



Republic of the Philippines

## DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC2019-10-0013 *H*

### OMNIBUS GUIDELINES GOVERNING THE AWARD AND ADMINISTRATION OF RENEWABLE ENERGY CONTRACTS AND THE REGISTRATION OF RENEWABLE ENERGY DEVELOPERS

**WHEREAS**, pursuant to Section 2, Article XII, of the 1987 Philippine Constitution, all forces of potential energy and other natural resources within the Philippine territory belong to the State and their exploration, development and utilization shall be under the full control of the State;

**WHEREAS**, under Section 2 of Republic Act (RA) No. 7638, as amended, otherwise known as the "*Department of Energy Act of 1992*", the Department of Energy (DOE) is mandated 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, among others;

**WHEREAS**, Section 5(b) of the same Act empowers the DOE to develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy, and which program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry and reduction of dependency on oil-fired plants;

**WHEREAS**, Section 2 of RA No. 9136, otherwise known as the "*Electric Power Industry Reform Act of 2001*" or "*EPIRA*", declares that it is the policy of the State to, among others, (i) ensure and accelerate the total electrification of the country; (ii) enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors; (iii) assure socially and environmentally compatible energy sources and infrastructure; and (iv) promote the utilization of indigenous and new and renewable energy resources in power generation in order to reduce dependence on imported energy;

**WHEREAS**, Joint Administrative Order (JAO) No. 2008-1, Series of 2008, otherwise known as the "*Guidelines Governing the Biofuel Feedstocks Production, and Biofuels and Biofuel Blends Production, Distribution and Sale*", provides for the accreditation of biofuel producers, among others, under RA No. 9367, otherwise known as the "*Biofuels Act of 2006*";

**WHEREAS**, Section 2 of RA No. 9513, otherwise known as the "*Renewable Energy Act of 2008*" or "*RE Act*", directs the State to encourage and accelerate the exploration, development and utilization of renewable energy (RE) resources such as, but not limited to, biomass, solar, wind, hydropower, geothermal, and ocean energy sources, and including hybrid systems;

**WHEREAS**, Section 19(c), Rule 6 of Department Circular No. DC2009-05-0008 which prescribes the Implementing Rules and Regulations (IRR) of the RE Act, requires the DOE to issue a regulatory framework containing the guidelines that shall govern the transparent and competitive system of awarding Renewable Energy Service/Operating Contracts from Pre-Development to Development onto Commercial Operations stage, or the awarding of direct operating contracts to specific RE technologies, among others;

**WHEREAS**, under Section 2 of RA No. 11032, otherwise known as the "*Ease of Doing Business and Efficient Government Service Delivery Act of 2018*", it is the duty of the State to, among others, promote integrity, accountability, proper management of public affairs and public property, aimed at efficient turnaround of the delivery of government services and the prevention of graft and corruption in government;

**WHEREAS**, in Section 2 of RA No.11234, otherwise known as the "*Energy Virtual One-Stop Shop Act*" or "*EVOSS*", the State is likewise commanded to, among others, ensure transparency and accountability in the process of approving power generation, transmission, or distribution projects, and deliver efficient and effective service to the public;

**WHEREAS**, in pursuing the efficient and transparent exploration, development and utilization of RE resources, the DOE promulgated various policies and guidelines in the awarding of RE Contracts and issuance of Certificates of Registration to RE Developers, with the view to increase the development and utilization of RE to contribute in the attainment of energy supply security in the country, to wit:

- (a) DC2009-07-0011 dated 12 Jul 2009;
- (b) DO2013-08-0011 dated 20 July 2013;
- (c) DO2013-10-0018 dated 09 October 2013;
- (d) DO2013-12-0020 dated 02 December 2013;
- (e) DO2013-12-0023 dated 27 December 2013;
- (f) DO2014-06-0010 dated 09 June 2014;
- (g) DO2014-10-0018 dated 14 October 2014;
- (h) DO2016-09-0011 dated 05 September 2016;
- (i) DO2016-06-0010 dated 24 June 2016;
- (j) DO2017-04-0005 dated 07 April 2017;
- (k) DO2018-03-0003 dated 16 March 2018;
- (l) DO2019-01-0003 dated 11 January 2019; and
- (m) DO2019-07-0018 dated 30 July 2019;

**WHEREAS**, recent developments necessitate the harmonization and enhancement of the existing guidelines and procedures governing the transparent and competitive system of awarding RE Contracts and the registration of RE Projects;

**NOW, THEREFORE**, in consideration of the foregoing premises, the DOE hereby issues the following revised guidelines and procedures governing the awarding of RE Contracts, and the registration and management of RE Projects:

## CHAPTER I

### GENERAL PROVISIONS

**Section 1. Title.** This Circular shall be known as the *“Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers.”*

**Section 2. Coverage.** This Circular shall prescribe the guidelines and procedures on:

- 2.1. The pre-application, application, and award of RE Contracts;
- 2.2. The conversion of existing service contracts to RE Contracts for the exploration, development or utilization of RE resources with the DOE, subject to Section 39, Rule 13, of the IRR of the RE Act;
- 2.3. The issuance by the DOE of Certificates of Registration (COR) for RE Developers of projects with or without RE Contracts; and
- 2.4. The administration of RE Contracts.

**Section 3. Definition of Terms.** As used in this Circular and in other issuance of the DOE, the following terms shall be understood to mean, as follows:

- 3.1. *“Biomass Energy Operating Contract”* or *“BEOC”* shall refer to the RE Contract issued for the development and operation of RE Projects utilizing biomass as RE Resource.
- 3.2. *“Blocking System”* shall refer to the subdivision of the Philippines, for purposes of RE Applications for wind, geothermal and ocean resources, into RE meridional blocks (RE blocks) of 30 seconds of latitude and 30 seconds of longitude using Philippine Reference System of 1992 (PRS'92) as the standard reference system. One (1) RE block shall have approximate area of eighty-one (81) hectares. Each block shall have a unique number designated by the DOE.

- 3.3. *"Certificate of Confirmation of Commerciality"* or *"COCOC"* shall refer to the Certificate duly signed by the DOE Secretary confirming the Declaration of Commerciality by the RE Developer and shall serve as a notice to proceed for the construction of the RE Project or the installation of the RE Facilities. The date of issuance of the COCOC shall be considered as the commencement date of the Development Stage of the RE Project.
- 3.4. *"Commercial Operations"* shall refer to the phase commencing at the operation of the RE Project, following its successful testing and commissioning, and confirming its readiness to inject power into the grid to sell or supply its produced energy, as duly confirmed by the DOE and other relevant regulatory bodies.
- 3.5. *"Commercial Quantities"* shall mean quantities of energy to be produced from the RE Resources using commercially available technology to develop the RE Systems which have a reasonable chance of being sufficient and technically compliant to support the Commercial Operations of the project.
- 3.6. *"Contract Area"* shall refer to the total area, which is the subject of the RE Contract as detailed and outlined in the map with its technical description, and where the RE Developer has the exclusive right to explore, develop and utilize the RE Resources.
- 3.7. *"Declaration of Commerciality"* or *"DOC"* shall refer to a written declaration made by the RE Developer to the DOE, stating that the RE Resource is of Commercial Quantities.
- 3.8. *"Direct Application"* shall refer to the mode of RE Application whereby the RE Applicant identifies a Contract Area it wishes to explore or develop. The identified Contract Area must first be certified by the DOE to be free and open for exploration or development.
- 3.9. *"Energy Application Management System"* or *"EAMS"* shall refer to an intranet-based system utilizing radio frequency identification (RFID) technology to uniquely identify an application and monitor its real-time location.
- 3.10. *"Financial Closing"* shall refer to such milestone in the Pre-Development or Development Stage of the RE Project when the RE Developer has secured a written commitment from the financier/s to provide its full funding requirements through equity and/or commercial borrowings, or other financing schemes.
- 3.11. *"Financial Qualifications"* shall refer to the criteria and procedures set out by the DOE to establish the financial capability of the RE Developer to implement the RE Project.
- 3.12. *"Geothermal Service Contract"* or *"GSC"* shall refer to the RE Contract issued for the exploration, development and/or utilization of geothermal resources as RE Resource for the operation of RE Projects.

