

BUREAU OF AGRICULTURAL RESEARCH INTELLECTUAL PROPERTY MANAGEMENT SYSTEM

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Version 2

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1. GENERAL PRINCIPLES

- 1.1. The State, through the DA-BAR shall protect and secure the exclusive rights of agricultural scientists, researchers, and inventors to their intellectual property and creation as mandated by the Constitution.
- 1.2. The DA-BAR IPR System shall encourage agricultural innovation and creativity by promoting a healthy and conducive environment for the generation and creation of intellectual property and technology.
- 1.3. The implementation of the DA-BAR IPR Management System shall ensure that the national and public interest takes precedence over private concerns. Conflicting issues relating to interpretation and implementation shall be resolved in favor of the State and public interest.
- 1.4. Utilization of IPRs in the agriculture & fisheries sector. – Mindful that property rights, if not properly regulated and managed, can hinder the use of data and information on which scientific research thrives, the promotion and utilization of IPR in the agriculture and fisheries sector are to be implemented with due consideration to the following:

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- 1.4.1. Individual or institutional ownership of IPRs must balance the need for a free flow of information for utilization by scientists, researchers and other end-users such that technological development in agricultural research is not unduly impeded;
- 1.4.2. IPRs should provide a reasonable economic opportunity and limited monopoly for inventors, authors and publishers to exploit their creations in order to encourage innovation and creativity; and,
- 1.4.3. The achievement of the social function of IPRs in providing a better quality of life by giving choices of several products and services in the market and protection from the inferior ones; making available and accessible updated information in agricultural research; and, providing inputs and standards to the industry of what products and services to provide.

2. OBJECTIVE

To establish a DA-BAR Intellectual Property Management System for the agriculture and fisheries sector for the development, creation, management, protection and promotion of intellectual properties generated for DA-BAR funded or partially-funded agricultural research, development activities for the benefit of the general public.

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3. LEGAL BASES

The State policy for IPR-support for both government and private institutions and individuals is embodied in Section 13 of Article XIV of our Constitution, which provides that:

“The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to the intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law.”¹

The government policy on IPR-support was further elucidated in detail with the enactment of Republic Act No. 8293 by the 10th Congress in 1998;

“The State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfers of technology, attracts foreign investments, and ensures market access for our products. It shall protect and secure the exclusive rights of scientist, inventors, artists and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people.”²

The Bureau of Agricultural Research holds the Department-wide mandate for research coordination and support:

¹ 1987 Constitution of the Philippines.

² Section 2, R.A. 8293 (1998)

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“to ensure that all agricultural research is coordinated and undertaken for maximum utility to agriculture. It shall tap farmers, farmers organizations and research institutions, especially state colleges and universities, in the conduct of research for use of the Ministry and its clientele, particularly the farmers/ fishermen and other rural workers.”³

To ensure that agricultural research is undertaken for maximum utility to agriculture, it therefore becomes necessary that the research information as well as the products and processes developed including inventions generated as a result of agricultural research be adequately protected by creating a data-based system designed for efficient access, classification and registration of all intellectual properties thus generated in favor of the government and for the benefit of the end-users.

4. SCOPE

The intellectual property management system of the Department of Agriculture-Bureau of Agricultural Research (DA-BAR) shall apply to all its directly assisted and contracted agricultural research and development activities.

³ Section 22, Exec. Order 282 (1987).

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5. OWNERSHIP

Government-funded research are, as a general rule, owned by the State. Intellectual properties resulting from DA-BAR funded scientific research and development activities shall therefore belong the State unless the DA-BAR enters into an agreement with the author, researcher, creator or inventor.

5.1. Collaborative and jointly-funded research by the DA-BAR and other institutions shall be governed by contract or memorandum of agreement not inconsistent with existing laws, custom and public policy.

5.2. All data gathered and reports, whether published or unpublished, made in the course of DA-BAR-funded agricultural research shall likewise be the property of DA-BAR.

6. RIGHT TO PUBLISH

The researchers have the right to publish the work product in common academic matter and refereed journals and use it in research and teaching. Articles, research papers for publication shall duly acknowledge the primary researchers-authors as well as the contracting agency or institution and the DA-BAR.

