

LAND ADMINISTRATION AND MANAGEMENT PROJECT

**KEY DOCUMENTS PREPARED BY
INSTITUTIONAL ARRANGEMENTS
ADVISER: SEPTEMBER TO
DECEMBER 2002**

REPORT A8



20 December 2002

This report is a result of technical assistance managed by Land Equity International to the Government of Philippines. The TA was funded by AusAID and the views expressed in this work do not necessarily represent the views of the Commonwealth of Australia.

INTRODUCTION

This document contains a compilation of key papers prepared by the Institutional Arrangements Adviser for legislation to establish a single Land Administration Authority, for possible Executive Orders to strengthen land administration arrangements pending the passage of such legislation, and on related implementation issues. The papers were prepared and discussed during the Adviser's second assignment with the LAMP from September to December 2002. The purpose of this compilation is to provide ready access to the key papers for future reference.

(John Mellors)
Institutional Arrangements Adviser
20 December 2002

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Philippines Australia Land Administration and Management Project

MEMORANDUM

To: Mylene Albano, Executive Director, LAMP
Amelita Castillo, Director, OPIB, DBM

Cc: Danilo Antonio, Deputy Executive Director, LAMP
Ian Lloyd, Team Leader, Technical Assistance
Pinky Esguerra, National Institutional Adviser
Lirio Abuyuan, National Policy Adviser

Subject: Draft Act and Explanatory Note to establish a Land Administration Authority

Please find attached for your consideration a fully developed draft Act to consolidate land administration functions within a single Land Administration Authority.

The attached draft substantially revises and extends the draft circulated in October in the light of subsequent discussions and further work. I believe it provides a satisfactory base for discussion and finalization of a Bill for Congress.

A draft Explanatory Note to accompany the draft Act is also attached. Other Bills presented to Congress suggest that Explanatory Notes are typically short overviews of no more than 3-5 pages. The first five pages of my draft Explanatory Note provide such an overview. A more detailed explanation of each Section of the draft Act commences at Page 6. If wished, this detail could be deleted from any version of the Explanatory Note presented to Congress.

I will be on leave next week before returning to work on Monday 9 December for two further weeks. You may wish to consider:

- circulating the attached drafts to others who were present at the informal meeting convened by DBM on 5 November;
- convening a further meeting of that group in the week commencing 9 December to obtain preliminary and informal comments on the drafts.

This would allow me to incorporate comments on the drafts before the end of my assignment on 22 December.

(John Mellors)
Institutional Arrangements Adviser
28 November 2002

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

[Nth CONGRESS]
Xth Regular Session

HOUSE BILL NO. _____

INTRODUCED BY XXX

**AN ACT CREATING THE LAND ADMINISTRATION AUTHORITY
AND FOR OTHER PURPOSES**

Be it enacted by the Senate and the House of Representatives in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known and cited as “The Land Administration Authority Act of 2003”.

SECTION 2. *Declaration of State Policies.* – It is the policy of the State to promote the efficient and effective survey, mapping, classification, disposition, valuation and registration of land in order to optimize their contribution to the goals of national economic growth, the eradication of poverty and the achievement of social justice. Towards this end, the State shall:

- a) Embark on a program to accelerate and complete the titling and registration of alienable and disposable lands within fifteen (15) years from the effectivity of this Act, thereby providing security of land tenure for all;
- b) Provide leadership and management of reforms of land administration;
- c) Remove overlap and duplication in the delivery of land administration services;
- d) Improve the efficiency, effectiveness, client focus, transparency and accountability of land administration services, including elimination of duplicate and fake titles;

- e) Establish One Stop Shops to provide accessible, efficient and affordable land administration services to the people;
- f) Establish an effective land information system and provide easy and cheap access to land information by members of the public;
- g) Abolish judicial registration of title in favor of more simple administrative processes, subject to rights of appeal to the Courts;
- h) Reform and codify all land administration laws and regulations;
- i) Rationalize and clarify the entitlements of persons to obtain land titles with the intention of making first time title issuance both fast and low cost;
- j) Establish one valuation system for the purpose of all real property transactions;
- k) Reduce disincentives to the registration of property transactions;
- l) Improve the skills of, and career opportunities for, government employees engaged in the provision of land administration services.

SECTION 3. *Definition of Terms.* – For the purposes of this Act, unless the contrary intention appears, the following terms shall mean:

- a) *Director General* – refers to the person occupying the position of Director General of the Land Administration Authority created by this Act including any person appointed as Acting Director General in accordance with the provisions of this Act.
- b) *Incumbent Personnel* – refers to personnel of the Land Management Bureau (including regional land management services), the Land Registration Authority (including the Register of Deeds) and the National Mapping and Resource Information Authority who are occupying positions of employment within these agencies immediately prior to the effectivity of this Act.
- c) *Land Administration and Management* – refers to the administration and management of all functions, powers and activities related to the mapping, survey, classification, ownership, disposition, valuation and registration of land.
- d) *Land Management Bureau* – refers to the Land Management Bureau, a staff Bureau of the Department of Environment and Natural Resources and, for the purposes of this Act, all other land administration and management functions and powers hitherto undertaken or exercised by that Department at national, regional, provincial and all other levels by any Office of that Department including the Office of the Secretary.

- e) *Land Registration Authority* – refers to the Land Registration Authority, a line bureau of the Department of Justice, including the Register of Deeds and all other land administration and management functions and powers hitherto undertaken or exercised by that Department at national, regional, provincial and all other levels by any Office of that Department including the Office of the Secretary.
- f) *National Mapping and Resource Information Authority* – refers to the agency known by that name attached to the Department of Environment and Natural Resources.
- g) *Records* – refers to registers, maps, titles, memoranda, briefing notes, minutes of meetings and discussions and any other records, whether in paper, microfilm, electronic or any other form, relating in any way to the functions and powers specified at Chapter III of this Act and to any dealings in matters relating to these functions.

CHAPTER II

CREATION OF THE LAND ADMINISTRATION AUTHORITY

SECTION 4. *Land Administration Authority.* – There is hereby established a Government owned and controlled corporation to be known as the Land Administration Authority, hereinafter referred to as the Authority, which shall be attached to any Department or Office of the Government that, in the judgment of the President, is competent to oversee the operations of the Authority.

SECTION 5. *Authority is a body corporate.* – The Authority hereby created is a body corporate with the power to sue and be sued, and to adopt, alter and use an official seal which shall be judicially noticed.

CHAPTER III

MANDATE, FUNCTIONS AND POWERS OF THE AUTHORITY

SECTION 6. *Mandate of the Authority.* – The Authority's mandate is to lead and manage the implementation of the State policies for land administration herein set forth, and to provide the State's land administration services efficiently so as to meet the needs of users.

SECTION 7. *Functions.* – The Authority shall direct, manage, supervise, coordinate and administer all activities of the Government related to the following:

- a) Classification or reclassification and mapping of all lands of the public domain into agricultural or alienable and disposable land, forest or timber lands, mineral lands and national parks as provided under Section 3, Article XII of the Philippine Constitution;
- b) Survey, administration, management and disposition of all alienable and disposable lands of the public domain under the provisions of

Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act;

- c) Management, sale and disposition of the remaining Friar Lands under the provisions of Act No. 1120, as amended by Commonwealth Act No. 32, otherwise known as the Friar Lands Act;
- d) Management and disposition by sale or lease of lands of the private domain of the National Government under the provisions of Act No. 3038, or such other Government or public lands as have not been placed under the administration, management, control or exclusive use of any other Government agency by legislative or executive issuance;
- e) Execution of cadastral surveys in accordance with the provisions of Act No. 2259 as amended by Presidential Decree No. 1529, and all other kinds of surveys for national mapping and land titling purposes;
- f) Registration of original titles to land and of subsequent dealings in registered land under the provisions of Act No. 496 and Presidential Decree No. 1529, otherwise known as the Land Registration Act and the Property Registration Decree respectively;
- g) Establishment of standards and systems for the valuation of lands for taxation, expropriation and other Government purposes;
- h) Such other functions and activities relating to the survey, mapping, classification, management and administration, disposition, valuation and registration of lands as are, or may in the future be, provided by law;
- i) Such other functions and activities as are consistent with the law and, in the judgment of the Authority, are necessary to implement the State policies specified in Section 2 herein.

SECTION 8. *Powers.* – The Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions including, but not limited to, the following:

- a) Employ staff and consultants;
- b) Establish offices and other places of work for the delivery of the Authority's services;
- c) Enter into contracts;
- d) Lease or own and sell or otherwise dispose of real and personal property subject to the provisions of Section 9(b);
- e) Occupy, use and control any land or building owned, or held under lease, by the Republic of the Philippines which are made available to the Authority;

- f) Enter into co-operative arrangements with other persons and agencies;
- g) Negotiate for funds and obtain grants or loans from national and international sources for funding the functions of the Authority;
- h) Impose fees and make charges for costs incurred, work done, services rendered, and goods and information supplied, by or on behalf of the Authority;
- i) Incur obligations as necessary for the conduct of its operations;
- j) Promulgate such rules, regulations, circulars and other administrative issuances as may be necessary to implement the State policies set forth at Section 2 herein and administer the functions of the Authority enumerated under Section 7 herein;
- k) Do such other things as it is authorized to do by or under this or any other Act;
- l) Do anything incidental to any of its powers.

SECTION 9. *Undertaking of Authority functions and exercise of Authority powers subject to direction.* – Subject to the provisions of this Act and other laws, the President may, by Executive Order, issue and revoke directions to the Director General of the Authority. Any such Executive Order:

- a) May add to, but shall not subtract from, the functions of the Authority as specified in Section 7 herein: *Provided*, that any such additional functions shall be inherent to and/or necessary for the implementation of the State policies set forth in Section 2 herein;
- b) May direct that laws, rules and regulations relating to the management, staffing, finances and reporting requirements of public organizations shall, or shall not, apply to the Authority: *Provided*, that after a first direction in relation to these matters is issued on the date of effectivity of this Act then subsequent directions shall thereafter serve to increase rather than decrease the Authority's powers to manage its affairs efficiently and flexibly;
- c) May direct that a corporate plan or annual operational plan of the Authority prepared pursuant to Sections 31 and 32 herein shall be amended before it is deemed to have been approved;
- d) Subject to the provisions of this Act, shall not otherwise purport or attempt to give direction in relation to any powers that are explicitly vested in the Authority by this Act or any other law;
- e) Shall be reported and reproduced in the annual report of the Authority as prescribed by Section 33 herein.

CHAPTER IV

TRANSFERS OF FUNCTIONS AND POWERS TO THE AUTHORITY

SECTION 10. *Transfers of functions and powers to the Authority.* –

- a) All functions, duties and powers vested by law in the Land Management Bureau (including regional land management services), the Land Registration Authority (including the Register of Deeds), and the National Mapping and Resource Information Authority are hereby deemed transferred to the Authority.
- b) All functions, duties and powers relating to the functions set forth in Section 7 herein and vested by law in any officer or other employee of the Department of Environment and Natural Resources and the Department of Justice, including the Secretaries of these Departments and officers and employees of agencies attached to these Departments, are hereby deemed transferred to the Authority.

SECTION 11. *Abolition of existing agencies.* – The Land Management Bureau, the Land Registration Authority and the National Mapping and Resource Information Authority are hereby abolished.

SECTION 12. *Transfer of PMO-LAMP.* – The Project Management Office of the Land Administration and Management Project and all its functions, powers, staff, consultants, funds and other assets provided or budgeted to date for the purposes of the Project, hitherto supervised by the Department of Environment and Natural Resources, are hereby transferred to the Authority.

CHAPTER V

OFFICE OF DIRECTOR GENERAL

SECTION 13 *Creation of Office of Director General.* – The Authority shall be headed by a full-time Director General who shall occupy the Office of Director General hereby created. All acts and things done in the name of, or on behalf of, the Authority by the Director General that are consistent with the provisions of this Act shall be deemed to have been done by the Authority.

SECTION 14. *Appointment.* – The Director General:

- a) Shall be appointed by the President at Secretary level with the confirmation of the Commission of Appointments in accordance with Section 16, Article VII of the Philippine Constitution;
- b) Shall be a natural-born citizen of the Philippines, of good moral character and unquestionable integrity, possessing tertiary-level educational qualifications granted by a university or equivalent institution of high standard, with at least ten (10) years experience in management acquired through full-time employment in one or more senior management

positions within reputable private or public sector organizations.

SECTION 15. *Terms of appointment.* – The Director General:

- a) Shall be appointed for a fixed term of not less than three years and not more than five years;
- b) Shall be eligible upon the expiration of his or her first term for reappointment for one further term which shall not exceed five years;
- c) Shall not engage in any employment outside the duties of the Office;
- d) Shall give written notice to the President of all direct or indirect pecuniary interests that the Director General has or acquires in any business or in any body corporate carrying on any business.

SECTION 16. *Duties of the Director General.* – The occupant of the Office of Director General of the Authority is hereby empowered to, and shall:

- a) Implement and administer the policies specified in Section 2 herein and the Authority's mandate specified in Section 6 herein;
- b) Manage all functions and exercise all powers vested in the Authority by law;
- c) Direct and supervise the operations and administration of the Authority;
- d) Represent the Authority in dealings with offices, agencies and instrumentalities of the Government and with persons and entities, public or private, domestic or foreign;
- e) Promulgate all necessary rules and regulations for the effective implementation of the provisions of this and all other laws relating to the functions of the Authority;
- f) Determine the organizational structure, including the geographical location of offices, of the Authority; organize and manage the Authority's personnel, including design and approval of the Authority's staffing profile and numbers; and issue such rules and regulations as he or she may deem necessary or convenient for these purposes;
- g) Establish a performance-based management system which shall govern the selection, hiring, appointment, transfer, promotion, and dismissal of all personnel with a view to attracting and retaining professionally competent, honest, courteous and efficient personnel of the Authority;
- h) Provide for the continuing education and training of Authority officials and employees;
- i) Appoint, fix the remuneration and other emoluments of, and remove

personnel of the Authority;

- j) Lead, organize and manage the affairs of the Authority efficiently, diligently, impartially and honestly, adhering rigorously at all times to the requirements of Republic Act No. 6713, otherwise known as the Code of Ethical Standards;
- k) Establish and maintain amongst all employees of the Authority the highest ethical standards and standards of service to the public;
- l) Act in accordance with any lawful direction issued to the Authority by Executive Order of the President.

SECTION 17. *Delegation of powers.* –

- a) The Director General may, by written instrument, delegate any of the powers of the Office of Director General to any Office or employee within or of the Authority.
- b) A delegate is, in the exercise of a power so delegated, subject to the directions of the Director General.
- c) A delegation of power under this section continues in force until it is formally revoked, even if there has been a change in the occupant of Office of Director General.
- d) A delegation of power under this section may be revoked at any time by written instrument duly signed by the Director General.
- e) The Director General shall remain accountable for the exercise of the powers vested in the Office of Director General, whether such powers have been delegated or not.

SECTION 18. *Resignation and termination of appointment.* – The Director General:

- a) May resign his or her Office by providing written notice at least one month prior to the intended date of resignation, signed and delivered to the President;
- b) May be dismissed by Executive Order of the President on any one or more of the following grounds:
 - (i) a material breach by the Director General of the requirements of Republic Act No. 6713, otherwise known as the Code of Ethical Standards;
 - (ii) demonstrated physical or mental incapacity rendering the Director General incapable of properly discharging his or her duties for a continuous period of three (3) months or more;
 - (iii) an act, or failure to act, by the Director General that is shown prima

facie to be fraudulent or illegal;

but not otherwise;

- c) May be dismissed at any time and for any reason by a joint resolution approved by two thirds or more of the total membership of the Senate and the House of Representatives voting concurrently.

SECTION 19. *Temporary vacancies.* – In the event that the Office of Director General is temporarily vacant, the President may appoint an Acting Director General for a term not exceeding six (6) months to perform all duties and exercise all powers of the Office of Director General: *Provided*, that only persons possessing the qualifications and attributes specified by Section 14(b) herein shall be appointed as Acting Director General.

