

MALACAÑANG  
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 849

**AUTHORIZING THE ORGANIZATION OF THE MILLENNIUM CHALLENGE ACCOUNT-PHILIPPINES AS A SUBSIDIARY OF THE DEVELOPMENT BANK OF THE PHILIPPINES MANAGEMENT CORPORATION TO FUNCTION AS THE ACCOUNTABLE ENTITY OR CENTRAL POINT OF CONTACT FOR THE MILLENNIUM CHALLENGE ACCOUNT COMPACT ASSISTANCE TO THE PHILIPPINES AND SETTING GENERAL GUIDELINES THEREFOR**

**WHEREAS**, the Millennium Challenge Corporation (hereinafter referred to as "MCC") is a United States Government corporation established to manage the Millennium Challenge Account, with a mission to reduce global poverty through sustainable economic growth, based on the principle that aid is most effective when it reinforces good governance, economic freedom, and investments in people;

**WHEREAS**, in June 2006, the MCC Board of Directors approved the Philippine Threshold Program Assistance ("Threshold Program") focused on addressing improved tax and customs administration and anti-corruption efforts by the Government of the Republic of the Philippines ("Government");

**WHEREAS**, in March 2008, the MCC Board of Directors selected the Philippines as eligible to apply for an MCC Compact ("Compact"), noting the country's consistent performance on eligibility criteria and its effective implementation of the Threshold Program;

**WHEREAS**, in December 2009, the MCC Board of Directors unanimously approved the reselection of the Philippines as Compact-eligible;

**WHEREAS**, as a requisite for its proposal for MCC funding and entering into a Compact, the government of a Compact-eligible country must identify a legal entity that will be accountable for projects funded by the MCC, in accordance and consistent with the *Guidelines for Accountable Entities and Implementation Structures* ("MCC Guidelines") issued by the MCC;

**WHEREAS**, the Development Bank of the Philippines (DBP) is a government financial institution operating under Executive Order No. 81, which provided for DBP's 1986 Revised Charter, amending Republic Act No. 85, as amended;



**WHEREAS**, the Development Bank of the Philippines Management Corporation (DBPMC) is a subsidiary created under DBP Board Resolution No. 3403 of 21 October 1981 and incorporated on 5 November 1981 and registered under Securities and Exchange Commission Regulation No. 0102149 on 3 December 1981; DBPMC is mandated, *inter alia*, to provide investment and management counsel for government instrumentalities, non-profit organizations, and other entities;

**WHEREAS**, discussions with the Department of Finance (DOF), MCC, DBP, and DBPMC have determined that a subsidiary under the DBPMC can provide the legal entity required to function as the Accountable Entity under the Compact.

**NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO**, President of the Republic of the Philippines, by the powers vested in me by the Constitution and the law, do hereby authorize the organization of Millennium Challenge Account-Philippines ("MCA-Philippines"), a subsidiary under the DBPMC to function as the Accountable Entity required under the Compact, in accordance with the following:

## **I. ORGANIZATION**

**Section 1. Coordination.** The DBPMC, in close consultation and coordination with the DOF and the MCC, shall organize and incorporate the subsidiary MCA-Philippines and shall take the steps necessary to ensure that the governing documents of MCA-Philippines are consistent with its mission towards Compact implementation and comply with MCC Guidelines.

- 1.1. The DBPMC shall cause to be extended to it the authorities, permits, primary and secondary licenses, and all other approvals necessary for the purpose from administrative and regulatory bodies such as, but may not be limited to, the DOF, *Bangko Sentral ng Pilipinas* (BSP), Office of the President (OP), and the Securities and Exchange Commission (SEC).
- 1.2. The DOF, in consultation and coordination with the MCC and relevant government authorities, shall manage all essential activities needed to be undertaken preparatory to the operation of MCA-Philippines and Compact implementation. The DOF may issue clarificatory guidelines, directives, or memoranda pursuant to this function.
- 1.3. The DOF shall undertake Subsection 1.2 above with guidance from the Inter-Agency Task Force for the MCA chaired by the Executive



Secretary under Executive Order No. 607, s. 2007, as amended by Executive Order No. 607-A, s. 2009.

