



Ateneo School of Government

G-Watch Tracking and Documentation Report on the Comelec Budget Process

COMELEC BudgetWatch

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Policy Context

Regular, free, and fair elections are the hallmark of Philippine democracy. Elections embody popular will, giving life to the declaration that “sovereignty resides in the people and all government authority emanates from them.”¹ Elections are the means by which people choose their officials; for definite and fixed periods, they entrust in these officials the exercise of power of government. In the context of Philippine democratization, elections are trust-building exercise and legitimate means to transfer power.

Former Comelec Chairman Christian Monsod lends an insight into the Filipinos’ psyche on elections: “Filipinos do not think that elections are a means to improve their own lives. But they want elections to succeed, are against any unconstitutional grab for power, and consider elections as a necessary building block to democracy.”²

Every three years is election year in the Philippines. Synchronized presidential, congressional and local elections are held every six years, while congressional and local elections are interspersed every three years. Elective posts, from the president down to local councilors, are filled through direct votes for individual candidates. The only exception is the 20 per cent of seats in the Lower House of Congress that is preserved for party-list organizations representing the marginalized and under-represented sectors of society. The elections for barangay officials and the Autonomous Region for Muslim Mindanao (ARMM) are held separately every three years in between the election of the national and local officials. The officials of ARMM and the barangay are also elected at large.

At the forefront of every election period is the Commission on Elections (Comelec), the constitutional institution mandated “to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, referendum and recall.”³ The mandate, powers and functions of the Comelec vested by the Constitution and the Omnibus Election Code have given the Commission extra-ordinary powers that cover rule-making, rule implementation and rule interpretation on various aspects of the election. Such extra-ordinary powers should commit the Commission to the Constitutional declaration that sovereignty resides in the people and all government authority emanates from them, and to Comelec vision statement to “Empowered, independent and fully modernized institution ensuring credible elections in strong partnership with an enlightened citizenry.”⁴

¹ 1987 Constitution, Art. II, Sec. I

² Christian Monsod, “Election Administration and Election-Related Constitutional Reforms,” 2nd National Electoral Summit, September 1, 2004, Sulo Hotel, Quezon City

³ 1987 Constitution, Art. IX-C, Sec. 2

⁴ Vision Statement of the Comelec, Resolution No. 7669, Promulgated 24 May 2006

The 1987 Philippine Constitution also provides that the Comelec “shall be independent,”⁵ to cast away doubts about the elections impartiality. The framers of the present charter made the Comelec, like the other constitutional commissions, an independent body parallel and co-equal to the three main branches of government, which could not encroach upon the authority and function of the Commission without violating its constitutional mandate.

To ensure the independence of the Commission, the Constitution specified the following guarantees:

1. The Commission cannot be abolished by statute.
2. The powers of the Commissioners cannot be withdrawn, altered or reduced by statute.
3. The Commissioners cannot be removed from office except through impeachment.
4. Commissioners serve a term of seven years.
4. The terms of office of the Commissioners are staggered. This is a safeguard to prevent the President from appointing majority of the members of the Commission.
5. The Commission shall enjoy fiscal autonomy.

Being a constitutional body less accountable to the other branches, the 1987 Charter provided checks and balances on the Comelec:

1. The Supreme Court can overturn its decisions.
2. Congress can legislate laws that direct the overall conduct of elections and regulate Comelec’s role, although it cannot diminish the powers and functions granted by the Constitution to the commission.
3. Congressional committees may examine Comelec’s work.
4. The Commission on Audit, which is also a constitutional body, can exercise financial oversight over the poll body.

The 1987 Constitution spelled and expanded the powers and functions of the Comelec.⁶ These are:

1. Enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall.
2. Decide, except those involving the right to vote, all questions affecting elections.
3. Deputize with the concurrence of the President, law enforcement agencies and instrumentalities of the government, including the Armed Forces of the Philippines, for the exclusive purpose of ensuring free, orderly, honest and credible elections.

⁵ 1987 Constitution, Art. IX, Sec. 1

⁶ 1987 Constitution, Art. IX – C, Sec. 2

4. Register political parties, organizations or coalitions, which, in addition, to other requirements, must present their platform or program of government; and accredit citizens' arm of the Comelec.
5. File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters, investigate and, when appropriate, prosecute cases of violations of election laws, including acts or omissions constituting election frauds, offenses and malpractices.
6. Recommend to Congress effective measures to minimize election spending, including limitation of places where propaganda materials shall be posted, and to prevent and penalize all forms of election fraud, offenses, malpractices, and nuisance candidates.
7. Recommend to the President the removal of any officer or employee it has deputized, or the imposition of any other disciplinary action, for violation or disregard of, or disobedience to its directive, order, or decision.
8. Submit to the President and Congress a comprehensive report on the conduct of each election, plebiscite, initiative, referendum, or recall.
9. Perform other functions as may be provided by law. Thus, by means of legislation, Comelec can have the necessary measure of flexibility in the discharge of its constitutional tasks.

The amended Omnibus Election Code and its subsequent laws provided additional power and functions of the commission.⁷ These are:

1. Exercise direct and immediate supervision and control over national and local officials or employees, including members of any national or local enforcement agency and instrumentality of the government required by law to perform duties relative to the conduct of election. In addition, it may authorize CMT cadets eighteen years of age and above to act as its deputies for the purpose of enforcing its orders;
2. Promulgate rules and regulations implementing the provisions of the Code or other laws which the commission is required to enforce and administer, and require the payment of legal fees and collect the same payment of any business done in the commission, at rates that it may provide and fix in its rules and regulations;
3. Summon the parties to a controversy pending before it, issue subpoena duces tecum, and take testimony in any investigation or hearing before it, and delegate such power to any officer of the commission who shall be member of the Philippine Bar;
4. When necessary, avail itself of the assistance of any national or local enforcement agency and/or instrumentality of the government to execute under its direct and immediate supervision any of its final decisions, orders, instructions, or rulings;
5. Punish contempt listed in the Rules of Court in the procedure and with penalties provided therein. Any violation of any final and executory decision, order, or ruling of the commission shall constitute contempt thereof;

⁷ Sec. 52, Omnibus Election Code, Batas Pambansa Blg. 881

6. Enforce and execute its decisions, directives, orders, and instructions which shall have precedence over those emanating from any other authority, except the Supreme Court and those issued in habeas corpus proceedings;
7. Prescribe the forms to be used in the election, plebiscite, or referendum;
8. Procure by public bidding any supplies, equipment, materials, or services needed for the holding of the election;
9. Prescribe the use or adoption of the latest technological and electronic devices, taking into account the situation prevailing in the area and the funds available for the purpose;
10. Carry out a continuing and systematic campaign through newspapers of general circulation, radios and other forms of media to educate the public and fully inform the electorate about election laws, procedures, decisions, and other matters relative to the work and duties of the commission and the necessity of clean, orderly, and honest electoral processes;
11. Enlist non-partisan groups or organizations of citizens from the civic, youth, professional, educational, business, or labor sectors known for their probity, impartiality, and integrity with the membership and capability to undertake a coordinated operation and activity to assist it in the implementation of the provisions of the code and the resolutions, orders and instructions of the commission for the purpose of ensuring free, orderly, and honest elections in any constituency. Such groups or organizations shall function under the direct and immediate control and supervision of the commission;
12. Conduct hearings or controversies pending before it in the cities or provinces upon proper motion of any party, taking into consideration the materiality and number of witnesses to be presented, the situation prevailing in the area, and the fund available for the purpose; and
13. Fix other reasonable periods for pre-election requirements so that voters shall not be deprived of their right to suffrage and certain groups of rights granted them in the code.

Throughout Philippine post-war history, elections have been a tough and protracted struggle either for democracy itself or for democratic consolidation. So long as they are perceived to be conducted freely and honestly, elections are a source of legitimacy for the exercise of power of a government and the political system.

Unfortunately the factors that destabilized Philippine elections as a trust-building exercise and a legitimate means to transfer power remain: a primitive electoral system, outmoded election laws, the pull and push of adverse forces and events, and the lack or weakness of measures and safeguards.

And at the center of all these lies the Commission on Elections, where “guns, goons and gold” are regular features of Philippine elections, the immediate past elections exposed the Comelec’s loss of integrity and gross incompetence and inefficiency, casting a shadow on all subsequent electoral exercises.

The Comelec, being at the forefront, is always placed in the pedestal of election controversies characterized by violence, cheating, fraud, election protests, vote-buying, delayed counting of votes, disenfranchised voters, among others.

Election issues against Comelec prove that the safeguards defined by the Constitution and Omnibus Election Code are not sufficient to ensure its integrity and independence against political machinations from within and outside. On the contrary, the integrity and independence of the poll body have become incidental to the disposition, competence, and honesty of the men and women appointed to the commission.

Due to the series of electoral controversies that haunted the poll body since 2004,⁸ the commission recognized that it is “challenged with legal, political, environmental and financial constraints resulting to negative public perception, low credibility and low morale of its employees thus hindering it to perform its function effectively and efficiently.” (Resolution No. 7669, 24 May 2006)

For Philippine elections to really become credible, meaningful, fair, honest, orderly and peaceful, electoral reform is a fundamental pre-requisite. These include, among others, the need to redesign the electoral system; modernize the conduct of voting, counting and canvassing of votes; strengthen the role of political parties; the full regulation of campaign financing and expenditures. And this includes reform in the electoral institution itself – the Commission on Elections.

Until the 2007 NLE, the Comelec continue to suffer the brunt of a very low level of public trust. The last published survey of the 2006 SWS Enterprises Survey conducted from Feb. – April 2006 indicated that the Comelec suffers a -59% net sincerity rating in fighting corruption.⁹

Election Chairman Jose Melo couldn't have put it more clearly: “It will not be good for the Comelec for people to question the results of the elections. What needs to be done is to make the results beyond reproach. The 2010 elections will be the big, big test for the Comelec. My aim is to restore the people's trust in the electoral process.”¹⁰

⁸ The major controversies that beset the poll body are the Supreme Court nullification of the P1.3billion contract between Comelec and Mega-Pacific eSolutions to automate the 2004 elections due to anomalous procurement process; huge number of disenfranchised voters due to the failed execution of the P1billion budgeted Voters' Validation System Project; poor implementation of the Overseas Voting Law; the increase in the rate of election-related violence; the Hello Garci scandal sparked by the exposition of recorded phone conversation between President Macapagal-Arroyo and then Comelec Commissioner Virgilio Garcillano votes allegedly to manipulate the canvassing of votes in favor of Arroyo; the protest-laden senatorial elections in 2007; among others.

⁹ The 2006 SWS Survey of Enterprises on Corruption: Mostly Good News on the Business Sector, Bad News About Government, July 6, 2006

¹⁰ “Comelec aim: Very credible polls”, PDI, September 2008

Project Background and Tracking Design

The Tracking and Documentation of the COMELEC Budget Process is a project of the Government Watch (G-Watch) program of the Ateneo School of Government in partnership with Management Systems International (MSI) and Philippine National Budget Monitoring Project (PNBMP).

The Ateneo School of Government believes that Philippine elections as one of the key democratic processes needs reform and development. That elections should be conducted with integrity, transparency and accountability. The systems and processes, that is the elections, that determine who holds power and in what manner the power is exercised should reflect the application of good governance, and one of the key electoral reform areas is the need to promote and institute good governance in the administration and management of elections.

The Ateneo School Government through its G-Watch program believes that a strategic method of addressing this reform area is to integrate a transparency and accountability mechanism in the budget process of the Commission on Elections, the constitutional body responsible for the effective implementation and management of elections. A transparency and accountability strategy, which has been proven to be effective by the ASoG - G-Watch Program is citizens' engagement in government processes or civil-society-state collaboration.

Experiences abroad have shown the effectiveness of civil society engagement in the government budget process as a tool to make the process transparent and accountable and as a means to influence budget policies. For instance, a report published by the International Budget Project (IBP) and the Institute for Development Studies (IDS) at the University of Sussex in September 2006 provides evidence that the analysis carried out by independent budget groups can directly lead to positive improvements in budget policies. The said report looks into independent budget organizations in Brazil, Croatia, India, Mexico, South Africa, and Uganda who have been engaged in budget analysis and budget advocacy for a period of 5-10 years.

Project Objectives

The objectives of the project, herein dubbed as COMELEC Budget Watch, are:

1. To document the standard and actual budget process of the Comelec;
2. To identify and analyze the relationship dynamics between Comelec and other government institutions;
3. To provide a third party analysis of Comelec's budget process that can serve as a reference for improved transparency, accountability and independence; and
4. To provide inputs for citizen's engagement in election budget.

Budgeting Concepts

Government budgeting is the critical exercise of allocating revenues and borrowed funds to attain the economic and social goals of the country. It also entails the management of government expenditures in such a way that will create the most economic impact from the production and delivery of goods and services while supporting a healthy fiscal position. This is a significant process because it enables the government to plan and manage its financial resources to support the implementation of various programs and projects that best promote the development of the country. Through the budget, the government can prioritize and put into action its plans, programs and policies within the constraints of its financial capability as dictated by economic conditions.

Thus, the National Budget as a financial plan is a document of policy directions and an instrument of national development, reflective of the national objectives, strategies and programs. In the same vein, the Department/Agency budgets are financial plans and policy directions reflective of their Vision, Mission Statement, Strategies and Programs and Projects

The Budgeting for the National Government involves four phases. These are the Budget Preparation; Budget Legislation/Authorization by the Congress; Budget Execution and Budget Accountability.

Tracking Design

The *components* of the tracking design are looking at the Standard and the Actual Process of Budgeting and the Time and Amount Variance of the actual budget process.

The *methodologies* used were Review of Documents and Related Literature; Interviews with key informants; and Actual observations of activities/events in the budget process.

The project *coverage* was by Level and Process. The Level coverage looked at the Comelec Central and regional offices involved in the budget process; the DBM; Congress and the COA. While the Process coverage looked at the budget process of the poll body in its four phases. Because the four phases are distinctly separate and takes place one after another in linear fashion, for a particular budget year, this report shall illustrate the *budget preparation and authorization* for fiscal year 2009; the *budget execution* specifically on the procurement of automation machines for the August 11, 2008 ARMM elections and budget processes of Regions IV and CARAGA; and the *budget accountability* by looking on the 2007 COA Audit Report.

Ten-Point Agenda of the COMELEC

Operation MERIT: Modernization and Electoral Reforms with Integrity and Transparency is the strategic program currently implemented by the poll body until 2010. It is the product of the strategic planning-seminar workshop conducted by the poll body

in early 2006 and participated by 167 Junior and Senior Executives, both from the main and field offices of the Commission. Operation MERIT is officially documented in the Comelec En Banc Resolution No. 7669, Promulgated 24 May 2006, with the title, “In the matter of the New Mission, Vision and Strategic Plan of the Comelec for 2006-2010 Dubbed as Operation MERIT.

Operation MERIT defined the following for the Commission, its concerned offices and officials and personnel to abide and implement its mission,

We, the guardians of the sovereign will of the Filipino people, commit ourselves to conduct clean, credible, free, honest, orderly and modernized electoral exercises, and to empower the electorate toward a vibrant Philippine democracy.

In pursuit of our mission, we shall be guided by the highest standard of integrity, honesty, accountability, impartiality, and transparency. We are driven by the value of respect, teamwork and achievement.

and vision,

Empowered, independent and fully modernized institution ensuring credible elections in strong partnership with an enlightened citizenry.

