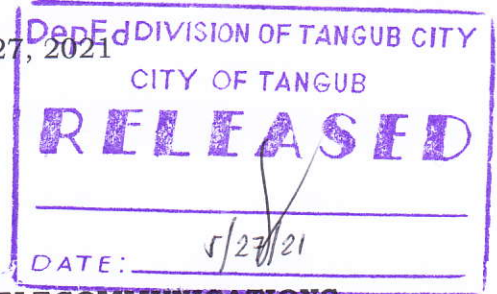




May 27, 2021





DIVISION MEMORANDUM
No. 106, s. 2020

ENDORSEMENT OF PROPOSALS AND REQUESTS OF TELECOMMUNICATIONS COMPANIES AND COMMON TOWER PROVIDERS

To: Districts In-Charge
Principals/Head Teachers/TICs
School ICT Coordinators
Public Elementary and Secondary Schools
This Division

1. This Office disseminates the OUA Memorandum 00-0521-0163 entitled ***Endorsement of Proposals and Requests of Telecommunications Companies and Common Tower Providers***, for future reference to all school heads.
2. Enclosed is the OUA Memorandum for more details.
3. Immediate and wide dissemination of this Memorandum is desired.


AGUSTINES E. CEPE, CESO V
Schools Division Superintendent 

AEC/ama/05272021





OUID00-0521-0163
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Republika ng Pilipinas

Kagawaran ng Edukasyon

Tanggapan ng Pangalawang Kalihim

OUA MEMO 00-0521-0163

MEMORANDUM

23 May 2021

For: **Regional Directors and BARMM Education Minister
Schools Division Superintendents
School Heads**


Subject: **ENDORSEMENT OF PROPOSALS AND REQUESTS OF
TELECOMMUNICATIONS COMPANIES AND
COMMON TOWER PROVIDERS**

The Office of the Undersecretary for Administration (OUA) would like to inform all concerned that the Department of Education (DepEd) and the Department of Information and Communications Technology (DICT) entered into a Memorandum of Agreement (MOA) on Shared Passive Telecommunications Tower Infrastructure (SPTTI) last 16 April 2021. Kindly refer to the attached copy of the said MOA.

In this regard, all concerned are instructed to endorse to OUA the proposals and requests of telecommunications companies (e.g., Globe Telecom, Inc., Smart Communications, Inc., DITO Telecommunity Corporation, etc.) and common tower providers for the construction of cellular sites, towers and related facilities within school premises. Please note that DepEd will refer these proposals and requests to DICT, in compliance with the signed MOA.

Kindly send the endorsements to the official email address of OUA at usec.admin@deped.gov.ph.

For strict compliance.


ALAIN DEL B. PASCUA
Undersecretary



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Office of the Undersecretary for Administration (OUA)

[Administrative Service (AS), Information and Communications Technology Service (ICTS), Disaster Risk Reduction and Management Service (DRRMS), Bureau of Learner Support Services (BLSS), Baguio Teachers Camp (BTC), Central Security & Safety Office (CSSO)]

Department of Education, Central Office, Meralco Avenue, Pasig City
Rm 519, Mabini Bldg; Mobile: +639260320762; Tel: (+632) 86337203, (+632) 86376207
Email: usec.admin@deped.gov.ph; Facebook/Twitter @depedtayo

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

¹ This **MEMORANDUM OF AGREEMENT (MOA)** is entered and executed this _____ day of _____ 2020 at _____ by and between:

The **DEPARTMENT OF EDUCATION**, a National Government Agency mandated by law, particularly Batas Pambansa No. 232, otherwise known as the "*Education Act of 1982*," as amended by Republic Act No. 9155, otherwise known as the "*Governance on Basic Education Act of 2001*," with principal office address at DepEd Complex, Meralco Avenue, Pasig City, and represented herein by its Secretary, **LEONOR MAGTOLIS BRIONES** (hereinafter referred to as "**DepEd**");

-and-

The **DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY**, a National Government Agency created under and by virtue of Republic Act No. 10844, with principal office address at C.P. Garcia Avenue, Diliman, Quezon City, and represented herein by its Secretary, **GREGORIO B. HONASAN II** (hereinafter referred to as "**DICT**").

