

# Initiatives to Streamlining the Philippine Environmental Impact Statement System (PEISS): A Brief Guide for LGUs

## CONTENTS

- A. The Philippine EIS System: Legal Basis and influences
- B. EIA and ECC Defined
- C. Purpose of the EIA Process
- D. EIA Process Within the Project Cycle
- E. The EIA Process in Relation to the Enforcement of other Environmental Laws
- F. The EIA Process
- G. Operating Without an ECC or CNC
- H. ECC Validity and Expiry

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# Initiatives to Streamlining the Philippine Environmental Impact Statement System (PEISS): A Brief Guide for LGUs

## A. The Philippine EIS System: Legal Basis and Influences

The Philippine Constitution declares, *“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”*

In the 1960s...

The country started experiencing the burdens of uncontrolled population growth, urbanization, industrial expansion, rapid natural resource utilization, and increasing technological advances, which still are being strongly felt to date.

As ecological crises mounted in the form of air and water pollution, Government responded by issuing **Presidential Decree (PD) 984, the National Pollution Control Decree of 1976 and Presidential Decree (PD) 1586, Establishing an Environmental Impact Statement (EIS) System in 1978.**

The establishment of the Philippines EIS System marked the beginning of the realization of the importance of considering environmental concerns as early as the project planning stage. Section 2 of PD 1586 states that “There

is hereby established an EIS system founded and based on the EIS required, under Sec 4 of **PD 1151**, of all agencies and instrumentalities of the National Government, including Government Owned and Controlled Corporations, as well as private corporations, firms and entities, for every **proposed project and undertaking** which significantly affect the quality of the environment.



Figure 1 summarizes the development of the country’s environmental management measures vis-à-vis related international agreements. These historical antecedents led to the development of the PEISS into how it is being currently implemented as well as to the revisions presented in the Revised Procedural Manual of DENR Administrative Order (DAO) 2003-30.

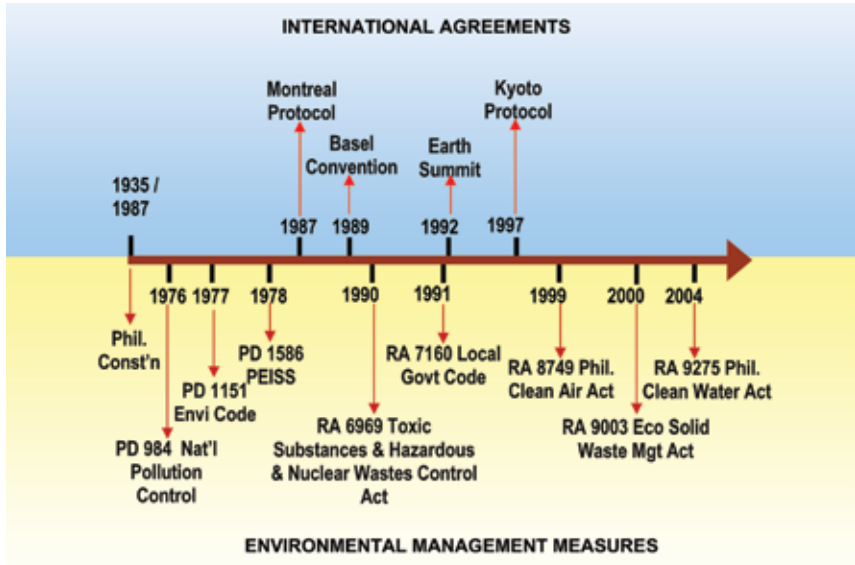


Figure 1. Influences to the Development of the PEISS

Through time, as the country became party to international agreements on environmental management matters, the following key environmental laws were crafted:

**1. RA 6969: Toxic Substances, Hazardous and Nuclear Wastes Control Act (1990)**

RA 6969 controlled toxic substances and hazardous and nuclear wastes by way of regulating, restricting or prohibiting the importation, manufacture, processing, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment. It also prohibited the entry, even in transit, of hazardous and nuclear wastes and their disposal into the country.

**2. RA 8749: The Philippine Clean Air Act (1999)**

The Clean Air Act promoted cooperation and self-regulation and pollution prevention as well as encouraging public participation to air quality planning and monitoring. It advanced the formulation and enforcement of a system of accountability as regards environmental impact of a project, program or activity and converted the Environmental Management Bureau (EMB) as a line bureau and created the EMB Regional Offices.