## II. BOARD OF TRUSTEES

### *General Functions*

**Section 2. Oversight.** - The Board of Trustees ("Board") shall oversee the functions of the Management Unit ("Management") and shall be responsible for evaluating and approving major decisions to be implemented by MCA-Philippines.

- 2.1. The Board shall perform its functions in accordance with the articles of incorporation and by-laws of MCA-Philippines and the laws and regulations pertinent to corporations prevailing in this jurisdiction.
- 2.2. The Board must follow the governing documents of MCA-Philippines, carry out its mission to implement the Compact, ensure MCC funding is used only for permitted purposes, and judiciously follow MCC guidelines.
- 2.3. The Board shall protect, preserve, and manage program assets consistent with the Compact and in accordance with applicable law.

### *Composition*

**Section 3. Voting Members** – Upon incorporation, the Board shall be reorganized to be composed of thirteen (13) voting members from the government serving in *ex officio* capacity and from the non-government sector, as indicated hereunder:

- 3.1. The Executive Secretary, Office of the President, or his/her representative Deputy/Undersecretary;
- 3.2. The Secretary, Department of Foreign Affairs, or his/her representative Undersecretary;
- 3.3. The Secretary, Department of Finance, or his/her representative Undersecretary;
- 3.4. The Secretary, Department of Budget and Management (DBM) or his/her representative Undersecretary;
- 3.5. The Director General, National Economic and Development Authority, or his/her representative Deputy Director General;
- 3.6. The Secretary, Department of Social Welfare and Development (DSWD) or his/her representative Undersecretary;
- 3.7. The Secretary, Department of Public Works and Highways (DPWH) or his/her representative Undersecretary;



- 3.8. The Managing Director of the MCA-Philippines;
- 3.9. Three (3) Representatives from non-governmental organizations (NGOs) to be selected by the government in consultation with MCC;
- 3.10. The President of DBP; and
- 3.11. The President of DBPMC.

**Section 4. *Non-Voting Members*** - The Board shall have three (3) non-voting members who shall assist in identifying implementation issues and help promote transparency in the decision-making process of the Board.

- 4.1. There shall be one (1) representative from the MCC; and
- 4.2. Two (2) nominees from the Stakeholders Committee.

**Section 5. *Election of Chair*** - The Board shall elect by a majority vote its Chairperson from among the voting Members. The Chairperson, who shall preside over meetings, shall serve for a year, or until a new election is held.

**Section 6. *Voting Power*** - All voting Board shall be entitled to one (1) vote, except that the Chair shall vote only in case of a tie.

**Section 7. *Quorum***. The presence of a simple majority of the voting members shall constitute a quorum for the purpose of transacting its business, provided that the presence of at least one (1) voting Non-government Board member shall be indispensable in constituting a quorum.

**Section 8. *Requisites for Non-Government Board Members*** - Non-government nominees shall be chosen not by the government but through a transparent process established by the Stakeholders Committee and agreed with the MCC. They should be selected on the basis of his/her stakeholder representation with respect to the projects involved in the program and his/her capability to make the time commitment required as voting and non-voting Board members.

### ***Stakeholders Committee***

**Section 9. *Function*** - The Board shall create a Stakeholders Committee, which shall provide a mechanism for the government to continue the consultative process by allowing stakeholders opportunity both to be informed and to provide inputs regarding MCC-funded projects and various activities attendant thereto.

**Section 10. *Composition*** - The committee shall be composed of not less than seven (7) but not more than nine (9) representatives from non-governmental organizations, civil society, private sector, and local and regional government beneficiaries.



### III. THE MANAGEMENT UNIT

**Section 11. *Function*** - MCA-Philippines shall have a Management Unit responsible for its day-to-day program management, subject to the direction and guidance of the Board.

