



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

59
60 **WHEREAS**, in Section 2 of RA No.11234, otherwise known as the “*Energy Virtual One-Stop*
61 *Shop Act*” or “*EVOSS Act*”, the State is likewise commanded to, among others, ensure
62 transparency and accountability in the process of approving power generation, transmission,
63 or distribution projects, and deliver efficient and effective service to the public;

64
65 **WHEREAS**, on 01 August 2019, the DOE issued DC No. DC2019-08-0012 which aims to
66 introduce Energy Storage System (ESS) technologies to serve a variety of functions in the
67 generation, transmission, and distribution of electric energy;

68
69 **WHEREAS**, after DC No. DC2009-07-0011 took effect, the DOE implemented enhancements
70 in the award and administration of RE Contracts and the registration of RE Developers, to wit:

- 71
72 (a) DC2009-07-0011 dated 12 July 2009;
73 (b) DO2013-08-0011 dated 20 July 2013;
74 (c) DO2013-10-0018 dated 09 October 2013;
75 (d) DO2013-12-0020 dated 02 December 2013;
76 (e) DO2013-12-0023 dated 27 December 2013;
77 (f) DO2014-06-0010 dated 09 June 2014;
78 (g) DO2014-10-0018 dated 14 October 2014;
79 (h) DO2016-09-0011 dated 05 September 2016;
80 (i) DO2016-06-0010 dated 24 June 2016;
81 (j) DO2017-04-0005 dated 07 April 2017;
82 (k) DO2018-03-0003 dated 16 March 2018;
83 (l) DO2019-01-0003 dated 11 January 2019; and
84 (m) DO2019-07-0018 dated 30 July 2019;

85
86 **WHEREAS**, on 01 October 2019, the DOE promulgated DC No. DC2019-10-0013 otherwise
87 known as the “*Omnibus Guidelines Governing the Award and Administration of Renewable*
88 *Energy Contracts and the Registration of Renewable Energy Developers*”;

89
90 **WHEREAS**, further enhancements in the award and administration of RE Contracts and the
91 registration of RE Developers were subsequently issued, to wit:

- 92
93 (a) DC2022-11-0034 dated 15 November 2022;
94 (b) Advisory No. 1 dated 15 March 2023;
95 (c) Advisory No. 2 dated 15 March 2023; and
96 (d) Advisory No. 3 dated 29 April 2023;

97
98 **WHEREAS**, with the huge influx of received intents and RE Contract applications to develop
99 both solar and wind energy potential in the country and to provide efficient service to the RE
100 Developers, the DOE issued on 19 July 2023 the Department Order No. DO2023-07-0020
101 which operationalized the strengthening of the Solar and Wind Energy Management Division
102 (SWEMD) through interim creation of sub-groups: Solar Energy Management Group (SEMG)
103 and Wind Energy Management Group (WEMG);

104
105 **WHEREAS**, there is a need to integrate the above issuances and the DOE’s recent policies
106 for an effective and efficient award and administration of RE Contracts and registration of RE
107 Developers;



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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 “*Revised Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers*” (*Revised Omnibus RE Guidelines*).

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*” refers to the RE Contract issued for the development and operation of RE Projects utilizing biomass as RE Resource.
- 3.2. “*Blocking System*” refers to the subdivision of the Philippines, for purposes of RE Applications for wind, geothermal and ocean resources, into RE meridional blocks (RE blocks) of thirty (30) seconds of latitude and thirty (30) seconds of longitude using Philippine Reference System of 1992 (PRS’92) as the standard reference system. One (1) RE block shall have an approximate area of eighty-one (81) hectares. Each block shall have a unique number designated by the DOE.
- 3.3. “*Certificate of Authority*” or “*COA*” refers to the certificate duly signed by the DOE Secretary exclusively authorizing an RE Developer to procure the necessary permits and tenurial instruments for the exploration, development, construction and installation, and commercial operation of the RE Project and conduct reconnaissance and other activities needed for pre-feasibility studies within the area specified in the certificate.
- 3.4. “*Certificate of Confirmation of Commerciality*” or “*COCOC*” refers to the certificate duly signed by the DOE Secretary confirming the Declaration of Commerciality (DOC) by the RE Developer and shall serve as a notice to proceed with 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.



- 161 3.5. “*Certificate of Registration*” or “*COR*” refers to the certificate issued by the DOE
162 that serves as the proof that an RE Developer has registered with the DOE.
163
- 164 3.6. “*Commercial Operations*” refers to the phase commencing at the operation of
165 the RE Project, following its successful testing and commissioning, and
166 confirming its readiness to inject power into the grid to sell or supply its
167 produced energy, as duly confirmed by the Energy Regulatory Commission
168 (ERC).
169
- 170 3.7. “*Commercial Quantities*” refers to quantities of energy to be produced from the
171 RE Resources using commercially available technology to develop the RE
172 systems which have a reasonable chance of being sufficient and technically
173 compliant to support the Commercial Operations of the RE Project.
174
- 175 3.8. “*Contract Area*” refers to the total area, which is the subject of the RE Contract
176 as detailed and outlined in the map with its technical description, and where
177 the RE Developer has the exclusive right to explore, develop and utilize the RE
178 Resources: *Provided*, That for BEOC/WTEOC as defined below, the Contract
179 Area refers to the project site.
180
- 181 3.9. “*Contract Year*” refers to a period of twelve (12) consecutive calendar months
182 counted from the Effective Date of the RE Contract and thereafter, from the
183 anniversary of such Effective Date;
184
- 185 3.10. “*Declaration of Commerciality*” or “*DOC*” refers to a written declaration made
186 by the RE Developer to the DOE, stating that the RE Resource is of
187 Commercial Quantities.
188
- 189 3.11. “*Direct Application*” refers to the mode of RE Application whereby the RE
190 Applicant identifies a Contract Area it wishes to explore and develop. The
191 identified Contract Area must first be certified by the DOE to be free and open
192 for exploration or development.
193
- 194 3.12. “*Financial Closing*” refers to such milestone when the RE Developer has
195 secured a written commitment from the financier/s to provide its full funding
196 requirements through equity and/or commercial borrowings, or other financing
197 schemes for the RE Project to transition from the Pre-Development to
198 Development Stage, in the case RE Service Contracts, or to transition from
199 Development to Commercial Stage, in the case of RE Operating Contracts.
200
- 201 3.13. “*Force Majeure*” refers to extraordinary events not foreseeable or avoidable,
202 events that could not be foreseen, or which, though foreseen, are inevitable.
203
- 204 3.14. “*Geothermal Service Contract*” or “*GSC*” refers to the RE Contract issued for
205 the exploration, development and/or utilization of geothermal resources as RE
206 Resource for the operation of RE Projects.
207
- 208 3.15. “*Hydropower Service Contract*” or “*HSC*” refers to the RE Contract for the
209 exploration, development and/or utilization of hydropower resources as RE
210 Resource for the operation of RE Projects.
211
- 212 3.16. “*Letter of Intent*” or “*LOI*” refers to the written notice or document submitted by
213 a Person to the DOE, indicating interest in the exploration, development,
214 utilization and commercialization of RE Resource.



