



July 2016 - June 2019

# LEAGUE OF PROVINCES OF THE PHILIPPINES

Unit 1510, West Tower, Philippine Stock Exchange Centre, Exchange Road  
Ortigas Center, Pasig City, Philippines  
Trunklines: (632) 631-0170, 631-0197, 687-5399 | Fax No: (632) 687-4048  
Email: lppsec2007@yahoo.com | Website: www.lpponline.org

## GA RESOLUTION NO. 2016-008

**RESPECTFULLY REQUESTING PRESIDENT RODRIGO R. DUTERTE TO DIRECT THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM) TO IMMEDIATELY REVOKE LOCAL BUDGET MEMORANDUM (LBM) NO. 74-A PRIOR TO THE START OF FY 2017 AS IT CONTRAVENES REPUBLIC ACT (R.A.) NO 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND ITS IMPLEMENTING RULES AND REGULATIONS (IRR), AND TO REVERT TO LBM NO. 74 AS THE LEGAL BASIS FOR THE HORIZONTAL COMPUTATION OF THE RESPECTIVE INDIVIDUAL INTERNAL REVENUE ALLOTMENT (IRA) ALLOCATION OF LOCAL GOVERNMENT UNITS (LGUs) AS ORIGINALLY REFLECTED IN THE NATIONAL EXPENDITURE PROGRAM FY 2017**

**WHEREAS**, as provided under the Local Government Code of 1991, the population of the specific local government unit (LGU) comprises fifty percent (50%) percent thereof where land area (at 25%) and the equal sharing (at 25%) account for the other fifty percent (50%) as provided for as basis for computation of the IRA share of LGUs;

**WHEREAS**, for 2017, the total IRA for all local government units nationwide amounted to a total of Php 486.885 Billion, computed based on 40% of the third year preceding the current fiscal year, i.e. 2014, of the National Internal Revenue Collections (NIRC) collected by the Bureau of Internal Revenue pursuant to Sections 284 and 285 of RA 7160;

**WHEREAS**, on **May 13, 2016**, Presidential Proclamation (Proc.) No. 1269 was signed by former President Aquino declaring, “as official for all purposes the results of the 2015 Census of Population”;

**WHEREAS**, a month later, on **June 15, 2016**, then DBM Sec. Florencio Abad issued LBM No. 74 entitled: “FY 2017 INTERNAL REVENUE ALLOTMENT AND GUIDELINES ON THE PREPARATION OF THE FY 2017 ANNUAL BUDGETS OF LOCAL GOVERNMENT UNITS” in compliance with the deadline set by RA 7160’s Implementing Rules and Regulations (IRR), to wit:

**Art. 409. Internal Revenue Allotment and Shares in the Utilization of National Wealth.** – For purposes of budget preparation, DBM and other appropriate NGAs and GOCCs concerned, shall provide LGUs, **NOT LATER THAN THE FIFTEENTH (15<sup>TH</sup>) DAY OF JUNE OF EACH YEAR**, information as to their allocation of, and shares from, the utilization and development of national wealth, if any, for the budget year. (Underscoring supplied)

**WHEREAS**, under Annex A of LBM No. 74, despite the issuance of Proc. No. 1269, DBM computed the individual IRA allocation of LGUs still using the 2010 Census of Population pursuant to Proc. No. 362 dated March 30, 2012 as the basis for the horizontal application of the IRA for all LGU as reflected in the proposed National Expenditure Program (NEP) 2017 submitted to Congress;

**WHEREAS**, based on LBM 74, all LGUs used their respective indicative IRA allocation as legal basis for preparing and approving their respective local appropriation ordinances, local development plans, annual investment programs, and annual budget for 2017, in compliance with RA 7160’s IRR, i.e. Administrative Order (AO) No. 270, to wit:

**“Art. 414. Preparation of Executive Budget.** – x x x, the local chief executive shall prepare the executive budget for the ensuing fiscal year. The local chief executive shall submit the executive budget to the sanggunian concerned **not later than the sixteenth (16<sup>th</sup>) day of October of the current fiscal year**. **If the local chief executive fails to submit the budget within the prescribed date, he shall be subject to such criminal and administrative penalties as provided under these Rules and other applicable laws.**” (underscoring supplied).