- 3.13. *"Hydropower Service Contract" or "HSC"* shall refer to the RE Contract for the exploration, development and/or utilization of hydropower resources as RE Resource for the operation of RE Projects.
- 3.14. *"Letter of Intent" or "LOI"* shall refer to the written notice or document submitted by a Person to the DOE, indicating interest in the exploration, development, utilization and commercialization of RE Resource.
- 3.15. *"Ocean Energy Service Contract" or "OESC"* shall refer to the RE Contract for the exploration, development and/or utilization of ocean resources for the operation of RE Projects.
- 3.16. *"Pre-Determined Area" or "PDA"* shall refer to area/s with RE Resource potential through sufficient available technical data as may be determined by the REMB, and approved by the DOE Secretary for its inclusion in the Open and Competitive Selection Process (OCSP).
- 3.17. *"Person"* shall refer to a natural or juridical person, as the case may be.
- 3.18. *"Production Area"* shall refer to that portion of the Contract Area identified in metes and bounds by the RE Developer and approved by the DOE, where RE Resources are utilized to produce electricity in Commercial Quantities.
- 3.19. *"RE Applicant"* shall refer to any Person, subject to the limitations provided in Section 4.2 hereof, who applies for the assessment, exploration, harnessing, development, utilization or commercialization of RE Resources.
- 3.20. *"RE Application"* shall refer to the set of documents submitted by RE Applicants pertaining to their legal, technical and financial qualifications to enter into an RE Contract with the government, by either OCSP or Direct Application, in accordance with the requirements under this Circular. For this purpose, the RE Application shall be comprised of one (1) electronic copy and four (4) printed copies, where one (1) set of the printed copy shall be in the original.
- 3.21. *"RE Contract" or "Financial and Technical Assistance Agreement (FTAA)"* refers to the service agreement between the Government, through the DOE or the President, respectively, and an RE Developer over an appropriate period as determined by the DOE which grants to the RE Developer the exclusive right to explore, develop, or utilize the RE Resource within a particular area.
- 3.22. *"RE Developer"* shall refer to an individual or juridical entity created, registered and/or authorized to operate in the Philippines in accordance with existing Philippine laws, and engaged in the exploration, development and/or utilization of RE Resources, and actual operation of RE Project. It shall include existing entities engaged in the exploration, development and/or utilization of RE Resources, or the generation of electricity from RE Resources, or both.

- 3.23. *"RE Operating Contract"* shall refer to the service agreement between the DOE and RE Developer for the development and/or utilization of biomass, solar and other RE Resources which, due to their inherent technical characteristics, need not go through Pre-Development Stage.
- 3.24. *"RE Project"* shall refer to the power generation and related facilities utilizing RE Resources under a particular RE Contract or Certificate of Registration issued by the DOE pursuant to the RE Act.
- 3.25. *"RE Project for Non-Commercial Operations"* shall refer to an RE Project which is intended for demonstration purposes of any new or modified RE technologies, and those that are covered by Official Development Assistance (ODA) grants, and all other programs and projects which are not designed and operated for profit.
- 3.26. *"RE Project for Own-Use"* shall refer to an RE Project located within the premises of or in an area contiguous to an End-User's premises, and operated solely for the supply of a portion or all of the electricity requirements of such End-User. For this purpose, an *"End-User"* shall refer to any person or entity requiring the supply and delivery of electricity generated by the RE Project dedicated for its own consumption, which facility is installed either by the End-User or through a third-party provider.
- 3.27. *"RE Resource"* shall refer to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, but are not limited to, biomass, solar, wind, geothermal, ocean energy, and hydropower, conforming with internationally accepted norms and standards on dams, and other emerging RE technologies.
- 3.28. *"RE Service Contract"* shall refer to a service agreement between the Philippine Government, through the President or the DOE Secretary, and RE Developer, covering an appropriate period as stated therein, in which the RE Developer shall have the exclusive right to explore, develop and utilize geothermal, hydropower, wind, ocean and other RE Resources within a particular area.
- 3.29. *"Renewable Energy Management Bureau"* or *"REMB"* refers to the unit of the DOE created under Section 32 of the RE Act, with the primary function includes, among others, implementing policies, plans, and programs related to the accelerated development, transformation, utilization, and commercialization of RE Resources and technologies.
- 3.30. *"Solar Energy Operating Contract"* or *"SEOC"* shall refer to the RE Contract issued for the development and operation of RE Projects utilizing solar energy as RE Resource.

- 3.31. “*Wind Energy Service Contract*” or “*WESC*” shall refer to the RE Contract issued for the exploration, development and/or utilization of wind energy as RE Resource for the operation of RE Projects.
- 3.32. “*Work Program*” refers to the plans and programs and other related activities formulated for the performance of the work obligations under the RE Contract by the RE Developer, along with the corresponding budgetary estimate, submitted to the DOE for approval.

## CHAPTER II

### RE SERVICE AND OPERATING CONTRACTS

#### Section 4. RE Contract – Modes of Award and Qualifications.

- 4.1. *Modes of Awarding RE Contract.* – RE Contracts shall be awarded through (a) an Open and Competitive Selection Process or (b) Direct Application.
- 4.1.1. The Open and Competitive Selection Process (OCSP) shall be adopted for the selection and award of RE Service Contracts for Pre-Determined Areas (PDAs) covering any type of resource for commercial purposes. This shall be governed by Chapter IV below.
- 4.1.2. Direct Application shall be available for the selection and award of:
- (a) RE Operating Contracts;
  - (b) RE Service Contracts covering PDAs, following a failed OCSP pursuant to Section 13.7 and the procedures in Chapter V below; and
  - (c) RE Service Contract in an area identified by a RE Applicant and verified with or confirmed by the DOE-Information Technology and Management Services (ITMS) as available for exploration, development and/or utilization of the proposed RE Resource.
- 4.1.3. RE Projects for Own-Use and/or RE Projects for Non-Commercial Purposes shall not require the issuance of RE Contracts but shall comply with the registration requirements provided under Chapter IX of this Circular.

- 4.2. *Who May Apply.* – Any Person, local or foreign, may apply for RE Contracts, subject to the limits provided in this Circular.
- 4.2.1. The RE Applicant must be a Filipino or, if a corporation, must be a Filipino corporation duly registered with the Securities and Exchange Commission (SEC), with at least sixty percent (60%) of its capitalization duly owned and controlled by Filipinos, unless the application is for biomass development and/or uses waste-to-energy technology, in which case, the 60% Filipino capitalization requirement shall not apply. This provision shall retroact to all RE Applications for biomass resource development and utilization that are being evaluated prior to the effectivity of this Circular.
- 4.2.2. For the large-scale exploration, development and utilization of geothermal resources, defined under Section 4(s) of the RE Act as a mineral resource, the Government through the President may enter into agreements with foreign-owned corporations involving technical or financial assistance pursuant to Article XII, Section 2 of the Philippine Constitution.
- 4.2.3. In case the RE Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation registered under the Corporation Code of the Philippines and shall comply with the nationality requirements as provided for in the preceding paragraph.
- 4.3. *Stages of an RE Operating Contract.* – An RE Operating Contract shall cover only the Development/Commercial Stage, which involves the development, construction and installation and commercial operation of the RE Project, including the achievement of Financial Closing.
- 4.4. *Stages of an RE Service Contract.* – An RE Service Contract shall cover two (2) stages of the RE Project, namely:
- 4.4.1. Pre-Development Stage. Involves the conduct of preliminary assessment and feasibility study up to Financial Closing and Declaration of Commerciality (DOC) of the RE Project, including the identification of the proposed Production Area; and
- 4.4.2. Development/Commercial Stage. Involves the development, construction and commercial operation of the RE Project, production and utilization of RE Resources.
- 4.5. *Transition from Pre-Development Stage to Development/Commercial Stage.* – The RE Service Contract shall transition from the Pre-Development Stage to Development/Commercial Stage only after issuance by the DOE of a Certificate of Confirmation of Commerciality (COCOC). The process of the issuance of a COCOC is provided in Section 29 hereof.

