

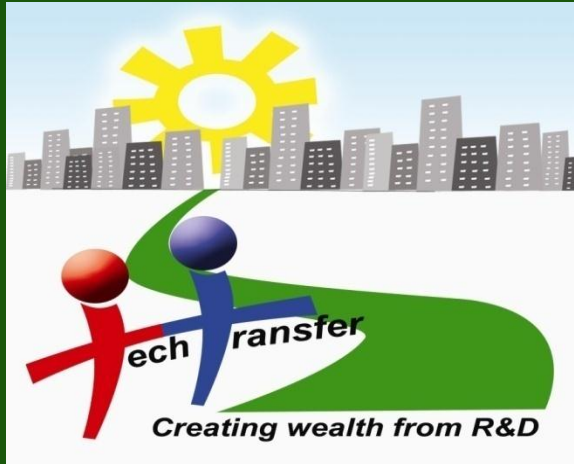


# REPUBLIC ACT 10055: Philippine Technology Transfer Act of 2009

---

Department of Science and Technology (DOST)  
Intellectual Property Office Philippines (IPO)

**PROF. FORTUNATO T. DELA PENA**  
Undersecretary for S&T Services  
Department of Science and Technology



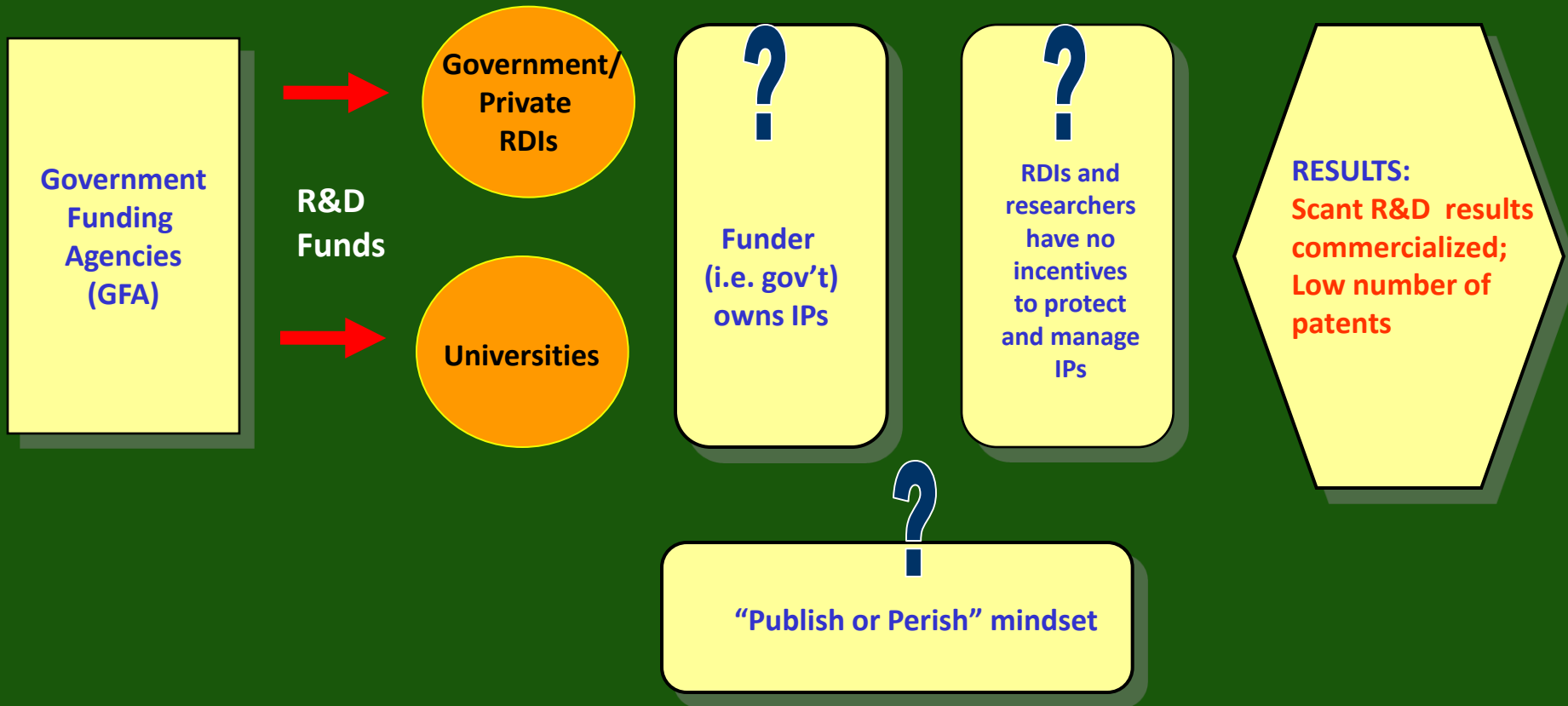
# RATIONALE

---

## Current Scenario

- ❖ Lack of well-defined and unifying policy on technology transfer in the Philippines
- ❖ Insufficient investment in technology transfer and commercialization
- ❖ Weak private-public collaboration in R&D and commercialization
- ❖ Lack of well defined IP regimes in R&D institutions

# Existing Tech Transfer Framework



## Present Situation

- ❖ Out of 258 technologies derived from DOST-funded R&D for the last ten years, only 3% have partnership/licensing agreement with the private sector, and 28% are available for commercialization but no takers yet.
- ❖ 65% are already being utilized including technologies that are immediately available to farmers.

Source: DOST, 2005

