

**INTERGOVERNMENTAL ENERGY BOARD (IEB)
CIRCULAR ON THE JOINT AWARD OF PETROLEUM SERVICE CONTRACTS AND
COAL OPERATING CONTRACTS IN THE BANGSAMORO AUTONOMOUS REGION
IN MUSLIM MINDANAO**

WHEREAS, Section 2, Article XII of the 1987 Constitution provides that “[a]ll lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. x x x.”;

WHEREAS, Section 2 Article XII of the 1987 Constitution also provides that “the President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.”;

WHEREAS, Section 4 of Presidential Decree (PD) No. 87, as amended, also known as “The Oil Exploration and Development Act of 1972,” allows the Government to indirectly undertake the exploration and production of the country’s indigenous petroleum resources through Petroleum Service Contracts (Petroleum SCs);

WHEREAS, Section 4 of PD 972, as amended, also known as “The Coal Development Act of 1976,” allows the Government to undertake the exploration, development and production of the country’s indigenous coal resources through Coal Operating Contracts (COCs) with contractors, to promote and offer prospective coal areas for award through bidding or negotiations;

WHEREAS, Section 4 of Republic Act (RA) No. 7638, as amended, also known as “The Department of Energy Act of 1992,” mandates the Department of Energy (DOE) to “prepare, integrate, coordinate, supervise, and control all plans, programs, projects, and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation.”;

WHEREAS, RA No. 11054, also known as the “Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao,” established the “Bangsamoro Autonomous Region,” a political entity which exercises authority over various matters, including those on natural resources and technical cooperation;

WHEREAS, Section 2, Article VI of RA No. 11054, created a National Government – Bangsamoro Government Intergovernmental Relations Body, referred to as “Intergovernmental Relations Body” (IGRB), to coordinate and resolve issues on intergovernmental relations through regular consultation and continuing negotiations in a non-adversarial manner;

WHEREAS, Section 7, Article VI of RA No. 11054, mandates the creation of an Intergovernmental Energy Board (IEB), which shall resolve all matters specified in Section 36, Article XIII of RA No. 11054 and other energy issues referred to it by IGRB;

WHEREAS, Section 10, Article XIII of RA No. 11054, mandates the Bangsamoro Government, through the Ministry of Environment, Natural Resources, and Energy (MENRE), and the National Government, through the DOE, to jointly exercise the power to grant rights, privileges, and concessions over the exploration, development, and utilization of uranium and fossil fuel such as petroleum, natural gas, and coal in the territorial jurisdiction of the Bangsamoro, and in the exercise of such power, shall adopt a competitive and transparent process for the grant of rights, privileges, and concessions in the exploration, development, and utilization of fossil fuels and uranium, and give to qualified Filipino citizens who are *bona fide* residents of the Bangsamoro Autonomous Region a rating higher than other proponents;

WHEREAS, Section 11, Article XIII of RA No. 11054, grants unto qualified Filipino citizens who are *bona fide* residents of the Bangsamoro Autonomous Region, with all other conditions being equal, preferential rights over the exploration, development, and utilization of natural resources, including uranium and fossil fuels such as petroleum, natural gas, and coal within the territorial jurisdiction of the Bangsamoro;

WHEREAS, Section 34, Article XII of RA No. 11054, mandates that in the case of uranium and fossil fuels such as petroleum, natural gas, and coal, the same may be co-managed and the revenues shared equally between the National Government and the Bangsamoro Government, subject to the limitations provided in the Constitution;

WHEREAS, to implement the foregoing, the IEB created the Upstream Conventional Energy Resource Development Technical Working Group (UCERD-TWG) to recommend guidelines on the joint award of Petroleum SCs and COCs in the Bangsamoro Autonomous Region;

WHEREAS, on 27 June 2023, the proposed guidelines on the joint award of Petroleum SCs and COCs in the Bangsamoro Autonomous Region was subjected to public consultation and simultaneously posted in the respective websites of the DOE and the MENRE for comments and recommendations of all concerned;

WHEREAS, after public consultation, the UCERD-TWG finalized the guidelines, incorporating the relevant comments and recommendations of the various stakeholders, for consideration and approval of the IEB;

WHEREAS, in a meeting held on _____, the IEB approved the recommendation of the UCERD-TWG and adopted the Circular on the joint award of Petroleum SCs and COCs in the Bangsamoro Autonomous Region;

NOW, THEREFORE, in consideration of the aforementioned premises, the following policies and procedures in the joint selection, evaluation, and awarding of Petroleum SCs and COCs in the territorial jurisdiction of the Bangsamoro Autonomous Region, are hereby adopted and promulgated for compliance by all concerned:

Section 1. Adoption of the Philippine Conventional Energy Contracting Program for Petroleum and Coal. Subject to the provisions of this Circular, the DOE and the MENRE hereby adopt Department Circular No. DC2017-12-0017 entitled "*Adopting the Philippine Conventional Energy Contracting Program (PCECP) of Awarding Petroleum Service Contracts (Petroleum SCs) and Creating the Review and Evaluation Committee (REC)*" and DC2017-09-0010 entitled "*Adopting the Philippine Conventional Energy Contracting Program (PCECP) of Awarding Coal Operating Contracts (COC) and Creating the Review and Evaluation Committee (REC) Repealing for this purpose Department Circular No. DC2014-02-0005 and Department Order No. DO2014-08-0017*" for the joint exercise of the power to grant rights, privileges, and concessions over the exploration, development, and utilization of uranium and fossil fuels such as petroleum,

natural gas, and coal in the territorial jurisdiction of the Bangsamoro Autonomous Region as provided in Section 10, Article XIII of RA No. 11054.