**Section 5. RE Contract Area.** Upon transition from the Pre-Development to Development Stage of the RE Service Contract, the Contract Area shall be amended to cover the Production Area only. In the case of RE Operating Contracts, the Contract Area is equivalent to the Production Area.

**Section 6. Conversion of Existing Service Contract.** For existing RE Projects that have been operating prior to the effectivity of the RE Act pursuant to contracts issued under the relevant preceding laws and those that have been issued RE Contracts after the RE Act but prior to this Circular, the contract holder may elect to convert its service contract or agreement by applying for an RE Contract under this Circular. However, the period of the RE Contract to be issued in relation thereto shall be the balance of the contract term remaining under the existing and valid service/operating contract or agreement. The requirements and procedures for conversion to RE Contract templates in Annexes A to F is provided in Section 30 hereof.

### CHAPTER III

#### TYPES OF RE CONTRACT PER RESOURCE

**Section 7. Biomass Energy Resource.** The development of biomass resources shall be covered by a Biomass Energy Operating Contract (BEOC) following the prescribed template (Annex A). The RE Developer shall be given a period of five (5) years from the date of effectivity of the BEOC to achieve Commercial Operations of the RE Project. The BEOC shall have a term of twenty-five (25) years from the date of its effectivity and may be renewed for the same period, subject to terms and conditions provided therein.

In the case of biofuel producers, their accreditation shall be governed by the procedures under JAO No. 2008-1, Series of 2008 pursuant to RA No. 9367. At their option, the accredited biofuel producers may register with the DOE as RE Developers to avail of incentives under the RE Act.

**Section 8. Geothermal Energy Resource.** The development of geothermal resources shall be covered by a Geothermal Service Contract (GSC) following the prescribed template (Annex B).

- 8.1. The RE Developer shall be given a period of seven (7) years from the date of effectivity of the GSC to determine the existence of geothermal resources in Commercial Quantities.
- 8.2. The GSC shall have a term of twenty-five (25) years, which shall include the Pre-Development Stage, from the date of its effectivity. The Development/Commercial Stage shall commence upon the issuance of the COCOC by the DOE prior to the expiration of the Pre-Development Stage, and shall continue for the remainder of the twenty-five (25)-year period of the GSC term in accordance with the timeline set in the approved Work Program. The GSC may be renewed for another twenty-five (25) years, subject to terms and conditions provided therein.

**Section 9. Solar Energy Resource.** The development of solar energy resources shall be covered by a Solar Energy Operating Contract (SEOC) following the prescribed template (Annex C).

- 9.1. The Work Program depends on the type of development, whether the RE Project is mounted, roof-top, or floating.
- 9.2. The RE Developer shall be given a period of five (5) years from the date of effectivity of the SEOC to achieve Commercial Operations of the RE Project. The SEOC shall have a term of twenty-five (25) years from the date of its effectivity and may be renewed for the same period, subject to terms and conditions provided therein.

**Section 10. Hydropower Resource.** The development of hydropower resources shall be covered by a Hydropower Service Contract (HSC) following the prescribed template (Annex D).

- 10.1. The RE Developer shall be given a period of five (5) years from the date of effectivity of the HSC to determine the existence of hydropower resource in Commercial Quantities.
- 10.2. The HSC shall have a term of twenty-five (25) years, which shall include the Pre-Development Stage, from the date of its effectivity. The Development/Commercial Stage shall commence upon the issuance of the COCOC prior to the expiration of the Pre-Development Stage, and shall continue for the remainder of the twenty-five (25)-year period of the HSC term in accordance with the timeline set in the approved Work Program. The HSC may be renewed for another twenty-five (25) years, subject to terms and conditions provided therein.

**Section 11. Ocean Energy Resource.** The development of ocean energy resources shall be covered by Ocean Energy Service Contract (OESC) following the prescribed template (Annex E).

- 11.1. The Work Program depends on the type of development, whether the RE Project is tidal stream/tidal current, tidal range, wave, ocean thermal or salinity gradient.
- 11.2. The RE Developer shall be given a period of seven (7) years from the date of effectivity of the OESC to determine the existence of ocean energy resource in Commercial Quantities.
- 11.3. The OESC shall have a term of twenty-five (25) years, which shall include the Pre-Development Stage, from the date of its effectivity. The Development/Commercial Stage shall commence upon the issuance of the COCOC prior to the expiration of the Pre-Development Stage, and shall subsist for the remainder of the twenty-five (25)-year period of the OESC term in accordance with the timeline set in the approved Work Program. The OESC may be renewed for another twenty-five (25) years, subject to terms and conditions provided therein.

**Section 12. Wind Energy Resource.** The development of wind energy resources shall be covered by Wind Energy Service Contract (WESC) following the prescribed template (Annex F).

- 12.1. The RE Developer shall be given a period of five (5) years from the date of effectivity of the WESC to determine the existence of wind energy resource in Commercial Quantities.
- 12.2. The WESC shall have a term of twenty-five (25) years, which shall include the Pre-Development Stage, from the date of its effectivity. The Development/Commercial Stage shall subsist for the remainder of the twenty-five (25)-year period of the WESC term in accordance with the timeline set in the approved Work Program. The WESC may be renewed for another twenty-five (25) years, subject to terms and conditions provided therein.

## CHAPTER IV

### PROCEDURE FOR RE CONTRACTS UNDER OPEN AND COMPETITIVE SELECTION PROCESS

**Section 13. Open and Competitive Selection Process (OCSP).** Interested parties may apply for RE Contracts for PDAs offered by the DOE during a prescribed period (Annex G).

- 13.1. *Selection of PDAs.* – Within six (6) calendar months following the effectivity of this Circular and every year thereafter, the REMB shall identify and submit a list of PDAs for RE Application, with the respective location maps and technical descriptions thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.
- 13.2. *Launch and Publication.* – PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of RE Applications. PDAs for offer shall be published for at least once (1) a week for two (2) consecutive weeks in at least two (2) newspapers of general circulation and shall likewise be posted at the DOE website.
- 13.3. *Data Packages and Promotional Activities.* – The REMB shall arrange for the availability of data packages for the approved PDAs that can be purchased by interested parties in support of their applications. The REMB shall conduct promotional activities to promote the OCSP and the corresponding data packages so as to ensure maximum participation and awareness of prospective investors and stakeholders.
- 13.4. *RE Contract Application.* – Applications may be submitted a day after the publication date until the last day of submission which shall be sixty (60) calendar days from the date of first publication in accordance with the following requirements:

13.4.1. The RE Applicant shall submit to the DOE a Letter of Intent (LOI) following the prescribed format (Annex H) together with the RE Application in accordance with prescribed Checklist of Requirements (Annex I);

Each RE Application shall cover only one PDA as published.

13.4.2. The RE Application must be in both paper and electronic (flash drive in Portable Data Format) copies, which shall use Times New Roman in 12-point font size, and employ single line spacing. Figures and maps shall be printed and submitted in a document that is not smaller than A3 size. For legibility, figures and maps shall be submitted at a larger scale (1:10,000) as appendices;

13.4.3. An application fee shall be paid by each RE Applicant, along with the submission of RE Application. All payments may be made in cash, manager/company cheque, payable to "Department of Energy" or by wire/bank transfer. All wire/bank transfers should be net of all applicable bank and financial charges.

13.5. *Opening and Evaluation of RE Applications.* – The DOE shall open the applications at exactly 1300H, on the last day of the submission of RE Applications.

