



BANGKO SENTRAL NG PILIPINAS

OFFICE OF THE GOVERNOR

CIRCULAR NO. 769 Series of 2012

Subject : Guidelines on Requests for Monetary Board Opinion on the Monetary and Balance of Payments Implications of Proposed Domestic Borrowings by Local Government Units (LGUs), pursuant to Section 123 of R.A. No. 7653

Pursuant to Monetary Board Resolution No. 1444 dated 6 September 2012, the following guidelines shall govern the domestic borrowings of local government units (LGUs) in line with Republic Act No. 7653 (The New Central Bank Act), as well as other pertinent laws/regulations.

I. Coverage

This circular shall govern borrowings of LGUs within the Philippines, the procedures to be observed, as well as documentary requirements, for requests for Monetary Board (MB) opinion on the probable effects of the proposed credit operation on monetary aggregates, the price level and the balance of payments, pursuant to Section 123 of Republic Act No. 7653.

II. Procedures

1. The LGUs, directly or through the lending bank, shall submit a written request to the BSP for Monetary Board (MB) opinion on the monetary and balance of payments (BOP) implications of its proposed borrowing prior to the loan release. The request shall include the required supporting documents/information listed in Annex 1.
2. The BSP shall acknowledge receipt of the request, with an initial evaluation of the documents/information submitted. In case of incomplete submission of documents/information, the BSP shall require that the deficiency or lacking documents/information be complied with or submitted.

3. Once the LGU or lending bank has submitted the required documents/information, the matter shall be elevated to the Monetary Board for an opinion on the probable monetary and BOP implications of the proposed LGU loans.
4. The MB opinion shall contain the following conditions:
 - a. The loan proceeds shall only be released by the lending bank to a proponent LGU subject to the requirements stipulated in relevant laws.
 - b. The MB opinion on the proposed LGU borrowings is being issued pursuant to Section 123 of Republic Act (R.A.) No. 7653 (The New Central Bank Act). The opinion of the MB is limited to the assessment of the monetary and BOP implications of the proposed borrowings. The said opinion is based on: (i) the information contained in the documents submitted; and (ii) the assumption that the proceeds of the borrowing will be used for the intended purpose described in the documents submitted.
 - c. The MB opinion is valid only for six (6) months from the date of issue.
5. No opinion will be issued by the MB in cases where the LGU borrowing/loan has already been partially or fully disbursed.
6. Extension of the six-month validity period of the MB opinion may be granted based on meritorious reasons and subject to submission of supporting documents as may be prescribed by the BSP.

III. Post-Borrowing Reports

The borrowing LGU, or its duly authorized representative or through the lending bank, shall submit to the BSP a post-borrowing report that will indicate the actual amount of the domestic borrowing as well as the final terms and conditions thereof within 30 calendar days from the date of the full release of loan proceeds and other reports as may be required by the BSP.

IV. Sanctions

Any violation of this Circular shall be subject to the sanctions provided under Sections 36 and 37 of Republic Act No. 7653, as well as those contained in other applicable regulations of the BSP.

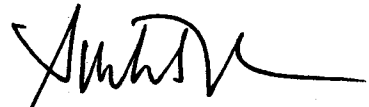
V. Repealing Clause

This circular supersedes BSP Circular No. 402, s. 2003. All other BSP regulations or issuances or any provision thereof that may be inconsistent with the provisions of this Circular are hereby repealed and superseded accordingly.

VI. Effectivity

This Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

FOR THE MONETARY BOARD:

A handwritten signature in black ink, appearing to read 'AmTet', written over a horizontal line.

AMANDO M. TETANGCO, JR.
Governor

26 September 2012

Required Supporting Documents and Information for LGU Borrowings

A. To support the request for MB opinion (to be submitted by the LGU or by the lending bank on behalf of the LGUs, to BSP)

1. Letter by the LGU, or the lending bank on behalf of its client LGUs, requesting for the MB opinion on the proposed loan, and providing information on the terms and conditions of the proposed loan (i.e., loan amount, purpose of loan [whether for infrastructure or importation of equipment, etc.], interest rate, maturity, fees and other charges).
2. Certification on the debt service and borrowing capacity of the LGU obtained from the Department of Finance – Bureau of Local Government Finance (DOF-BLGF).
3. Designation of a contact person/s responsible for coordinating with the BSP along with contact information, and a Sanggunian Resolution on the specific acts/services he/she has been authorized to perform.
4. Indication of the lending bank on the source of the funds to be lent to the LGU.