# Three Year RP Patent Landscape

## 2005

210 local patent applications out of total of 2972 applications	<b>7.1%</b>
15 local patent granted out of a total of 1653 granted	<b>0.9% ***</b>
<i>On patents granted - No Universities, 1 RDI (IRRI)*</i>	

## 2006

223 local patent applications out of total of 3261 applications	<b>6.8%</b>
24 local patent granted out of a total of 1215 granted	<b>2%</b>
<i>On patents granted - No Universities, 1 RDI (PCHRD-DOST)*</i>	

# Three Year RP Patent Landscape

**2007**

Only 225 local patent applications out of total of 3473 applications	<b>6.5%</b>
Only 28 local patent granted out of a total of 1814 granted	<b>1.5%</b>
<i>On patents granted – No Universities, 1 RDI (ITDI-DOST)</i>	

Source: IP Philippines, 2000-2007

# Where are we vis-à-vis ASEAN....

## 1. Technological readiness or the ability to adopt technologies (2008-2009)\*

Singapore - 7th  
Malaysia - 34th  
Thailand - 66th  
Indonesia – 88th  
Vietnam – 79th



**Philippines – 70th**

## 2. Innovation or the ability to produce brand new technologies (2008-2009)\*

Singapore - 11th  
Malaysia - 22st  
Thailand - 54th  
Indonesia – 47<sup>th</sup>  
Vietnam – 52nd