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- 3.17. “*Ocean Energy Service Contract*” or “*OESC*” refers to the RE Contract for the exploration, development and/or utilization of ocean resources for the operation of RE Projects.
- 3.18. “*Offshore Wind Energy Service Contract*” or “*OsWESC*” refers to the RE Contract issued and awarded by the DOE for the exploration, development and/or utilization of wind energy in offshore areas, which include estuaries and other bodies of water. This includes WESCs awarded for offshore wind development prior to the issuance of Executive Order No. 21 and its Implementing Guidelines.
- 3.19. “*Onshore Wind Energy Service Contract*” or “*OnWESC*” refers to the RE Contract issued and awarded by the DOE for the exploration, development and/or utilization of wind energy as RE Resource in onshore areas.
- 3.20. “*Pre-Determined Area*” or “*PDA*” refers to area/s with RE Resource potential through sufficient available technical data as may be determined by the Renewable Energy Management Bureau (REMB) and approved by the DOE Secretary for its inclusion in the Open and Competitive Selection Process (OCSP).
- 3.21. “*Person*” refers to a natural or juridical person, as the case may be.
- 3.22. “*Production Area*” refers 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.
- 3.23. “*RE Applicant*” refers to any Person, subject to the limitations provided in this Circular, who applies for the assessment, exploration, harnessing, development, utilization and commercialization of RE Resources.
- 3.24. “*RE Application*” refers 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, through OCSP or Direct Application, in accordance with the requirements under this Circular.
- 3.25. “*RE Contract*” refers to the service agreement between the Government, through the DOE, 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. The RE Contract may be in the nature of a financial or technical assistance agreement which shall be entered into by the Government, through the President of the Philippines, pursuant to Article XII, Section 2 of the Philippine Constitution.
- 3.26. “*RE Developer*” refers 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.
- 3.27. “*RE Operating Contract*” refers to the service agreement between the DOE and RE Developer for the development and/or utilization of biomass, solar, wind



- 269 and other RE Resources as may be determined by the DOE which, due to their
270 inherent technical characteristics, need not go through Pre-Development
271 Stage.
272
- 273 3.28. “*RE Project*” refers to the power generation and related facilities utilizing RE
274 Resources under a particular RE Contract or COR issued by the DOE pursuant
275 to the RE Act.
276
- 277 3.29. “*RE Project for Non-Commercial Operations*” refers to an RE Project which is
278 intended for demonstration purposes of any new or modified RE technologies,
279 and those that are covered by Official Development Assistance (ODA), and all
280 other programs and projects which are not designed and operated for profit.
281
- 282 3.30. “*RE Project for Own-Use*” refers to an RE Project located within the premises
283 of or in an area contiguous to an End-User’s premises and operated solely for
284 the supply of a portion or all of the electricity requirements of such End-User.
285 For this purpose, an “End-User” shall refer to any person or entity requiring the
286 supply and delivery of electricity generated by the RE Project dedicated for its
287 own consumption, which facility is installed either by the End-User or through
288 a third-party provider.
289
- 290 3.31. “*RE Resource*” refers to energy resources that do not have an upper limit on
291 the total quantity to be used. Such resources are renewable on a regular basis,
292 and whose renewal rate is relatively rapid to consider availability over an
293 indefinite period of time. These include, but are not limited to, biomass, solar,
294 wind, geothermal, ocean energy, and hydropower, conforming with
295 internationally accepted norms and standards on dams, and other emerging
296 RE technologies.
297
- 298 3.32. “*RE Service Contract*” refers to a service agreement between the Philippine
299 Government, through the President or the DOE Secretary, and RE Developer,
300 covering an appropriate period as stated therein, in which the RE Developer
301 shall have the exclusive right to explore, develop and utilize geothermal,
302 hydropower, wind, ocean and other RE Resources within a particular area.
303
- 304 3.33. “*Renewable Energy Management Bureau*” or “*REMB*” refers to the unit of the
305 DOE created under Section 32 of the RE Act, mandated to, among others,
306 implement policies, plans, and programs aimed at accelerating the
307 development, transformation, utilization, and commercialization of RE
308 Resources and technologies.
309
- 310 3.34. “*Solar Energy Operating Contract*” or “*SEOC*” refers to the RE Contract issued
311 for the development and operation of RE Projects utilizing solar energy as RE
312 Resource.
313
- 314 3.35. “*Waste-to-Energy Operating Contract*” or “*WTEOC*” refers to the RE Contract
315 issued for the development and operation of RE Projects utilizing Waste-to-
316 Energy Resources.
317
- 318 3.36. “*Waste-to-Energy Resources*” refers to municipal and industrial wastes that do
319 not have an upper limit on the total quantity to be used and are renewable on
320 a regular basis, and whose renewal rate is relatively rapid to consider
321 availability over an indefinite period of time.
322



323 3.37. “*Work Program*” refers to the plans and programs and other related activities
324 formulated for the performance of the work obligations under the RE Contract
325 by the RE Developer, along with the corresponding budgetary estimate, duly
326 approved by the DOE.
327

328 CHAPTER II – BIOMASS AND WASTE-TO-ENERGY RESOURCES

329

330 **Section 4. Biomass Projects.** Biomass projects shall refer to energy systems which use
331 biomass resources to produce heat, steam, mechanical power, electricity, or fuel through
332 either thermochemical, biochemical or physico-chemical processes, or through such other
333 technologies which shall comply with prescribed environmental standards pursuant to
334 applicable laws and regulations.
335

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336 **Section 5. Waste-to-Energy Projects.** Waste-to-energy projects shall refer to energy
337 systems with a process of converting non-recyclable waste materials into usable heat,
338 electricity, or fuel through processes such as anaerobic digestion, direct combustion, and
339 gasification, among others, subject to the provisions and intent of RA No. 8749 or the “Clean
340 Air Act of 1999” and RA No. 9003 or the “Ecological Solid Waste Management Act of 2000”.
341

341

342 **Section 6. Eligibility of Biomass Energy or Waste-to-Energy Operating Contract**
343 **Applicant.** Any Person may apply for Biomass Energy Operating Contract (BEOC) or Waste-
344 to-Energy Operating Contract (WTEOC), subject to the provisions in this Chapter.
345

345

346 6.1. The BEOC/WTEOC Applicant may be a Filipino and/or a foreign citizen, or a
347 Filipino- and/or foreign-owned corporation or association which is authorized
348 by its articles or deed of incorporation to engage in the development and
349 utilization of biomass/waste-to-energy resources: *Provided*, That in case the
350 BEOC/WTEOC Applicant is a joint venture or a consortium, the partners of the
351 joint venture or members of the consortium shall organize themselves as a
352 corporation under the RA No. 11232, otherwise known as the “Revised
353 Corporation Code of the Philippines” (Revised Corporation Code), or secure
354 the appropriate license from the Securities and Exchange Commission (SEC),
355 in case the joint venture or consortium was incorporated outside of the
356 Philippines.
357

357

358 6.2. An Applicant which applies for a BEOC/WTEOC that involves activities
359 reserved to Filipino citizens or corporations or associations at least sixty
360 percent (60%) of whose capital is owned by Filipinos shall comply with the
361 nationality requirements under applicable laws, including Commonwealth Act
362 No. 108 or the “Anti-Dummy Law” (Anti-Dummy Law) on the appointment of
363 officers of the corporation.
364

