

DEPARTMENT CIRCULAR NO. DC2023- _____

PROVIDING REVISED GUIDELINES IN THE EVALUATION AND AWARD OF PETROLEUM SERVICE PROVIDER CONTRACTS FOR THE ACQUISITION OF NEW PETROLEUM DATA IN THE PHILIPPINES

WHEREAS, Section 2, Article XII of the 1987 Constitution provides that "*[t]he exploration, development, and utilization of natural resources shall be under the full control and supervision of the State*";

WHEREAS, Section 4 of Republic Act No. 7638, as amended, otherwise known as "*The Department of Energy (DOE) Act of 1992*," mandates the 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, Section 37 (k) of Republic Act No. 9136, otherwise known as "*The Electric Power Industry Reform Act of 2001*," provides that the DOE shall have the power to, among others, "*[A]ssess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies*";

WHEREAS, Section 2 Presidential Decree No. (PD) 87, as amended, otherwise known as the "*Oil Exploration and Development Act of 1972*", declared it to be the policy of the State "*to hasten the discovery and production of indigenous petroleum through the utilization of government and/or private resources, local and foreign, under the arrangements embodied in this Act xxx*;"

WHEREAS, on 18 August 2021, the DOE promulgated Department Circular No. DC2021-08-0027 entitled "*Prescribing the Guidelines and Procedures for the Approval and Award of Projects Proposed by Service Providers for the Enhancement, Acquisition, Processing, Interpretation and Marketing of Upstream Petroleum Data in the Philippines*" prescribing the process of selection, evaluation, award and implementation of contracts/agreements with service providers for petroleum data enhancement, acquisition, processing interpretation and marketing;

WHEREAS, on 29 September 2023, the DOE promulgated Department Circular No. DC2023-10-0028 entitled "*Guidelines on Petroleum Data Declassification and Free Data Access*" streamlining the DOE policy on data declassification and providing free access to declassified data with the objective of attracting more exploration and production (E&P) companies to spur exploration activities leading to the discovery of more oil gas fields in the country;

WHEREAS, exploration activities are data-driven and require different sets of petroleum data to identify prospective areas for oil and gas;

WHEREAS, upon review, it was determined that there had been a sharp decline in interest and project proposals for data acquisition and processing received by the DOE;

WHEREAS, the DOE is continuously adopting new mechanisms and strategies to effectively carry out its plans and programs as mandated under PD 87, as amended;

WHEREAS, the DOE desires to simplify the process of selection, evaluation, award and implementation of contracts/agreements with service providers for petroleum data acquisition and processing, which arrangements entail no cost to the government, to complement its policy on data declassification and free access;

NOW, THEREFORE, in consideration of the foregoing premises, the following guidelines, policies and procedures are hereby adopted and promulgated for compliance by all concerned:

Section 1. Scope. This Circular shall govern the process for the application for and award of contracts/agreements with service providers for new petroleum data acquisition and processing.

Section 2. Policy in the evaluation and award of petroleum service provider contracts.

- 2.1 In awarding contracts under this Circular, the DOE shall consider the latest applicable technology on petroleum data acquisition and processing.
- 2.2 A service provider may be any local/foreign individual company or group of companies organized or authorized for the purpose of providing services related to upstream petroleum data acquisition and processing and, after due evaluation, was found legally, technically, and financially qualified by the DOE.
- 2.3 No contract under this Circular shall be awarded to companies with outstanding financial and technical obligations with the DOE, including their assignees, successors-in-interests, subsidiaries, and affiliates, until the outstanding financial and technical obligations are fully complied with.
- 2.4 Petroleum reports or data acquired, generated and/or processed pursuant to this Circular shall be immediately declassified upon termination of the contract.
- 2.5 The DOE reserves the right to deny any proposal which it deems to be of, or will affect national security and other analogous instances.

Section 3. Procedure for the Submission and Evaluation of Project Proposals and the Award of Service Provider Contracts. In the submission and evaluation of project proposals and the award of the corresponding petroleum service provider contracts, the following procedures shall be observed:

- 3.1 Interested service providers shall submit a Letter of Intent addressed to the Undersecretary supervising the Energy Resource Development Bureau (ERDB) together with the complete set of documents listed under Annex "A" of this Circular entitled "*Service Provider Checklist for Submissions of Proposals.*"
- 3.2 The project proposal and the documentary requirements shall be evaluated based on the following criteria:
 - a. Legal Qualification of the service provider;
 - b. Financial Qualification of the service provider to finance the proposed project;
 - c. Evaluation of the project proposal, and
 - d. Technical Qualification of the service provider to implement its proposed project.

