

# **SUMMARY OF THE DRAFT LMP POSITION PAPER ON THE DEVOLUTION OF ENR FUNCTIONS** (under EO 444 and in support of EO 366)

(Note: please refer to the attached position paper for details)

## **General position**

A strategic review geared towards continuing the decentralization and devolution of functions and services from national agencies to LGUs is currently being implemented in accordance with Executive Order 444. The said EO directs the DILG to conduct this strategic review in support of the rationalization program of the functions and agencies of the Executive Branch as provided for in Executive Order 366.

In light of this, and as the lead league in the review of the devolution of environment and natural resources (ENR) functions and services, the League of Municipalities of the Philippines (LMP) believes that the DENR should go beyond merely reordering or realigning its internal and functions and offices. Rationalization should be tailored to support greater devolution, and aimed at “radically restructuring the distribution of functions to governance institutions outside of DENR (e.g., LGUs).” (p. 12)

## **Legal basis**

This general position is consistent with the Constitution (Section 16, Article II and Sections 2 and 3 of Article X) and is in line with the spirit of the Local Government Code (RA 7160). LGUs, within their territorial jurisdictions, have the duty not only to “enhance the right of the people to a balanced ecology” (Section 16) but also to “discharge the functions and responsibilities of national agencies and offices devolved to them...” (Section 17)

Section 17 (Par. a) of the Code also states that “Local Government Units shall likewise exercise such other powers and surcharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.” (Pls. refer to pp 1-3 of the paper for a listing of these “services and facilities”)

## **General trend: Demonstrated capacity of LGUs**

LGUs have initiated or have been heavily involved in “[successful efforts to protect and sustainably use environmental assets (like scenic water bodies, parks, seascapes and landscapes) and natural resources (like forests, fisheries, minerals,

soils, water, and renewable energy).” (p. 3) (Note: a list of Galing Pook-awarded projects is provided in pp 3-5 of the paper)

Since 1991, LGUs have in fact been improving on their ability to manage their environment and natural resources. In contrast, during the same period, the national government has “diminished its ability to do so because of rising fiscal pressures on it and because of...declining budgetary positions of national government agencies.” (p. 5) For instance, “about 95% of the DENR budget goes to only salaries and almost none for operations.” (Ibid)

Generally, the situation that prevails today is this: “the capacities to deliver services (including the ability to govern, regulate and develop the environment and natural resources of the country) have been piling up in LGUs, but weakening in national government agencies.” This trend is bound to continue as LGUs “accumulate even more experience to govern local environments and natural resources.” (Ibid)

## **The challenge of diversity**

The Philippines is characterized by “highly diverse cultures, traditions, belief systems, political histories, environmental conditions, and arrays of natural resources.” This means that “local environments and natural resources be governed in depth, in their specific circumstances, in each different location.” It is clear that “[no] state agency has the ability, mandate and capacity to do this task more than LGUs.” (p. 6)

## **The current state of devolution**

The state of devolution is at best partial and at worst miniscule and insignificant. They involve functions that are either: “(a) peripheral to the DENR’s principal cache of powers; (b) are not drawing significant funding and investment interests from donors and the private sector; or (c) too politically costly for the agency to undertake.” Devolution has not involved “the bulk of the functions stipulated in the Local Government Code.” (Ibid.)

## **Creating a “demand-side” impetus in building LGU capacities**

The capacity to assume devolved functions is “good over-all but widely varying across LGUs of different types and classifications.” Still, the fact remains that “[many] LGUs have accumulated a vast array of experience in addressing environmental and developmental issues in their jurisdictions.” (p. 8) The various Galing Pook and other international awards earned by local government projects all attest to this.

It is anticipated that this build-up of ENR competence on the part of LGUs, which has occurred in the past ten to fifteen years, will intensify if DENR were to reconfigure itself and depend more on LGUs as its partners in discharging ENR functions. DENR

should create “a ‘demand-side’ impetus for LGUs to improve on their capacities to discharge the functions”

## **LMP recommendation**

The LMP proposes a “phased devolution program” that will devolve function to LGUs over a ten-year period. The principal goal of this program is to make the DENR the policy-making and standard-setting agency for ENR, and the LGUs “as implementing field units to regulate and develop, singly or jointly, the use and development of environmental amenities and natural resources within their jurisdictions.” (p. 9)

**What to devolve and when?** Forest management, protected area supervision (immediately --- within the next 12 months); land registration, water resource management (within the next 2-3 years); mineral resources development, environmental impact assessment (within the next 4-6 years); all remaining ENR functions stipulated in the Code, explicitly or implied, additional functions as might be prescribed by law (next 7-10 years).

**Strategy.** ENR devolution should be based on (1) the above schedule of devolution, and (2) the preparedness of individual LGUs to assume the functions to be devolved. A certification system to be designed, developed and operated by DENR, other national agencies like DBM and the different LGU leagues, will certify to the preparedness of individual LGUs to assume the specific functions, that is, when these functions come due for devolution.

The general rule should be: “No function will be devolved earlier than scheduled. And when scheduled, no function shall be devolved to LGUs that have not been previously certified to be fully capable of assuming the function.” (p. 10)

**Institutional arrangements.** In the short-term (next 1-3 years): “The immediate assignment of all DENR field personnel (CENROs and PENROs) to direct supervision by LGUs, but subject to five (5) necessary conditions (see p. 11 for the conditions); in the medium-term (4-6 years from now): “Existing Regional Offices of the DENR shall be converted into Regional Technical Centers to support and monitor LGU ENR functions within the region.” (p. 11)

In the long-term (7-10 years from now): At least 75% of DENR personnel in the Regional Offices shall be devolved to the LGUs in the region, and providing technical support in the form of liaison functions between LGUs and DENR bureaus.

**Capacity development.** To support the process, capacity development programs for LGUs should be initiated with the view to: (1) Enhancing human resource competence; (2) developing LGU financial mechanisms; (3) developing and instituting good governance mechanisms; and (4) developing mechanisms for involving stakeholders and the general public in the discharge of ENR functions.