

Checking up on the corporations

THE 100 or so government corporations—which up to now have been on various fringes of government control—are starting to feel the effects of the overall effort to improve management of public resources and public servants.

As a first step, the Civil Service Commission is bringing the estimated 165,000 employees of these corpora-

tions into the orbit of the civil service rules.

In a separate directive, President Marcos ordered the Budget Commission and the Reorganization Commission to review the corporations and make recommendations including reorganization and abolition if necessary.

Ever since this category of government-owned or controlled corporations started cropping up early in this century, many have had ambiguous relations with the Civil Service. Additionally, some have created an image of improving their functions as they go along.

It is generally assumed that, unlike a government bureau, a corporation should operate in a commercial way. However, President Marcos noted that only a minuscule number are viable and profitable.

Differences over terminology and categorization make it hard to get the exact number of government-owned or controlled corporations. The Civil Service Commission puts the count at 75. Some other government sources put it at nearer 125. The Audit Commission, in its reckonings, divides them into Government financing corporations; government utility corporations; government utility corporations; government development or other corporations; and self-governing boards, commissions and agencies.

During November, the Civil Service Commission sent letters to the corporations pointing out that they were now part of the Civil Service proper. It required that future staff appointments be submitted to the Commission (see letter in Column One).

According to the Civil Service Commission's statistics, 28 of these corporations were already submitting their appointments and other personnel actions which 47 we not.

One obvious question that crops up is pay differentials, since it is known that many people in government corporations get higher salaries and more fringe benefits than their counterparts in the government proper.

Such matters are likely to be considered during a transition period which is provided for. Government staff planners consider that, in principle, it would clearly be more positive to bring the pay of those in the government proper into line with scales existing in the corporations rather than the other way around. However, they concede this cannot be done overnight.

The review of government corporations, which the President ordered, obviously cannot be done overnight either. According to Director R. de Castro of the Budget Commission's Management Bureau: "This is a tremendous task if we are going into a real in-depth management audit."

He said that at present guidelines were being drawn up for the review, and probably some corporations would be singled out for immediate attention. □

HERE is the background to the status of government corporations:

The 1935 Constitution provided: "Civil Service embracing all branches and subdivisions of the government shall be provided by law."

It was silent on government corporations. Perhaps this was intentional by the 1934 Constitutional Convention, considering that most government-owned or controlled corporations were then organized and operated, like any other private corporation, by a group or groups of persons, the government being then just a majority shareholder in them.

The Convention's obsession at that time was to include in the Constitution provisions regarding the merit system as a necessity in modern times. This was to check the proclivity of political leaders, department heads and bureau directors to extend temporary appointments and to make numerous exemptions from the examination requirements.

On January 6, 1950, Republic Act 422 authorized the President to reorganize executive departments, bureaus, offices, agencies and other instrumentalities, including the corporations owned and controlled by it.

Executive Order 319 on May 25, 1950, said:

"The officers and employees of the Department of Economic Coordination and of the different corporations and agencies under it that may hereafter be employed shall be subject to the application of the Civil Service rules and regulations as in the case of other officers and employees of the government."

On January 5, 1951, Executive Order 399, known as the Uniform Charter for Government Corporations, said in Section 14:

"All officers and employees of the corporations shall be subject to the Civil Service Law, Rules and Regulations, except those whose position may, upon recommendation of the Board of Directors and the Administrator of Economic Coordination, be declared by the President of the Philippines as policy determining, primarily confidential or technical in nature."

To implement this, appointments of officers and employees who were taken on thereafter were submitted to the CSC for approval. Those who had been earlier appointed but were non-eligibles could not be promoted or receive salary increases without CSC coverage—permanent status unless they qualified in an appropriate examination.

DESPITE these executive orders, officers and employees of some government corporations maintained their exemption from CSC coverage—namely corporations with primarily proprietary functions and whose personnel were covered by collective bargaining agreements. Some others who were under Civil

Service coverage—operating in corporations but performing purely government functions—tried to be excluded. Examples were personnel of the General Auditing Office (now Commission on Audit) assigned to government corporations.

The Civil Service Act of 1959 (Republic Act 2260 of June 19) said in Section 3:

"The Philippine Civil Service shall embrace all branches, subdivisions, and instrumentalities of the government, including government-owned or controlled corporations."

Interpreting this, the Secretary of Justice said in Opinion 238 of 1959:

"The law does not make a distinction between those corporations performing governmental functions and those performing proprietary functions. Where the statute expressed in general language, it should be applied all cases within its terms, and its meaning may not, by construction, be restricted or qualified. Consequently, government-owned or controlled corporations performing proprietary functions and their employees are within the scope of the new Civil Service Law."