364

365 **Section 7. Modes of Awarding Biomass Energy or Waste-to-Energy Operating Contract.**
366 BEOC/WTEOC shall be awarded through Direct Application.
367

367

368 7.1. Direct Application shall be available for the selection and award of
369 BEOC/WTEOC in an area available for development and/or utilization of
370 biomass/waste-to-energy resources.
371

371

372 7.2. Biomass/Waste-to-Energy Projects for Own-Use and/or for Non-Commercial
373 Purposes shall not require the issuance of BEOC/WTEOC but shall comply
374 with the registration requirements provided under Chapter X.
375

375



376 **Section 8. Procedure for Awarding Biomass Energy or Waste-to-Energy Operating**
377 **Contract under Direct Application.**

378
379 8.1. **Coverage.** Direct Application shall be observed in processing BEOC/WTEOC
380 Applications for biomass/waste-to-energy resources.
381

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

383
384 8.2. **Registration in the Energy Virtual One-Stop Shop (EVOSS) System.** If the
385 interested participant has no EVOSS System account yet, it shall submit a
386 request for registration in the EVOSS System with Biomass Energy
387 Management Division (BEMD). The list of requirements necessary for
388 registration is detailed in Annex “J”.
389

390 8.3. **Submission of Letter of Intent (LOI).** All interested participants shall submit
391 through the EVOSS System an LOI to develop a certain area (Annex “K”), in
392 accordance with the mapping requirements (Annex “N”). The LOI shall be
393 addressed to the REMB Director and shall indicate whether the interested
394 participant will avail of the Certificate of Authority (COA) referred to in Section
395 9 and 10.1. The submission of the LOI shall not be considered as a filing of a
396 BEOC/WTEOC Application and shall not commence the application process.
397

398 8.4. **Pre-Application Orientation of Interested Participant.** The orientation is
399 intended to inform interested participants about the BEOC/WTEOC pre-
400 application and mapping requirements and processes.
401

402 Any interested participant may request for an orientation by signifying such
403 intent in its LOI; otherwise, it shall be presumed that the interested participant
404 is aware of the BEOC/WTEOC pre-application and mapping requirements and
405 processes.
406

407 **Part 2. Area Verification and Technical Guidelines**

408
409 8.5. **Configuration of Area of Interest (AOI).** The interested participant shall
410 comply with the mapping requirements under Annex “N”.
411

412 8.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the LOI,
413 the ITMS shall complete the area verification and determine whether the AOI
414 is:

415
416 8.6.1. Covered by a BEOC/WTEOC, BEOC/WTEOC pending application, or
417 other energy resource assessment activities as submitted by the
418 concerned DOE unit and verified by ITMS;
419

420 8.6.2. Within or overlaps with the area of an existing energy service or
421 operating contract such as Petroleum Service Contract (PSC), Coal
422 Operating Contract (COC), Small-Scale Coal Mining Permit (SSCMP)
423 or Renewable Energy Service Contract (RESC), other than
424 BEOC/WTEOC;
425

426 8.6.3. Within or overlaps with the area of an existing energy service or
427 operating contract application such as PSC, COC, SSCMP or RESC,
428 other than BEOC/WTEOC Application;
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430 8.6.4. Within the protected and environmentally critical areas under RA No.
431 11038, or the “Expanded National Integrated Protected Areas System
432 Act of 2018” (ENIPAS), i.e., within or outside the strict protection zones,
433 ancestral domains with Certificate of Ancestral Domain Title or Claim,
434 areas with tenurial instruments from other government agencies, areas
435 prohibited, reserved, or used for national defense, navigation, irrigation,
436 and other development projects, and other areas covered by significant
437 geospatial data that will be identified as necessary in the evaluation of
438 the BEOC/WTEOC Application based on available data on file with
439 ITMS and the National Mapping Resource Information Authority’s
440 (NAMRIA) Philippine Geoportal Project website.

441
442 Pursuant to the mandate of the DOE to supervise and control all
443 government activities relative to energy project under the EPIRA,
444 concerned government agencies and entities shall provide the DOE the
445 list of abovementioned areas with technical description.

446 8.6.5. Covered by the COA of the same energy resource;

447 8.6.6. Covered by the COA of other energy resource;

448 8.6.7. Covered by the AOI of the same energy resource;

449 8.6.8. Covered by the AOI of other energy resource; or

450 8.6.9. Open for BEOC/WTEOC Applications.

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455 8.7. **Area Verification Results.** ITMS shall provide BEMD with the results of area
456 verification through the EVOSS System. Within three (3) calendar days upon
457 receipt of the verification results, BEMD, through the REMB Assistant Director,
458 shall endorse the final verification results and upload the letter containing the
459 results of area verification in the EVOSS System.

460
461
462 The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under
463 Sections 8.6.7 or 8.6.9. If the AOI falls under Sections 8.6.1 to 8.6.6 or 8.6.8,
464 the BEOC/WTEOC Applicant shall be issued a Notice to Apply only after
465 complying with the succeeding paragraph.

466
467 If the BEOC/WTEOC Application cannot proceed based on the final verification
468 results, the interested participant may either (a) reconfigure the AOI; (b) file a
469 request to allow the development of multiple resources in the area; or (c)
470 comply with Section 8.7.3, as applicable.

471
472 8.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from
473 uploading of the final technical verification results or from receipt of
474 notice that multiple resource development in the overlapping area is not
475 feasible under Section 8.7.2, the interested participant and BEMD may
476 conduct an assessment if the AOI may be reconfigured without material
477 adverse effect on the feasibility of the proposed biomass/waste-to-
478 energy project. The interested participant may reconfigure its AOI to
479 cover only such portion as may allow the BEOC/WTEOC Application to
480 proceed. After confirmation by ITMS that no portion of the reconfigured
481 AOI falls under Sections 8.6.1 or 8.6.5 (for same energy resource),
482 8.6.2, 8.6.3, 8.6.6 or 8.6.8 (for other energy resource), BEMD shall
483



484 upload in the EVOSS System a Notice to Apply to the interested
485 participant for the filing of the BEOC/WTEOC Application.