**Section 12. *Composition and Key Staff*** – The Management Unit shall be composed of qualified experts and at least of the following Key Staff, as defined under MCC Guidelines or as may be defined hereafter in Compact documents:

- 12.1. Managing Director
- 12.2. Deputy Managing Director
- 12.3. Director for Finance
- 12.4. Director for Legal/General Counsel
- 12.5. Director for Procurement
- 12.6. Director for Social and Environmental Assessment
- 12.7. Director for Monitoring and Evaluation
- 12.8. Relevant Project Directors

**Section 13. *Selection Process for Key Staff*** - Key Staff shall be selected through an open and competitive recruitment and selection process and appointed in accordance with governing documents of MCA-Philippines and subject to MCC approval.

**Section 14. *Support Staff*** – MCA-Philippines may engage the professional services of other support staff, as expertise and manpower are needed, and as exigencies require to carry out effectively the Management Unit's responsibilities.

### IV. REMUNERATION

**Section 15. *Remuneration*** - Remuneration rules for MCA-Philippines shall conform strictly with the provisions of the MCC Guidelines regarding compensation and reimbursement of Board Members, to wit:

15.1. Members of the Board shall not be entitled to salaries, honoraria, or the like from either MCC funding or government funding. However, they will be entitled to reimbursement of reasonable expenses from MCC funding, provided such expenses arise from a Board member's attendance at special or regular board meetings of MCA-Philippines

15.2. Members of the Stakeholders Committee of MCA-Philippines shall not be entitled to salaries, honoraria, or the like from either MCC funding or government funding. However, they will be entitled to



reimbursement of reasonable expenses from MCC funding, provided such expenses arise from a Stakeholders Committee member's attendance at special or regular Stakeholders Committee meetings of MCA-Philippines.

- 15.3. Remuneration of the officers and staff of the Management Unit of MCA-Philippines shall be solely from MCC funding during the term of the Compact and in accordance with MCC guidelines on remuneration.

## V. FUNDING

**Section 16. *Funding*** – The Government shall provide the MCA-Philippines an initial funding of Twenty Million Pesos (P20,000,000.00) to cover expenses of MCA-Philippines not covered by MCC funding and those required to be covered by the Government under MCC rules such as but not limited to office space rental, initial operating expenses, incorporation expenses, applicable taxes, and other necessary implementation activities ("Government counterpart") to be drawn from available funds of the Government and/or sources to be identified by DBM subject to existing budgeting, accounting, and auditing rules and regulations. Said Government counterpart shall be maintained at an annual level of P20,000,000.00 and/or subject to the actual operating requirements of the MCA-Philippines.

## VI. TAXATION; THIRD-PARTY AUDIT

**Section 17. *Taxation*** – The Government, through the DBM or the Fiscal Incentives Review Board, shall assume all taxes, duties and other fiscal levies which may be imposed in the Republic of the Philippines, including any taxes, duties, and other fiscal levies imposed by local government units on MCA-Philippines, other parties involved in the development and implementation of the Compact, and transactions related to the development and implementation of the Compact except for taxes, imposed on the income, profits or gross receipts of natural persons who are citizens or permanent residents of the Philippines and legal persons organized under Philippine laws. The DOF and relevant tax authorities shall promptly issue the guidelines and procedures necessary to carry out this provision.

**Section 18. *Audit*** – Notwithstanding the jurisdiction of the Commission on Audit, MCA-Philippines shall be subject to independent third party audit to be financed using MCC funds.

## VII. FINAL PROVISIONS

**Section 19. *Repeal*** - All issuances, rules and regulations, or parts thereof, which are inconsistent with this Executive Order, are hereby repealed or modified accordingly.



**Section 20. Principles for Implementation and Construction** – The implementation of the provisions of this Executive Order shall be guided by the principles of good governance, transparency, operational independence, and accountability. Any and all provisions subject to construction must be liberally interpreted with the view of giving effect to the letter and rationale of the governing documents, agreements, and related or contemporaneous guidelines promulgated in pursuit of the same.

**Section 21. Effectivity** - This Executive Order shall take effect immediately upon its publication in a newspaper of general publication.

**DONE** in the City of Manila this 15<sup>th</sup> day of December in the year of the Lord 2009.

*Gloria M. Arroyo*



By the President:

*Eduardo R. Ermita*

**EDUARDO R. ERMITA**  
Executive Secretary



PGMA Hologram # 52749