



Republic of the Philippines
OFFICE OF THE SECRETARY
Elliptical Road, Diliman
1100 Quezon City

28 September 2022

MS. FLORINDA JILL S. UYVICO
Secretary to the Sanggunian
Province of Leyte
Tacloban City

Dear Ms. Uyvico,

Greetings from the Department of Agriculture!

This is in reference to Resolution No. 2022-402 of the Sangguniang Panlalawigan of the Province of Leyte dated August 9, 2022 entitled "A RESOLUTION HUMBLY REQUESTING THE PRESIDENT AND CONCURRENT SECRETARY OF THE DEPARTMENT OF AGRICULTURE, FERDINAND "BONGBONG" MARCOS, JR. TO MAKE THE REGISTRY SYSTEM FOR BASIC SECTORS IN AGRICULTURE (RSBSA) ACCESSIBLE TO THE PUBLIC, RESEARCH INSTITUTIONS, STATE UNIVERSITIES AND COLLEGES (SUCs), AND LOCAL GOVERNMENT UNITS, PRIORITIZING AGRICULTURE AND FISHERIES PROVINCES LIKE LEYTE AND ITS MUNICIPALITIES AND CITIES".

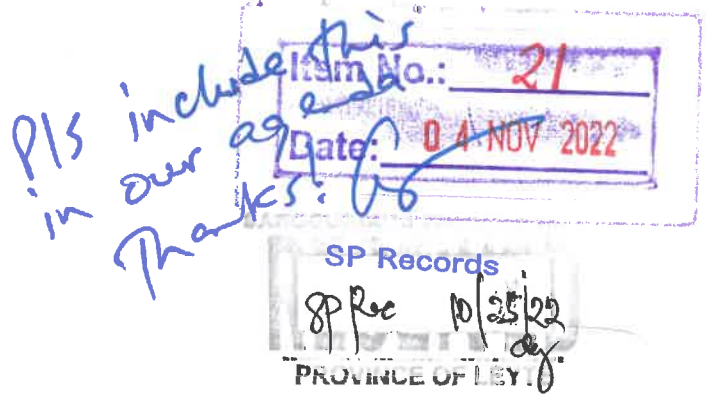
In review of the Resolution, we hereby express the following response:

1. The DA recognizes the importance of LGUs and is greatly appreciative of their assistance in the registration to the RSBSA of farmers, farmworkers and fisherfolks.

The DA is currently in the initial stages of the possible broadening of the involvement of the LGUs, through the City and/or Municipal Agriculturist Office (C/MAO), in the RSBSA registration process. This will include giving the C/MAO access to the online registration system of the RSBSA called the Farmers and Fisherfolk Registration System (FFRS). Nevertheless, to uphold the obligation of the DA under the Data Privacy Act of 2012 (DPA), its Implementing Rules and Regulations (IRR) and other related issuances of the National Privacy Commission (NPC), this objective shall require the execution of proper legal documentation.

2. The 6th and 7th whereas clauses, respectively, stated the following:

WHEREAS, Section 7, Art. III, 1987 Constitution states that "It is the right of every citizen to access official records, documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development;"



WHEREAS, on 23 July 2016, President Rodrigo R. Duterte issued Executive Order No. 2 entitled "Operationalizing in the Executive Branch the People's Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefore;"

We categorically recognize the right of the people to information under the 1987 Constitution. Notwithstanding, Section 7, Art. III of the 1987 Constitution in full text, provides:

"SECTION 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law." (emphasis ours)

Stated differently, access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development that is afforded to the citizen is not without limitation.

In relation to the 7th whereas clause citing Executive Order No. 2, Series of 2016 (E.O. No. 2, Series of 2016), the same E.O. provides for Exception to access under Section 4 thereof, as well as Protection of Privacy under Section 7. As such, E.O. No. 2, Series of 2016 are also not without limitations.

Republic Act 10173 or the Data Privacy Act of 2012 (DPA) was signed into law on August 15, 2012. It is the law that seeks to protect all forms of information, be it personal, sensitive, or privileged. It is meant to cover both natural and juridical persons involved in the processing of personal data.

Section 22 of the said DPA, states:

SEC. 22. Responsibility of Heads of Agencies. – All sensitive personal information maintained by the government, its agencies and instrumentalities shall be secured, as far as practicable, with the use of the most appropriate standard recognized by the information and communications technology industry, and as recommended by the Commission. The head of each government agency or instrumentality shall be responsible for complying with the security requirements mentioned herein while the Commission shall monitor the compliance and may recommend the necessary action in order to satisfy the minimum standards.

This strengthens the accountability that is placed on heads of agencies in relation to compliance with the security of data privacy rights of all personal information maintained by the agency.

It is also worth mentioning that the DPA provides for the penalties in case of its violation. Chapter VIII of the DPA, defined the following punishable acts: (1) unauthorized processing; (2) access due to negligence; (3) unauthorized purposes; (4) improper disposal; (5) intentional breach; (6) concealing of breach; (7) malicious disclosure; (8) unauthorized disclosure; and (9) combination of acts. The same chapter provided for penalties of imprisonment ranging from six (6) months up to seven (7) years and/or fine of P100,000 to P5 million, depending on the violative act.