Key Components of the 2006-2010 Strategic Plan

1. Strengthening of COMELEC as Constitutional Constitution
2. Rationalization and Codification of Election Laws
3. Modernization of Electoral Processes
4. Effective and Continuing Voter Education
5. Advocacy and Networking

On 1 April 2008, the Comelec en banc with its newly-appointed Chair Jose Melo approved Comelec Memorandum No. 08-0422¹¹ that declared the Commission’s 10-point agenda, to wit:

1. Implementation of RA 8436 as amended by RA 9369 or the AUTOMATED ELECTION SYSTEM PROJECT
 - a. Automation of the august 2008 ARMM elections
 - b. Automation of the 2010 National and Local Elections
2. General Registration and/or Cleansing of List of Registered Voters
3. Improvement of the Judicial Functions of the Commission
 - a. Through revision of the Comelec Rules of Procedure

¹¹ Memorandum No. 08-0422, “ In tha Matter of the Memorandum of Commissioner Rene V. Sarmiento relative to the Memorandum of then Acting Chairman Romeo A. Brawner submitting his plans for the Commission as encapsulated in his 10-point Agenda,” April 1, 2008

- b. Institution of a System for the Raffle and Assignment of Cases
 - c. Speedy disposition of Cases
4. Review of the COMELEC Organizational Structure
 - a. Empowerment of the Director Heads (removal of the “Commissioner-in-Charge’ system over the Departments in the Commission)
 - b. Empowerment of the Regional Election Offices via Decentralization of Some Administrative Functions
5. Increase the Salary/Compensation Package of COMELEC employees
6. Institutionalization of Programs and Activities for Human Resource Development
 - a. Support for attendance in various seminars and trainings
 - b. Sponsorship of Sportsfest and other Team-building Activities
7. Institutionalization of Health and Welfare Package/Program for the Comelec employees
8. Strengthening ties with other Election Stakeholders
9. Enhancement of Voters Education and Information Campaign
10. Infrastructure Projects for the Commission
 - a. Purchase of land for the construction of a Comelec Building
 - b. Development of a housing project for Comelec employees
 - c. Renovation of Baguio cottages
 - d. Patenting of land reserved for Comelec in Baguio City

Budget Preparation

Fiscal Autonomy of the Comelec

The Comelec, like other agencies, goes through the standard budgeting process of the National Government, which involves: 1) budget preparation; 2) budget authorization/legislation; 3) budget execution; and 4) budget accountability. Such processes does not only involved the concerned agency itself but also other agencies like the Department of Budget and Management; the Office of the President; the Philippine Congress and the Commission on Audit. But unlike the other agencies, the Comelec enjoys fiscal autonomy. Article IX, Section 5 of the 1987 Constitution says that:

“The Commissions shall enjoy fiscal autonomy. Their approved annual appropriations shall be automatically and regularly released.

Fiscal autonomy means that once Congress approved and/or authorized the budget appropriations for Comelec, the President who has constitutionally mandated budget powers cannot re-align nor impound the budget of the poll body. The Constitution says that, “No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the *heads of Constitutional Commissions, may,*

by law, be authorized to augment any item in the general appropriations law for their respective offices from savings in other items of their respective appropriations.”¹²

It means that Comelec can re-align the budget appropriated and/or allocated to it or augment its savings to other items of their respective appropriations. Moreover, since the Comelec has fiscal autonomy, its leftover funds do not expire.(Validate)

According to Mr. Noel Gabriola of the DBM, fiscal autonomy of the Comelec, also means, “that the COMELEC is not subjected to expenditure report by the DBM in the release of its funds. Once the budget of the poll body is released by the DBM, the commission can do anything about it. Neither is the poll body could be subjected by the DBM to an agency performance review. Only the COA report becomes the avenue for DBM to question COMELEC on whether the funds are spent for their approved purposes.”¹³

But former Commissioner Mehol Sadain laments that, “once Comelec submits its budget proposal to DBM, they should immediately approve it, given the autonomy of the Commission.” Sadain further adds, “that the Commission has the capacity to redirect the budget to other projects that need it more. When there are savings from a finished project, COMELEC has the option to file a resolution that transfers these savings to an unfinished or proposed project that needs the funds.” (Interview)

Is the realization of the budget proposal submitted by the Comelec affected by how it undergoes the budget process and by the agencies involved in such process, i.e. the DBM, Congress and COA?

Standard Budget Process of COMELEC

According to the Comelec Resolution No. 7669, “In the matter of the New Mission, Vision and Strategic Plan of the Comelec for 2006-2010 Dubbed as Operation MERIT,” the offices concerned in the planning should submit, through the Planning Department, their respective cost and time-bound Action Plans to implement the Commission’s Strategic Plan. Action Plans are implemented upon approval of the Comelec en banc. On the other hand, budget proposals are submitted to the Finance Services Department for review and initiates a budget conference for consolidation and formulation of budget resolution. The en banc approves the budget for the next fiscal year.

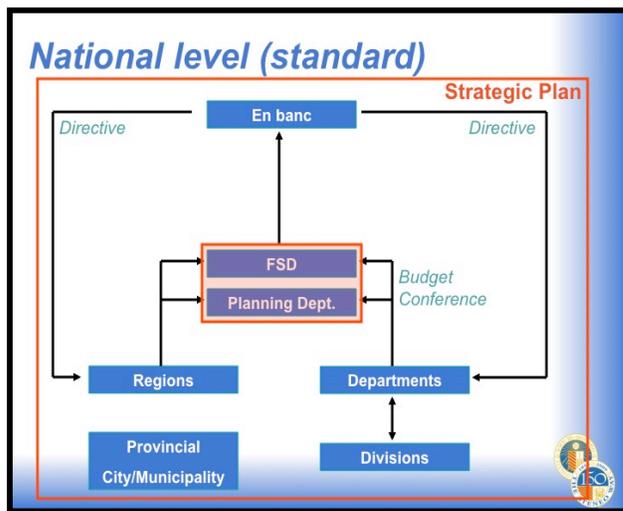
The offices concerned are the Regional Field Offices headed by Regional Election Directors (REDs) and the the Departments in the National Central Office such as the Education and Information Department (EID); the Finance Services Department (FSD); the Planning Department; the Administrative Services Department; the Electoral Contests Adjudication Department (ECAD); the Election Records and Statistics Department

¹² 1987 Constitution, Art. VI, Sec. 25

¹³ Interview, Mr. Noel Gabriola, Director III, Bureau C of the DBM, 20 November 2008, DBM Office, Manila

(ERSD); the Law Department; the Election and Barangay Affairs Department (EBAD); and the Information Technology Department. The Departments are each headed by a Director.

The Planning Department consolidates the various action plans of concerned offices and prepares the Commission’s annual Action Plan as one of its mandated function to “Provide the Commission with economical, efficient and effective services relating to Planning, programming and project development.” Within the Department, the Planning and Programming Division is the office principally task to “Formulate, prepare and justify the annual action plan.”



The Finance Services Department prepares the budget proposal for the coming year as it is its mandated function to “Prepare and administer the budget of the Commission; Advice the Commission as to its financial condition and on the status of appropriations and allotment; and Maintain an accurate record of all financial transactions and prepare fiscal reports.”¹⁴ The Budget Division of the FSD is the office principally tasked to “Formulate, prepare and justify budget proposals” under the direction of Dir. Mejos.

The Commission En Banc approves the annual action plans before these are implemented and the annual budget before it is submitted to the DBM. One of the powers and functions of the en banc is to “Exercise administrative functions and formulate the objectives, policies, guidelines and regulations of the Commission.”¹⁵

Former Commissioner Resurrecion Borra, who was involved in the formulation of Operation MERIT shared that the 2006-2010 strategic plan should guide in determining the annual Measurable Target Outputs; the corresponding Programs, Activities and Projects; and Projected Budget Requirements. He said that on a yearly-basis actual action plans are formulated to fine-tune and detail the strategic plan and according to the budget appropriated by Congress.¹⁶ Borra added that the annual Action Plan is the operationalization of the Commission’s five-year Operation MERIT. Thus, the budget is formulated according to the planning-programming-budgeting continuum of the agency.

¹⁴ Comelec Website, 2007, www.comelec.gov.ph

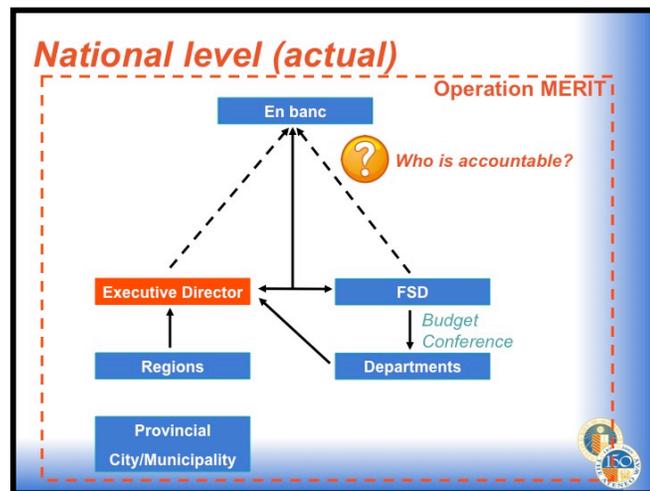
¹⁵ Ibid.

¹⁶ “Comelec Budget Process,” former Commissioner Resurrecion Borra, Training-Workshop on Judicial and Electoral Budget Monitoring, La Salle University, October 16, 2008, Manila

2009 Budget Preparation

The Comelec prepared its 2009 Action Plans and Budget Proposal in compliance of the Budget Call of the Department of Budget and Management (DBM) on May 2, 2008. The Budget Call was transmitted by the DBM to various government agencies through its National Memorandum No. 101 issuing the **Policy Guidelines and Procedures in the Preparation of the FY 2009 Budget Proposals**. The Administrative Code of 1987 provides that, “Each head of agency shall submit his request for appropriations to the DBM in accordance with the budget calendar, format, and such rules and regulations as may be issued.”¹⁷

The Departments at the Central Office submitted their respective Cost and Time-bound Action Plans to the Planning Department and Finance Services Department. On the other hand, some regions submitted their operational and office budget requirements to the office of the Executive Director. The department plans and consolidated budget were submitted to the Commission en banc for review and approval. After which, the Finance Services Department translated the materials into Comelec FY2009 Budget Proposal to be submitted to the DBM.



Regional-Local Budget Process

The Administrative Code of 1987 says that, “The budgets of national government shall be prepared taking into account full and careful consideration the opportunities and requirements specific to the various regions of the country. Where they are organized, regional offices shall originate agency budget proposals in accordance with approved priorities and guidelines.”¹⁸

The Comelec has 16 Regional Election Directors (REDs), 79 Provincial Election Supervisors (PES), 1,609 city and municipal Election Officers (EOs) and their staffs. Of the 5,380¹⁹ total permanent filled positions of the Comelec, more than 60% are assigned in the field offices.

What is glaringly absent in the poll body’s Budget Process is the participation of the field offices. Although former Commissioner Borra said that regional offices submit their

¹⁷ 1987 Administrative Code, Book VI, Chap. 3, Sec. 11

¹⁸ 1987 Administrative Code, Book VI, Chap. 3, Sec. 15

¹⁹ Comelec Staffing Summary, House of Representatives FY 2009 Appropriations, HB No. 5116

budget proposals, reviewed by the FSD and consolidated through Budget Conference in the central office, practice says otherwise.

Atty. Francisco Pobe, the Regional Election Director of CARAGA shares that “since 2000, field offices ceased to submit annual budgets and are only required to submit an annual work plan and an accomplishment report per project e.g. elections, registration of voters, etc.” Atty. Pobe adds that “there is absolutely no liquid cash that passes through his office, except some cash advances that are requested on a case-to-case basis, especially during elections. All financial transactions are centralized, including salaries (deposited through individual bank accounts of the employees from the national office), office supplies, repairs and maintenance (requested from national office)” (Phone Interview)

The same is shared by Atty. Juan Icaro, the Regional Director of Southern Tagalog, saying that “because there is no liquid cash distribution to the field offices, we need to look for other resources to maintain our office, or to pay for emergency expenses such as computer or office repairs. This may include asking for favors from the LGUs, which compromise Comelec integrity.”²⁰

Atty. Icaro acknowledged that his predecessor Atty. Somera has been submitting budget proposals to the central office as per memorandum sent to him and because there was a savings account per region where the regional office put all their savings and cash advances. Atty. Icaro relates that, “it was stopped for unknown reasons, and now, REDs are clamoring for it to be brought back.” Since 2005 when he assumed the RED post, Atty. Icaro never received any memorandum that required his office to make budget proposals.

The main problem, according to Atty. Icaro, is that there is too much centralization fiscally. “For example, only a P20,000 revolving fund is allocated to Provincial Election Supervisors to pay for office maintenance and utilities. Everything, including paperclips and pens have to be requested from the central office, which makes it hard for field offices to function.”

Former Commissioner Mehol Sadain related that during his time (July 2000-February 2006), there were resolutions of the en banc that defined control and system to the field offices regarding disbursements. Sadain shares that. “there was actually a resolution on the provision of petty cash funds to local offices, to be liquidated at the end of the fiscal year. If, for example, an election office needs minor repairs and needs about P5,000 they can get it from the petty cash, which is about P20,000. After this, they have to liquidate the amount spent and return the remaining amount. The resolution, however, was not implemented.”

Sadain sees the problem as result of the complicated burueaucratic flow and signing authority in the request and release of disbursements. He shares that, “the problem with

²⁰ Interview, Atty. Juanito Icaro, RED for Region IV-Comelec, 19 November 2008, Region IV Office, Intramuros, Manila

Commissioner-in-Charge” system is that it is not clear whether it is the commissioner who is the final signatory, or the department director or the Executive Director, or even the Chair.”

The “exclusion” of regional offices or centralized budgeting process of the commission seems to be the implication of a “no-clear manual of operations” planning-programming-budgeting continuum of the agency. The priorities and projects defined by the Operation MERIT remains the same until 2010 and collectively operationalize by the entire agency. Thus, by implication, the budget preparation becomes a mechanical translation of the operationalization of Operation MERIT. This can be gleaned in later discussion how the budget proposal becomes “simply” a “show of figures.”

Borra also noted the two factors affecting the budget preparation of the agency. One is that when the Budget Call is transmitted by the DBM, the budget calendar for the submission and review of the budget agency is too tight for agencies to comply with. Two, budget proposal preparation for the next fiscal year occurs in the early period of the current year so the agency could only come out with estimates based on the projections of the strategic plan.

One executive officer of the commission observes that his agency like other agencies have the tendency to submit bloated budget proposals in as much DBM, the Office of President, and Congress usually do not approve their submitted proposals. He jokingly relates that among the government agencies, it is the Office of the President and Congress that gets their budget proposals approved if not increased.

CREDO (Comelec Regional Election Directors Organization), a self-managed organization of regional election directors of the Commission, earlier submitted a resolution to then Chairman Jaime Abalos that proposed for the formulation of the implementing rules and regulations of Operation MERIT. The CREDO resolution also proposed for the decentralization of the procurement of supplies; the authority of Regional Directos to appoint junior staff, such as election officers; and for a more active role of the REDS on issues concerning them. CREDO, whose current president is Atty. Rene Bua, RED of Region VII, meets annually or as needed, and for logistical limitations, takes the opportunity to meet whenever they are all required to report in Manila central office, because as a private organization, they spend with their own funds.

Whether in response to the CREDO or not, the Finance Services Department issued Memorandum No. 06124 (dated 15 November 2008), that called for a meeting of the regional directors for a consultation forum on the decentralization of the procurement of supplies. This was also part of Operation Merit.

Emerging Issues

Firstly, the study found out that the budget preparations for fiscal year 2009 deviated from the standard planning-programming-budgeting process of the Commission defined by its organizational chart and line functions; by the En Banc Resolution No. 7669 “In

the Matter of the New Mission, Vision and Strategic Plan of the Comelec for 2006-2010 Dubbed as Operation MERIT. Moreover, the Strategic Plan is not clearly linked to the budget preparation process as there were no approved priorities and guidelines nor defined operational planning-programming-budgeting continuum. This can be gleaned from the absence or unclear directives on planning-budgeting link, if not clear transmittal to concerned offices including the regional units.