**3. RA 9003: Ecological Solid Waste Management Act (2000)**

This act maximized the utilization of valuable resources and encouraged resource conservation and recovery. It promoted solid waste avoidance and

volume reduction. RA 9003 placed the primary enforcement and responsibility of solid waste management with Local Government Units (LGUs) and encouraged cooperation and self-regulation among waste generators.

#### 4. RA 9275: The Philippine Clean Water Act of 2004

The Clean Water Act advanced the prevention, control, and abatement of pollution in water resources. It encouraged that water quality management issues should not be separated from concerns on water sources and ecological protection, water supply, public health and quality of life. The Act thus endorsed management programs to address water pollution.

**RA 7160 or the Local Government Code (LGC)** of 1991 as well as the various environmental laws highlight the important role of LGUs in environmental management.

Recognizing the vital role of various government agencies in the effective implementation of the country's environmental management functions specifically under the Philippine EIS

Although the permits and licenses of from the LGUs are secured after the ECC, it is the duty of every NGA or GOCC authorized or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof. This procedure facilitates the incorporation of the ECC recommendations in the LGU decision-making process

System, the DENR in 1992 initiated the signing of a Memorandum of Agreement (MOA) with 29 Government Agencies (GAs) to (i) incorporate environmental aspects and consider the conditions of environmental compliance certificate (ECC) into their decision making process, and (ii) required the issuance of an ECC prior to the release of permits, licenses and resolutions by the participating GAs.

The LGC, specifically Section 26 "Duty of National Government Agencies (NGA) in the Maintenance of Ecological Balance" and pro-





nouncements under the 1992 Joint MOA are complementary.

The PEISS was updated to the demands of the times as provided for in PD 1586, but issues were raised regarding difficulties in securing environmental compliance certificates thus resulting to delays in project implementation.

Therefore in 2002, **Presidential Administrative Order 42** was issued to further simplify requirements and streamline the processing of ECC applications. It authorized the Director and Regional Directors of the EMB to grant or deny the issuance of ECCs in addition to the Secretary of the DENR.

Delegated authority could not further be delegated beyond what is stipulated in AO 42. Such is the case of Subic Bay Development Management Authority (SBDMA) with the Supreme Court decision that SBDMA does not have the authority to issue the ECC.

The DENR Administrative Order 2003-30 was then issued providing the Implementing Rules and Regulations (IRR) for the policy directions stipulated in AO 42. Consequently, manuals

were developed providing procedural details on IRR in 2005, which further was enhanced in 2007.

## B. EIA and ECC Defined

**Environmental Impact Assessment (EIA)** is a “process that involves predicting and evaluating the likely impacts of a project as well as the ensuing preventive, mitigating and enhancement measures in order to protect the environment and the community’s welfare.” **An EIA is a process a proponent undertakes before an ECC is issued.**

**Environmental Compliance Certificate (ECC)** is a “decision document issued to the proponent after thorough review of the EIA Report.” It outlines the **commitments** of the proponent that are necessary for the project to comply with existing environmental regulations.

## C. Purpose of the EIA Process

- To enhance planning and guide decision-making.
- To develop measures for reducing if not totally eliminating adverse environmental impacts of proposed actions
- To appropriately advise Government Agencies (GAs) and LGUs on environmental considerations in their planning and decision-making when proponents apply for permits, clearances, licenses, endorsements, resolutions and other government approvals.
- To form the basis of a covenant on environmental management between Proponents and society, through the Environmental Compliance Certificate (ECC) issued by the EMB-DENR.

## D. EIA Process within the Project Cycle

Two directives, the 1996 Malacanang EO 291, **“Improving the Phil. EIS System”** and AO 42 direct proponents to simultaneously conduct the EIA and the Feasibility Study (FS) of the proposed project in order to maximize the use of resources. The integration of the EIS System early into the project development cycle intends to enhance and promote its desired function as a planning tool for sustainable economic development and environmental planning and conservation in order to ensure that national development goals are achieved as planned and without delay. Figure 2 is a schematic representation of the relationship between the EIA process as built in the project cycle.

