



Transparency in the Peruvian Energy Sector

2013 DIAGNOSIS

EXECUTIVE SUMMARY



DERECHO
AMBIENTE Y
RECURSOS
NATURALES

With support:



OPEN SOCIETY
FOUNDATIONS

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ACRONYMS AND ABBREVIATIONS

Photo: Liliana García / DAR

ANA	National Water Authority
COES-SINAC	Committee for Economic Operation from the National Interconnected System
EIA	Environmental Impact Study
EITI	Extractive Industries Transparency Initiative
ELECTROPERU	Electricity Company of Peru – ELECTROPERU S.A.
GORECU	Regional Government of Cusco
GOREL	Regional Government of Loreto
MEF	Ministry of Economy and Finance
MINAGRI	Ministry of Agriculture and Irrigation
MINAM	Ministry of the Environment
MINCU	Ministry of Culture
MINEM	Ministry of Energy and Mines
NUMES	New Sustainable Energy Matrix
OEFA	Organism for Environmental Evaluation and Inspection
OSINERGMIN	Supervising Organism for Investment in Energy and Mining
OSF	Open Society Foundations
PCM	Presidency of the Council of Ministers
PERUPETRO	PERUPETRO S.A.
PETROPERÚ S.A.	Petroleum from Peru – PETROPERU S.A.
PPP	Policies, Plans and Programs
PROINVERSIÓN	Agency for the Promotion of Private Investment
SERNANP	National Service for Protected Areas of the State
UCPS	Coordination Unit for Sectorial Loans



Good governance is a new way of governing jointly with all of society's actors and promoting their participation in the making of public decisions, thus guaranteeing an efficient, legitimate and stable management from the State.

1. INTRODUCTION

In the past few years, Peru has promoted different investment projects on hydrocarbons and hydroelectric plants, many of which are located in the Peruvian Amazon, which has 70% of its territory overlapping hydrocarbon blocks, in spite of it being an area acknowledged for its biological and cultural wealth, as well as its importance in climate regulation and the provision of environmental services.

The growing pressure for the use of natural resources and new economic activities have aggravated socio-environmental conflicts and mistrust from the population towards their authorities. This is due to weaknesses in the State management model and in the implementation of its public policies, made evident through a deficient environmental institutional structure, weak implementation of safeguards, socio-environmental standards and absence of implementation of planning tools and territorial management, among other aspects.

With the purpose of avoiding the increase of socio-environmental conflicts and strengthening social peace, it is necessary for the State to make good decisions and develop an adequate promotion, control and use of its natural resources, through the implementation of practices of good governance which will seek the benefits of all its citizens.

Good governance is a new way of governing jointly with all of society's actors and promoting their participation in the making of public decisions, thus guaranteeing an efficient, legitimate and stable management from the State.

Governance is based on a series of fundamental principles, such as: the planning of policies, plans and programs (PPP), management capacity, coordination between government and intersectoral levels, accountability from authorities towards citizens, citizen participation and a public integrity to promote ethics and prevent corruption. In this sense, transparency and the fundamental right of access to public information become overarching elements in all the governance principles.



Photo: Lilitiana García / DAP

Governance constitutes an optimal manner for decision-making from the State and also has the capacity to collect the needs of the population and offer solutions through public policies. Therefore, it is necessary to apply the governance principles to all sectors and levels of government, and use transparency and the exercise of the right to access public information as a cross-cutting axis.

In the energy sector, it is crucial to include transparency and access to information, linked to governance principles in topics such as: PPP planning, the processes of granting of rights (license contracts and concessions) for the use of hydrocarbons and hydroelectric plants, linked Environmental Impact Assessment (EIA) evaluation processes, and programmatic loans from the sector.

Transparency is the capacity of public organisms to publicly disclose information, data, documents, policies and decision-making processes. It also includes the possibility of verifying their accuracy by the citizens. Moreover, transparency is a means by which citizens can exercise their fundamental rights of access to public information, to participation, to accountability and to citizen monitoring. Hence, the information offered must be **relevant and trustworthy** (it must contain all the necessary and truthful data), **accessible** (of easy access), **timely** (at the adequate time), **clear and comprehensible** (understandable by the citizens), which can increase the State's democratic legitimacy.

In this manner, prioritizing transparency actions and the access to information in the energy sector – in accordance with the **Law for Transparency and Access to Public Information** and connected regulations, as well as regulations for citizen participation and the compliance of international commitments on transparency assumed by Peru – will favor an efficient management from the State for the use of energy resources and will help **generate more trust** from the population towards public institutions, **reduce social conflicts** and **prevent corruption**.



Photo: Liliana García / DAR

2. INITIATIVES IN TRANSPARENCY AND ACCESS TO INFORMATION IN THE INTERNATIONAL AND NATIONAL SCOPES

Transparency and the right to access to information are based on different international tools. Furthermore, several international organisms are conducting a progressive normative advance on this right, as a human right contained in the right to freedom of ideas and expression.

These tools are the Universal Declaration of Human Rights of 1948 (articles 12 and 19), the International Pact of Civil and Political Rights of 1966 (articles 17 and 19), the American Declaration on the Right and Duties of Man of 1948 (article 4), the American Convention on Human Rights of 1969 (articles 11 and 13), the Principles of Lima of 2000, the Declaration of Principles on Liberty of Expression of 2000 and the Declaration of Nueva Leon of the States of the Americas of 2004.