Section 2. Creation of the Joint Review and Evaluation Committee (Joint REC). The Joint REC is hereby constituted to carry out the responsibilities set forth in this Circular and shall be composed of the following officials:

	National Government (NG)	Bangsamoro Government (BG)
Co-Chairpersons:	DOE Undersecretary Supervising the Energy Resource Development Bureau (ERDB)	IEB UCERD-TWG Alternate Head
Co-Vice Chairpersons:	DOE Assistant Secretary	Director II, MENRE-Energy Management and Development Services (EMDS)
Co-Members:	Director, DOE-Energy Resource Development Bureau (ERDB)	Director II, MENRE-Mines and Geoscience Services (MGS)
	Director, DOE-Financial Services (FS)	Director II, MENRE-Admin and Finance Services (AFS)
	Director, DOE-Legal Services (LS)	Attorney V, MENRE-Legal & Legislative Liaison Division (LLLD)
	Director, DOE-Information Technology and Management Services (ITMS)	Chief, MENRE-Energy Utilization Management Division (EUMD)
	Director, DOE-Mindanao Field Office (MFO)	IEB UCERD-TWG Member

Changes to the composition of the Joint REC may be made upon order from the Secretary of the DOE for the NG and the Minister of the MENRE for the BG, respectively.

Section 3. Quorum. A majority of the members of both REC of the DOE and the MENRE must be present at every meeting in order to constitute a quorum, provided that the presence of the REC Co-Chairpersons or the REC Co-Vice Chairpersons shall be required at all times.

Section 4. Creation of the Joint REC Technical Working Group (Joint REC-TWG) and Joint Secretariat. The Joint REC-TWG and Joint Secretariat shall assist the Joint REC in all activities related to the implementation of this Circular and shall be composed of the following:

National Government (NG)**Bangsamoro
Government (BG)****Co-Heads:**Assistant Director,
DOE-ERDBChief,
MENRE-Energy
Resource Development
Division (ERDD)**Joint REC-TWG
Members:**Division Chief,
Petroleum Resources
Development Division (DOE-
ERDB-PRDD) – for Petroleum
SC, orChief SRS,
MENRE-Mines Safety
Environment and Social
Development Division
(MSESDD)Division Chief,
Coal and Nuclear Minerals
Division (DOE-ERDB-CNMD)
– for CoalDivision Chief,
Conventional Energy
Resources Compliance
Division (DOE-FS-CERCD)Supervising
Administrative Officer,
MENRE-Finance
Division (FS)Division Chief,
Upstream Conventional
Energy Legal Services
Division (DOE-LS-UCELSD)Attorney IV,
MENRE-Legal &
Legislative Liaison
Division (LLLD)Division Chief,
Information Services Division
(DOE-ITMS-ISD)Chief,
MENRE-Renewable
Energy Management
Section (REMS)Division Chief,
Information and Data
Management Division (DOE-
ITMS-IDMD)Chief,
MENRE-Information
Technology
Management Section
(ITMS)Division Chief,
Energy Resource
Development and Utilization
Division of Mindanao Field
Office (DOE-MFO-ERDUD)Chief,
MENRE-Electric Power
Industry Management
Section (EPIMS)**Joint
Secretariat**Supervising Science Research
Specialist,
Petroleum Research and
Evaluation Section (DOE-
ERDB-PRDD-PRES) – for
Petroleum SC, orChief,
MENRE-Oil and Gas
Industry Management
Section (OGIMS)Supervising Science Research
Specialist,
Exploration and Geosciences
Research Section (DOE-Senior Science
Research Specialist,
MENRE-Energy
Research, Testing, and

Changes to the composition of the Joint REC-TWG and the Joint Secretariat may be made upon order from the Secretary of the DOE for the NG and the Minister of the MENRE for the BG, respectively.

Section 5. Procedures in the Joint REC and Joint REC-TWG. All applications under this Circular shall be jointly evaluated by the Joint REC-TWG and endorsed to the Joint REC. In the event of a disagreement in the Joint REC-TWG, such disagreement shall be referred to the Joint REC for resolution. In case of a disagreement in the Joint REC, such disagreement shall be referred to the IEB for resolution.

