

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 279

INSTITUTING REFORMS IN THE FINANCING POLICIES FOR THE WATER SUPPLY AND SEWERAGE SECTOR AND WATER SERVICE PROVIDERS AND PROVIDING FOR THE RATIONALIZATION OF LWUA'S ORGANIZATIONAL STRUCTURE AND OPERATIONS IN SUPPORT THEREOF

WHEREAS, Presidential Decree No. 198 ("PD 198") established the Local Water Utilities Administration (LWUA), mandating it to serve as a "specialized lending institution" for the promotion, development and financing of local water utilities;

WHEREAS, the Local Government Units (LGUs) are responsible for the provision of basic services and facilities as enumerated under Section 17 of the Republic Act. No. 7160 (Local Government Code), including among others, the provision of water supply and sewerage services;

WHEREAS, shifts in government financing policies and constraints in the availability of financing from the National Government, and lack of investor confidence in the water supply and sewerage sector and limited capital stock and domestic and foreign borrowing authority have constrained LWUA from providing financing assistance to qualified Water Districts (WDs);

WHEREAS, there is a need to tap financing resources available to the water sector, including international grants, and funding from government financing institutions (GFIs), private financing institutions (PFIs), and LGUs;

WHEREAS, there is a need to review and rationalize current financing policies for the Philippine water supply and sewerage sector to allow for the efficient flow of resources thereto;

WHEREAS, cognizant of the urgency of the aforesaid need, the NEDA Board passed a resolution providing for the reforms in the financing of the water supply and sewerage sector and the creation of an Oversight Committee for the purpose of coordinating and overseeing the implementation of said financing reforms in the Philippine water supply and sewerage sector;

WHEREAS, the implementation of the recommended reforms requires that LWUA, as the focal government agency for financing and institutional development of local WDs, refocus its objectives and rationalize its operation;



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WHEREAS, by virtue of Executive Order 123, s. of 2002, the regulation of tariffs of WDs will be undertaken by the National Water Resources Board (NWRB) with a proviso that LWUA, consistent with its mandate under PD 198, may continue reviewing the tariff of WDs in which it has financial exposure with the end view of ensuring their financial viability.

WHEREAS, the LWUA is currently attached to the Department of Public Works and Highways (DPWH) by virtue of Executive Order No. 124, s. of 1987;

WHEREAS, rationalization of LWUA's operations require closer policy and program coordination with the Office of the President (OP);

WHEREAS, under Section 31, Chapter 10, Book III of Executive Order No. 292 or the Administrative Code of 1987, the President, in order to achieve simplicity, economy and efficiency, has continuing authority to reorganize the administrative structure of agencies under it;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, do hereby order:

PART I GENERAL PROVISIONS

SECTION 1. Reform Objectives/Policies – All concerned government agencies and instrumentalities of the water supply and sewerage sector, including but not limited to the Department of Finance (DOF), the Municipal Finance Corporation (MFC), Department of Interior and Local Government (DILG), Department of Budget and Management (DBM), Department of Environment and Natural Resources (DENR), DPWH, National Economic and Development Authority (NEDA), LWUA, and the GFIs are hereby directed to pursue and implement the following reform objectives / policies in the water supply and sewerage sector:

- (a) Improvement of investor confidence in the water supply and sewerage sector;
- (b) Rationalization in the allocation of scarce financial resources in the water supply and sewerage sector through classification and graduation initiatives;
- (c) Freedom of choice of water service providers in sourcing financing;
- (d) Increase in the participation of LGUs, GFIs, and PFIs in the financing of the water supply and sewerage sector;



- (e) Stimulation of improved service and creation of financial self-sustainability for water service providers;
- (f) Encouragement of initiatives aimed at self-sufficiency of water service providers, including, but not limited to, amalgamation, private sector participation, cost-recovery tariffs, and resource pooling;
- (g) Grant of incentives for the improvement and graduation of water service providers;
- (h) Education of consumers towards treating water as a scarce economic good; and
- (i) Establishment of an independent economic regulator for the water supply and sewerage sector.

SEC. 2. Definition of Terms – For purposes of this Order, the term:

- (a) Water Service Providers (WSPs) – refer to local water utilities such as WDs, LGU-run water utilities, rural waterworks and sanitation associations, barangay waterworks and sanitation associations, regardless of location.
- (b) Amalgamation – refers to the consolidation, joint operation or annexation of two or more WSPs resulting into a water district.
- (c) Classification – refers to the categorization of WSPs into non-creditworthy, pre-creditworthy, semi-creditworthy or creditworthy to determine proper allocation of financing.
- (d) Cost Recovery Tariff – is the tariff required to cover capital and operation and maintenance costs of WSPs at all service levels.
- (e) Creditworthy WSPs – are financially self-sustaining WSPs and capable of accessing financing from GFIs and/or PFIs.
- (f) Government Financial Institutions (GFIs) – refer to the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP) and other financing institutions owned and controlled by the Government
- (g) Graduation – refers to the progression of a WSP from semi-creditworthy to creditworthy status or of a non-credit worthy to pre-creditworthy or of a pre-creditworthy WSP to semi-creditworthy status based on improvements in financial and operational indicators.