CHAPTER VI

LAND ADMINISTRATION ADVISORY BOARD

SECTION 20. *Creation of Land Administration Advisory Board.* – There is hereby created a Land Administration Advisory Board, hereafter referred to as the Board.

SECTION 21. *Board functions.* – The functions of the Board shall be:

- a) To provide advice to the Authority on policy matters associated with the Authority's land administration functions including the formulation of plans, rules, regulations and budgets relating to these functions;
- b) To provide advice to the Authority on all matters pertaining to the implementation of Authority plans and programs and to the delivery of its services to other Government agencies and members of the public;
- c) To monitor the efficiency and effectiveness with which the Authority performs its functions;
- d) Subject to the provisions of this Act, to develop and agree the processes and procedures the Board will adopt in undertaking subsections (a), (b) and (c).

SECTION 22. *Composition of the Board.* – The Board shall be composed of:

- a) The Director General of the Authority, who shall act as Chairman;
- b) One representative from each of the Department of Environment and Natural Resources, the Department of Agrarian Reform, the Department of Housing, the Department of Finance and the National Commission on Indigenous Peoples, each of whom shall be nominated and notified to the Director General of the Authority by the Secretary or equivalent of their Department or Commission;

- c) No more than six (6) persons representing non-government stakeholders in the land administration system, including not less than two representatives of organizations representing civil society, each of whom:
 - (i) shall be nominated by peak professional and civil society organizations;
 - (ii) shall be appointed by the President;
 - (iii) shall hold membership of the Board at the President's pleasure.

SECTION 23. *Meetings of the Board.* – The Director General, as Chairman of the Board, shall convene meetings of the Board not less than four times in each calendar year and shall provide Board members with at least two weeks' advance notice of each meeting.

SECTION 24. *Remuneration of Board members* – Board members may be reimbursed by the Authority for out-of-pocket expenses incurred by them as a direct consequence of their membership of the Board but shall receive no other form of payment or remuneration in consequence of their Board membership.

SECTION 25. *Annual report of the Board.* –

- a) The Board shall produce, not later than 31 March in each financial year, a report on its activities in the preceding financial year including a report on its activities and assessments undertaken pursuant to its functions as specified at Section 21 herein and its overall assessment of progress in implementation of the policy directions specified at Section 2 herein.
- b) The annual report of the Board shall be included without amendment as an annexure to the annual report of the Authority to be produced pursuant to Section 33 herein.

CHAPTER VII

FINANCE

SECTION 26. *Money payable to and by the Authority.* –

- a) There is payable to the Authority such money as is appropriated by the Congress from time to time for the purposes of the Authority.
- b) The Secretary of the Department of Budget and Management may give written directions as to the amounts in which, and the times at which, money is to be paid to the Authority.
- c) The President may, by Executive Order, direct that the Authority shall pay an amount or amounts of money held by the Authority to the Government of the Philippines. Any such payment shall form part of the receipts of the Government of the Philippines and may be used for any purpose authorized by the Congress but not otherwise.

SECTION 27. *Money received from fees and charges.* –

- a) The Director General and the Secretary of the Department of Budget and Management shall enter, and may subsequently amend, a formal agreement regulating the disposition of money received from any fees and charges levied in respect of goods and services provided by the Authority, including the conditions if any under which receipts of such money may be retained by the Authority.
- b) Money retained by the Authority in accordance with the provisions of an agreement pursuant to (a) shall be deemed to be money of the Authority.

SECTION 28. *Application of money.* – The money of the Authority shall be applied only in payment or discharge of expenses and liabilities necessarily incurred by the Authority in the performance of its functions.

SECTION 29. *Contracts.* – Procedures applicable generally to government owned and controlled corporations for the consideration and approval of contracts they propose to enter shall apply to contracts to be entered into by the Authority.

SECTION 30. *Liability to taxation.* – The Authority shall not be subject to taxation under the laws of the Republic of the Philippines.

CHAPTER VIII

CORPORATE PLANNING AND ACCOUNTABILITY

SECTION 31. *Corporate Plan.* –

- a) The Director General shall, as soon as practicable after the effectivity of this Act, prepare a corporate plan for the Authority spanning the first and subsequent two financial years of the Authority's operations.
- b) The corporate plan shall outline:
 - (i) the strategies, policies, measures and programs the Authority intends to adopt in order to implement the State policies and perform the Authority functions specified by this Act;
 - (ii) the performance targets and measures the Authority will use to monitor and assess its efficiency and effectiveness.
- c) The Director General shall thereafter, no later than September 30 in each financial year, revise and update the Authority's corporate plan in order that it shall span the immediately forthcoming and subsequent two financial years.
- d) Within two weeks from its completion, copies of the Authority's corporate plan shall be provided each year to the President, members of the Land Administration Advisory Board, the Secretary of the

Department of Budget and Management and the Director General of the National Economic and Development Authority.

- e) Following distribution each year of the Authority's corporate plan pursuant to (d), the contents of each such plan shall be deemed to have been approved unless the President directs otherwise by 31 December of that year.

SECTION 32. *Annual Operational Plan.* –

- a) When preparing the corporate plan pursuant to Section 31 herein, the Director General shall prepare, no later than September 30 in each financial year, an annual operational plan for the first full financial year to which the corporate plan relates.
- b) The annual operational plan for a financial year shall contain estimates of the Authority's planned receipts and expenditures for the financial year, the programs that the Authority proposes to carry out in the financial year, the outputs expected to be produced by each of these programs in the financial year and the financial and staff resources that the Authority intends to allocate to each of these programs in the financial year.
- c) Copies of the Authority's annual operational plan shall be provided each year within two weeks from its completion to the persons and agencies identified at Section 31(d) above.
- d) Following distribution each year of the Authority's annual operational plan pursuant to (c), the contents of each such plan shall be deemed to have been approved unless the President directs otherwise by 31 December of that year.

SECTION 33. *Annual Report.* –

- a) The Director General shall prepare, no later than April 30 each financial year, an annual report on the operations of the Authority during the preceding financial year.
- b) Without limiting the matters that may be included, each annual report shall include:
 - (i) an assessment of the extent to which the Authority's operations during the year achieved the objectives and performance targets stated in the corporate plan and the outputs contained in the annual operational plan for the relevant year;
 - (ii) a comparison by program of the estimated receipts and expenditures contained in the annual operational plan for the year with actual receipts and expenditures in the year, together with explanations of any significant variances between these;
 - (iii) copies of all directions issued by the President to the Authority during the year together with the Authority's assessment of the

- (iv) impact of each direction on the operations of the Authority;
audited financial statements for the Authority for the year, signed by the Director General.
- c) The annual report of the Land Administration Advisory Board shall be included as an annex to the Authority's annual report in accordance with Section 25 herein.
- d) No later than May 31 each year, copies of the Authority's annual report, including its annexes, shall be provided to the Senate and the House of Representatives, the President, members of the Land Administration Advisory Board, the Secretary of the Department of Budget and Management and the Director General of the National Economic and Development Agency.

CHAPTER IX

TRANSITIONAL PROVISIONS

SECTION 34. *Implementing Details.* – The Authority shall be made operational by the performance of the following acts:

- a) The President shall appoint a Director General or Acting Director General of the Authority within sixty (60) days from the effectivity of this Act;
- b) The Authority shall be organized and staffed by the Director General in accordance with Sections 35 and 36 herein;
- c) Personnel, appropriations, assets and liabilities shall be identified and transferred to the Authority in accordance with Sections 37, 38, 39 and 40 herein.

SECTION 35. *Mandate to organize.* – The Authority shall be organized by the Director General in accordance with the following mandate and timetable:

- a) The Authority's organizational structure and staffing pattern shall not be constrained by the structures and patterns of former agencies consolidated within the Authority but, rather, shall be designed and implemented by the Director General with a view to maximizing the efficiency and effectiveness of the Authority in the performance of its functions;
- b) The Authority's initial organizational structure and staffing pattern shall be approved by the Director General within six (6) months after the effectivity of this Act and shall be fully implemented and staffed within a further period of six (6) months thereafter, both of which periods shall be referred to collectively as the transition period.
- c) Following the transition period the Director General shall have

continuing authority to re-organize the organizational structure and staffing pattern of the Authority from time to time in accordance with his or her duties as specified by Section 16 herein.

SECTION 36. *Initial appointments of Authority staff.* – The Director General shall select and appoint the initial staff of the Authority on the bases that:

- a) The selection of staff for appointment shall be based strictly on professional merit and fitness for the specific duties of positions to be filled;
- b) Applicants for appointment to positions in the Authority may be subject to lifestyle checks to ensure their suitability for appointment.

SECTION 37. *Establishment of Transfers Working Group.* –

- a) Immediately upon effectivity of this Act the Department of Budget and Management shall convene and chair a Transfers Working Group to identify staff positions, appropriations, assets and liabilities, records and contracts and agreements hitherto associated with the performance of the functions transferred to the Authority by virtue of this Act.
- b) Other members of the working group shall include representatives of the Department of Environment and Natural Resources, the Department of Justice, and the Director General of the Authority.
- c) For any period between the effectivity of this Act and the appointment of the Authority's first Director General or an Acting Director General, the Authority's interests shall be represented on the Transfers Working Group by the Project Management Office of the Land Administration and Management Project/Program.

SECTION 38. *Management of incumbent personnel.* – To minimize disruption of land administration services during the transition period the incumbent personnel of the Land Management Bureau (including regional land management services), Land Registration Authority (including the Register of Deeds) and the National Resource Information and Management Authority immediately prior to establishment of the Authority shall be identified and managed in accordance with the following procedures:

- a) The Transfers Working Group to be established pursuant to Section 37 herein shall identify and individually enumerate, within ninety (90) days of effectivity of this Act, all staff positions hitherto associated with functions to be transferred to the Authority pursuant to this Act and their incumbent personnel;
- b) All incumbent personnel shall continue to perform their present duties and functions as interim personnel of the Authority unless and until their services are no longer required by the Authority;

- c) Incumbent personnel shall, no later than the end of the transition period, be either formally appointed to positions within the new staffing pattern approved for the Authority or be deemed surplus to the staffing requirements of the Authority;
- d) Personnel who are not formally appointed to positions within the new staffing pattern approved for the Authority may be redeployed to positions within other Government agencies or may be allowed to retire or be deemed separated from government service under existing laws.

SECTION 39. *Transfer of unexpended appropriations, assets and liabilities.* –

- a) All unexpended appropriations, assets and liabilities hitherto assigned to or held by the Land Management Bureau (including regional land management services), the Land Registration Authority (including the Register of Deeds) and the National Mapping and Resource Information Authority, together with all records and all rights and obligations arising from contracts and agreements contracted or made by or on behalf of these agencies are hereby transferred to the Authority and may be used by the Authority in the performance of its functions.
- b) All contracts and agreements transferred to the Authority shall remain in full force and effect unless otherwise terminated, modified or amended by the Authority.
- c) In consequence of the transfers of functions from the Department of Environment and Natural Resources and the Department of Justice to the Authority there shall also be transferred to the Authority an appropriate share of funding hitherto provided for the Offices of the Secretaries of these Departments to oversee and manage administrative units within and attached to these Departments.
- d) The Transfers Working Group to be established pursuant to Section 37 herein shall, within ninety (90) days of effectivity of this Act, identify and as necessary value the specific appropriations, assets and liabilities, records, contracts and agreements to be transferred to the Authority pursuant to subsections (a), (b) and (c).

SECTION 40. *Preservation of Records.* –

- a) Pending a written notice of receipt issued by a duly authorized officer of the Authority it shall be the explicit duty of any and all government officers and employees responsible for, or in possession of, records relating to the affairs of the Land Management Bureau, the Land Registration Authority and the National Mapping and Resource Information Authority to protect and preserve such records intact.
- b) Without prejudice to any other penalties provided for by law, any person who fails to fulfill their duty pursuant to (a) shall be guilty of an offense against the provisions of this Act punishable by a fine of up to one

million (1,000,000) Pesos, or by a term of imprisonment not exceeding one (1) year, or by both.

CHAPTER X

MISCELLANEOUS

SECTION 41. *Accessibility and Transparency.* – Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, including payment of any prescribed access fees or charges, all official records, documents and papers pertaining to official acts, transactions or decisions of the Authority shall be made accessible to the public.

SECTION 42. *Separability Clause.* – In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

SECTION 43. *Repealing Clause.* – All other general and special laws, acts, decrees, executive orders, proclamations and administrative regulations, or any part thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 44. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

[Nth CONGRESS]
Nth Regular Session

HOUSE BILL NO. _____

INTRODUCED BY XXX

EXPLANATORY NOTE

Land is vital to peoples' sense of security and quest for a better quality of life. However, the security of peoples' land tenure can only be achieved through an efficient land administration system including efficient survey and mapping of land, first-time titling of alienable and disposable land, registration of land titles and title transfers, and land valuation.

The performance of government agencies in undertaking land surveys, mapping, classification, disposition, valuation and registration is currently hampered by fundamental legal and institutional defects in both the structure and operations of the land administration system, including:

- Multiple land administration agencies;
- Multiple land administration laws;
- Multiple land titling processes;
- Multiple forms of title certificates;
- Multiple steps for land transfers;
- Multiple standards for land valuation;
- Multiple taxes on land ownership and transfers;
- Multiple opportunities for graft and corruption.

These institutional and structural defects in land administration have given rise to major inefficiencies including extensive delays in the disposition and titling of alienable and disposable land, inaccurate and incomplete land records, duplicate and fake titles, duplication and overlap of activities between government agencies, and unnecessary costs to both the National Budget and to users of land administration services.

To address these problems the Government has been undertaking a Land Administration and Management Project preparatory to a long term program to fundamentally reform the present land administration system, thereby promoting economic growth and poverty alleviation in both rural and urban areas. The main aims of this project, and the long term program to follow it, are to:

- Accelerate and complete the titling and registration of alienable and disposable lands, thereby providing security of land tenure for all;
- Improve the efficiency, effectiveness, client focus, transparency and accountability of land administration services, including elimination of duplicate and fake titles,
- Establish One Stop Shops to provide accessible, efficient and affordable land administration services to the people;
- Reform and codify all land administration laws and regulations;
- Establish one valuation system for the purpose of all real property transactions; and
- Establish an effective land information system providing easy and cheap access by members of the public to land information.

There is widespread agreement that a fundamental prerequisite for the success of this long term program is the consolidation and streamlining within a single government agency of land administration powers and functions currently dispersed across the Land Registration Authority (LRA), an attached agency of the Department of Justice, and the Land Management Bureau (LMB) and National Mapping and Resource Information Authority (NAMRIA), a staff bureau and attached agency respectively of the Department of Environment and natural Resources.

Consolidation of the powers and functions of these agencies within a single land administration agency is essential in order to strengthen coordination of land administration policies, programs and services. The merging of the three agencies within a single agency will:

- Enable the integrated planning, budgeting and implementation of the long term land titling program, including the development of integrated land classification, land titling, records management and land information systems and services;
- Provide the necessary management structure for the creation and extension of a One Stop Shop network for the delivery of land titling, registration and information services to members of the public;
- Consolidate staffing patterns and training programs for government staff engaged in the provision of land administration services, thereby establishing the basis for the major training and professional development of staff needed to support the long term program and improve their career structures and opportunities;
- Create scope to achieve significant savings through the elimination over time of duplicated administrative support services and other costs arising from the current fragmentation of land administration services;
- Provide a single institutional focus, hitherto lacking, for leadership and management of the land administration reforms to be undertaken through the long term program.

The Philippines is unusual, compared to its neighboring countries, in currently dispersing land administration functions across multiple agencies. Without consolidation of the three existing agencies it would be difficult to justify the major

long term investment of resources that will be necessary to implement the overall reform program.