13.6. *Evaluation, Selection and Award.* – The evaluation and selection of RE Applications and award of RE Contract shall be conducted following the criteria and procedures set hereunder:

13.6.1. Applications with incomplete documents based on the Checklist of Requirements shall be automatically disqualified during the opening of RE Applications. No additional documents shall be accepted after the deadline for submission of RE Applications.

13.6.2. RE Applicants shall be duly informed by the REMB Supervising Assistant Secretary whether their application passed the completeness check and shall be subjected to further legal, technical and financial evaluations. Applicants who were disqualified for submitting incomplete documents shall likewise be informed by the REMB Supervising Assistant Secretary of the fact of their disqualification and the reasons therefor.

13.6.3. RE Applications which passed the completeness check shall be evaluated based on the following criteria:

Legal Qualification	Pass/Fail
Work Program	40%
Technical Qualification	20%
Financial Qualification	40%

The guidelines and procedures, including the qualification criteria per scoring item, of every OCSP shall be determined at the beginning of every OCSP round.

- 13.6.4. The highest ranked RE Application that meets the legal, technical, and financial requirements shall be selected.
- 13.6.5. After a complete review and evaluation of the legal, technical, and financial qualifications of the RE Applications, the REMB Director, through its Supervising Assistant Secretary and Undersecretary, shall transmit to the DOE Secretary a written endorsement of the selected RE Application.
- 13.6.6. Based on the written endorsement of the REMB, the DOE Secretary may approve the application and issuance of the corresponding RE Contract.
- 13.7. An OCSP, with respect to any or all PDAs included therein, shall be declared a failure when any of the following circumstances exists:
  - 13.7.1. No RE Application was received by the DOE;
  - 13.7.2. No RE Application passed the legal requirements; or
  - 13.7.3. When one or more RE Applications passed the legal requirements but after the evaluation of technical and financial proposals, none of such RE Applications were able to meet either the technical or financial requirements.

In any of the foregoing cases, the PDA shall be opened for Direct Applications. To initiate the change of mode of awarding RE Contract from OCSP to Direct Application for the relevant areas, the DOE shall include in the announcement of the result of the OCSP the area/s which shall be open for Direct Application, indicating thereat when the new application process shall commence.

## CHAPTER V

### PROCEDURE FOR RE CONTRACTS UNDER DIRECT APPLICATION

**Section 14. Coverage.** Direct Application shall be observed in processing RE Applications for: (a) RE Resources located in PDAs which the DOE shall declare as available under this mode pursuant to Section 13.7 hereof, and (b) RE Resources in areas other than those included in the PDAs, subject to the procedures provided herein.

## **Part 1. Pre-Application Process**

**Section 15. Submission of Letter of Intent.** All interested participants shall prepare an LOI to develop a certain area, in accordance with the mapping requirements (Annex J), addressed to the REMB Director, which shall be submitted through the DOE-Records Management Division (RMD). The submission of the LOI shall not be considered as a filing of an RE Application and shall not commence the application process.

Upon receipt of the LOI, the RMD shall attach a radio-frequency identification (RFID) tag thereon, encode the document under Energy Application Monitoring System (EAMS) and forward the document to the REMB Assistant Director.

**Section 16. Orientation of Interested Participants.** The orientation is intended to inform the interested participants about the RE Application requirements, and to guide them through the process of evaluating and awarding of the RE Contracts and the registration of an RE Project.

- 16.1. Within three (3) working days from receipt of the LOI, the concerned REMB Division, through its Assistant Director, shall issue an acknowledgment letter addressed to the interested participant and encode the document in EAMS.
- 16.2. All interested participants shall be informed of the schedule of orientation or briefing on the RE Application requirements and processes.
- 16.3. Should any interested participant consider the orientation or briefing as unnecessary or dispensable, they may waive such option in writing either in its LOI or in response to the notice of the schedule of orientation provided in the preceding paragraph.

**Section 17. Area Verification.** The area verification process shall determine whether any of the conditions under Section 23 of this Circular apply to the area identified by the interested participant.

- 17.1. The concerned technical division of the REMB, through its Assistant Director, shall endorse the LOI and its attachments to the ITMS within two (2) working days from its receipt of the same. For solar and biomass development, the concerned REMB Division shall also endorse to the DOE-Legal Services (LS) the sworn affidavit of undertaking. Said affidavit is an undertaking executed by the interested participant to submit a proof of ownership or possessory rights over real property covered by the proposed project area/site located in private lands; or proof of application to acquire possessory rights over areas considered as public lands. Such proof of land rights shall be submitted as part of the application requirements found in Annex I.
- 17.2. Within five (5) working days from receipt of the LOI, the ITMS and LS shall complete the area verification, encode in the EAMS the memorandum on the result of the area verification, and provide the concerned REMB Division with the verification report.

- 17.3. Within two (2) working days from its receipt of the results of the area verification, the concerned REMB Division shall notify the interested participant in writing that it may proceed with the filing of RE Application. The letter to the interested participant shall be encoded under the EAMS.
- 17.4. If the proposed area is found to be partially occupied by another RE Developer developing the same type of RE Resource being applied for, the interested participant has the option to proceed with filing an RE Application over the re-validated area (net of the area occupied by another RE Developer).

## ***Part 2. Filing and Evaluation of RE Applications***

**Section 18. Receipt of RE Applications.** Following the area verification step, the interested participant may proceed to submit its RE Application by complying with the procedures and requirements as follows:

- 18.1. Prior to its submission of the RE Application to the RMD, the RE Applicant shall proceed to the concerned REMB Division who shall determine whether the RE Application is complete based on the Checklist of Requirements. The determination shall be made in the presence of the RE Applicant or its duly authorized representative. No RE Application shall be received and no order of payment shall be issued unless the RE Applicant has submitted all the documentary requirements enumerated under the Checklist of Requirements.
- 18.2. After payment of the application and processing fees, the RE Application shall be submitted to the RMD, together with a photocopy of the official receipt of the said fees. Thereafter, the RMD shall attach a RFID tag thereon, encode the document under EAMS and forward the document to the REMB Assistant Director. The RE Application shall follow the format prescribed in Section 13.4.2 hereof. Each printed copy shall be enclosed in separate folders designated for the legal, technical, and financial documents. At this point, the RE Application is deemed filed and any amendment thereof by the RE Applicant shall no longer be allowed.

## **Section 19. Evaluation of RE Applications.**

- 19.1. The RMD shall, within one (1) working day from receipt of RE Application, forward the same to the concerned REMB Division. The concerned REMB Division shall record the date of filing of the RE Application and within the same day of receipt from the RMD, distribute one (1) copy of the RE Application each to the LS for legal evaluation, and the DOE-Financial Services (FS) for financial evaluation.
- 19.2. The concerned divisions of the REMB, LS, and FS shall evaluate the RE Application simultaneously. The evaluations shall be completed within five (5) working days from the date of their receipt of the same.

- 19.2.1. If the RE Application passes the legal, technical, and financial evaluations, the evaluation documents shall be collated and endorsed by the REMB Director to its Supervising Assistant Secretary and Undersecretary. To this end, the concerned REMB Division shall assist the REMB Assistant Director by preparing, within three (3) working days from its receipt of the evaluation documents, a memorandum endorsing the RE Application for the concurrence of the LS, the draft RE Contract, and the corresponding Certificate of Registration (COR), as necessary. The endorsement must include the original copy of the results of legal, technical and financial evaluations along with all their attachments, and the project area map and its technical descriptions.
- 19.2.2. In case the RE Application does not pass any of the legal, technical, or financial evaluations, the concerned REMB Division shall, within three (3) working days from receipt of all the evaluations, prepare a letter to be signed by REMB Director requiring the RE Applicant to submit documents in support of its application within a period of ten (10) working days from receipt of such notice.
- (a) Failure of the RE Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the RE Application. Thereafter, a notice to the RE Applicant shall be prepared by the REMB, signed by its Assistant Secretary, stating that the RE Application is deemed to have been abandoned by the RE Applicant.
  - (b) In case the RE Applicant submits supplementary documents within the prescribed period above, the REMB shall immediately forward such documents to the concerned units of the DOE upon its receipt of the same. Thereafter, the concerned units of the DOE shall re-evaluate the RE Application and submit the result within two (2) working days from receipt thereof. The REMB Assistant Director shall collate the results and follow the procedure outlined in Section 19.2.1 above if the RE Application passed the legal, technical, and financial requirements.
  - (c) Should the RE Application still fail to pass any of the subsequent legal, technical or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the RE Application to the supervising Assistant Secretary who shall then issue a formal notice to the RE Applicant stating the basis of the disqualification. Upon receipt of the RE Applicant of the letter of disqualification, the REMB shall prepare a memorandum to the ITMS to immediately re-open the area for RE Applications by posting such information on the DOE website.
- 19.3. It shall be the duty of the concerned DOE unit to encode all documents and activities in the EAMS during the evaluation process.