On the other hand, the United Nations' Commission of Human Rights created the Special Rapporteur for the Liberty of Opinion and Information in 1993 and the Inter American Court of Human Rights created the Special Rapporteur for Liberty of Expression in 1992. Regarding the right of access to information in environmental issues, there are others, such as the Declaration of Rio on Environment and Development of 1992 from the United Nations and the Aarhus Convention ("Convention on the access to information, public participation in decision-making and access to justice in environmental affairs") adopted in 1998 by the United Nations' Economic Commission for Europe.

Peru, in recent years, has subscribed some international commitments and has joined initiatives that promote transparency and the fundamental right of access to public information such as joining the Partnership Initiative for **Open Government Partnership** and the **Initiative for Transparency in Extractive Industries** (EITI).

The Alliance for Open Government Partnership is driven by the United States and Brazil, in order to promote transparency and fight corruption, broadening social participation, achieving open government, effective and responsible budget management and public information. In September 2011, as part of the United Nations' 66th General Assembly in New York, President Ollanta Humala expressed his willingness to be part of the "Partnership for Open Government" Initiative, which should develop an action plan for commitments and establish short-and long-term implementation in the country.

Thus, the Presidency of the Council of Ministers (PCM) and the Ministry of Foreign Affairs convened a group of expert institutions on the issue of transparency to form the "Open Government Initiative" Working Group, composed of the PCM, the Ministry of Foreign Affairs, the General Comptroller of the Republic, the Ombudsman's Office, Up-to-Date Citizens, the National Association of Centers, the Peruvian Press Council and the National Consortium for Public Ethics - Proética. The text was developed by consensus and Proética and the PCM were commissioned to write it. After the Working Group approved the text, the document was presented to the public for the review of interested citizens, and finally, the committee was responsible for the drafting of the final version with contributions from the population.

In April 2012, the Action Plan for Peru Open Government was approved (through Ministerial Resolution # 085-2012-PCM), by which our country became part of this society. The Plan is a programmatic tool that articulates the policies and objectives to be achieved in order to guide the actions of the various public institutions in these areas. The commitments that Peru agreed for the next two years (2012-2014) are: **(i) to improve levels of transparency and access to public information, (ii) to promote citizen participation, (iii) to increase public integrity, and (iv) to have improvements in e-government and public services**¹.

After the approval of the Action Plan it was necessary to create a space for coordination to monitor its implementation. Hence, in January 2013, a multisectoral commission to monitor the Implementation of the Open Government's Action Plan (Supreme Decree # 03-2013-PCM), attached to the PCM and formed by State institutions, representative civil society organizations and private businesses².

Therefore, the Extractive Industries Transparency Initiative - EITI is an international strategic alliance that brings together governments, extractive companies (mining, oil and gas) and civil society to use criteria of transparency in the payments made by companies to governments and income they receive from such companies so that resources are used to promote the development of countries. Currently, there are 37 countries that are implementing this initiative voluntarily.

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1 Please refer to: <http://www.pcm.gob.pe/2013/10/gobierno-abierto-peru/>.

2 The members of the Multisectoral Commission are: the Secretary General of the PCM (presiding), two representatives of the Ministry of Public Management (SGP), two representatives from the National Office of Electronic Government and Information (ONGEL), two representatives from the Ministry of Justice and Human Rights, two representatives from the Ministry of Foreign Affairs, two representatives from the Judiciary Powers, and CONFIEP, the Lima Chamber of Commerce, business organizations, and two representatives of Proética, two representatives from the Up-to-Date Citizens (CAD) and two representatives from the Peruvian Press Council as representatives of civil society. The Ombudsman's Office, the General Comptroller of the Republic and the High Level Anti-Corruption Commission (CAN) have been invited as observers. Representatives have been appointed by such organizations in accordance with their own procedures, and there is an alternate representative for each of the appointed regular members. On the part of the State is the Deputy Minister of Energy (as chairman of the committee), the Deputy Minister of Mines (Vice-president of the commission), the CEO of Social Management (technical secretary of the committee) and the General Office for Fiscal Decentralization and Social Affairs Management (DGDFA). The civil society includes a representative from CooperAcción - Solidarity Action for Development, Citizen Proposal Group, Labor - Popular Culture Center, and the Regional Andean Studies Center - Bartolomé de Las Casas. As for universities, there is a representative from the Universidad del Pacífico and one from the Pontificia Universidad Católica del Perú. Among private companies are the National Society of Mining, Petroleum and Energy, Southern Peru, Anglo American, Hunt Oil and Repsol.