1. Between the Project Concept and Pre-Feasibility Stages of the project

cycle, EIA-related activities include self-screening to determine coverage within the PEISS. If covered, the proponent prepares all requirements for the application process and undertakes an initial rapid site and impact assessment to determine the criticality of the project location and have an initial scope of key issues.

2. At the Feasibility Study (FS) stage, the proponent initiates the detailed environmental impact assessment. The formulated Environmental Management Plan (EMP) and corresponding costs and benefits are then inputted into the FS as a basis for decision making of the proponent on its final project option, siting and design. The proponent is able to identify the range of actions it can take and consider project alternatives prior to final decision for the Detailed Engineering Design (DED).

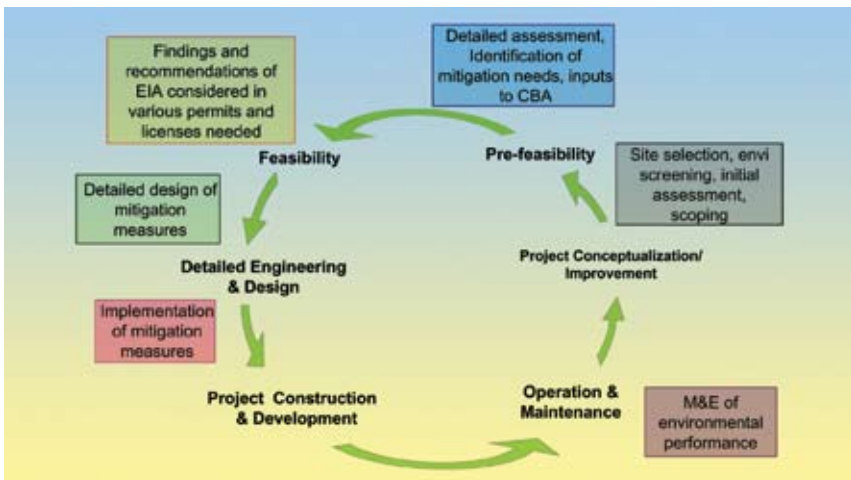


Figure 2. EIA Process and the Project Cycle

It is at this stage when the formal EIA Study for ECC application is initiated. A positive review and evaluation of the submitted EIA documentation will result to an issuance of an EMB-DENR decision document, the ECC, containing the proponent's commitments and other requirements for the proponent to comply with existing environmental regulations and environmental best practices.

3. During the DED stage, the proponent is presumed to have secured the ECC and the generic measures identified during the EIA study at the FS stage will now be detailed based on the project facility design and operational specifications. Normally, at this stage, necessary permits, licenses and clearances from various government agencies and LGUs are secured.

4. At the start of Project Construction/Development/Operations and throughout the project lifetime, en-

vironmental mitigation measures are expected to be fully implemented, and monitoring of the proponent's environmental performance is continuously done.

5. Findings and learnings from Operations are fed back into the project cycle for continual improvement of the project including constant updating of the environmental management plans. Major improvements may need new formal applications for DENR approvals.

#### E. The EIA Process in Relation to the Enforcement of other Environmental Laws

The PEISS is supplementary and complementary to other existing environmental laws. As early as the project FS stage, the EIA process identifies the likely environmental issues or impacts that shall be recommended for coverage later by regional environmental permits and other permitting requirements of regulatory bodies. In addition, where there are yet no standards or where there is a lack of explicit definitions in existing laws, the EIA process fills in the gap and provides appropriate cover for environmental protection and enhancement-related actions.

For example, while there is no law on replacement planting of forest trees, proponents are encouraged to do so as incorporated in their ECC conditionality and forms part of their contractual obligation to society through the EMB.





### F. The EIA Process

There are six stages in the generic EIA process (See Figure 3). The proponent initiates the first three stages while the EMB takes the lead in the last three stages (*Please refer to color-coded legend to serve as guide in interpreting the flowchart*).