## CHAPTER VI

### AWARD OF RE CONTRACTS

**Section 20. Approval and Signing of the RE Contract.** The following procedure shall govern the awarding of RE Contracts and the registration of RE Developers:

- 20.1. *Notification of Award.* – The DOE shall notify the selected (under the OCSP) or qualified (under Direct Application) RE Applicant of the award and the schedule of the signing of the RE Contract, *Provided*, That any RE Contract in the nature of a financial or technical assistance agreement shall be approved and executed by the President of the Philippines, upon the recommendation by the DOE Secretary, in accordance with Article XII, Section 2 of the Philippine Constitution.
- 20.2. *Signing of the RE Contract.* – The signing of the RE Contract shall be divided into two stages, namely: a) pre-signing by the RE Applicant; and b) signing of the DOE Secretary.
  - 20.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary within two (2) working days from receipt thereof. The Undersecretary shall act on the endorsement within two (2) working days from receipt of the documents. Within one (1) working day from the concurrence of the Undersecretary of the REMB's recommendation, the REMB Director shall require the RE Applicant to pre-sign the original copies of the RE Contract following the prescribed template.
  - 20.2.2. Within one (1) working day from the date of pre-signing, the REMB Director shall prepare a memorandum to the DOE Secretary, coursed through its Supervising Assistant Secretary and Undersecretary, endorsing the award of the RE Contract. The endorsement shall include the pre-signed RE Contract with the corresponding Certificate of Registration (COR), and all the relevant attachments.
  - 20.2.3. The REMB Director shall forward the pre-signed RE Contract, along with the endorsement and all its attachments, to the LS for its concurrence. Within three (3) working days from receipt of the documents, the LS shall review the pre-signed RE Contract and all the other documents and revert the same to REMB for further processing.
  - 20.2.4. Upon receipt of the LS concurrence of the pre-signed RE Contract and its accompanying documents, the REMB shall endorse the same to its Supervising Assistant Secretary.

- 20.2.5. The REMB Supervising Assistant Secretary shall review the pre-signed RE Contract and its accompanying documents and endorse the same to the REMB Supervising Undersecretary. Likewise, the REMB Supervising Undersecretary shall review the pre-signed RE Contract and its accompanying documents and endorse the same to the DOE Secretary. This process shall take three (3) working days to complete.
- 20.2.6. The Office of the DOE Secretary shall receive the pre-signed RE Contract and all its attachments, the endorsement of the REMB, and the concurrence of the LS thereto. The DOE Secretary shall act on the documents within seven (7) working days from receipt thereof.
- 20.3. *Payment of Signing Fee.* – The REMB Director shall send a written notice to the RE Applicant within one (1) working day from the DOE Secretary's signing of the RE Contract to pay the signing fee and post the performance bond, within the relevant period, covering the first Contract Year. Said notice shall likewise contain an order of payment for the signing fee which shall be paid directly to the Treasury.
- The RE Developer shall submit proof of payment of the signing fee within fifteen (15) calendar days from receipt of notice. Failure of the RE Developer to do so shall be deemed as an abandonment of the RE Application and shall cause the revocation of the COR and the RE Contract. Further, non-posting of the performance bond within thirty (30) calendar days from receipt of notice shall cause the RE Contract to be deemed void.
- 20.4. *Delivery of the Signed RE Contract.* – The notarized copy of the RE Contract and the COR shall be furnished to the RE Applicant upon submission by the latter of a copy of the official receipt of payment of the corresponding signing fee to the DOE. A copy of the original RE Contract and a photocopy of the COR shall be provided to the concerned REMB Division and the RMD.
- 20.5. *Duty to Maintain Records.* – The concerned REMB Division shall maintain a record of all LOIs received in the EAMS, and pending RE Applications and signed RE Contracts in the Energy Virtual One-Stop Shop (EVOSS) System.
- 20.6. The ITMS shall make the area available to other applicants only when: a) the RE Applicant failed to qualify; or b) withdraws or abandons its LOI or RE Application, as the case may be, and only after due notice is given to the concerned interested participant/RE Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-served basis.

## CHAPTER VII

### TECHNICAL GUIDELINES

**Section 21. Configuration of RE Contract Area.** The configuration of the proposed Contract Area shall depend on the type of resource being applied for which shall be as follows:

- 21.1. For solar and biomass resources, the area shall be in one (1) parcel polygon. The interested participant shall specify the type of system of the RE Project, whether it is ground-mounted, roof-mounted or floating solar and submit the technical requirements based on the chosen system.
- 21.2. For hydropower resources, the applied area shall indicate the geographic coordinates of the proposed location of weir, with elevation, and the powerhouse.
- 21.3. For wind, geothermal and ocean resources, the applied area shall either be polygonal or in blocks following the Blocking System or a combination of both.

**Section 22. Proof of Access to Proposed/Applied Area.** The RE Applicant for solar and biomass development shall submit proof of ownership or possessory rights over real property/ies covered by the proposed project area/site located in private lands: *Provided*, That in the case of public lands, proof of application to acquire possessory rights over the real property/ies covered by the proposed area shall suffice.

**Section 23. Area Verification Results.** The ITMS shall provide the concerned REMB Division with the verification report which may indicate that the proposed Contract Area is:

- 23.1. Covered by an existing PDA under the OCSP, RE Contract or pending RE Application for the development of the same RE Resource in the LOI or RE Application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by the ITMS;
- 23.2. Within or overlaps the area of an existing energy service or operating contract such as Petroleum SC, COC, SSMP or RESC, other than the RE resource or technology being applied for;
- 23.3. Within or overlaps the area of an existing energy service or operating contract application such as Petroleum SC, COC, SSMP or RESC, other than the RE resource or technology being applied for;

- 23.4. Within the protected areas under RA No. 11038 or the Expanded National Integrated Protected Areas System Act of 2018, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with Tenorial Instruments from other government agencies, and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the RE application based on available data on file at the ITMS and the National Mapping Resource Information Authority's Philippine Geoportal Project website;
- 23.5. Covered by the LOI of the same or other energy resource; or
- 23.6. Open for RE Applications.

**Section 24. Multiple Resources in an Area.** In instances of area overlap found under Sections 23.2 to 23.3 above, the interested participant may still pursue the RE Application subject to the provisions herein below set forth.

- 24.1. *Acknowledgment of Prior Right of Applicants, Registered Developers, and/or Energy Contractors.* – The interested participant may still apply for an RE Contract over an area with multiple resources by first submitting a notarized acknowledgment and undertaking that it recognizes and shall continue to recognize the existence of the prior rights of the existing applicants and/or developers thereon.
- 24.2. *Notice to Applicants, Registered Developers, and/or Energy Contractors Holding Prior Rights.* – In giving notice to interested participants, applicants, registered developers, and/or energy contractors holding prior rights to a certain area, the following process shall be observed:
  - 24.2.1. The REMB shall inform both the interested participant, and applicant or contractor/developer of the overlap where the latter shall be given five (5) working days from receipt of notice to file any objections, stating therein justifiable reasons therefor.
  - 24.2.2. If no objection is filed by the applicant, energy contractor/developer within the prescribed period, the interested participant shall be given three (3) working days from receipt of such notice to file an RE Application.
  - 24.2.3. If an objection is filed, the DOE Secretary, upon recommendation of concerned DOE bureaus, shall resolve the matter within ten (10) working days from receipt thereof, taking into account the most beneficial use of the resources.

