

The initial report covering the period January to September 30, 1982 should be submitted on or before November 15, 1982.

W. R. DE LA PAZ
Acting Director

For strict compliance.

October 27, 1982

OEA CIRCULAR NO. 98-01

TO: ALL LOCAL CHIEF EXECUTIVES, SANGGUNIANG BAYAN/PANGLUNGSOD/PANLALAWIGAN MEMBERS AND OTHER CONCERNED PARTIES

SUBJECT: GUIDELINES AND PROCEDURES ON THE UTILIZATION OF THE SHARE OF NATIONAL WEALTH TAXES, FEES, ROYALTIES AND CHARGES DERIVED FROM ENERGY RESOURCES

PURPOSE: This Circular is issued as additional guidelines and procedures to be followed by Local Government Units (LGUs) hosting energy projects to implement the provisions of Republic Act (R.A.) 7160, otherwise known as the Local Government Code (LGC) of 1991 and its implementing rules and regulations (IRR), specifically Sections 289-294 of the LGC and Articles 388-392 of its IRR. The Circular provides for the detailed criteria on the delineation of host LGUs for energy projects and options on the use of proceeds for electricity reduction and on the use of excess funds.

SECTION 1. *Definition of Terms.* –

The following terms are used in this Circular:

- 1.1. National wealth – all natural resources within the Philippine territorial jurisdiction including the lands of public domains, water, minerals, coal, petroleum, mineral oils, potential energy sources, gas and oil deposits, forest products, wildlife, flora and fauna, fishery and aquatic resources and all quarry products.
- 1.2. National wealth proceeds – levy or tax, royalty, fee or charge derived from the development and utilization of natural resources or national wealth.
- 1.3. Geothermal reservoir – subsurface geological environment where geothermal fluids accumulate and circulate (system is inclusive of the production and reinjection/recharge zones).

- 1.4. Hydro reservoir – natural or artificial lake, the latter created by the impounding of steam flow, run-off and subsurface water behind a dam.
- 1.5. Host LGU – refers to local government unit (provinces, city, municipality or barangay) where the energy resource is located.
- 1.6. Electrification/energization – provision of dependable and adequate electric service.
- 1.7. Subsidy scheme – plan to extend direct subsidy to the intended beneficiaries the amount of the LGU's share in the national wealth proceeds for the reduction in the cost of electricity.
- 1.8. Non-subsidy – plan with the end view of lowering the cost of electricity for the consumers of the host LGU.

The definition of terms in the Joint DILG-DEPARTMENT CIRCULAR 95-01 and the IRR

of the *Local Government Code* are hereby incorporated and adopted in this Circular.

SEC. 2. *Additional Guidelines and Procedures.*

2.1. DELINEATION OF HOST LGU

With respect to energy resources, the host LGUs shall be determined as follows:

(a) Coal

The host LGU is the area where the producing positive coal reserve is located, as delineated by detailed geophysical, geological, and exploration surveys.

(b) Geothermal

The host LGU is the area where the producing geothermal reservoir is located as delineated by detailed geochemical, geophysical, and exploration surveys.

(c) Hydro

The host LGU is the area where the hydro reservoir is located as delineated by detailed topographic, geological, and geotechnical investigations; reservoir and dam height optimization studies; and as delineated by a detailed ground survey.

(d) Petroleum/Natural Gas

The host LGU is the area where the producing petroleum/natural gas reservoir is located, as delineated by detailed geochemical, geophysical, and exploration surveys.

In addition to the energy reserve or reservoir, the host LGU for the above types of energy projects may include the developed energy resource field as delineated on the ground by the production facilities and other physical facilities related to the project except the transmission lines

and sub-stations.

2.2. ALLOCATION OF LGU SHARES

In conjunction with Section 292 of the *Local Government Code*, which prescribes the LGU allocation of national wealth taxes, royalties, fees, and charges, the appointment of the shares shall be based on the areas located within the technically delineated energy resource area pursuant to Section 2.1 of this Circular.

When the natural resources are located in two (2) or more provinces, or in two (2) or more municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of:

(a) Population – seventy percent (70%); and

(b) Land area – thirty percent (30%)

where the land area is area of the host barangay/s found within the technically delineated energy resource area and where the population refers to the population of the host barangay/s found wholly within the technically delineated energy resource.

Arrangements between the host LGUs and the DOE/project proponent on the allocation of national wealth that are in place prior to this Circular shall be respected without precluding the parties from adopting the prescription in this Circular.

2.3. TECHNICAL ASSESSMENT OF ENERGY RESOURCE AREA

Pursuant to Sections 2.1 and 2.2 of this Circular, the allocation of national wealth taxes, royalties, fees and charges shall be based on the technical assessment of the energy resource. The assessment shall be conducted by the Department of Energy (DOE) in consultation with the project proponent. The technical report

shall be provided to the Department of Interior and Local Government (DILG) for implementation by the concerned LGUs.

