



REPUBLIC OF THE PHILIPPINES
Department of Budget and Management
Department of Energy
Department of Finance

Joint Circular No. 3
January 30, 2008

TO : All Concerned Government Agencies

SUBJECT : **Implementing Guidelines for the Release of Funds for the Implementation of Development Projects Chargeable Against the Gas-Malampaya Collection per SC 38 Pursuant to Executive Order No. 683**

1.0 BACKGROUND

- 1.1 Section 8 of PD No. 910 dated March 22, 1976, as amended by RA No. 7638, provides that all fees, revenues and receipts from any or all sources including receipts from service contracts and agreements collected by the Department of Energy (DOE) shall form part of a Special Fund to be used to finance energy resource development and exploration programs and projects of the government and for such other purposes as may be hereafter directed by the President. Thus, to segregate these collections from other funds of the National Government, the DOE's Special Account in the General Fund (SAGF-151) was established for the purpose.
- 1.2 PD No. 87, as amended, otherwise known as "The Oil Exploration and Development Act of 1972", provides that the Government may directly explore for and produce indigenous petroleum and may also indirectly undertake the same under service contracts.
- 1.3 On December 11, 1990, pursuant to PD No. 87, Service Contract No. 38 (SC 38) was entered into by and between the Philippine Government represented by then Office of Energy Affairs (now the DOE) and Shell Exploration B.V./Occidental Philippines, Inc. (Shell/Oxy) covering the exploration, development and production of petroleum resources in the Camago-Malampaya Reservoir which is referred to as the "Natural Gas Project".
 - 1.3.1 SC 38 provides for a production sharing scheme whereby the net proceeds of the petroleum operations of Shell/Oxy as Service

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Contractor, after the deduction of charges and obligations thereon, are divided as follows:

Philippine Government Share = 60%
Service Contractor Share = 40%

- 1.3.2 It further provides that taxes due from its operation shall likewise be shouldered by the Philippine Government. Thus, the computed taxes shall be deducted from the Government Share to arrive at the Net Government Share.
- 1.3.3 The Province of Palawan has filed a case claiming territorial jurisdiction over the areas covered by SC 38 that would entitle the Province to 40% of the Net Government Share. The case is now pending with the Supreme Court.
- 1.4 Interim Agreement dated February 9, 2005, as amended by the Provisional Implementation Agreement (PIA) July 25, 2007 was entered into by the National Government, represented by the Secretaries of the DOE, the Department of Budget and Management (DBM) and the Department of Finance (DOF) and the Provincial Government of Palawan, represented by the Palawan Governor pending resolution of the above cited case.

Provisions of the PIA stipulate that:

- 1.4.1 The release of funds shall be without prejudice to the respective positions of the parties in the above cited case.
- 1.4.2 That the National Government and the Province of Palawan shall have an equal share in the 40% being claimed by Palawan per item 1.3.3 above. The share of the National Government shall be called the "NG Share" and the share of Palawan shall be called the "Palawan Share". The "Palawan Share" shall further be equally allocated among (1) the Provincial Government of Palawan, (2) First Congressional District, and (3) the Second Congressional District of Palawan.
- 1.4.3 The "Palawan Share" shall be spent exclusively for the projects classified under paragraph 4 thereof.
- 1.5 Executive Order (EO) No. 683 issued on December 1, 2007, authorized the release of funds to the implementing agencies (IAs) chargeable against the Gas-Malampaya collection per SC 38 under the DOE SAGF-151. If the release shall be for the Province of Palawan, the amount shall be limited to the "Palawan Share".

2.0 PURPOSE

- 2.1 To prescribe the guidelines in the release of funds chargeable against the Gas-Malampaya collection to the IAs, which can either be a National Government Agency (NGA), a Local Government Unit (LGU) or a Government Owned and Controlled Corporation (GOCC), subject to applicable laws and existing budgeting, accounting and auditing rules and regulations.

- 2.2 To delineate the responsibilities of agencies concerned in the allocation, release and utilization of funds from the Gas-Malampaya collection consistent with the PIA and EO No. 683.