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**WHEREAS**, DBM Secretary Benjamin Diokno, subsequently issued LBM No. 74-A on September 9, 2016 entitled, “*ADJUSTED FY 2017 INTERNAL REVENUE ALLOTMENT AND ADDITIONAL GUIDELINES ON THE PREPARATION OF THE FY 2017 ANNUAL BUDGETS OF LOCAL GOVERNMENT UNITS*”, using the new 2015 Census of Population under Proc. No. 1269 purportedly pursuant to Section 93 of the General Provisions of the GAA 2016 (R.A. No. 10717), which states that:

*“Sec. 93. Internal Revenue Allotment of LGUs. The IRA, which is automatically appropriated, shall be apportioned among LGUs, including provinces, cities and municipalities created, approved, and ratified in 2015 in accordance with the allocation formula prescribed under Section 285 of R.A. No. 7160, taking into consideration the following:*

*(a) “The land area . . . x x x; and*

*(b) **“THE POPULATION SHALL BE BASED ON THE FY 2010 PRESIDENTIAL PROCLAMATION ON THE OFFICIAL POPULATION COUNT OF THE PHILIPPINES** by Province, City, Municipality and Barangay.” (underscoring supplied)*

*“All valid adjustments, changes, modifications, or alterations in any of the factors affecting the computation of the IRA that occurred or happened, including final and executory court decisions made effective during the current fiscal year, **SHALL ONLY BE CONSIDERED AND IMPLEMENTED BY THE DBM IN THE SUBSEQUENT FISCAL YEAR** from receipt by the DBM of the notice of said change.” (Underscoring supplied)*

**WHEREAS**, it is the position of the LPP that the “**current fiscal year**” being referred to in the General Provision of the GAA 2016, in the case of the NEB 2017, would be FY 2017 since DBM used the 2014 revenue collections of BIR to compute the LGUs’ IRA share, i.e. 40% of the 3<sup>rd</sup> year preceding 2017 or the “**current fiscal year**”. Therefore, it follows that the change in the population factor should be “**ONLY considered and implemented by the DBM in the subsequent fiscal year**”, referring to FY 2018. The fact that the operative term “ONLY” was used implies that **the intention of the law is for a prospective application by DBM of these changes by way of an issuance of a new LBM to be issued not later than June 15, 2017 intended for the LGUs’ IRA for FY 2018** in order to provide LGUs ample time to adhere to DBM’s budget cycle and to strictly comply with other existing laws, rules and regulations, lest local chief executives be “**subject to such criminal and administrative penalties as provided under these Rules and other applicable laws**”.

**WHEREAS**, the League of Provinces of the Philippines (LPP) has requested DBM Secretary Diokno during our 1<sup>st</sup> LPP General Assembly meeting to reconsider our plead citing the fact that the IRA of 72% of the Provinces for 2017 decreased as a result of LBM 74-A but he was not in favor of rescinding the same at that time. LPP thus commissioned a Technical Working Group (TWG) to be headed by the LPP Secretary-General, Gov. Edgardo Chatto, to study the validity and legal implications of LBM 74-A;

**WHEREAS**, in view of the urgency of the matter and considering the on-going deliberations of Congress to pass the 2017 budget before the year ends, the LPP would, therefore, like to appeal to the ***President of the Philippines, Rodrigo R. Duterte*** to direct the DBM to immediately revoke or recall LBM No. 74-A prior to the start of FY 2017, particularly disregarding ANNEX A thereof pertaining to the adjustment in the computation and allocation of the IRA shares of LGUs for FY 2017 which decreased majority of the LGUs’ individual IRA shares, and to officially use LBM No. 74 in the horizontal computation of the individual IRA allocation of all the 43,593 LGUs as originally reflected in the NEP 2017 based on the result of the TWG’s findings citing the following legal grounds:

1. **LBM No. 74-A contravenes existing laws and is, therefore, invalid and has no legal binding effect.** LBM 74-A was issued on September 9, 2016 way past the June 15, 2016 deadline set by Art. 409 of RA 7160’s IRR (AO 270) and other existing laws, rules and regulations. As cited therein, the 2015 Census of Population under Proc. No. 1269, must ONLY be used by DBM in the subsequent fiscal year by way of a new LBM issued not later than June 15, 2017 in computing for the IRA share of LGUs for FY 2018 in strict compliance with the DBM Budget Cycle process and all other existing laws, rules and regulation as previously cited herein.

2. **Recalling or revoking LBM No. 74-A will not affect nor change the total IRA share for all LGUs as well as the vertical allocation per Province, City, Municipality and Barangays under the original proposed NEP 2017.**

The total IRA share for 2017 as provided under the GAA for 2017 will remain the same level at Php 486.885 Billion, broken down as follows: P 113.339B (82 Provinces), P 111.525B (145 Cities), P165.938B (1,477 Municipalities), and P 96.081B (41,889 Barangays). The breakdown of the respective individual IRA shares of each LGU, based on Annex A of LBM No. 74 using the 2010 Census of Population must be used as this is already reflected original version of the NEP 2017.

