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**PRIVACY POLICY OFFICE**  
**ADVISORY OPINION NO. 2024-009** <sup>1</sup>

23 July 2024



**Re: Use of Personal Information in Election Proceedings**

Dear 

We respond to your request for guidance on the proper use of personal information in the conduct of elections for sectoral representatives pursuant to the LPG Industry Regulation Act (LPG Act).<sup>2</sup>

You inform that the Department of Energy (DOE) and the Department of Trade and Industry (DTI) established a task force to regulate the safe operations of the Liquefied Petroleum Gas industry, consistent with the LPG Act and Joint Department Circular No. (JDC) 2022-11-0002.<sup>3</sup> One of the duties of the task force is to issue the guidelines for the selection of Sectoral and Regional Program Implementation Task Force (RPITF) Representatives and Members of the National Program Policy Task Force (NPPTF).

Thus, the DOE drafted the guidelines for the composition, selection and voting of Sectoral Representatives and Members of the RPITF and NPPTF. The draft guidelines provide for the creation of an election committee in charge of the election of sectoral representatives. It also tasks the DOE to publish and provide the election committee with all the relevant personal information of individuals who wish to take part in the election, such as: 1. business name of LPG establishment; 2. name of the owner; 3. name of authorized representative; and 4. business address.

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<sup>1</sup> Sec. 12 DPA, Personal Information, Fulfillment of Mandate, Publication.

<sup>2</sup> An Act Establishing The Regulatory Framework For The Safe Operations Of The Liquefied Petroleum Gas Industry, Delineating The Powers And Functions Of Various Government Agencies, Defining And Penalizing Certain Prohibited Acts, [LPG Industry Regulation Act, 2021] Republic Act 11592 (2021)

<sup>3</sup> Department of Energy, Joint Department Circular No. JDC2022-11-0002, "LPG Cylinder Exchange, Swapping, and Improvement Programs and Its Implementing Guidelines" (25 November 2022)

Hence, you seek guidance on how to properly process the foregoing data for the elections consistent with the Data Privacy Act.<sup>4</sup>

#### *Scope of the DPA; Personal Information*

The DPA applies to the processing of personal information.<sup>5</sup> Personal information is defined as any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual<sup>6</sup>. Meanwhile, processing refers to any operation or any set of operations performed upon personal information including, but not limited to the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure, or destruction of data.<sup>7</sup>

Please note that personal information under the DPA refers to personal information of natural persons. Thus, the processing of a business name and business address of LPG establishments belonging to corporate entities is not considered as personal information under the DPA.<sup>8</sup> Conversely, when the information refers to natural persons such as that of the business owner or authorized representative of the LPG establishment, it is considered as personal information under the DPA and, as such, its processing is subject to its provisions.

#### *Lawful Criteria for Processing; Fulfillment of Mandate; Proportionality Principle*

Sec. 12 (e) of the DPA provides that a public authority's statutory mandate is one of the lawful criteria for the processing of personal information.<sup>9</sup> In this case, the lawful criteria by which the DOE can share and publish personal information is the LPG Industry Regulation Act<sup>10</sup> together with the DOE's general mandate of improving LPG programs under the JDC. Thus, in furtherance of its mandate, the DOE may share the personal information it has gathered to the election committee and publish the same to better facilitate the conduct of the elections.

In line with the proportionality principle of the DPA, sharing and publication of the foregoing personal information must be limited to the fulfilment of DOE's mandate. This means that the DOE may only share the necessary personal information only to facilitate the conduct of the elections.

It is worth mentioning that the election committee will also be considered as a personal information controller (PIC) under the DPA as it will be in possession of personal information of nominated individuals. As with the DOE, the use of personal information gathered should

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<sup>4</sup> An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

<sup>5</sup> Ibid. § 4

<sup>6</sup> Ibid. § 3 (g)

<sup>7</sup> Id. § 3 (j)

<sup>8</sup> National Privacy Commission, NPC Advisory Opinion No. 2020-052 (27 November 2020)

<sup>9</sup> Data Privacy Act of 2012, § 12 (e).

<sup>10</sup> LPG Industry Regulation Act (2021), § 5

be limited only to the declared and specified purpose/s which are for the composition, selection, and voting of sectoral representatives and members of the RPITF and NPPTF.

Hence, any other use of personal information not aligned with the abovementioned purposes would contravene the DPA.

Please be advised that this Advisory Opinion was rendered based solely on the information you have provided. Any extraneous fact that may be subsequently furnished us may affect our present position. Please note further that our Advisory Opinion is not intended to adjudicate the rights and obligations of the parties involved.

For your reference.

Very truly yours,

(Sgd.)

**FRANKLIN ANTHONY M. TABAQUIN IV**

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