486
487 **8.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
488 overlaps with the area of an existing energy service or operating
489 contract or an application therefor of another RE Developer not affiliated
490 to the interested participant as provided under Sections 8.6.2 and 8.6.3,
491 the interested participant may still pursue the BEOC/WTEOC
492 Application, subject to the provisions herein below set forth:

- 493 (a) The interested participant shall:
- 494 (i) Explain in writing why the proposed biomass/waste-to-
495 energy project will not be feasible without the
496 overlapping area, with justification on the technical
497 viability of the project; and
 - 498 (ii) Submit a notarized acknowledgment and undertaking
499 that the interested participant recognizes and shall
500 continue to recognize the prior rights of the existing
501 applicants and/or developers of other energy resources
502 within the overlapping area; that the design of the
503 proposed biomass/waste-to-energy project will ensure
504 safe and optimal development of biomass/waste-to-
505 energy and other energy resources in the overlapping
506 area; and that all costs needed therefor shall be borne
507 by the interested participant.
- 508 (b) BEMD shall inform the existing applicant or energy
509 contractor/developer of the intent to develop the biomass/waste-
510 to-energy resources within the overlapping area. Copies of the
511 interested participant's LOI, the written explanation, and their
512 supporting documents shall be furnished to the existing
513 applicant or contractor/developer.
- 514 (c) If no objection is received from the existing applicant or energy
515 contractor/developer within ten (10) calendar days from receipt
516 of notice, BEMD shall upload in the EVOSS System a Notice to
517 Apply to the interested participant for the filing of the
518 BEOC/WTEOC Application.
- 519 (d) If the existing applicant or energy contractor/developer objects
520 to the proposal, the said applicant or energy
521 contractor/developer shall notify BEMD thereof and provide a
522 copy to the interested participant within ten (10) calendar days
523 from receipt of notice, citing the impracticability of multiple
524 resource development as to additional costs, safety, substantial
525 decrease in the utilization of the energy resource, and other
526 relevant factors. Copies of the written objection shall be
527 furnished to the DOE Division processing the application or
528 administering the energy project. A statement that multiple
529 resource development in the overlapping area is impracticable
530 without technical basis shall not be considered as an objection.



- 538 (e) Within five (5) calendar days from receipt of an objection, BEMD
539 and the concerned DOE Division shall jointly determine whether
540 the development of biomass/waste-to-energy resources within
541 the overlapping area may be conducted without material
542 adverse effect on the activities of the existing energy
543 contractor/developer. Such determination shall consider the
544 interested participant's proposal, the objection and the technical
545 bases cited therein. The evaluation shall be endorsed to the
546 REMB Director.
547
548 (f) Upon receipt of the endorsement, the REMB Director may, if he
549 concurs that the biomass/waste-to-energy project will not cause
550 material injury, issue a recommendation to the DOE Secretary
551 based on the feasibility of multiple resource development in the
552 overlapping area, taking into account the most beneficial use of
553 the resources.
554
555 (g) The DOE Secretary shall decide whether to allow multiple
556 resource development in the overlapping area. If the DOE
557 Secretary allows the same, the REMB Assistant Director shall
558 issue a Notice to Apply to the interested participant.
559

560 8.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the
561 area as provided under Section 8.6.4, the interested participant may still
562 pursue the BEOC/WTEOC Application if there is no material adverse
563 effect on the feasibility of the proposed biomass/waste-to-energy
564 project after applying the provisions herein below set forth:
565

- 566 (a) If the AOI overlaps with areas within strict protection zones
567 under the ENIPAS, the interested participant shall submit a
568 revised AOI net of the said areas.
569
570 (b) If the AOI overlaps with areas outside strict protection zones
571 under the ENIPAS, the REMB Director shall issue a Notice to
572 Apply for the said AOI: *Provided*, That the Contract Area may
573 be reduced subject to the ENIPAS and its IRR.
574
575 (c) If the AOI overlaps with ancestral domains with Certificate of
576 Ancestral Domain Title or Claim, the REMB Director shall issue
577 a Notice to Apply for the said AOI: *Provided*, That the Contract
578 Area may be reduced subject to the IPRA and its IRR.
579
580 (d) If the AOI overlaps with areas with tenurial instruments from
581 other government agencies, the REMB Director shall issue a
582 Notice to Apply for the said AOI: *Provided*, That the Contract
583 Area may be reduced subject to the relevant rules and
584 regulations of the concerned government agency.
585
586 (e) If the AOI overlaps with areas prohibited, reserved, or used for
587 national defense, navigation, irrigation, and other development
588 projects, and other areas, the REMB Director shall issue a
589 Notice to Apply for the said AOI: *Provided*, That the Contract
590 Area may be reduced subject to the relevant rules and
591 regulations of the concerned government agency.



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Part 3. Filing and Evaluation of Biomass Energy or Waste-to-Energy Operating Contract Applications

- 8.8. **Orientation of BEOC/WTEOC Applicant.** The orientation is intended to inform BEOC/WTEOC Applicant about the BEOC/WTEOC application requirements, and to guide them through the process for evaluation thereof, awarding of BEOC/WTEOC and the registration of a biomass/waste-to-energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for BEOC/WTEOC Applicants, facilitated by representatives from the LS, BEMD, and FS. The BEOC/WTEOC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

- 8.9. **Receipt of Biomass Energy or Waste-to-Energy Operating Contract Applications.** After the scheduled orientation, the interested participant may file its BEOC/WTEOC Application by complying with the procedures and requirements, as follows:

8.9.1. The BEOC/WTEOC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").

8.9.2. BEMD shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the biomass/waste-to-energy project within three (3) working days.

8.9.3. If the submission is complete and the AOI is still free for development, BEMD shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the BEOC/WTEOC Applicant through a system-generated email to pay the application and processing fees within five (5) working days. Failure to do so will result in the abandonment of the application.

8.9.4. The AOI is not reserved for the BEOC/WTEOC Applicant until the complete application documents and proof of payment of application and processing fees are submitted.

8.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.

8.9.6. In case the AOI is no longer free for development, the BEOC/WTEOC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.

8.9.7. To ensure the orderly processing of BEOC/WTEOC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before a BEOC/WTEOC Applicant can upload the documentary requirements. Pending such modification, BEMD shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 8.9.3.



646 8.10. **Proof of Access to Proposed Area of Interest.** As part of the application
647 requirements, the BEOC/WTEOC Applicant shall submit proof of ownership or
648 possessory rights over real properties covered by the AOI located in private
649 lands: *Provided*, That if the AOI covers real properties located in public lands,
650 proof of application to acquire possessory rights over the said real properties
651 shall suffice.

652
653 8.10.1. **Acceptable Proof of Ownership or Possessory Rights.** In the order
654 of precedence hereunder, any of the following documents may be
655 submitted by the BEOC/WTEOC Applicant as proof of ownership or
656 possessory rights:

657 (a) Certificates of title to the real properties in the name of the
658 BEOC/WTEOC Applicant; or

659 (b) Contracts, deeds, agreements and the like that unconditionally
660 grant the BEOC/WTEOC Applicant ownership or right to
661 possess the real properties for purposes of construction,
662 installation, maintenance and operation of the biomass or
663 waste-to-energy project thereon; or

664 (c) Contracts, deeds, agreements, and the like that unconditionally
665 grant the BEOC/WTEOC Applicant an exclusive option to
666 acquire the ownership or the right to possess the real properties:
667 *Provided*, That the right to construct, install, maintain and
668 operate the biomass or waste-to-energy project thereon is
669 vested unto the BEOC/WTEOC Applicant.

670
671 8.10.2. **Conflicting Claims.** If there are conflicting claims over the AOI, the
672 conflict shall be resolved in favor of the Applicant whose proof of
673 ownership or possessory right has the highest precedence based on
674 the order of precedence set out in Section 8.10.1.

675
676 8.10.3. **Affidavit of Acquisition of Possessory Rights.** If, at the time the
677 BEOC/WTEOC Application is filed, the acceptable proof of ownership
678 or possessory rights under Section 8.10.1 are not available and the AOI
679 is not subject of a conflicting claim, the BEOC/WTEOC Applicant shall
680 submit an Affidavit of Acquisition of Possessory Rights executed strictly
681 in accordance with the template provided in Annex “N-1” hereof and a
682 copy of the Board Resolution authorizing the affiant to execute the
683 instrument on behalf of the BEOC/WTEOC Applicant.