(**DepEd** and **DICT** are hereinafter collectively referred to as the "**PARTIES**" and individually as "**PARTY**")

WITNESSETH:

WHEREAS, the DICT is the primary policy, planning, coordinating, implementing, and administrative entity of the Executive Branch of the government that will plan, develop, and promote the national Information and Communications Technology ("ICT") development agenda;¹

WHEREAS, it is the declared policy of the State to ensure the provision of strategic, reliable, cost-effective, and citizen-centric ICT infrastructure, systems, and resources as instruments of good governance and global competitiveness,² to ensure the availability and accessibility of ICT services in areas not adequately served by the private sector,³ and to promote the use of ICT for the enhancement of key public services, such as education, public health and safety, revenue generation, and socio-civic purposes;⁴

WHEREAS, RA 10929, otherwise known as the "Free Internet Access in Public Places Act," declares it the policy of the state to promote an environment for the development of structures to ensure the availability and accessibility of reliable and secure internet access

¹ §5, Republic Act (RA) No. 10844.

² §2(b), RA 10844

³ §2(e), RA 10844.

⁴ §2(h), RA 10844.



suitable to the needs and aspirations of the nation ⁵ and allows the shared use of ICT infrastructure under its Free Public Internet Access Program (FPIAP);⁶

WHEREAS, DICT issued Department Circular (“DC”) No. 8, s. 2020, dated 29 May 2020 that provides for the guidelines on Shared Passive Telecommunications Tower Infrastructure;

WHEREAS, on July 23, 2020, Anti-Red Tape Authority, DICT, Department of Interior and Local Government, Department of Housing, Settlements and Urban Development, Department of Public Works and Highways, Civil Aviation Authority of the Philippines, Department of Health, and Food and Drug Administration issued Joint Memorandum Circular No. (“JMC”) 1, s. 2020, “*Streamlined Guidelines for the Issuance of Permits, Licenses and Certificates for the Construction of Shared Passive Telecommunications Tower Infrastructures (SPTTI)*” which complements DC No. 8;

WHEREAS, with the legal and administrative framework in place that will govern and support propagation of the SPTTIs, the next step is the determination of the suitable sites therefor;

WHEREAS, the school grounds of DepEd, or such other areas that it owns or administers, are suitable sites for the SPTTIs;

WHEREAS, in the July 27, 2020 State of the Nation of Address, the President directed that the telecommunications companies must improve their services by December 2020; and

WHEREAS, Executive Order No. (“EO”) 301 s. 1987, prescribed guidelines on the lease of government owned-buildings or spaces as further set out in detail in the uniform standards/guidelines issued by the Department of Public Works and Highways pursuant to said EO 301.

NOW THEREFORE, for and in consideration of the foregoing premises, and subject to terms and conditions hereinafter set forth, the Parties have mutually agreed as follows:

ARTICLE I. PURPOSE

Section 1. Purpose.—This MOA shall provide the framework for DepEd’s making available by way of lease or similar arrangements to DICT suitable real estate properties owned or under the administration of the DepEd for use as sites or locations for Shared Passive Telecommunications Tower Infrastructure (SPTTI) under DICT DC No. 8, s. 2020.

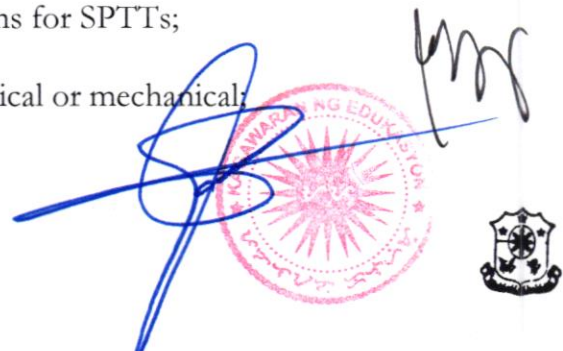
ARTICLE II. AGREEMENT OF THE PARTIES

Section 2. Roles and Responsibilities of the DepEd.— The DepEd shall undertake the following:

1. Approve identified areas suitable for sites or locations for SPTTIs;
2. Review engineering designs such as structural, electrical or mechanical;

⁵ §2, RA 10929.