During the evaluation, the submission of other documents/requirements which are deemed relevant to the review and approval may be required.

- 3.3. Upon determination of the legal, financial and technical qualification of the service provider and the soundness of the project proposal, the award of a petroleum service provider contract shall be endorsed for the Secretary's approval.

Section 4. Minimum Terms and Conditions – Contracts entered into under this Circular shall contain the following minimum terms and conditions:

4.1 Data Ownership

- a. The DOE shall wholly and exclusively own all data generated by the service provider under the contracts entered under this Circular, except for data generated with proprietary rights or exclusions as may have been agreed under the contract.
- b. Within six (6) months from the acquisition, processing, or any modification/enhancement of the data, the service provider shall submit all deliverables free of charge to the DOE, subject to the provisions of DC2023-10-0028.
- c. The DOE may direct that data to be submitted be converted using the latest technology, or in a specific format, to be agreed by the parties.
- d. The service provider may be afforded a reasonable period but not to exceed ten (10) years from the effectivity of the contract to exclusively

market and sell the data, after which the same shall be immediately declassified and made available to third parties, in accordance with the provisions of DC2023-10-0028.

4.2 Government Share. In case the service provider is allowed to exclusively market and sell the data in accordance with Section 4.1 (c) hereof, the DOE shall be entitled to the following scheme:

- a. Stipulated revenue share or profit-sharing arrangement once service provider reaches its breakeven expenditure, which shall not be lower than 30% of the net revenue, or in other circumstances can also be described as an agreed amount of sales.

Examples are as follows:

Agreed Number of Sales	DOE	Service Provider
U\$	0%	100%
Above ANS	30%	70%
Above ANS + (50% of ANS)	50%	50%
Above 200% of ANS	100%	0%

4.3 Provisions for Knowledge Transfer and Capacity Building. Within the market exclusivity period, the service provider shall capacitate DOE employees and personnel by providing provisions for the following:

- a. Actual participation during the acquisition of data, subject to reasonable health, safety, and environmental regulations.
- b. Training of technical personnel on process/method employed in the acquisition of data or its processing or enhancement and interpretation.
- c. Presence of DOE personnel during marketing/promotions of data in conferences, events, and other similar fora.

4.4. Reportorial requirements. Within the exclusivity period, the service provider shall regularly update the DOE every semester on the sales (profit) and licensing of data and payments and shall maintain appropriate financial records for audit.

Section 5. Separability Clause. If for any reason, any section or provision of this Circular and its Annexes is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 6. Repealing Clause. DOE Department Circular No. 2021-08-0027 is hereby repealed. All other DOE issuances inconsistent with the provisions of this Circular are likewise repealed or amended accordingly.

As edited by RJADS and RRCL - as of 20 October 2023

Section 7. Effectivity. This Circular shall take into effect fifteen (15) calendar days following its publication in two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

Issued this _____ 2023 in Bonifacio Global City, Taguig City, Metro Manila.

RAPHAEL P.M. LOTILLA
Secretary

Republic of the Philippines
DEPARTMENT OF ENERGY
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 Metro Manila

SERVICE PROVIDER CHECKLIST FOR SUBMISSION OF PROPOSALS

- APPLICATION CHECKLIST – LEGAL
(Petroleum)

All applications shall be submitted with a cover letter addressed to the REC and a digital copy (preferably contained in a USB drive) of its legal, technical and financial documents enumerated herein:

I. LEGAL	DOCUMENT FORMAT
<input type="checkbox"/> 1) Duly filled-out covering information sheet (DOE Format);	<i>Original</i>
<input type="checkbox"/> 2) SEC Certificate of Registration or Incorporation;	<i>Certified True Copy</i>
<input type="checkbox"/> 3) SEC Articles of Incorporation and By-Laws (The corporate purpose of the proponent shall include the exploration, development and utilization of petroleum resources);	<i>Certified True Copy</i>
<input type="checkbox"/> 4) General Information Sheet (GIS) stamp-received by the SEC not more than twelve (12) months old at the time of filing of application;	<i>Certified True Copy</i>
<input type="checkbox"/> 5) Certificate of Authority from the Board of Directors of the proponent authorizing designated representative/s to apply, negotiate, sign all documents, and execute the Service Provider Contract (SPC). The said Certificate of Authority shall be executed under oath by the Corporate Secretary;	<i>Original</i>
<input type="checkbox"/> 6) For applicants other than the project proponent, proof of payment of Php 100,000.00	<i>Certified True Copy</i>

NOTE: For foreign proponents:

Document Nos. 2 – 5, proponents shall submit equivalent legal documents issued by the appropriate governing body and duly authenticated by the Philippine Consulate having the appropriate jurisdiction.