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7. THESIS & DISSERTATION

DA-BAR supported students, postgraduates and doctoral candidates working on their theses or dissertations may use their work product for the completion of the requirements of their respective programs and submit them to the competent office in a way that is sufficient to obtain the intended degree in accordance with the applicable procedural requirements.

8. DUTY TO DISCLOSE

Should the research undertaking result in a work product possibly containing an invention, the researcher is obligated to give DA-BAR notice of these. The contracting agency or institution shall inform DA-BAR of all inventions made known to it, which are being developed in the course of implementation of the research.

9. ACKNOWLEDGMENT

Articles, pamphlets, research papers and other forms of publication of data, information and research work gathered or made as a result of DA-BAR assisted researches must duly acknowledge the authorship of the main researchers as well as the supportive role of the contracting agency or institution and the DA-BAR.

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10. CONFIDENTIALITY

All information, data gathered in the course of the implementation, monitoring and evaluation of the research shall be strictly confidential and shall not be divulged to 3rd parties without the written consent of DA-BAR even after the termination of the research.

11. CONFLICT OF INTEREST

The researcher/scientist as well as the agencies and institutions representing them or under which they are employed shall likewise disclose any possible conflict of interest they may have in relation to the subject matter of the research funded by the DA-BAR.

12. ROYALTIES & ECONOMIC BENEFITS

The goals of this revenue distribution plan include: creating a strong incentive for researchers, inventors and scientists to conduct researches, create inventions and produce intellectual properties which are supportive of the national goals as well as assist directly or indirectly the beneficiaries, stakeholders and the Filipino people in general through technology transfer activities and in supporting further investment in research.

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NET INCOME	Researcher/Writer Scientist/Inventor	SCUs/Agency /Institution	DA-BAR
<50,000	80	5	15
>50,000 to 100,000	75	10	15
>100,000 to 200,000	70	15	15
>200,000 to 300,000	65	17.5	17.5
>300,000 to 400,000	60	20	20
>400,000 to 500,000	55	22.5	22.5
>500,000 to 600,000	50	25	25
>600,000 to 700,000	45	27.5	27.5
>700,000 & higher	40	30	30

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Income from royalties shall be in addition to other economic benefits and incentives which may be granted by the DA-BAR or the agencies or institutions where the researcher, inventor or scientist is employed.

13. INTERPRETATION

The interpretation and implementation of this policy should be in harmony with existing national laws, rules and regulations governing IPRs. In case of ambiguity or irreconcilable differences, this policy shall be interpreted in favor of the scientists and researchers in accordance with the law and State policy governing IPRs.

14. INSTITUTIONALIZATION OF THE DA-BAR IP MANAGEMENT SYSTEM OFFICE

The DA-BAR Intellectual Property Management System Office is established for the following concerns:

- 14.1. Define ownership of intellectual properties generated as a result of DA-BAR funded or partly-funded agricultural research and development activities;

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- 14.2. Ensure the protection of intellectual properties generated by direct assistance to the IP right-holder in the preparation and submission of all the necessary supporting documents for IPR applications with the Bureau of Patents, the Plant Variety Protection Board and such other agencies involved in the registration of IPRs, and in enforcing IPR protection in the Philippines and selected foreign countries;
- 14.3 Formulation of guidelines regulating confidentiality and disclosure of IP-related information and the direct or indirect engagement by scientists and researchers employed within the DA-BAR or those undertaking DA-BAR-funded research activities, with external private institutions in substantially the same work.
- 14.4. Set up measurable indicators for the valuation of technologies and inventions eligible for IPR protection.
- 14.5. Determine whether a particular technology can be transferred either through bidding or negotiated contract and attend to negotiations for technology transfer and commercialization.