In 2006, the Working Commission to implement the “Extractive Industries Transparency Initiative – EITI” was created (by Supreme Decree N° 027-2006-EM, extending the term of the commission by Supreme Decrees # 030-2007-EM, 044-2008-EM and 020-2010-EM) and the accompanying Implementation Action Plan was adopted. In 2011, the EITI Peru Commission was elevated to a Permanent Multisectoral Commission for Monitoring and Supervision of Transparency in the use of resources obtained by the State for the development of the Extractive Industries in Mining and Hydrocarbons (Supreme Decree N° 028-2011-EM). The EITI Peru Commission works with tripartite representation consisting of a total of nine regular representatives (and their alternates), where each sector (business, government and civil society) appoints three representatives. Additionally, each of these has an attaché or alternate member. Election takes place every two years, but may be ratified at the end of their term, so that the term of appointment of the first members was completed in January 2013.³ In April 2013, in the case of national civil society organizations, Grupo Propuesta Ciudadana (Citizen Proposal Group) was chosen as incumbent and DAR was elected as a deputy member.

Transparency constitutes de capacity of public entities to publicly report information, data, documents, policies and decision-making processes on the management, conservation and sustainable use of energetic natural resources.

The EITI initiative is promoted in some regions, but still needs more momentum. Through the Regional Executive Resolution No. 219-2008-GR-CAJ /P of May 2008, the Provisional Regional Promoter Group of EITI – Cajamarca was formed, and in the case of Loreto, through the Regional Ordinance No. 023-2012 -GRL-CR (published in March 2013) a Permanent Regional Multisectoral Commission for implementation was created.

The drive for transparency and the right of access to information is initiated in the process of modernizing the Framework Law for Modernization of State Management (Law No. 27658) and its Regulations (approved by Supreme Decree No. 030-2002 - PCM). Subsequently, an important milestone was the signing in July 2002 of the National Agreement that included eight national policies related to the promotion of “an efficient, transparent and decentralized”, within which lies the Twenty-Sixth National Policy: Promoting ethics and transparency and eradicating corruption, money laundering, tax evasion and smuggling in all its forms. The “Plan Bicentenario 2010: Peru 2021” (approved in 2011) is also incorporated into the Strategic Priority 3: State and Governance, the promotion of transparency and the right of access to public information.

After 10 years of implementation of the Law on Transparency and Access to Public Information (Law No. 27806), there have been further changes remain to be achieved, as the creation of a National Authority for Transparency and Access to Public Information challenges. Thus, it has approved regulations governing these different elements and various mechanisms have been implemented at the national level in various institutions and branches of government.

3 On the part of the State, members are the Deputy Minister for Energy (as president of the commission), the Deputy Minister for Mines (vice-president of the commission), the general director for Social Management (technical secretary of the commission), and the General Office for Fiscal Decentralization and Social Management Affairs-DGDFAS. On the part of the civil society, there is a representative from CooperAcción – Acción Solidaria para el Desarrollo, Grupo Propuesta Solidaria, Labor Centro de Cultura Popular and Centro de Estudios Regionales Andinos Bartolomé de las Casas. Regarding universities, there is a representative from the Universidad del Pacífico and one from the Pontificia Universidad Católica del Perú. Among the private sector is the National Society for Mining, Petroleum and Energy, Southern Peru, Anglo American, Hunt Oil and Repsol.



Photo: Mario Zúñiga / DAR

3. METHODOLOGY

2013 Diagnosis: Transparency in the Peruvian Energy Sector presents a level of transparency and access to public information in public organizations related to the management, development, use and evaluation of energy resources in Peru

by assessing the State's ability to produce, disseminate and provide citizens with relevant, accessible, clear, understandable, reliable, timely and quality information regarding the operation of processes to access information and transparency in the PPP, in the granting of rights to information regarding the exploitation of hydrocarbons and the construction of hydroelectric plants in the environmental assessment process and in programmatic loans to the sector.

Through this evaluation, recommendations to the Peruvian State in the national and regional level are offered; in order for power sector entities to improve their tools and standards of transparency and access to public information to achieve energy governance.

The 2013 Diagnosis evaluates and analyzes three aspects:

- **Aspect 1:** Legislation compliance regarding transparency portals for public entities
- **Aspect 2:** The process of access to public information by public entities
- **Aspect 3:** Transparency for energy governance on:
 - a) Planning policies, plans and programs
 - b) Granting rights to hydrocarbons and activities for generation of hydroelectric plants
 - c) Evaluation process evaluation for environmental impact studies in hydrocarbons and hydroelectric plants
 - d) Program Loans

Public entities assessed are those with direct and indirect competition in the management, development, use and evaluation of energy resources:

- **Organizations with direct powers in the energy sector**

- Ministry of Energy and Mines - MINEM, its General Office for Hydrocarbons –DGH , its General Electricity Office - DGE and Energy Environmental Affairs Office - DGAAE and its General Office for Energy Efficiency -DGEE
- PERUPETRO S.A.
- Agency for the Promotion of Private Investment - PROINVERSIÓN
- Petróleos del Perú - PETROPERÚ S.A.
- Electricity Company of Peru – ELECTROPERU S.A.
- Supervisory Agency for Investment in Energy and Mining - OSINERGMIN
- Ministry of Environment - MINAM
- Agency for the Assessment and Environmental Control - OEFA
- Regional Government of Loreto - GOREL
- Regional Government of Cusco – GORECU