For local proponents:

Document Nos. 2 – 4 shall be duly authenticated by the SEC

APPLICATION CHECKLIST – TECHNICAL
(Petroleum)

II. TECHNICAL (Project Proposal)	DOCUMENT FORMAT
1) Background	
<input type="checkbox"/> a) Summary of general description of the project proposed, work program and estimate expenditure for each proposed activity - Main Objectives or Rationale	<i>Digital and printed copy</i>
<input type="checkbox"/> b) Project Timeline/Outline - Flowchart or - Gantt Chart	
<input type="checkbox"/> c) Technical description of the project or focus area such as or not limited to technology transfer, improvement of data et al - Database to be used;	<i>Digital and printed copy</i>
<input type="checkbox"/> d) Work Program and Budget (itemized each activities)	
<input type="checkbox"/> e) Benefits/Advantages of the Project	<i>Digital and printed copy</i>
 NOTE: <i>Each item in the exploration and work commitment matrix must be given a stipulated and estimate cost figure, the sum of which will constitute the minimum cost of the work program</i>	
2) Company Information/Technical Documentation	
<input type="checkbox"/> a) The proponent shall submit a company overview/profile of all its Energy Related Projects.	<i>Digital and printed copy</i>
<input type="checkbox"/> b) Technical Personnel's relevant experience and similar projects conducted and completed	

CHECKLIST – FINANCIAL
(Petroleum)

III. FINANCIAL

**DOCUMENT
FORMAT**

1) For corporations existing for more than 2 years at the time of filing of application:

- | | | |
|--------------------------|---|---|
| <input type="checkbox"/> | a) Annual Report or Audited Financial Statements (FS) for the last two (2) years from the filing date and latest Unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer if the Audited FS is more than six (6) months old at the time of filing; | <i>Original</i> |
| <input type="checkbox"/> | b) Bank Certification to substantiate the cash balance as of the latest unaudited FS; and | <i>Original</i> |
| <input type="checkbox"/> | c) Projected Cash Flow Statement for three (3) years covering fund sources if applicable, with supports by any or all of the following:

- Sales Agreement/Purchase Order of Buyer for projected revenues on existing operations;

- Sworn Letter of Commitment from stockholders for additional equity/cash infusion within one (1) year of operation;

- Bank-approved loan/credit line earmarked for the proposed operation. | <i>Original</i>

<i>Certified True Copy</i>

<i>Original</i>

<i>Original</i> |
| <input type="checkbox"/> | d) For domestic corporations, latest income tax returns filed with the Bureau of Internal Revenue, and duly validated with tax payments made thereon. | <i>Certified True Copy</i> |

2) For newly-organized corporations (existing for two (2) years or less at the time of filing)

- | | | |
|--------------------------|--|-----------------|
| <input type="checkbox"/> | a) Audited Financial Statements (FS) or unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer; | <i>Original</i> |
| <input type="checkbox"/> | b) Bank Certification to substantiate the cash balance as of the latest unaudited FS; | <i>Original</i> |

- | | | |
|--------------------------|---|----------------------------|
| <input type="checkbox"/> | c) Projected Cash Flow Statement for three (3) years covering fund sources if applicable, with supports by any or all of the following: | <i>Original</i> |
| <input type="checkbox"/> | - Sales Agreement/Purchase Order of Buyer for projected revenues on existing operations; | <i>Certified True Copy</i> |
| | - Sworn Letter of Commitment from stockholders for additional equity/cash infusion within one (1) year of operation; | <i>Original</i> |
| | - Bank-approved loan/credit line earmarked for the proposed operation. | <i>Original</i> |

3) For Parent Company's guarantee for corporations with insufficient working capital:

- | | | |
|--------------------------|--|----------------------------|
| <input type="checkbox"/> | a) Parent Company's financial documents per Application Checklist Items III.1.a and III.1.b; | <i>Original</i> |
| <input type="checkbox"/> | b) Duly notarized Letter of Undertaking/ Support from the Parent Company to fund the Work Program; | <i>Original</i> |
| <input type="checkbox"/> | c) General Information Sheet (GIS) of the shareholder availing of the Parent Company fund guarantee. | <i>Certified True Copy</i> |

NOTE:

- Minimum working capital (Liquid Assets less Current Liabilities) is 100% of the financial commitment of the first contract year of the proposed work program and budget. Liquid Assets shall consist only of cash, trade accounts receivables and short-term investments/placements. Credit line is not a Liquid Asset.

----Nothing Follows----