

# BCDA to lease out 37 hectares in Clark for 25-MW solar facility

THE Bases Conversion and Development Authority (BCDA) said it will offer 37 hectares in New Clark City for development of a P1-billion solar energy farm.

The BCDA said that it is seeking private companies to bid for the long-term lease on a site in the northern section of New Clark City and to develop a facility with at least 25 megawatts (MW) of capacity.

"In line with the renewable energy thrust of the Marcos administration, the BCDA is pushing for the development of sustainable energy sources in New Clark City. This solar farm is one of the crucial projects in New Clark City as it will supplement energy sources and

lower energy costs for our locators, while also ensuring reduced carbon emissions," BCDA President and Chief Executive Officer Aileen R. Zosa said in a statement on Wednesday.

"The BCDA is calling for private sector partners to support us in this endeavor. Your participation is important as we strive to make New Clark City into a smart, sustainable and green city," she added.

According to the terms of reference for the auction, the initial lease period is 25 years, renewable for another 25 years.

"In line with the Philippine Development Plan 2023-2028, the Marcos government is implementing policy reforms to promote re-

newable energy sources, thereby lowering energy costs and supporting the revitalization of industries," the BCDA said.

"These efforts will help achieve the goal of the Philippine government of increasing the share of renewable energy in the country's energy mix to 35% by 2030 and 50% by 2040," it added.

The terms of reference were put on sale on Wednesday, with a pre-bid conference scheduled for March 24, 10 a.m. at the BCDA's corporate office in Taguig City.

The deadline to submit bid documents, eligibility requirements, and a financial proposal will be on April 21 at noon. — **Revin Mikhael D. Ochave**



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## Agri department withdraws guidelines for conducting trials on new fertilizers

THE Department of Agriculture has withdrawn the guidelines for conducting bioefficacy trials on new fertilizer products, an apparent first step in easing the approval process for new types of fertilizer.

In a department circular, Agriculture Senior Undersecretary Domingo F. Panganiban ordered the revocation of guidelines issued by former Agriculture Sec-

retary William D. Dar in February 2022 which required trials for new fertilizer products that have been commercially available for less than 10 years. The guidelines required the fertilizer to be trialed in both wet and dry seasons.

Inorganic fertilizers registered for 10 years or more were exempt from the bioefficacy trials.

The old guidelines also required the publication of an efficacy trial terminal report. The trial was to be run by an accredited researcher in line with the Fertilizer Regulatory Policies and Implementing Guidelines.

According to Mr. Panganiban's circular, Mr. Dar's guidelines had yet to be implemented.

"The Fertilizer and Pesticide Authority is hereby instructed

to issue the appropriate guidelines (for product trials) after it conducts an assessment," Mr. Panganiban said.

Last week, the Palace announced that President Ferdinand R. Marcos, Jr., who is also the Agriculture Secretary, wanted to introduce biofertilizer to farmers to reduce dependence on imported products which are petroleum-based. — **Sheldeen Joy Talavera**

## China reopening to boost tourism, but overall impact on PHL economy seen as modest

CHINA's reopening is expected to boost tourism in the Philippines, though the overall impact on the economy will likely be modest, according to MUG Global Markets Research.

"The return of Chinese tourists will likely significantly benefit tourism in the Philippines," it said in a report.

China was the second-largest source of visitors in 2019 with 1.7 million arrivals or 22.2% of the total.

"This greatly outweighed the 6.3% from intra-Association of Southeast Asian Nations (ASEAN) sources. At the same time, returning Filipinos will likely provide another source of travel receipts," it added.

This year, the Philippine Travel Agencies Association is expecting international visitor arrivals to hit 8.26 million.

The Department of Tourism is targeting at least 4.8 million arrivals this year. In 2022, the Philippines took in 2.7 million tourists.

The report said that the expected boost in tourism is due to the Philippines reducing its coronavirus disease 2019 (COVID-19) restrictions.

"Visitor arrivals were only 3% of pre-pandemic (2019) levels in December 2021. However, this has climbed to 56% by December 2022. This was supported by ASEAN tourists, at 55% of 2019 levels," it added.

It added that travel from China improved to 7.2% of pre-pandemic levels in December 2022 from 0.9% in December 2021.