**1. Project Screening** – This stage allows the proponent to determine if a project will be subject to the EIA

Process and secure an ECC. The requirement to undergo the EIA Process covers undertakings established after 1982, which is covered by any or both of the following:

- Declared through Presidential Proclamations 2146 (1979) and 803 (1999) and technically defined by the EMB-DENR as project types that may pose **significant environmental impact at certain thresholds of operations** (also

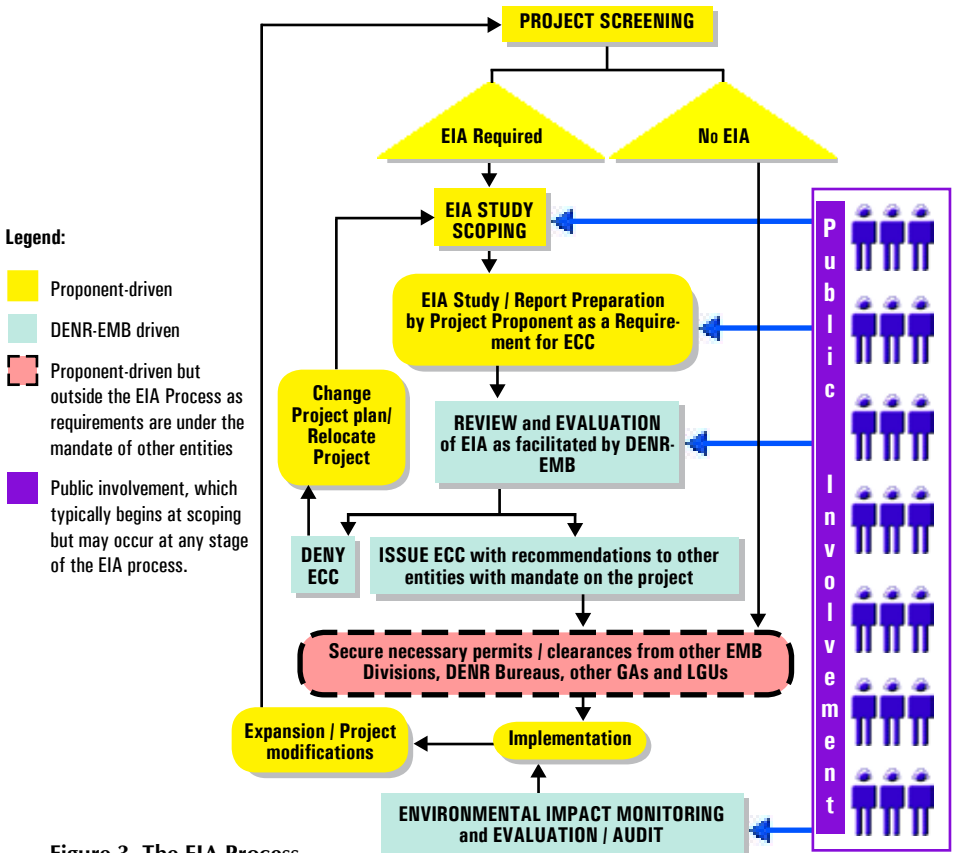


Figure 3. The EIA Process

known as Environmentally Critical Projects or ECPs) regardless of location and/or,

- Located in **environmentally critical area** (ECA) declared through

Presidential Proclamation 2146 wherein significant impacts are expected for certain types and thresholds of proposed projects.

**Summary List of Environmentally Critical Project (ECP) Types and Environmentally Critical Area (ECA) Categories**

<b>A. List of ECPs</b>	
- As declared by Proclamation No. 2146 (1981)	
1	Heavy Industries – Non-ferrous Metal Industries, Iron and Steel Mills, Petroleum and Petro-chemical Industries including Oil & Gas, Smelting Plants
2	Resource Extractive Industries – Major Mining & Quarrying Projects, Forestry Projects (logging, major wood processing projects, introduction of fauna (exotic animals) in public and private forests, forest occupancy, extraction of mangrove products, grazing), Fishery Projects (dikes for/ and fishpond development projects)
3	Infrastructure Projects – Major Dams, Major Power Plants (fossil-fueled, nuclear fueled, hydroelectric or geothermal), Major Reclamation Projects,
- As declared by Proclamation No. 803 (1996)	
4	All golf course projects
<b>B. List of ECA Categories</b> - As declared by Proclamation No. 2146 (1981)	
1	All areas declared by law as national parks, watershed reserves, wildlife preserves, sanctuaries
2	Areas set aside as aesthetic potential tourist spots
3	Areas which constitute the habitat of any endangered or threatened species of Philippine wildlife (flora and fauna)
4	Areas of unique historic, archaeological, or scientific interests
5	Areas which are traditionally occupied by cultural communities or tribes
6	Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.)
7	Areas with critical slopes