## CHAPTER VIII

### ADMINISTRATION OF RE CONTRACTS

**Section 25. Posting of a Performance Bond.** The RE Developer shall post a bond or any other guarantee of sufficient amount, but not less than the minimum expenditures commitment for the first Contract Year, which shall be a condition precedent for the effectivity of the RE Contract. A valid and subsisting performance bond is required to be maintained annually until the pre-construction phase of the RE Project.

**Section 26. Updating of RE Projects Data to the EVOSS and DOE Website.** The following shall govern the posting and updating of RE Contracts awarded and pending RE Applications on the DOE website.

- 26.1. The REMB-Technical Service Management Division (TSMD), in coordination with the relevant REMB Divisions, shall collate and update the list of RE Contracts awarded and RE Applications filed and under evaluation on a quarterly basis. Upon full operation of the EVOSS, updating of data shall be in accordance with the periods provided in the system.
- 26.2. All concerned DOE units shall provide updates to the EVOSS and DOE websites.
- 26.3. All RE Developers shall be required to register with the EVOSS for regular updating of their respective RE Projects.

### **Section 27. Amendment of RE Contracts.**

- 27.1. *Amendment to RE Contracts, When Required.* – RE Contracts shall be amended only: (a) when making changes to the RE Contract Area; or (b) under the circumstances enumerated in Section 27.4 hereof.

No amendment to the RE Contract is required when the RE Project transitions from the Pre-Development to the Development Stage. However, the relinquishment of a portion of the Contract Area after identifying the Production Area pursuant to Section 5 above shall result in the issuance of new annex to the RE Contract, indicating the revised Contract Area, with corresponding map and technical description.

- 27.2. *Amendments to the RE Contract Area.* – The RE Developer shall submit a request in writing addressed to the REMB Director, with the letter attention given to the concerned REMB Division, and shall comply with the following:
  - 27.2.1. Technical description of proposed amendment to the Contract Area indicates the technical specifications and other mapping requirement for the purpose of area verification;

27.2.2. The proposed amendment shall cover an area contiguous to the existing Contract Area and, upon verification by the ITMS pursuant to the process in Section 23, is available and open for RE Resource exploration, development and/or utilization;

27.2.3. The amendment of the Contract Area is justified and reasonable, which may be proven by: (a) the results of the resource assessment, duly verified by the concerned REMB unit; (b) proof of land rights; (c) proof that the RE Developer is not in default of its technical and financial obligations under the RE Contract; and (d) other relevant facts and/or documents; and

27.2.4. The Work Program with respect to the amended Contract Area is acceptable.

Holders of RE Contracts with provisions on milestone periods shall be allowed to apply for Contract Area amendments during the milestone period, *Provided*, That all approved milestone activities under the RE Contract have already been accomplished.

27.3. All other RE Contracts entered into by the DOE which used the templates for RE Contracts prior to this Circular, shall be allowed to apply for Contract Area amendments at any time prior to sixty (60) calendar days before the expiration of the Pre-Development Stage.

27.3.1. In case the DOC states that the viability of the project is subject to a Contract Area amendment, such amendment may be allowed upon issuance of the COCOC.

27.3.2. The following templates for amendments of Contract Area under existing RE Contracts are hereby adopted as follows:

(a) RE Contracts issued in compliance with this Circular, shall adopt the template for the amendment of Contract Area attached hereto as Annex K; and

(b) All other RE Contracts issued prior to or in accordance with Department Order (DO) No. DO2013-08-0011, entitled "*Adopting Policies in Relation to the Processing of Renewable Energy Service Contracts and Mandating the Adoption of the Revised Templates for Renewable Energy Service Contracts*" shall adopt the revised RE Contract templates attached hereto as Annexes A to F.

27.4. *Other Amendments.* – RE Contracts shall also be amended in any of the following instances:

27.4.1. Increase or decrease in the installed capacity of the RE Project;

27.4.2. Change of type of feedstock for biomass operations;

27.4.3. Change of location of project site (for biomass and hydro sources only).

27.5. Only a revised COR shall be issued in case of the following changes:

27.5.1. Company name of the RE Developer; and/or

27.5.2. Assignment of RE Contract in accordance with the terms thereof, to an entity that has the same legal, technical and financial qualifications as the assignor/RE Developer.

The amendments under this Section shall require the surrender of the original COR prior to evaluation of the request, *Provided*, That in the case of an amendment solely for the change of the company name, the request shall be directly endorsed to the DOE Secretary after legal evaluation.

27.6. *Evaluation of Requests for RE Contract Amendment.* – All requests for RE Contract amendment shall be submitted to the REMB, through RMD, and shall be processed as follows:

27.6.1. Upon receipt of the request, the RMD shall attach a RFID tag thereon, encode the request under the EAMS and forward the same to the REMB Director.

27.6.2. Within one (1) working day from receipt of the request for RE Contract amendment, the REMB Director shall forward the documents to the concerned REMB Division for evaluation.

27.6.3. The concerned REMB Division shall evaluate the request within five (5) working days. In case the evaluation of the concerned REMB Division shows: a) that there are additional costs to be incurred that should warrant another financial evaluation; b) if there are any legal concerns on the RE project; or c) if there is a need of re-plotting of Contract Area, it shall endorse the request to FS, LS and/or ITMS which shall evaluate the request within five (5) working days from receipt of such endorsement.

27.6.4. Within two (2) working days from completion of the evaluation, the concerned REMB Division, through the REMB Director, shall provide the REMB Supervising Assistant Secretary and Undersecretary its recommendation on the request and the complete basis thereof.

27.6.5. The REMB Supervising Assistant Secretary and Undersecretary shall, within three (3) working days from receipt of such recommendation, issue a memorandum that shall contain the highlights of the evaluation and a recommendation to the DOE Secretary for approval.

- 27.7. *Revision of the Work Program.* – Subject to terms and conditions stipulated in the RE Contract, the RE Developer may request for revision of its Work Program with justification on such revision and shall be processed in accordance with the following:
- 27.7.1. Upon receipt of the request, the RMD shall attach a RFID tag thereon, encode the request under the EAMS and forward the same to the REMB Director.
  - 27.7.2. Within one (1) working day from receipt of the request for the revision of Work Program, the REMB Director shall forward the documents to the concerned REMB Division for evaluation.
  - 27.7.3. The concerned REMB Division shall evaluate the request within five (5) working days. In case the evaluation of the concerned REMB Division shows: a) that there are additional costs to be incurred that should require another financial evaluation, or b) if there are new legal issues brought about by such revision, it shall endorse the request to the FS and/or LS which shall evaluate the request within five (5) working days from receipt of such endorsement.
  - 27.7.4. Within two (2) working days from completion of the evaluation, the concerned REMB Division, through the REMB Director, shall provide the REMB Supervising Assistant Secretary its recommendation on the request and the complete basis thereof.
  - 27.7.5. The REMB Supervising Assistant Secretary shall, within three (3) working days from receipt of a memorandum containing the highlights of the evaluation and a recommendation, endorse the same to the REMB Supervising Undersecretary for approval.
- 27.8. The concerned REMB Division shall immediately provide to the TSMD, ITMS, and DOE-Investment Promotion Office (IPO) the status of RE Contract/COR for timely update of database.

## **Section 28. Assignment of RE Contracts**

- 28.1. All assignments of RE Contracts shall be subject to prior written approval of the Department.
- 28.2. The RE Developer may assign part or all of its rights and/or obligations under the RE Contract to its Affiliate or any third party, subject to Section 28.1, and in accordance with the following:
  - 28.2.1. The RE Developer shall submit to the Department copies of the written document which unequivocally shows the agreement of the parties thereat to the assignment of the RE Contract; and

28.2.2. In the case of a partial assignment, the RE Developer shall guarantee in writing to the Department the performance of the assigned obligations.