There are alternative ways in which the powers and functions of the LRA, LMB and NAMRIA could be consolidated within a single agency, including the option of co-locating the present agencies within one existing Department. Careful study and discussion of these options has concluded that by far the best approach is to consolidate the existing agencies within a newly-created Land Administration Authority established as a Government owned and controlled statutory corporation. This approach is best because, unlike other options, it provides the institutional and legal basis to:

- Enable senior management of the single agency to focus exclusively upon the leadership and management of reform and delivery of land administration services;
- Develop a strong culture within the agency of high-performance service to members of the public and commitment to meeting the needs of users of land administration services;
- Include representatives of users of land administration services in direction and oversight of the agency;
- Enable the agency to administer the land administration system professionally and impartially in accordance with the laws enacted by the Congress,
- Empower the agency to exercise modern management flexibilities, including staffing and budgeting flexibilities, subject to strong performance requirements and accountabilities;
- Permit a progressive evolution over time in the agency's structure and operating arrangements in the light of changing needs and the agency's performance.

While exercising powers characteristic of government corporate entities, the Land Administration Authority will have clear external accountabilities to both Congress and the Executive.

The proposed Land Administration Authority Act provides for the following.

Chapter I of the Act specifies the short title of the Act defines certain terms used in the Act and specifies the policies that will be developed and implemented by the Authority. The statement of policies reflects the reform objectives and policies summarized above.

Chapter II formally creates the Land Administration Authority as a Government owned and controlled corporation.

Chapter III specifies the mandate, functions and powers of the Authority; provides for a power of direction by the President in relation to the functions and management of the Authority; and specifies the conditions under which this Presidential power of direction may be exercised.

Chapter IV transfers all functions, duties and powers hitherto vested by law in the LRA, LMB and NAMRIA to the Authority. The overall aim is to ensure that these functions, duties and powers are fully and unambiguously consolidated by

their transfer to the new Authority, hence eliminating current overlaps and duplications. As a consequence of these transfers, Chapter IV also abolishes the LRA, LMB and NAMRIA and transfers responsibility for supervision of the Land Administration Project to the Authority.

In considering Chapters III and IV of the proposed Act it is to be emphasized that *this proposed Act simply consolidates the agencies and Offices empowered to administer the existing land administration laws – it makes no other changes to these laws.*

Chapter V provides for the Authority to be headed by a Director General, as its full time chief executive, and specifies the provisions relating to the appointment, duties and termination of any Director General. The Director General will be appointed by the President at Secretary level for a fixed term of office, subject to confirmation by the Commission of Appointments. He or she may be dismissed by the President in the circumstances defined by the Act, or by a joint resolution of Congress. An important aim of this Chapter of the Act is to ensure that the Authority's Director General has adequate powers to manage the affairs of the Authority efficiently and flexibly. These include powers to organize and re-organize the structures and operating procedures of the Authority in order to adapt them to changing needs and circumstances over time. The Act avoids specifying detailed structures and operating arrangements for the Authority since these can quickly become outmoded.

Chapter VI creates a Land Administration Advisory Board. An important objective in establishing the Authority is to increase the involvement of users of land administration services in shaping future policies and programs for land administration, and in monitoring and evaluation of service quality. The Act provides for the establishment and operations of the Board. This will be chaired by the Authority's Director General and comprise government and non-government representatives of users of the Authority's services. The Act specifies basic features of the Board but gives the Board itself the scope and flexibility to determine its detailed operations and procedures.

Chapter VII sets out basic financial and related provisions regulating the Authority's operations. As is the case for the present land administration agencies, the Authority's operations will be funded by a combination of annual appropriations by Congress and receipts from fees and charges. The Act requires that a formal agreement be entered between the Authority and the Department of Budget and Management in relation to the disposition of moneys raised through fees and charges. It is envisaged that the detailed budgeting and financial management procedures applicable to the Authority, notably the extent to which procedures applicable to government agencies generally shall be applied by the Authority, will be regulated by Executive Order issued under Section 9 of this Act and may change over time.

Chapter VIII establishes the basic framework for corporate planning and reporting by the Authority. The plans and annual reports required by Act provide the means for setting performance objectives for the Authority and assessing its performance against these objectives.

Chapter IX sets out the transitional provisions to apply in the twelve-month transition period immediately following the establishment of the Authority. It provides for the establishment of a Transfers Working Group to finalize details of transfers of existing staff, funds, and assets and liabilities to the Authority. The Act's provisions aim to avoid disruption of land administration functions following the abolition of existing agencies; to ensure a smooth transition to efficient and effective operations by the new Authority; and to protect the interests of government personnel hitherto employed by the LRA, LMB and NAMRIA.

Finally, Chapter X of the Act deals with miscellaneous matters including a provision for the Act's effectivity fifteen days after its publication in at least two newspapers of general circulation.

The proposed Land Administration Authority Act is designed to provide an efficient and durable institutional structure for land administration services. Its early enactment is vital to the future of land administration in the Philippines. I/we strongly commend the Bill for favorable consideration by the House.

[Signature(s)]

[The following detailed explanation of the proposed Act's provisions could be deleted from the Explanatory Note presented to Congress.]

DETAILED EXPLANATION OF THE PROPOSED ACT'S PROVISIONS

CHAPTER I GENERAL PROVISIONS

Chapter I of the Act specifies the short title of the Act defines certain terms used in the Act and specifies the policies that will be developed and implemented by the Authority.

SECTION 1. *Short Title.* – This Section specifies the title by which the Act to establish the Land Administration Authority should be known.

SECTION 2. *Declaration of State Policies.* – This Section summarizes the basic objective of the Nation's land administration services and the policies that the Government will implement to achieve this objective.

The policies specified by Section 2 have been developed through a series of policy studies undertaken in 2002 through the Land Administration and Management Project, a project funded by the Government of the Philippines, the World Bank and the Australian Agency for International Development. Each of the policy studies was overseen by a lead government agency and entailed wide consultation with relevant government agencies and the private sector. The Institutional Arrangements Policy Study was overseen by the Department of Budget and management as lead agency.

The findings and recommendations of the individual policy studies were drawn together in an Integration Report submitted to the Presidential Task Force for the Land Administration and Management Project in August 2002. Following endorsement by the Task Force, the policy directions identified by the Integration Report were the subject of further widespread consultation with representatives of civil society organizations. These policy directions, including the proposal to consolidate land administration functions within a new Land Administration Authority, have attracted widespread support from groups representing civil society and professions associated with land titling and development.

SECTION 3. *Definition of Terms.* – This Section defines a number of the terms used in following Sections of the proposed Act.

CHAPTER II CREATION OF THE LAND ADMINISTRATION AUTHORITY

Chapter II formally creates the Land Administration Authority.

SECTION 4. *Land Administration Authority.* – This Section creates a new Land Administration Authority as a Government owned and controlled corporation. The Section gives the President the power to attach the Authority to any Department or Office of the Government which, in the judgment of the President, is competent to oversee the operations of the Authority. This provision recognizes that it may be necessary or convenient from time to time to re-assign responsibility for overseeing the Authority from one Department or Office to another, and is consistent with the

President's continuing legal authority to re-organize the Executive Branch in the interests of efficiency.

SECTION 5. *Authority is a body corporate.* – Section 5 provides that the Authority shall have the status of a corporation with a distinctive legal identity separate from that of other government agencies. This approach is common in cases where functions of government are to be performed impartially in accordance with laws of the Congress without day-to-day government involvement in decision-making, and/or in cases where managerial flexibility is required to build a high performance, client-focused organization. The same approach has been taken by House Bill No. 5054 of 2002 for an Act to create an Internal Revenue Management Authority.

CHAPTER III *MANDATE, FUNCTIONS AND POWERS OF THE AUTHORITY*

Chapter III specifies the mandate, functions and powers of the Authority; provides for a power of direction by the President in relation to the functions and management of the Authority; and specifies the conditions under which this Presidential power of direction may be exercised.

SECTION 6. *Mandate of the Authority.* – This Section mandates the Authority to lead and manage implementation of State policies for land administration and to provide land administration services efficiently to meet user needs.

SECTION 7. *Functions.* – This Section specifies in detail the functions to be undertaken by the Authority. As noted previously, these functions are consistent with the provisions of the existing land administration laws, for example the Public Land Act and the Land Registration Act. The Land Administration Authority Act will not itself change the substantive provisions of existing land administration laws, merely consolidates the agencies and Offices responsible for administering them.

SECTION 8. *Powers* – This Section provides that the Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions. Without limiting the generality of this power, the Section identifies a number of specific powers including the power to: employ staff; establish offices and other places of work for the delivery of services; enter into contracts; and impose fees and charges for services. The Authority's power is expressed in wide terms in Section 8, but is subject to other Sections of the Act including Section 9 immediately following.

SECTION 9. *Undertaking of Authority functions and exercise of Authority powers subject to direction.* – This Section provides that, subject to conditions, the President may, by Executive Order, issue and revoke directions to the Authority relating to its functions, corporate planning, management, staffing, finances and reporting.

The Section aims to strike a balance between:

- The need, in the interests of efficiency and public accountability, for the Authority to have freedom to exercise the powers granted to it by this Act and, as a corollary, to be fully accountable for the results it achieves;
- The need for the Authority to exercise the powers provided to it by this and other Acts (e.g. the Public Land management Act) free of direction by the Executive in relation to matters that Congress has vested within the powers of the Authority (and its predecessors); and
- The need for the Executive to retain some reserve powers of direction over public organizations performing public functions and funded from general taxation.

Section 9(a) provides that the President may add to, but not subtract from, the functions of the Authority provided that any additional functions are required in order to achieve the State policies enumerated at Section 2. The effective prohibition on Executive Orders that would diminish the functions of the Authority as enacted by this Act of the Congress is designed to avoid any future retrograde splitting or dispersal by the Executive Branch of the functions that are deliberately being consolidated within a single agency by this Act.

Section 9(b) permits the President to direct, by Executive Order, that laws, rules and regulations applicable to public organizations generally shall also (or shall not) apply to the Authority. The intention is that an Executive Order will be issued concurrently with the effectivity of this Act to specify the civil service laws, rules and regulations that will (in addition to this Act) apply initially to the Authority, and that these laws, rules and regulations will subsequently be relaxed progressively over time as the Authority demonstrates its capacity to meet performance and accountability criteria. These criteria will be negotiated by the Authority with users of land administration services and the Department of Budget and Management.

Section 9(c) empowers the President to issue directions to the Authority requiring it to amend the Authority's corporate or annual operational plans (required by Sections 31 and 32) prior to their approval.

Section 9(d) effectively prohibits the issuance of Presidential directions to the Authority that are not authorized by the terms of Sections 9(a), (b) or (c). It aims to help ensure that statutory powers explicitly vested by Congress in the Authority, by this or any other Act, shall be exercised by the Authority professionally and impartially.

Section 9(e) provides that any Presidential direction to the Authority shall be reported and reproduced in the annual report of the Authority required by Section 33 of the Act. Section 33(b)(iii) further requires that the Authority's annual report shall include an assessment by the Authority of the impact of each direction issued to it during a year on the operations of the Authority. The main purpose of these provisions is to inform the Congress and users of land administration services of any Presidential directions issued to the Authority and the potential impact of such directions (which may be positive or negative) on the Authority's performance.

CHAPTER IV

TRANSFERS OF FUNCTIONS AND POWERS TO THE AUTHORITY

The Sections of this Chapter transfer to the Authority all functions, duties and powers relating to the Authority's land administration functions. The overall aim of these Sections is to ensure that these functions, duties and powers are fully and unambiguously consolidated by their transfer to a single Authority, hence eliminating current overlaps and duplication of powers and functions between the agencies hitherto involved.

SECTION 10. *Transfer of functions and powers to the Authority.* – Section 10(a) transfers to the Authority all functions, duties and powers hitherto vested under existing land administration laws in the Land Management Bureau, the Land Registration Authority and the National Mapping and Resources Information Authority. Section 10(b) transfers to the Authority all functions, duties and powers related to the functions of the Authority and hitherto vested under existing land administration laws in employees of the DENR and DOJ (including their Secretaries and employees of any agency within or attached to these Departments). Section 10(b) therefore transfers to the Authority powers relating to the functions of the Authority hitherto vested under existing land administration laws in the Secretaries of DENR and DOJ, but does not affect the other powers exercised by these Secretaries under other laws.

SECTION 11. *Abolition of existing agencies.* – This Section abolishes the Land Management Bureau, the Land Registration Authority and the National Mapping and Resource Information Authority. With the transfer to the Authority of all their powers, duties, functions and resources these agencies have no legal mandate or resources to continue operating. Nor is there any continuing reason for their existence. Transfers relating to the current staffing, funding and assets and liabilities of these agencies are dealt with under the transitional provisions of the Act at Chapter IX.

SECTION 12. *Transfer of PMO-LAMP.* – Consistent with the transfer of all other land administration functions, duties, powers and funding to the Authority, this Section transfers the Land Administration and Management Project (including its Project Management Office) from the DENR to the Authority.

CHAPTER V *OFFICE OF DIRECTOR GENERAL*

Chapter V of the Act provides for the Authority to be headed by a Director General, as its full-time chief executive, and specifies the provisions relating to the appointment, duties and termination of any Director General. An important aim of this Chapter of the Act is to ensure that a Director General of the Authority has adequate powers, now and in the future, to manage the affairs of the Authority efficiently and flexibly. These include powers to re-organize the structures and operating procedures of the Authority in order to adapt them to changing needs and circumstances over time. The Act avoids specifying detailed structures or other operating arrangements for the Authority since these can quickly become outmoded.

SECTION 13. *Creation of Office of Director General.* – This Section creates the Office of Director General and provides that a full-time occupant of the Office

shall head the Authority as its chief executive. The Director General is empowered by this Section to exercise all powers vested in the Authority by law.

SECTION 14. *Appointment.* – This Section provides for appointment of the Director General by the President at Secretary level, subject to confirmation by the Commission of Appointments. Section 14(b) specifies mandatory qualifications for appointments to the position including tertiary educational qualifications and at least ten year’s full-time experience in one or more senior management positions. These requirements are intended to ensure that only persons of demonstrated professional competence and experience are appointed to the position.

SECTION 15. *Terms of Appointment* – Section 15 states the terms applicable to any appointment to the Office of Director General. Sections 15(a) provides for fixed term appointments of not less than three and not more than five years. Section 15(b) permits re-appointment of a Director General for one further term (but no more) of up to five years. The aim of these provisions is to create scope for reasonable stability and continuity in appointments to the position of Director General while avoiding excessively lengthy occupancy of the position by any one individual.

SECTION 16. *Duties of the Director General.* – This Section empowers and requires the Director General to perform the duties enumerated. These include the duties to:

- Manage all functions and exercise all powers vested in the Authority;
- Determine the Authority’s organizational structure and staffing pattern;
- Establish Authority policies and procedures for performance-based management of Authority staff and for their continuing education and training;
- Establish and maintain amongst all employees of the Authority high ethical standards and high standards of service to the public.

These duties anticipate proactive and progressive leadership and management of the Authority by the Director General. They also provide a basis for assessing the performance of the Authority’s Director General.

SECTION 17. *Delegation of powers.* – This Section provides authority for the Director General to delegate any of the powers of his/her Office to persons occupying any other Office within the Authority, and specifies the conditions applicable to any delegation of powers. Section 17(e) provides that the Director General remains accountable for the way in which the powers of his/her Office are exercised, even if powers have been delegated to others. This is consistent with the general administrative principle that while responsibilities for the exercise of powers may be delegated, accountability for the use of such powers should continue to reside with the person/Office in whom the powers are principally vested.

SECTION 18. *Termination of Appointment.* – This Section deals with the conditions under which the appointment of a Director General may be terminated. It provides that an appointment may be terminated by:

- One month’s written notice by the Director General of his/her resignation;

- Dismissal by the President, but only on the grounds identified by Section 18(b);
- Dismissal for any reason at any time by a joint resolution of the Senate and House of Representatives approved by two thirds or more of their total membership voting concurrently.