8	Areas classified as prime agricultural lands
9	Recharged areas of aquifers
10	Water bodies characterized by one or any combination of the following conditions: tapped for domestic purposes; within the controlled and/or protected areas declared by appropriate authorities; which support wildlife and fishery activities
11	Mangrove areas characterized by one or any combination of the following conditions: with primary pristine and dense young growth; adjoining mouth of major river systems; near or adjacent to traditional productive fry or fishing grounds; areas which act as natural buffers against shore erosion, strong winds and storm floods; areas on which people are dependent for their livelihood.
12	Coral reefs characterized by one or any combination of the following conditions: With 50% and above live coralline cover; Spawning and nursery grounds for fish; Act as natural breakwater of coastlines

On September 12, 2002, a Supreme Court decision ruled that LGU projects (classified as ECP or to be located within an ECA) are not exempted from the EIA process (G.R. No. 148622 with DENR XII as the Petitioner and City of Davao as Respondent).

For detailed project screening guidance to determine whether a project is required an EIA and an ECC, please refer to the Revised Procedural Manual or the EMB webpage ([www.emb.gov.ph/eia](http://www.emb.gov.ph/eia)).

**2. EIA Study Scoping** – the proponent also spearheads activities under this stage, with involvement from the EMB, affected community and representatives from the EIA Review Committee (EIARC). The public and concerned agencies are asked to comment on the purpose and need of the project, issues and impacts, and ways to minimize and mitigate impacts.



Public Scoping for PEIS/EIS-based new projects more meaningful under the Revised Procedural Manual as community inputs now precede the Technical Scoping of the EIA Review Team with the proponent. This enables the Technical Scoping members to have a contextualized approach to finalizing of the Scoping Checklist that comprises the final Terms of Reference of the EIA Study considering inputs from directly affected communities.

Prior to Public Scoping, the proponents are directed to conduct social preparation activities where LGUs and community members are provided with different modes of information, education and communication materials about the proposed project.



**3. Conduct of the EIA Study and Preparation of the EIA Report** – the conduct of the EIA Study that results in the EIA Report is proponent-driven and includes a description of the proposed project and its alternatives along with the Environmental Management and Monitoring Plan (EMoP).

It is encouraged that the conduct of the EIA Study includes participation of local stakeholders as resource persons in primary data collection to optimize access to indigenous knowledge of the environment. LGUs have to be consulted and involved in the drafting of the Social Development Plan (SDP) Framework, Information, Education and Communication (IEC) Plan, and Monitoring Plan to be included in the EMP.

**4. Review and Evaluation** – this is now led by EMB. The proponent’s EIA Report, which comes in varying comprehensiveness, shall be subject to review and evaluation by either the EMB Regional Office or the EMB Central Office (depending on the project type) as a documentary requirement for ECC applications. In the review and evaluation of ECC applications, the EMB may commission third party experts also known as the EIA Review Committee.

Public disclosure of the EIA findings is mandatory for ECPs through:

- Public Consultation
- Public Hearing

A waiver of the Public Hearing as part of the processing of ECC application as requested by the proponent may be granted by EMB in the absence



of mounting opposition or as requested in written form with valid basis.

To ensure well-informed participation during the hearing/consultation process, the proponent is required to provide the following beforehand:

- Copies of the full EIA Report to the host municipalities;

- Copies of the Executive Summary to host barangays; and,
- Project Fact Sheets, (written in the local dialect or mixed with the popularly known language of the host communities) to other stakeholders.

**5. Decision-Making** – Decisions made by the EMB-DENR are based on the following:



- Striking balance between socio-economic growth and environmental protection;
- Utilizing environmental and socio-economic criteria; and,
- Considering that the primacy of jurisdiction of other GAs and LGUs are respected and supported.

### REMINDER

1. The decision on ECC applications is vested only on the President of the Republic and the DENR/EMB.
2. LGUs have the option to accept, modify or disregard the recommendations in the ECC. They will have to justify to the public the basis of their decision.