B. Release of Loan Proceeds (to be submitted by LGU to the lending bank)

1. Ordinance approving proposed loan's terms and conditions as well as the specific purpose/s and corresponding amount/s of project/s to be funded¹ (sample copy attached as Annex 2).
2. Other applicable requirements under R.A. No. 7160, such as the provincial validation of the municipality/city ordinance, if applicable, or municipal/city validation of barangay ordinance.
3. A waiver on the confidentiality of investment and bank deposits, whether in peso or foreign currency. Such waiver should be duly executed by the mayor or governor or barangay chairman as the case may be, and supported by a duly-executed "waiver resolution" (sample copy attached as Annex 3).

¹ The ordinance requirement is based on one of the fundamental principles governing the operations of LGUs (Sec. 305 of the Local Government Code) that: "(a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law." The requirement is also referred to in Section 55 (b) of the LGC that there is a need for "an ordinance directing the payment of money or creating a liability."

C. Request for MB Opinion on LGU Borrowings to be Obtained from Other Financial Institutions not under the Supervision of the BSP.

All documentary requirements and information enumerated above shall be submitted to the BSP by the borrowing LGU, together with its request for MB opinion, in case the loan will be obtained from other lending institutions not under the supervision of the BSP.

D. Post-Borrowing Reports

The borrowing LGU, or its duly authorized representative or through the lending bank, shall submit to the BSP a post-borrowing report that will indicate the actual amount of the domestic borrowing as well as the final terms and conditions thereof within 30 calendar days from the full release of loan proceeds and other reports as may be required by the BSP (sample copy attached as Annex 4).

Sample LGU Ordinance for
Proposed borrowing (loan)

Republic of the Philippines
Province of _____
Municipality / City of _____

OFFICE OF THE SANGGUNIANG BAYAN / PANLUNGSOD / PANLALAWIGAN

ORDINANCE¹ NO. _____
Series of _____

ORDINANCE AUTHORIZING THE PROPOSED BORROWING OF THE CITY /
MUNICIPALITY / PROVINCE OF _____, IN THE AMOUNT OF
_____ (P _____) TO FUND THE _____.

BE IT ENACTED, as it is hereby ENACTED, by the Sangguniang Bayan /
Panlungsod / Panlalawigan of _____, in session assembled that:

SECTION 1. The Municipal / City Mayor / Provincial Governor, in representation of the Municipality / City / Province, hereinafter referred to as the "Municipality" / "City" / "Province", is hereby authorized to enter into Name of loan agreement/credit facility with name of lender in accordance with Section 297 of Republic Act No. 7160 or the Local Government Code, in the amount of _____ (P _____) under the terms and conditions herein set forth and such other terms and conditions as may be agreed upon with any person, corporation or entity for the purpose of funding priority project/s, and subject to the requirements under Section 123 of Republic Act No. 7653 as implemented by the Bangko Sentral ng Pilipinas Circular No. 402. In this connection, the Municipal / City Mayor / Provincial Governor shall have full power and authority to represent the Municipality / City / Province in negotiating the terms and conditions for the said borrowing and in signing, executing and delivering such agreements, contracts, deeds, papers, and documents as may be necessary and proper for the full and total implementation of the authority herein granted;

SECTION 2. The said priority project/s herein specified as the _____ is/are hereby certified to be a local infrastructure and/or other socio-economic development projects in accordance with² the approved local development plan and public investment program for the period _____ or for the current year _____ of the Municipality / City / Province of _____ and is supported by a final feasibility study prepared by _____ which is also hereby approved / has been approved under the Sanggunian Bayan / Panlungsod / Panlalawigan Resolution No. _____ dated _____.

¹ Based on the Local Government Code (e.g. Sections 305 (a) and 55 (b)).

² Sections 296 and 297 of the Local Government Code.

SECTION 3. Consistent with the covering _____ contract, deeds and assignment, mortgage contracts, and such other agreements as maybe entered into by the Municipality / City / Province in connection with the borrowing, the features, terms and conditions shall be as follows and are hereby approved:

3.1 Project Name

Borrower

Amount

Purpose/s³

Item 1 or Project A- (description, amount)

Sub-item a-(description, sub-amount)

Sub-item b-(description, sub-amount)

Sub-item c-(description, sub-amount)

Item 2 or Project B- (description, amount)

Sub-item a-(description, sub-amount)

Sub-item b-(description, sub-amount)

Sub-item c-(description, sub-amount)

Term

Manner of Payment

Interest

Principal

Interest rate

Collateral/Guarantee/Security:

Front-end Fee

Commitment Fee

Guarantor

Guarantee Fee

Sinking Fund (if applicable) or other Funding Arrangements

SECTION 4. The Municipality / City / Province hereby appropriates the entire proceeds of the borrowing exclusively to finance the _____ and other financial obligations relative thereto.