The provisions of Section 18(b) limit the President's powers to dismiss the Director General to instances involving breaches of ethical standards, physical or mental incapacity, or fraudulent/illegal acts. These provisions aim to ensure that the Director General can perform the duties and exercise the powers of the position on a fully professional, impartial and apolitical basis without fear of arbitrary dismissal.

The provision of Section 18(c) for dismissal by joint resolution of the Senate and House of Representatives is intended as a 'last resort' power of dismissal for use in extreme circumstances that warrant the Director General's dismissal but are not contemplated by other provisions of the Act.

SECTION 19. *Temporary vacancies.* – This Section makes provision for the appointment by the President of an Acting Director General in the event that the position of Director General is temporarily vacant (for example, as a result of a Director General's leave of absence). The term of any such temporary appointment cannot exceed six months. Any person appointed Acting Director General must possess the same qualifications as those required of any person appointed Director General. A duly appointed Acting Director General has all the duties and powers of the Authority's substantive Director General.

CHAPTER VI

LAND ADMINISTRATION ADVISORY BOARD

An important objective in establishing the Authority is to increase the involvement of users of land administration services in shaping future policies and programs for land administration, and in monitoring and evaluation of the quality of these services. To this end, the Act makes provision for the establishment and operations of a Land Administration Advisory Board representing users of land administration services. The Act specifies basic features of the Board but gives the Board itself the scope and flexibility to determine its detailed processes and procedures.

SECTION 20. *Creation of Land Administration Advisory Board.* – This Section creates the Board.

SECTION 21. *Board functions.* – This Section defines the functions of the Board, namely to:

- Provide advice to the Authority on land administration policies;
- Provide advice to the Authority on implementation of Authority plans and programs including its delivery of services to other Government agencies and members of the public;
- Monitor the efficiency and effectiveness of the Authority.

SECTION 22. *Composition of the Board.* – This Section specifies the membership of the Board, which will be:

- The Director General of the Authority, as Chair of the Board;
- Representatives of five Government Departments, being the five most significant users of land administration services within the government sector;
- Not more than six representatives representing non-government stakeholders, including at least two representatives of organizations representing civil society.

In determining the size and membership of the Board there is a need to strike a balance between adequate representation of the various stakeholders and a manageable Board size. The Act seeks to achieve this balance by providing for a Board of up to twelve members in total. A Board size in excess of this total number would tend to constrain unduly the contributions that could be made by individual members at meetings of the Board.

SECTION 23. *Meetings of the Board.* – This Section provides that the Board will meet at least four times each calendar and for adequate notice of Board meetings. The Board could, if it chose, resolve to meet at more frequent intervals.

SECTION 24. *Remuneration of Board members.* – This Section provides that Board members may be reimbursed by the Authority for out-of-pocket expenses incurred by them as a consequence of Board membership (e.g. costs of their travel to and from Board meetings) but shall not receive any other payment or remuneration. This provision is consistent with the Board’s advisory nature and the fact that Board members will generally be undertaking membership functions as part of their other, ongoing, duties for which they are already remunerated.

SECTION 25. *Annual report of the Board.* – This Section provides for the preparation of an annual report by the Board on the performance of its functions. This report is to be distinct from that produced by the Authority itself pursuant to Section 33 of the Act, in order that Board members may report separately as users of the Authority’s services. The Board’s report is, however, to be included without amendment as an annexure to the Authority’s annual report (see Section 25(b)). Procedures for preparation of the Board’s annual report and its approval by the Board membership prior to publication have been left for determination by the Board itself.

CHAPTER VII *FINANCE*

Chapter VII sets out basic financial and related provisions regulating the Authority’s operations. As is the case for the present land administration agencies, the Authority’s operations will be funded by a combination of annual appropriations by Congress and receipts from fees and charges. The Act requires that a formal agreement be entered between the Authority and the Department of Budget and Management in relation to the disposition of moneys raised through fees and charges. It is envisaged that the detailed budgeting and financial management procedures applicable to the Authority, notably the extent to which procedures

applicable to government agencies generally shall be applied by the Authority, will be regulated by Executive Order issued under Section 9 of this Act and may change over time.

SECTION 26. *Money payable to and by the Authority.* – This Section provides for payment to the Authority of such money as is appropriated by the Congress for the purposes of the Authority. Section 26(c) provides that the President may direct payment of an amount held by the Authority to the Government. This is intended to provide scope for repayment to government of any surplus funds held by the Authority from time to time, and scope for possible payment to government of ‘dividends’ from any operating surplus earned in the longer term by the Authority.

SECTION 27. *Money received from fees and charges.* – This Section requires that a formal agreement be entered into between the Authority and the Department of Budget and Management in relation to the disposition of moneys raised by the Authority through fees and charges. It is envisaged that this agreement, which could be amended from time to time, would cover matters such as whether fees and charges are to be remitted to bank accounts held by the Treasury or held by the Authority as a separate corporate identity; and whether the Authority shall be permitted to retain some or all of its receipts from fees and charges for the purposes of the Authority.

SECTION 28. *Application of money.* – This Section makes it clear that money of the Authority shall only be used for the funding of its functions as specified by this Act.

SECTION 29. *Contracts.* – This Section provides that before the Authority enters any contract it must comply with the scrutiny and approval procedures applicable generally to government owned and controlled corporations. This would include scrutiny and approval procedures applicable to contracts involving the borrowing or lending of funds.

SECTION 30. *Liability to taxation* – While created as a statutory corporation, it is envisaged that the Authority will require continued annual appropriations of funds by the Congress for the foreseeable future. It is possible, however, that the Authority may evolve over time to become a self-funding agency in the long term. This Section provides that the Authority shall not, now or in the future, be subject to taxation. This does not, however, preclude possible payments by the Authority at some future time of amounts representing ‘tax equivalents’, using the mechanism created by Section 26(c) to direct such payments.

CHAPTER VIII *CORPORATE PLANNING AND ACCOUNTABILITY*

Chapter VIII of the Act establishes the basic framework for corporate planning and reporting by the Authority. The plans and annual reports required by Sections 31 to 33 of the Act provide the means for setting performance objectives for the Authority and assessing its performance against these objectives.

SECTION 31. *Corporate Plan.* – This Section requires the Authority to prepare and update annually a three-year corporate plan for the Authority, including the performance measures and targets the Authority will use to assess its efficiency and effectiveness.

Section 31(d) provides for annual circulation of the corporate plan to the President, the Land Administration Advisory Board, the Department of Budget and Management and the National Economic and development Authority.

Section 31(e) provides that each year's corporate plan shall be deemed to have been approved unless the President directs otherwise. In combination with the Presidential power of direction provided by Section 9, this provision provides a mechanism whereby the President may influence the strategies, policies and programs of the Authority.

SECTION 32. *Annual Operational Plan.* – This Section requires the Authority to prepare, concurrently with preparation and updating of its three-year corporate plan, an annual operational plan covering the earliest financial year to which the corporate plan relates. The annual operational plan is to contain estimates of planned receipts and expenditures for the relevant financial year together with planned outputs and resource inputs by Authority program. Section 32 is intended to provide the foundation for the preparation of annual program budgets as the Authority's key resource management tool.

Sections 32(c) and 32(d) provide for the same distribution and approval procedures for the annual operational plan as are required for the annual updating of the three-year corporate plan.

SECTION 33. *Annual Report.* – Section 33(a) requires the Director General to produce, no later than 30 April each year, an annual report on the operations of the Authority during the preceding financial year.

Section 33(b) prescribes that, at a minimum, each annual report shall include:

- An assessment of performance against targets set by the corporate plan and annual operational plan for the relevant financial year;
- A comparison of planned and realized receipts and expenditures for the relevant financial year, by program;
- Copies of all directions issued by the President to the Authority during the relevant financial year together with an assessment of the impact of each on the operations of the Authority; and
- The Authority's audited and signed financial statements for the relevant financial year.

The inclusion of copies of Presidential directions to the Authority in its annual report provides a mechanism whereby the Authority may report publicly on the impact of such directions on the Authority's capacity to achieve its performance objectives and targets efficiently and effectively. These impacts may be positive or negative.

Sections 25 and 33 require the annual report of the Land Administration Advisory

Board to be included without amendment as an annex to the Authority's annual report.

Section 33(c) provides that copies of the Authority's annual report shall be provided no later than 31 May each year to the Congress, the President, members of the Land Administration Advisory Board, the Department of Budget and Management and the National Economic and Development Authority. This provides the main means under the Act whereby information on the Authority's performance is to be provided for scrutiny by Congress and other stakeholders.

CHAPTER IX *TRANSITIONAL PROVISIONS*

This Chapter sets out the transitional provisions to apply in the twelve-month transition period immediately following the establishment of the Authority with a view to avoiding disruption of land administration functions following the abolition of existing agencies, to ensuring a smooth transition to efficient and effective operations by the new Authority, and to protecting the interests of government personnel hitherto employed by agencies abolished.

SECTION 34. *Implementing details.* – This Section introduces the Transitional Provisions of the Act by providing that the Authority will become operational by:

- the appointment of a Director General or Acting Director General within sixty days of effectivity of the Act;
- the organization and staffing of the Authority in accordance with Sections 35 and 36 of the Act; and
- the identification and transfer to the Authority of personnel, unexpended appropriations, assets and liabilities in accordance with Sections 37 to 40 of the Act.

SECTION 35. *Mandate to organize.* – Section 35 mandates the basis on which the Authority will be organized and staffed by the Director General.

Section 35(a) provides that, in the interests of organizing and staffing the Authority on the most efficient basis possible, the Director General shall not be constrained by the structures and patterns of the former agencies consolidated in the Authority. Rather, the Director General is mandated to design and implement a structure and staffing pattern that will permit the Authority to achieve the full benefits of consolidating land administration activities within the single Authority (including savings from the elimination of duplication and overlap in the activities of the agencies to be consolidated).

Section 35(b) sets a deadline of six months from effectivity of the Act for the approval by the Director General of the Authority's initial organization structure and staffing pattern, and a second deadline of a further six months for implementation and staffing of this initial organization structure and staffing pattern. The total period allowed for initial organization and staffing of the Authority, namely up to twelve months from effectivity of the Act, represents the Transition Period for the

effective consolidation of functions and activities previously undertaken by separate agencies.

Section 35(c) explicitly confirms the Director General's continuing authority to re-organize the Authority's organization structure and staffing pattern at any time in the future, as provided by Section 16 of the Act. This subsection is included so as to make clear that the initial organization structure and staffing pattern of the Authority can, and in all likelihood will, be changed in the future by the Director General in the light of changes in the operational requirements of the Authority over time. This flexibility is necessary to ensure that the Authority's organization and staffing can be adjusted quickly and smoothly to meet changes in the requirements for land administration services over time, for example changes over time in the location of first-time titling activities as the titling program is progressed.

SECTION 36. *Initial appointments of Authority staff.* – This Section provides that staff of the Authority will be appointed to positions in the Authority on their individual merits and fitness for the specific duties they are to perform. It also provides that applicants for appointment may be subject to lifestyle checks to ensure their suitability for appointment. These provisions reflect the intention that the Authority be staffed with persons possessing the professional skills appropriate to their duties and in accordance with high ethical standards.

SECTION 37. *Establishment of Transfers Working Group.* – This Section establishes a Transfers Working Group, chaired by the Department of Budget and Management and with other membership as stated, to identify the specific staff positions, unexpended appropriations, assets, liabilities, contracts and records to be transferred to the Authority in line with the functions being transferred to the Authority by the Act. Sections 38 and 39 set deadlines for completion of the Transfer Working Group's tasks.

SECTION 38. *Management of incumbent personnel.* – It is vital that, during the transition period in which the Authority becomes fully operational, land administration services continue to be provided with the least possible disruption, and that the interests of staff hitherto providing these services are protected. Section 38 addresses these requirements by providing that:

- all staff positions hitherto associated with functions transferred to the Authority will be individually identified by the Transfers Working Group within ninety days of effectivity of the Act;
- individual staff occupying these positions immediately prior to establishment of the Authority (“incumbent personnel”) shall continue to perform their present duties and functions unless and until their services are no longer required by the Authority;
- Incumbent personnel will be formally appointed to positions in the Authority, or be deemed surplus to the Authority's staffing requirements, no later than the end of the transition period (i.e. no later than twelve months after effectivity of the Act);
- Incumbent personnel deemed surplus to the Authority's requirements will be redeployed or retired from government service in accordance with existing laws.

SECTION 39. *Transfer of unexpended appropriations, assets and liabilities.* – This Section provides for transfer to the Authority of all unexpended appropriations, assets, liabilities, contractual rights and obligations, and records hitherto assigned to or held by the Land Management Bureau (including regional land management services), the Land Registration Authority (including the Register of Deeds), and the national Mapping and Resource Information Authority.

To date, significant funding has been provided to the Offices of the Secretaries, Departments of Environment and Natural Resource, and Justice respectively for the oversight of agencies within or attached to these Departments and for the performance of functions that will in future be undertaken by the Authority (e.g. final approval by the Secretary, DENR, of recommendations in relation to land classification). With the abolition of the LMB, LRA and NAMRIA and transfer of their functions and powers to the Authority, it is necessary that an appropriate share of funding hitherto provided to the Offices of the Secretaries also be transferred to the Authority. Section 39(c) provides that this shall take place. If such a transfer is not made, the Authority's Director General will be insufficiently resourced to perform the duties and functions hitherto undertaken by the Offices of the Secretaries of the two Departments in relation to land administration services or, alternatively, unnecessary additional expenditures will be incurred.

Section 39(d) provides that, within ninety days of effectivity of the Act, the Transfers Working Group will identify and as necessary value the specific amounts of unexpended appropriations, assets and liabilities to be transferred to the Authority pursuant to Section 39.

SECTION 40. *Preservation of records.* – It is vital that all existing land administration records be preserved and transferred to the Authority intact. Section 40 provides that persons currently in possession of any land administration records have a duty to protect and preserve them pending their physical transfer to the custody of the Authority, and provides for penalties in the event this duty is breached. Section 3 of the Act includes the definition of 'records' for the purposes of Section 40 and other Sections.

CHAPTER X *MISCELLANEOUS*

SECTION 41. *Accessibility and transparency.* – Consistent with the Government's intention that the Authority be responsive and accountable to users of land administration services, this Section provides members of the public with a right of access to the official records of the Authority (except insofar as such access is explicitly limited by law). The wording of Section 41 is similar to a provision contained in Section 45 of the Indigenous Peoples Rights Act of 1997.

SECTION 42. *Separability clause.* – This Section is the standard provision that if parts of the Act are declared unconstitutional then other provisions of the Act will not be affected as a consequence.

SECTION 43. *Repealing clause.* – This Section is the standard provision

that any laws or other issuances inconsistent with the provisions of this Act are repealed or modified accordingly.

SECTION 44. *Effectivity.* – This Section provides that the Act will take effect fifteen days after its publication in at least two newspapers of general circulation.

DRAFT BILL TO ESTABLISH A LAND ADMINISTRATION AUTHORITY: QUESTIONS AND ANSWERS

[Note: 'Policy' questions and answers only. Explanations of the detailed provisions of the draft Bill are provided in the accompanying draft Explanatory Note]

1. Why do we need to establish an LAA?

- The Government has undertaken a Land Administration and Management Project as preparation for a long-term program to fundamentally reform the present land administration system, thereby promoting economic growth and poverty alleviation in both urban and rural areas.
- The main aims of this program are to:
 - accelerate and complete the titling and registration of alienable and disposable lands, thereby providing security of land tenure for all;
 - improve the efficiency, effectiveness, client focus, transparency and accountability of land administration services, including elimination of duplicate and fake titles,
 - establish One Stop Shops to provide accessible, efficient and affordable land administration services to the people;
 - reform and codify all land administration laws and regulations;
 - establish one valuation system for the purpose of all real property transactions; and
 - establish an effective land information system providing access by members of the public to land information.
- There is widespread agreement, including amongst civil society organizations consulted, that a fundamental prerequisite for the success of this long-term program is the consolidation and streamlining within a single government agency of land administration powers, functions and resources currently dispersed across the Land Registration Authority (LRA), the Land Management Bureau (LMB) and the National Mapping and Resource Information Authority (NAMRIA).
- Successive policy studies over a number of years, most recently in 2002, have recommended this obvious administrative step and there is almost unanimous agreement in principle that it should happen, including amongst staff of the affected government agencies.