- (h) Local Government Units (LGUs) – refer to the territorial and political subdivisions of the Philippines, consisting of provinces, cities, municipalities and barangays.
- (i) Non-Creditworthy WSPs – refer to WSPs with potential to reach pre-creditworthy status in the medium-term, based on relevant financial and operational indicators set by the Oversight Committee.
- (j) Pre-Creditworthy WSPs – refer to WSPs which are not likely to become creditworthy in the medium-term due to performance issues but can demonstrate the potential for creditworthiness in the long-term, based on relevant financial and operational indicators set by the Oversight Committee.
- (k) Semi-Creditworthy WSPs – refer to WSPs with the demonstrated ability to achieve creditworthiness in the short-term, based on relevant financial and operational indicators set by the Oversight Committee, but either lack the full criteria for creditworthiness or do not meet the criteria consistently.

PART II OVERSIGHT COMMITTEE

SEC. 3. Oversight Committee - An inter-agency Oversight Committee is hereby constituted for purposes of coordinating and overseeing the implementation of the reforms in the financing, graduation and regulatory policies in the water supply and sewerage sector.

SEC. 4. Composition - The composition of the Oversight Committee shall be as follows:

- Chair : Department of Finance (DOF)
- Vice-Chair : National Economic and Development Authority (NEDA)
- Members : Department of Budget and Management (DBM)
Department of Interior and Local Government (DILG)
Office of the President (OP)
Local Water Utilities Administration (LWUA)

Designated representatives of DOF, NEDA, DBM, DILG and OP must preferably be of Undersecretary level. LWUA must be represented by its Administrator.

GFI's and the Municipal Development Fund Office (MDFO) may serve as resource persons during meetings of the Oversight Committee.



SEC.5. Functions - The Oversight Committee shall, among others:

- (a) Formulate the implementing rules and regulations (IRR) of this Order;
- (b) Review the rationalization plan to be submitted by LWUA pursuant to Section 9 of this Order and submit its recommendations on said plan to the President for approval;
- (c) Review the criteria for the classification of WSPs, recommended by the Water Development Group (WDG) of LWUA;
- (d) Review the classification of WSPs prepared by LWUA-WDG, duly certified by LWUA-Head that the same is in accordance with the criteria presented to and reviewed by the Oversight Committee. The Oversight Committee may subject the classification of the WSPs to audit;
- (e) Prepare an action plan for the reforms in the financing policies in the water supply and sewerage sector for the near term and the medium term including incentive schemes that appropriate agencies may consider to offer to GFIs and PFIs to encourage such institutions to lend to WSPs;
- (f) Prepare and submit quarterly reports to the agency to which LWUA is attached; and
- (g) Review the charter of LWUA and when necessary, propose amendments thereto.

The Oversight Committee shall immediately organize itself and set its policies and procedures to facilitate the implementation of the said reforms in the water supply and sewerage sector.

SEC. 6. Technical Secretariat - The Oversight Committee shall establish a Technical Secretariat under DOF to be staffed by personnel assigned by government agencies comprising it. It shall serve as the official repository of all data concerning the classification and evaluation of all WSPs.

SEC. 7. Expenses - Members of the Oversight Committee and its Technical Secretariat shall be entitled to receive honoraria and /or reimbursement of expenses as may be allowed subject to availability of funds and prevailing rules and regulations.



PART III
LOCAL WATER UTILITIES ADMINISTRATION

SEC. 8. *Transfer to OP* – The LWUA, presently attached to the DPWH, is hereby attached to OP until such time it is transferred to DOF as provided for under Section 10 hereof. In addition, the LWUA Board of Trustees (BOT) shall include representatives from the agency to which it is attached.

SEC. 9. *Rationalization of LWUA's organizational structure and operations* - LWUA, subject to applicable laws and regulations, is hereby directed to review its organizational structure and internal policies and programs, rationalize its operation and refocus its objectives to include other WSPs, whenever feasible or applicable to facilitate implementation of and conform with the policies enunciated in this Order. To this extent, LWUA shall constitute and designate from its current organizational set-up, a Water Development Group (WDG), a Water Development Financier (WDF) and a Technical Assistance Group (TAG), or similar structures, with functions and responsibilities as follows:

A. Water Development Group (WDG)

The WDG shall have the following responsibilities:

- (a) The WDG which shall be primarily charged with the continuation of LWUA's current institutional development services aimed at graduating WSPs, as well as the classification of WSPs.
- (b) The WDG shall classify the WSPs into either creditworthy, semi-creditworthy, pre-creditworthy or non-creditworthy for the purpose of determining the appropriate sources of financing. WSPs initially classified by WDG as creditworthy and/or non-creditworthy shall be subject to further review by the Oversight Committee pursuant to Section 5 of this Order.