There is also no operational procedure for participation of Regional Offices in the budget process as determined by Sec. 15, Chapter 3, Book VI of the 1987 Administrative Code. Issues were raised by CREDO regarding the operationalization of Operation MERIT, the Commission's 10-point agenda, and the rules and procedures on the participation of Regional Offices in budget proposal formulation and procurement. Thus, budget proposals submitted upon the initiatives of Regional Offices are more concerns-based rather than functions-based.

Lastly, while the Office of the Executive Director has supervisory role in the budgeting process, the procedure by which budget proposal/request of Regional Offices are directly submitted to it, there is a confusing relationship between it and the Finance Services Department resulting into a problematic integration of various proposals into a comprehensive budget formulation. There is a question on accountability and who actually is accountable for the budget, because there seems to be equal responsibility between the executive director and the FSD.

Comelec FY 2009 Budget Proposal

On May 27, 2008, the poll body submitted its FY2009 budget proposal to the Budget Technical Service office of the DBM. The proposal was endorsed by Chairman Jose Melo. The other signatories of the proposal are Budget Officer IV Zita Jongko; Planning Officer V Dulce Sagles and Assistant Chief Accountant Cita Castillon.

The following are the agency's Thrusts, Objectives, and Programs and Projects for 2009 reflected in the Comelec FY2009 budget proposal.

Thrusts

Modernization of Electoral Processes pursuant to R.A. 9369 and in consonance with the Goals of the President State of the Nation Address.

Objectives

1. Cleansing and Updating of Voters' List through Digitized Capturing of the voter's Biometric and Personal Data
2. Faster and Accurate Results through Automation of Counting and Canvassing
3. Immediate Consolidation and Dissemination of Results through Electronic Transmission

Projects

1. Acquisition of Machines for 2010 Automated NLE for the Modernization of Electoral System (RA 9369)
2. FY 2009 Cleansing of the Voters' Registration Records Project
3. FY 2009 Voters Validation System - Resumption of the System of Continuing Registration (RA 8189)
4. Preparatory Activities for 2010 National and Local Elections (NLE)
5. Continuing Registration & Preparatory Activities for 2010 NLE for Overseas Absentee Voting (RA 9189)
6. Geographical Information System project
7. Rationalization of Election Laws
8. Continuing Employee Information & Education on Election Laws, Rules, & Procedures and Development of Internal Capacities of Comelec Personnel (Nationwide)

The Comelec FY2009 Budget Proposal amounted to **PhP 14,250,223,000.00** reflected in the Program (Regular Operation) and Projects of the poll body, listed below:

A. Program – Regular Operation

- Personal Services	2,431,015,000
- Maintenance & Other Operating Expenses	725,454,000
- Capital Outlay	3,559,638,000

TOTAL Program **6,716,107,000**

B. Locally-Funded Projects

- Modernization of Electoral System	2,600,000,000
- Cleansing of Voters Registration Records	1,671,001,000
- Voters Validation System – Continuing Registration	606,918,000
- Preparatory Activities for 2010 NLE	2,126,449,000
- Continuing Registration & Preparatory Activities for Overseas Absentee Voting	228,528,000
- Geographical Information System Project	80,000,000
- Rationalization of Election Laws	7,940,000
- Continuing Employee Information & Education on Election Laws, Rules & Procedures & Development of Internal Capacities of Comelec Personnel	74,075,000

TOTAL Locally-Funded Projects **7,394,911,000**

- Fixed Expenditure **139,205,000**

GRAND TOTAL **14,250,223,000**

Budget Review Authority and Procedure of the DBM

The Administrative Code of 1987 defines the mandate of the Department of Budget and Management, to wit:

“The Department of Budget and Management shall review and analyze the work and financial flows, the budgeting proposals of national and local government agencies, and corporations, check each agency’s compliance with the budgetary policies and project priorities, determine the budgetary implications of foreign-assisted projects from the time of project design to the negotiation for financial assistance, prepare recommendations for fund releases, formulate and implement fiscal policies and plans for budget preparations and control and conduct studies on economic trends and factors affecting government revenues, expenditures and borrowings.”²¹

The following are the general functions of the Department:

1. Formulates the overall resource application strategy to match the government’s macro-economic policy;
2. Prepares the medium-term expenditure plan, indicating the programming, prioritization, and financing of capital investment and current operating expenditure requirements of medium-term sectoral development plans;
3. Undertakes the formulation of the annual national budget in a way that ensures the appropriate prioritization and allocation of funds to support the annual program of government;
4. Develops and administers a national accounting system essential to fiscal management and control;
5. Conducts a continuing study of the bureaucracy and assesses as well as makes policy recommendation on its role, size, composition, structure and functions to establish a government bureaucracy imbued with a spirit of public service;
6. Establishes the rules and procedures for the management of government organization resources i.e., physical, manpower and other resources, formulates standards of organizational program performance; undertakes or provides services in work simplification or streamlining of systems and procedures to improve efficiency and effectiveness in government operations;
7. Conceptualizes and administers the government’s compensation and position classification plan; and
8. Monitors and assesses the physical as well as the financial operations of local government units and government-owned and/or government-controlled corporations.

Every second quarter of the calendar year, the DBM publishes its budget call to prepare the President’s National Government Budget for the next fiscal year. The DBM National Budget Call for FY 2009 defined the Budget Framework; set the Macro-economic and

²¹ Title XVII – Budget and Management, Book 5, Administrative Code of 1987, institutionalized by Executive Order No. 292

Fiscal Targets; provided Guide to department/agency budget formulation and resource allocation; Submission requirements and timetable; and Budget preparation calendar.²²

According to the Administrative Code of 1987, agency proposals are reviewed on the basis of their own merits and not on the basis of a given percentage or peso increase or decrease from a prior year's budget level, or other similar rule of thumb that is not based on specific justification. Proposed activities, whether new or ongoing, are evaluated using a zero-based approach and on the basis of (1) relationship with the approved development plan, (2) agency capability as demonstrated by past performance, (3) complementary role with related activities of other agencies and (4) other similar criteria. The realization of savings in a given budget year and the consequent non-utilization of funds appropriated or released to a given agency shall not be a negative factor in the budget evaluation for a subsequent year.²³

DBM Review of the Comelec FY 2009 Budget Proposal

The Comelec submitted its proposal to the DBM on 27 May 2008 through the office of the Budget Technical Service. The BTS is tasked to look at the compliance of the proposal using the Budget Preparatory Forms of the DBM. The proposal contains the following documents:

- I. The Mandate and the Agency's Thrusts and Objectives
- II. The Commissions FY 2009 Plans and Programs
- III. The Agency Performance Measures
- IV. Overview of the Comelec FY2009 Budget
- V. Actual Allocation for FY2007 Budget; the Current Year (2008) Program
- VI. BP 202: Requirements of Locally-Funded Projects, containing the proposals on various projects
- VII. The Comparative Preparatory Expenses for PNLE 2006 and 2009

The Budget and Management Bureau C (BMB-C) of the DBM is the office assigned to conduct the preliminary review of the Comelec budget request and comes out with its own recommendation.

The BMB-C called for a Technical Budget Hearing for the Comelec budget. During the hearing, Comelec FSD Director Eduardo Mejos, Planning Director Esmeralda Amoro-Ladra, Budget Officer IV Minda Zita Jongko, and Planning Officer V Dulce Sagles presented, justified and clarified the proposal before the technical panel of the BMB-C. From their end, the Bureau C panel led by Bureau Director Luz Cantor and Director III Noel Gabriola, explained the reasons for concurring, disapproving and slashing the amounts of specific budget items.

²² National Budget Call Fiscal Year 2009, DBM, 02 May 2008, Malacanang, Manila

²³ 1987 Administrative Code, Book VI, Chap. 3, Sec. 16

After the hearing, the Bureau C came out with the recommendation to cut the Comelec proposal from P14,250,223,000 to P5,495,863,000 NEP-based computation. The National Expenditure Program is the total available appropriations, including the unused appropriations and/or allocations of the preceding year, which are still available for implementation.

Ms. Tita Florida, staff member of Bureau C says that, “most of the budgets that the DBM cut were for projects that they see are not necessary to be spent for the fiscal year.”²⁴

Director Noel Gabriola added that the DBM has a set of criteria for cutting the budget. First, the project and programs proposed must have a legal basis. This may include having a mandate of a written law, or as ordered by the President. Contrary to a widely accepted perception, DBM sometimes increase the budget, especially if there is a new legislation mandating a new appropriation or new order from the President. On the other hand, when there is a legislation but no appropriation, it becomes the task of the executive if it is appropriate to allocate a budget. The DBM can come out with an assessment if the agency is capable or not to perform action on the said legislation. Gabriola added the assumption of the DBM that all budget proposals of agencies are bloated. “This happens in all agencies,”²⁵ he assured.

The Bureau C submitted its NEP budget recommendation together with the original Comelec proposal to the DBM Budget Review Task Force. The Task Force, chaired by the Budget Secretary and participated by the directors of the various bureaus, conducted an Executive Review and approved the recommended NEP budgets of agencies. During the review on Comelec budget, the technical panel clarified their recommendation before the review panel.

Overview of the COMELEC FY2009 Budget

(In Thousand Pesos)

	COMELEC PROPOSAL	DBM RECOMMENDATION
A. Program – Regular Operation		
- Personal Services	2,431,015	1,332,352
- Maintenance and Other Operating Expenses	725,454	267,268
- Capital Outlay	3,559,638	4,234
TOTAL Program	6,716,107	1,603,827
B. Locally-Funded Projects		
- Modernization of Electoral System (RA 9369)	2,600,000	1,401,333
- Cleansing of Voters’ Registration Records	1,671,001	366,560
- Voters’ Validation System – Continuing Registration (RA 8189)	606,918	181,850
- Preparatory Activities for 2010 NLE	2,126,449	1,830,616

²⁴ Interview, Ms. Tita Florida, staff member, Budget and Management Bureau - C, DBM, Manila, 20 November 2008

²⁵ Interview, Director III Noel Gabriola, Budget and Management Bureau – C, DBM, Manila, 20 November 2008

- Continuing Registration & Preparatory Activities for 2010 NLE for Overseas Absentee Voting (RA9189)	228,528	-
- Geographical Information System Project	80,000	-
- Rationalization of Election Laws	7,940	-
- Continuing Employee Information & Education on Election Laws, Rules & Procedures & Devt. Internal Capacities of Comelec Personnel (Nationwide)	74,075	-
TOTAL Locally-Funded Projects	7,394,911	3,780,359
- Fixed Expenditure (RILP)	139,205	111,677
GRAND TOTAL	14,250,223	5,495,863

The DBM recommended FY 2009 budget for Comelec is more than 60 percent less than the budget proposal of the poll body. But still, the P5.4billion recommendation for 2009 is higher than the P4.3billion appropriated to the agency for 2008.

With regards the specific budget items, DBM slashed the proposed P6.7B for regular operations to P1.6B but an increase from the P1.5B appropriated in 2008. The increase can be gleaned from the additional budgets for Personnel Services (specifically for Salaries and Wages, Cash Gift and Year-end Bonus); for MOOE (specifically for Communication Expenses, Rent, Consultancy Services, Office Equipment Maintenance and Insurance). The DBM also recommended P4.2M for Capital Outlay (specifically for Office Equipment, Furniture and Fixtures), which has no appropriation in 2008.

But in the same Capital Outlay, DBM denied the proposals for Acquisition of Lot (P504M) and Construction of Comelec Building (P3B). Dir. Gabriola explains that Comelec should seek approval first from the President or Congress of its plan to buy lot along the Diosdado Macapagal Highway in the Manila reclamation area.

DBM also slashed the poll body's proposal of P2.6B for the Modernization of Electoral System to P1.4B as replenishment to the previously appropriated P2.6B on top of the P267M for the 2008 ARMM elections. The P2.1B proposed budget for Preparatory Activities for 2010 NLE was also cut to P1.8B.²⁶

Cuts were also made from Cleansing of Voters' Registration Records from P1.6B to P366M and Voters Validation System – Continuing Registration from P606M to P181M.

The DBM denied the original proposals nor recommended its own for Projects on Continuing Registration and Preparatory Activities for 2010 NLE for Overseas Absentee Voting; Geographical Information System; Rationalization of Election Laws; and Continuing Employee Information and Education.

²⁶ It should be noted that the proposed budgets for Modernization of Electoral System and Preparatory Activities for 2010 NLE were based on the assumption that the OMR technology will be adopted in the 2010 National and Local Elections which will require the use of automated ballot which are made of security paper.

Emerging Issues

The DBM has no documentation of its review on the Comelec budget proposal, that is, the basis for slashing and/or decreasing specific budget items. When the research team requested for such documents, the DBM employee relayed that it was not a custom to have minutes of the technical review, involving the midlevel officials from DBM and the agency, and the executive review, involving all directors and the secretary of DBM. This puts into question public accessibility to the review activities of the DBM on the Comelec budget proposal and that of other agencies. Thus, it is not clear how the DBM determines the NEP-ceiling of specific agency budget, and in this case, the Comelec NEP-based recommended budget.

Moreover, the slashing by the DBM of the Comelec proposed budget on Modernization of Election System showed that the Finance Services Department simply adopted the budget appropriated to the Commission in 2008. This is a manifestation of the absence of the Strategic Plan and budgeting link in the budget formulation of FY2009.

Comparative Appropriations

FY 2007, 2008 and 2009 NEP

(In Thousand Pesos)

	2007 ACTUAL	2008 GAA AUTHORIZED	2009 NEP
A. Program – Regular Operation			
- Personnel Services	1,345,705	1,250,970	1,332,325
- Maintenance & Other Operating Expenses	249,315	257,126	267,268
- Capital Outlay	9,739	0	4,234
TOTAL Program	1,604,759	1,508,096	1,603,827
B. Locally-Funded Projects			
- Modernization of Election System		2,600,000	1,401,333
- Cleansing of Voters' Registration Records			366,560
- Resumption of Continuing Registration	118,537		181,850
- Preparatory Activities for 2010 NLE			1,830,616
- Continuing Registration & Preparatory Activities for 2010 NLE for Overseas Absentee Voting			
- Geographical Information System			
- Rationalization of Election Laws			
- Continuing Employee Information and Education and Development of Internal Capacities of Comelec Personnel			
- FY 2008 ARMM Election		267,003	
- FY 2007 National and Local Elections	6,908,773		
- FY 2007 Synchronized Barangay and SK Elections	3,562,508		
- FY 2007 SK Registration	48,682		
- FY 2007 Absentee Voting	156,043		
Total Projects	10,794,543	2,867,003	3,780,359
Locally-funded projects (1997, 2003-2006)	47,224		
Fixed Expenditures (RILP)			111,677
GRAND TOTAL	12,446,526	4,375,099	5,495,863

On 30 June 2008, the DBCC presented to the President and the Cabinet the FY 2009 Proposed Budget Levels of Department/Agency/Special Purpose Funds. The Comelec 2009 Budget was presented with the Comparative Budget for 2009 Proposals and per National Expenditure Program.

Here, the Comelec requested the projects for reconsideration and inclusion in the FY 2009 Budget.

Particulars	Original Submission	Recommended By DBM Per NEP	Amount Requested For Restoration In Addition to DBM Recommendation
1. Additional Requirement for Modernization of Electoral System (Acquisition of Voting/Canvassing Machines)	2,600,000,000	1,401,333,000	
2. Continuing Registration & preparatory Activities for the 2010 NLE (Overseas Absentee Voting)	228,528,000		228,528,000
3. Acquisition of Lot for the Comelec Office	504,000,000		504,000,000
4. Geographical Information System Project	80,000,000		80,000,000

Electoral Development and Reform Agenda of the Administration

Does electoral development and reform agenda of the Arroyo administration play part in the overall macro-economic and fiscal policy framework and thrusts for FY 2009-2010 within the context of the Medium-Term Philippine Development Plan, 2004-2010 (MTPDP) and other policy developments?

