



Philippine Poverty Environment Initiative



Empowered lives.  
Resilient nations.

PHILIPPINES POVERTY ENVIRONMENT INITIATIVE (PPEI)  
PHASE 2

**BRIEFER**

**PILOTING THE PUBLIC DISCLOSURE OF  
ENVIRONMENT AND NATURAL RESOURCE (ENR) REVENUES  
COLLECTION AND UTILIZATION  
BY LOCAL GOVERNMENT UNITS (LGUs)**

By:

*Dr. Ma. Cecilia G. Soriano*

*Ms. Elizabeth P. Makayan*

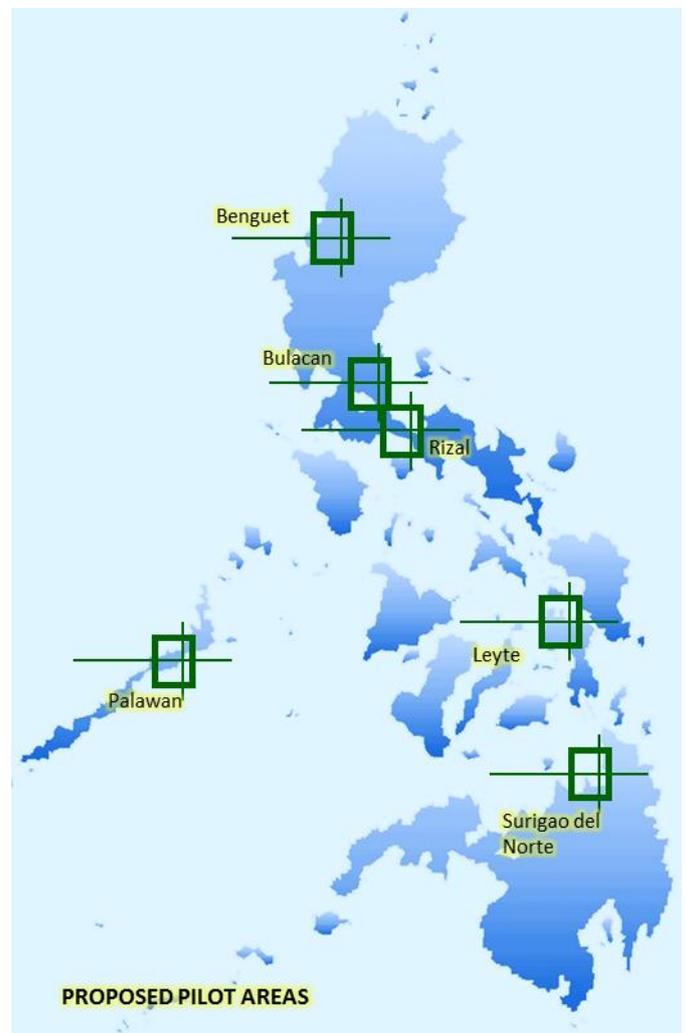
*The Philippines Poverty-Environment Initiative (PPEI) is a five-year (2011-2015) collaborative program of the Government of the Philippines and United Nations Development Programme-United Nations Environment Programme (UNDP-UNEP), through the Department of the Interior and Local Government (DILG). The PPEI supports poverty reduction and inclusive development by integrating pro-poor and environmental concerns into development planning and economic decision-making. It seeks to strengthen local development planning in the use of natural resources and the revenues derived from them, complimented by the growing corporate social responsibility (CSR) and active civil society.*

**BACKGROUND**

Section 7 of Article X of the 1987 Constitution states that “LGUs shall be entitled to an equitable share in the proceeds of the utilization and development of the National Wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits”. This is reiterated in Section 289 of the 1991 Local Government Code (LGC).

Section 290 of the LGC specifies that the LGUs’ share is 40% of the gross collections derived by the National Government (NG) in the preceding fiscal year from mining taxes, royalties, forestry and fishery charges... and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of National Wealth within their territorial jurisdiction.

Section 294 of the LGC adds that the shares from National Wealth received by LGUs shall be



appropriated by the local legislative bodies to finance local development and livelihood projects.

Section 352 of the LGC requires the posting within 30 days from the end of each fiscal year in at least three (3) publicly accessible and conspicuous places in the LGU a summary of all revenues collected and funds received including the appropriations and disbursements of such funds during the preceding fiscal year.

To respond to the clamor of LGUs to be given their rightful shares from National Wealth, the DOF, DBM, DILG and DENR jointly issued on March 31, 2009 Joint Circular (JC) No. 2009-1 to streamline and update the guidelines and procedures for the release of LGUs' shares in revenues from mining, particularly from the excise tax on mineral products. The same four agencies jointly issued JC No. 2010-1 on June 25, 2010 to do the same for LGUs' shares in royalty income collected from mineral reservations.

In Section 12 of E.O. No. 79, the DENR, DBM and DOF were directed "to ensure the timely release of the share of LGUs in the National Wealth pursuant to Section 289 of the LGC". These agencies were likewise directed "to study the possibility of increasing LGUs' share as well as granting them direct access similar to existing arrangements with the Philippine Export Zone Authority (PEZA)."

## MAIN FINDINGS

In the study conducted by the consultants under Phase 1 of PPEI, it was found that although the issuance of JC Nos. 2009-1 and 2010-1 resulted in increases in the amounts appropriated as LGU shares in the mining tax and royalties from mineral reservations, it is not publicly known how much of the appropriated amounts were actually released to the concerned LGUs. There are also still delays in the verification of actual collections from mining taxes and computation of shares of beneficiary LGUs by the BIR because the required data from other government agencies are not readily available and the process is not computerized. Also, actual releases to LGUs are constrained by the amounts included in the National Expenditure Program and General Appropriations Act. These amounts are estimated in the first quarter of the collection year. At present, JC Nos. 2009-1 and 2010-1 do not have provisions for the concerned LGUs to be informed in advance of the amounts that they can expect to receive as their shares from National Wealth in the coming budget year.