WSPs classified as semi-creditworthy and pre-creditworthy and non-credit worthy shall be subject to periodic review by the WDG at least once every three (3) years for purposes of reclassification. At their own instance, WSPs may request the WDG for an annual reclassification review.

- (c) Graduation – The WDG shall develop a graduation plan for non-credit worthy, pre-creditworthy and semi-creditworthy WSPs based on the following graduation initiatives:



(i) Cost Recovery Tariff Initiatives – These are initiatives aimed at achieving widespread full cost recovery tariffs in the long-term. The initiatives shall include the inventory of non-credit worthy, semi-creditworthy and pre-creditworthy WSPs to determine the degree to which tariffs are sufficient to accumulate at least a minimal reserve for collateral or counterpart equity. In addition, should the LGUs invest in WSPs, they should be allowed recovery of and some minimal return on its investment.

(ii) Amalgamation and Private Sector Participation Initiatives – These are initiatives aimed at achieving economies of scale and efficiency of service through the use of identified amalgamation and private sector participation techniques based on technical, geographical, economic and other indicators.

LWUA shall develop the necessary guidelines during the transition period for the amalgamated WDs and LGUs.

(iii) Management Structure and Governance – These initiatives pertain to institutional improvements within the WSPs' structure leading to greater accountability and improved service.

(iv) LGU/WSP Resource Coordination for Credit Enhancement – This refers to the pooling of resources between semi-creditworthy and/or pre-creditworthy or semi-creditworthy and/or non-creditworthy WSPs and the relevant LGUs in their service areas to finance water supply and sewerage projects or create the collateral needed to borrow from GFIs and PFIs.

(v) Education - This refers to communication and information initiatives on the benefits of graduation initiatives including cost recovery tariffs, amalgamation, private sector participation and LGU/WSP resource coordination.

(vi) Technical Assistance to non-credit worthy and pre-creditworthy WSPs – This refers to technical assistance to support graduation initiatives which may be given with or without charge within a value threshold that may be determined by LWUA-WDG.



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LWUA-WDG shall monitor the implementation of the graduation plan and evaluate the effectiveness of the graduation initiatives undertaken by the semi-creditworthy, pre-creditworthy and non-credit worthy WSPs.

LWUA-WDG shall initially cover the classification and graduation plan and initiatives of WDs. It may also cover other WSPs as deemed applicable or feasible.

- (d) Reporting – LWUA-WDG shall prepare and submit quarterly reports on its activities to the Oversight Committee and DOF.

B. Water Development Financier (WDF)

The WDF shall have the following responsibilities:

- (a) The WDF which shall be primarily tasked to enhance and/or strengthen LWUA's lending functions and evaluate the applications for financial assistance.
- (b) Re-orientation Towards Banking Principles - LWUA, through the WDF, shall enhance and/or strengthen its lending policies and functions to carry out and implement its mandate to provide financing particularly to non-credit worthy, pre-creditworthy and semi-creditworthy WDs, grounded on sound development banking principles. To this effect, LWUA shall adopt development banking principles which cater to the financing needs of WSPs and shall develop its own procedures for the monitoring of its loan portfolio. LWUA shall develop lending policies and guidelines in pursuit of the policies and principles espoused under this Executive Order within 90 days from its effectivity and submit the same to the Oversight Committee. LWUA shall conduct its operations in a transparent, efficient and effective manner.
- (c) Strengthening of Collection Function - In the exercise of its lending functions, LWUA shall also strengthen its collection function from WDs as well as enhance its payment of loans to LWUA creditors. To this effect, all collections arising from LWUA's receivables shall constitute a special fund to be apportioned between debt servicing of LWUA loans and the additional funding necessary to support the LWUA's graduation and technical assistance functions under the WDG and the TAG.



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- (d) Segregation of LWUA Loan Portfolios – For purposes of identification and administrative efficiency, LWUA shall maintain separate accounting, payment and collection systems for existing loans and loans to be granted henceforth pursuant to the reforms instituted in this Executive Order.