See §3(b), RA 10929.

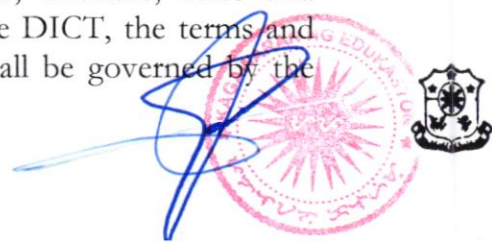


3. Designate projects for funding by DICT in lieu of cash payment as rentals;
4. Review and approval of the outcome of the necessary diligence to ensure that the independent tower companies that will build the SPTTIs on site or location pursuant to the provisions of DC No. 8, s. 2020 and JMC 1, s. 2020, shall comply with their respective obligations and undertakings towards lawful and judicious use of the site or location for purposes of establishing SPTTIs or engineering specifications;
5. Recommend design and engineering specifications, if necessary, for purposes of risk mitigation such as structural, mechanical or electrical.
6. Approve the specific location of the school identified for the installation of facilities and telecommunications equipment;
7. Ensure that the location of facility to be constructed is aligned with the Master Development Plan (MDP) of the school to ensure that the needs of the DepEd are given priority;
8. Assist DICT through its Education Facilities Division (EFD) and Information and Communications Technology Service (ICTS), in planning for the co-location of the latter's facilities, such as providing engineering data, advising on the possible utilization of existing facilities and performing administrative duties/tasks required for the installation of equipment in DepEd properties within thirty (30) days from the submission of its recommended sites;
9. Undertake major repairs including damages due to fortuitous events during the effectivity of the agreement subject to DepEd's capability to repair said damages;
10. Provide and make available such facilities in accordance with existing laws, rules and regulations and maintain these facilities in operating condition; and
11. Maintain the subject schools and its facilities in good and tenantable condition.

Section 3. Roles and Responsibilities of the DICT.— The DICT shall undertake the following:

1. Notify the DepEd of the properties, specific location therein, and corresponding areas in sq. m. identified by DICT as suitable sites or locations for SPTTIs;
2. Ensure the payment of reasonable rentals or other compensatory arrangements to DepEd for each DepEd property used as the site or location of SPTTIs; and
3. Observe the necessary diligence to ensure that the independent tower companies that will build the SPTTIs on site or location pursuant to the provisions of DC No. 8, s. 2020 and JMC 1, s. 2020, shall comply with their respective obligations and undertakings towards lawful and judicious use of the site or location for purposes of establishing SPTTIs.

Section 4. Governing Terms, Conditions, and Guidelines.— Subject to the provisions of applicable laws, and departmental orders, circulars, rules and regulations as are currently in force or hereafter issued by the DICT, the terms and conditions of the lease under the provisions of this MOA shall be governed by the



provisions of Executive Order No. 301 s. 1987, and other relevant laws, circulars, rules, and regulations. The Parties may via Addendum to this MOA, enter into such additional or supplemental terms and conditions as may be warranted and particularly applicable to specific DepEd properties identified pursuant to this MOA. The terms and conditions of this MOA, and of such additional or supplemental agreements in relation thereto, shall be contractually binding as integral parts of this MOA.

Section 5. Lease Rates.—The fair and reasonable rental rates or other compensatory arrangements, and the other details relative to the lease of particular DepEd properties identified as suitable sites or locations for establishing SPTTIs, shall be computed in accordance with Executive Order No. 301 s. 1987, and relevant laws, circulars, rules, and regulations.

Section 6. Relocation/Recovery of Facilities - DepEd shall have the right to recall or modify the allocated space and use of support facilities to satisfy their own priority requirements. The exercise of such right shall however be based on just and reasonable grounds and not on arbitrary and/or frivolous grounds. DepEd shall propose an alternative space to transfer DICT's existing facilities.