The automation of the elections has been declared one of the priorities of the Arroyo administration. In her State of the Nation Address (SONA) last June 28, 2004, President Arroyo unveiled her 10-point Legacy Agenda, the 8th of which is the automation of the election system. This was reiterated in her 2005 SONA summarizing her 10-point agenda into an acronym: BEAT THE ODDS. As a development and reform agenda of the administration the 10-point agenda was imprinted in the Medium-Term Philippine Development Plan 2006-2010 (MTPDP). The MTPDP set that Automated Election shall have “target deliverables that include raising public discourse and education through a continuous citizen and voter education in partnership with government and non-government agencies, political party reforms specifically state financing of parties and modernization of election through computerization.”

From thereon, Republic Act 9369 or the New Election Automation Act of 2007 was signed in January 23, 2007, which requires a fully-automated election system in the 2010

national and local elections. RA 9369 further states that the automated election system should first be pilot-tested in at least two highly urbanized cities and two provinces each in Luzon, Visayas and Mindanao in the 2007 elections. However, time constraints made it impossible to implement the project. Hence, the plan to automate the 2007 elections was abandoned, instead the pilot-test was conducted in the August 11, 2008 ARMM elections.

In her Budget Message FY 2009, the President pronounced that, “The Comelec, a caretaker of the most hallowed of democratic practices – the right to suffrage – is allotted P3.8billion for ensuring honest and clean elections in 2010. Some P1.8billion of the amount will go to preparatory activities for both National and Local Elections while P367million will be used for the Cleansing of Voter Registration Records. An amount of P1.4billion, on the other hand, will be used for automation of the Electoral System, a national version of the successful ARMM computerized election.”²⁷

Budget Authorization

In accordance with the requirements of the Constitution²⁸, the President submits his/her proposed annual budget in the form of Budget of Expenditures and Sources of Financing (BESF) to the National Legislature for authorization. It is also required that no legislative proposal involving the appropriation of funds shall be transmitted to the Congress without the approval of the President.

The President’s submission to Congress of the National Budget results in the preparation of the General Appropriations Bill. In Congress, the proposed budget goes first to the House of Representatives, which assigns the task of initial budget review to its Committee on Appropriations.

The House of Representatives is where, “All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively (in the HoR), but the Senate may propose or concur with amendments.”²⁹

The Appropriations Committee has mandate over “All matters directly and principally relating to the expenditures of the national government including the payment of public indebtedness, creation, abolition and classification of positions in government, and the

²⁷ President’s Budget Message for FY 2009 National Budget

²⁸ Art. VII, Section 22 of the Constitution says that: “The President shall submit to the Congress within 30 days from the opening of every regular session, as the basis of the general appropriations bill, a budget of expenditures and sources of financing including receipts from existing and proposed revenue measures.”

²⁹ 1987 Constitution, Art. VI Legislative Department, Sec. 24

determination of salaries, allowances and benefits of government personnel.”³⁰ The Committee Chair is Rep. Junie Cua.

While the budget hearings are in progress in the House of Representatives, the Senate Finance Committee, through its different sub-committees, may also start to conduct its own review and scrutiny of the proposed budget. The Committee proposes amendments to the House Budget Bill to the Senate body for approval.

The Senate Committee on Finance has jurisdiction over “All matters relating to funds for the expenditures of the National Government and for the payment of public indebtedness; auditing of accounts and expenditures of the National Government; claims against the government; inter-governmental revenue sharing; and, in general, all matters relating to public expenditures.”³¹

To thresh out differences and arrive at a common version of the General Appropriations Bill, the House and the Senate create a Bicameral Conference Committee. The “Bicam” finalizes the General Appropriations Bill.³²

The Constitution gives Congress a deadline to pass the General Appropriations Bill for the succeeding year. This means that the bill should be completed by the end of the current fiscal year. If Congress fails to accomplish this, the current year’s General Appropriations Act is reenacted. Previously, Congress failed to pass HB 6385, the General Appropriations Bill for 2004. Likewise, for FY 2006, it failed to pass HB 4710, the corresponding General Appropriations Bill. During these two fiscal years, the National Government operated under a reenacted budget.

On the other hand, as soon as the General Appropriations Bill is passed by Congress, this is submitted to the President for approval. The President may disapprove or veto a legislative measure upon any ground sufficient for him/her where he/she considers the law to be unconstitutional or merely when he/she doubts the wisdom or practicality of such law.

After the President affixes his/her veto message and signature, the Bill becomes the General Appropriations Act, the National Budget for the succeeding fiscal year. Thus, the GAA is the legislative authorization that contains the new appropriations in terms of specific amounts for salaries, wages, and other personnel benefits (Personnel Services); maintenance and other operating expenditures (MOOE); and Capital Outlays authorized to be spent for the implementation of various programs/projects and activities of all departments, bureaus and offices of the government for a given fiscal year.

³⁰ House of Representatives Website, 2007

³¹ Senate Website, 2007

³² DBM Budget Primer, 2007

Lower House

In August 26, 2008, President Macapagal-Arroyo, as a constitutional requirement,³³ submitted to the Congress the Budget of Expenditures and Sources of Financing (BESF) or the President’s annual budget proposal amounting to P1.415trillion “to support our priority programs and projects for the year 2009.” The proposed national budget becomes the basis of the general appropriations bill that the legislature will deliberate and approve.

On September 3, 2008, the DBCC³⁴ led by Budget Secretary Rolando Andaya briefed the Committee on Appropriations regarding the macro-economic assumptions and parameters of the proposed National Expenditure Program for 2009. Andaya also stated that among the key allocations of the FY 2009 budget will go to a clean and honest election. The 2009 recommended budget of the DBCC for the modernization of election system was smaller by 46.15% in contrast to the FY2008 proposal, while budget allocation for Preparatory Activities for the 2010 NLE, Cleansing of Voters’ List, and Continuing Registration doubled from the FY 2008 proposal.

The budget hearings in the House of Representatives commenced after the DBCC presentation. The Appropriations Committee, together with the other House Sub-Committees, conducted hearings on the budgets of various departments and agencies and scrutinized their respective programs and projects.

The budget proposal of the Comelec was taken up in the hearing conducted by the Subcommittee A of the Committee on Appropriations on 26 September 2008. The hearing was presided by CA chair Rep. Junie Cua. Chairman Jose Melo and Commissioner Rene Sarmiento represented the poll body. The meeting was called to order at 3:53pm and adjourned at 4:10pm.

There were no objections nor questions raised with regards the proposed budget. Even the scheduled presentation of the Commission of their budget was dispensed. The representatives were more interested with the modernization of the election process. Below are the issues and concerns raised by legislators and responses of Comelec representatives:

Issues and Concerns Raised	Reply of Comelec representatives
Was the automated election conducted in the ARMM a success?	The assessment of the Comelec as well as the Advisory Council and other sectors is that it was very, very successful.
The success, facilitated the election of the	It facilitated the winning candidates without a lot of

³³ 1987 Constitution, Art. VI, Sec. 22, “The President shall submit to the Congress within thirty days from the opening of every regular session as the basis of the general appropriations bill, a budget of expenditures and sources of financing including receipts from existing and proposed revenue measures.”

³⁴ The Development Budget Coordination Committee (DBCC) determines the overall economic targets, expenditure levels, revenue projection, deficit levels and the financing plan of the national government. It is headed by the DBM Secretary and its members are the Secretary of Finance, the NEDA Director-General, and the Bangko Sentral Governor.

administration candidates?	the former dagdag-bawas.
Looking at the result, there were areas where turn-out of votes were 100% or more. Election modernization should address perennial problem of accusations of cheating against winning candidates.	It is true that the automated election in ARMM was a success, but there are areas for improvement.
With regards biometric registration, this should not only cleanse the voters' registration record but should be incorporated in the voting machine.	Another major thrust of the Comelec is to cleanse the voters' list. The Comelec have met with different groups like Task Force 2010 and other NGOs on how to help the Comelec in cleansing the voters list.

The hearing ended with an approval of the Comelec budget and with recommendation to the Committee on Appropriations to restore some of the amounts previously slashed by the DBM.³⁵

In October 2, 2008, Rep. Edcel Lagman, senior vice chairman of the Committee on Appropriations, delivered the sponsorship speech on House Bill No. 5116 or the proposed FY 2009 General Appropriations Bill of which the President's proposed annual budget is incorporated.

The Lower House held a plenary session on October 9 to deliberate the proposed appropriations bill. The Comelec budget was tackled from 7:00pm to 8:05pm. The following were the issues and concerns raised by the legislators and the responses of the Comelec representatives.

Issues and Questions Raised	Responses from the Comelec
Why is there no amount indicated for cleansing of voters' list and voter registration?	Funds for cleansing of voters list and continuing registration were included in the budget. Biometric system of registration shall be used
What is the mode of procurement with regards the automated voting machines?	
Is there a plan to automate the system for overseas absentee voters	All electoral exercises should be funded and automated
What would be the system used for first time voters. We should adjust the registration centers and time to accommodate the first time voters.	The commission will register the first time voters with the biometrics system. Adjustment of venue and time is prohibited by law, but will intensify campaign in schools and extend registration till weekends.
How are proposals from civil society incorporated	Comelec has been open to the participation of civil society, POs and NGOs
What is the update on the implementation of the Supreme Court decision that Mega Pacific returns the money paid for the machines?	Comelec has been pursuing the refund of P1.3B. The commission is preparing its papers for the summary of judgment in the regional trial court. RTC has allowed for the presentation of evidences that has been delayed. Mega Pacific has filed a counter suit against the Comelec.
Why the huge P5 billion unliquidated cash advances as of Dec. 31, 2007? And of which P38.7 million were given to retired employees.	P96 M have already been liquidated as of Sept. 30, 2008. P985M still unliquidated as of Sept. 30, 2008. Unliquidated amount and retirement payment

³⁵ "Minutes of the Meeting", SUBCOMMITTEE A, Committee on Appropriations, HoR 2nd Regular Session, 14th Congress, 26 September 2008

	not only Comelec but other agencies as well
Unliquidated cash advances of such nature are violations under COA rules P78 M was paid by Comelec inspite of non-delivery and incomplete delivery of registration materials	Comelec staff and Rep. Cua approached the interpolator and discussed the matter among themselves
Procurement method and guidelines for procurement	Procurements are centralized in the main office. Law on Procurement is followed, as well as guidelines of the Comelec
Problem of ballot switching with the use of OMR where cheating takes place during transport of ballot boxes	Switching of ballots is almost impossible as special papers are used. Though possible with unused ballots
The costly rental expenses of Comelec at the Palacio del Gobernador.	

On October 11, after two weeks of plenary debates, the House approved on second reading the proposed P1.415trillion national budget for 2009. The proposed General Appropriations Bill is 15.4 percent higher than the 2008 budget. Speaker Prospero Nograles said that, “the budget is expected to address any problems that may crop up due to the world economic slowdown.”³⁶

New Appropriations Bill, FY 2009, House of Representatives

(In Thousand Pesos)

	Comelec Proposal	President's Proposal	HoR Appropriations HB No. 5116
A. Program – Regular Operation	2,431,015	1,332,325	1,334,825
- Personnel Services	725,454	267,268	267,268
- Maintenance & Other Operating Expenses	3,559,638	4,234	4,234
- Capital Outlay	6,716,107	1,603,827	1,606,327
TOTAL Program			
B. Locally-Funded Projects			
- Modernization of Electoral System	2,600,000	1,401,333	1,401,333
- Cleansing of Voters' Registration Records	1,671,001	366,560	366,560
- Resumption of Continuing Registration	606,918	181,850	181,850
- Preparatory Activities for 2010 NLE	2,126,449	1,830,616	1,830,616
- Continuing Registration & Preparatory Activities for 2010 NLE for Overseas	228,528	-	-
- Absentee Voting	80,000	-	-
- Geographical Information System	7,940	-	-
- Rationalization of Election Laws	74,075	-	-
	7,394,911	3,780,359	3,783,359

³⁶ “House passes 2009 national budget on 2nd reading”, PDI, 10/12/08

- Continuing Employee Information and Education & Development of Internal Capacities of Comelec Personnel - Construction of Comelec Bldg in Iba, Zambales			
TOTAL Locally-Funded Projects			
Fixed Expenditures (RILP)	139,205	111,677	
Automatic Appropriations			
Continuing Appropriations			
GRAND TOTAL	14,250,223	5,495,863	5,389,686

The HoR Appropriations basically approved the DBM recommendation except that it increased funds for Regular Program (Personnel Services) by P2.5M and included P3M for the construction of Comelec building in Iba, Zambales.

Senate

While the Lower House was deliberating the budget, the Congressional Joint Oversight Committee on Automated Election System initiated on September 10 its review of the Comelec proposed budget for election automation. Sen. Richard Gordon, Senate panel chairman of the Joint Oversight Committee and author of RA 9369 (New Automated Election Act of 2007), noted that “while Comelec has submitted a total of P3.8billion for the elections in the 2009 budget, preparations for the 2010 polls should have been included in the next year’s outlay.”³⁷ The Joint Committee asked the Comelec to review and re-submit its proposed 2009 budget to ensure a fully automated, clean and credible election in 2010.

Herein comes out the implication of the “mechanical” and “show of figures” budget preparation of the Comelec. In the original Comelec proposal, the P2.6B of the P3.8B for the elections in the 2009 budget is intended for the acquisition of machines. According to an insider of the Commission, FSD Director Carmelo Mejos came out with the P2.6B amount by simply doubling the amount the commission intended to propose in 2006, that is P1.3B, for the automation of the 2007 elections. That time, RA 9369 was not yet enacted and what was existing was RA 8436 or the Election Modernization Law of 1997.

On September 25, the poll body submitted to the Joint Oversight Committee the Budgetary Requirement for Automating the 2010 National and Local Election.

On September 30, Comelec submitted to the DBM and Office of the President the proposed “Budget Requirement for Automating the 2010 National and Local Election” with the maximum amount of P21B. The additional amount shall become a proposal for

³⁷ GMANews.TV, 9/10/2008

supplemental budget over the original P5.4B budget. A supplemental appropriation, once approved by Congress, is included in the General Appropriations Act. It means an additional appropriation authorized by law to augment the original appropriations which proved to be inadequate or insufficient for the particular priority program and/or project, and in this case, the Acquisition of Machines for FY 2010 Automated National and Local Election. In the same vein, no legislative proposal involving the appropriation of funds, in this case, supplemental appropriation, shall be transmitted to the Congress without the approval of the President.

The proposed supplemental budget will only be decided by Congress once the General Appropriations Bill is approved. Further, a supplemental budget can only be approved when there is a source of revenue (excluding foreign assistance) to fund the budget.

The Budget Requirement for Automating the 2010 National and Local Elections provided the following assumptions.

1. The technology to be used in the voting and counting shall be a hybrid solution of the DRE and OMR technologies.³⁸
2. The costs of the equipment was based on actual costs of 2008 ARMM Elections
3. All results are transmitted directly to head office from precincts (DRE) and counting centers (OMR).
4. There shall be 5% back up units.
5. For the OMR, there is an estimated P10 per ballot and 2 ballots per voter.
6. There are 150 voters per DRE machine based on 5 minutes per voter, 11-hour voting day and 85% voter turnout
7. There are 7,500 voters (15,000 ballots) per OMR machine.

The proposal likewise presented five scenarios or options that can be considered with regards budget requirement.

