

DEPARTMENT CIRCULAR NO. _____

**RATIONALIZING THE UTILIZATION OF ER 1-94 FUNDS BY LGUS IN RESPONSE
TO COVID-19 PUBLIC HEALTH EMERGENCY**

WHEREAS, Section 15 of Article II of the Philippine Constitution sets forth the policy of the State to protect and promote the right to health of the people;

WHEREAS, Section 7 of Republic Act (RA) No 11332 mandates the President of the Republic of the Philippines to declare a State of Public Health Emergency in the event of any epidemic of national and/or international concern which threatens national security for the purpose of mobilizing governmental and non-governmental agencies to respond;

WHEREAS, in the light of the coronavirus disease 2019 (COVID-19) outbreak in the Philippines, President Rodrigo R. Duterte issued Proclamation No. 922, Declaring a State of Public Health Emergency throughout the Philippines and enjoining all government agencies and Local Government Units (LGUs) to render full assistance and cooperation to mobilize the necessary resources to undertake critical, urgent, and appropriate response and measures in a timely manner to curtail and eliminate the COVID-19 threat;

WHEREAS, on 16 March 2020, the President issued Proclamation No. 929, Declaring a State of Calamity throughout the Philippines Due to the COVID-19 and placing the entire Luzon on an Enhanced Community Quarantine (ECQ);

WHEREAS, for the purpose of giving broader powers to the President to address the COVID-19 dilemma, including the authority to identify and allocate funds in relation thereto, Congress passed RA 11469 entitled “Bayanihan to Heal as One Act “ which has already taken effect;

WHEREAS, Sec 4(g) of RA 11469 directs “LGUs to act within the letter and spirit of all directives, rules and regulations of the National Government, exercise their autonomy on matters undefined by the National Government or within parameters that it has set”;

WHEREAS, RA 7638 (otherwise known as the DOE Act of 1992), the DOE is mandated to devise ways and means of giving direct benefit to the province, city, or municipality,

especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or the energy-generating facility;

WHEREAS, to operationalize such mandate, the DOE issued Energy Regulation (ER) 1-94 which provides that host communities of energy generating facilities and/or energy resource developers are entitled to a share of **one centavo** per kilowatt-hour (Php 0.01 / kWh) of the total electricity sales as financial benefit of the host community to be allocated as follows:

- a) Electrification fund (EF), to be implemented by the concerned DU;
- b) Development and Livelihood Fund (DLF), to be implemented by the concerned LGU; and
- c) Reforestation, Watershed Management, Health and/or Environment Enhancement Fund (RWMHEEF), to be implemented by the concerned LGU;

The EF, DLF, RWMHEEF are collectively referred hereto to as the “ER 1-94 Funds”;

WHEREAS, Sections 37 and 66 of the Electric Power Industry Reform Act (EPIRA) echoes the mandate of the DOE to devise ways and means to provide direct benefit to host communities and the corresponding obligation of generating facilities and/or energy resource developers to provide benefits communities hosting them;

WHEREAS, the EPIRA likewise mandates the DOE to formulate such rules and regulations as may be necessary to implement and exercise such other powers as may be necessary or incidental to attain the objectives of the law;

WHEREAS, Part V, Rule 29 of the EPIRA Implementing Rules and Regulations (IRR) adopted Energy Regulations 1-94 (ER 1-94), a pre-established guideline before EPIRA, which has set forth in detail the allocation of the aforesaid financial benefit and rationalized the process of implementing the aforesaid program;

WHEREAS, on 26 July 2018, the DOE issued Department Circular No. DC2018-08-0021, providing for amendments to Rule 29 Part A of the EPIRA IRR, with the following salient features:

- a) The EF shall be directly remitted to the concerned DU;
- b) DLF and RWMHEEF shall be directly remitted to the LGUs and Indigenous Cultural Communities/Indigenous People (ICCs/IPs); and
- c) The following allocation of the ER 1-94 fund shall be as follows:
 - i. Fifty percent (50%) of the of one centavo per kilowatt-hour (Php 0.01 / kWh) shall be set aside as an EF;

- ii. Twenty five percent (25%) of the of one centavo per kilowatt-hour (Php 0.01 / kWh) shall be set aside as DLF; and
- iii. Twenty five percent (25%) of the of one centavo per kilowatt-hour (Php 0.01 / kWh) shall be set aside as RWMHEEF;

WHEREAS, on 18 March 2020, the DOE issued advisories in line with the intents and purposes of Proclamation Nos. 922 and 929, respectively, which provided among others, the immediate remittance of the RWMHEEF to the concerned LGUs and the extension of the submission of the Annual Work Plan (AWP) for a period of thirty-days (30) from 14 April 2020;