- **Organizations with indirect responsibilities in the energy sector**

- Ministry of Economy and Finance - MEF
- Ministry of Agriculture and Irrigation - MINAGRI and its General Office of Agricultural Environmental Affairs - DGAA
- Ministry of Culture - MINCU
- Presidency of the Council of Ministers - PCM
- National Water Authority - ANA and its Office for Quality Management of Water Resources - DGCRH
- National Service of Protected Natural Areas by the State - SERNANP and Office for Protected Areas Management - DGANP

The 2013 Diagnosis is composed of seven general and different matrixes , each containing a set of indicators and means of verification that will assess and monitor the situation in 2013 : (i) matrix for the evaluation of transparency portals, (ii) matrix to evaluate the process of access to public information, (iii) matrix on the transparency of governance in energy sector policies, plans and programs, (iv) matrix on the transparency of governance in the energy sector in the granting of rights to hydrocarbons, (v) matrix on the transparency for governance in the energy sector in the granting of rights for electricity generation in hydroelectric power plants, (vi) matrix on the transparency of governance in the energy sector in the evaluation of Environmental Impact Assessment studies for hydrocarbons and hydroelectric plants, and (vii) matrix on the transparency of governance in the energy sector in programmatic lending processes.

The evaluation matrix for transparency portals aims to obtain an objective reading of the annual update of transparency portals (institutional and standard) of public entities during the first semester of 2013. The collection took place during the month of July, to identify the existence of information availability from government agencies. Indicators have been developed from the Unique Ordered Text of the Law of Transparency and Access to Public Information and Directive # 001-2010-PCM/SGP, which establish the obligation to have certain information available through Institutional Transparency Portals (PTI) and Standard Transparency Portals (PTS), respectively, and from Ministry Resolution # 203-2012-PCM , amending Article 10 of Directive # 01-2010-PCM/SGP, "Guidelines for the implementation of the Standard Transparency Portal of Public Administration Entities", by which the PTS are to have ten thematic areas with specific information instead of nine. The evaluation has not considered Supreme Decree # 070-2013 –PCM (approved on June 14th, 2013), which modifies the Regulation of Law of Transparency and Access to Public Information (Supreme Decree # 072-2003-PCM), as institutions are still in the process of implementing the standard.

The *evaluation matrix of the process of access to public information* is intended to obtain an objective reading of compliance indicators created based on legislation processes access to information of public entities as well as their responsiveness to requests for access to information, during the month of August. The indicators were developed under the framework of the Unique Ordered Text (Supreme Decree # 043-2003-PCM) of Law # 27806, Law of Transparency and Access to Public Information (approved by Supreme Decree # 072-2003-PCM); the evaluation has not considered Supreme Decree # 072-2003-PCM, which modifies the Regulation (approved on June 14th, 2013). The indicator of effectiveness of information is based on the period

taken by the entity to respond to requests for access to information and the indicator of information quality is based on the verification of the responses from the entity. The information recorded in the indicators was requested, at first, through requests for access to public information established under the Law on Transparency and Access to Public Information. In addition, information not readily available was required through an informational meeting.

The *matrixes of transparency for governance* are intended to obtain information on the transparency of policies, plans and programs, the processes for granting rights of hydrocarbons and for activities of electricity generation in hydroelectric power plants; the environmental assessment process and the programmatic lending in public agencies in direct competition in the energy sector. Criteria related to transparency governance will be evaluated: planning, capacity management, coordination, participation, accountability and public integrity.

Gathering of information for the matrixes took place in the months of August and September, to identify the existence of information availability from public agencies for the assessment areas. The indicators have been developed from the information recorded in the relevant legal provisions of the five evaluation areas of the energy sector. The planning process for policies, plans and programs of energy resources, includes the provisions of the National Agreement, the Bicentennial Plan, and other national standards regarding citizen participation, ethics of civil servants, the fight against corruption, the decentralization process, Law # 28245, the Framework Law for the National Environmental Management System, and Regulations approved by Supreme Decree # 008-2005-PCM.

In the granting of hydrocarbon rights, the reference used is the Unique Ordered Text (Supreme Decree # 042-2005-EM) of the Organic Law for Hydrocarbons (Law # 26211); the Law for Organization and Functions of PERUPETRO S.A. (Law # 26225); the Regulation for Qualification of Hydrocarbon Companies (Supreme Decree #030-2004-EM); the Regulation for the Exploration and Exploitation of Hydrocarbons (Supreme Decree # 032-2004-EM); the Regulation for Environmental Protection in Hydrocarbon Activities (Supreme Decree # 015-2006-EM); the Regulation for Citizen Participation in Hydrocarbon Activities (Supreme Decree # 012-2008-EM); the Guidelines for Citizen Participation in Hydrocarbon Activities (Ministerial Resolution # 571-2008-MEM-DM) and internal procedures from PERUPETRO.