684
685 The BEOC/WTEOC Applicant shall submit the acceptable proof of
686 ownership or possessory rights and supporting documents mentioned
687 in Sections 8.10.1 and 8.10.4 not later than thirty (30) calendar days
688 after the issuance of the COA or, if the BEOC/WTEOC Applicant did not
689 avail of the COA, after the execution of the BEOC/WTEOC. The failure
690 of the BEOC/WTEOC Applicant to submit such documents within the
691 prescribed period shall render the COA or BEOC/WTEOC, whichever
692 is applicable, void *ab initio*.

693
694 8.10.4. **Supporting Documents.** In addition to the acceptable proof of
695 ownership or possessory rights under Section 8.10.1, the
696 BEOC/WTEOC Applicant shall also submit all documents needed to
697
698
699



- 700 establish the authenticity and due execution of the contracts, deeds,
701 agreements, etc. mentioned in Section 8.10.1(b) and 8.10.1(c), namely:
702
703 (a) Board Resolution or Secretary's Certificate of the
704 BEOC/WTEOC Applicant and: (i) if the registered owner of the
705 real property is a corporation, Board Resolution or Secretary's
706 Certificate issued by such corporation; or (ii) if the registered
707 owner is acting through a representative, a Special Power of
708 Attorney in favor of the registered owner's representative, each
709 authorizing the parties to enter into the contracts, deeds,
710 agreements, and the like;
711
712 (b) Proof of identity of the registered owner and the signatories to
713 the contracts, deeds, agreements, and the like; and
714
715 (c) Three (3) specimen signature of the said signatories:
716
717 *Provided, however,* That in cases where the right to dispose of the real
718 property has transferred wholly or partly to persons other than the
719 registered owner either by succession or voluntary conveyance, the
720 judicial/extrajudicial settlement of the estate of the deceased owner or
721 of his/her spouse, or the deed of conveyance, as the case may be, with
722 the proof of authority and proof of identity abovementioned, shall be
723 submitted by the BEOC/WTEOC Applicant.
724
725 The documents above shall be covered by a scanned copy of the sworn
726 statement of the BEOC/WTEOC Applicant's authorized representative
727 containing the details of the document/s constituting the proof of
728 ownership or possessory rights, to wit:
729
730 (a) The denomination of the contracts, deeds, agreements, etc., the
731 date/s of execution and the term thereof, with inclusive dates;
732
733 (b) The names and addresses of the parties to the contracts, deeds,
734 agreements, etc., indicating their relation, e.g., seller and buyer,
735 lessor and lessee, and the like;
736
737 (c) The specific section/clause in the contract, deed, agreement,
738 etc. by which the ownership or possession of the real property
739 is conveyed, with the said provision quoted in full;
740
741 (d) An affirmation that the conveyance is effective, or a summary of
742 the limitations, conditions and other terms that must be complied
743 with before the conveyance becomes effective; and
744
745 (e) The date of notarization of the documents above.
746
747 (f) A read-only excel file attached to the sworn statement where the
748 details below are presented:
749
750 (i) The BEOC/WTEOC Applicant has the authority to
751 acquire ownership/possession and that its counterparty
752 in the contracts, deeds, agreements, etc. has the right



753 and/or authority to dispose of the same in favor the
754 BEOC/WTEOC Applicant;

755
756 (ii) The contract, deed, agreement, etc. was executed by
757 persons identified as having the right to dispose of the
758 ownership or possession of the real properties subject
759 thereof.

760
761 8.10.5. Contracts, deeds, agreements, etc., powers of attorney, or any other
762 document mentioned above that are executed outside the Philippines
763 must be submitted with the corresponding apostille or notarized, as the
764 case may be.

765
766 **8.11. Evaluation of Biomass Energy or Waste-to-Energy Operating Contract**
767 **Applications.**

768
769 8.11.1. After the payment of the processing fee, BEMD, LS, and FS shall
770 conduct the simultaneous technical, legal, and financial evaluations
771 within five (5) calendar days from uploading of the proof of payment of
772 application and processing fees in the EVOSS System.

773
774 8.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal
775 evaluation under Section 8.11.1, LS shall:

776
777 (a) Evaluate the certificates of title submitted by the BEOC/WTEOC
778 Applicant;

779
780 (b) In the evaluation of the contracts, deeds, agreements etc.
781 mentioned in Sections 8.10.1(a)(ii) and 8.10.1(a)(iii), only
782 consider the BEOC/WTEOC Applicant's sworn statement and
783 excel file attached thereto; or

784
785 (c) Evaluate the Affidavit of Acquired Possessory Rights mentioned
786 in Section 8.10.3.

787
788 DOE reserves the right to evaluate the BEOC/WTEOC Applicant's proof
789 of ownership or possessory rights and supporting documents.

790
791 8.11.3. BEMD shall consolidate all the evaluation results and proceed with the
792 processing:

793
794 (a) If the BEOC/WTEOC Application passes the evaluations, BEMD
795 shall, within two (2) calendar days from its receipt of the
796 evaluation documents, prepare REMB's memorandum for the
797 DOE Secretary endorsing the award of the BEOC/WTEOC
798 Application; the draft COA, as applicable; and the draft
799 BEOC/WTEOC. The endorsement must include the original
800 copy of the results of area verification and the legal, technical
801 and financial evaluations with all their attachments, and the
802 project area map and its technical descriptions. Upon
803 concurrence of ITMS, FS, REMB and LS on the endorsement,
804 the DOE Secretary shall act on the BEOC/WTEOC Application
805 in accordance with Section 10.