WHEREAS, there is a need to provide immediate financial assistance to the Host LGUs to enhance their health services and at the same time temper the socio-economic impact of the crisis, and the ER 1-94 Funds are deemed to be viable, doable and readily available source of funding to empower LGUs to help the National Government to combat, before it is too late, COVID-19 which has continuously taken a heavy toll on lives, disrupting the way of life of the Filipino people;

NOW THEREFORE, the DOE hereby directs the utilization of the ER 1-94 to help the Host LGUs combat the spread of COVID-19 pandemic and alleviate the deprivations of their constituents, as follows:

TITLE I. GENERAL PROVISION

Section 1. Purpose, Scope and Coverage.

This Department Circular is issued to provide the rules and guidelines for the effective administration, management, and immediate utilization and implementation of the ER 1-94 Funds to combat COVID-19 by all Host LGUs during the ECQ period only.

All available and unremitted ER 1-94 Funds with the DOE and concern Generation Companies (GenCos) as of 31 December 2019 shall be covered by this Circular.

Section 2. Objectives.

- 2.1. To provide impetus to LGUs to align with the National Government in providing ways to mitigate, if not contain, the transmission of COVID-19;
- 2.2. To help provide LGUs sufficient, adequate and readily available funding to undertake their duty to contain COVID-19 in their respective areas;
- 2.3. To rationalize and give the Host LGUs a framework to utilize ER 1-94 Funds as additional means to combat the COVID-19 crisis in their respective areas; and

- 2.4. To provide a doable speedy manner in the disposition and utilization of the ER 1-94 consistent with the purpose of this Circular in the light of the urgency and criticality of the current national situation.

TITLE II. ALLOCATION & REMITTANCE OF ER 1-94 FUND

Section 3. Amendment to Allocation of the ER 1-94 Funds from DC2018-08-0021.

- 3.1. For this purpose, the allocation of funds as provided under Section 6.1 of the DC 2018-08-0021, respectively, shall not be applied for the duration of the effectivity of this Circular.
- 3.2. All available DLF and RWMHEEF shall be allocated to the Host LGUs in accordance with Section 6.2 of the DC 2018-08-0021.
- 3.3. All available and un-remitted EF with respect to GenCos shall be allocated in the following manner:
 - 3.3.1. Host Community and People Affected - 5%
 - 3.3.2. Host Barangay - 20%
 - 3.3.3. Host City/Municipality - 35%
 - 3.3.4. Host Province - 30%
 - 3.3.5. Host IPs/ICCS - 5%
 - 3.3.6. Host Regions - 5%

Section 4. Remittance of ER 1-94 Fund.

- 4.1. DLF and RWMHEEF shall be remitted accordingly to the Host LGUs pursuant to Section 7.2 of the DC2018-08-0021.
- 4.2. EF upon allocation, per Section 3.3 of this Circular, shall be remitted to the RWMHEEF Trust Account of the respective Host LGUs.

Only Host LGUs with submitted RWMHEEF Trust Account to the DOE and GenCos shall be processed for the remittance of the EF.

- 4.3. Memorandum of Agreement (MOA) is not necessary in the release and remittance of ER 1-94 Funds to the concerned LGU, instead this Circular shall serve as its basis. However, after the lifting of the State of Public Health Emergency, a MOA between the Host LGUs and GenCo must be executed in accordance with DC2018-08-0021.
- 4.4. GenCos shall report to the DOE the remitted EF to the Host LGUs.

TITLE III: PROJECT IMPLEMENTATION AND APPROVAL

Section 5. Eligible Projects.

All available ER 1-94 Funds shall be utilized and implemented by the Host LGUs for the management of the effects of COVID-19 public health crisis in their respective areas.

5.1. The ER 1-94 Funds may be utilized, as follows:

- 5.1.1. To facilitate mass testing, by providing facilities and/or acquiring of proper medical testing kits to detect COVID-19, including payment of medical testing and analysis fees;
- 5.1.2. Provide an emergency subsidy, when there is delay or insufficiency, to augment existing subsidy programs of the national government to low income households during period while State of Public Health Emergency is still in effect;
- 5.1.3. Provide resident health workers in their areas with a “COVID-19 special risk allowance” in addition to existing hazard pays including medical requirements if so needed;
- 5.1.4. Provide ways to ensure the uninterrupted availability and access of essential commodities, particularly food, and medicines, via a “mobile market” and adopt measures to minimize disruption in the supply chain;
- 5.1.5. Support feeding programs, if needed, of national government agencies relative to the COVID-19;
- 5.1.6. Acquisition of Personal Protective Equipment (PPEs), thermo-scanners and contactless thermometers, alcohol disinfectants and other medical supplies;
- 5.1.7. Provide, by constructing or leasing , additional provincial, city, municipal, or barangay medical facilities, tents, safe holding areas, including quarantine centers and distribution centers to accommodate the increasing number of patients and medical reliefs;
- 5.1.8. Electricity costs subsidies to new facilities of provincial, city, municipal, or barangay hospitals and health clinics, including increase in electricity demand by reason of COVID-19;