**Philippines - 76<sup>th</sup>**



### 3. Availability of latest technologies (2008-2009)\*

Singapore - 14th

Malaysia - 29th

Thailand - 50th

Indonesia – 61st

Vietnam – 71<sup>st</sup>

Cambodia- 110th



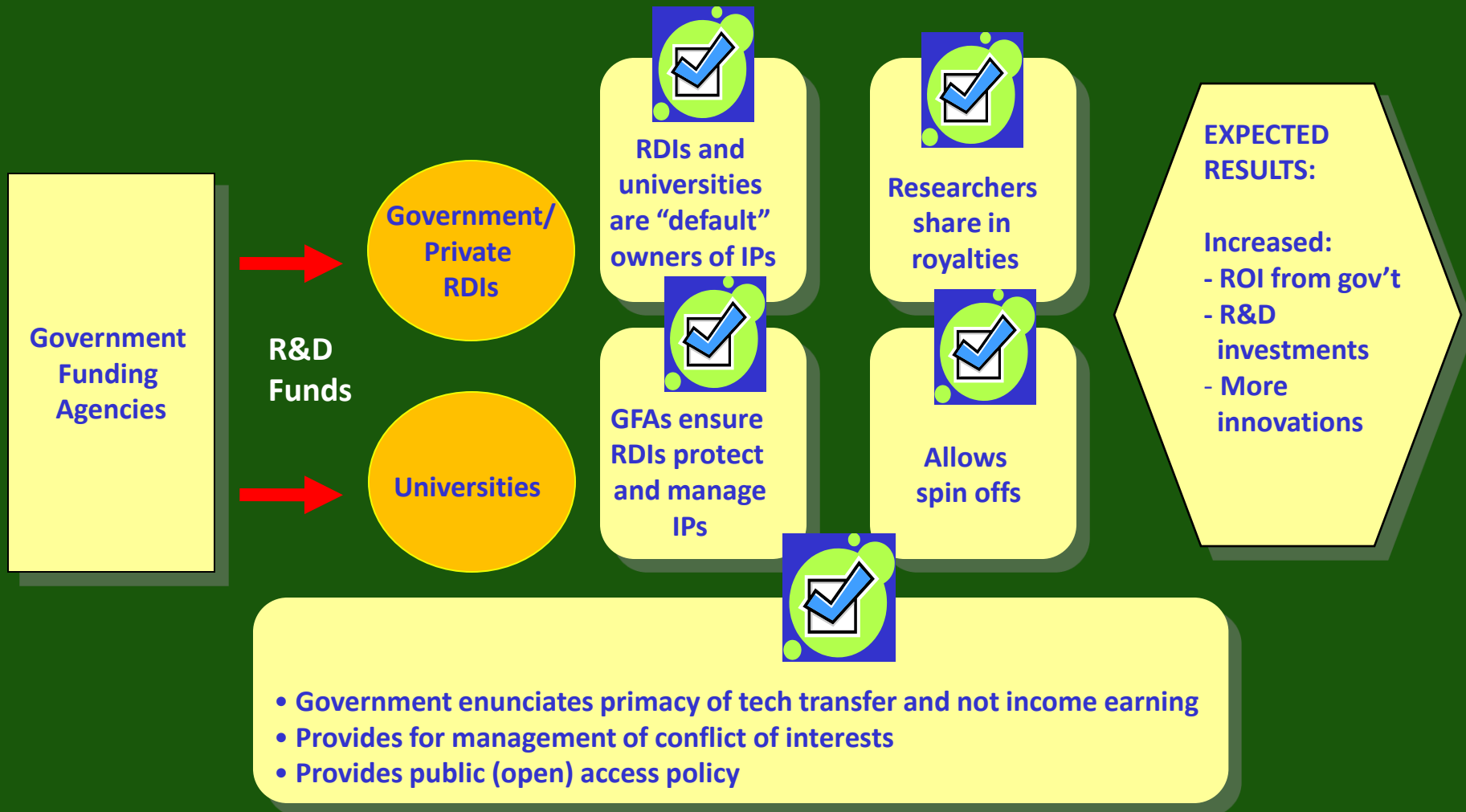
**Philippines – 52nd**

Source: Global Competitiveness Report, 2008-2009\*

## The Challenge

- ❖ Provide an enabling environment to move fruits of research and creative efforts from laboratories to market.
- ❖ Harness the potentials and create wealth from government-funded R&D through IPR protection and increased stakeholders' benefits.
- ❖ Encourage further innovation.