2. How will creation of the LAA improve land administration services?

- By providing a single institutional focus, hitherto lacking, for leadership and management of the land administration reforms to be undertaken through the long term land administration program.
- By enabling the integrated planning, budgeting and implementation of the long term land titling program, including the

development of integrated land classification, land titling, records management and land information systems and services;

- By providing the necessary management structure for the creation and extension of a One Stop Shop network for the delivery of land titling, registration and information services to members of the public;
- By consolidating staffing patterns and training programs for government staff engaged in the provision of land administration services, thereby establishing the basis for the major training and professional development of staff needed to support the long term program and improve their career structures and opportunities;
- By creating scope to achieve significant savings and faster decision-making through the elimination over time of unnecessary layers of management, duplicated administrative support services and other costs arising from the current fragmentation of land administration services.

3. Which member of Cabinet will supervise the operations of the LAA?

- Section 4 of the Bill provides that the President will determine this and may assign the Authority to any Department or Office which is competent to provide broad policy oversight of the Authority.
- This approach recognizes that it may be sensible to re-assign responsibility for overseeing the Authority from time to time. For example, it may be decided that during its establishment phase the new Authority should come under the direct oversight of the Office of the President, but that when it is fully operational the responsibility should transfer to another Cabinet member.
- This approach is fully consistent with the President's continuing legal authority to transfer responsibility for the supervision of agencies, activities and functions to and from the Office of the President, as provided for by the Administrative Code 1987.

4. What will happen to the functions of LMB, LRA, NAMRIA that have nothing to do with land administration?

[Note: the response to this question depends on final decisions in relation to, in particular, the future assignment of public land management functions (i.e. whether or not these are to be transferred to the new Authority. The following answer assumes all LMB, LRA, NAMRIA functions transfer to the Authority.]

- Virtually all functions of the LMB and LRA relate directly to the survey, first-time titling and registration of lands. Accordingly, the Bill transfers all functions of these agencies to the Authority.
- In the case of NAMRIA, some of its functions – for example, the survey and mapping of coastal waters and marine reserves – may at first sight appear to have nothing to do with land administration. However:

- many of the skills, procedures and technologies applicable to these 'other' functions are the same or very similar to those used for land survey and mapping – it would be inefficient to split-up these resources;
 - the geodetic control points and topographic mapping activities of NAMRIA form the foundation for all other land-related data including cadastral land information. Since the Authority is to be mandated as the central government agency for production of, and access to, land information it makes sense to merge all NAMRIA functions within the Authority;
 - There are ample overseas precedents for co-locating within a single agency the functions NAMRIA undertakes with those LMB and LRA.
- For these reasons, the Bill also provides for the transfer of all NAMRIA functions to the new Authority.

5. What will happen to the existing staff of the LMB, LRA and NAMRIA?

- This is dealt with by Section 38 of the Bill – 'Management of incumbent personnel'
- Existing staff will continue to perform their current duties for up to one year following establishment of the Authority. During this period they must be formally appointed to positions in the Authority or be deemed surplus to the Authority's requirements.
- While the Authority will undoubtedly wish to establish an efficient organization structure, and this may require some re-allocation of staff to new duties, the expectation is that few if any existing staff will become surplus. The adoption of an expanded and accelerated land-titling program is expected to create new employment opportunities within the Authority for staff who might otherwise be affected.
- More generally, existing staff will benefit from their re-location to an Authority clearly focused on land administration activities, providing better career paths and training for staff engaged in these activities.
- However, in the event that any staff should become surplus to the Authority's requirements, the Bill provides that they will receive all the protections and benefits provided by existing laws in relation to their redeployment or retirement from government service.

6. Won't the creation of an LAA simply add to the bureaucracy and number of government agencies already existing?

- No. The Bill provides explicitly at Section 11 for the abolition of the LMB, LRA and NAMRIA. We are creating one new Authority and abolishing three existing agencies.
- By amalgamating the three agencies it will be possible to eliminate unnecessary management overheads and duplication of activities

across the existing agencies – consistent with the Government’s objectives for streamlining the bureaucracy.

7. Why create the LAA as a Government Owned Corporation?

- Because this is the best option for merging the functions within a single agency if we are to achieve an efficient, service-oriented land administration service.
- Creation of the LAA as a Government Owned Corporation will:
 - enable the agency to administer the land administration system professionally and impartially in accordance with the laws enacted by the Congress;
 - empower the agency to exercise modern management flexibilities, including staffing and budgeting flexibilities, subject to strong performance requirements and accountabilities;
 - facilitate the inclusion of representatives of users of land administration services in the formal management structure of the agency;
 - permit a progressive evolution over time in the agency’s structure and funding arrangements in the light of changing needs and the agency’s performance.
- These advantages cannot be achieved, or can only be achieved with great difficulty, if the functions were to be merged within a Departmental structure.

8. Will the LAA be self-funding like other Government Owned and Controlled Corporations?

- The LAA clearly has potential to be a self-funding agency. Total receipts from fees and charges of the LRA, LMB and NAMRIA are already about equal to the total expenses of these three agencies and there is ample scope to extend user charges for some services.
- The extent to which the agency should be fully-funded from its fees and charges is, however, a matter for policy decision that will be negotiated further and may change over time. It is arguable that some activities, for example the establishment of geodetic control points for mapping purposes, are a ‘public good’/public service that should continue to be funded by appropriations from the Budget.
- Initially, most fees and charges raised by the existing agencies will continue to be paid direct to the Treasury while their expenses will continue to be met by annual appropriations in the Budget.
- In the future, as more commercial and modern financial management and accounting systems are put in place, it is intended that the LAA will bank its receipts and meet its expenses through its own accounts.
- It should be noted that while Government Owned and Controlled Corporations are normally expected to be ‘self-funding’ - several in fact receive support from the Budget in one form or another.

- There is nothing ‘wrong’ about funding some activities of GOCCs from Budget appropriations if the activities in question should, in the public interest, be funded from general taxation rather than through charges on individual users.

9. Why doesn’t the draft Bill define the structure of the LAA?

- Because the most efficient structure for the LAA will change over time and it makes no sense to require an amendment of the Act every time some change in organization structure is needed.
- For example, the number and location of the LAA’s regional service centers will change over time as the land titling program expands and is subsequently completed in different locations. It makes no sense to ‘set in concrete’ the number of such service centers by prescribing it in an Act.
- The Bill defines the position of LAA Director General and the structure of the LAA Advisory Board. It will be the role and duty of the Director General in particular to determine the most appropriate and efficient way of organizing the Authority’s resources to meet its performance targets, and to re-organize over time as necessary.
- The Director General cannot be held fully accountable for LAA performance if he/she does not have the ability to exercise this most basic of management functions.

10. Will the LAA be free to run its operations in any way it likes, like a private company?

- No. While the LAA will have more management flexibility than a normal Department it will be discharging public sector powers and functions and must have regard to public policies and accountabilities in doing so.
- Section 9 of the Bill clearly provides for a continuing power of direction by the President over the affairs of the Authority while other Sections of the Bill (e.g. Section 29 relating to Contracts) provide that government procedures applicable to government entities generally shall also apply to the LAA.
- The provisions of the Bill have been drafted to strike a balance between the needs for management flexibility and impartiality in administering the laws, on the one hand, and the needs for continuing public accountability and direction in the public interest on the other.

11. Why not establish the LAA as part of a comprehensive Bill to reform all aspects of land administration?

- A distinction needs to be drawn between the laws determining the fundamental features of the land administration system in the Philippines (e.g. how titles in land shall be established, registered

and transferred) and laws determining how this system is to be administered.

- Reform of the laws determining the fundamental features of the land administration system is being initiated, but will be a complex and lengthy process.
- By creating a single Authority with a clear mandate to promote and implement reform of the substantive land administration laws, there is a far higher likelihood that reform of the legal system will proceed in a timely manner, unencumbered by the vested interests of existing agencies in their own self-preservation.
- The Bill establishing the Authority does so in such a way that the Authority is empowered to administer the substantive laws regulating the system as they currently exist or as they may be reformed in the future. There is no need or good reason to defer improvements in the administration of the system, through establishment of the Authority, until the longer process of reforming the substantive land administration laws has been completed.

12. How does this Bill relate to the proposed Land Use Planning Act?

- The proposed Land Use Planning Act establishes new procedures for land use planning decision-making, including requirements that a number of government agencies including LMB, NAMRIA and others undertake additional work in various areas.
- This has no direct implications for the Bill to establish the LAA or vice versa. Through Section 7 of the Bill, anything that is currently required of LMB, LRA and/or NAMRIA as a result of the Land Use Planning Act will simply become a matter that in future will be required of the Land Administration Authority.

13. How does this Bill relate to the proposed amendments to the Public Land Act?

- Directly, because the proposed amendments to the Public Land Act assume continuation of the Land Management Bureau as an agency and its conversion from a staff bureau to a line bureau, whereas the Bill would abolish the LMB and transfer its functions to the new Authority.
- Indirectly, because the proposed amendments to the Public Land Act represent a continuation of piecemeal amendments and 'tinkering' with the land administration laws, rather than the fundamental reform that the Bill mandates the Authority to implement.
- The proposed amendments to the Public Land Act should be withdrawn. The changes hitherto proposed to the Public Land Act will be considered as part of a comprehensive redrafting and consolidation of the land administration laws as a whole.

14. Why not include DAR/NCIP/other agencies with land administration functions as part of the LAA?

- There is a good case, in principle, to consider widening the mandate and functions of the proposed Authority to encompass land administration functions currently allocated to DAR and NCIP – for example the survey activities DAR and NCIP are empowered to undertake in connection with their land redistribution and ancestral domain activities respectively.
- In practice, the judgment has been reached that such a step would unduly complicate establishment of the new Authority. The merging of three agencies within the new Authority (LMB, LRA, NAMRIA) will be a complex undertaking as it is, without adding parts of two further agencies to the ‘mix’, especially DAR and NCIP which have been given clear and politically sensitive mandates to discharge.
- However, some potential for duplication and overlap of activities will clearly remain by not transferring relevant DAR/NCIP activities to the Authority. It is intended that the Authority develop stronger cooperation and coordination arrangements with DAR/NCIP – and other agencies with a stake in land administration – including through DAR and NCIP representation on the Authority’s Advisory Board.
- It may well be appropriate to re-visit this issue in three to five year’s time, when the Authority has fully established itself and proved its ability to perform effectively.

15. Why is this Bill a priority for early passage through Congress – surely this administrative matter is not amongst the President’s top priorities for the nation?

- Reform of the land administration system as a whole is not an ‘administrative’ matter – an efficient land titling and registration system is an essential prerequisite for faster economic growth and poverty reduction, which are the Executive’s highest priorities.
- The creation of the Authority will not, by itself, achieve these ultimate goals. However, the history of land administration in this country and all the current evidence indicates that unless the present institutional arrangements are reformed as proposed by the Bill, there is no prospect whatsoever of progressing reforms of the land administration system as a whole.
- And why not make it a priority? – The Bill’s proposals implement a blindingly obvious administrative solution to a long-standing problem, and will yield substantial efficiency gains. There is no good reason for not enacting it at the earliest possible opportunity.

[Prepared: December 2002]

Informal Note:

For : John Mellors
 Subject : Proposed LAA Bill (Detailed Explanation of the Provisions)
 From : Josefina U. Esguerra
 Date : December 13, 2002

Comments and suggestions on Working Draft of November 2002:

Section	Remarks	JM Response
General	<p>Some guidance is needed from policy-makers on the overall format of the proposed bill. Ideally, the bill should be kept lean and succinct focusing on establishing basic roles and responsibilities.</p> <p>The Act needs to avoid prescribing and describing preferred approaches for carrying out the provisions as these are best left for the Implementing Rules and Regulations (IRR) which may be amended without having to seek another act from Congress. I suggest that we try to level off with policy makers regarding this.</p>	<p>The draft Bill adopts the general style and extent of detail observed in other Bills/Acts relating to the establishment of agencies, for example the recent Bill to establish an Internal Revenue Management Authority. There is relatively little prescription in relation to <i>how</i> the LAA should carry out its mandate, powers and functions. Agreed, however, that the style and content of the Bill is ultimately a matter for policy makers.</p>
Ch.1 Sec. 2 - Declaration of State Policy	<p>Not all the policy studies are directly relevant to the creation of the LAA. I suggest that instead of listing all the strategic directions of the Integration Report, we limit the policy statements to the intentions of the proposed institutional arrangements from the IAPS. You might want to allow the drafting party for the Land Code to cite the other policy statements.</p>	<p>Section 2 needs to be read in conjunction with Sections 6 and 7, which cross-reference back to Section 2. Sections 6 and 7, inter alia, mandate the LAA to lead implementation of <i>all</i> State policies for land administration reform (as derived from the Integration Report). This is intentional and desirable.</p>
Ch 1, Sec. 4 - Land Administration Authority	<p>The Congress may want to specify the mother agency for the LAA rather than give the President the power to decide on this. Shall we not go for the independent agency to be headed by a Cabinet-level official as recommended by those we consulted in the LRA,</p>	<p>It may, but the Bill presented to Congress should start with the Executive's preferred position which should be, in my view, to leave this matter for decision by the President. Section 14 of the Bill</p>

	LMB (?), NAMRIA, and Deputy Executive Secretary Tale (and citing perhaps practice in other countries similarly situated as the Philippines)? This would be more consistent with Section 5 as drafted.	provides that the Director General shall be appointed at Secretary level. Whether he/she is in Cabinet is a matter for the President to determine, not Congress.
Ch III, Sec. 7 - Functions	We might need to cite which particular provisions in the Public Land Act and the Land Registration Act define institutional arrangements that are not going to be consistent with this Bill. The intention is to separate all provisions on institutional arrangements draft Land Code. However, if the drafting of the Land Code will use as starting point the two existing laws, then it might lead lawmakers into touching on institutional arrangements. I suggest that we anticipate this by citing which provisions of the existing laws should not be considered in the drafting of the Land Code because they are covered by the LAA Act.	This is not necessary. The existing land administration laws vest powers and functions in specific ‘offices’ (e.g. the Secretary of DENR) or agencies (e.g. the Register of Deeds). The effect of Section 10 is to transfer <i>all</i> these vested responsibilities from these offices/agencies to the LAA from the date of the Act’s effectivity without otherwise changing the existing land administration laws. When the existing laws are re-written/codified, specific references to the LAA can be inserted at that time.
Ch III, Sec. 9 – Undertaking of Authority Functions...	These are provisions that are to be spelled out in the IRR and not necessarily to be issued as an EO by the President. The Act needs to say who has the authority and responsibility for formulating and amending if necessary the IRR, subject to approval by the President.	Matter for further consideration and advice, based on whatever is the normal and appropriate form and procedure for the issue of formal directions to government agencies.
Ch IV Sec. 12 – Transfer of PMO-LAMP	Creation of the PMO LAMP took place through an act of the President. Hence no need for an act of Congress to amend the issuance of the President. I suggest that this provision be omitted.	Inclusion of Section 12 would put the matter beyond dispute/doubt, but I have no strong views on this either way.
Ch VI – Land Administration Advisory Board	The LAA will be accountable to the public through its direct accountability to the President. To whom is the Board accountable to? Since they	Reflecting discussion to date, the Board has been created as a purely <i>advisory</i> body (as distinct from a Board exercising