MUG said it also expects gross travel receipts to increase this year. "Given current trends, we anticipate broader upsides in 2023. Gross travel receipts may hit \$6-8 billion in 2023, higher than an expected \$4 billion in 2022 and catching up to \$9.8 billion in 2019," it said. "At the same time, the Philippines may see fairly balanced net travel receipts, after a deficit of around \$500 million in 2022. The boost from China will likely be significant and outweigh outbound travel," it added.

On the other hand, the report said that the impact of the Chinese reopening on the Philippine economy will "likely be modest," as the Philippines is mainly domestic-demand driven.

"The improvements from tourism, further boosted by travel from China, will likely benefit all tourism related sectors. Pre-pandemic, major inbound tourism expenditure was on transport (36.6%), accommodation (31.9%), as well as food and beverage (22.5%). The accommodation and food services sectors employed 2 million workers in 2019, accounting for almost 5% of total employment," it added. — **Luisa Maria Jacinta C. Jocsan**

## World Bank backs safety nets to build climate resilience

SOCIAL protection measures like cash support programs are needed to build climate resilience, especially in at-risk countries like the Philippines, the World Bank said in a blog post.

"Adapting cash support programs after a disaster requires careful targeting and understanding of disaster-affected population needs. Making social protection programs more flexible while incorporating reliable mechanisms for identifying and targeting vulnerable populations contributes to an inclusive recovery," it said.

"Natural hazards, health and climate-related shocks, are increasingly and disproportionately affecting the poor and the most vulnerable populations. Interventions are required to strengthen resilience and protect these populations against disaster impacts," it added.

The World Bank cited the Philippines, one of the countries most affected by natural and climate-related disasters.

"The experiences of ad hoc emergency cash support programs in the Philippines have shown that the needs of disaster-affected families include food and nonfood items, including urgent requirements for medicines and



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healthcare not delivered as part of government-provided relief," it added.

The bank noted the "unusual number of natural hazards (earthquakes, typhoons, volcanic eruptions)" in late 2019 and early 2020.

The Global Facility for Disaster Reduction and Recovery provided grants for training and

technical assistance to aid the Department of Social Welfare and Development in designing an emergency cash transfer program to deliver the World Bank's \$500-million policy loan to the Philippines.

"The design of the emergency cash transfer program built on these experiences to empower disaster-affected populations to

determine how to address their needs using local resources," it said.

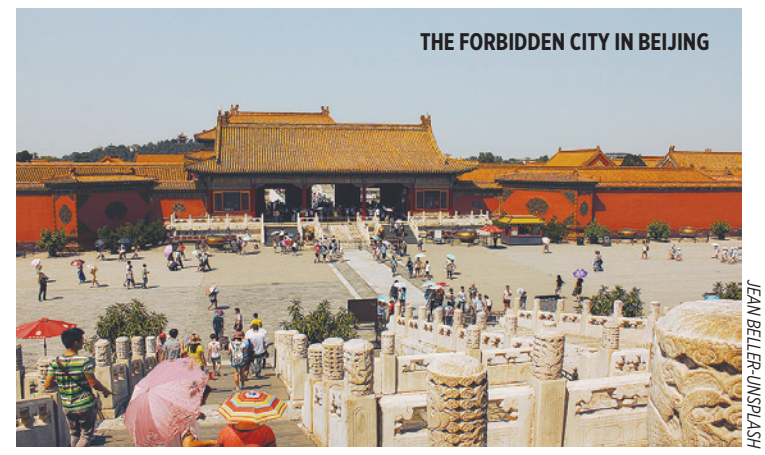
The World Bank said that the program "built household resilience and recovery to quickly resume day-to-day activities after disasters."

"By reforming the cash support available in case of an emergency, the project ensured that cash assistance reached disaster-affected households immediately after disasters to facilitate their recovery," it added.

The World Bank said that social protection systems can make vulnerable households more resilient; however, they must be enhanced and adapted to respond to disaster shocks.

"Incorporating risk data into social protection information systems is critical to design programs, inform contingency planning, and scale-up interventions to adapt systems to respond to disasters more efficiently," the bank added.

It also cited the need to adjust existing social protection programs to support disaster-affected populations and promote financial protection and inclusion for resilience to disaster risks. — **Luisa Maria Jacinta C. Jocsan**



THE FORBIDDEN CITY IN BEIJING

JEAN BELLETIER/UNSPASH

### OPINION

## From PAN to FAN: Let's not skip to the tough part

"No person shall be deprived of life, liberty or property without due process of law." This is probably one of the most powerful provisions in our Constitution. It guarantees respect for one's rights by observing rules and establishing limitations when it comes to legal processes in the Philippines. For instance, in tax assessment cases, rules promulgated by our Tax Code and its implementing regulations must be observed to ensure that taxpayers are afforded due process.