# Reforms in Technology Transfer





# HISTORICAL & LEGISLATIVE BACKGROUND

---

# Beginnings

**2006 - 2007**

- ❖ DOST Secretary Alabastro constituted the DOST Technical Working Committee to develop a policy framework on technology transfer that became the basis for the bill.
- ❖ The Information, Education and Communication Group was also constituted to advocate for the approval of the Bill

# Beginnings

**2006 - 2007**

- ❖ Initial drafting of the Technology Transfer Bill
- ❖ In September 2007, the Tech Transfer Bill was filed in both houses of Congress
- ❖ House Bill 3270 was sponsored by Rep. Joseph Emilio Abaya  
Senate Bill 1721 was sponsored by Sen. Edgardo Angara

# Legislative History

- ❖ Approved by the House of Representatives in December 2008 as House Bill No. 5208
- ❖ Approved by the Senate in December 1, 2009 as Senate Bill 3416, co-authored by Sen. Roxas

# Legislative History

- ❖ Passed in Congress on December 15, 2009
- ❖ Signed by President Arroyo on March 23, 2010 into Republic Act No. 10055
- ❖ Published in two major newspapers on April 23 and took effect on May 8, 2010.



**REPUBLIC ACT 10055:**

**PHILIPPINE TECHNOLOGY TRANSFER ACT OF  
2009**

**“AN ACT PROVIDING THE FRAMEWORK AND SUPPORT  
SYSTEM FOR THE OWNERSHIP, MANAGEMENT,  
USE AND COMMERCIALIZATION OF INTELLECTUAL  
PROPERTY GENERATED FROM RESEARCH  
AND DEVELOPMENT FUNDED BY GOVERNMENT  
AND FOR OTHER PURPOSES”**



# SALIENT PROVISIONS

---

## OBJECTIVE

To promote and facilitate the transfer, dissemination, effective use, management and commercialization of IPs, technology and knowledge resulting from R&D funded by government for the benefit of the national economy and taxpayers.

(Article I, Section 3)

## COVERAGE

All R&D activities carried out on behalf and for the interest of the government by RDIs receiving grants directly from the GFA; all IPRs derived from R&D funded by government; all government agencies that fund R&D, and all institutions that implement government funded R&D.

(Article I, Section 5)

# INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

Ownership of IPRs derived from research funded in whole or in part by GFA shall be vested in the RDI that actually implemented the research.

Exceptions:

- When the RDI waived or assigned IP ownership to the GFA
- When the RDI failed to disclose the potential IPR to the GFA
- When the RDI failed to initiate protection of the potential IPR within reasonable time

(Article II, Section 6)

# INTELLECTUAL PROPERTY RIGHTS OWNERSHIP

In case of collaborative research where two or more RDIs conducted the research funded by the GFA, the RDIs shall own the IPRs jointly or as otherwise stipulated in the research agreement between them.

(Article II, Section 6)

# RIGHTS AND RESPONSIBILITIES OF THE GFA

Protect government interest in the IPs and IPRs through suitable provisions in the research funding agreement

Monitor efforts of the RDI in securing IP protection and pursuing commercialization

(Article III, Section 7)

# RIGHTS AND RESPONSIBILITIES OF THE RDI

Identify, protect and manage the IPs and pursue commercialization

Notify the GFA all IPR applications, licenses and assignments made

Report to GFA the progress of commercialization efforts and agreement entered and licenses granted

Keep accounts of revenues and payments

Accord staff with incentives consistent with existing law

Make confidential disclosure to the GFA of the potential IPR

When necessary, create and establish spin-off companies

(Article III, Sec. 8)



# REVENUE SHARING

All revenues from the commercialization of IPs *and* IPRs shall accrue to the RDI, unless there is a revenue sharing provision in the research funding agreement.

In no case will the total share of the GFA(s) be greater than the share of the RDI.

In case of joint funding, where research is funded by a GFA in part, and by other entity or entities in part, the RDI may enter into contractual agreements with the other entity or entities providing funding.

(Article V, Section 11)

## REVENUE SHARING

Sharing of revenues between RDI and researcher shall be governed by an employer-employee contract or other related agreements; without prejudice to the rights of the researcher under RA 8439 or the *“Magna Carta for Scientists, Engineers, Researchers, and other S&T Personnel in Government”*.