In general, there is a lack of transparency, predictability and accountability in the process of computation, collection and distribution of ENR revenues in terms of the following: (a) the amounts supposed to be paid by each mining company and the amounts actually paid; (b) the amounts supposed to be received by each beneficiary LGU and the amounts actually received; (c) the timing of the LGUs' receipt of the funds; (d) the planned use of the funds to be received by the LGUs; and (e) the actual use of the funds received by the LGUs. LGUs would like to receive the funds sooner and to know sooner how much they will receive, when they will receive the funds and if possible, how much they will receive from each company.

## RECOMMENDATIONS

To address the above concerns, a four-pronged approach was recommended: (1) Inform the concerned LGUs in advance of how much they can expect to receive and by when, so that they can include the funds in their proposed budget; (2) Ensure the timely and full release of funds due to concerned LGUs; (3) LGUs to conduct participatory budgeting and planning processes in deciding on

the utilization of the funds for the benefit of their constituents; and (4) LGUs to report regularly on the funds they have received and how they have utilized these.

To help achieve the first three goals, amendments to JC Nos. 2009-1 and 2010-1 have been proposed to further streamline the process of NG-LGU sharing and to comply with the relevant provisions of the LGC, its IRRs and E.O. No. 79. The specific objectives are as follows:

- To enhance the correctness and accuracy of the mining tax/royalty income expected to be collected and actually collected including from non-metallic mineral products so that the full benefits from these revenues may be received by both the NG and beneficiary LGUs
- To give beneficiary LGUs advance information about their expected shares in the National Wealth to be collected from mining activities and reservations within their jurisdictions and to encourage them to appropriate these for local development and livelihood projects
- To further expedite the computation, processing and release of the LGU shares in mining tax/royalty income through the timely and, wherever possible, electronic sharing of information among the concerned parties and more active involvement of the regional offices of the concerned NGAs as well as the beneficiary LGUs themselves

Proposed amendments to the LGC have also been prepared to further speed up the actual receipt by LGUs of their shares from National Wealth. The proposed amendments include the following:

- Deletion of the phrase “from the preceding fiscal year” in Section 290 of the LGC
- Making LGU shares from National Wealth automatically appropriated just like their Internal Revenue Allotment (IRA)
- Allowing private entities to directly remit to the treasurers of the beneficiary LGUs their shares from the gross collections derived by the NG from the development and utilization of National Wealth. Section 293 of the LGC currently allows this only for GOCCs.

To incorporate the last two recommendations, Section 293 of the LGC is proposed to be revised as follows:

“Section 293. ***Remittance of the Share of Local Government Units.*** - The share of LGUs from the utilization and development of national wealth shall be automatically appropriated and directly and automatically remitted to the provincial, city, municipal or barangay treasurer concerned at the time of payment of the National Government share. The amounts directly remitted to the LGUs are part of the proceeds derived by the National Government from the utilization and development of national wealth and shall be recorded and recognized as such. The LGU shares shall not be subject to any lien or holdback that may be imposed by the National Government for whatever purpose”.

To help achieve the fourth goal, amendments have been proposed to the Local Budget Memorandum and Local Budget Preparation (LBP) Form Nos. 1 and 2 issued or prescribed by DBM to guide LGUs in the preparation of their proposed annual budget. The sources of the LGU shares from National Wealth are to be specified in the LBP Forms. Actual data for the past year should be consistent with the data submitted to the Bureau of Local Government Finance (BLGF) of the DOF as part of the electronic Statement of Receipts and Expenditures (eSRE). Proposed amendments to the eSRE to show the sources of LGU shares from National Wealth have already been incorporated into the newly revised module. Proposal to add a column under the General Fund to encourage LGUs to keep track of the expenditures that they fund using their Shares from National Wealth is still being discussed with the BLGF. Discussions with the Commission on Audit (COA) have been initiated to incorporate

similar amendments in the COA's Chart of Accounts for LGUs. Proposal to allow LGUs to transfer unexpended balances of their Shares from National Wealth at the end of the year to a Trust Fund has also been discussed with COA.

Should the above proposed amendments be adopted, DILG Memorandum Circular No. 2010-83 on Full Disclosure of Local Budget and Finances, and Bids and Public Offerings can be expanded to include LGU Shares from National Wealth and their utilization. The legal bases for the Circular include the above-cited Section 352 of the LGC and the Government Procurement Reform Act. The Circular directs Provincial Governors, City Mayors and Municipal Mayors to faithfully comply with the relevant disclosure provisions of these laws by posting in conspicuous places within public buildings in the locality, or in print media of community or general circulation, and in their websites, the following: annual budget, quarterly statement of cash flows, annual statement of receipts and expenditures, annual Trust Fund utilization, annual Special Education Fund utilization, annual Development Fund utilization, annual Gender and Development Fund utilization, annual Statement of Debt Service, Annual Procurement Plan and various procurement-related documents.

Concurrently with the above initiatives, consultations will be conducted with selected LGUs hosting mining and energy projects regarding the benefits of and mechanisms for improving transparency and accountability in the management of natural and mineral resources, as well as the utilization of revenues and benefits derived from these resources for sustained and broad-based local economic development.