C. Technical Assistance Group (TAG)

TAG shall have the following responsibilities:

- (a) TAG shall continue LWUA's program of providing technical assistance to WSPs, in accordance with the proceeding sections.
- (b) TAG shall extend project-related technical assistance to GFIs and creditworthy WSPs on a competitive basis, consistent with applicable laws, rules and regulations on government procurement.
- (c) Above a certain value threshold, which threshold shall be determined by LWUA, TAG shall extend project-related technical assistance to semi-creditworthy WSPs on a competitive basis, consistent with applicable laws, rules and regulations on government procurement.
- (d) LWUA-TAG shall extend project-related assistance to non-creditworthy and pre-creditworthy WDs which may be with or without charge within a certain value threshold to be determined by LWUA to support projects funded by LWUA-WDF.

SEC. 10. Within thirty (30) days from the effectivity of this Order, LWUA shall review its current structure and submit its rationalized plan to the Oversight Committee, consistent with the policy reforms enunciated under this Order. The Oversight Committee shall evaluate the rationalization plan within thirty (30) days from receipt. LWUA, with the endorsement of the Oversight Committee, shall submit the rationalization plan to the President for final approval.

Upon approval by the President of the reforms in the water supply and sewerage sector, including the rationalized organization and manpower structure of LWUA, LWUA shall then be transferred to DOF. Pursuant to Section 51 of PD 198, at least three (3) of the trustees must be employees of the National Government. DOF shall always be represented in the LWUA-BOT.



PART IV FINANCING POLICIES

SEC. 11. *Responsibility of LGUs* – In line with the principle of devolution of the provision of basic services under the Local Government Code, LGUs shall be encouraged to provide delivery of water supply and sewerage services through, but not limited to, investments in, or loans to WSPs. LGUs shall as a general policy, be financially and operationally responsible for the WSPs within their respective jurisdictions.

SEC. 12. *Sources of Financing* - The sources of financing for the water supply and sewerage sector shall be as follows:

- (a) Creditworthy WSPs shall be eligible to source financing at commercial lending rates from GFIs and PFIs. Pursuant thereto, LWUA, with respect to creditworthy WDs shall enhance and streamline its waiver procedures to effect the reform objectives/policies enunciated herein. GFIs shall strengthen their skills base and develop lending programs specially tailored to the needs of the water supply and sewerage sector.
- (b) Semi-creditworthy WDs shall be eligible to source concessional debt financing from the LWUA-WDF, as well as GFIs and PFIs when possible.
- (c) Pre-creditworthy WDs shall be eligible to source grants from donors and deep concessional financing from the LWUA-WDF.
- (d) Non-creditworthy WDs shall continue to be eligible for financing under the LWUA-WDF. However, LGUs are hereby encouraged to provide financial and operational support for such WDs and other WSPs within their respective jurisdictions. DILG and MDFO shall provide the necessary technical and financial support within their respective mandates.
- (e) WSPs, including eligible WDs, can access financing from GFIs, PFIs, MDFO, and LGUs, whenever possible.

LWUA-WDG shall provide the necessary incentives for graduation such as extension of greater flexibility in WD's operation as a WD graduate from one stage to the next. LWUA-WDG shall provide guidelines to encourage graduation, which shall be approved by LWUA-BOT for submission to the Oversight Committee.



SEC. 13. *Role of Financial Institution* – The classification of WSPs shall merely be a determinant of eligibility for the various sources of financing, and shall not in any way be construed as an outright guarantee of actual financing from the designated source.

**PART V
FINAL PROVISIONS**

SEC. 14. The Oversight Committee shall formulate the IRR of this Order within 90 days from its effectivity, which shall be published in accordance with the requirements of the Administrative Code of 1987 and other pertinent laws.

SEC. 15. The Oversight Committee shall cease to exist three (3) years after the approval by the President of the rationalized organization and manpower structure of LWUA, with any remaining function of the Committee to be assumed by the DOF.

SEC. 16. Any violation of this Order and of its IRR shall be subject to disciplinary action and other penalties as provided for in said IRR and other relevant laws and issuances.

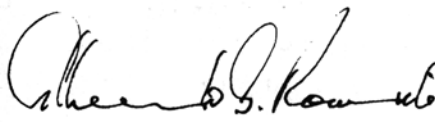
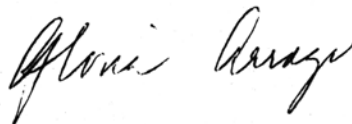
SEC. 17. If any provision of this Order is declared unconstitutional or invalid, the other provisions not affected thereby shall remain in full force and effect.

SEC. 18. All orders, executive issuances, rules and regulations, administrative resolutions, or parts thereof, inconsistent with the provisions of this Order are hereby repealed or modified accordingly.

SEC. 19. This Order shall take effect upon its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

DONE, in the City of Manila, this 2nd day of FEB in the year of our Lord, Two Thousand and Four.

By the President:



ALBERTO G. ROMULO
Executive Secretary



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