Additionally, Section 34 of the DPA provides the extent of liability, to wit:

SEC. 34. Extent of Liability. – If the offender is a corporation, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in, or by their gross negligence, allowed the commission of the crime. If the offender is a juridical person, the court may suspend or revoke any of its rights under this Act. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties prescribed. If the offender is a public official or employee and he or she is found guilty of acts penalized under Sections 27 and 28 of this Act, he or she shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

Further, Section 36 of the DPA states:

SEC. 36. Offense Committed by Public Officer. – When the offender or the person responsible for the offense is a public officer as defined in the Administrative Code of the Philippines in the exercise of his or her duties, an accessory penalty consisting in the disqualification to occupy public office for a term double the term of criminal penalty imposed shall be applied.

The provisions of the law above-stated clearly vests criminal liability to persons who participated in, or by mere negligence, allowed the violation of the provisions of the law. It is to be emphasized further that the criminal penalty imposed is doubled if the offender or the person responsible for the offense is a public officer. This shows the gravity the law vests on data privacy of individuals and the responsibility of public officers to its security and protection such that violation of which will be met with stiff penalty.

In line with this, the DA observes stringent data sharing protocol in compliance with the DPA, its IRR and other relevant issuances of the NPC to ensure that personal data of every farmer, farmworker and fisherfolk within the RSBSA is protected and secured.

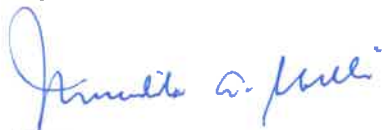
Therefore, in consideration of the above-stated, the request under the subject Resolution to make the RSBSA accessible to the public, research institutions, State Universities and Colleges (SUCs), and local government units cannot be granted outright.

Data sharing is carried out only on the basis of the consent given by the data subjects which must be necessarily and directly related to the purpose of availing agricultural related interventions. The same shall be considered following the execution of a Data Sharing Agreement (DSA) as well as Non-Disclosure Agreement (NDA) and/or other related legal documents.

The DA puts great weight on the security and protection of personal data of every farmer, farmworker and fisherfolk within the RSBSA as well as in pushing for an efficient and effective service delivery through access to a centralized reliable data and information. Hence, we shall resonate the sentiments of the Province of Leyte through broadening the involvement of the LGUs in the registration process of the RSBSA. We are certainly aiming for a positive collaboration with the LGUs through the DILG on this matter.

We hope we are able to give you guidance on the foregoing.

Sincerely,



USEC. MERCEDITA A. SOMBILLA
OIC, Office of the Senior Undersecretary

CC: **ATTY. RODOLFO JOHN ROBERT C. PALATTAO IV**
Undersecretary
Presidential Management Staff
Tracking ID No. PMS-202208-2081



SP Resolution
mentioned in the letter



Republic of the Philippines
PROVINCE OF LEYTE
Tacloban City
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OFFICE OF THE SANGGUNIANG PANLALAWIGAN

EXCERPTS FROM THE MINUTES OF THE 7th REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON AUGUST 09, 2022.

RESOLUTION NO. 2022-402

A RESOLUTION HUMBLY REQUESTING THE PRESIDENT AND CONCURRENT SECRETARY OF THE DEPARTMENT OF AGRICULTURE, FERDINAND "BONGBONG" MARCOS JR., TO MAKE THE REGISTRY SYSTEM FOR THE BASIC SECTORS IN AGRICULTURE (RSBSA) ACCESSIBLE TO THE PUBLIC, RESEARCH INSTITUTIONS, STATE UNIVERSITIES AND COLLEGES (SUCs), AND LOCAL GOVERNMENT UNITS, PRIORITIZING AGRICULTURE AND FISHERIES PROVINCES LIKE LEYTE AND ITS MUNICIPALITIES AND CITIES.

WHEREAS, the Registry System for the Basic Sectors in Agriculture (RSBSA) is a compilation of basic data of farmers and fisherfolks, farmer organizations, cooperatives, irrigators' associations, and people's organizations across the country and that registry system stores pertinent information about data, subjects that aid decision-makers in arriving at inclusive interventions and policies;

WHEREAS, public funds and local government units (LGUs) particularly municipal and city agriculture offices have been utilized and tapped in gathering RSBSA data every so often by the regional offices of the Department of Agriculture (DA) but these data simply remain with the DA's Regional Offices and are inaccessible to LGUs that helped gather the information;

WHEREAS, while RSBSA is primarily used as basis for qualification to the programs and activities of the DA, and other government interventions, with the Mandanas Ruling and the concomitant devolution of various functions and agriculture services to LGUs, it becomes imperative for the general public, research institutions, SUCs that provide agriculture and fisheries research and extension work, and LGUs to have access to the RSBSA data;

WHEREAS, some research institutions that provide technical assistance to LGUs and CSOs to use data and evidence-based approaches to drive policy, like Action for Economic Reforms, has made several representations with the Department of Agriculture's Central and Regional Offices to access RSBSA but were met with a lot of hesitancy citing data security and privacy issues;

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¹ "Getting the RSBSA Over the Hump," Action for Economic Reforms Policy Paper No. 2021-01, July 2021.