Structure	DRE Component (1)				
	100%	75%	50%	25%	0%
Lease	21,883,828,526	17,711,175,804	13,538,523,083	9,365,870,362	5,193,217,641
Purchase	28,771,084,412	23,278,494,540	17,785,904,667	12,293,314,795	6,800,724,923
Effective Purchase (2)	17,670,107,176	14,334,353,690	10,998,600,204	7,662,846,717	4,327,093,231

1. Remainder is OMR
2. Reflects cost per election assuming AES will be used for two elections. Includes recurring costs Such as storage, ballots, services, transmission, systems integration and project management.

³⁸ DRE machines allow voting through a touch-screen or touch-pad, while OMR machines require voters to fill up a paper ballot which is then counted by a specially designed machine. Votes in DRE are automatically counted in the precincts while paper ballots for OMR are counted in designated counting centers.

During the hearing of the Senate Finance Committee on 2 October. Sen. Miriam Defensor-Santiago found that the additional budget, “is very hefty. You’d have to cut a lot of personal services, maintenance and other operating expenses and capital outlays from the budgets of other agencies. That’s the problem with adding to the budget, you have to deduct it from other agencies.”³⁹

In the same hearing, Chairman Jose Melo explained that the poll body needed the P21B to set up a nationwide automated voting system using the direct recording electronic (DRE) technology, where a voter merely touches a pad or screen to indicate his or her vote preferences. Melo added that while the Comelec preferred the DRE technology, optical mark reader machines (OMR) are best suited to sparsely populated far-flung areas of the country since deploying DRE machines there would not be cost effective.

On November 9, the Advisory Council finally issued the group’s official recommendations to the Comelec. These are:

1. DRE or precinct count optical scan (PCOS) technology for all areas, subject to the election automation of Comelec.
2. OMR or Central count optical scan (CCOS) technology for all areas not covered by DRE or PCOS technology.
3. Public telecommunications networks for the transmission of results

On Dec. 3, the Senate held its plenary session to deliberate the General Appropriations Bill. Unlike the Lower House, the Senate hearing was more meticulous about the budget and requirements of the election automation program.

Senators Aquino, Lacson, Pimentel and Gordon raised several questions and concerns. From the commission’s side, Chairman Melo and Commissioner Sarmiento provided the answers and explanations. Among the questions and concerns raised were:

Questions and Concerns	Responses
Why the Commission failed to include in its original proposal the P21B automation budget? Why the delay in the submission of the proposed supplemental budget?	The Commission had to wait for the Advisory Council’s recommended technology and budget. The commission already sent a letter to the DBM and the President to follow-up approval of their submitted request for additional appropriation.
What will prevent repeat of previous failed attempts to automate, where there are machines that have become useless?	Comelec will commission an outside entity for the purchase of the machines, etc. A procurement board has been established.
Why the huge amount of P21 billion?	The amount applies to 100% lease for the DRE. The hybrid solution of DRE and OMR could also be applied. The commission opts for lease than purchase because of the rapid development of technologies.
Status of the Supreme Court decision that Mega-Pacific returns to the poll body the P1.05 billion paid for the purchase of machines in 2007?	Mega Pacific has filed a counter-claim against Comelec in the Makati Regional Trial Court

³⁹ “Miriam says P21B too much for automated polls”, PDI, 10/3/2008

Comelec rental expenses has amounted to P5B the last five years. Monthly rental of P28M should have been used for amortization and construction of its own building.	The expenses also included the P69M renovation of the 8 th floor of the Palacios del Gobernador. Acquisition of lot and construction will be done after the 2010 elections.
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Election Commissioner Rene Sarmiento and Henrietta de Villa, chair of the Parish Pastoral Council for Responsible Voting (PPCRV) were worried that Congress may not be able to pass the General Appropriations Bill by the end of December. In a press conference, they lamented that failure by Congress to pass a supplemental budget for poll automation in the proposed 2009 GAB would place the computerization of the 2010 elections in jeopardy as the Comelec would not be able to buy or lease voting machines. “If there is no budget, we will have to use manual voting. If Congress don’t give the money by January or February, the Comelec even if it is ready, will not be able to hold automated elections” said Sarmiento.⁴⁰

Early January, worries are arising that automating the 2010 elections may not be possible because the 2009 GAB is far from being approved and there was no supplemental budget on automation submitted to congress for that purpose.

The following are the series of comments and counter-comments that came out from the media with regards the uncertainty of the election automation.

Sen. Gordon said that the fate of the poll automation still hangs because the Comelec has not yet submitted a supplemental budget to Congress to act on (2010 Poll Automation Still Uncertain, Philippine Star, 1/6/2009)	Comelec Chair Jose Melo reiterated that it is not the job of the poll body to submit a request for supplemental budget to Congress. “We cannot do that. We cannot go directly to Congress for supplemental budget. It’s the President that can do that for us,” he said. (Phil. Star, 1/6/2009)
Gordon suggested that the intention (not to release the budget) is probably to have no elections in 2010 as “they’re still thinking of the Con-con and the Con-ass,” referring to suspicions that the administration is pursuing Charter change, to prolong Ms. Arroyo’s stay in power. (No funds yet for poll automation: Dick, Loren worried, PDI, 1/8/2009)	“Malacanang is working on the request for a supplemental budget which it will submit to Congress,” Comelec Chair Melo said. He said the proposed budget for poll automation was not included in the 2009 budget because it took the poll body’s advisory council a long time to decide on which technology to use for the 2010 elections.(PDI, 1/8/2009)

On 9 January 2009, Malacanang submitted to the House Committee on Appropriations an P11.9-billion supplemental budget for the 2010 election automation. Of the P11.9B, P9.9B would be for the acquisition of the necessary automation equipment and P1.3B for preparatory activities for the 2010 elections.

According to Presidential Adviser for Political Affairs Gabriel Claudio, “Poll automation is a priority concern and program of the administration to ensure clean, orderly, and credible elections in 2010.” Claudio adds that, “the President will most likely certify the bill (HB 5715) as urgent.”⁴¹

⁴⁰ “Comelec: No P21B, no automated polls,” PDI, 12/3/2008

⁴¹ “Palace submits P11.9B budget for poll automation,” Phil. Star, 1/10/2009

“Malacanang and the Comelec have finally done their part in the submission of the budget proposal. Now it is Congress’ turn to act with dispatch on the supplemental budget for the 2010 automated elections,” Sen Gordon said.⁴²

On 20 January, the Bicameral Conference Committee of Congress approved the final version of the proposed P1.415-trillion national budget for 2009. The following day, the House of Representatives ratified the final version. The ratification in the House did not come without objection from members of the minority who belong to the bicameral conference committee. They questioned the transparency of the process and the lack of discussions in the crafting of the final version of the budget.

On 27 January, the Lower House approved the P11B supplemental budget for the automation of the 2010 elections. The House approved HB 5715 or the GAB2009, which included an amendment that will make mandatory the biometrics system in the cleansing of voters’ list and for the poll body to use funds solely for automation. The biometrics system recognizes a person’s biological data, or in this case, data pertaining to a voter’s thumbprint, fingerprint, and signature.

If the poll body could use the supplemental budget solely for automation, where shall the Comelec get funds for the biometrics system?

Budget Secretary Rolando Andaya Jr. said that Comelec has P2.2B – P800M in “leftover” from 2008 and P1.4B “embedded” in the more than P5B for 2009 – which the poll body could use to implement the biometrics system. “Since they have fiscal autonomy, these leftover funds don’t expire,” Andaya added.⁴³ The amount is over and above the P11.3B supplemental funds.

On March 2, 2009, the HoR passed on third and final reading the P11.3B automation budget of the Comelec for 2010 elections. The Senate passed the House-approved supplemental budget on March 4. Both houses of Congress approved the common version of the supplemental budget for election automation as is. It meant that there is no need for a bicameral conference to thresh out any difference.

The P11.3-billion supplemental budget was signed by the President on March 23, 2009.

Emerging Issues

The request for supplemental budget for Modernization of Election System reflects the weakness of the Commission in the formulation of its original proposal for FY2009 budget – the absence of the Strategic Plan-budgeting link. The original P2.6B proposal for the Modernization of Election System was merely an adoption of the 2008 appropriated budget. Further consultation with the COMELEC and DBM, however,

⁴² Editorial: “Give Comelec the money to automate,” The Manila Times, 1/14/2009

⁴³ “Poll Chief lauds supplemental budget OK,” Inquirer.net 1/27/09

proved that while both agencies had thought of including the budget for automation, the Advisory Council on automation took a long time to meet until the budget had to be submitted to the DBM without the budget for automation.

As mandated by law, the Php2.6 billion budget in the GAA was to be used for automation. However, during the deliberations for the Php11.3 billion supplemental budget for automation, it was pointed out by a certain congressman that the Php 2.6 billion should be used for other purposes because there would already be an allotted budget for the automation. It was decided by the policy makers that the said amount would be used for the cleansing of the voters' list. While it has the noblest of intentions, it is also technically illegal to use appropriated funds for other purposes than its mandated function.

Additionally, the Constitution provides that Congress should pass the General Appropriations Bill before the fiscal year ends. Besides the schedules of budget hearings, Congress has no clear timetable how to meet the constitutional deadline. When looking for schedules of the budget hearings, the research team found out that schedules were posted around two or three days before the hearing, and there were always hour-long delays. There was, for example, a hearing that was scheduled in the morning but started in the evening.

The poor attendance, lack of focus and parochial concerns of legislators during congressional hearings and plenary deliberations affect the substantial deliberations on the budget thus the delay in the passage of general appropriations bill. This creates problems, when, for example, a question that was raised in a previous hearing would be raised again in the next hearing, by a congressman who was not present in the last one.

Moreover, the failure of Congress to pass the GAA at the end of fiscal year as a constitutional deadline and the delay of the President to sign the general appropriations in law affect the implementation of programs and projects, in this case, the Modernization of Election System.

	Comelec Proposal	President's 2009 Budget Proposal	Lower House Third and Final Reading	Senate	Bicameral Conference
Appropriations	14,111,018,000	5,379,186,000	5,389,686,000	5,439,686,000	5,439,686,000
Fixed Expenditures	139,205,000	116,677,000	116,677,000	116,677,000	116,677,000
Total	14,250,223,000	5,495,863,000	5,506,363,000	5,556,363,000	5,556,363,000
Automatic Appropriations					
Continuing Appropriations					
Leftover Funds					
Supplemental Budget to automate	21B	11.9B*	P11.3B	11.3B	

electons					
Grand Total					

1. Out of the P11.9B – P9.9B is for the acquisition of machines and P1.3B for preparatory activities for the 2010 elections

Comparative Appropriations

FY 2007, 2008, and 2009NEP

	2007 Allocations	2008 Appropriations	2009 Appropriations
General Appropriations	12,446,526	4,375,099	5,439,686,000
Supplemental Budget			11.3B

Budget Implementation

In this section, the procurement of electronic voting machines used in the August 11, 2008 regional election in the Autonomous Region for Muslim Mindanao shall be the case for discussion. The choice of looking at one specific project, that is, the automation of the August 11, 2008 ARMM election, provides focus rather than the over-all and complex implementation of an agency budget.

Background of the Project

The regional election in the Autonomous Region for Muslim Mindanao (ARMM) was conducted on August 11, 2008. The election is pursuant to Republic Act No. 9333 in which elections for the posts of Regional Governor, Regional Vice Governor and members of the ARMM Regional Legislative Assembly must be held on the second Monday of August for every three years.

The 2008 ARMM election was significant in two ways. First, the first automated election in Philippine election history will be done in the region traditionally known as election-fraudulent with high incidence of election-related violence. Second, the pilot test of the automated election in ARMM would serve as preparation for designing an automated election system nationwide to be used in the 2010 national and local elections.

Originally, the pilot-test should have been conducted in the 2007 election as provided by Republic Act No. 9369 or the New Automation Act of 2007, which was signed into law on January 23, 2007. The Act requires a fully-automated election system in the 2010 national and local elections. But first, it should be pilot-tested in at least two highly urbanized cities and two provinces each in Luzon, Visayas and Mindanao in the 2007 elections.

However, the Comelec, upon the advise of the newly created Comelec Advisory Council, decided to forego as time constraints made it impossible to implement the project. Hence, the plan to automate the 2007 elections was abandoned.

The Comelec Advisory Council, a creation of RA No. 9369, is tasked to recommend to the Comelec the “appropriate, secure, applicable and cost-saving energy technology” to be used in the automation of elections.

More than a couple of months after the May 2007 elections, the Advisory Council issued a resolution on August 14, 2007 recommending to the Comelec to push for the automation of the August 11, 2008 ARMM election from the voting to the counting, transmission and consolidation of results.

On Nov. 27-29, 2007, the CAC together with the Technical Evaluation Committee conducted a vendor’s demonstration of various technologies on automated election systems. The demonstration was to enable the CAC and TEC to evaluate the various technologies on automated election and determine the appropriate technology for the automation of the August 2008 ARMM election.

In January 31, 2008 the Advisory Council issued a resolution recommending that the Comelec pursue a full automation of the August 11, 2008 ARMM elections using the Direct Recording Electronic or DRE in the province of Maguindanao and the Optical Mark Reader or OMR for the rest of ARMM. The poll body concurred with the Advisory Council with the issuance of Comelec Resolution No. 8415 on February 6 that called for the use of two different technologies that will allow the poll body to evaluate the suitability of the two different technologies in the Philippine setting, preparatory to designing an automated election system for nationwide use in 2010.

On election day, two different kind of technologies were deployed by Comelec in ARMM – the Direct Recording Electronic or DRE and the Optical Mark Reader or OMR.

The DRE technology uses a touch pad (voting pad) device where voters select their choice of candidates by touching selected areas of the touch pad. The voter then gets a paper printout that serves to inform the voter that the system recorded the votes properly and accurately. Due to the relatively high cost of using DRE, this technology was deployed only in the province of Maguindanao. The provider for the DRE technology and also the overall integrator and prime contractor was a Venezuelan based company called Smartmatic-Sahj Technology Inc.

The other technology, OMR uses paper ballots which contain the names of the candidates and the different races being contested where voters shade or mark the circles corresponding to the names of the candidates they choose to vote for. The OMR was deployed in the areas of Lanao del Sur, Shariff Kabunsuan, Basilan, Tawi-tawi, and Marawi City.

At the end of election day, the paper ballots are then brought to a counting center where the ballots are scanned by a machine that detects the voter’s marks and counts their votes. OMR technology was used in all the provinces of ARMM except in Maguindanao. The

technology provider for OMR was an American company, the Avante International Technology.

The transmission of election results at all levels from the precinct level for the DRE and from counting centers for the OMR up to the national data center in Comelec’s head office in Manila was made through wireless connections.

A canvassing and consolidation system developed by Smartmatic was used to combine the two partial results (from DRE and OMR) in order to arrive at the national winners. This was bought by the Comelec while the all the electronic voting machines of the DRE and OMR were leased by the poll body

The following amounts are the 2008 GAA for the Comelec solely for the purpose of the ARMM elections.

Locally-Funded Projects	Personnel Services	Maintenance & Other Operating Expenses	Capital Outlays	Total
a. for the modernization of electoral system			2,600,000,000	2,600,000,000
b. FY2008 ARMM elections	83,313,000	183,690,000		267,003,000
Total Projects	83,313,000	183,690,000	2,600,000,000	2,867,003,000

Release of Funds and the Procurement Process

In early January, Comelec Finance Director Eduardo Mejos, sent a letter to the DBM, requesting for the immediate release of Special Allotment Release Order⁴⁴ (SARO) and Notice of Cash Allocation⁴⁵ (NCA) in the amount of P866,231,860.00 to cover the initial implementation of RA 9369.

In a response letter on January 25, BMB-C Director Luz Cantor of DBM inform Director Mejos that the request funds is included in the FY 2008 President’s budget and is still being deliberated by Congress, hence not yet available for release. In the same letter, Director Cantor requested the poll body to furnish the DBM the following as per requirement for the release of the funds when approved by Congress:

1. the recommendation of the Advisory Council as to the technology to be applied in the AES including the list of the hardware and software components;
2. the revised listings of required IT equipment for the 2008 ARMM elections showing therein the items to be procured, the required number of units and cost/unit to support the request;

⁴⁴ The SARO is an order issued by the DBM to authorize the Comelec to spend funds under the General Appropriations ACT of 2008 appropriated for the poll body.