806



- 807 (b) If the BEOC/WTEOC Application does not pass the legal,
808 technical, and/or financial evaluations, BEMD shall notify the
809 BEOC/WTEOC Applicant through the EVOSS System to rectify
810 the submission within ten (10) working days.
811
- 812 (i) Failure of the BEOC/WTEOC Applicant to submit
813 supplementary documents within the prescribed period
814 shall be deemed an abandonment of the BEOC/WTEOC
815 Application. BEMD shall notify the BEOC/WTEOC
816 Applicant, LS, FS, and ITMS of the disqualification
817 through the EVOSS System.
818
- 819 (ii) If the BEOC/WTEOC Applicant submits supplementary
820 complete documents within the prescribed period above,
821 BEMD, LS and FS shall be notified by the EVOSS
822 System of the submission. BEMD, FS and LS shall finish
823 the simultaneous technical, legal, and financial
824 evaluations within three (3) calendar days.
825
- 826 (iii) Should the BEOC/WTEOC Application still fail to pass
827 any of the subsequent legal, technical, or financial
828 evaluations, the REMB Assistant Director shall
829 recommend the disqualification of the BEOC/WTEOC
830 Application to the Supervising Assistant Secretary who
831 shall then issue a formal notice to the BEOC/WTEOC
832 Applicant stating the basis of the disqualification. BEMD
833 shall notify the BEOC/WTEOC Applicant, LS and FS,
834 and ITMS of the disqualification through the EVOSS
835 System. After five (5) calendar days from receipt of the
836 BEOC/WTEOC Applicant of the letter of disqualification,
837 the REMB shall prepare a memorandum to the ITMS to
838 immediately re-open the area for RE Applications by
839 posting such information on the DOE website and send
840 notifications to concerned interested participants or RE
841 Applicants through electronic mail pending the
842 necessary modifications to the EVOSS System.
843
- 844 8.11.4. The BEOC/WTEOC Applicant shall submit all supplemental documents
845 through the EVOSS System. Documents submitted outside the EVOSS
846 System and those submitted through the EVOSS System but beyond
847 the prescribed period shall not be accepted or evaluated. Further, once
848 the rectification documents are submitted through the EVOSS system
849 within the ten (10) working days, the remaining days, if there are any,
850 shall be forfeited. Therefore, the BEOC/WTEOC Applicant must ensure
851 that all its documents are final and complete before submitting the same
852 through the EVOSS System.
853
- 854 8.11.5. No Request for Reconsideration (RR) of any of the legal, technical,
855 financial evaluation or the disqualification shall be entertained, except
856 when the BEOC/WTEOC Applicant failed to submit the required
857 documents within the prescribed timelines due to a fault in the EVOSS
858 System, as confirmed by the Investment Promotion Office (IPO). In
859 such circumstances, the BEOC/WTEOC Applicant shall file the RR with



860 REMB within three (3) working days from uploading of the Notice of
861 Disqualification.

862
863 (a) Upon receipt of the RR, BEMD shall request the IPO to confirm
864 the occurrence of the technical problem. If so confirmed and the
865 same prevented the timely submission, BEMD, FS and/or LS
866 shall evaluate the BEOC/WTEOC Application considering the
867 additional submission.

868
869 (b) If the BEOC/WTEOC Application passes the evaluation, REMB
870 shall grant the RR. Thereafter, BEMD shall proceed in
871 accordance with Section 8.11.3(a).

872
873 8.12. If the Biomass/Waste-to-Energy Developer waived the COA during the pre-
874 application process, BEMD shall proceed with the application in accordance
875 with Section 10.2.

876
877 8.13. **Re-application for BEOC/WTEOC.** After ITMS re-opens the area for RE
878 Applications pursuant to Section 8.11.3(b)(iii), the BEOC/WTEOC Applicant
879 may re-apply for the same AOI by complying with Section 8.9.1.

880
881 During the checking of the submission for completeness and consistency under
882 Section 8.9.2 and prior to giving notice of any deficiency, BEMD shall stamp
883 the Notice to Apply "Revalidated" with the appropriate date if the area is still
884 open for BEOC/WTEOC Applications.

885
886 If another BEOC/WTEOC Applicant is issued a Notice to Apply over the same
887 AOI or a portion thereof and uploads the documentary requirements through
888 EVOSS System, the completeness check referred to above and the validation
889 of the area with the ITMS shall be on a first-come, first-serve basis. BEMD shall
890 issue an order of payment for the application and processing fees to the
891 BEOC/WTEOC Applicant which first files the complete documentary
892 requirements based on the EVOSS logs.

893
894 **Section 9. Terms of Certificate of Authority.** The awardee of a BEOC/WTEOC shall have
895 exclusive authority to procure permits or certifications and tenurial instruments needed for the
896 development and utilization of the biomass/waste-to-energy resources within an area
897 specified in the BEOC/WTEOC Application and conduct reconnaissance and other activities
898 needed for pre-feasibility studies upon the issuance of COA by the DOE.

899
900 9.1. The COA shall be valid for a period not exceeding three (3) years. During its
901 validity, the COA shall serve as the DOE's exclusive endorsement for the
902 Biomass/Waste-to-Energy Developer to conduct reconnaissance and other
903 pre-feasibility activities and secure the necessary permits or certifications and
904 tenurial instruments from government agencies, local government units
905 (LGUs), entities or instrumentalities having jurisdiction over any aspect of the
906 biomass/waste-to-energy operations. The denomination of each permit or
907 certification or tenurial instrument to be procured as well as the reconnaissance
908 and other activities to be conducted for the biomass/waste-to-energy project
909 shall be listed in the COA.

910
911 9.2. The COA shall reflect the metes and bounds of the area as proposed in the
912 BEOC/WTEOC Application over which reconnaissance and other pre-
913 feasibility activities may be conducted and permits and tenurial instruments



914 may be secured by the Biomass/Waste-to-Energy Developer for the project.
915 For this purpose, a copy of the technical description of the area to be covered
916 by the BEOC/WTEOC shall form part of the COA.

917
918 9.3. The validity of the COA shall not be extendible. Any reconnaissance activity
919 and other pre-feasibility studies that is not conducted and/or permit,
920 certification, or tenurial instrument that remains unissued upon the lapse of the
921 COA shall be procured and the necessary activities therefor conducted, as part
922 of the Development Stage.

923
924 9.4. The Biomass/Waste-to-Energy Developer shall have the option to waive,
925 shorten or utilize maximum period of validity of the COA.

926
927 9.4.1. If the Biomass/Waste-to-Energy Developer opts to shorten the period
928 of validity, it shall give written notice to the DOE with a request to
929 execute the BEOC/WTEOC, a proposed Work Program and a terminal
930 report on the permits, certifications or tenurial instruments procured
931 and/or reconnaissance and other activities needed for pre-feasibility
932 studies conducted.

933
934 9.4.2. If the Biomass/Waste-to-Energy Developer opts to utilize the full term,
935 it shall give written notice to the DOE with a request to execute the
936 BEOC/WTEOC, a proposed Work Program and the terminal report
937 mentioned in Section 9.4.1 not earlier than six (6) months but not later
938 than three (3) months prior to the expiration of the validity of the COA.

939
940 9.4.3. Failure to the Biomass/Waste-to-Energy Developer to give written
941 notice to the DOE within the period mentioned in the preceding
942 paragraph shall be deemed an abandonment of the BEOC/WTEOC
943 Application, following the procedure set forth in Section 8.11.3(b)(iii).

944
945 9.5. Within three (3) calendar days from notice, BEMD shall prepare REMB's
946 memorandum for the DOE Secretary endorsing the execution of the
947 BEOC/WTEOC in accordance with Section 10.2.

948
949 **Section 10. Award of Biomass Energy or Waste-to-Energy Operating Contracts and**
950 **Registration of Biomass/Waste-to-Energy Developers.**

951
952 10.1. **Issuance of Certificate of Authority.** After the approval of a BEOC/WTEOC
953 Application and before the execution of a BEOC/WTEOC, the DOE shall issue
954 a COA: *Provided*, That the COA may be waived in accordance with Section
955 9.4.

956
957 10.2. **Signing of the Biomass Energy or Waste-to-Energy Operating Contract.**
958 The following procedure shall govern the awarding of BEOC/WTEOC:

959
960 10.2.1. **Notification of Award.** The DOE shall notify the qualified
961 BEOC/WTEOC Applicant of the award of the BEOC/WTEOC.