In the granting of rights for activities of hydropower generation, the reference used is the Law for Electrical Concessions (Law Decree # 25844) and its regulation (Supreme Decree # 009-93-EM); as well as the Guidelines for Citizen Participation in Electricity Activities (Ministerial Decree # 223-2010-MEM-DM) and the Environmental Protection Regulations for Electrical Activities (Supreme Decree # 29-94-EM). Regarding the environmental assessment processes for hydrocarbons and hydropower, the reference in use has been the Law for the National Evaluation System for Environmental Impacts (Law No. 27446) and its Regulation (Supreme Decree # 019-2009-MINAM); the Regulation for Citizen Participation in the conduction of hydrocarbon activities (Supreme Decree # 012-2008-EM); the Guidelines for Citizen Participation in hydrocarbon activities (Ministerial Resolution 571-2008-EM/DM); the Regulation for Environmental Protection of Electricity Activities (Supreme Decree # 29-94-EM); and the Guidelines for Citizen Participation in Electricity Activities (Ministerial Resolution # 223-2010-MEM/DM).

Regarding indicators and units of measurement in the evaluation for transparency in programmatic lending in the energy sector, we have proceeded to develop them from the laws on transparency and access to information and include indicators for planning, capacity management, coordination, participation, accountability and public integrity established according to the needs of stakeholders in the energy sector.

The compilation of information for matrixes was conducted in the months of August and September to identify the existence of availability of information of public entities regarding the evaluation areas.



Photo: Gisella Valdivia

4. MAIN FINDINGS

Challenges for the promotion of transparency and the fight against corruption in Peru, particularly in the energy sector, are quite large.

Therefore, and with the purpose of contributing to energy governance, Derecho, Ambiente y Recursos Naturales, DAR, with support from Open Society Foundations has prepared the study **2013 Diagnosis: Transparency in the Peruvian Energy Sector**.

This study has the purpose of evaluating and showing the state of transparency and access for management, promotion, use and assessment of energy resources, as well as offering recommendations for improvement.

The main findings of this study show:

- **Weak State institutionalism and public policies related to the energy sector do not ensure conditions of democratic governance and social peace**, as they do not comply with the principles of governance. This leads to governmental decision-making not generating sustainable development, nor a national energy sovereignty and security, and, furthermore, weak socio-environmental standards are applied.
- **The promotion of multiple energy projects** (hydrocarbon extraction and infrastructure projects, such as hydroelectric plants) makes it even **more necessary to improve energy governance, with an emphasis on the implementation of transparency mechanisms**. These mechanisms

should ensure that the information provided to the authorities and stakeholders is clear, accurate and timely in order to prevent social conflicts and promote democratic governance.

- **There is a lack of knowledge about the functions of transparency and access to information as well as existing regulations for this law.** In this regard, the commitments assumed by Peru as the Open Government Partnership or the Extractive Industries Transparency Initiative (EITI), are tools poorly understood by authorities at national and regional levels; let alone by the public.
- **Transparency portals to evaluate institutions do not have a regular updates,** with an average of 56% of compliance from institutions with direct powers and an average of 65% of institutions with indirect responsibilities in the management, development, use and evaluation of energy resources. However, standard transparency portals have better compliance than institutional transparency portals.

Results of Transparency Portals

ORGANISM	INSTITUTIONAL WEB PORTAL	STANDARD TRANSPARENCY PORTAL
MINEM	80%	93%
MINAM	68%	80%
ELECTROPERÚ	81%	81%
OSINERGMIN	47%	47%
OEFA	31%	59%
PERUPETRO	73%	7%
PETROPERÚ	59%	5%
PROINVERSIÓN	0%	47%
GORE-Loreto	73%	77%
GORE-Cusco	66%	60%
MINAGRI	58%	71%
SERNANP	44%	49%
MINCU	5%	68%
ANA	0%	53%
MEF	73%	75%
PCM	58%	71%

Source: Prepared by Aída Gamboa and Nilda Máyerlin Vargas

- **The results provided by the transparency portals are very complex**, so it is necessary to work on more friendly formats that enable citizens to easily access that information.
- **In some cases the application process for access to information takes longer than the period prescribed by law**, mainly because the information is not systematized.
- **Public entities with direct and indirect responsibilities in the energy sector have access to mechanisms for differentiated information of a diversity of actors existing in the country**, to consider their own characteristics, such as language, interests, access to technology and media communication.
- In average, institutions with direct powers in the management, development, use and evaluation of energy resources needed twelve days to respond and provide the information requested from them. Most institutions responded as requested, either within time limits (23%) or outside (30%).
- In average, institutions with indirect responsibilities in the management, development, use and evaluation of energy resources required thirteen days to respond and provide the information requested from them. Of all studied applications, 50% of monitored entities responded to the request within the time limit set by law and 50% outside of it; all requests were answered.
- A significant fact is that most public entities indicates that most requests for access to public information are made through virtual formats uploaded on the entities transparency portals and through e-mails to the authorities responsible. This means of communications is a rapid attention mechanism for the user and the official offering the information.
- Regarding the quality of information available, we have considered the timeliness and quality of the information provided within **institutions with direct powers** in the energy sector. **The MINAM is the entity that has responded to the request in the least amount of time and with the information as requested.** We have also obtained the requested information from the GOREL and OEFA within a fewer range of days than the global average, also as requested. Similarly, OSINERGMIN and PERUPETRO have sent complete information as requested and within the deadline. Moreover, PROINVERSIÓN PETROPERÚ, MINEM and ELECTROPERÚ have responded almost completely to requests, although most days were required. In addition, the GORECU did not respond to requests for information.
- Regarding the quality of information available, we have considered the timeliness and quality of the information provided within **entities with indirect responsibilities** in the energy sector. **MINAGRI is the organization that has responded to the request in the least amount of time and with the information as requested.** We have also obtained the requested information from SERNANP and MEF within a fewer range of days than the global average, also as requested. Moreover, the PCM, MINCU and ANA have almost completely responded to the requests, although more days were required for this to take place.
- **Most institutions still need to implement a system to track and monitor the process of access to information and applications thereof.** Also, most public entities evaluated have a computer security system as well as an institutional policy on transparency and access to information.