	<p>represent sectors that use the services of the LAA, in what way shall they to report back to them? Are they to come from formal organizations representing their constituents? Are they to be nominated or elected by their constituents, e.g. NAPC basic sector representatives and NCIP? Are they going to be ex-officio representatives of sectoral bodies, e.g. incumbent president of the League of Municipalities or the Union of Leagues (ULAP) or simply the Secretary of DILG representing the local governments?</p>	<p>management powers/functions). As such, it is merely ‘accountable’ for the advice it gives, which may or may not be taken. If that advice is of consistently poor quality, Board membership can be changed. I agree, however, that if the Board were to be assigned a management role then accountability issues would need to be addressed in the Act. The actual status of Board members is as stated in Section 22. As drafted, <i>how</i> Board members are nominated is deliberately left up to the nominating bodies, as is how Board members relate to their nominating bodies.</p>
Ch VI, Sec 24 – Remuneration of Board members	<p>It is common practice to grant members of advisory boards or governing boards some remuneration which varies from basic allowances or an honorarium for serving the Board.</p>	<p>The Act should reflect whatever is the Government’s general policy on this issue. Personally, I would consider it bizarre if public servants (say), nominated to Boards because of the jobs they are paid to do, then received additional remuneration (as distinct from expenses reimbursement) as a Board member.</p>
Ch VII - Finance	<p>The Bill needs to state the power of the agency to charge the public for products and services it renders to them, subject to review and approval by another body, usually the Department of Finance. Mechanics for channeling revenues to a separate corporate account and mechanics for the allocation of subsidies from national government may need to be in the IRR.</p>	<p>It does – see Section 8(h) – although without making this subject to approval by Finance. Why should Finance have any role in the matter?</p> <p>Agree that the detailed financial/accounting arrangements are a matter for the IRR.</p>
Application of the Corporation Code	<p>The Bill needs to specify to whom the LAA will be</p>	<p>Acts/Bills dealing with other agencies do not do this.</p>

<p>of the Philippines</p>	<p>accountable for in terms of its financial performance. Ms. Orbeta mentioned that the Corporation Code of the Philippines is the overall legal framework for establishing the financial accountability of any government corporation. Perhaps it should be specified that the Department of Finance exercises overall supervision over the LAA's financial management. Maybe we will get more information from the DOF Corporate Affairs Group next week about this.</p>	<p>Budget-funded agencies (as the LAA will be, at least initially) are ultimately accountable to the Congress, through the Executive, for their expenditure of public money. That expenditure is regulated by general rules/procedures including those set by DBM. The Corporate Code of the Philippines is surely only relevant to self-financing corporations (whether publicly or privately owned) established under the Corporations Law. The LAA is not being established in this way.</p>
<p>Ch VIII – Corporate Planning and Accountability</p>	<p>Perhaps the appropriate government structure to oversee this would be the Corporate Affairs Group of the DOF. The CAG reports the result of its review work on all government corporations to the Government Corporate Monitoring Coordinating Council (GCMCC). We will get more information from DOF about this.</p>	<p>This may well be one appropriate method for internal (to the Government) monitoring of the LAA's financial performance. However, as a matter internal to the Government it does not need to be specified in the Act.</p>
<p>Ch IX – Transitional Provisions</p>	<p>Looks quite detailed. Perhaps some of the provisions can be transferred to the IRR? DBM inputs would be useful for this portion.</p>	<p>Agree. Section is broadly similar to the transitional provisions for creation of the IRMA but extent of detail is open to amendment.</p>

DRAFT EXECUTIVE ORDERS TO STRENGTHEN INSTITUTIONAL ARRANGMENTS PENDING ESTABLISHMENT OF THE LAA: BACKGROUND NOTE

At its meeting of 16 August 2002, chaired by Executive Secretary Romulo, the LAMP Task Force agree, *inter alia*, that a single land administrative authority should be created by Executive Order.

In subsequent discussions amongst senior officials, including officials of the Office of the President (OP), a consensus emerged that establishment of the land administration authority (LAA) by Executive Order is not, in fact, a practicable option. A draft Executive Order seeking to do this (not included in this compilation) was therefore set aside.

At a meeting on 4 November 2002 between the LAMP Project Management Office, Secretary Jimenez and the Task Force Chair it was agreed that the PMO should prepare draft legislation to establish the LAA and prepare also a draft Executive Order to strengthen institutional arrangements pending passage of such legislation. It was agreed that the draft Executive Order should designate a 'Land Administration Reform Coordinator' to supervise and coordinate the activities of the Land Management Bureau (LMB), the Land Registration Authority (LRA) and the National Mapping and Resource information Authority (NAMRIA). A draft Executive Order giving effect to this decision was prepared by 8 November 2002 and is the first of the two draft Executive Orders included in this compilation.

In the same week, an informal working group convened by the Department of Budget and Management and attended by Undersecretary Tale of the OP, amongst others, expressed support for this 'twin track' approach of draft legislation accompanied by an interim Executive Order.

The draft Executive Order of 8 November 2002 was tabled for discussion at a meeting of the LAMP Task Force on 25 November. Doubts were expressed at that meeting as to whether the position of Land Administration Reform Coordinator could be created by Executive Order. In fact, however, the Executive Order merely assigned a set of new duties to the existing position of Executive Secretary. In any event, the Task Force meeting decided that the Executive Order should, instead, transfer the functions of the LMB, LRA and NAMRIA to the OP, relying on the President's continuing authority to reorganize the OP.

A further draft Executive Order was prepared by 27 November to give effect to the Task Force decision, and this was subsequently transmitted by the PMO to the Office of Legal Counsel to the President for consideration. This is the second draft Executive Order included in this compilation. At a meeting on 16 December 2002, Undersecretary Gaité of the OP legal office expressed an informal view that this second draft Executive Order is within the legal authority of the President to issue.

As at 20 December 2002, it appears that the Chief Legal Counsel to the President intends to discuss the latest draft Executive Order with the Task Force Chair.

MALACANANG

Manila

EXECUTIVE ORDER NO. _____

SETTING POLICY DIRECTIONS FOR LONG-TERM REFORM OF LAND ADMINISTRATION AND COORDINATING FUNCTIONS OF GOVERNMENT RELATED TO LAND SURVEY, NATIONAL MAPPING, LAND CLASSIFICATION, LAND DISPOSITION AND LAND REGISTRATION.

WHEREAS, land is vital to our people's quest for survival and a better quality of life.

WHEREAS, the performance by government agencies of the land administration functions of survey, mapping, classification, disposition, valuation and registration of land is currently hampered by fundamental legal and institutional defects in both the structure and operations of the land administration system.

WHEREAS, these defects have given rise to major inefficiencies in land administration, including extensive delays in the disposition and titling of alienable and disposable land, inaccurate and incomplete land records, duplicate and fake titles, duplication and overlap of activities between government agencies, and unnecessary costs to users of land administration services.

WHEREAS, to address these problems the Government is currently undertaking the Land Administration and Management Project (LAMP) preparatory to a proposed long term program to fundamentally reform the present land administration system and thereby promote economic growth and poverty alleviation in both rural and urban areas.

WHEREAS, a key element of long term reform must be the consolidation and streamlining within a single government agency of land administration powers and functions currently dispersed across the Land Registration Authority (LRA), an attached agency of the Department of Justice, and the Land Management Bureau (LMB) and National Mapping and Resource Information Authority (NAMRIA), staff bureau and attached agency respectively of the Department of Environment and Natural Resources.

WHEREAS, it is the Government's intention to prepare and introduce to the Congress at the earliest opportunity a Bill for an Act to consolidate the powers and functions of these agencies within a new land administration authority.

WHEREAS, pending enactment of such legislation, it is vital that interim steps be taken to strengthen coordination of land administration policies, programs and services, including through the establishment of effective One Stop Shops for the delivery of land administration services to members of the public.

WHEREAS, the President of the Philippine is authorized under existing laws to reorganize the Government or any of its branches and instrumentalities to make it more efficient, effective, economical, and more responsive to the needs of our fast growing population.

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, PRESIDENT OF THE PHILIPPINES, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Declaration of Policy. - The Government's policy is to fundamentally reform the Nation's land administration services for the mapping, survey, classification, disposition, valuation and registration of lands in order to

optimize their utilization and contribution to the goals of national economy and social justice.

To implement this policy the Government shall:

- a) Embark on a ten-year program to accelerate the titling and registration of alienable and disposable lands under the Torrens System of land registration.
- b) Provide leadership and management of reforms of land administration.
- c) Remove overlap and duplication in delivery of land administration services.
- d) Improve efficiency, responsiveness, transparency, effectiveness and accountability of land administration services.
- e) Establish One Stop Shops to provide accessible, efficient and affordable land administration services to the people.
- f) Establish an effective land information system.
- g) Abolish judicial registration of title in favor of more simple administrative processes.
- h) Consolidate, revise as necessary and update all land administration laws and regulations.
- i) Rationalize and clarify the entitlements of persons to obtain land titles with the intention of making first time title issuance both fast and low cost.
- j) Establish one valuation system for the purpose of all real property taxation.
- k) Reduce disincentives to the registration of property transactions.
- l) Implement such other policy directions as may be necessary to achieve the Government's policy.

SECTION 2. Creation of position of Land Administration Reform Coordinator. - To expedite implementation of the policy directions set forth in Section 1 hereof, there is hereby created the position of Land Administration Reform Coordinator to provide

leadership for and management of the proposed reforms within the framework of existing laws, rules and regulations. The mandate, functions and powers of this position shall be undertaken and discharged by a member of the Cabinet as part of their ongoing duties.

SECTION 3. Appointment of Land Administration Reform Coordinator. - The Executive Secretary is hereby designated to undertake the mandate, functions and powers of the Land Administration Reform Coordinator. The President may in the future, by any administrative issuance, re-assign the functions and powers of the Land Administration Reform Coordinator to any other member of the Cabinet.

SECTION 4. Mandate of the Land Administration Reform Coordinator. - The Land Administration Reform Coordinator shall direct, coordinate and oversee the expeditious implementation of the policy at Section 1 hereof, including but not limited to implementation of the policy directions enumerated at Section 1, sub-sections (a) to (l), pending establishment by legislation of a single land administration authority.

SECTION 5. Functions of the Land Administration Reform Coordinator. - The Land Administration Reform Coordinator is hereby directed and authorized to undertake, subject to existing laws, rules and regulations, the following functions in fulfilling his mandate:

- (a) Direct, coordinate and oversee the preparation and implementation of performance targets, work programs and associated resource budgets for the accelerated first-time titling of alienable and disposable land being undertaken by the Land Administration and Management (LAM) Project and the succeeding LAM Program, including coordination of performance targets, work programs and

resource budgets for activities of the LMB, LRA and NAMRIA related to land administration.

- (b) Commission reviews of land administration and related services, including extension and support services related to land titling, with a view to improving the efficiency and expediting the delivery of these services.
- (c) Pending the establishment by legislation of a single land administration authority, direct, coordinate and oversee the preparation and implementation through the LAM Project and Program of a forward program for the extension to Provinces and Cities of One Stop Shops for future delivery of land administration services to members of the public.
- (d) Develop and direct implementation of standards and guidelines for the operations of One Stop Shops for land administration services.
- (e) Mediate and, as necessary, compulsorily arbitrate inter-agency disagreements and disputes hampering the efficient and coordinated delivery of land administration services, including but not limited to disagreements and disputes relating to the establishment and operations of the One Stop Shops.
- (f) Direct, coordinate and oversee the development and implementation of draft legislation, rules, regulations, operating structures, methods and procedures as necessary and appropriate to expedite implementation of the policy directions enumerated at Section 1 hereof.
- (g) Direct, coordinate and oversee the preparation of an organizational structure and comprehensive Transition Plan paving the way for a smooth and effective commencement of operations by the single land administration authority to be established by legislation.
- (h) Coordinate inputs by the Government of the Philippines to the design of future programs related to the reform of land administration laws and institutions and/or to the future delivery of land administration services, including sourcing of funding from donor institutions.

- (i) Present a formal written report to the Cabinet at intervals of not more than six months outlining progress and achievements in implementation of the policy directions at Section 1 hereof.

SECTION 6. Powers of the Land Administration Reform Coordinator. - Subject to existing laws, rules and regulations the Land Administration Reform Coordinator is hereby authorized to do all things necessary and convenient to be done for, or in connection with, the discharge of his mandate and functions, including but not limited to:

- (a) To establish, set terms of reference for, appoint membership of and set reporting deadlines for working groups to progress implementation of the Government's policy directions enumerated at Section 1 hereof.
- (b) To require the preparation and submission of progress reports in relation to any activity associated, directly or indirectly, with the implementation of the Government's policy directions enumerated at Section 1 hereof.
- (c) To have access to copies of reports, briefing papers and other records held by government agencies in relation to land administration functions and services.
- (d) In consultation with the Secretary, Department of Budget and Management, and within the overall budget funding to be proposed to the Congress for the funding of programs administered by the Department of Environment and Natural Resources and the Department of Justice (including their attached agencies), to issue directions concerning the proposed allocation of funds to and between the land administration programs and services currently administered by DENR, DOJ and their attached agencies.
- (e) To employ staff and consultants as strictly necessary.

In discharging these powers the Land Administration Reform Coordinator shall consult with the Secretaries of the Departments

of Environment and Natural Resources, Justice and Budget and Management, and with the Presidential Task Force on the LAMP, as he judges appropriate.

SECTION 7. Delegation of functions and powers. - The Land Administration Reform Coordinator may delegate any or all of his powers and functions under Sections 5 and 6 hereof to the Chair of the Presidential LAMP Task Force created under Executive Order No. 82 dated March 2002, or to any other person holding public office at Secretary level.

SECTION 8. Support services. - The Project Management Office of the Land Administration and Management Project and its succeeding Project/Program shall provide advisory and administrative support services to the Land Administration Reform Coordinator for the undertaking and exercise of his functions and powers under Sections 5 and 6 hereof.

SECTION 9. Legislation to establish a single land administration authority. - Pursuant to the policy directions enumerated by Section 1 hereof and to the Government's policy of streamlining the bureaucracy, the Project Management Office of the Land Administration and Management Program (PMO - LAMP) shall prepare a draft Bill for an Act to consolidate the functions, powers and services of the LRA, LMB (including the regional land services of DENR) and NAMRIA within a new, autonomous Land Administration Authority. The draft Bill shall be submitted no later than 31 December 2002 to the Land Administration Reform Coordinator with a view to its early consideration by organizations representing civil society and the Government, and its introduction to the Congress no later than 31 March 2003. The Department of Budget and Management shall convene an advisory group to provide guidance and technical assistance as necessary in the drafting of the Bill.

SECTION 10. Reform of land administration laws. -

Pursuant to the policy directions at subsections (g) to (i) inclusive of Section 1 hereof, the PMO - LAMP shall convene and chair a working group to prepare a draft Land Administration Code of the Philippines and supporting draft legislative amendments, rules and regulations to implement these policy directions. Other members of the working group shall be the Department of Justice, the LMB, the LRA and technical advisers appointed through the LAMP to assist the working group. The draft Land Code and related draft legislative amendments shall be developed by the working group in consultation with organizations representing civil society and the private sector. It shall be submitted to the Land Administration Reform Coordinator no later than 30 September 2003, prior to its dissemination for wider public consultation and subsequent introduction to the Congress. The PMO - LAMP shall provide monthly reports on progress in the preparation of the draft Land Administration Code to the Land Administration Reform Coordinator.

SECTION 11. - Separability. - If any section or part of this Executive Order shall be held to be invalid, the remaining provisions shall remain in full force and effect.

SECTION 12. - Effectivity. - This Executive Order shall take effect immediately.

Done this ____ day of November in the year of Our Lord Two Thousand and Two

By the President

ALBERTO ROMULO
Executive Secretary

MALACANANG

Manila

EXECUTIVE ORDER NO. _____

SETTING POLICY DIRECTIONS FOR LONG-TERM REFORM OF LAND ADMINISTRATION AND TRANSFERRING FUNCTIONS OF GOVERNMENT RELATED TO LAND SURVEY, NATIONAL MAPPING, LAND CLASSIFICATION, LAND MANAGEMENT, LAND DISPOSITION AND LAND REGISTRATION TO THE OFFICE OF THE PRESIDENT.