As a background, the assessment process commences with the issuance of a Letter of Authority (LoA) evidencing the authority given to specific BIR Revenue Officers to examine the books and other accounting records of a taxpayer. After conducting an audit, the Revenue Officers will formalize their initial findings of deficiency taxes through the issuance of the Notice of Discrepancy (NoD). At this stage, under Revenue Regulations (RR) No. 22-2020, taxpayers have the opportunity to discuss the discrepancies and submit documents to support their explanations within 30 days from receipt of the NoD.

If the findings remain unresolved, the BIR will issue a Preliminary Assessment Notice

(PAN), and the taxpayer may, within 15 days from receipt, file a reply. Thereafter, if still unresolved, the BIR will issue the Formal Letter of Demand and Final Assessment Notices (FLD/FAN) and the taxpayer is granted a non-extendible 30-day period from receipt thereof to file a protest letter (either in the form of a request for reconsideration or a request for reinvestigation, as the case may be); otherwise, the assessment becomes final, executory and demandable.

It is at the transition between the PAN to the FLD/FAN stage that a due process issue might arise. Unlike at the FLD/FAN stage, the taxpayer's failure to file a reply to the PAN does not produce the same effect of making the assessment final, executory and demandable. Responding to the PAN is not mandatory but is only an option for taxpayers to avail. Thus, if an FLD/FAN is issued prior to the taxpayer submitting a response to the PAN or before the expiration of the 15-day period to reply, is there a disregard for procedural due process requirements under the law?

In G.R. No. 249153 promulgated on Sept. 12, 2022, the Supreme Court emphasized the ne-

cessity for strict observance of the due process requirement when it comes to the issuance of assessment notices in order to uphold the taxpayer's constitutional rights. Citing another doctrinal ruling, the Court reiterated that the PAN is part and parcel of the due process requirement for tax assessments in the Philippines and the BIR must comply with the provisions of the law and its own rules. This preliminary stage of the assessment may serve as an avenue for both the tax authority and the taxpayer to settle the case at the earliest opportunity without the need to elevate the case to the next phase (i.e., FLD/FAN stage).

Necessarily, taxpayers must be afforded the appropriate time and opportunity to present their side within the time prescribed by law. Thus, the BIR can only issue the FLD/FAN upon receipt of the taxpayer's reply to the PAN or the lapse of the 15-day period without the taxpayer having submitted a response. The Court found support in its more recent ruling in G.R. No. 222476 dated May 5, 2021, which set aside the fact that the taxpayer was able to submit a "well-prepared protest letter," and where the Court ruled that the BIR still violated the taxpayer's right to due process when it issued the FAN ahead of its receipt of the reply to the

PAN. While the factual circumstances in the May 2021 case differ from those in the September 2022 case, the Court applied the doctrine analogously which led to a similar conclusion that there is no substantial compliance with the due process requirement if the BIR disregards the 15-day period and issues the FLD/FAN prior to the taxpayer's submission of a formal reply to the PAN.

The BIR is bound by its very own rules which expressly provide that if the taxpayer fails to reply to the PAN within 15 days from the date of receipt, the FLD/FAN is to be issued calling for the payment of the deficiency taxes, including applicable interests and penalties. The above decisions and existing BIR guidelines pretty much sum up the requirement that the FLD/FAN shall be issued only upon receipt of the reply to the PAN or the expiration of such time to respond, in order to afford due process to the taxpayer.

Indeed, there are no shortcuts when it comes to procedural due process requirements because basic rights are on the line. We cannot skip one part, proceed to the succeeding steps, and expect a favorable outcome. While both taxpayers and the authorities strive to come to a resolution despite competing objectives — taxpayers wanting to reduce the assessments to those

deficiency taxes which are rightfully due to the government on one hand, and the BIR achieving its tax collection targets to support government programs on the other — it is never an option to disregard procedural requirements at the expense of the other. Of course, this must work both ways: first, by giving the tax authorities sufficient time and basis to issue assessments and enforce collections; and second, by granting taxpayers the opportunity to present their side within the time prescribed by the rules. At the end of the day, due process should and must always be afforded to whomever it is due.

*The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.*

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