CRITERIA	INDICATOR	MEASURE UNIT (request in letters)	MINEM	PERUPETRO	PETROPERÚ	OSINERGMIN	OEFA	MIMAM	PROINVERSIÓN	ELECTROPERÚ	COREL	GORECU	SERNANP	MINCU	ANA	MINAGRI	MEF	PCM	
CAPACITY PLANNING AND MANAGEMENT PROCESSES OF ACCESS TO INFORMATION	I. Existence of an institutional policy for transparency	It has an express corporate policy on transparency and access to information. Indicate the document. And directives with which it has implemented that policy.	YES	YES	YES	YES	YES	YES	NR	YES	YES	NO	NO	YES	NO	YES	YES	YES	
	II. Implementation of mechanisms for access to information	It has a mechanism for application via web portal. Provide the link if necessary.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
		It has a user-oriented mechanism that can address inquiries and requests for unpublished information. It has a counseling office.	YES	YES	YES	YES	IP	YES	YES	YES	PI	YES	YES	YES	PI	YES	YES	YES	YES
	III. Implementation of a system of tracking and monitoring applications for access to information	Has alternative mechanisms for indigenous peoples attention implemented by the institution. Provide the link if necessary.	NO	YES	PI	NR	NO	YES	YES	NR	PI	NR	NO	YES	YES	NO	YES	NO	YES
		Type of information required by users through access to applications and virtual information. Indicate if there is database of this information.	PI	YES	YES	YES	YES	YES	YES	YES	YES	NR	PI	PI	PI	YES	YES	PI	PI
	IV. Personnel and training to staff in transparency and access to information	Application (s), face, made via electronic and web delivered and serviced during 2012 and for the period from January to June 2013. Indicate how much they have been answered within how many out of time, many have not been answered and how many opportunities the company has requested an extension.	NO	YES	NR	YES	YES	YES	YES	PI	YES	NR	PI	PI	PI	PI	YES	NO	PI
		It has a system of tracking and monitoring applications window and information via email. Provide the link if necessary	PI	YES	PI	YES	YES	YES	YES	YES	PI	YES	YES	YES	YES	YES	YES	YES	YES
	V. Budget	It has a security system computer management of public information for appropriate control and use or directives.	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	PI	YES	NO	NO	YES	NO	YES
		Administrative resources, appeal or judicial proceedings brought by unresponsiveness 2012-2013 (list). Provide the link if necessary	YES	YES	NR	NR	YES	YES	YES	NAW	YES	NR	YES	YES	NR	YES	YES	NO	YES
	V. Budget	It has responsibility for delivering public information to officers.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
It offers training and incentive mechanisms responsible for transparency and access to public information staff. Provide the link if necessary.		PI	PI	NO	YES	YES	NO	YES	PI	NA	NO	NAW	YES	YES	NR	YES	YES	YES	
V. Budget	It offers information on the annual budget for the system of transparency and access to information. Provide the link if necessary.	PI	NO	YES	PI	PI	PI	YES	YES	PI	NO	PI	YES	PI	NA	YES	PI	NR	

CRITERIA	INDICATOR	MEASURE UNIT (request in letters)	MIMEM	PERUPETRO	PETROPERÚ	OSINERGMIN	OEFA	MINAM	PROINVERSIÓN	ELECTROPERÚ	GOREL	CORECU	SERNANP	MINCU	ANA	MINAGRI	MEF	PCM	
ASSESSMENT AND CITIZEN SERVICE PROCESSES ACCESS TO PUBLIC INFORMATION	I. Implementation of a system for assessing the institutional policy of transparency.	Perceived level of transparency of the entity.	NO	NO	YES	YES	NO	YES	NO	NA	NO	NAW	NO	YES	NO	NO	NO	YES	
	II. Implementation of monitoring for the functioning of mechanisms for information access	Overall rating service transparency and access to public information.	NR	NR	PI	YES	NO	PI	NR	PI	PI	NAW	NO	YES	NR	NO	NO	NR	
	III. Evaluation of the monitoring system and monitoring of the request for access to public information.	Manner in which most of the information (website, application, publications, etc.) and other types of information are requested.	NO	YES	PI	PI	PI	YES	YES	NAW	YES	NR	PI	NR	NA	YES	YES	YES	YES
		Rating attention of alternative mechanisms for indigenous peoples.	YES	YES	PI	PI	YES	NO	PI	NA	YES	NO	PI	NA	YES	NO	YES	NO	NR
	IV. Continuity of staff training in transparency	Study of estimated time of when the entity sends responses to requests for access to public information.	YES	PI	NR	YES	YES	PI	YES	NAW	NA	NR	NO	PI	PI	NA	YES	NA	NR
The organization has implemented a mechanism to improve orders for information access and modify the delays and lack of response.		YES	YES	YES	YES	YES	NA	YES	NA	YES	YES	PI	YES	YES	NO	YES	NO	PI	
V. Budget	Ongoing assessment of staff training. Indicate the number of annual training.	YES	YES	PI	YES	YES	YES	YES	NR	YES	YES	PI	YES	YES	PI	YES	YES	YES	
	Evaluation on the budget to confirm if it is enough. Indicate whether or not there is an increase from the evaluation.	NR	NA	NR	NR	NR	NR	PI	NR	NR	NO	YES	PI	YES	NA	NO	NO	NR	

