



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

Ms. Ma. Teresa S. Habitan

Assistant Secretary, Department of Finance
Alternate Chair and Focal Person, PH-EITI
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Subject: Gaps on EITI Implementation

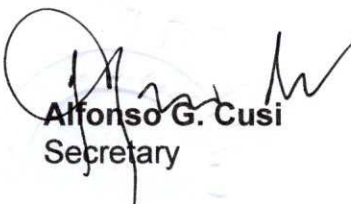
Dear **Assistant Secretary Habitan**:

This refers to your letter dated 02 June 2021 informing us of the identified gaps in the EITI implementation and providing DOF's recommended actions to address each of the gaps.

In view thereof, attached herewith as Annex A is a comprehensive response to each of the items raised by the PH EITI.

We hope that you find our submission in order. For further concerns, please do not hesitate to reach us.

Very truly yours,


Alfonso G. Cusi
Secretary



Republic of the Philippines
DEPARTMENT OF ENERGY
IN REPLYING PLS. CITE:

DOE-AGC-21003668



ANNEX A

The DOE is requested to address the identified gaps through the following recommended actions:

- a. **Delegate a senior official from the Energy Resource Development Bureau as permanent representative to the PH-EITI MSG.**

The DOE would like to note that we have senior officials representing the DOE in EITI composed of the Director of Financial Services as Focal Person and the ERDB Director as alternate Focal Person to the PH-EITI MSG. Also, the ERDB has regularly sent technical staff in the PH-EITI meetings and other activities as support to the Directors of the Financial Services and ERDB.

- b. **Sign and issue before June 14, 2021 the draft DOE administrative order that would compel oil, gas, and coal companies to participate in the EITI process. A long-standing issue is the nonparticipation of Semirara Mining and Power Corporation, which is the lone material coal company, with over 99% share in revenues collected by the government from the coal sector.**

Mindful of its mandate as a member of the PH-EITI MSG, the DOE had consistently been encouraging its stakeholders to participate in this initiative. In fact, the DOE had, on several occasions, already requested the participation of Semirara Mining and Power Corporation (SMPC) on the PH-EITI initiatives.

However, in as much as the DOE is committed to the PH EITI undertaking, it is however constrained to act within the limitations which the EITI Standards itself provided. As the Section 2.4 of **2016 EITI Standards** aptly provides:

"2.4 Contracts.

- b) Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals."***

Relatedly, the same had been the legal constraint for the DOE to issue a Circular compelling oil, gas, and coal companies to participate in the EITI process. However, with the 2019 EITI Standards whereby disclosure of contracts signed after 1 January 2021 are required already, the DOE will revisit the possible issuance of the aforesaid Department Circular. Nonetheless, we wish to note that in issuing the same, the DOE shall subject the proposed Circular to public consultation² for the purpose of gathering feedback and suggestions before establishing rules that has

² Pursuant to Section 5 of Republic Act No. 6753 (Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees

substantial impact to its stakeholders. Thus, while we cannot assure issuance of the Circular by 14 June 2021, we nevertheless undertake to:

3. Direct the stakeholders once again to participate in the EITI process and;
 4. Commence the review and drafting of a possible circular to address the requirements of the PH-EITI in view of the 2019 amendments to the EITI Standards.
- c. **Clarify whether there are new coal contracts awarded or transferred in 2018, 2019, 2020, and 2021. If there were awards and/or transfers, information on these awards and/or transfers must be disclosed.**

There have been neither new Coal Operating Contracts (COCs) awarded from 2018 up to present nor any COC transfers of interests.

- d. **Publicly disclose information on all licenses and contracts held by materials companies, including the dates of application, coordinates, and commodity(ies) covered.**

These concerns have already been addressed in DOE's response to the follow up validation questions.

We have asked PH-EITI for the relevance of the dates of application in their undertaking considering that all existing contracts have already been awarded.

With regard to the coordinates, the DOE has previously responded that it can be shared, however, for SCs in the West Philippine Sea, it was deemed prudent not to divulge said information for reasons of national security and international relations (e.g. ongoing negotiations with the People's Republic of China) as guided by the Section 2.b of the Exception to Right of Access to Information which provides that,

"2. Privileged information relating to national security, defense or international relations:

- b. Diplomatic negotiations and other information required to be kept secret in the conduct of foreign affairs."

Further, the commodities of the SCs and COCs i.e. those under production phase, have also been reported to PH-EITI as also identified during submissions of production data. It was explained to PH-EITI that for SCs under the exploration phase, the DOE cannot yet provide the kind of commodities whether oil and/or gas as these are yet to be determined and are dependent on the outcome of exploration activities. On the other hand, coal is the only commodity governed by a COC.

The ERDB is in coordination with the DOE's Information Technology and Management Services (ITMS) for the posting of list of active PSCs and COCs in the DOE Website, which provide the names of companies, date of contract, status of contract, area size and location of contract.

- e. Publicly disclose coal operating contracts through the PH-EITI Contracts Portal. The DOF already wrote twice (September 10, 2020 and April 23, 2021) to DOE regarding this matter.**

The Coal Operating Contracts may be provided to the PH-EITI.

- f. Publicly disclose or submit to PH-EITI for public disclosure a comprehensive list of active oil, gas, and coal contracts and licenses (including exploration licenses).**

The DOE has been providing the PH-EITI lists of all active Petroleum Service Contracts (PSCs) and Coal Operating Contracts (COCs) including those under exploration phase. For the consideration of the recent validation, the DOE was requested to submit the lists of active PSCs and COCs in 2018 which were submitted to PH-EITI on 23 March 2021. For their reference, attached are the said lists for resubmission and an updated list of active PSCs and COCs in 2021.

The ERDB is in coordination with the DOE's Information Technology and Management Services (ITMS) for the posting of list of active PSCs and COCs in the DOE Website.

- g. Publicly disclose data on production values for crude oil, natural gas, condensate, and coal. The PH-EITI, through the Online Reporting in the Extractives (ORE), is able to collect production volume and value data, but data is limited to material companies only.**

The DOE doesn't have data on production values, however, EITI may be provided with data on the sales value or revenues as reported by the companies.