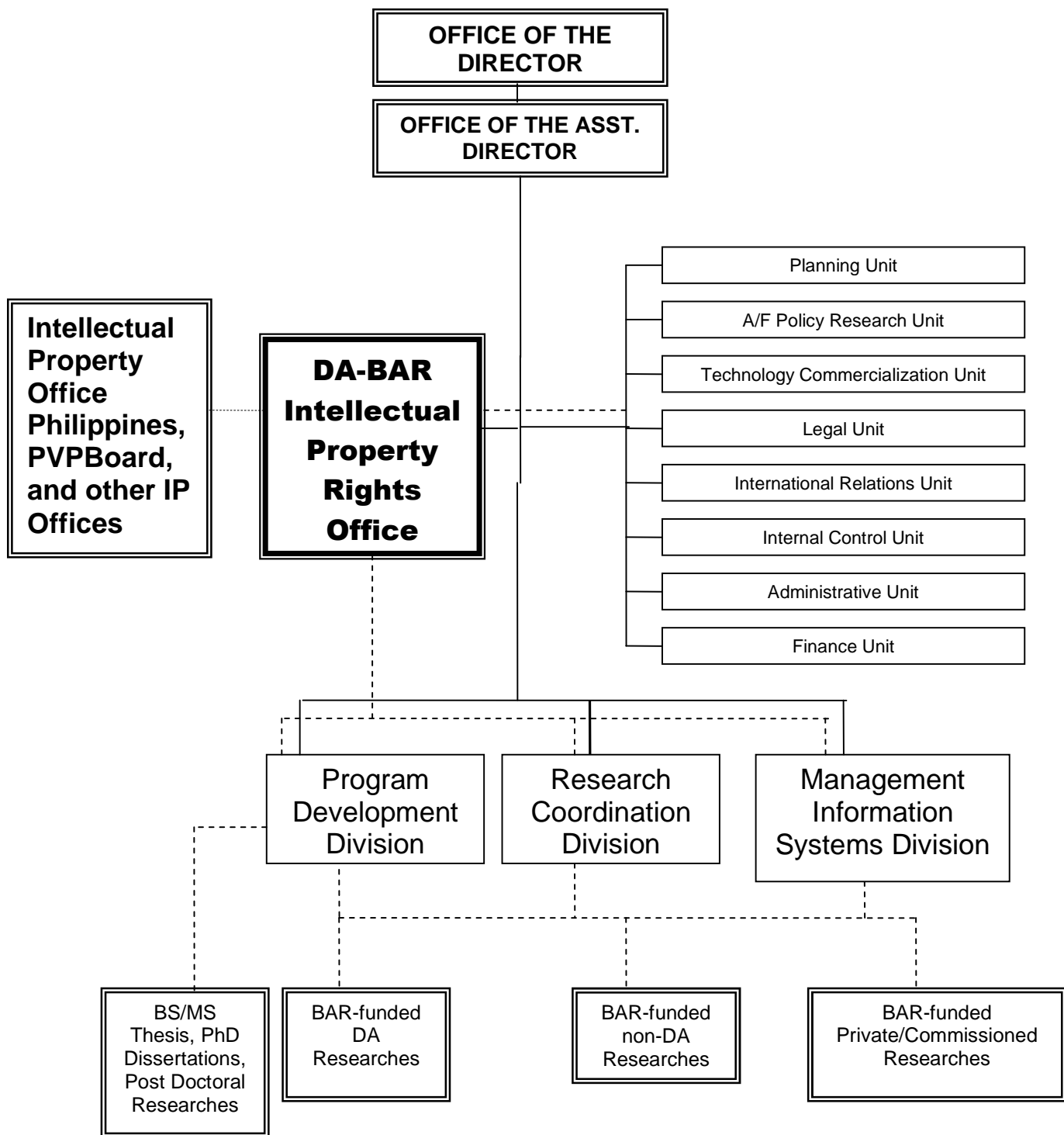
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- 14.6. Formulation of guidelines and action plan (AP) for the implementation of the DA-BAR IPR Policy.
- 14.7. Maintenance of a database on IPR applications, patents and copyrights obtained and technology transfer transactions completed by the DA-BAR.
- 14.8. Coordinate and provide assistance to all the offices within the DA-BAR as well as to other partner institutions and agencies engaged in DA-BAR funded research and development activities as regards the implementation of the IP Action Plan and in the identification of patentable technologies and research outputs.