Source: Prepared by Aida Gamboa and Nilida Máyerlin Vargas

- **YES:** If the information requested is found and the approved document is sent or if the requested information is in the implementation process, provided the attached draft.
- **NO:** If the institution does not have the requested information.
- **PARTIAL (PI):** If the institution sends incomplete information.
- **Not Applicable (NA):** If the information submitted is other than as requested.
- **No Response (NR):** If no response from the institution to the requested information is obtained. This course is part of the event that the institution has answered the other requirements.
- **No Answer (NAW):** If the legal waiting time has passed and further time granted for this request, but the institution has not responded.

- Still lacking is the incorporation of planning, capacity management, coordination, accountability, public integrity and a greater public participation in the process of energy planning, granting of rights in hydrocarbons and hydroelectric projects, in processes of environmental impact studies and in international loans to the sector.
- **Regional governments (sub-national) are largely unrelated to the processes of transparency and access to national information.** Still, they must promote transparency and strengthen regional mechanisms for access to information.
- **PERUPETRO is a public-private company that has advanced and improved its transparency policy in the last two years,** especially with regards to providing information about their functions, procedures and processes. This allows a sector of the population to have relevant, accessible, reliable and clear information. However, it is necessary to keep working to disseminate more information and it is understandable, especially considering that the field where most of their work is developed is in Amazonian areas and on the continental shelf.
- The MINEM, PETROPERU, OSINERGMIN and PROINVERSIÓN have improved their transparency and access to information practices, but they still have pending internalization on the functions of transparency on the part of their personnel.
- The MINAM and MINAGRI have been making efforts to improve transparency and promote the right of access to public information through the implementation of new mechanisms that can be replicated in other institutions. Both institutions are best at applying transparency and promoting the process of access to information. For example, the MINAM has a System for Access to Public Information – virtual SAIP, where the user can access through the portal to requests for access to information and statistics. In the case of MINAGRI, it is the only national institution that has implemented an office of transparency and access to information.
- There are still serious deficiencies in the implementation of new mechanisms of transparency and access to information in the OEFA, the MINCU, SERNANP and ANA.
- The MEF and ELECTROPERU were the most suspicious entities regarding the implementation of actions for transparency and access to information.
- **With regards to PPP planning,** significant advances have been made in institutional planning of entities with internal planning tools. However, **there are still limits to the technical, budgetary and human resource capacities within the MINEM.** In addition, there have been no official channels generated and institutionalized citizen participation, but efforts have been made to develop tools that promote ethics and anti-corruption.
- **As for the granting of rights in hydrocarbons and hydropower, this is much more systematized and published on the web portals of information from relevant entities; but still greater efforts have to be made for the cultural understanding of vulnerable populations.** There is still limited capacity to implement processes of prior consult with indigenous people. Thus, coordination channels with MINCU are still inadequate.
- **In the EIA evaluation processes for hydrocarbon and hydropower projects, the application of transparency and access to public information has yet to increase.** Not all documents generated in the files of the EIA are published on the website of the competent or updated entity in a timely manner and cannot be accessed through the web portal to documents generated in citizen participation workshops and public hearings. In addition, documents prepared in the processes of assessment, monitoring and environmental inspection performed by the OEFA are not accessible.

In the EIA evaluation processes for hydrocarbons and hydroelectric power plants, the application of transparency and access to public information has yet to increase.



Photo: Teleandes Ciney TV

- **In terms of programmatic loans provided to the energy sector, there are still limits to transparency and access to information, since there is no access to the documents and monitoring reports, achievement of objectives and compliance of the loans. There are also limits to the technical capabilities and human resources to implement the loan.** On the other hand, there is the failure to ensure public participation in the implementation of loans, through formal and efficient channels of participation and the involvement of regional governments. In addition, there are organizations reluctant to give information, such as the Coordination Unit for Sectoral Loans (MEF-UCPS), regarding reports of internal accounting and administrative control of the execution of the loan and its commitments (NUMES Loan).