962
963 10.2.2. **Signing of the Biomass Energy or Waste-to-Energy Operating**
964 **Contract.** The signing of the BEOC/WTEOC shall be divided into two
965 stages, namely: a) pre-signing by the BEOC/WTEOC Applicant; and b)
966 signing of the DOE Secretary.

967



- 968 (a) The REMB Supervising Assistant Secretary shall review the
969 recommendation and endorse the same to the REMB
970 Supervising Undersecretary within two (2) calendar days from
971 receipt thereof. The Undersecretary shall act on the
972 endorsement within two (2) calendar days from receipt of the
973 documents. Within one (1) calendar day from the concurrence
974 of the Undersecretary with the REMB's recommendation, the
975 REMB Director shall require the BEOC/WTEOC Applicant to
976 pre-sign the original copies of the BEOC/WTEOC following the
977 prescribed template. The BEOC/WTEOC Applicant is then
978 required to pre-sign the BEOC/WTEOC within thirty (30)
979 calendar days upon receipt of the notice. Failure to comply
980 within this timeframe shall result in the BEOC/WTEOC
981 application being deemed abandoned. Notifications will be sent
982 through EVOSS at ten (10)-day intervals within this thirty (30)-
983 day period to the BEOC/WTEOC Applicant.
- 984 (b) Within one (1) calendar day, the BEMD shall validate the pre-
985 signed BEOC/WTEOC, and shall forward the pre-signed
986 BEOC/WTEOC, along with the endorsement and all its
987 attachments to the Office of the DOE Secretary. Incomplete pre-
988 signed BEOC/WTEOC shall be returned to the Applicant for
989 rectification.
- 990 (c) The Office of the DOE Secretary shall receive the pre-signed
991 BEOC/WTEOC and all its attachments, and the DOE Secretary
992 shall act on the documents within seven (7) calendar days from
993 receipt thereof.

994
995
996
997 10.2.3. **Payment of Signing Fee.** The BEMD, through the EVOSS System,
998 shall issue the order of payment within one (1) calendar day.

999
1000 The BEOC/WTEOC Applicant shall pay the signing fee directly to the
1001 Treasury and upload the proof of payment thereof within fifteen (15)
1002 calendar days from receipt of the order of payment. The failure of the
1003 Biomass/Waste-to-Energy Developer to do so shall cause the
1004 BEOC/WTEOC to be deemed void.

1005
1006 10.2.4. **Posting of Performance Bond.** Subject to Section 89, the
1007 BEOC/WTEOC Applicant shall post the performance bond covering the
1008 first Contract Year in accordance with Section 64 within the sixty (60)
1009 calendar days from receipt of notice. The failure of the Biomass/Waste-
1010 to-Energy Developer to do so shall cause the BEOC/WTEOC to be
1011 deemed void.

1012
1013 10.2.5. **Delivery of Signed Biomass Energy or Waste-to-Energy Operating**
1014 **Contract.** Upon receipt of the proof of payment of the signing fee within
1015 the prescribed period, the BEMD shall upload in the EVOSS System
1016 the signed and notarized copy of the BEOC/WTEOC and COR, as
1017 applicable.

1018
1019 The Biomass/Waste-to-Energy Developer shall personally receive the
1020 original copies of the BEOC/WTEOC and COR, as applicable, after
1021 submission of the proof of posting of the performance bond within the



1022 prescribed period. Simultaneous with the receipt of the BEOC/WTEOC,
1023 the Biomass/Waste-to-Energy Developer shall surrender to the DOE
1024 the COA issued pursuant to this Circular.

1025
1026 10.3. **Duty to Maintain Records.** The BEMD shall maintain a record of all LOIs
1027 received, pending BEOC/WTEOC Applications, and signed BEOC/WTEOC in
1028 the EVOSS System.

1029
1030 10.4. The ITMS shall make the area available to other applicants only when: a) the
1031 BEOC/WTEOC Applicant failed to qualify; or b) withdraws or abandons its LOI
1032 or BEOC/WTEOC Application, as the case may be, and only after due notice
1033 is given to the concerned interested participant/ BEOC/WTEOC Applicant of
1034 such information by the REMB Supervising Assistant Secretary, copy
1035 furnishing the ITMS with the said notice. Such information shall be posted on
1036 the DOE website and previously denied applicants shall be notified through the
1037 EVOSS System. Once an area is declared to be available, subsequent RE
1038 Applications covering the same may be allowed, and only on a first-come, first-
1039 served basis.

1040
1041 10.5. **Registration of Biomass/Waste-to-Energy Developers.** The DOE, through
1042 the REMB, shall issue a COR to a Biomass/Waste-to-Energy Developer
1043 holding a valid BEOC/WTEOC for purposes of entitlement to the incentives
1044 under the RE Act, subject to Chapter XI of this Circular, upon receipt of proof
1045 of Financial Closing. Notwithstanding the foregoing, the issuance of a COR
1046 may be availed of upon the award of the BEOC/WTEOC, at the option of the
1047 Biomass/Waste-to-Energy Developer.

1048
1049 In the case of biofuels producers, accreditation of biofuel producers shall be
1050 governed by the procedures under JAO No. 2008-1, Series of 2008, pursuant
1051 to RA No. 9367. At their option, accredited biofuels producers may register with
1052 the DOE as RE Developers to avail of incentives under the RE Act and shall
1053 be issued with a COR.

1054
1055 **Section 11. Terms of Biomass/Waste-to-Energy Operating Contract.** The development of
1056 biomass/waste-to-energy resources shall be covered by a BEOC/WTEOC following the
1057 prescribed template (Annexes "A" and "B", respectively).

1058
1059 11.1. The Biomass/Waste-to-Energy Developer shall be given a non-extendible
1060 period of three (3) years from the date of execution of the BEOC/WTEOC to
1061 achieve Commercial Operations and shall be called the Development Stage.

1062
1063 11.2. The BEOC/WTEOC shall have a term of twenty-five (25) years from the date
1064 of execution, which shall include the Development/Commercial Stage but shall
1065 exclude the period covered by the COA.

1066
1067 11.3. Not earlier than six (6) months but not later than three (3) months prior to the
1068 expiration of the twenty-five (25)-year period, the BEOC/WTEOC may be
1069 renewed for another twenty-five (25) years, subject to the terms and conditions
1070 of the BEOC/WTEOC.