If the decision document is positive, or merits the issuance of an ECC/CNC, it is endorsed to concerned authorities like LGUs and other GAs to help them decide whether to issue the necessary permits/clearances or not.

**6. Environmental Impact Monitoring and Evaluation/Audit** – This stage of the EIA process as led by the EMB, aims to ensure the following:

- Project compliance to the environmental aspects of the ECC as well as conditions set in the ECC and the EMP;
- Effectiveness of environmental measures on prevention or mitigation of actual project impacts vis-a-vis predicted impacts used as basis for the EMP design; and
- Continual updating of the EMP for sustained responsiveness.

The following entities are assigned specific roles and responsibilities, with respect to EIS-based undertakings:

**Proponent** - The proponent conducts self-monitoring and prepares and submits a standardized Semi-annual ECC Compliance Monitoring Report (CMR) to the designated monitoring EMB office on a semi-annual basis.

**Multi-partite Monitoring Teams (MMTs)** – LGUs are represented in MMTs (composed of various stakeholders) which generally form the pillar for local vigilance to environmental performance of the project. Major features of the MMT are:

- Provides appropriate checks and balances in monitoring of project implementation;

- Validates the proponent’s environmental performance; and,
- Recommends courses of action to EMB through the Compliance Monitoring and Validation Report (CMVR).

EMB-DENR – EMB-DENR is the primary actor responsible for the overall evaluation/audit of the proponent’s monitoring and the MMT’s validation.

The primacy of jurisdiction is respected in the enforcement of ECC recommendations related to the mandate of LGUs and other GAs. Hence, the corresponding penalties and sanctions as regards enforcement of ECC recommendations shall primarily be imposed by the LGU or GA under whose mandate violations have been committed (e.g., observance of building code and occupational safety and health requirements).

Projects outside the purview of the PEISS are assumed to have minimal environmental impacts and hence not covered by environmental monitoring requirements under the PEISS. Environmental Monitoring of these projects shall be under the purview of the Lead Government Agency or the LGU which has direct jurisdiction over the project;

Projects classified as ECPs or located in ECAs established prior to 1982 although not required to secure ECCs, shall be monitored for compliance to other environmental laws as earlier enumerated.

### G. Operating Without an ECC or CNC

EIA is a planning tool. For projects operating without an ECC or a CNC,

the EIA is no longer applicable as the planning stage is over. Environmental impacts of an on-going project are based on actual performance and compliance to environmental standards as required under existing environmental laws. An Environmental Performance Management Review is carried out and conditions relating to the operation and abandonment may be required.

Submission of the EPMRC does not exempt the project from the penalties for operating without an ECC or additional documentation as may be required by environmental laws.

### H. ECC Validity and Expiry

The ECC remains valid and active for the lifetime of the project. However, ECC expires if the project has not been implemented within five (5) years from ECC issuance.

If the baseline characteristics have significantly changed to the extent that the impact assessment as embodied in the EMP is no longer appropriate, the EMB office concerned shall require the proponent to submit a new application.

The continued validity of the ECC sustains the active commitments of the proponent to comply with ECC conditions which includes commitment to implement mitigation measures for potentially negative impacts and/or enhancement measures for potentially positive impacts as identified in the EIA Study. The ECC includes environmental conditions the project proponent has to fulfill even after the project useful life such those related to abandonment and site rehabilitation.

## Environmental Management Bureau Official Directory

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Region 2	EMB Nursery Compd., San Gabriel Village, Tuguegarao City, Cagayan	844-4321; 844-6662
Region 3	4 <sup>th</sup> Floor MEL-VI Bldg., O.R. Road, Dolores, San Fernando, Pampanga	(045) 961-5203 or 06860-2875
Region 4a	1515 L & S Bldg., Roxas Boulevard, Ermita Manila (CALABARZON)	522-8177
Region 4b	1515 L & S Bldg., Roxas Boulevard, Ermita Manila (MIMAROPA)	400-5960
Region 5	Regional Center, Rawis, Legaspi City	(052) 482-0197 loc 124
Region 6	Pepita Aquino Avenue, Port Area, Iloilo City	336-9910; (033) 509-9133
Region 7	Banilad, Mandaue City	(032) 346-1647
Region 8	Taboan, Marasbaras, Tacloban City	(053) 323-4054
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