Photo: Mario Zúñiga / DAR

5. RECOMMENDATIONS

- To comply with the provisions of the Law on Transparency and Access to Public Information, it is necessary (i) **to quarterly update the information in public transparency portals**, (ii) **to modify and implement a model of transparency portal which is more citizen-friendly**, and (iii) **to provide internal verification by the State on timeliness, with appropriate sanctions**.
- **It is necessary to simplify the process of access to information**, especially for organizations and indigenous peoples and rural applicants to minimize barriers of distance and accessibility of these users to the areas that provide the information.
- **Public entities should allocate a specific budget for the area of transparency and access to public information** in order to improve the service and to comply with the Law of Transparency and Access to Public Information. It is also recommended to have specialized transparency and access to information entities into office.
- **It is necessary for public entities to share and homogenize processes of requests for access to information in physical and virtual forms**, as well as security systems and monitoring processes of access to information.
- **It is necessary to increase the number of professionals involved in the implementation of transparency**; these are specialized in the subject, so that the transparency functions are properly exercised and are not residual or accessory functions within the institution, as well as increasing trainings in transparency and for responsible officials in general.
- **Systems for monitoring and evaluation on citizen service transparency and internal processes of access to public information must be implemented** in order to optimize service, raise standards and increase transparency for best transparency mechanisms.

- The instruments of corporate planning and development of the national energy plan should be linked to the goals and objectives in the energy sector and national policy instruments of the National Agreement and National Planning Center (CEPLAN) and the Bicentennial Plan.
- **Mechanisms should be implemented in coordination between the national and regional level for the development of planning instruments in the energy sector.** To improve coordination between the various entities in the energy sector; coordination channels should be visible to the public.
- It is necessary to implement and improve mechanisms for citizen participation in the official development of PPP, because, at present, they have not generated enough official channels for citizen participation.
- Mechanisms should be implemented for accountability of PPPs from the energy sector and guidelines for public ethics and anti-corruption should be developed in all institutions analyzed.
- **Greater coordination channels should be generated between PERUPETRO, the General Office for Hydrocarbons of the MINEM, OSINERGMIN, PROINVERSION and regional governments for granting rights in hydrocarbons and energy planning.** National institutions and regional governments should be integrated in these processes, which is vital for the proper management of natural resources.
- Regarding the granting of rights from hydropower, it is necessary to systematize the generated information, as there is valuable information produced by different entities which is not made public; the information generated by the Committee on Economic Operations of the National Interconnected System (COES -SINAC) is sent to the MINEM but it is not published on the website of the institution and cannot be obtained through requests for access to information.
- **It is necessary to improve the transparency of planning in the creation of hydrocarbons blocks and hydroelectric power plants,** as there is currently a void around these processes. No public information is accessible, be it intercultural, virtual or other, that allows adequate access to information regarding the creation of blocks and planned hydropower plants.
- **It is necessary to develop internal procedures to ensure procedural opportunities for consultation and public participation** to influence decision-making prior to the adoption of hydrocarbons blocks and hydroelectric plants and is the basis for public tenders.
- **It is necessary to have plans and cross-culturally contextual information** tailored to the areas where indigenous peoples and rural population live; and the ability of these populations to have access to information during the bidding process performed by PERUPETRO, PROINVERSION and OSINERGMIN.
- Posting on web portals of distributed documents and other records generated in the workshops with citizen participation in EIA evaluation processes.
- **Promote the creation of opportunities for formal coordination with institutions such as SERNANP, the MINCU's Deputy Office of Intercultural Affairs, processes for granting rights of hydrocarbons and EIA evaluation processes.** Thus, increased advertising and levels of coordination between relevant institutions to provide technical reviews EIA is vital in areas where environmental and social impacts are generated, and in areas where hydrocarbons are exploited through concession blocks and hydroelectric plants.
- In the process of evaluation of the EIAs, the spaces need to reinforce transparency in citizen participation and accountability, as the information generated in workshops is not accessible via the website of the competent authority.

It is necessary to improve transparency in the planning of the conformation of hydrocarbon blocks and hydroelectric power plants given the current voids regarding these processes.



Photo: Patricia Patrón / DAR

- **All the information generated by the OEFA should be public** (technical evaluation reports and monitoring), unless administrative disciplinary processes are in place. As this information is of great importance, especially for the population affected by large investment projects.
- Documentary processing systems may be accessible as well as all documents generated at all stages of the EIA's evaluation process (Terms of Reference, Citizen Participation Plan, Executive Summary, EIA) through web pages with records of EIA processes and through access to public information.
- Control actions must be in place, as well as environmental reports and audits by the General Comptroller of the Republic regarding resources and functions of public institutions in the energy sector.
- A policy of transparency in the execution of loans must be implemented, where ethics and anti-corruption mechanisms are needed.
- **Integrate the objectives of programmatic loans to the sector's planning**, so that the documents generated during the execution of these loans are made public.
- **All loans and technical cooperation documents must be posted in the web pages of entities**, so that the public is aware of the documents generated and the objectives of these important instruments for the strengthening of State capacities.
- **Generate audits for all loans in the energy sector**, as well as some non-target audits by the Comptroller of the Republic because they are considered of small monetary amounts.
- **It is necessary to promote opportunities for intersectoral and intergovernmental coordination in order to take into account the views of each sector and level of government**, as well as the civil society in the areas of analysis. The inclusion of many overseers allows entities to have opportunities for consensus with greater legitimacy and citizens themselves will be able to rely on State institutions. In this regard, it is vital to promote the participation of regional governments and civil society in decision-making processes of transparency and access to information in the country.

It is necessary to promote coordination spaces that are intersectoral and intergovernmental with the purpose of taking into account the opinions of each sector and level of government.