WHEREAS, land is vital to our people's quest for survival and a better quality of life.

WHEREAS, the performance by government agencies of the land administration functions of survey, mapping, classification, disposition, valuation and registration of land is currently hampered by fundamental legal and institutional defects in both the structure and operations of the land administration system.

WHEREAS, these defects have given rise to major inefficiencies in land administration, including extensive delays in the disposition and titling of alienable and disposable land, inaccurate and incomplete land records, duplicate and fake titles, duplication and overlap of activities between government agencies, and unnecessary costs to users of land administration services.

WHEREAS, to address these problems the Government is currently undertaking the Land Administration and Management Project (LAMP) preparatory to a proposed long term program to fundamentally reform the present land administration system and thereby promote economic growth and poverty alleviation in both rural and urban areas.

WHEREAS, a key element of long term reform must be the consolidation and streamlining within a single government agency of land administration powers and functions currently dispersed across the Land Registration Authority (LRA), an attached agency of the Department of Justice, and the Land Management Bureau (LMB) and National Mapping and Resource Information Authority (NAMRIA), staff bureau and attached agency respectively of the Department of Environment and Natural Resources.

WHEREAS, it is the Government's intention to prepare and introduce to the Congress at the earliest opportunity a Bill for an Act to consolidate the powers and functions of these agencies within a new land administration authority.

WHEREAS, pending enactment of such legislation, it is vital that interim steps be taken to strengthen direction and coordination of land administration policies, programs and services, including through the establishment of effective One Stop Shops for the delivery of land administration services to members of the public.

WHEREAS, the President of the Philippine has explicit continuing authority under the Administrative Code of 1987 to reorganize the Office of the President, including explicit continuing authority to transfer any function to the Office of the President from other Departments and Agencies.

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, PRESIDENT OF THE PHILIPPINES, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Declaration of Policy. - The Government's policy is to fundamentally reform the Nation's land administration services for the mapping, survey, classification, disposition, valuation and registration of lands in order to

optimize their utilization and contribution to the goals of national economy and social justice.

To implement this policy the Government shall:

- a) Embark on a ten-year program to accelerate the titling and registration of alienable and disposable lands under the Torrens System of land registration.
- b) Provide leadership and management of reforms of land administration.
- c) Remove overlap and duplication in delivery of land administration services.
- d) Improve efficiency, responsiveness, transparency, effectiveness and accountability of land administration services.
- e) Establish One Stop Shops to provide accessible, efficient and affordable land administration services to the people.
- f) Establish an effective land information system.
- g) Abolish judicial registration of title in favor of more simple administrative processes.
- h) Consolidate, revise as necessary and update all land administration laws and regulations.
- i) Rationalize and clarify the entitlements of persons to obtain land titles with the intention of making first time title issuance both fast and low cost.
- j) Establish one valuation system for the purpose of all real property taxation.
- k) Reduce disincentives to the registration of property transactions.
- l) Implement such other policy directions as may be necessary to achieve the Government's policy.

SECTION 2. Transfer of land administration and management functions to the Office of the President. - To expedite implementation of the policy directions set forth in Section 1 hereof, all functions of the following Agencies and

offices are hereby transferred to the Office of the President and shall henceforth be supervised by the Office of the President:

- (a) The Land Registration Authority (LRA);
- (b) The Land Management Bureau (LMB) together with all land administration and management functions hitherto undertaken by regional land management services of the Department of Environment and Natural Resources;
- (c) The National Mapping and Resource Information Authority (NAMRIA); and
- (d) The Project Management Office of the Land Administration and Management Project, hitherto supervised by the Department of Environment and Natural Resources.

SECTION 3. Supervision of the functions transferred to the Office of the President. - The functions transferred to the Office of the President by Section 2 herein shall henceforth be supervised by the Executive Secretary.

SECTION 4. Implementing rules and regulations. - The Presidential Task Force for the Land Administration and Management Project created by Executive Order No. 82 dated March 2002, supported by the Project Management Office of the Land Administration and Management Project, shall submit to the Executive Secretary, within ninety (90) days of effectivity of this Executive Order, proposed implementing rules and regulations pursuant to this Executive Order. These proposed implementing rules and regulations shall be prepared in consultation as necessary with the LRA, LMB and NAMRIA.

SECTION 5. Legislation to establish a single land administration authority. - Pursuant to the policy directions enumerated by Section 1 hereof and to the Government's policy of streamlining the bureaucracy, the Project Management Office of the Land Administration and Management Project shall prepare a draft Bill for an Act to consolidate the functions,

powers and services of the LRA, LMB (including the regional land services of DENR) and NAMRIA within a new, autonomous Land Administration Authority. The draft Bill shall be submitted to the Executive Secretary no later than 31 December 2002 with a view to its early consideration by organizations representing civil society and the Government, and its introduction to the Congress no later than 31 March 2003. The Presidential Commission On Effective Governance shall convene an advisory group to provide guidance and technical assistance as necessary in the drafting of the Bill.

SECTION 6. Reform of land administration laws. -

Pursuant to the policy directions at subsections (g) to (i) inclusive of Section 1 hereof, the Project Management Office of the Land Administration and Management Project shall convene and chair a working group to prepare a draft Land Administration Code of the Philippines and supporting draft legislative amendments, rules and regulations to implement these policy directions. Other members of the working group shall be the Department of Justice, the Land Management Bureau, the Land Registration Authority and technical advisers appointed through the Project Management Office to assist the working group. The draft Land Administration Code and related draft legislative amendments shall be developed by the working group in consultation with organizations representing civil society and the private sector. It shall be submitted to the Executive Secretary no later than 30 September 2003, prior to its dissemination for wider public consultation and subsequent introduction to the Congress. The Project Management Office of the Land Administration and Management Project shall provide monthly reports on progress in the preparation of the draft Land Administration Code to the Executive Secretary.

SECTION 7. – Separability. – If any section or part of this Executive Order shall be held to be invalid, the remaining provisions shall remain in full force and effect.

SECTION 8. - Effectivity. - This Executive Order shall take effect immediately.

Done this ____ day of November in the year of Our Lord Two Thousand and Two

By the President

ALBERTO ROMULO
Executive Secretary

**ESTABLISHMENT OF A LAND ADMINISTRATION AUTHORITY:
CHECKLIST OF ‘START-UP’ ISSUES TO BE ADDRESSED**

- **Corporate/legal status of the proposed Authority – what is it to be?**
- Establishment of LAA Board
- Operations of LAA Board
- Appointment of LAA Chief Executive and senior management
- Definition of mandate, powers and functions of the LAA
- Design of LAA structure
- Identification of staff positions and staff to be transferred to LAA
- Employment terms and conditions of staff
- LAA Budget and finances
- Management information systems
- Office accommodation requirements for LAA operations
- Corporate communications

SUBJECT: Establishment of an LAA Board	
Issue to be resolved	Comments and/or suggested approach
Will the LAA have a Board?	“Land Administration Council” has been proposed.
What are the role and functions of the Board? Will it have executive/directive powers or simply be ‘advisory’?	Current draft of EO/Act has a purely advisory Board included. Is this what we want? Board should <u>not</u> exercise statutory powers in relation to individual land admin. decisions (Chief Exec should exercise/delegate these powers)
In particular, what powers if any will the Board have to (a) appoint; (b) direct; (c) dismiss; the full-time Chief Executive/Managing Director/Administrator of the LAA and/or other full-time LAA staff?	A key issue: will the Board or President appoint the Chief Executive? Current draft of EO/Act has President appointing the DG. Position sometimes taken is to have the Board appoint/direct/dismiss. In any event, grounds /procedures for dismissal need to be specified explicitly.
How many Board members should there be?	No less than 5, no more than 8 including Chair.
Who will appoint initial Board members, how and when?	President, by Executive or Administrative Order (?). She could invite Cabinet members/others to nominate possible candidates meeting the appointment criteria.
Are Board members to be appointed for their individual skills/experience or as representatives of organizations (or both)?	Current draft of EO/Act has DG of the LAA as Chairman. Is this what we want?
What skills/qualifications/experience/organizational affiliations should Board members have?	Need a ‘position profile’.
How will a Chairperson/Deputy Chair	Current draft EO/Act identifies DG of

person of the Board be identified from amongst Board members?	LAA as Chairman. Is this what we want?
For what term(s) will Board members be appointed?	Ex officio members – during their period of office. Others for three years, but eligible for re-appointment for one further term.
Are Board members full-time or part-time appointments?	Part-time (?)
Will Board members receive remuneration and/or allowances? If so, how will levels be set?	Non-ex officio members should receive sitting allowances and out-of pocket expenses reimbursement (latter only for ex officio members).
Will the Board and/or the DG of LAA be subject to any power of direction in the exercise of their functions? If so, by whom, under what conditions and by what means (e.g. directions in writing)?	Suggested yes – President to have general power of direction in writing but subject to conditions (e.g. any Direction to be reported in annual report, no directions on matters vested by statute in other offices)
Once appointed, can Board members be dismissed prior to expiry of their term? If so, how/by whom?	Not yet covered in draft EO/Act.
Can Board members resign their appointments? If so, how?	Not yet covered in draft EO/Act.
Are Board members eligible for re-appointment following expiry of any initial term of appointment?	Suggested yes.
SUBJECT: Operations of the LAA Board	
Issue to be resolved	Comments and/or suggested approach
How are LAA Board meetings to be conducted?	Operational procedures to be defined (e.g. minimum number of meetings per year, quorum, minutes etc. Suggest that Board members <u>not</u> be permitted to send representatives to meetings on their behalf). Most of these matters don't need to be covered in the EO/Act as such.
Will there be a 'code of conduct' for Board members governing matters such as avoidance of conflicts of interest?	Need to cross-reference this issue to any general Code of Conduct for public office holders.
What regular planning activities will the Board be required to undertake?	To be defined
What regular reporting activities will the Board be required to undertake?	To be defined
How should the Board be held accountable for: (a) its own performance; (b) the performance of the LAA?	To be defined
In particular, what will be the procedures for preparation/approval of any LAA	To be defined

Service Level Agreements?	
SUBJECT: Appointment of LAA Chief Executive and Senior Management	
Issue to be resolved	Comments and/or suggested approach
What senior full-time positions will be established to lead/manage the LAA, and at what level?	Draft EO/Act proposes a full-time Director General of Cabinet rank and Deputy Director Generals.
Who will appoint the initial full-time Chief Executive (e.g. The President? Board?), how, when, and what terms?	Draft EO/Act envisages appointment by President. Other terms to be discussed.
How will the Chief Executive's remuneration and allowances be determined?	To be determined/clarified.
Will there be a 'code of conduct' for the Chief Executive as a term of his/her appointment?	Cross-reference to any general Code of Conduct – to be clarified.
What skills/knowledge/experience will be sought in the Chief Executive and other senior managers – what is the 'position profile'?	Position profile to be prepared.
Will the Chief Executive be a member of the Board and/or attend Board meetings?	Draft EO/Act makes the DG of LAA the Chairman of Board – is this what we want?
What statutory powers will be vested in the Chief Executive of the LAA?	All relevant powers currently vested in Secretaries DENR/DOJ, Director LMB, Administrator LRA and Administrator NAMRIA – Chief Executive should in turn have power to delegate powers to lower levels as appropriate – draft Act (but not draft EO) provides for this.
How will the performance of the Chief Executive be assessed – what are the performance criteria?	To be defined.
Who will have the formal power to dismiss the Chief Executive and on what grounds?	Not addressed by draft EO. Draft Act gives dismissal power to President (subject to conditions) and two-thirds majority of Congress. Issue needs more thought.
What will be the procedures for resignation of a Chief Executive?	To be defined.
SUBJECT: Definition of initial mandate, powers and functions of the LAA	
Issue to be resolved	Comments and/or suggested approach
What, specifically and in written terms, will be the initial: (a) mandate; (b) powers; (c) functions; of the LAA (i.e. what will be its formal 'charter'?)	See draft EO and, in particular, draft Act – are we happy with the provisions these currently contain?
Which of the LAA functions require the	Ditto

exercise of statutory powers?	
Who currently exercises these statutory powers and how will the powers transfer to vest in officers/positions within the LAA structure?	Ditto
SUBJECT: Design of LAA structure	
Issue to be resolved	Comments and/or suggested approach
Is the initial LAA structure to be designed around functions, regions or some combination of functional/regional structures?	Major issue for discussion. In any event, structure defined in order to inaugurate the LAA should be capable of further change by Board within defined conditions (e.g. internal re-organizations to be conducted in 'good faith' and subject to available funding)
How should delivery of LAA functions be structured initially within the organization? In particular, which existing functions within LMB/LMS, NAMRIA, LRA should be: (a) Merged? (b) Split? (c) Abolished? (d) Expanded?	Major issue for discussion.
How should delivery of LAA services to members of the public be structured at the regional/local levels, initially, bearing in mind the current DENR/ROD differences in regional structures?	Major issue for discussion.
What senior management positions should be established/transferred to head the main divisions of the preferred LAA functional/regional structure (and at what position classification)?	To be identified
SUBJECT: Identification of staff positions and staff to be transferred to LAA	
Issue to be resolved	Comments and/or suggested approach
What are the current approved 'permanent' positions to be transferred to the LAA? In particular, on what basis will approved positions assigned to functions in DENR/DOJ that are not organizationally 'discrete' be allocated to LAA or retained by existing agencies (e.g. ex-LMS staff within DENR Regional Offices/ PENROs/ CENROs; an 'appropriate' share of general managerial, administrative and support staff in current Central Offices of Secretaries)?	To be identified. Positions to be transferred should be appropriate in terms of both number and level. Proportion of 'overhead' positions in Secretary's Offices to transfer could be based on shares of overall Budgets 'taken' by the LAA. Major negotiations/disagreements likely on these issues. DBM advice/input needed.
Who are the staff currently occupying these approved positions – is there an	To be identified.

accurate record of current staff assigned to currently approved positions?	
Are staff occupying positions to be automatically transferred to the LAA ('staff follow function') or will there be some form of selection process (e.g. involving staff who do/do not wish to transfer)?	Major issue. Policy decision needed on this point. Ideally, new LAA should have power to determine both number and identity of persons to transfer to positions in new Authority. In practice this may not be feasible because of concerns regarding any displacement of staff. DBM and Civil Service Commission advice needed on this.
What other current employees should, potentially or actually, be transferred to the LAA (e.g. 'temporary' employees on contract)? Will they be transferred 'automatically' or will some form of selection process be required?	To be identified.
Will any of these processes give rise, potentially or actually, to cases of excess staff/redundancies? If so, how will they be managed and funded?	Potentially a major issue.
SUBJECT: Employment terms and conditions	
Issue to be resolved	Comments and/or suggested approach
What will be the statutory basis for employment of staff by the LAA (i.e. will they be 'Government' employees on service-wide terms/conditions or employees of the LAA on LAA-specific terms and conditions)?	Significant policy issue to be negotiated/ determined. Ideally, they would be appointed on LAA-specific terms and conditions, but this likely to be opposed by some.
If staff are to be employed on LAA-specific terms and conditions: (a) what will the LAA-specific terms and conditions be? (b) what steps are necessary to transfer 'Government' employees to employment contracts with the LAA?	To be identified.
SUBJECT: Budget and Finances	
Issue to be resolved	Comments and/or suggested approach
Having regard to an approved structure for the LAA, what will be its annual operating budget requirement in its first full year?	Major issue. To be identified. Current year's allocations for the functions in question will be a ceiling. It may be difficult to identify accurately how allocations have, in practice, been distributed within agencies but identification of positions to transfer will pre-determine 70% of total funding requirement. If there are major 'one-off' costs, might look to WB funding for this?