If for any justifiable and reasonable ground DepEd believes that the facilities installed by DICT within DepEd's premises will impede future needs of the latter relating to expansion and improvement projects, it shall request DICT to remove any of its facilities within one hundred eighty (180) days from receipt of a written advice to the effect. For this purpose, DICT may relocate its facilities to any designated place of DepEd's premises. However, should it fail to relocate or remove its facilities within the said one hundred eighty (180) days period, DepEd may thereafter remove such facilities and store the same at DICT's risk.

ARTICLE III. EXCHANGE OF SERVICES

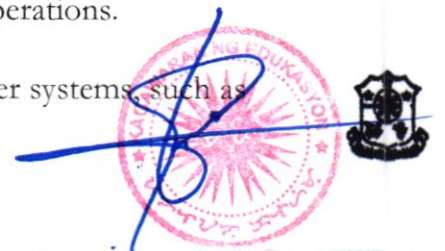
Section 1. The DepEd shall allow co-location in the sites it owns and manages. The list of sites identified are to be specified as annex which by reference is made an integral part of this agreement. Additional sites may be added and shall be the subject of an addendum to the MOA.

Section 2. In the case of additional sites built or facility enhancement without the knowledge of DepEd, DICT is responsible for the payment of damages and other actual expenses from the time it was activated or completed.

Section 3. The DepEd shall allow DICT to co-locate its facilities in all sites owned by the former, as long as it will not cause interference to DepEd activities. In the same manner, DICT shall allow the DepEd to co-locate its equipment in all sites owned free of charge as long as it will not cause interference to DICT's telecommunications equipment and/or prevent it from upgrading its equipment.

Section 4. DICT shall endeavor to provide employment opportunities to qualified members of the communities residing within an eight (8) kilometer radius from the school/facility for the various activities such as construction of facilities, operation and maintenance of the facilities, security operations, and logistics operations.

Section 5. DICT shall provide DepEd free access to its power systems such as



diesel generators, solar power systems, and other renewable energy sources owned by the former.

Section 6. DICT shall provide DepEd managed schools and facilities, the following:

- a) mobile network services (voice, SMS, data, *via* tenants);
- b) Internet connection and bandwidth; and
- c) Networking requirements of all classrooms and offices in the school;

Section 7. There will be no cash payments between DICT and DepEd. Settlement of accounts shall be by off-setting arrangement subject to government accounting and auditing rules and regulations.

Section 8. It is hereby agreed that DICT shall build, operate, and own the relays, transceiver, communication facilities/equipment, and power systems (e.g., diesel generators, solar power systems, and other renewable energy sources) in schools for a period of fifteen (15) years. Thereafter, ownership of all of that was built by DICT shall be automatically transferred to DepEd.

Section 9. It is also agreed that all the facilities, equipment and devices built and operated by DICT on the identified schools shall be connected to the DepEd Wide Area Network or the Public Education network (PEN) and be utilized by DepEd in all of its field offices nationwide.

ARTICLE IV SERVICE/FACILITY RESTORATION

Section 1. In the event of a breakdown or damage to all or a portion of the facilities or equipment owned by either of the Parties and used by the other party, the party that caused the breakdown or damage shall repair or replace the defective facilities or equipment within a reasonable period so that the facilities or services can be restored with minimum delay.

Section 2. It is mutually agreed that in the occurrence of fortuitous event, acts of God, or in the interest of national security resulting to breakdown or damage to either party's backbone communication facilities, the other party shall furnish, upon request, temporary facilities or services to restore the affected party's communications, provided such requested facilities or services are available.

Section 3. In the event that the party with damaged facilities or equipment is not capable of restoring its damaged facilities or equipment within reasonable time, the other party, upon request, may assist the affected party in form of services and provisioning of spare parts in order to expedite restoration, provided that such services and spare parts are available.



ARTICLE V SECURITY

Section 1. Access to the sites/facilities of either party shall be restricted and controlled by the DepEd in the interest of security. Consequently, only authorized persons as determined by the Parties shall be allowed access to said sites/facilities.

Section 2. The DepEd shall allow access to DICT's site attendants in the co-location sites. The attendants shall be determined by DICT, subject to approval of DepEd.