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to make the RSBSA accessible to the public, research institutions,
SCUs, LGUs, and prioritizing agriculture and fisheries provinces, like
Leyte and municipalities and cities

WHEREAS, while some cities and municipalities are able to partially access RSBSA, data based on the kind of programs and assistance that the Department of Agriculture intends to download, for instance, data on rice farmers to access assistance from the Rice Competitiveness Enhancement Fund, access should be, as far as practicable, full. Further, provinces should seriously consider having access to all municipalities and cities within their jurisdiction in order to design programs that optimize the use of provincial funds by having clustered municipalities and cities to have, for instance, shared facilities like re-circulating batch dryers, irrigation systems or food processing facilities;

WHEREAS, Section Sec. 7, Art. III, 1987 Constitution states that "It is the right of every citizen to access official records, documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development;

WHEREAS, on 23 July 2016, President Rodrigo R. Duterte issued Executive Order No. 2 entitled "Operationalizing in the Executive Branch the People's Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor;"

WHEREAS, on 30 June 2022, President Ferdinand "Bongbong" Marcos Jr's inaugural address emphasized, "(T)he role of agriculture cries for urgent attention that its neglect and misdirection now demands. xxx Food self-sufficiency must get the preferential treatment;"

WHEREAS, the province of Leyte has a lot of agriculture and fisheries potential waiting to be tapped but access to relevant agriculture and fisheries statistics especially with regard to farmers and fisherfolks simply remain with the Department of Agriculture and as such, local policy makers remain partially blind because of its inability to access and utilize RSBSA data;

WHEREAS on 31 March 2022, the Regional Development Council of Region 8 unanimously passed **RDC VIII Resolution No. 09, Series of 2022** entitled "SUPPORTING THE ACTION FOR ECONOMIC REFORMS' (AER) ADVOCACY OF A DATA-DRIVEN DEVELOPMENT SYSTEM IN REGION VIII"

NOW THEREFORE, on motion presented by Atty. Ronnan Christian M. Reposar, duly seconded by Atty. Carlo P. Loreto and the Honorable Vincent L. Rama, be:it

RESOLVED, be it resolved as it is hereby resolved that the Sangguniang Panlalawigan of Leyte duly assembled humbly request the President and Concurrent Secretary of the Department of Agriculture, Ferdinand "Bongbong" Marcos Jr. to make the Registry System for the Basic Sectors in Agriculture (RSBSA) accessible to the public, research institutions, State Universities and Colleges (SUCs), and local government units, prioritizing agriculture and fisheries in provinces like Leyte and its municipalities and cities;

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Leyte and municipalities and cities

RESOLVED FURTHER, to request that the release of the raw RSBSA data be modified to initially anonymize the datasets to make it compliant with data privacy and security laws and address the hesitancy of the Department of Agriculture and its regional offices to release this important dataset for planning and policy making;

RESOLVED FURTHERMORE, that the appropriate directive be issued by the President and concurrent DA Secretary to all DA Regional Offices to put this into immediate effect;

RESOLVED FINALLY, that copies of this resolution be furnished to all the LGU Leagues, DA Region 8 Office and all the cities and municipalities covered by the Province of Leyte;

Approved unanimously.

I HEREBY CERTIFY to the correctness of the foregoing resolution.



FLORINDA JILL S. UYVICO
Secretary to the Sanggunian

ATTESTED:


MICHAEL L. CARI
Acting Vice-Governor
Temporary Presiding Officer

Copy furnished:

1. President Ferdinand "Bongbong" Marcos, Jr.
Office of the President
Malacañang Palace
2. Executive Secretary Victor D. Rodriguez
Office of the President
Malacañang Palace
3. Atty. Carlo P. Loreto
Chairman – SP Committee on Agriculture
Province of Leyte
4. Atty. Ronnan Christian M. Reposar
1st District Board Member
Province of Leyte
5. Regional Executive Director Angel C. Enriquez, CESO III
Department of Agriculture
Regional Field Office No. VIII
Kanhuraw Hill, Tacloban City. *mail*
6. Hon. Carlos Jericho L. Petilla
Governor
Province of Leyte
7. League of Municipalities of the
Philippines (LMP) – Leyte Chapter
Province of Leyte
8. Vice Mayor's League – Leyte Chapter
Province of Leyte
9. Hon. Nolie C. Caña
President
Liga ng mga Barangay
Province of Leyte. *2022 8/26*
10. Hon. Chiqui Ruth C. Uy
PCL Federation President
Province of Leyte. *8/26/22*