⁴⁵ NCA specifies the maximum amount of withdrawal that the poll body can make from a government bank for the period indicated

3. the corresponding work program for the automation of the ARMM election

Also in January, the Information Technology Department of Comelec drafted the Terms of Reference/Request for Proposal (TOR/RFP). A series of meetings were conducted by the Comelec officials and technical staff together with the Technical Evaluation Committee and Advisory Council to provide inputs in the preparation of the TOR/RFP.

The TOR/RFP defines the technical description and requirements of the automated election system and its publication initiates the government bidding process as required by the Government Procurement Reform law.

On February 12, 2008, the DBM released to Comelec the SARO with an amount of P867,329,000.00, solely for the use in the automation of the 2008 ARMM elections. On the same day, the Comelec published the Bidding Calendar and the Invitation to Bid in the following lots:

Lot 1A	Electronic Voting System Integrated with Election Management System
Lot 1B	Automated Counting System Integrated with Election Management System
Lot 2A	Secured Electronic Transmission System for Election Results
Lot 2B	Consolidation/Canvassing System; and
Lot 3	Systems Integration and Overall Project Management

A pre-bid conference was held on February 26, 2008. A total of eleven vendors acquired the TOR/RFP.

On March 11, 2008 (deadline for submission of Bid Proposals), the Opening of Technical Bids were conducted. Of the 11 vendors that acquired the TOR/RFP, only two ventures submitted bid proposals, Smartmatic-Sahi and Sandz Solutions. The proposal of Sandz Solutions was disqualified due to non-compliance to eight requirements. Smartmatic-Sahi submitted proposal for Lots 1A, 2A, 2B and 3 and underwent the technical evaluation process.

The conduct of technical evaluation was made only for Lots 1A, 1B, and 2A since these lots required delivery of equipment and software with specified functionalities. The technical evaluation was conducted from March 11 to April 8.

The bidding for Lot 1B was declared failure. Second bidding for this lot was undertaken and scheduled on April 1, 2008 the deadline for submission of bid proposal and opening of bids. Prior to this, a pre-bid conference was conducted on March 25, 2008.

The second bidding on April 1 for Lot 1B was, again, declared failure. This prompted the poll body to resort to Negotiated Procurement as authorized by the Government Procurement Reform Act. Only two bidders, the Active Business Solution and Avante International Technology were declared eligible to participate in the bidding from among those who previously submitted bid proposals.

On April 11, 2008, Comelec rejected the bid proposal of Smartmatic-Sahi for Lots 1A, 2A, 2B and 3 for lack of substantial compliance to the TOR/RFP. Smartmatic-Sahi filed a motion for reconsideration to the Comelec Advisory Council and requested the Advisory Council for comments and recommendations. In response to the motion for reconsideration, the Comelec Technical Working Group and representatives from the Commission on Information and Communication Technology-National Computer Center (CICT-NCC) conducted re-testing of the machines of Smartmatic-Sahi.

On May 6, 2008, the Comelec conducted a technical demonstration and evaluation of the DRE component by Smartmatic-Sahi. The Comelec TWG and CICT-NCC representatives submitted their joint evaluation showing that the Smartmatic-Sahi has fully complied with all the technical requirements specified in the TOR/RFP.

On May 6 and 7, the Comelec TWG and CICT-NCC conducted the technical evaluation of the OMR component offered by Avante International and Active Business Solutions. The ABS failed to meet thirteen specifications, including those on accuracy and date recovery, while Avante complied with all the specifications prescribed in the TOR/RFP.

On May 8, Comelec awarded to Smartmatic-Sahi the contract for Lots 1A, 2A, 2B and 3 and the following day, awarded the contract for the procurement of Lot 1B to Avante International Technology Inc. The kick-off meeting for the Automation of 2008 ARMM elections was held on May 14, 2008.

On May 30, 2008 the Advisory Council issued a resolution to the recommending the list of international certification entities for consideration of the poll body. The recommendation was based on the stipulation of RA 9369. However, the Comelec opted not to undergo the process of international certification due to extreme time-pressure and with their belief that they have substantially complied with the requirements of RA 9369.

The procurement contract between the Comelec and Smartmatic-Sahi provided that the poll body will lease 2,558 DRE voting machines and purchase the consolidation and canvassing system from Smartmatic-Sahi. The same is also contracted to set-up the electronic transmission infrastructure and develop the encryption/decryption modules. The contract price was P555million.

The contract between the Comelec and Avante International provided that the poll body leases from the latter 156 automated counting machines or OMR. Contract price was P155million.

Emerging Issues

Despite time constraint, the implementing rules and regulations of RA 9184 – Government Procurement Reform Act – was followed in the procurement process. However, during the procurement, there was a suggestion from the Joint Congressional Oversight Committee that the GPRA be suspended. There were debates among civil

society groups and government officials about this—the law is supposedly above anyone else, and at this point, suspension would mean an institution overpowering the law itself. Moreover, the recommendation of the Comelec Advisory Council that a hybrid solution of the different technologies to be used should come from one vendor for smooth integration was not materialized except in the consolidation and canvassing system, which was awarded to Smartmatic-Sahi.

The Advisory Council failed to attend some of the activities in the bidding process. The Commission should have provided the CAC the schedule of activities/events related to the automation process as provided by Section 9 of Republic Act 9369, which mandates the CAC to “Participate as non-voting members of the Bids and Awards Committee in the conduct of the bidding process for the automated election system.”

Operations of Field Offices

According to the Omnibus Election Code, there are only two articles where local government units (LGUs) are mandated to provide financial or resource support to COMELEC: during barangay elections, when expenses are shared, and the provision of a “suitable” office space for the Comelec field offices. Art. VII, Sec. 55. On *Office Space* suggests,

The local government concerned shall provide a suitable place for the office of the provincial election supervisor and his staff and the election registrar and his staff. Provided, That in the case of failure of the local government concerned to provide such suitable place, the provincial election supervisor or the election registrar, as the case may be, upon prior authority of the Commission and notice to the local government concerned, may lease another place for office “*and the rentals thereof shall be chargeable to the funds of the local government concerned.*”

The research divided the operations of field offices into four parts: personal services, the distribution of liquid cash, the purchase and use of office supplies and equipment, and the provision and use of office space.

Personal Services

For every 200,000 registered voters in a city or municipality, there is one election officer and one election assistant. What happens when half of these voters come to the office at the same time? This is why the field offices see the necessity of hiring casuals.

Casuals are hired by a formal request submitted by the field office to the central office, sometimes through higher offices (regional or provincial). The central office may have two choices – to approve or reject the request. If they approve, the casuals are hired by the field office.

However, researchers found out that the field office may have the option of formally requesting for casuals to the local government, especially if their requests are either

rejected or delayed. Also, it was found out that the LGUs always approve and never reject requests, and this is why through time, field offices have found it convenient to make a request to the LGU directly, instead of waiting for the approval of the central office.

Overtime Pay

COMELEC employees are not allowed to do overtime work during non-election periods. The practice is for the central office to make an authorization memorandum that will allow overtime for election periods only. To collect the pay, the field office will submit an overtime report to the central office, and upon receipt, the central office will deposit the amounts directly to the ATM accounts of the employees.

However, there is sometimes a need for an office to do overtime work, especially if it is understaffed. When this happens, the field office makes a request for overtime to the central office, which the central office may approve or reject. One of the findings of the research was from a certain region, where both the Regional Election Director (RED) and the City Election Officer (EO) made requests for overtime. The city EO's request was rejected due to budget constraints, while the RED's request is still in process as of the interview. The RED's request, of course, covers the overtime of the city EO's field office. Seemingly, thus, the approval or rejection of requests do not have specific criteria and are arbitrary.

Distribution of Liquid Cash

The central office, during election periods (45 days of an election year), regularly releases a field office's mobilization allowance. Some field offices have called it a cash advance, and are deposited to the personal ATM accounts of the highest officer of the office. The mobilization allowance is only for election-related expenses and for a given period of 45 days.

However, there are no clear standards as to what the mobilization allowance is for exactly. Many EOs have stated that their liquidation reports were not accepted and sent back because some expenses were not allowed.

Also, there was an office of a Provincial Election Supervisor (PES) that had a replenishable budget of Php 20,000 for the payment of telephone bills. The PES states that some years ago, an employee from the central office visited the region for auditing, and realized that they did not have a phone line. The replenishable budget was therefore given for the payment of phone bills.

In the same region of the aforementioned PES, the RED was also given a replenishable budget of Php 50,000, which serves as a petty cash fund. He can do as he wants with it, and it is deposited to his personal ATM account. Aside from this, he was also given Php 500,000 to spend for barangay elections, deposited also to his personal account. Because the amount was too big, he decided to create another bank account under COMELEC's name, naming himself as official representative. This, however, is not a practice authorized by COMELEC.

Supplies and Equipment

The same process for personal services is applied in the request for supplies and equipment for the field offices. The field office makes a formal request to the central office, which can either approve or reject, but seemingly they can also make a formal request to the LGU, especially when their requests are rejected, delayed or insufficient. In all cases, the LGU always approves, and there was a particular city EO whose LGU has appropriated funds for his field office. These funds are in the LGU's annual budget, worth more or less Php 200,000.

Office Space

While the provision of an office space is written in the Omnibus Election Code, there are questions of what is suitable. There is no clear definition of what suitable means. For example, many offices do not have aircon, and the central office would expect that the LGU provides for these, but it is not clear whether airconditioning is a criterion for suitability.

Another, graver report is of a field office located inside a mayor's office. Interviewees have stated that everyone who needs to go to the COMELEC office would have to pass through the mayor's office first. Situations such as this may compromise COMELEC independence.

Emerging Issues

One of the major questions in the issue of personal services is how to determine the necessity of casuals. If the election officer requests to the central office, there may be issues that stem from EOs who get their relatives and family to work for them and get paid. If the central office or the RED determines which offices should get casuals, they are not entirely aware of the situation of each office, and may be misinformed or may miscalculate the need.

Also, the team found out that there were some years when the regions ARMM and CARAGA were not in the GAAs of COMELEC. On the record, there are no appropriations for these regions, but there are existing offices and employees that continue to work. The question is where they get the funds and salaries if, technically, they do not have anything to spend.

Another question is whether information drives and voters' education campaigns are functions of the field offices, because they are not given any funding for them. A COMELEC official from the central office claimed that these are not mandated functions, because there are certain departments that take care of them, such as the Education and Information Department (EID) and the Election and Barangay Affairs Department (EBAD). However, a quick look at the functions and responsibilities of the field offices determines that these offices are mandated to conduct and/or supervise the aforementioned functions.

Budget Accountability

The 1987 Philippine Constitution guarantees the principal duties, powers, and functions of the Commission on Audit, it states that, “...*as the supreme auditing agency of the state, with the power and duty to audit and settle accounts pertaining to revenues and receipts, as well as expenditures or uses of funds and property owned or held in trust by the Government*” (Phil. Consti. Art. XI-D, 1987).

Specifically, the principal duties of COA, as guaranteed by the Article IX-D of the 1987 Philippine Constitution, are the following:

1. Examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property owned or held in trust by, or pertaining to, the government;
2. Promulgate accounting and auditing rules and regulations including those for the prevention and disallowance of irregular, unnecessary, excessive, extravagant or unconscionable expenditures, or uses of government funds and properties;
3. Submit annual reports to the President and the Congress on the financial condition and operation of the government;
4. Recommend measures to improve the efficiency and effectiveness of government operations;
5. Keep the general accounts of government and preserve the vouchers and supporting papers pertaining thereto;
6. Decide any case brought before it within 60 days;
7. Performs such other duties and functions as may be provided by law.

The exercise of these principal duties of COA cover matters related to the following (COA, Revised Rules, 1997):

1. Disallowance of expenditures or uses of government funds and properties found to be irregular, unnecessary, excessive, extravagant or unconscionable;
2. Money claims due from or owing to any government agency;
3. Determination of policies, promulgation of rules and regulations, and prescription of standards governing the performance by the Commission of its powers and functions;
4. Resolution of novel, controversial, complicated or difficult questions of law relating to government accounting and auditing;
5. Charges made in the audit of revenues and receipts resulting to under-appraisal, under-assessment or under-collection;
6. Certificates of Settlement and Balances issued by the auditors;
7. Exercise of its visitorial power over non-government organizations (1) subsidized by the government, (2) those required to pay levies or government shares, (3) those funded by donations through the government, (4) those for which Government has put up a counterpart fund, or (5) those entrusted with government funds or properties;

8. Audit of the financial operations of public utilities whenever required by law;
9. Authorization and enforcement of the settlement of accounts subsisting between agencies of the government;
10. Opening and revision of settled accounts;
11. Checking and audit of all property or supplies of the government agency;
12. Seizure by the Auditor of the office of the local treasurer found to have a shortage in cash;
13. The keeping of the general accounts of the Government and for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto; and
14. Collection of indebtedness due the Government, or any of its subdivisions, agencies or instrumentalities, or any government-owned or controlled corporations or self-governing board or commission.

Furthermore, such principal duties of COA go beyond government entities and cover persons involved in any irregularities against its promulgated accounting rules and regulation (COA, Revised Rules, 1997):

1. Retention of money due to a person for satisfaction of his indebtedness to the government;
2. Constructive distraint of property of any accountable officer with shortage in his accounts upon a finding of a prima facie case of malversation of public funds or property against him;

Thus, the auditing agency has the overarching power to police the entire government bureaucracy (including government officials and employees) in matters related to the use (or abuse) of public funds and properties, and such powers encompass constitutional bodies like the COMELEC, and requires the poll body's fullest adherence to promulgated rules and regulations of COA.

Promulgated Accounting System

The Commission on Audit is likewise empowered by the constitution to establish the parameters of its audit work, and the promulgation of such parameters, e.g. auditing methods, rules and regulations, for the use of all government entities. (*see* Article XI – D, Section 2 part 2). The New Government Accounting System (NGAS), which took effect on January 21, 2002, is an expression of the guaranteed powers of the Commission to create technologies for the exercise of its mandated function.

The NGAS covers the recording and accounting methods related to the allotment, disbursements, income received, and obligations incurred by government entities. Likewise, it establishes new "...policies and procedures; a new coding system; various accounting systems; prescribes proper accounting books, registries, records, forms, reports, and financial statements; and illustrative accounting entries" (qtd. from COA, 2002, p.1). Particularly, the NGAS affirms the subscription of all government entities to a General Accounting Plan (GAP) for a uniform system of auditing, bookkeeping,

financial records documentation (COA, 2002, p.1). But as a limitation of the study, discussions below will center on the Financial Reporting System stated in the NGAS.

The Financial Reporting Under NGAS

Financial reporting is made through the submission of trial balances that show numerically, “*the equality of debit and credit balances of all general ledger accounts as of a given period*” (qtd. NGAS, 2002, p.65-74). It shall commence with the monthly recording of the Journal Entry Voucher (JEVs) into the Special Journals and General Journals, and posting of the aforementioned documents in the General Ledger and the Subsidiary Ledger. Also, trial balances serves as a basis for checks and balances of accounting entries that may have arise during the recording of accounts, and in the preparation of Financial Statements. They are prepared and submitted on a monthly, quarterly and annual basis by the accounting unit to the COA Resident Auditor, the Accounting Office of COA, and DBM, (NGAS, 2002, p.65-74).