15. ORGANIZATIONAL STRUCTURE

The DA-BAR IP Management System Office shall be established as a separate unit within the DA-BAR to be headed by an DA-BAR IPO Manager and assisted by the necessary support staff as may be designated by the BAR Director.

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16. DEFINITION OF TERMS & ABBREVIATIONS

- “Agricultural research”** refers to both agriculture and fisheries.
- “BAR”** refers to the Bureau of Agricultural Research.
- “Contracting agency or institution”** refers to agencies, institutions and corporations, whether government or private, which received funding for agricultural research from the DA-BAR.
- “Copyright”** is the protection extended to expressions and not to ideas, procedures, and methods of operations or mathematical concepts as such. Such expressions may be in the forms of literary, scholarly, scientific and artistic works.
- “DA”** refers to the Department of Agriculture.
- “Intellectual Property Rights” or “IPR”** refers to the entitlement and enjoyment of the attributes of ownership over intellectual properties. IPR consists of: a) Copyright and related rights; b) Trademarks and Service Marks; c) Geographic Indications; d) Industrial Designs; e) Patents; f) Layout-Designs (Topographies) of Integrated Circuits; and g) Protection of Undisclosed Information.⁴ IPR shall likewise include plant varieties and animal breeds.
- “Intellectual Property Rights Management” or “IPRM”** refers to the principles, mechanisms and processes involved in the identification, assessment, protection, utilization and enjoyment of intellectual properties.
- “Income”** refers to all monetary or non-monetary benefits derived as a result of the development, production, and/or commercialization of the intellectual property.

⁴ Section 4, R.A. 8293 (1998); TRIPS.

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- “Net Income”** refers to the income derived after payment of actual and quantifiable administrative and operating expenses including taxes and fees which may be assessed by the government.
- “Patent”** is a grant issued by the Philippine government giving an inventor the right to exclude others from making, using, setting, or importing the product of his invention within the Philippines in exchange of his patentable information or disclosure.
- “Patentable inventions”** means any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable, which may be, or may related to a product, or process, or an improvement of any of the foregoing.⁵
- “Plant variety”** means a plant grouping within a single botanical taxon of the lowest known rank which can be defined by the expression of the characteristics resulting from a given genotype, or combination of genotypes, distinguished from any other plant groupings by the expression of at least one characteristic and considered as a unit with regard to the suitability for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, and tissue culture plantlets.
- “Royalty”** is a percentage type of income derived based on the monthly or annual net income derived from the commercialization or production of intellectual properties.

⁵ Section 21, R.A. 8293 (1998).

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17. RELATED LAWS

The following laws, including all laws, rules and regulations relating to intellectual property shall be deemed incorporated into the DA-BAR Intellectual Property Policy. Conflicting provisions of laws, rules and regulations with the DA-BAR Intellectual Property Policy shall be deemed to supercede or modify the provisions accordingly.

TRIPS (1994)	Agreement on Trade-Related Aspects of Intellectual Property Rights
RA 8293 (1998)	Intellectual Property Code of the Philippines
MO No.1040 (1997)	IRR of RA 8293
RA 1287 (1955)	An Act granting a special privilege to any person who discovers or invents a new process, discovery or invention for the conversion of any native agricultural raw product into a product which will stabilize not only the national economy but also the dollar reserves.
RA 3850 (1964)	Philippine Inventors Incentives Act
PD 1243 (1978)	Amending RA 3850
RA 9168 (2002)	Philippine Plant Variety Protection Act of 2002
RA 8439	Magna Carta for Scientists, Engineers, Researchers and other Science & Technology Personnel in the Government
RA 386	New Civil Code of the Philippines
RA 2067 (1958)	Science Act of 1958

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- RA 7459 (1992) Inventors and Invention Incentives Act of the Philippines
- CSC MC 01 (2002) Programs on Awards and Incentives for Service Excellence
- EO No. 60 (1993) Creating the Inter-Agency Committee on Intellectual Property Rights.

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