Moreover, even without LBM 74-A, LGUs are still bound to comply with RA 9165, including Sec. 51 in its IRR regarding LGUs' assistance in providing funds for the conduct of barangay clearing operations, including rehabilitation and after care of drug users in coordination with the DOH and DSWD particularly on the establishment of Special Drug Education centers, and strengthening of the criminal justice system, as cited in the additional guidelines thereof. And with regard to the PCW-DIOLG-DBM-NEDA Joint Memorandum Circular No. 2016-01 dated January 12, 2016, likewise cited under LBM 74-A, LGUs have already considered the endorsed Gender and Development Plan and Budget in their respective 2017 budgets as approved by their sanggunian well within the Oct. 16, 2016 deadline set by law.

3. **LBM No. 74-A, if not immediately revoked prior to the start of 2017, will have massive and irreversible repercussions.**

3.1. In compliance with Articles 410 of the IRR of the Local Government Code of 1991, LGUs have already submitted and their respective sanggunian has approved their respective local development plans, annual investment programs, annual budget for FY 2017, among others based on their indicative IRA share under LBM No. 74 well within the deadlines mandated by law. In fact, the deadline for the submission of budget proposals by heads of offices or departments for each LGU to the local chief executive is **"on or before the fifteenth (15<sup>th</sup>) day of July of each year"** (Art. 413, AO 270) and for LCEs to the sanggunian concerned, **"not later than the sixteenth (16<sup>th</sup>) day of October of the current fiscal year"** (Art. 414, AO 270). LCEs can be sanctioned for non-compliance to the deadlines set by law in the budget process.

3.2. The belated and baseless issuance of LBM No. 74-A, which in effect reduced the indicative IRA shares of majority of provinces, cities, municipalities and barangays nationwide, will result in unnecessary and tedious adjustment, if not an overhaul, of approved local budget ordinances of all 43,593 LGUs nationwide in violation of existing laws, rules and regulations. Moreover, **LGUs cannot arbitrarily change and adjust their respective approved budgets.** Any changes in the annual budget of LGUs must conform to Art. 417 of AO 270, which provides for only two instances, to wit:

*"Art. 417. Changes in the Annual Budget. – Changes in the annual budget may be done through supplemental budget. **No ordinance providing for a supplemental budget shall be enacted except for the following:** "(a) When supported by funds actually available as certified by the local treasurer; or by new revenue sources;" x x x and "(b) In times of public calamity by way of budgetary realignment. x x x." (underscoring supplied)*

Therefore, in the case of LGUs with a reduced IRA share, they are not authorized by law to change their annual budget as approved by their local Sanggunian as this is not covered by a "supplemental budget" nor can it fall under a "calamity".

3.3. **WITH ONE STROKE OF A PEN BY DBM, LBM NO. 74-A EFFECTIVELY REPEALS DULY ENACTED BUDGETS OF LOCAL GOVERNMENTS. IT IS FUNDAMENTAL THAT LAWS AND REGULATIONS SHOULD HAVE PROSPECTIVE EFFECTS. THIS ALSO IMPOSES A PRIOR RESTRAINT ON THE POWER OF LOCAL GOVERNMENTS TO ENACT THEIR BUDGETS. THIS GOES BEYOND THE POWER OF THE DBM TO REVIEW LGUS' APPROPRIATIONS ORDINANCES AND AMOUNTS TO EXECUTIVE CONTROL, NOT JUST SUPERVISION!**

3.4. Despite the relative increase in population in the 2015 Census of Population in all provinces, the IRA share of 73% or 59 provincial government will still be reduced.<sup>1</sup> If LBM No. 74-A is not recalled, the average decrease per province is P14 Million, thus affecting the delivery of basic services for their constituents.