Two forms of Trial Balances are subscribed by COA, these are the following:

1. Pre-Closing trial balances – shall be prepared after recording the adjusting journal entries in the General Journal and posting the same to the General Ledger. It shows the adjusted balances of all accounts as of a given period;
2. Post-Closing trial balances – shall be prepared after recording the closing journal entries in the General Journal and posting to the General Ledger. It contains a listing of all general ledger accounts that remain open after the closing process is completed.

The Pre-Closing trial balances are prepared by the accounting unit with the use of a Journal Entry Voucher (JEV). The aforementioned trial balances also serve as a medium for the adjusting journal entries of all adjusted and/or corrected transactions. The JEVs contain the status of disbursements by cash payments made through Cash Advances (CAs). They are reported at the end of each month by the disbursing officer/ accountable person to the accounting unit in the form of a Certified Report of Disbursement, accompanied by the original Disbursement Vouchers (DVs) or Payroll Vouchers (PVs) and other supporting documents of the obligation paid (NGAS, 2002, pp.38-40). Disbursements can also be made through Check payments that are drawn from authorized DVs or a Petty Cash Vouchers (PCVs), chargeable to the account of the Philippine Treasury in Government Servicing Banks (GSBs), which are then recorded in the Reports of Check Issued (RCI) when received by claimants (COA, 2002, p.71-72).

The JEVs are then be recorded in the General Journal (GJ), and through the GJ shall be registered into the General Ledgers and Subsidiary Ledgers. Base on the General Ledgers, the unit bookkeeper will make four copies of the Pre-Trial Balance and files them to the resident auditor of COA and DBM 10 days after the end of each month (COA, 2002, pp.71-72).

Aside from the monthly submissions of Pre-closing trial balances, COA requires that all government agencies submit quarterly reports that include the following: (a) Statements of Allotments, Obligations and Balances; (b) Detailed Statement of Cumulative Obligations, Disbursements and Unliquidated Obligations (COA presentation, no date, pp. 6-7). The quarterly reports should also provide information on the "...detailed statements on the disbursements and utilization of appropriations for the purchase of motor vehicles and equipment, capital investment outlays, as well as appropriations earmarked and released for rentals, travels, petroleum, oil and lubricants, water, illumination and power services, telephone and communication services" (R.A. 9401, Gen. Prov. Sec. 92).

On the other hand, the Post-Closing trial balances are prepared through the closing of journal entries using the JEV, after which are recorded in the General Journal. The General Journal is likewise recorded into each assigned General Ledgers. Based on the General Ledgers, four copies of the Post-Closing Journal are made. The documents are reviewed and certified by the bookkeeper, and forwarded to the accounting unit head, together with the supporting schedules and a transmittal letter. The accounting unit head is expected to thoroughly review the robustness of the forwarded documents. After the documents were certified, they are distributed to the COA resident auditor, Accountancy Office of COA, and DBM. The fourth copy is retained in the accounting unit as reference. Submissions to the aforementioned offices are done on February 14 of the following year (COA, 2002, pp.72-75)

Accountability, In thy Image and Likeness

While the Philippine Constitution provides the inherent autonomy and independence of the COMELEC, it requires the poll body to submit monthly and quarterly trial balances to a COA resident auditor⁴⁶ within a fiscal year, through the Finance Services Department. When delays in the submission of financial reports arise, COA may utilize the submitted trial balances of COMELEC, and where trial balances are absent it can utilize Value-for-Money auditing⁴⁷. Other forms of auditing the commission may opt to utilize also are the following⁴⁸:

1. Systems audit – looks into the systems and process of the office, and whether the financial system, as prescribed by the DBM, is being followed pertinently by employees. This may include checking whether financial statements are signed by the necessary people, go through extensive examination and implemented properly.
1. Transactions audit – looks at all financial documents such as vouchers, cash advances, receipts, sales invoices, and balances these accounts.

⁴⁶ From various interviews: Atty. Leonor Boado, Director IV, COA & Atty. Rex Quieta, COA Resident Auditor for COMELEC.

⁴⁷ Value-for-money audit – Examines whether the programs of the office that are given budgets for implementation are actually implemented properly, efficiently, and if they produce positive results.

⁴⁸ From various interviews: Atty. Leonor Boado, Director IV, COA & Atty. Rex Quieta, COA Resident Auditor for COMELEC.

The audited work may take the form of a report, a Certificate of Settlement and Balances, Notice of Disallowances and Charges, or an audit observation (Rule IV, Sec. IV, 1997, no page). It should be furnished to the following offices: (1) the head of agency being audited (original copy); (2) the Auditor for her record; (3) the Director who has jurisdiction over the agency of the government under audit; (4) the agency officials directly affected by the audit findings” (Rule IV, Sec. V, 1997, no pages). Findings that show discrepancies such as huge amounts of unliquidated Cash Advances (CAs) are notified by the resident auditor through the furnishing of a demand letter addressed to the head of a government entity. The said audit work will only be definitive if no appeals from the aggrieved party are filed within the duration of six months (Rule IV Sec. VI, 1997, no pages).

While COMELEC was submitting its trial balances on monthly and quarterly basis, documents collated and the hearings in the Senate and House of Representatives conclude that there were mounting unliquidated cash advances (CAs) of Php958 million⁴⁹ made by the poll body in violation of various COA circulars and its published accounting policies.

Atty. Leonor Boado, Director IV of Cluster II of the Commissions on Audit explains that the accounting CAs are simple, that each transaction should have a receipt or for that matter, any financial transaction should be supported by documents. But it may be possible that regional employees of the COMELEC were not properly trained on the financial process nor were informed as to which documents should be kept, and goes as far as taking the idea that the CAs were given to high ranked employees of COMELEC, such as Election Officers. Another explanation may be related to the consistency of record keeping between the regional and main office of COMELEC, where the former made records of CAs but the latter did not, thus records will show that CAs were unliquidated (personal communication, November 23, 2008).

Various deadlines for the liquidation were promulgated by COA, gives ample time for the preparation of such; (a) Payroll - 15 days; (b) for local travel - 30 days; foreign travel - 60 days; and (c) special purposes - 60 days. On the other hand, funds that were not liquidated within this prescribed period are considered unliquidated according to Atty. Boado. A criminal case may then be filed by COA to the Ombudsman, and an administrative case in the Civil Service Commission for unliquidated CAs that were long overdue⁵⁰.

Article IX-D, Section IV of the 1997 constitution states that COA should submit to the President and Congress, 120 days after the end of the every fiscal year, an annual report on the use of public funds of each government entities, the current fiscal situation of the entire government, and recommend measures for the further improvement and efficiency on the utilization of public funds and all matters related to such. The annual report is

⁴⁹ Based on the interpolations of Congressman Tupaz on the status of unliquidated Cash Advances during the plenary debates in the House of Representatives, October 09, 2008; Current status as of Sept. 30, 2008: P96 M have been liquidated, P96 B was further issued this year.

⁵⁰ From various interviews: Atty. Leonor Boado, Director III, Cluster II, & Atty. Rex Quieta, COA Resident Auditor for COMELEC.

divided into 3 (three) main parts, namely: (a) Financial Statements; (b) Observations and Recommendations; (c) Status of Prior Year's Audit Recommendations. The submissions should include an Audit Certificate of COA, the Statement of Management's Responsibility; Detailed Balance Sheet; Detailed Statement of Income & Expenses; Statement of Cash Flow; and Notes of the Financial Statements. The Observations and Recommendation contain the findings of the audited work, of which the findings are discussed in details, recommendations of COA. The third part comprise of the status of recommendations from the previous fiscal year.

Attorney Boado further explains that the commission's recommendations in its audit report are monitored, and in the event of non-compliance, the COA files a case to the Ombudsman or makes a dialogue with concerned heads of the government entities. She also mentioned that prior to the publication and submission of the annual audit report of the poll body to the Office of the President and the House of Representatives, COA and the COMELEC En Banc conducts an exit conference, where dialogues are made to clarify entries in the report, and most importantly give COMELEC the space to explain their side. The COMELEC may even request for the deletion of entries it deemed inconsistent to its interest, but are subject to the approval of COA. An example of which is the Supreme Court decision between COMELEC and Mega Pacific eSolutions Corporation, where the contract on the purchase of counting machines was declared null and void, and ordered the return of payments to COMELEC. From 2004-2006, the finding aforementioned was not included in the annual audit reports of COA (personal communication, November 23, 2008).

Dagdag-Bawas inside the COMELEC

In fulfilling its constitutional duties, the COMELEC has been plagued by numerous controversies, of which several employees and a commissioner were implicated in the joust for political seats in the National Election of 2004. The "Hello Garci" fiasco has impacted the poll body's role of ensuring a clean, fair, and honest election, which people now see as thievery done within the channels of the poll body. This irruption in belief on its moral ascendancy has further turned inquiries not only on the recent ARMM election but more so into the utilization of COMELEC's allotted budget; recent dialogues in the Senate and the House of Representatives have cast doubts, not only into the capacity of the poll body to safeguard elections, but also the on the safeguard of the Filipino's taxes.

From 2004-2007, COMELEC received allotments ranging from about P5.5 billion in fiscal year 2004 to P11.4 billion in fiscal year 2007, or an average annual allotment of about P5.12 billion. Total value of allotments by major classification (PO, MOOE, CO) for the fiscal year 2004 – 2007 amounted between P5.3 billion to 10.9 billion. Meanwhile, budget for financial expenses – government obligations arising from the financial transactions related to interests, and other related bank charges – that amounted to P1 million, was only allotted in the fiscal year 2005. On the other hand, allotments in the form of continuing appropriations from fiscal years 2004, about P202.1 million, had an increment of almost P41 million in the following fiscal year. In the fiscal year 2006 however, continuing appropriations decreased to P73.4 million. Special releases were

allotted only in the fiscal years of 2005 and 2007, with amounts of P221.1 million and P465 million respectively (see table 1 below).

Table 1. Annual Allotment Received by COMELEC, 2004-2007, in Philippine Pesos⁵¹

Annual Allotment Received	2004	2005	2006	2007
PS	2,725,009,728.00	1,213,723,768.00	1,286,997,353.00	5,532,065,399.00
MOOE	2,565,184,835.00	235,905,862.00	230,307,000.00	5,263,148,851.00
CO	7,000,000.00	10,000,000.00	no amount	70,000,000.00
Sub-total	5,297,194,563.00	1,459,629,630.00	1,517,304,353.00	10,865,214,250.00
Financial Expenses	no amount	1,000,000.00	no amount	-
Continuing Appropriation	202,113,066.99	242,787,185.56	73,419,942.26	131,802,018.25
Special Release	No amount	225,156,790.00	no amount	465,000,000.00
Sub-total	202,113,066.99	468,943,975.56	73,419,942.26	596,802,018.25
Total	5,499,307,629.99	1,928,573,605.56	1,590,724,295.26	11,462,016,268.25

Yearly aggregated obligation on the other hand (table 2), increased to P11.02 billion in the fiscal year 2007 from about P5.26 billion only in fiscal year 2004. This means the commission has been incurring obligations of at least P4.91 billion annually. Obligations, classified as PO, MOOE, CO for the same fiscal years meanwhile, have also increased from P5.14 billion to P10.5 billion, or an average annual obligation of about P4.6 billion. Obligations in the form of financial expenses during the fiscal year 2005 amounted to P906.7 million. Obligations as part of continuing appropriations for the same fiscal years amounted from P116.5 billion to P119.7 billion, with fiscal year 2006 having the lowest amount of only P41.25 million. Furthermore, obligations due to special releases amounted to almost P224 million for 2005 and P441.3 million for 2007 (see table 2 below).

⁵¹ The Commission on Audit, "The Commission on Audit Annual Audit Report on the COMELEC", 2004-2007. Commonwealth, Quezon City.

Table 2. Annual Obligations Incurred, 2004-2007, in Philippine Pesos⁵²

Obligations Incurred	2004	2005	2006	2007
Personal Services	2,679,207,137.04	1,200,575,906.96	1,236,411,099.54	5,219,653,046.53
MOOE	2,453,845,438.24	229,003,616.31	213,955,478.65	5,173,610,262.80
Capital Outlay	7,000,000.00	8,884,644.97	no amount	67,939,603.65
Sub-total	5,140,052,575.28	1,438,464,168.24	1,450,366,578.19	10,461,202,912.98
Financial Expenses	No amount	906,752.72	-	-
Continuing Appropriation	116,467,869.15	192,004,405.51	41,251,359.30	119,693,211.72
Special Release	No amount	223,838,336.83	No amount	441,284,392.33
Sub-total	116,467,869.15	416,749,495.06	41,251,359.30	560,977,604.05
Total	5,256,520,444.43	1,855,213,663.30	1,491,617,937.49	11,022,180,517.03

The tables presented above seem to reflect that from the fiscal years 2004 until 2007, COMELEC has been consistently having surpluses⁵³ with its budget, and for the fiscal year of 2007 alone, COMELEC was able to save about P440 million. Likewise, “regular” allocated budget, that is, from the Personnel Services, Maintenance and Other Operating Expense, and Capital Outlay, the poll body was able to save an aggregated amount of P404,011,337.02 Savings from Continuing Appropriations for the same fiscal year, amounted to P12,108,806.53, which was about 3% of the total savings.

However, as in other audit reports, the Commission on Audit has rendered an adverse opinion on the financial statement of COMELEC, where values of its assets and liabilities may have been padded due from its overstated accounts. The report mentioned of Cash Advances (CAs) worth almost P5 billion that remain unsettled as of December 31, 2007 that violates COA circular 97-002. The circular states that, “*All Cash Advances shall be fully liquidated at the end of each year. Except for Petty Cash fund, the Accountable officer shall refund any unexpended balance to the Cashier/Collecting Officer who will issue the necessary official receipt*”. Findings also include further disbursements of CAs worth P96 billion to the same officials and employees with unsettled financial obligation: a further violation of the same COA circular.

This notoriety is embodied by the aging Cash Advances (CAs) that includes outstanding CAs prior to fiscal year 2005 amounting to almost P5 billion, and was found to be 55% of the total assets of COMELEC, according to the reports (table 3).

⁵² *ibid.*

⁵³ I define surpluses or savings herein as the total amount of allotted budget minus the total amount of obligation, or specific items under the allotted budget and obligations incurred, treated in the same way, given the understanding that obligations here do not necessarily mean actual amounts disbursed, but are the amount for each types of obligation arising from the exercise of COMELEC’s duties, and that the poll body has most likely paid or will require disbursements.

Table 3. Selected Accountable Persons/Offices with Respective Aging Unliquidated CAs, FYs 2005 - 2007, in Philippine Pesos⁵⁴

Accountable Persons/Offices	Total Amount of Unliquidated CAs as of 12/31/07	Aging		
		2007	2006	2005 (& PY)
Chairman & Commissioners	28,116,246.41	9,202,039.41	13,777,430.00	5,136,777.00
Main Office Dirs.	94,435,740.87	13,308,845.64	1,112,946.24	80,013,948.99
Main Office Employees	434,931,470.63	363,448,691.58	12,542,032.66	58,940,746.39
Election Off. NCR	89,924,296.74	59,476,241.50	709,700.00	29,738,355.24
Reg. Elec. Officer	173,041,206.78	147,026,984.11	1,253,860.80	24,760,361.87
Disbursing Officer	201,461,496.66	96,095,680.94	20,270,360.77	85,095,455.05
Region I-XII Employees	685,977,256.14	495,530,184.67	2,613,438.00	187,833,633.47
ARMM	44,867,561.82	14,408,010.00	512,845.31	29,946,706.51
DECS	591,793,140.83	7,205,000.00	-	584,588,140.83
DECS Prov. School Superintendent	113,134,293.98	-	-	113,134,293.98
LGU Municipal Treasurer	1,735,638,016.60	1,734,152,860.60	-	1,485,156.00
DFA	47,276,238.92	39,583,789.48	-	6,339,372.82
PNP	112,248,793.05	35,868,303.37	-	76,380,489.68
AFP	327,773,576.00	180,300,000.00	-	147,473,576.00

The same table also shows the list of accountable offices/persons and the respective amount of CAs dispensed by COMELEC from 2005-2007. It includes non-COMELEC offices/persons such as the Department of Foreign Affairs, Philippine National Police, the Armed Forces of the Philippines, and the Local Government Unit (LGU) Municipal Treasurer.