SECTION 5. Any Ordinance or parts thereof, inconsistent with this enactment is hereby repealed or amended accordingly.

SECTION 6. This Ordinance shall take effect upon its publication and compliance with all procedures required under Republic Act No. 7160 of an ordinance for its validity, including the affixation of signatures of the Sanggunian Bayan / Panlungsod / Panlalawigan members, in concurrence thereto, composing at least a majority thereof, out of the total of _____ members, on all the pages of this Ordinance.⁴

³ Please indicate the specific project/s, and a basic/simple breakdown into the cost/components of each project, if there is more than one project. Include borrowing cost items, if any will be included in the loan.

⁴ In particular, but not limited to, Sections 54-56, 58-59. This includes the mayor's/governor's/local chief executive's signature on all pages.

SO ORDAINED / ENACTED.

RESOLVED FURTHER, that copies of this Ordinance be furnished the Honorable Governor/Mayor (as the case may be), the Municipal / City / Provincial Accountant, and the Municipal / City / Provincial Auditor, all of this Municipality / City / Province of _____, the _____ and the Bangko Sentral ng Pilipinas for their information and appropriate action.

ADOPTED this ____ day of _____ 201__.

SANGGUNIAN MEMBERS:

Hon. _____

Hon. _____

Hon. _____

Hon. _____

Hon. _____

Hon. _____

Hon. _____

Hon. _____

CERTIFIED TRUE AND CORRECT:

SB/SP Secretary

ATTESTED:

Municipal / City Vice Mayor, or
Vice Governor or Presiding Officer

APPROVED:

Date Approved: _____

Municipal / City Mayor / Provincial Governor

VALIDATED AS CONSISTENT WITH LAW:⁵

Sangguniang Panlalawigan Secretary

Provincial Governor

Date Validated: _____

⁵ An ordinance passed by a municipality or component city has to be validated as consistent with law thru a review by the Sangguniang Panlalawigan (Sec. 56 of LGC). For such case, the ordinance should likewise be signed by the appropriate officers of the Sangguniang Panlalawigan on all pages, or otherwise validated through a separate document. Similarly, Sec. 57 provides for the review of Barangay Ordinances by the Sangguniang Panlungsod or Sangguniang Bayan. Other provinces issue a separate certification or resolution on said provincial review, if applicable.

Annex 3

(Name of Local Government Unit)
(Complete Address)
(Tel.Nos./Fax/Email)

Hon. Amando M. Tetangco, Jr.
Governor
Bangko Sentral ng Pilipinas

Dear Gov. Tetangco:

This has reference to our request for the opinion of the Monetary Board (MB) on the probable effects on monetary aggregates, price level and balance of payments of the proposed borrowing amounting to _____ by the Province/City/Municipality of _____.

Pursuant to the provisions of Sections 2 and 3 of Republic Act No. 1405 and other laws relating to the secrecy of bank deposits, Resolution No. ____ dated _____ (certified true copy attached) was passed by the Province/City/Municipality of _____ waiving our rights to confidentiality of information by authorizing _____, our lending/trustee bank and all banks or financial institutions with which we have transactions to disclose to the Bangko Sentral ng Pilipinas (BSP) all information pertaining to the deposits, investments, loans or other transactions including the history or status of our dealings with said banks or financial institutions and for the BSP to make all inquiries as may be necessary regarding the same. The BSP is likewise authorized to disclose and share any such information furnished or obtained from said banks or financial institutions to the Department of Finance in relation to the performance by said Department of its functions.

Thank you.

Very truly yours,

Chairman/Mayor/ Governor

For submission to the Department of Economic Research:
30 days after the final disbursement of the loan proceeds

Annex 4

POST BORROWING REPORT

Name of Borrower	
Monetary Board Resolution No.	
Date of Monetary Board Opinion	
Amount of Proposed Loan	
Final Terms and Conditions	
Name of Facility	
Actual Amount of Loan*	
Purpose	
Interest Rate (Actual)	
If floating, please indicate base and spread	
Availment/Drawdown date*	
Term (In Years)	
Maturity Date	
Grace Period	
Interest Payment (Frequency/Date)	
Principal Payment (Frequency/Date)	
National Government Guarantee	
Collateral Guarantee/Security	
Breakdown of fees and other related costs	
Other relevant terms and conditions	

* Please indicate if on a staggered basis