3.0 RESPONSIBILITIES

3.1 Implementing Agencies (NGA, GOCC, LGU)

- 3.1.1 All requests for funding chargeable against the Gas-Malampaya collection shall be submitted to DOE. For projects to be funded from the "Palawan Share", the same shall be within the category of item 4 of the PIA, as follows:

- Development infrastructure projects;
- Access to electrification;
- Establishment of facilities to enhance the security of the continental shelf and exclusive economic zone and the ecological resources therein; and
- Development projects identified in the development plans of the National Government or its agencies. For LGUs, however, the projects to be funded must also be included in the approved Annual Investment Program adopted by the Local Development Council and approved by the concerned Local Sanggunian.

- 3.1.2 The IAs shall be accountable for the implementation of the projects and the expenditure thereof, subject to applicable laws and existing budgeting, accounting and auditing rules and regulations.

3.2 Department of Energy

- 3.2.1 Evaluate the request received from the IAs duly endorsed by the respective agency head. If in order, submit to the DBM the special budget covering the evaluated request supported by the following requirements:

- Details of Projects to be implemented
 - Brief description of the Project
 - Project cost
 - Project location
 - Implementation period
- Status of the available balance of the DOE SAGF-151 based on the latest Bureau of the Treasury (BTr) certification indicating a breakdown of the collection, as follows:
 - Income from All Sources Other than the Gas-Malampaya collection ; and
 - Income from Gas-Malampaya Collection (SC 38)
 - Income from Government Shares, net of the disputed 40% Share; and
 - Income from the disputed 40% Share, further broken down into:

- ✓ NG Share, and
- ✓ Palawan Share

- Letter request for the issuance of appropriate fund code for the SAGF of the IA concerned. It is understood that if the IA is an LGU, SAGF shall be issued to DBM and if a GOCC, same shall be issued to BTr.

3.2.2 Submit request to BTr for transfer of fund from the DOE SAGF-151 to the SAGF of the IA corresponding to the approved cost of the project(s) as endorsed to the DBM.

3.3 Department of Budget and Management

3.3.1 Based on the request of DOE per item 3.2.1, issue the appropriate fund code for the SAGF of the IA concerned to cover fund releases from the Gas-Malampaya collection transferred from the DOE SAGF-151.

3.3.2 Check the completeness of the supporting documents as submitted by the DOE.

3.3.3 Approve the special budget submitted by the DOE and release the Special Allotment Release Order (SARO) / Notice of Cash Allocation (NCA) to the IA, copy furnished DOE. If the IA is an LGU, the SARO/NCA shall be released thru the DBM and for GOCC, thru the BTr. Funding check shall be issued by the DBM and BTr to the concerned LGU and GOCC, respectively.

3.4 Department of Finance – Bureau of the Treasury

3.4.1 Provide DOE, copy furnished the DBM, with the certification of available collections under the DOE SAGF-151.

3.4.2 Transfer from DOE SAGF-151 to the SAGF of the IA concerned as requested by DOE under item 3.2.2.

5.0 RESERVATION CLAUSE

5.1 The amount released chargeable against the Gas-Malampaya collection pursuant to the PIA and EO 683 shall be without prejudice to the on-going discussions or final judicial resolution on the legal disputes regarding the territorial jurisdiction pending with the Supreme Court.

5.2 The processing of request authorized under the PIA, chargeable against the disputed 40 % share shall not be made beyond the date of the final executory judgment on the Supreme Court case or June 30, 2010, whichever is earlier.

6.0 SEPARABILITY CLAUSE

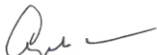
If any section or provision of this Joint Circular is held invalid, all other provisions not affected thereby shall remain valid.

7.0 GOVERNING CLAUSE

Any request for clarification shall be referred to the DBM which shall resolve the matter in coordination with DOE and DOF.

8.0 EFFECTIVITY CLAUSE

This Joint Circular shall take effect immediately.



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Secretary
Department of Energy



Republic of the Philippines
DEPARTMENT OF ENERGY

IN REPLYING, PLS CITE:
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