REACTING to the Civil Service Act of 1959, government corporations with collective bargaining agreements demanded recognition of the agreements. A court action was filed to compel the Civil Service Commission to recognize collective bargaining agreement with management.

Pending resolution, the CSC issued Memorandum Circulars Nos. 1 and 3 of 1964 declaring that officers and employees of government-owned or controlled corporations performing proprietary functions were exempted from the Civil Service Law and Rules, and that the status of their employment shall be governed by the terms and conditions of their collective bargaining agreements. In other words, they were considered contractual employees in the exempt service under Sec. 6 (c) of Republic Act 2260.

This status was recognized in Republic Act 6040, which amended Republic Act 2260.

Sec. 6 (c): The Exempt Service—The exempt service shall consist of the following:

xxx xxx xxx
"(c) Persons employed on contract basis x x x and those in government-owned or controlled corporations performing primarily proprietary functions with collective bargaining agreements."

However, the promulgation of the New Constitution cut short this exemption from the coverage of the Civil Service. To quote:

"The Civil Service embraces every branch, agency, subdivision, and instrumentality of the government, including every government-owned or controlled corporation." □

A reminder from the CSC

THE Civil Service Commission sent this letter to the heads of those government corporations which are not yet complying with the Civil Service Rules.

We wish to call your attention to the provision of the Constitution which places every government-owned and controlled corporation within the ambit of the Civil Service. This provision is reiterated in Presidential Decree No. 807, the Civil Service Decree of the Philippines, specifically, under Section 4 which states as follows:

"The Civil Service embraces every branch, agency, subdivision, and instrumentality of the government, including every government-owned or controlled corporation whether performing governmental or proprietary function."

We realize, however, that most corporations were not governed by Civil Service Law and rules in the past so that it is possible that not all their respective personnel can meet squarely the merit requirements of the Civil Service. We wish to allay any apprehension, however, that Civil Service coverage of corporations would result in a sweeping change in the personnel structure of these corporations. On the contrary, Presidential Decree No. 807 in its Section 56, provides for a transition that would allow personnel of government-owned or controlled corporations whose positions are not embraced in the Civil Service to continue in the service until they have been given a chance to qualify in an appropriate civil service examination.

In this connection, it is our wish that we could reach a working arrangement to facilitate the conduct of such examinations, or any other selection device to achieve our collective goals.

Meanwhile we expect that you would now submit to us all new appointments, for appropriation, original and promotional, that are proper, and that these shall be made in accordance with Civil Service Law and rules.

We also wish to call your attention to Section 9 of Presidential Decree No. 807 which provides that an appointment shall take effect immediately upon issuance by the appointing authority if the appointee assumes his duties immediately and shall remain effective until disapproved by the Commission; with the appointee being paid at once. As you will note, this provision seeks to facilitate immediate payment of employees and, consequently, lead to a greater motivation for us to work.

However, all appointing officials are required to submit all appointments to the Commission within thirty (30) days from issuance, otherwise, these appointments become ineffective.

It is also requested that you furnish us a copy of the plantilla of personnel for our records. □

Very truly yours,
JACOBO C. CLAVE
Acting Chairman

THE public corporations, the government and the nation as a whole gains a number of benefits from the Civil Service coverage of the government corporations.

Firstly, it means uniform application of the merit system and the elimination of the "padrono" or "palakasan" system in the appointment process. This will spare the corporations the discomfort they have had to suffer in trying to please and accommodate the privileges of the powers that be.

The participation of the Civil Service Commission in the appointment,

examination, promotion, discipline and other personnel processes will insure adherence to, and uniform application of, the Civil Service law and rules.

But this benefit has its attendant cost. It means the public corporations must give up part of their autonomy in personnel policies and programs. The corporation heads no longer have absolute say in recruitment, examination, promotion, administrative discipline and the like.

However, the Civil Service Commission does not, and will not, stand in the way of the efficient, economical and

profitable operation of these corporations. The new leadership of the Commission has inaugurated the so-called "facilitative service" rather than bureaucratic control. Hence, there is a more meaningful and fruitful relationship between the Commission and the various agencies of government, including public corporations, to realize the government's development goals.

The standardization of salaries in all government offices will minimize frequent turnover of employees which has resulted in overstaffing some offices while paralyzing others. □

Everyone stands to benefit