(Article V, Section 11)

## COMMERCIALIZATION OF IPRs BY THE RESEARCHER

An RDI may allow its researcher-employee to create/join (detail/secondment) a spin-off company, provided that the researcher-employee takes a leave of absence without pay for a period of one year, renewable for another year. Provided further that the researcher-employee may still be allowed access to RDI's lab facilities subject to RDI regulations.

(Article VI, Section 12)

# COMMERCIALIZATION OF IPRs BY THE RESEARCHER

Details or secondment to the private sector:

Applicable provisions on RA 8439 (Magna Carta for Scientists and Engineers..) shall apply in case the researcher of the public RDI is employed by a company which will pursue commercialization.

(Article VI, Section 13)

## **USE BY GOVERNMENT, COMPULSORY LICENSING AND ASSUMPTION OF POTENTIAL IPRs**

The grounds, terms and conditions of the use by government and/or compulsory licensing stated in the IP Code shall be adopted for all IPRs generated under this law.

The GFA and/or Parent Agency may assume ownership of any potential IPR in cases of national emergency or other circumstances of extreme urgency.

(Article VII, Section 15)

# USE OF INCOME ESTABLISHMENT AND MAINTENANCE OF REVOLVING FUND FOR R&D AND TECH TRANSFER

Public RDIs undertaking technology transfer shall be vested with the authority to use its share of the revenues derived from IP commercialization.

All income from IPR commercialization shall be constituted to a revolving fund for use by the RDI undertaking tech transfer, subject to accounting and auditing rules.

(Article VIII, Section 18)

# USE OF INCOME AND ESTABLISHMENT AND MAINTENANCE OF REVOLVING FUND FOR R&D AND TECH TRANSFER

Public RDIs shall be allowed to use revenues derived from transfer of IPRs for but not limited to the following:

- Defray IP management costs/expenses
- Fund R&D, S&T capacity building, and technology transfer activities
- Operation of TLOs

(Article VIII, Section 18)

In case the revenues after payment of all costs and expenses for IPR management, including the payment of royalties to other parties, shall exceed 10% of the annual budget of the RDI, then a minimum of 70% of the excess revenues shall be remitted to the Bureau of Treasury, *provided*, that the GFA has solely funded the research.

However, this shall not apply to SUCs and GOCCs by virtue of their fiscal autonomy.

(Article VIII, Section 18)



# INSTITUTIONAL MECHANISMS

DOST shall establish a system for the cost-effective sharing of and access to technologies and knowledge by developing appropriate public access policies and procedures which shall be made known to the public.

The DOST shall call for a regular national conference of all GFAs and RDIs in order to: (a) promote multi-disciplinary, joint and cross collaboration in research and development; (b) coordinate and rationalize the research and development agenda; and (c) harmonize all research and development agenda and priorities.

(Article IX, Section 19)

# INSTITUTIONAL MECHANISMS

All RDIs are encouraged to establish their own TLOs in whatever form, and to adopt their own policies on IPR management and technology transfer, in accordance with this act and other existing laws and in support of the policies of the IPO and the national policy and the mandate of their Parent Agency.

(Article IX, Section 20) 20)

# INSTITUTIONAL MECHANISMS

DOST, DTI and IPO in consultation with GFAs and CHED shall undertake capacity building activities on IP commercialization.

DOST with DTI and IPO shall jointly issue guidelines on IP valuation, commercialization and information sharing.

(Article XI, Section 21)

## INSTITUTIONAL MECHANISMS

The DOST, DTI and IPO, in consultation with GFAs such as CHED, DA, DOH, DOE, DENR, and DND, shall undertake activities geared towards building the capacity of GFAs and RDIs in commercializing IPs.

The DOST, DTI and IPO shall jointly issue the necessary guidelines on IP valuation, commercialization, and information sharing, which may include, but not be limited to, the following considerations: public benefit and national interest, market size, cost and income

(Article IX, Section 21)

# DISPUTE RESOLUTION

The IRR shall provide for the administrative procedure for resolving any disputes on the determination for government ownership.

(Article X, Section 22)

**THANK YOU FOR YOUR  
ATTENTION.**