Comparatively, the biggest amount of unliquidated CAs were disbursed to government entities that usually are directly involved in electoral exercises, with the exception of the LGU Municipal Treasurer, which incidentally had the biggest amount of unliquidated CAs; an amount of more than P1.7 billion⁵⁵. Data also reveal that regional employees (Region I-XII) of the poll body have yet to liquidate an aggregated amount of P2.6 million in 2006, which increased to P495.5 million at the start of fiscal year 2007, and incremented further to P686 million at the end of the same fiscal year due from further disbursements by COMELEC. Employees in the main office of COMELEC were also reported as having unsettled CAs, with a sum total of P 58,940,746.39 in for the fiscal year 2005, decreasing to P12,542,032.66 for fiscal year 2006, but increasing further to P434,931,470.63 at the end of fiscal year 2007.

⁵⁴ Taken from the Commission on Audit, "The Commission on Audit Annual Audit Report on the COMELEC, Fiscal Year 2007", 2007. Commonwealth, Quezon City.

⁵⁵ See table, "Aging Cash Advances", page 28, in the same annual audit report for fiscal year 2007.

The Department of Education (formerly DECS) meanwhile, from fiscal year 2005 until the end of fiscal year 2007, have an aggregated unsettled CAs amounting to almost P592 million. COMELEC, in the same report stated that the increases in the unliquidated CAs were due to the May 14, 2007 national election, and the Local elections held last October of the same year. In the same light, COMELEC disbursed funds to the DFA, and an amount of P47.3 million of the CAs are still unliquidated as of December 31, 2007 according to the report. The AFP and PNP, agencies deputized by the poll body to ensure safe and orderly elections, also incurred about P328 million and P112.2 million respectively of unsettled CAs at the end of the same fiscal year.

The audit report also averred that COMELEC collection officers in the field offices don't have the proper skills in handling collections and deposits; this incompetence resulted to delays of up to 12 years in the deposit of collections. Accordingly, the report states that they were unaware of the standard processes involved in maintaining records and preparation of reports, such that submissions of Reports of Collections and Deposits were not made as per requirement of COMELEC and COA, causing understatements of accounts and non-preparation of JEVs and Cash Receipt Journals, as there were no documents to serve as basis for doing such.

Official receipts from the main office were not regularly and properly issued to collections officers in numerical sequence which violated the accounting policies of COA specifying that all accountable forms should be given to bonded officers not exceeding the quantities for the duration of 3 months. Ironically, COMELEC was prompt in its obligation that in paid in full a contract for the supply of Voter Registration Records with ID lamination while the supplier have yet to fully deliver the of object of the said contract. In relation, COMELEC was not able file a Notice of Delivery to the COA resident auditor, violating COA Circular No. 95-006 which reiterates that, "*...within 24 hrs. after acceptance of a delivery, the auditor should be notified of the schedules of time & date of deliveries*" (qtd. COA, 2007, p.iii-iv).

Emerging Issues

Despite clear policies and guidelines of the COA, Comelec is lenient with the rules on the use and accounting of its funds. This is probably to the fact that the poll body having a fiscal autonomy enjoys the regular and automatic releases of funds appropriated by Congress.

1. Unclear guidelines in the use of funds is aggravated by the laxity in the reporting and accounting of cash advances by the various departments and regional offices of the Comelec. This is due to the absence of clear and strict procedures on liquidation if not the weak capacity of the Accounting Division of the Finance Services Department to supervise the implementation of its guidelines and procedures.
2. Allocation of funds to the Regional Offices and field units seems arbitrary as there is no clear criteria and guidelines for fund distribution.

While the 1987 Constitution clearly allows COA to “Examine, audit and **settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property owned or held in trust by, or pertaining to, the government**”, is also lenient to the Comelec despite that the COA’s audit finding on the poll body’s use and management of funds are consistently adverse. Adverse means that audit reports are either grossly incomplete, anomalous or fabricated.

Time and Amount Variance

Regular Budget

Stages	Targetted Schedule	Actual	Comments
Issuance of Budget Call	2 May	2 May	
Deadline of Submission of FY2009 Budget Proposals	30 May	27 May Comelec budget proposal: 14,111,018,000.00	Comelec submitted its proposed budget to DBM. Endorsed by Chair Melo. Other signatories were Budget Officer IV Zita Jongko, Planning Officer V Dulce Sagles and Assistant Chief Accountant Zita Castillon
Technical Budget Hearing	2-13 June	No data of date and no minutes of the review of Comelec budget	No response from request of data
Executive Review	16-25 June	No data	
DBCC Deliberation	26-27 June	No data	DBCC document was provided. Comelec NEP budget 5,495,863,000.00
DBM Presentation to the President and the Cabinet of the FY 2009 Proposed Budget levels of Dept/Agency	30 June	30 June, DBCC presented to the President and the Cabinet the FY2009 proposed budget levels of dept/agency/special purpose funds	
Finalization of	1-8 July		President’s Budget

National Budget Proposal			for Comelec: 5,495,863,000.00
Submission of President's Budget to Congress	28 July	26 Aug, President submitted to Congress proposed FY2009 budget amounting to P1.415-trillion	A month after Congress opened its regular session as prescribed by the Constitution
DBCC's Presentation to Congress of the President's Proposed Budget		3 Sept., DBCC briefed the House Committee on Appropriations the macro-economic assumptions and parameters of the proposed national budget	
Committee Budget Hearings		26 Sept, Comelec proposed budget was taken up by the sub-committee A of the Committee on Appropriations. 57 minutes was consumed to hear the budget	Very few representatives were present and Comelec presentation was dispensed. Present reps decided to go straight to interpolation
		30 Sept, Comelec submitted to the DBM and Office of the President proposed supplemental budget to automate elections with maximum amount of P21B	
Sponsorship of the Bill		2 Oct, Rep Edcel Lagman, senior vice chair of the Com on Appro delivered the sponsorship speech of HB No. 5116 or the GAB House version	

		2 Oct. Comelec presented to the Senate Finance Committee its request for supplemental budget	
Plenary Deliberation		9 Oct, House plenary deliberated Comelec budget. Time spent was 1:05hours	
Second Reading		11 Oct, House approved proposed P1.415T on second reading	HoR Comelec budget: 5,506,363,000.00
Senate Budget Deliberation		3 Dec, Senate plenary deliberation on proposed national budget including comelec budget	
		9 Jan. 2009, Malacanang submitted to the House Com on App an P11.9-billion supplemental budget to automate 2010 election	
Bicam Conference Committee finalizes the GAB		20 Jan, Bicam approved the final version of the P1.415B budget	Comelec Budget: 5,556,363,000.00
		21 Jan, House ratified the final version	
		27 Jan, House approved the P11B supplemental budget for Comelec	
31 Dec. deadline given by the			

Constitution to the Congress to pass the GAB			
Veto Message by the President			
GAA signing			

With Supplemental Budget

Agencies	General Appropriations (for Comelec)	Supplemental Budget to automate elections	Explanation
FSD	14,111,018,000		
Comelec Proposal	14,111,018,000	21B	
DBM NEP Recommended Budget	5,495,863,000		
President's Budget	5,495,863,000	11.9B	
Lower House	5,506,363,000	11.3B	
Senate		11.3B	
Bicameral Conference Committee	5,556,363,000		No need for a Bicam Conference with regards the supplemental budget as the House and Senate have decided on common terms
GAA	5,556,363,000	11.3B	

Conclusions

To strengthen the Comelec as a constitutional institution, it is imperative that the Commission together with the rank and file should address the limitations and weaknesses pertaining to budget planning, internal allocation and management of funds, and accounting and reporting of budget use.

The limitations and/or weaknesses in budget planning and management made clear implications to poorly achieving performance targets and therefore unclear realization of its Vision, Mission and 10-Point Agenda of the Commission. Furthermore, such issues arising from the problematic budget guidelines, systems and procedures has contributed to the loss of cohesion between and among concerned offices. Such issues diminish professionalism and work ethics among the rank and file.

On the Standard of Budget Formulation in the Comelec

The poll body seems lacking in clear and consistent standards that should have guided the formulation of the FY2009 budget proposal. The Strategic Plan and the 10-Point Agenda of the Commission hardly reflected in the Thrusts and Objectives of the FY2009 budget proposal, which is limited to the Modernization of Electoral Processes. The FY2009 budget was formulated with no clear guidelines, directives and transmittal procedures to concerned offices that ensured the planning-programming-budgeting link.

Also, the request for supplemental budget to automate the elections is one major manifestation of the weak budget formulation process of the poll body. The original budget proposal of P2.6B to modernize the election process was simply based on what was allocated to the poll body in the 2008 ARMM elections, which was a regional election. Herein lies the disconnected budget process to the absence or lack of a comprehensive programming in the context of the overall goals and objectives of the Commission.

On Interface with other Agencies

There is no clear operationalization of the independence and fiscal autonomy of Comelec in relation with agencies involved in processing its budget proposal. This can be gleaned from the purely technical basis the way the DBM slash, increase or decrease the budget request. The DBM may argue that its recommendation vis-à-vis the Comelec budget proposal was based on merits of the projects, the Comelec on the other hand, should have asserted the merits of its projects. The poll body was delimited to arguing the merits of its projects, e.g. modernization of the electoral process, because in the first place the proposal was without basis and merely a show of figures.

The Office of the President overlooked the importance and necessity to automate the 2010 elections inconsistent with the policy statements of the President that election automation is one of the government's legacy agenda. Despite several pronouncements of the President pertaining to the importance of automating the elections, the office of the President either did not give attention to the poll budget when presented or merely look at the budget from the technical perspective.

While executive agencies and the DBM follow strict schedules in budget formulation, Congress process on budget authorization is "come-what-may" inspite of the constitutional deadline to pass the general appropriations bill. The hearings and deliberations of the House of Representatives on the budget were more on the politics of the budgets and the credibility of the Commission. In this vein, the congressional discourse on the request for supplemental budget was more on the parochial concerns of the legislators rather than on the viability of the project. This raises the question of vulnerability of the Commission as an independent body.

The Commission on Audit, a constitutional body having fiscal autonomy like the Comelec, complimented the latter's leniency in its financial procedures. The audit body

delimited itself to giving recommendations instead of taking actions to for the poll body to seriously address the adverse findings of the COA audit.

On Operations of Regional Offices

The regional offices are detached from the planning-programming-budgeting of the central office resulting in “kanya-kanyang deskarte” to be able to perform and address their peculiar concerns. Central Office has no “full and explicit consideration of the goals, plans and requirements of regional offices... Budget preparation does not originate at regional and local levels contrary to what Sec. 6, Chap. 2 of Book VI of the 1987 Administrative Code provides.

The local government units are mandated by the Omnibus Election Code to provide suitable space for local Comelec officials. But due to lack of programmatic allocations and centralized provision of logistics to Regional Offices, the field offices of the Commission are out of necessity request support from local government units concerned. This raises serious concerns in relation to maintaining the independence and credibility of the Comelec.

On Transparency

There are no clear and consistent standards on the transparency of the process. There are no defined processes accessible to the public. Even in Congress budget hearings and deliberations, the public is mere spectator to the spectacles of legislators. In the same vein, documents which are supposed to be public documents can be hardly accessed. The project team either had to take much time or recourse to informal procedures before documents were obtained.

The budget process has hardly any space for interfacing with the civil society. Furthermore, there seems to be “resistance” within Comelec to civil society trying to look at its budget process and related documents. The poll body should assert for its independence as a constitutional body but such independence should be against political interference and not to the detriment of its transparency being a political democratic institution.

Recommendations

The current leadership of the Comelec, despite the hurdles and limitations, remains unperturbed to realizing an “Empowered, independent and fully-modernized institution ensuring credible elections in strong partnership with an enlightened citizenry.” These are easier said than done, but the efforts of the current leadership, though seemingly problematic are building blocks to a new Comelec.

It is imperative that the Comelec should institutionalize good governance to strengthen itself as a constitutional institution. By doing so, the poll body can 1) enhance its independence from partisan political influence; 2) increase the demand for a budget that ensures capacity of Comelec for peaceful, honest and modernized management of elections; 3) assert its integrity and fiscal autonomy in relation to other agencies involved in its budget process; and 4) professionalize its use and management of funds thus increase efficiency and effective operations.

Integration: Towards an empowered COMELEC institution

The Comelec should make their entire organization coherent, professional and accountable by developing a clear and consistent standard and system for planning-programming-budgeting-implementation continuum consistent with the goals and objectives set. It should also enhance the capacity and role of the Planning Department and the Finance Services Department as lead offices in the planning-programming-budgeting link.

Also, there is a need to define and strengthen the role and participation of the regional offices of the poll body in the planning-programming-budgeting-implementation process. There should be clear guidelines and transmittal procedures for budget formulation. Enhance the capacities of regional offices in the budget process. Allocation of funds to regional offices should be programmatic and according to defined priorities and guidelines.

Accountability: An Accountable and Professional Organization

A manual of operations that would set the standards, regulations and procedures should be developed. The manual should be strictly adhered and periodic guidelines should have clear and consistent transmittal and reporting procedure. Moreover, there is a need to define and elaborate performance targets that shall serve as parameters to ensure compliance to set standards, regulations and procedure. This will also establish the core values of Comelec.

With regards use and management of funds, keeping records of accounts and reporting, standards should be set that will ensure the consistency and uniformity within the bureaucracy, on the budget accountability, and in accordance to the policies and regulations of the Commission on Audit. Audit findings and recommendations serve the purpose of improving the use and management of the allocated budget of Comelec. The more it is imperative that this should be addressed in the current modernization programs of the Comelec.

More importantly, there is a need to operationalize the independence of Comelec and other independent commissions, through a review of the concerned agencies, such as DBM, Congress and the Office of the President, who all have the power to cut the Comelec's budget however they desire.

Transparency: Strong Partnership with an Enlightened Citizenry

There should be clear guidelines on how the public can access documents that are public in nature and the processes pertaining to the planning-programming-budgeting-implementation continuum of the Comelec. Those processes and information that should be accessible to the public must be identified so that there could be mechanisms for transparency through civil society participation.

The initiative of the current leadership of Comelec to make transparent the procurement process of the 2010 automation of elections should expand to determining mechanisms for transparency that would include public participation in the budget process as this involves the tax payers' money. Specifically, the Budget Conference of the Commission should be institutionalized and open to the public. Citizens should be limited to being spectators but invited to share their views in the House and Senate Budget hearings. While the Advisory Council is a participant observer in the procurement process for election automation, the Comelec should also accredit other citizens' group in the procurement activities of projects especially those involving voters' concern. Likewise, mechanism should include the formation of a multilateral forum for dialogues between Comelec, citizens' groups, and the Commission on Audit on the audit reports to thresh out problems and find long-term and viable solutions.

Overall, the goal is to enhance the transparency of the budget process, because it provides additional checks for ensuring a performing system and builds the credibility of the process.

Capacity Building: A Modernized Institution

There is a need to strengthen the role and capacities of departments and other concerned offices in relation to planning-programming-budgeting-implementation process, and in accordance with the modernization of the election process, systems of budget request, funds release, accounting, maintaining records and reporting should also be modernized not only in terms of facilities but more importantly the competence of the rank and file.

Building capacity also means setting transparency standards and mechanisms, as well as engagement with CSOs to enhance accountability and transparency in operations.

Moreover, while the Chairman and the Executive Director of the Commission have supervisory powers over the departments, the role of the Executive Director should be made clearer in terms of the management and operations of the Commission.