2.4. UTILIZATION OF 80% OF NATIONAL WEALTH TAXES, ROYALTIES, FEES AND CHARGES

- (a) As provided in Section 294 of the *Local Government Code*, at least 80% of the national wealth proceeds derived from the development and utilization of energy resources shall be applied solely to lower the cost of electricity in the LGU where the source of energy is located. Either one or a combination of two approaches can be adopted in the reduction of electricity, namely subsidy and non-subsidy schemes.

The non-subsidy benefits may take the form but not limited to electrification, the technical upgrading and rehabilitation of distribution lines to reduce electricity losses, the use of energy saving devices, and support of the electrical consumption of the infrastructure facilities servicing the public which can all redound to the reduction of electricity rates of the area.

- (b) Areas that cannot be energized directly from the grid due to technical or economic constraint shall be provided alternative power sources (e.g., generator, solar panel, wind, etc.). The cost of the installation as well as the maintenance of the facility shall be taken from the LGU royalty share. The activity shall require the endorsement of the concerned LGU council.
- (c) Any use of the national wealth proceeds outside the prescriptions in the DILG-DEPARTMENT CIRCULAR 95-01 of October 31, 1995 and this Circular shall require the approval of the DILG Secretary.

SEC. 3. *Boundary Disputes and Escrow of Funds.* –

In the event of a boundary dispute, the national wealth proceeds shall be deposited in a government bank under escrow. The DILG shall exert all efforts to resolve the conflict guided by Section 118 of the *Local Government Code*, with the assistance of the Land Management Bureau of the Department of Environment and Natural Resources.

SEC. 4. *Mechanics for the Utilization of National Wealth Proceeds.* –

The mechanics for the utilization of the national wealth proceeds for electricity rate reduction shall adhere to the provisions of the DILG-DEPARTMENT CIRCULAR No. 95-01 of October 31, 1995.

SEC. 5. *Monitoring.* –

- (a) The DILG shall monitor the compliance of the LGUs with the provisions of this Circular and other relevant issuances. To assist in the monitoring of compliance, all host LGUs of energy projects are required to submit the following:

- (i) The scheme of electricity rate reduction adopted by the host LGU (with proper documentation) based on the prescription in the DILG-DEPARTMENT CIRCULAR 95-01 of October 31, 1995 at the start of the use of the fund or upon the amendment of the scheme by the respective LGU councils; and

- (ii) Summary of transactions thirty (3) days after the end of each quarter;

DILG shall furnish DOE with a copy of the above information within fifteen (15) days from the date of the reporting period.

- (b) The DILG and DOE shall enter into a Memorandum of Agreement with the Commission on Audit (COA) for the yearly audit of the national wealth proceeds

consistent with the responsibility of COA to examine all accounts pertaining to uses of funds and property owned or held in trust by the Government or any of its agencies as mandated by Section 2 of P.D. 1445 of 1976.

SEC. 6. *Penal Provisions.* –

In the event of violation or non-compliance with the provisions of Joint DILG-DEPARTMENT CIRCULAR 95-01, this Circular and other relevant issuances, the DILG may, upon prior notice of said hearing, order the project proponent through DOE, the non-remittance of the royalty payment to the host LGU concerned pending the completion of the investigation of the concerned LGU. The unremitted funds shall be deposited in a government bank under escrow.

SEC. 7. *Dispute Resolution.* –

Prior to court action, all disputes or conflicts arising from the implementation of this

Circular shall be adjudicated by an Arbitration Committee composed of representatives from the Presidential Management Staff, DILG, and DOE.

SEC. 8. *Repealing Clause.* –

All pertinent issuances, circulars and memoranda inconsistent with this Circular are hereby amended or repealed accordingly.

SEC. 9. *Effectivity.* –

This Circular shall take effect immediately.

MARIO V. TIAOQUI

Secretary
Department of Energy

JOSEPH EJERCITO ESTRADA

Secretary
Department of the Interior and Local Government

OEA CIRCULAR NO. 89-01-01

TO: ALL PETROLEUM CONTRACTORS AND SUB-CONTRACTORS

You are hereby informed that the Value-Added Tax (VAT) Committee of the Bureau of Internal Revenue (BIR) has issued a VAT Ruling No. 516-88 dated November 16, 1988, (copy attached) which ruled that Petroleum subcontractors are exempt from the payment of VAT from its gross receipts for services paid by the petroleum service contractors by virtue of the (Fiscal Incentives Review Board (FIRB) resolution under FIRB Resolution No. 19-87 Dated June 24, 1987, restoring

the tax and duty exemption (including VAT) to subcontractors and petroleum service contractors subject however to the terms and condition of P.D. 1354 .

For your guidance and information.

December 22, 1988, Makati, Metro Manila

W.R DE LA PAZ

Executive Director