<sup>1</sup>(\*Note: e.g. Negros Occidental suffered the biggest shortfall of about P86.8Million followed by Pangasinan's IRA reduction of some P58.8M, Bohol with P41.6M while Davao Del Norte, Davao Occidental, and Davao Oriental will also incur decreases in their IRA share for 2017 in the amount of P12.7M, P3.5M, and P5.0M, respectively)

4. **The 2015 Census of Population should be prospectively applied for FY 2018 covered under a new LBM to be issued not later than the deadline set by law, i.e. June 15, 2017.** Because of the IRA formula set by law, the 40% IRA share of LGUs for 2017 is computed based on BIR's total internal revenues collected in FY 2014. **Therefore, the official population prevailing in 2014, i.e. the 2010 Census of Population, must be used as the legal basis** as already stipulated in Section 2.1.1.1 of LBM No. 74. Consequently, inasmuch as the 2015 BIR collections will be the reference year used by DBM in computing the IRA shares of LGUs for 2018, the 2015 Census of Population should, therefore, be prospectively applied.
5. **A revocation and recall of LBM No. 74-A is not unprecedented.** There is already a precedent in 2008 when former President Gloria Macapagal-Arroyo favorably acted upon the clamor of LGUs, as advocated by the LPP through its GA Resolution No. 2008-23, entitled: "*RESOLUTION REQUESTING HER EXCELLENCY PRESIDENT GLORIA MACAPAGAL-ARROYO TO SUSPEND PROCLAMATION NO. 1489 AND TO ENJOIN THE DBM TO REVERT TO THE UTILIZATION OF THE CY 2000 CENSUS IN THE FINAL COMPUTATION OF THE 2008 IRA.*" Former President Arroyo revoked Proc. No. 1489 (due to its many inconsistencies) and DBM recalled LBM No. 57 that used the new 2007 Census of Population in adjusting the LGUs' IRA for FY 2008 and consequently, reverted to use the 2000 Census of Population as basis for computing the LGUs' IRA for that year.
6. **The LPP is against any illegal reduction in the IRA shares.** As already ruled as unconstitutional by the Supreme Court, the IRA share of LGUs may not be reduced! Any such reduction infringes upon the local autonomy and fiscal autonomy enjoyed by local governments as guaranteed by the 1987 Constitution.

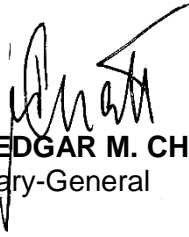
**THEREFORE, BE IT RESOLVED**, as it is hereby resolved, that the League of Provinces of the Philippines (LPP) respectfully request ***President Rodrigo R. Duterte*** to direct the Department of Budget and Management (DBM) to **immediately revoke LBM No. 74-A and Annex A thereof prior to the start of 2017 as it has no legal binding effect** in view of the fact that it contravenes the Local Government Code of 1991 (RA 7160) and its Implementing Rules and Regulations (IRR) under Administrative Order No. 270 as it effectively repeals duly enacted Ordinances of LGUs for FY 2017 which were based on Annex A of LBM 74 and thus goes beyond the power of the DBM to review LGUs' appropriations ordinances and amounts to executive control, not just supervision; and **to revert, therefore, to use LBM No. 74 and Annex A thereof as the legal basis for the horizontal computation of the respective individual IRA allocation of all 43,593 LGUs as originally reflected in the National Expenditure Program (NEP) FY 2017** so as not to disrupt the delivery of basic services by the LGUs throughout the country and more importantly, to ensure compliance with all existing laws, rules and regulations;

**RESOLVED FURTHER**, that the LPP request both Houses of Congress to accordingly correct Sec. 75 of the General Provision in the National Expenditure Program (NEP) for FY 2017 and revert to the 2010 population census as basis for the horizontal application of the IRA shares of all LGUs for FY 2017 in order to comply with all existing laws, rules and regulations, and for the prospective application of the 2015 census for the FY 2018 IRA shares of LGUs in accordance with the new LBM to be issued by DBM for this purpose.

**RESOLVED**, finally, that copies of this Resolution be furnished the Office of the President (OP), the Department of Budget and Management (DBM), the Department of the Interior and Local Government, as well as the Senate and House of Representatives, and the Union of Local Authorities of the Philippines and all its member leagues, for their immediate favorable consideration and corresponding appropriate action.

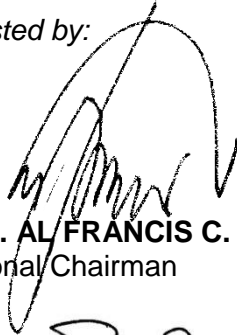
**DONE** this 18<sup>th</sup> day of November 2016 during the 2<sup>nd</sup> General Assembly of the LPP held at Crowne Plaza, Ortigas Center, Quezon City, Metro Manila, Philippines.

Certified true and correct:

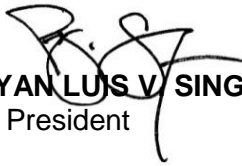


**GOV. EDGAR M. CHATTO**  
Secretary-General

*Attested by:*



**GOV. AL FRANCIS C. BICHARA**  
National Chairman



**GOV. RYAN LUIS V. SINGSON**  
National President