Pending passage of a General Appropriations Act containing specific budgetary provisions for the LAA, how can/will current unexpended appropriations of DENR and LRA be transferred to fund LAA operations from the date of its effectivity (if other than 1 January)?	To be determined. DBM advice needed.
Which program funds currently administered by or allocated to DENR/LRA should be transferred to, or accessible by, the new LAA (e.g. CARP program funds, LAMP funds/loans)? – what steps are necessary to effect the transfer?	To be determined. DBM input to this essential.
If the commencement date of the LAA is other than 1 January, how will within-year accounts and accounting records be split, recorded and reported for audit and other purposes as between DENR, DOJ and the LAA from the date of its effectivity?	To be determined. DBM advice needed. We've already 'missed the boat' to use 1 January 2003 since 2003 General Appropriations Bill is already before the Congress (?check).
What existing financial commitments (e.g. supplies on order) will transfer for funding by the new LAA?	To be determined.
How should revenues from user charges for a part financial year be split between existing Departments and LAA?	To be determined. Longer-term, arrangements for 'revenue-sharing' with Budget need to be updated/reformed.
SUBJECT: Management information systems	
Issue to be resolved	Comments and/or suggested approach
What current MISs are in use within DENR/DOJ and how will the LAA be given continued access to these systems, as necessary, pending establishment of its own integrated systems (e.g. current payroll systems for salary payments to staff)?	To be determined. This could substantially disrupt new LAA operations unless arrangements nailed down in advance.
What current information system developments/requirements are planned to be installed (including acquisitions that are contractually committed)? Do any of these require early action by the LAA to modify them?	To be identified.
How will the LAA's longer-term MIS requirements be identified and met?	Matter for Board/LAA, but we should make provision for future TA on this issue in particular.
SUBJECT: Office accommodation requirements	
Issue to be resolved	Comments and/or suggested approach
What interim arrangements are to be made to accommodate the inaugural	Seems like a small point but is not. Physical separation from existing

Board, Chief Executive and key corporate staff of the LAA?	accommodation but with ready access to existing managers etc is important symbolically if for no other reason.
What initial steps are necessary to ensure continued access by staff transferring to the LAA to their current office accommodation and office facilities (e.g. telephones)?	Again, failure to nail this down in advance could seriously disrupt initial LAA operations.
Having regard to existing lease commitments (if any) and regional structures, what medium-term office accommodation arrangements should be put in place to commence physical co-location of LAA staff?	Matter for the incoming Board/Chief Executive, but they may need a dedicated working group on the issue.
SUBJECT: Corporate communications	
Issue to be resolved	Comments and/or suggested approach
How, when and by whom will staff impacted by establishment of the LAA be informed of decisions and consulted about their implementation? How will <u>regional</u> staff be kept fully and accurately informed?	Important issue. We need a clear strategy including agreed ‘messages’ and processes to communicate accurate information early to potentially affected staff.
Which employee organizations have coverage of staff to be transferred to the LAA – how will they be consulted, by whom and when?	To be determined.
How will communications with users of LAA services be handled and by whom?	To be determined.
How will communications/interactions with the Congress be handled and by whom?	To be determined.
How will subsequent questions from LAA staff and users of LAA services regarding the operations of the new structure/arrangements be managed, and by whom?	Important issue. We need a ‘lead spokesperson’ for continuing dialogue and information dissemination.

JM
(16 October 2002)

*Philippines-Australia Land Administration
and Management Project*

**CREATION OF A LAND
ADMINISTRATION AUTHORITY (LAA)**

***IMPLEMENTATION ISSUES
DISCUSSION PAPER***

Institutional Arrangements Adviser
October 2002

INTRODUCTION:

At its meeting on 16 August 2002 the Presidential Task Force for the LAMP agreed that a single Land Administration Authority (LAA) be established to consolidate the roles, functions and powers of the Land Management Bureau (LMB), the Land Registration Authority (LRA) and the National Mapping and Resource Information Authority (NAMRIA).

A range of topics need to be addressed in finalizing the instrument to establish the Authority, regardless of whether this instrument takes the form of an Executive Order or a Bill/Act of Congress. These include, in particular, issues relating to:

- the administrative status of the Authority (corporate form);
- operations of an Authority Board/Council;
- appointment and termination of the Authority's Chief Executive;
- the Authority's organization structure;
- staffing of the Authority;
- corporate accountability;
- Authority finances and assets/liabilities;
- (possibly some) administrative 'housekeeping' matters.

Provisions relating to most of these topics have been included in the initial draft Executive Order and/or in the initial draft Act prepared by LAMP technical advisers. However, these provisions have not been discussed in any detail and may not reflect the LAMP's preferred position or the views of other agencies such as DBM.

This paper's main aim is to facilitate discussion of the implementation matters that should be included in the EO or Act to establish the authority and how drafting of related provisions should address them. The paper identifies issues to be addressed for each topic and presents some implementation options and comments. It does not seek to provide a detailed review of each topic and issue.

The paper focuses on matters that need to be resolved to establish the Authority, rather than management matters that the Authority itself will need to address when established (e.g. the Authority's long-term requirements for modern management information systems).

The paper does not address the issue of communication with stakeholders in the period leading up to establishment of the Authority. This is being addressed through LAMP's consultation and consensus building activities. However, there is a pressing need to develop a program and modalities for communication and consultation with staff of the present land administration agencies in particular.

TOPIC: Administrative status of the Authority

ISSUES:

- Is the Authority to be given a separate corporate identity or will it be an administrative unit within the 'core' departmental structure of the Government?
- What powers of direction should the President/Government exercise over the affairs of the Authority?

OPTIONS:

The Authority could be established as:

- an administrative unit within the 'core' civil service, for example as a 'line bureau' of an existing Department or Office; or
- a corporation having its own legal identity (e.g. the power to sue and be sued in its own name), for example:
 - a statutory corporation with its powers and other characteristics defined by the Act that establishes it;
 - a Government owned and controlled company incorporated with share capital under the Philippines companies legislation.

Mechanisms that would enable the President/Government to exercise continuing powers of direction over the affairs of the Authority include:

- in the case of a 'core' administrative unit, the Executive's general powers to direct the day-to-day operations of the core civil service;
- in the case of a corporation:
 - the power to appoint and/or terminate the Board and/or Chief Executive of the Authority; and/or
 - the inclusion of an explicit power of direction in the Act or Memorandum of Association that establishes the Authority

COMMENTS:

The choice of the Authority's administrative status depends in large part on:

- whether it is wished that the Authority exercise independent statutory powers, free of day-to-day direction by the Executive; and
- whether the Authority is expected to operate in a manner similar to or the same as a private sector company.

If the Authority is to have a separate corporate identity and exercise powers independently of the Executive then the conditions under which any continuing Executive power of direction can be exercised need to be specified in the Authority's enabling Act or (in the case of a company) its Memorandum of Association.

TOPIC: Operations of an Authority 'Board' or 'Council'

ISSUES:

- Will the Authority have a 'Board' or 'Council', or simply be managed by a full-time Chief Executive?
- What should be the role and powers of any Board/Council – related to this, who is to be primarily responsible/accountable to the President and the Congress for the performance of the Authority?
- What should be the composition of any Board/Council (size; membership; method of appointment; etc)?

OPTIONS:

The principal options in relation to a Board/Council are:

- No Board/Council – the Authority's full-time Chief Executive has sole responsibility for management of the Authority; or
- An advisory/consultative Board/Council – Board/Council members provide advice to the Authority's Chief Executive (e.g. representing users of the land administration system) but have no powers in relation to operations of the Authority; or
- An 'executive' Board/Council that has prime responsibility/accountability to the Executive and Congress for operations of the Authority and exercises powers accordingly (e.g. a power to appoint and terminate the Authority's Chief Executive; power to exercise the land administration functions vested in the Authority).

Issues/options in relation to the operations of any Board/Council include:

- Size;
- Basis of Board membership (e.g. 'ex officio' membership, membership as individuals or some combination of the two);
- Duration of membership (fixed terms? 'at the President's pleasure?');
- Appointment of Chairperson (e.g. by the President? by election of the Board members themselves?);
- Full-time/part-time Board membership and member remuneration (if any).

COMMENTS:

The role/powers and operations of the Board, and its membership, are related to the issue of the Authority's administrative status. Generally speaking, the more 'independent' of the Executive the Authority is expected to be, the greater should be the powers of a non-executive Board to oversight and control the performance and activities of the Authority's full-time Chief Executive.

TOPIC: The Authority's Chief Executive ('Director General')

ISSUES:

- Who should appoint the Chief Executive and at what level?
- Should the Chief Executive's appointment be reviewable by the Commission on Appointments?
- What should be the terms and conditions of appointment (e.g. term of appointment; eligibility for re-appointment)?
- What general powers will the Chief Executive exercise – in particular, to what extent should/will these powers be constrained by any laws/rules applicable to the 'core' civil service generally (e.g. civil service laws/rules relating to employment of staff, contracts, accounts and audit, code(s) of conduct)?
- Under what conditions can the Chief Executive be dismissed from office and by whom?

OPTIONS:

- The main options for the appointing authority are appointment of the Chief Executive by:
 - the President; or
 - the Authority's Board/Council (if any).
- The main options for dismissal of the Chief Executive are dismissal by:
 - the President;
 - the Board/Council (if any); and/or
 - resolution of the Congress.
- Options for the general powers of the Chief Executive range from the exercise of powers subject to all generally-applicable civil service laws/rules to the exercise of powers subject only to laws applicable to private sector enterprises generally.

COMMENTS:

These issues are related to earlier issues concerning the extent to which the Authority is to exercise powers independently of day-to-day supervision/direction by the Executive.

Under any option it is important that the Chief Executive be in a position to exercise independently the land administration laws vested explicitly in his/her Office by law. Conditions for any dismissal of a Chief Executive should be subject to conditions accordingly.

TOPIC: The Authority's organization structure

ISSUES:

- To what extent, if any, should details of the Authority's organization structure be included in its enabling legislation?
- Insofar as the Authority's organization structure is not specified by legislation, who should have the power to determine and approve the Authority's organization structure?
- What powers should the Authority have to re-organize its structure from time to time in the light of changing operational requirements, and subject to what conditions/constraints?
- What initial organization structure should come into effect on the date that the Authority commences operations?

OPTIONS:

As regards powers to determine an organization structure, the main options are that such powers be exercised by one or more of:

- the Congress (through specification of the Authority's organization structure in its enabling legislation);
- the Executive (e.g. through the OP and/or DBM);
- the Authority's Board and/or Chief Executive, subject to available funding.

As regards the Authority's initial organization structure, the main options are:

- The present structures of LMB/LMS; LRA and NAMRIA are broadly transferred 'as is' to the new Authority pending reorganization by the incoming management of the new Authority; or
- the initial structure is defined prior to the date of effectivity for the Authority – including proposed merging/splitting/abolition of functions as necessary - and becomes operational immediately the Authority is established.

COMMENTS:

Subject to the available budget and corporate accountability requirements, the more flexibility the Authority is given to organize/re-organize itself over time the better.

Detailed information on the structure and staffing of DENR's present land administration services, at regional/sub-regional level in particular, is needed before firm conclusions can be reached on the Authority's future structure.

TOPIC: Staffing of the Authority

ISSUES:

- What are the currently approved 'permanent' staff positions to be transferred to the Authority (including a share of general administrative/support staff)? – in particular, will any current positions (and the staff occupying them) be declared redundant to the needs of the Authority?
- What other positions/staff, if any, are to be transferred to the Authority (e.g. contract positions)?
- Will all existing staff transfer to the Authority 'automatically' or in some other way?
- What powers will the Authority have to set employment terms and conditions for its staff? In particular, under what terms and conditions will:
 - (a) current land administration staff of DENR/DOJ/NAMRIA be transferred to positions in the Authority;
 - (b) future staff be appointed to positions in the Authority?
- What is to happen to any current staff *not* transferring to employment with the Authority?

OPTIONS:

The main options in relation to the transfer of existing staffing of land administration positions are:

- all (or some) existing staff follow function; or
- only selected staff transfer to the Authority; and/or
- staff are given a choice whether to transfer to the Authority or take voluntary retirement (with benefits).

The main options in relation to staff terms and conditions are:

- generally-applicable civil service terms/conditions continue to apply to: (a) all existing staff; (b) all existing and future staff;
- the Authority determines Authority-specific terms and conditions for its staff.

COMMENTS:

Information is need in relation to current approved positions and the current allocation of staff to these positions.

Information and views are needed from DBM on practices applied in the past following the establishment of new agencies, and the scope in practice to provide the Authority with more flexible staffing powers than those applicable to the civil service generally.

TOPIC: Corporate accountability

ISSUES:

- Who is to be accountable for the Authority's performance – its Director General and/or its Board/Council?
- What requirements should be placed upon the Authority in relation to its procedures for corporate planning, monitoring and reporting?
- How, if at all, should external stakeholders – notably users of land administration services - be involved in these procedures?
- Should procedures for the Authority's corporate accountability be specified in its enabling Executive Order or Act, or be specified by some other (administrative) means?
- How do/should these corporate accountability requirements relate to any requirements mandated for Government departments/agencies generally?

OPTIONS:

There is a range of options in relation to these issues spanning a spectrum from:

- a requirement for an audited annual report; to
- 'best practice' planning and reporting procedures and reports mandated by the Authority's Executive Order/Act with penalties for non-compliance.

COMMENTS:

Procedures for the Authority's corporate accountability need to be determined having regard to related issues, notably:

- the Authority's administrative status;
- the role of the Authority's Board/Council in relation to the Authority's full-time Chief Executive Officer;
- the desirability of user involvement in the assessment/auditing of the Authority's performance;
- the Government's generally-applicable planning and reporting requirements for government agencies (information is needed on these).

TOPIC: Authority finances and assets/liabilities

ISSUES:

- What, if any, are the main provisions relating to the finances of the Authority that should be inserted in the Authority's enabling Executive Order or Act?
- How will/should receipts of the Authority from fees/charges for its services be managed – in particular, will some/all of such receipts be retained by the Authority to fund (partially) its operations, and under what terms/conditions?
- What will be the Authority's funding requirement for the first full financial year of its operations?
- What will be the source(s) of funding to meet this requirement (e.g. General Appropriation; Program funds)?
- How will/should the following transitional financial issues be managed:
 - funding of Authority operations from date of commencement to availability of an Authority-specific appropriation?
 - responsibility for funding of existing contractual commitments entered by LMB/LRA/NAMRIA?
 - disposition of funds/bank balances currently held by LMB/LRA/NAMRIA?
 - transfer of physical assets (e.g. office cars and equipment) to the custody of the Authority?
 - access to funding through existing agreements with international development partners?

OPTIONS:

Options include:

- the generally-applicable funding arrangements for Departments;
- Authority-specific funding arrangements mandated by the Authority's enabling Executive Order/Act.

COMMENTS:

The Authority's funding arrangements should reflect the degree of operating autonomy it is to be granted (notably whether or not the Authority is to have an independent corporate identity as a corporation).

Future arrangements in relation to receipts from LRA fees/charges and, related to this, the LRA's financial commitments under its BOO contract for computerization of ROD records will need particular attention.

Information and advice from DBM will be needed to resolve these issues.

TOPIC: Other start-up issues

ISSUES:

A number of administrative 'housekeeping' issues will need to be addressed prior to the start-up of Authority operations including initial arrangements for:

- continuing access by the Authority to current IT systems pending establishment of the Authority's own IT systems (e.g. systems for the Authority's staff payroll);
- office accommodation for the Authority's incoming senior management;
- access to and preservation of the existing records of LMB/LRA/NAMRIA (and, as relevant, DENR and DOJ).

- Which 'housekeeping' issues *must* be resolved prior to the Authority's start-up and which can be left for resolution by the Authority after start-up?
- Which, if any, of these administrative matters need to be addressed in the Authority's enabling Executive Order/Act?
- What arrangements should be put in place to resolve such administrative matters?

COMMENT:

While 'housekeeping' matters of this kind may appear relatively unimportant, failure to address them could in fact seriously undermine a smooth Authority start-up. While it is to be hoped that they could be resolved amicably with the existing affected agencies (including the Offices of the Secretaries, DENR and DOJ), this should not be taken for granted.