28.3. An assignment of the RE Contract, whether full or partial, to a non-Affiliate, may be allowed only once during: a) the entire period of the Pre-Development Stage of the RE Service Contract; or b) the entire term of the RE Operating Contract. An assignment shall not be allowed to a non-Affiliate during the first two (2) years of the RE Contract from its effectivity.

**Section 29. Procedures for the Transition from Pre-Development to Development Stage.**

29.1. The RE Developer shall submit to the concerned REMB Division the DOC with documentary requirements specified in Annex L of this Circular prior to the expiration of the Pre-Development Stage. The concerned REMB Division shall determine the completeness of the submission.

29.2. Once the submission is deemed complete, the RE Developer shall submit the DOC to the RMD and the latter shall encode the submission in the EAMS and EVOSS.

29.3. Failure by the RE Developer to submit its DOC within the Pre-Development Stage shall be a cause for the termination of its RE Contract. The acknowledgment of receipt of the DOC by the DOE shall suspend the period for the Pre-Development Stage.

29.4. Within twenty (20) working days from receipt of the DOC, the DOE shall either:

29.4.1. Issue the COCOC, if the results of the evaluation of the DOC are satisfactory, which shall likewise be considered the transition of the RE Contract from Pre-Development Stage to Development/ Commercial Stage; or

29.4.2. Issue a written notice to the RE Developer indicating that it has the remainder of the Pre-Development Stage to correct any deficiencies and/or satisfy the requirements for issuance of the COCOC, if the results of the evaluation of the DOC are unsatisfactory. Said written notice shall be signed by the REMB Director.

29.5. The failure of the RE Developer to correct any deficiencies or otherwise satisfy the requirements for issuance of the COCOC before the expiration of its Pre-Development Stage shall be a cause for the termination of its RE Contract.

**Section 30. Conversion to the New RE Contract Template.** Holders of contracts/agreements prior to the effectivity of this Circular may apply for conversion to the new RE Contract templates provided in Annexes A to F hereof, and are subject to the conditions and procedures hereinbelow provided.

30.1. *Requirements for Conversion to New RE Contract Template.* – Contractors/RE Developers may apply for conversion to the new RE Contract templates subject to the following conditions:

30.1.1. Contractors/RE Developers must be fully compliant with the terms of the approved Work Program/Work Plan and the material terms and conditions of the contract/agreement for the past six (6) months prior to the date of filing its application for conversion. For RE Developers with RE Contracts executed less than six (6) months from date of application for conversion, the evaluation of their compliance of the commitments under the approved Work Program and of the material terms and conditions of the RE Contract shall be the basis of their performance.

30.1.2. Submission of a letter of application for conversion with the following documentary requirements:

(a) Work Program covering the first five (5) years of the remaining term of the old contract/agreement, reckoned from the date of its execution.

(b) Revised Contract Area following the mapping requirements provided in Annex J hereof. In the case of biomass and solar development, the revised Contract Area is its Production Area only. Any remaining portion of the original Contract Area shall be deemed relinquished.

30.1.3. The conversion of RE Contracts awarded under the RE Act but prior to the effectivity of this Circular shall be limited to those covering RE projects which are under pre-commissioning/commercial operation phase.

30.2. *Procedures for Application.* – Applications for conversion to the new RE Contract template shall be processed based on the following procedures:

30.2.1. The application letter shall be addressed to the REMB Director and filed with the RMD, along with all the other documentary requirements.

30.2.2. Within one (1) working day from receipt of the application documents, the RMD shall transmit the application to the REMB Director. Any incomplete documentary requirements in the application for RE Contract conversion may be rectified by the applicant within five (5) working days from receipt of such notice. Upon receipt of supplemental documents or clarification, the application shall be processed following the procedures in Section 30.2.

- 30.2.3. The concerned REMB Division shall evaluate the application based on performance of the contractor/RE Developer of its contractual obligations under the old contract/agreement and its application documents within ten (10) working days from receipt thereof.
- 30.2.4. The REMB shall then endorse the mapping requirements to the ITMS who shall produce/print the map of the Production Area within five (5) working days from receipt of the endorsement.
- 30.2.5. Qualified applications shall be endorsed by the REMB to its Supervising Undersecretary, through its Supervising Assistant Secretary, for concurrence. The REMB Supervising Undersecretary shall act on the applications so endorsed within three (3) working days from receipt thereof.
- 30.2.6. Upon the concurrence of the Undersecretary, the REMB shall notify the RE Developer of such fact and require the pre-signing of the RE Contract.
- 30.2.7. Within one (1) working day from the RE Contract pre-signing, the REMB shall endorse the pre-signed RE Contract along with the evaluation results to the DOE Secretary for approval, through the REMB Supervising Undersecretary and Assistant Secretary. The DOE Secretary shall act on the documents within five (5) working days from receipt thereof.
- 30.2.8. Upon signing of the RE Contract by the DOE Secretary, the REMB shall notify the RE Developer to pick up its copy of the RE Contract.

**Section 31. Termination of RE Contracts.** The DOE shall have the power to terminate RE Contracts, after due notice to the RE Developer.

- 31.1. *Evaluation Process for RE Contract Termination.* – The concerned REMB Division shall recommend the termination of the RE Contract within the following timelines:
  - 31.1.1. Five (5) working days from the lapse of the Pre-Development Stage of the RE Contract where the RE Developer failed to submit its DOC;
  - 31.1.2. Three (3) working days from the voluntary relinquishment of the RE Developer of the RE Contract;
  - 31.1.3. Prior to the pre-construction phase of the RE Contract, upon the discovery that the RE Developer failed to maintain the required performance bond; or
  - 31.1.4. At any stage of the RE Contract, upon findings of any of the grounds for RE Contract termination as stipulated therein.

The failure of the DOE to adhere to the periods provided above shall not be construed as a waiver of its power to evaluate and recommend the termination of RE Contracts at a later time.

31.2. With respect to Sections 31.1.1 and 31.1.4 above, the concerned REMB Division shall prepare a letter, signed by the REMB Director, requiring the RE Developer to explain in writing why its RE Contract should not be terminated. The RE Developer shall be given a non-extendible period of thirty (30) calendar days to submit its explanation, which shall be accompanied by supporting documents.

No later than twenty working (20) days from its receipt of the RE Developer's written explanation, the concerned REMB Division shall submit its findings and recommendation to the REMB Director.

31.3. Within three (3) working days from receipt of the findings and/or recommendation, the REMB Director shall act upon the same and recommend a course of action to the DOE Secretary through its Supervising Assistant Secretary and Undersecretary.

31.4. In case the DOE Secretary approves the REMB Director's recommendation, the RE Developer shall be notified in writing of the termination of its RE Contract. The concerned REMB Division shall inform the TSMD, ITMS, and IPO of such fact.

31.5. Subject to the conditions under Section 31 hereof, areas covered by terminated RE Contracts shall be declared by the DOE open for development, specifying the mode of awarding of the RE Contract; which, if the area is determined as a PDA, RE Contract applications shall be through OCSP as provided herein. Otherwise, the area shall be available to all interested parties for RE resource development under Direct Application, and only on a first-come first-served basis.

**Section 32. Request for Reconsideration.** An RE Developer whose RE Contract was terminated may request for the reconsideration of the same. The request shall be made in writing, addressed to the REMB Director, and filed within ten (10) working days from the RE Developer's receipt of the notice of termination. The REMB Director shall evaluate the merits of the request for reconsideration and endorse such recommendations to the DOE Secretary, through the REMB Supervising Assistant Secretary and Undersecretary, following the process provided under Section 31 hereof.