Section 3. DICT guarantees that the devices, equipment and/or structures installed at the site provided by DepEd shall not be used by DICT to obtain classified information from DepEd.

Section 4. DICT shall be responsible for the security of the equipment installed and facilities provided by DepEd. DICT may opt to provide additional security measures if it deems the same necessary.

ARTICLE VI CONFIDENTIALITY

Section 6. Confidential Information.—All information, data, and related documentation, in whatever form provided, recorded or unrecorded which the Parties may furnish or have furnished with each other in connection with this MOA shall:

- a. Be used solely for the purpose for which it was furnished;
- b. Be treated in the strictest confidence and protected;
- c. Not be reproduced, except as necessary for its authorized use; and
- d. If in tangible form, shall be returned together with all copies thereof, including promotional materials, when demanded by either Party or if no longer needed.

Notwithstanding the foregoing, in case of doubt as to whether the particular information is confidential, the receiving Party shall treat all information received from the disclosing Party as confidential information. The obligation of confidentiality and restricted use shall survive this MOA.

ARTICLE VII OTHER PROVISIONS

Section 7. Term.—This MOA shall take immediate effect upon signing by both Parties, and may be terminated, revised or revoked for lawful causes, with written notice to the other Party in accordance with the provisions hereof.

The Parties agree, in the event that the implementation of this MOA becomes unfeasible or impracticable due to circumstances beyond their control, either Party shall be entitled to rescind this MOA by prior written notice to the other Party.



Section 8. Termination.—Either Party may pre-terminate this Agreement by giving sixty (60)–day prior written notice to the other Party based on the following causes:

- a. Upon mutual written agreement of the Parties;
- b. When any of the representations, warranties, or covenants of either Party turns out to be false, incomplete or misleading, and the innocent Party does not waive such defect;
- c. Material breach of this MOA such as non-performance of obligation as indicated in this MOA;
- d. In case of national emergency such as, but not limited to, war and epidemic, and during the implementation of a national priority project;
- e. Violation of relevant laws, rules, regulations of Departmental orders, circulars, and other official issuances; and
- f. Other causes such as force majeure.

Section 9. Survival of Rights of Parties and Third Parties in Case of Termination/Dissolution of MOA. -- In the event of the termination, an accounting/inventory of the DepEd properties covered by this MOA shall be conducted jointly by the Parties. The rights and obligations by either Party and those of other third parties who relied upon this MOA prior to its termination/dissolution and the contracts made under its provisions shall survive this MOA, and shall subsist and be respected by the Parties.

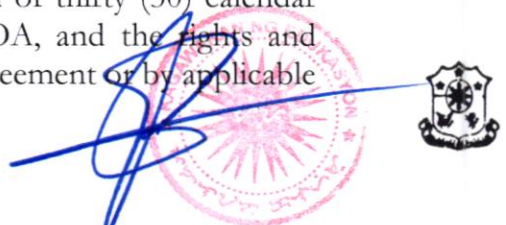
Section 10. Force Majeure.—Neither Party shall be responsible for any delay or failure in the performance of any of its obligations under this MOA to the extent that such delay or failure is caused by Force Majeure. “Force Majeure” shall mean any event or circumstance beyond the reasonable control of the Party which renders the performance of said Party’s obligations illegal or impracticable, including but not limited to, acts of God, acts of any government body or public enemy, war, civil commotion, strikes, riots, embargoes, or other concerted acts of workers, fire, explosion, sabotage, or any other causes, circumstances, or contingencies, whether of a similar or dissimilar nature to the foregoing, without fault or negligence and beyond such Party’s control, which prevent or hinder the performance by either Party of any of its obligations hereunder.

Upon occurrence of any event of Force Majeure, which affect performance under this MOA, the affected Party shall immediately notify the other Party specifying the nature of the event, the effect of the event on the Party’s performance and the estimated duration thereof. Upon such notice, the affected Party may cancel or delay performance of its obligations hereunder. In such event, the affected Party shall have no liability to the other Party or its customers. Upon cessation of the Force Majeure, the Party in delay shall notify the other Party of such cessation, and performance of the obligation should ensue, if cancellation has not been effected.