Section 6. Preferential Rights of *Bona Fide* Residents of the Bangsamoro Autonomous Region. In accordance with Section 10, Article XIII of RA No. 11054, qualified Filipino citizens who are *bona fide* residents of the Bangsamoro Autonomous Region shall be given a rating higher than other proponents during the evaluation process.

The criteria for evaluation shall be as follows:

1. Legal Qualification	Pass or Fail
2. Work Program	40%
3. Technical Qualification	20%
4. Financial Qualification	40%
Total	100%
<i>*Bona fide resident of the Bangsamoro Autonomous Region</i>	+5%

Pursuant to Section 11 Article XIII of RA No. 11054, should there be a tie between applicants' scores after the legal, technical, and financial evaluation, the tie shall be broken as follows:

- a. Between a *bona fide* Bangsamoro-resident applicant and non-resident applicant, the Joint REC shall endorse the *bona fide* Bangsamoro-resident applicant.
- b. Between two (or more) *bona fide* Bangsamoro-resident applicants, or two (or more) non-resident applicants, the BG-REC shall recommend the applicant to be jointly endorsed by the Joint REC.

Section 7. Area Clearance. All requests for technical description and area clearance within the Bangsamoro Autonomous Region shall be submitted to the MENRE and will be jointly acted upon by the DOE and the MENRE.

Section 8. Submission of Nomination. All applications for Pre-Determined Areas (PDAs) / Nominated Areas (NAs) within the territorial jurisdiction of the Bangsamoro Autonomous Region shall be submitted to the MENRE, following the rules and procedures to be established by the Joint REC as provided in Section 17 of this Circular.

Section 9. Payment of Application Fee.

- a. For Petroleum SC (PDA / NA) Applications - Applicants shall pay a non-refundable one-time application fee of Php200,000.00 to be shared equally between the DOE and the MENRE.

In case of a challenge in Petroleum SC NA application, the challenger shall pay a non-refundable one-time application fee of Php1,000,000.00 to be shared equally between the DOE and the MENRE.

- b. For COC (PDA/NA) Applications - Applicants shall pay a non-refundable one-time application fee of Php200,000.00 to be shared equally between the DOE and the MENRE

All fees and charges prescribed herein shall be subject to periodic review and updating by the Joint REC.

Section 10. Venue of Opening of Bids. Opening of Applications may be conducted in the MENRE Office or in any other designated place as determined by the Joint REC.

Section 11. Option for Bangsamoro Government Owned and Controlled Corporations (BGOCC) to Participate in Petroleum SCs. For Petroleum SCs under this Circular, an option shall be reserved for BGOCC for a maximum of ten percent (10%) participating interest in a proposed Petroleum SC involving one (1) or more Filipino participant or a maximum of fifteen percent (15%) participating interest in a proposed Petroleum SC involving no Filipino participant. The MENRE shall inform the BGOCC within thirty (30) calendar days from the award of the Petroleum SC, and the BGOCC shall give proper notice, within thirty (30) calendar days from receipt thereof, to the winning applicant and the MENRE whether it shall exercise the said option. All rights, privileges, benefits, costs, expenses, obligations, and liabilities of the BGOCC shall be in proportion to its participating interest in the proposed Petroleum SC.

Section 12. Award of Petroleum SC. Upon recommendation of the Joint REC, the DOE and the MENRE shall jointly endorse to the Office of the President the award of a Petroleum SC to the winning applicant.

Section 13. Award of Coal Operating Contracts. Upon recommendation of the Joint REC, the DOE and the MENRE shall jointly award a Coal Operating Contract to the winning applicant.

Section 14. Curing Period for Sole Applicant. If an applicant is declared as a sole applicant during the opening of application documents, it shall be allowed to complete or correct any incomplete or defective application documents within thirty (30) calendar days from receipt of notice, unless otherwise extended by the Joint REC.

Section 15. Sharing of Data. The DOE and the MENRE shall provide each other with current and future data in their respective possession relative to uranium and fossil fuels such as petroleum, natural gas, and coal energy resources within the Bangsamoro Autonomous Region.

Section 16. Processing Fees. For winning applicant, a processing fee, to be shared equally between the DOE and the MENRE, shall be collected in the following amounts:

- a. For Petroleum SC – Php 0.48 per hectare
- b. For COC – Php 30,000.00 per Coal Block

Section 17. Adoption of Rules and Procedures. The Joint REC shall, upon the effectivity of this Circular, issue the necessary rules and procedures to implement the provisions of this Circular.

The Joint REC may likewise, from time to time, adopt such other rules and procedures as may be necessary.

Section 18. Separability Clause. If for any reason, any section or provision of this Circular is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

Section 19. Effectivity. This Circular shall take into effect fifteen (15) calendar days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked by competent authority.

Let copies of this Circular be furnished to the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR).

Issued this _____ day of _____ in _____.

RAPHAEL P.M. LOTILLA
Secretary, Department of Energy
Co-Chair, IEB

AKMAD A. BRAHIM
Minister, Ministry of Environment,
Natural Resources, and Energy
Co-Chair, IEB

DRAFT