- 5.1.9. Engage additional temporary medical and health personnel as the need arises; and
 - 5.1.10. Other uses to combat COVID-19 that will give effect to this circular.
- 5.2. The host LGU must incorporate activities and projects stated above as part of their AWP. As such, the deadline for the submission of their respective AWPs shall be extended for a period of thirty (30) days from 14 April 2020 in order for the concerned LGU.

Section 6. Streamlined Procedure.

- 6.1. The DOE and the GenCos shall allocate the available EF to the identified Host LGUs pursuant to Section 3.3 of this Circular;
- 6.2. The Host LGUs shall identify the appropriate projects its community needs consistent with the allowable projects and program provided under Section 5 of this Circular;
- 6.3. The DOE and concerned GenCos shall remit the allocated ER 1-94 to the concern Host LGUs upon submission to the former of the latter's Letter of Intent for the utilization for their administered ER 1-94 Fund to combat the spread of COVID-19 pandemic and alleviate the deprivations of their constituents;
- 6.4. For proper recording of released/remitted EF, the sources and amount remitted shall be maintained by the recipient Host LGUs in ledgers, separate from DLF and RWMHEEF;
- 6.5. The LGUs may immediately commence with respective utilization of the ER1-94 Funds, based on the accumulated funds already deposited in respective trust accounts;
- 6.6. The Host LGUs shall include in its AWP, pursuant to Section 5.2, the projects as well as the specific amounts sourced from DLF, RWMHEEF and EF, as may be combined in the optimized utilization of the ER1-94 Funds;
- 6.7. The proper documentation on the utilization of the ER1-94 Funds for COVID-19 management shall be strictly observed by the Host LGUs and liquidation shall be completed within six (6) months after the utilization of ER1-94 Funds and in accordance with government accounting and auditing rules, regulations, and other related issuances.

Section 7. Procurement Process

All procurement activity in connection with the utilization of ER 1-94 pursuant to this Circular shall observe proper procurement process, documentation, and distribution list for liquidation purposes in accordance with applicable Government Accounting and Auditing Rules and Regulations.

Accordingly, the Government Procurement Policy Board issued Resolution No. 03-2020, dated 9 March 2020, approving the Adoption of Efficient, Effective and Expedient Procurement Procedures During the State of Public Health Emergency, see following links below:

<https://gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No.%2003-2020.pdf> and

[https://gppb.gov.ph/assets/pdfs/NPM%203-2020_Negotiated%20Procurement%20\(Emergency%20Cases\).pdf](https://gppb.gov.ph/assets/pdfs/NPM%203-2020_Negotiated%20Procurement%20(Emergency%20Cases).pdf)

TITLE IV. OTHER PROVISIONS

Section 8. Effectivity And Duration.

This Circular having been issued under a declared State of Emergency, the provisions thereof shall be effective immediately and shall be in force and effect for the entire duration of the State of Public Health Emergency as provided in Proclamation No. 922, other existing laws, rules and regulations

After the lifting of the State of Public Health Emergency, the utilization of the ER 1-94 Funds shall be that as provided under DC2018-08-0021.

However, pending and on-going projects and programs after the lifting of the State of Public Health Emergency shall be implemented and will be applied for residual measures, unless it is patently unnecessary to be determined by the DOE.

Section 9. Construction or Interpretation.

Nothing herein shall be construed as an impairment, restriction or modification of the provisions of the Constitution or existing laws. In the exercise of powers herein granted conflicts with other rules and regulations, this Department Circular shall prevail.

Section 10. Separability Clause.

In case any provision in this Department Circular is declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected.

Section 11. Effectivity.

This Circular shall take effect immediately after publication in one (1) newspaper of general circulation. Copies thereof shall be filed with the University of the Philippines Law Center - Office of National Administrative Register (UPLC-ONAR).

Signed at DOE Building, Energy Center, Rizal Drive, Fort Bonifacio Global City, Taguig City.

ALFONSO G. CUSI
Secretary