If the Force Majeure continues unabated for a period of thirty (30) calendar days, either Party shall have the right to terminate this MOA, and the rights and obligations of the Parties shall be resolved either by mutual agreement or by applicable

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law.

Section 11. Amendments.—This MOA shall, at all times, be subject to subsequent Departmental issuances, to such amendments and/or modifications that the Parties may subsequently agree upon, or to the directives issued by a duly authorized government regulatory body in the exercise of its jurisdiction.

Section 12. Entire Agreement.—This MOA, including its annexes, shall constitute the entire existing agreement between the Parties, with respect to the subject matter hereof, and shall supersede any and all prior agreements or undertakings between the Parties, with respect to the subject matter hereof. No waiver or modification of the terms of this MOA shall be valid unless the same is in writing and signed by both Parties.




Section 13. Non-Waiver of Rights.—Any failure on the part of any Party to enforce at any time, or for any period of time, any of the provisions of this MOA shall not be deemed or construed to be a waiver of such provisions or of the right of such Party thereafter to enforce each and every provision.

Section 14. Severability.—If any provision contained herein is invalid, illegal or unenforceable in any respect under any applicable law or decision, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired in any way. The Parties shall, so far as practicable, execute such additional documents in order to give effect to any provision hereof which is determined to be invalid, illegal, or unenforceable.

Section 15. Settlement of Dispute.—If any dispute or difference of any kind whatsoever shall arise between the DICT and the DepEd in connection with or arising out of this MOA, the Parties shall make every effort to resolve within sixty (60) calendar days from receipt of a notice by the other Party from the injured Party pursuant to Presidential Decree (PD) No. 242.

In case of failure to settle amicably the dispute under PD No. 242, suits for any breach of this MOA shall be instituted in the court of competent jurisdiction in Quezon City.

Section 16. Dissolution or Modification of Previous Agreements.—All agreements previously entered into between the Parties, with respect to the subject matter hereof, and which are inconsistent herewith are deemed dissolved, superseded, or modified accordingly.



IN WITNESS WHEREOF, the Parties signed this MOA in the place and on the date above written.

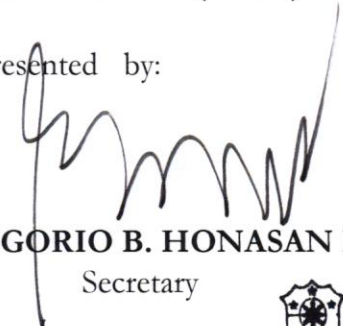
**DEPARTMENT OF EDUCATION
(DepEd)**

Represented by:


LEONOR MAGTOLIS BRIONES
Secretary

**DEPARTMENT OF INFORMATION
TECHNOLOGY (DICT)**

Represented by:


GREGORIO B. HONASAN II
Secretary



SIGNED IN THE PRESENCE OF:


ALAIN DEL B. PASCUA
Undersecretary, DepEd


EMMANUEL REY R. CAINTIC
OIC-Undersecretary, DICT

ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES)
QUEZON CITY) S.S.

BEFORE ME, a Notary Public for and in the above jurisdiction, this APR 10 2021, 2020, personally appeared the following persons:

Name	Government Issued ID/No.	Issuance and Expiry Dates
GREGORIO B. HONASAN		
LEONOR M. BRIONES		

Known to me be the same persons who executed the foregoing instrument, which refers to this Memorandum of Agreement (MOA) consisting of Ten (10) pages including this page where the Acknowledgement is written, acknowledge to me that the same is their voluntary act and deed and of the persons herein represented.

Witness my hand and seal on the date and place first above given.

Doc. No. 274;
Page No. 10;
Book No. 17;
Series of 2020.

Concepcion P. Villareña
ATTY. CONCEPCION P. VILLAREÑA
Notary Public for Quezon City
Until December 31, 2021
PTR No. 0683154 / 1-4-2021/ QC
IBP No. 093587 / 10-22-2019/ QC
Roll No. 30457 / 05-09-80
MCLE VI-0030379 / 2-21-2020
Adm. Matter No. NP-001(2020-2021)
TIN NO. 131-942-754

