

[DFA MEMORANDUM CIRCULAR NO. 07-13, April 15, 2013]

REVISED GUIDELINES ON THE UTILIZATION OF THE LEGAL ASSISTANCE FUND AS PROVIDED FOR IN THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995, OR REPUBLIC ACT NO. 8042, AS AMENDED BY REPUBLIC ACT NO. 10022

Section 1. Purpose. This Circular is issued, as mandated under Section 24(a) of the Migrant Workers and Overseas Filipinos Act of 1995, or Republic Act No. 8042 as amended by Republic Act No. 10022, to provide the guidelines, procedures and criteria for the utilization of the Legal Assistance Fund (LAF) for Overseas Filipinos.

Section 2. Persons Qualified to Avail of the LAF. The LAF may be availed of by any distressed Overseas Filipino, whether documented or not, who is unable to engage the services of private counsel, and who is in a country where there is no system of legal aid and public defenders, or where there is no access to *counsel de officio*, or any lawyer provided by the foreign host government.

An Overseas Filipino is distressed if he is in urgent need of legal services in a criminal case, labor related disputes, or other analogous legal proceedings including, among others, actions for tort, immigration detention, unlawful detention by foreign government authorities, or other legal proceedings necessary for the Overseas Filipino to enforce his rights, protect his liberties, or seek redress for injury, as provided under the laws of the foreign host country, under international human rights law, or Philippine law.

Legal assistance to victims of Trafficking in Persons shall be given, utmost priority.

In cases where both adverse parties are Filipinos, the LAF shall be made available only to the party who is aggrieved, or has suffered an injustice as determined by the Undersecretary for Migrant Workers' Affairs.

Section 3. Authorized Use of the LAF: The LAF created under the Migrant Workers and Overseas Filipinos Act of 1995 shall be used exclusively to provide legal services as authorized by the Undersecretary for Migrant Workers Affairs for Filipinos overseas in distress. Costs for such legal services that may be paid out of the LAF include, among others:

- a. Professional Fees, whether time-based or fixed charges, for services rendered by private lawyers, foreign or domestic, including those for initial consultations, acceptance fee, appearance fee, legal opinions and pleadings; Provided, that the total of such fees shall not exceed the following maximum rates per client.

For Criminal cases:

Europe and Americas – US\$8,000.00

Middle East and Africa – US\$6,000.00

Asia and Pacific – US\$6,000.00

In criminal cases, where the overseas Filipino is the accused, the total expenses for legal services rendered from detention or indictment to rendition of judgment should be within the above limits prescribed therein.

Labor related dispute:

Europe and Americas – US\$7,000.00

Middle East and Africa – US\$5,000.00

Asia and Pacific – US\$5,000.00

The maximum rates for analogous cases, or those involving special procedures such as a class action will be authorized on a case by case basis.

- b. Filing fees, docket fees, court fees, notarial fees, and other necessary administrative charges, or costs imposed by courts or tribunals not to exceed US\$5,000.00 per client.
- c. Incidental litigation expenses and out-of-the pocket expenses including transportation and communication costs, costs for messenger, courier and postage, representation costs, printing and reproduction costs and other fees incidental to engaging or providing legal services not to exceed US\$5,000.00.
- d. Bail bonds to secure temporary release of Filipinos under detention overseas. Provided, that the concerned Philippine foreign service post independently certifies that evidence of guilt is not strong, and there is no risk that the accused will abscond, not to exceed US\$5,000.00 per accused.
- e. Expenses necessary to secure and preserve documentary or testimonial evidence, not to exceed US\$1,000.00.
- f. Expenses for the protection, and to ensure cooperation of indispensable witnesses, not to exceed US\$3,000.00 each.
- g. Honoraria, representation allowance and reimbursements for incidental expenses given to counsel de officio, or other foreign government authorities, or counsel pro bono to ensure their preferential attention in handling, or processing cases of Filipinos, that are meritorious not to exceed US\$3,000.00.
- h. Expenses incurred by Philippine foreign service post, or the Office of the Undersecretary of Migrant Workers Affairs incidental to investigations on applications for legal assistance services, to procurement and delivery of legal services, and to the monitoring of pending cases. Such costs include those for transportation, daily subsistence allowance (hotel and per diems), communication and other such expenses for officers and staff on official time, in accordance with existing rules and regulations.
- i. Payment for the procurement of goods, or contracts of service for retained lawyers, translators or other support staff, deployed domestically or abroad, authorized by the Undersecretary of Migrant Workers Affairs as necessary to fulfill his function to provide and coordinate all legal assistance services to Filipino overseas, and to administer the LAF.
- j. Expenses for public information campaign conducted or sponsored by the Department of Foreign Affairs to render legal advice to migrant workers or Overseas Filipinos in distress on their legal rights and responsibilities under the laws of their host country, international human rights law, or relevant international conventions.