without due regard to existing laws and regulations. The release of SARO and corresponding Notice of Cash Allocation (NCA) by the DBM to the Municipality of General Nakar, and subsequent transfer of fund by the Municipality to Social Development Program for Farmers Foundation, Inc. (SDPFFI) was not compliant with the requirement of DBM National Budget Circular (NBC) No. 476 dated September 20, 2001, pertinent provisions of the General Appropriations Act (GAA) for the year and COA Circular No. 96-003 dated February 27, 1996. Thus, the transaction was considered illegal and irregular, defined under COA Circular No. 85-55A, as amended by COA Circular No. 2012-003 dated October 29, 2012.

The implementation of livelihood projects was not undertaken by the Municipality but instead by the Social Development Program for Farmers Foundation, Inc. endorsed by the legislators; in spite of the absence of any appropriation law or SB Resolution as required under GPPB Resolution No. 12-2007.

The participation of the NGO in the implementation of government programs is governed by the provisions of the IRR-A of R.A. No. 9184, and issuances of the GPPB and COA, among others. Under GPPB Resolution No. 12-2007, adopted and approved as Section 53 (j) of the IRR-A of R.A. No. 9184, funds may be transferred to NGOs for implementation when there is an appropriation law or SB Resolution earmarking an amount to be specifically contracted to NGOs.

Selection of NGOs was not compliant with the provision of COA Circular No. 2007-001 and GPPB Resolution No. 12-2007 and the implementation of projects were merely covered by a Memorandum of Agreement not compliant with existing regulations.

In addition to the clear violation of law in the transfer of PDAF Funds to NGOs, the SDPFFI was not even selected in accordance with the guidelines on participation of NGOs in public procurement prescribed under GPPB Resolution No. 12-2007 for transfer authorized by law. As provided for in the GPPB Resolution, the selection of NGOs shall either be through Competitive Bidding, prescribed under Section 21.2.4 of the IRR-A of R.A. 9184. However, the Municipality accepted the NGOs and transferred funds to the SDPFFI based merely on the supported endorsement of the sponsoring legislator.

Likewise, COA Circular No. 2007-001 provides that NGOs shall be selected through public bidding and that the MOA entered into with the NGOs should include the following provisions, among others:

- Time schedules for the periodic inspection/evaluation, reporting, monitoring requirements and date of completion;
- Visitorial audit by the officials and personnel of COA; and
- Twenty percent equity of the project cost by the NGOs.

Transparency and accountability in the transfer and utilization of PDAF amounting to P10 million was not enhanced as pertinent data, reports relative to the livelihood projects were not posted either in the agency's website or in the PHILGEPS as required under NBC No. 537 dated February 20, 2012 and DILG full disclosure requirements:

National Budget Circular No. 537 dated February 20, 2012 was issued to set guidelines on the release of funds chargeable against the Priority Development Assistance Fund for FY 2012.

Section 5.2 thereof specifically provides that for LGUs, aside from their websites, posting of PDAF releases shall also be made in at least three (3) publicly accessible and conspicuous places within the LGU consistent with the provision of the Local Government Code of 1991, or to be published in a newspaper of general circulation in the territorial jurisdiction of the LGU concerned pursuant to the Department of the Interior and Local Government (DILG) Memorandum Circular (MC) No. 2011-08A dated January 13, 2011, as amended by MC No. 2011-134 dated September 19, 2011.

Section 5.3 also provides that for any procurements to be undertaken under the PDAF, the implementing agencies shall post in the Philippines Government Electronic Procurement System (PHILGEPS) or in a newspaper of general circulation all invitation to bid, names of participating bidders with their corresponding bids, and awards of contract in accordance with R.A. 9184, its implementing Rules and Regulations and Administrative Order No. 17 dated July 28, 2011.

Notwithstanding all these issuances and guidelines, the Municipality failed to adopt transparency and accountability in the transfer and utilization of PDAF amounting to P10 million intended for the implementation of Livelihood Project (Organic Farming for High Value Crops for Micro-entrepreneurs and Small Farmers) of General Nakar, Quezon as these were not publicized and posted in the PHILGEPS as required under National Budget Circular No. 537 dated February 20, 2012.

In the first place, procurement was not done thru competitive bidding as the funds were just transferred to the SDPFFI, who undertook the actual procurement of farm inputs, hence, there was nothing to post such as invitation to bid, award and date of completion.


The NGOs physical and legal existence turned out to be questionable as the given address as appearing in the Mayor's Permit and BIR Certificate of Registration (Block 40, Lot 28, Iligan St. South City Homes, Binan, Laguna) of SDPFFI at the time of the transaction is a mere residential house.

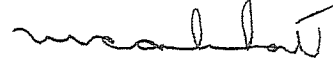
The following persons have been determined to be liable for these transactions:

<u>Name</u>	<u>Position/Designation</u>	<u>Nature of Participation in the Transaction</u>
1. Atty. Julian Li Pacificador, Jr.	Director IV DBM Region IV-A	Issued SARO and NCA to the Municipality without the requirements under NBC No. 476
2. Ferdinand R. Marcos, Jr.	Senator	Endorsed the implementation of project out of their PDAF by SDPFFI
3. Leovegildo R. Ruzol	Municipal Mayor General Nakar, Quezon	<ul style="list-style-type: none"> <li>• Entered into MOA with the NGO without validating the capability to undertake the project.</li> <li>• Failed to exercise the duties as head of the agency under Section 2 of P.D. 1445.</li> <li>• Approved the release of funds to SDPFFI.</li> </ul>

4. Orlando P. Ungriano	Municipal Accountant	• Certified availability of fund and that expenditure is supported with proper documents.
5. Nathaniel U. Tan - Proprietor of TNU Trading	Supplier	• As payee of the transactions.
6. Benhur K. Luy	President, SDPFFI	• Recipient of fund transfer

Please direct the aforementioned persons liable to settle immediately the said disallowance. Audit disallowances not appealed within six (6) months from receipt hereof shall become final and executory as prescribed under Sections 48 and 51 of P.D. No. 1445.

  
**ROMEO B. JIMARAC**  
 Audit Team Leader

  
**WILHELMINA R. CABUHAT**  
 Supervising Auditor

Proof of service of copies of ND to persons liable

<u>Name of persons liable</u>	<u>Position/Designation</u>	<u>Received by</u>	<u>Date</u>
1. Atty. Julian Li Pacificador, Jr.	Director IV - DBM Region IV-A	_____	_____
2. Ferdinand R. Marcos, Jr.	Senator	_____	_____
3. Leovegildo R. Ruzol	Municipal Mayor General Nakar, Quezon	_____	_____
4. Orlando P. Ungriano	Municipal Accountant	_____	_____
5. Nathaniel U. Tan - Proprietor of TNU Trading	Supplier	_____	_____
6. Benhur K. Luy	President, SDPFFI	_____	_____