

[LETTER OF INSTRUCTIONS No. 1520, February 04, 1986]

PRESCRIBING GUIDELINES FOR THE RATIONALIZATION OF THE GOVERNMENT CORPORATE SECTOR

TO: The Prime Minister and the Cabinet
The Heads of Ministries and Other Agencies
The Heads of Government-Owned or Controlled Corporations
All Others Concerned

WHEREAS, Presidential Decree No. 2029 has recognized the role of the government corporate sector, and prescribed the criteria for the use by the government of the corporate form:

WHEREAS, government-owned or controlled corporations hereafter referred to as government corporations, are important participating institutions in national development, especially where greater flexibility is required so that government action may be more promptly responsive;

WHEREAS, it is necessary that the limited resources of government be utilized as efficiently, as effectively, and as economically as possible to further national development and to support the economic recovery program, for which the judicious use of the corporate form of organization is critical;

WHEREAS, specific guidelines are necessary to assure the effective implementation of the above-cited Presidential Decree;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby ordain the following:

SECTION 1. *Purpose.*—This Letter of Instructions provides guidelines for the rationalization of the government corporate sector by defining the areas of operation in which the corporate form may be used, as well as prescribing policy measures to achieve such rationalization.

SEC. 2. *Areas of operation for government.* —The government may utilize the corporate form to undertake the following economic activities, without prejudice to the alternative options of using regular line agencies, or coursing such activities through the private sector.

(a) Those which by their nature are most efficiently and effectively operated as monopolies, whether by the government or the private sector, whether in a particular given geographic area or nationwide, more specifically, public utilities and large-scale infrastructure activities generally involving large immovable and relatively indivisible physical capital requirements:

- (1) Power generation;
- (2) Railroads;
- (3) Telephone services;

- (4) The supply of potable water to built-up urban settlements; and
- (5) Large-scale gravity irrigation facilities:

(b) Those areas or activities which do not fall within the categories of natural monopolies above-cited, and in which competitive private sector participation may occur but in which the government may directly participate in the interest of national welfare and defense, more specifically;

(1) Public utilities and infrastructure activities where competitive ventures may nevertheless be possible, such as airlines, and small-scale irrigation and power generation;

(2) Large-scale income-redistributive undertakings primarily designed to benefit low income households, such as the procurement or distribution of rice and corn, and the provision of low-cost housing;

(3) Those which are highly strategic in character or of great national security significance, the operation of which would have wide-ranging economic implications and which activities are usually undertaken to provide countervailing market competition as a means of correcting or offsetting socially undesirable market developments in areas of strategic or national security significance, such as in banking, steel, or petroleum; and

(4) Those requiring very large and physically indivisible capital investments, entailing long and highly uncertain gestation periods, which the private sector is unwilling to undertake.

All government corporations covered by this issuance, including those in existence, shall conform to the financial viability requirement which is defined to mean the ability of the corporation to support its operation from its own internal cash generation without operating losses from the national government can be reasonably expected, suitable steps shall be taken to withdraw government corporations from operating in those areas which are not embraced in the above-enumerated areas of operation.

SEC. 3. *Exclusion from the coverage of the LOI.* The following corporations are not covered by this LOI and shall be the subject of a separate policy enunciation: (a) chartered universities, colleges, and schools, (b) municipal corporations, and (c) civic, cultural, educational, scientific, and other similar government corporations which do not engage in activities usually associated with economic gain, and which do not compete by and large with the private sector.

SEC. 4. *Policy measures.* The government shall observe the following policy measures and limitations, with respect to government corporations:

(a) *Avoidance of regulatory authority.* The corporate form shall be used for undertaking regulatory functions unless absolutely necessary. Furthermore, government corporations that are engaged in activities in direct competition with private firms shall not possess any regulatory powers over such private enterprises. In any case, a government corporation shall not be vested with quasi-judicial or adjudicatory authority.

(b) *Avoidance of special privileges and, benefits.* Government corporations, especially those in areas which compete directly with private sector counterparts, shall not as a general rule be entitled to undue competitive advantages and benefits, including automatic government guarantees for debts incurred, special privileges such as partial or full exemption from the payment of taxes, duties, imposts, and other charges, and automatic sources of income for which no direct service or benefits are rendered to the payers of the sources of income.

This limitation shall, however, be without prejudice to the government providing financial assistance to government corporations in the form of equity contributions, or loans preferably under terms not more favorable than those obtaining in the market, or support for subsidy or stabilization programs, in appropriate cases.

In like manner, government corporations should not be subject to undue constraints or limitations not imposed on their private counterparts in their respective areas of operation.

Equity contributions of the national government to the government corporations shall consider the need for a reasonable return on such equity, and cash dividends of government corporations, whenever declared, shall accrue to the national government in proportion to its equity participation.

A government corporation should be able to function satisfactorily on the basis of income realized as a result of the sale of a good produced or a service rendered. The government corporate form shall be avoided if its financial viability substantially depends upon the automatic receipt of income in the form of involuntary charges imposed by the government or by the corporation, for which no corresponding service is rendered directly to the payer of the charges.

(c) *Standard features common to all government corporations.* Those organizational managerial and financial aspects common to all government corporations shall be standardized to the fullest extent possible, covering matters such as the general powers of the Corporation, the composition, powers and functions of the board, the powers and functions of the chairman of the board and the chief executive officer, including their relationship, the basic organizational structure, the formulation of multi-year corporate plans consistent with the national and sectoral development plans borrowing powers and limitations, standard accounting systems and other related matters.

Government corporations shall coordinate with the appropriate service-wide agencies in the design and adoption of such accounting systems.

(d) *Limited liabilities.* Except as may be specifically provided in the respective charters of the individual government corporations concerned, or in existing special laws, or as assumed by the national government under foreign loan agreements pursuant to law, the liability of the national government for the obligations of a government corporation, and the liability of a parent corporation for the obligations of its subsidiaries, shall be limited to the extent of their respective equity participation or contribution in such government