## CHAPTER IX

### REGISTRATION OF RE PROJECTS FOR OWN-USE AND/OR NON-COMMERCIAL OPERATIONS

#### *Part 1. General Provisions*

**Section 33. Certificate of Registration.** A Certificate of Registration is the proof of registration of the RE Developer with the DOE and is required to avail of the incentives under the RE Act. A RE Contract is required for the issuance of a COR except for RE Projects for Own-Use and/or Non-Commercial Operations.

#### *Part 2. Procedures for Registration*

**Section 34. Issuance of Certificate of Registration for RE Projects for Own-Use and/or for Non-Commercial Operations.** The COR shall be issued to the RE Developer only upon its complete submission of the requirements herein below provided, and only after the evaluation of the same by the REMB which shall recommend its approval to the DOE Secretary.

**Section 35. Documentary Requirements.** Any proponent intending to install, construct, and operate an RE Project under this Chapter shall strictly comply with the following:

35.1. *Technical Requirements.*

35.1.1. Application letter addressed to the REMB Director;

35.1.2. Project description detailing the technical design, financing structure, the target commissioning date, location of the Project and the RE Resource to be used; and

35.1.3. Proof of ownership of proposed project site.

35.2. *Legal Requirements.* – The same legal requirements in Checklist of Requirements in Annex I of this Circular shall be submitted.

To ensure the completeness of the application documents, the REMB may provide a venue to serve as the pre-filing conference/meeting/orientation among the concerned DOE units and the proponent, prior to submission of formal application to the RMD.

**Section 36. Pre-Qualification, Filing, and Processing of Application for Registration.**

36.1. *Pre-Qualification Process.* – The concerned REMB Division shall determine, on a pass or fail basis, whether the requirements for registration have been fully complied with and the proponent has submitted all the documents prescribed under Section 35 hereof. Thereafter, the concerned REMB Division shall issue an order of payment for application and processing fees.

No order of payment shall be issued unless all the documentary requirements have been complied with and submitted by the proponent.

36.2. *Payment of Application and Processing Fees.* – After determining the completeness of documents, the proponent shall be advised to pay the prescribed application fee for each application. No application shall be accepted without the payment of the application and processing fees.

36.3. *Receipt of the Application.* – The Application shall consist of three (3) sets of documentary requirements for registration found in Section 34 hereof and shall be submitted to the REMB, through the RMD. Thereafter, the RMD shall attach an RFID tag thereon and encode the application in the EAMS.

36.4. *Processing Period.* – The application shall be processed within twenty (20) working days from the receipt of the complete documents and the payment of the application and processing fees.

**Section 37. Evaluation and Process for Issuance of COR.**

37.1. *Qualification Evaluation.* – After receipt of the Application and payment of fees, the Application is deemed filed and submitted for legal and technical evaluations:

37.1.1. The LS shall complete its review and evaluation within three (3) working days from receipt of the endorsement of the Application by the concerned REMD Division.

37.1.2. The concerned REMB Division shall complete its technical evaluation within three (3) working days from receipt of the registration documents from the REMB Director.

In case additional documents are required to support the legal qualifications of the Application, the LS shall immediately notify the concerned REMB Division of the documents required.

The concerned REMB Division has two (2) working days from its receipt of the notice of the LS, to notify the Applicant of the additional documents required for the evaluation of its Application. Thereafter, the Applicant shall be given five (5) days to submit the documents required.

If the Application is deemed legally and technically qualified, the Application shall be submitted for final processing by the concerned REMB Division for the issuance of a COR.

37.2. *Request for Reconsideration.* – In case any Application is deemed not legally, technically or financially qualified, the REMB Assistant Secretary shall, within two (2) working days from receipt of the full evaluation result from the concerned REMB Division, issue a written notice to the Applicant of the decision on its Application. The notice to the Applicant shall indicate the basis of or reasons for the disqualification.

The Applicant, however, may request for reconsideration in writing, addressed to the REMB Supervising Undersecretary, within ten (10) working days from receipt of notice of disqualification.

The REMB Supervising Undersecretary shall resolve the request for reconsideration within five (5) working days from receipt of the same.

**Section 38. Validity of the Registration.** The COR shall have an initial validity period of five (5) years, renewable for the same period until the end-of-project life is reached or a maximum of twenty-five (25) years.

**Section 39. Terms and Conditions of the Registration.** Any RE Developer and its Project shall be issued a COR (Annex M) which shall contain the terms and conditions thereof.

## CHAPTER X

### TRANSITORY PROVISIONS

**Section 40. Evaluation of Pending Applications.** RE Applications filed prior to the effectivity of this Circular shall be governed by the existing guidelines at the time of the filing of the applications. The ITMS shall report to the REMB all areas covered by pending RE Applications and RE Contracts within fifteen (15) working days from the date of this Circular. REMB shall use this information to commence the process of identifying PDAs for preparation of the OCSP. RE Applicants that have passed the legal, technical and financial requirements under the existing guidelines prior to the effectivity of this Circular shall be given an option to choose which RE Contract template to adopt: *Provided, however,* that should there be any new application requirements for RE Contract covering development of a particular type of RE resource, the applicant must satisfy first such requirement/s.

**Section 41. Re-filing of the Application for RE Contract and Certificate of Registration.** Pending applications for RE Contract or issuance of CORs may be re-applied, at the option of the RE Applicant, within (30) working days from effectivity of this Circular without need of new or re-payment of the application fees. Failure of the applicants to re-file its application within the said period shall be construed as its decision to: (a) submit to the ongoing evaluation of its RE Application under the prior rules or guidelines, and (b) comply with the results of such evaluation of its pending RE Application.

## CHAPTER XI

### FINAL PROVISIONS

**Section 42. Extension of Timelines.** Subject to the provisions of RA No. 11032, the respective timelines provided under Chapter VIII of this Circular may be extended for the same period prior to the lapse of the subject period, *Provided*, That the DOE shall notify the affected party in writing of the reason for the extension and shall provide the final date of release of the matter requested.

Only one extension is allowed and shall, in no case, exceed sixty (60) calendar days.

For this purpose, the Citizen's Charter of the REMB shall be amended to reflect the timelines herein provided.

**Section 43. Information, Education and Communication Activities.** Pursuant to Section 31, Rule 10 of the IRR of the RE Act, the DOE, together with National Renewable Energy Board, shall develop and implement a comprehensive information, education and communication activities that are designed to increase the public awareness and appreciation of this Circular and the RE industry in general.

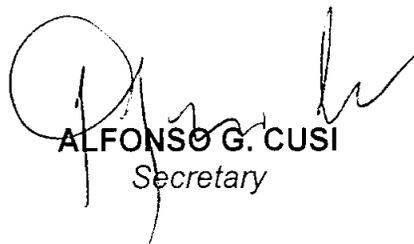
**Section 44. RE Resources Under New Emerging Technologies.** For other RE Resources which are developed through emerging RE technologies and are not enumerated in Chapter III of this Circular, the REMB shall develop a regulatory framework for the exploration, development, utilization and commercialization of such RE Resources utilizing such emerging technologies. In the absence of such regulatory framework, the procedures governing a particular RE Resource that is most analogous to the emerging technology shall be adopted.

**Section 45. Regulatory Support.** The Energy Regulatory Commission shall provide the necessary regulations to support achieve a harmonized and effective implementation of this Circular.

**Section 46. Separability Clause.** If for any reason, any provision of this Circular is declared unconstitutional or invalid by a court of competent jurisdiction, the other parts or provisions not affected thereby shall remain in full force and effect.

**Section 47. Repealing Clause.** The provisions of other circulars, orders, issuances, rules and regulations, which are inconsistent with the provisions of this Circular are hereby repealed, amended, superseded or modified accordingly.

**Section 48. Effectivity.** This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall be filed with the University of the Philippines Law Center – Office of the National Administrative Register.

  
**ALFONSO G. CUSI**  
Secretary

Issued on OCT 01 2019, at Energy Center, Rizal Drive, Bonifacio Global City, Taguig City.