1071
1072 **Section 12. Stages of Biomass Energy or Waste-to-Energy Operating Contract.** A
1073 BEOC/WTEOC shall cover two (2) stages of the biomass/waste-to-energy project, namely:
1074



- 1075 12.1. **Development Stage.** It involves the conduct of final feasibility study up to
1076 achievement of Financial Closing, development, construction, installation,
1077 testing and commissioning and until application of Certificate of Compliance
1078 (COC) of the biomass/waste-to-energy project; and
1079
1080 12.2. **Commercial Stage.** It involves the commercial operation of the
1081 biomass/waste-to-energy project which shall commence from the issuance of
1082 COC by the ERC.
1083

1084 **Section 13. Investments.**

- 1085
1086 13.1. **Additional Investments.** Additional investment may cover investment for
1087 improvements, modernization, rehabilitation, or expansion duly registered with
1088 the DOE, which may or may not result in increased capacity, subject to the
1089 conditions to be determined by the DOE, such as, but not limited to, the
1090 following:
1091
1092 13.1.1. Identification of and investment in sequential phases/stages of
1093 production, or undertaking scheduled modernization or rehabilitation;
1094 and
1095
1096 13.1.2. Improvements such as reduced production/operational costs,
1097 increased production, improved operational efficiency, and better
1098 reliability of the biomass/waste-to-energy facilities.
1099
1100 If, by reason of the additional investment, the capacity of the biomass/waste-
1101 to-energy project is increased by at least thirty percent (30%) as validated by
1102 REMB, the Biomass/Waste-to-Energy Developer shall have the option to avail
1103 of an additional COR indicating the type of additional investment. Upon the
1104 issuance of the additional COR, the applicable incentives under the RE Act
1105 shall be reset.
1106
1107 In cases where the period to avail of duty-free importation has lapsed and the
1108 additional investment involves the importation of RE machinery, equipment
1109 and/or materials, the DOE, upon the request of the Biomass/Waste-to-Energy
1110 Developer, may be issued an additional COR indicating the type of additional
1111 investment prior to the actual increase of the capacity based on the following:
1112
1113 (a) Full and detailed feasibility study showing that upon installation of the
1114 RE equipment, machinery and/or materials specified therein, the
1115 capacity of the biomass/waste-to-energy project will be increased by at
1116 least thirty percent (30%);
1117
1118 (b) Binding agreements for the purchase of RE equipment, machinery
1119 and/or materials with the same specifications mentioned in the
1120 feasibility study;
1121
1122 (c) Detailed timeline of activities to implement the improvement,
1123 modernization, rehabilitation or expansion; and
1124
1125 (d) Subject to Section 89, proof of posting of the performance bond as
1126 provided in Section 64.
1127
1128

CHAPTER III – GEOTHERMAL ENERGY RESOURCE



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Section 14. Eligibility of Geothermal Service Contract Applicant. Any Person may apply for Geothermal Service Contract (GSC), subject to the provisions in this Chapter.

- 14.1. The GSC Applicant must be a Filipino citizen or, if a corporation, must be a Filipino corporation, with at least sixty percent (60%) of its capitalization duly owned and controlled by Filipinos, duly registered with the SEC and organized or authorized for the purpose of engaging in exploration, development and utilization of geothermal resources: *Provided*, That in case the GSC 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 under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.
- 14.2. 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: *Provided*, That large-scale exploration, development and utilization of geothermal resources refers to a project with an initial investment of at least Fifty Million US Dollars (US\$50,000,000.00). The initial investment shall include capitalization necessary during the Pre-Development Stage up to drilling of appropriate number of production wells.
- 14.3. An Applicant which applies for a GSC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

Section 15. Modes of Awarding Geothermal Service Contract. GSC shall be awarded through (a) an OCSP, or (b) Direct Application.

- 15.1. The OCSP shall be adopted for the selection and award of GSCs for Pre-Determined Areas (PDAs) covering geothermal resources for commercial purposes. This shall be governed by Section 16 and such guidelines as may be issued by the DOE pursuant to Section 17.
- 15.2. Direct Application shall be available for the selection and award of:
 - 15.2.1. GSCs covering PDAs, following a failed OCSP pursuant to the guidelines issued under Section 17; and
 - 15.2.2. GSC in an area identified by a GSC Applicant and verified with or confirmed by the ITMS as available for exploration, development and/or utilization of geothermal resources.

Section 16. Pre-Determined Areas. Interested parties may apply for GSC for PDAs offered by the DOE during a prescribed period.

- 16.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for GSC Application, with the respective location maps and technical descriptions



1183 thereof, to the DOE Secretary, through its Supervising Assistant Secretary and
1184 Undersecretary, for approval.

1185
1186 16.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be
1187 scheduled for launch and shall be publicly announced by the DOE for
1188 submission of GSC Applications.

1189
1190 16.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the
1191 availability of data packages for the approved PDAs that can be purchased by
1192 interested parties in support of their applications. The REMB shall conduct
1193 promotional activities to promote OCSP and the corresponding data packages
1194 so as to ensure maximum participation and awareness of prospective investors
1195 and stakeholders.

1196
1197 **Section 17. Procedure for Awarding Geothermal Service Contract under Open and**
1198 **Competitive Selection Process.** The DOE shall issue specific guidelines for the conduct of,
1199 and award of GSCs under, OCSP.

1200
1201 If an OCSP is declared a failure with respect to any or all PDAs included therein, all the
1202 affected PDAs shall be opened for Direct Application.

1203
1204 **Section 18. Procedure for Awarding Geothermal Service Contract under Direct**
1205 **Application.**

1206
1207 18.1. **Coverage.** Direct Application shall be observed in processing GSC
1208 Applications for: (a) geothermal resources located in PDAs which the DOE shall
1209 declare as available under this mode pursuant to the guidelines issued under
1210 Section 17, and (b) geothermal resources in areas other than those included in
1211 the PDAs, subject to the procedures provided herein.

1212
1213 **Part 1. Pre-Application Process**

1214
1215 18.2. **Registration in the EVOSS System.** If the interested participant has no
1216 EVOSS System account yet, it shall submit a request for registration in the
1217 EVOSS System with Geothermal Energy Management Division (GEMD). The
1218 list of requirements necessary for registration is detailed in Annex "J".

1219
1220 18.3. **Submission of Letter of Intent.** All interested participants shall submit through
1221 the EVOSS System an LOI to develop a certain area (Annex "K"), in
1222 accordance with the mapping requirements (Annex "N"). The LOI shall be
1223 addressed to the REMB Director and shall indicate whether the interested
1224 participant will avail of the COA referred to in Section 19 and 20.1. The
1225 submission of the LOI shall not be considered as a filing of an GSC Application
1226 and shall not commence the application process.

1227
1228 18.4. **Pre-Application Orientation of Interested Participant.** The orientation is
1229 intended to inform interested participants about the GSC pre-application and
1230 mapping requirements and processes.

1231
1232 Any interested participant may request for an orientation by signifying such
1233 intent in its LOI; otherwise, it shall be presumed that the interested participant
1234 is aware of the GSC pre-application and mapping requirements and processes.

1235
1236 **Part 2. Area Verification and Technical Guidelines**



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- 18.5. **Configuration of Area of Interest.** The AOI for the GSC Application shall either be polygonal or in blocks following the Blocking System or a combination of both.
- 18.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the LOI, ITMS shall complete the area verification and determine whether the AOI is:
- 18.6.1. Covered by an existing PDA under the OCSP, GSC/GOC, GSC/GOC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
 - 18.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than GSC or GOC;
 - 18.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than GSC Application;
 - 18.6.4. Within the protected areas and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the GSC Application based on available data on file with ITMS and NAMRIA's Philippine Geoportal Project website;

Pursuant to the mandate of the DOE to supervise and control all government activities relative to energy project under the EPIRA, concerned government agencies and entities shall provide the DOE the list of abovementioned areas with technical description;
 - 18.6.5. Covered by the COA of the same energy resource;
 - 18.6.6. Covered by the COA of other energy resource;
 - 18.6.7. Covered by the AOI of the same energy resource;
 - 18.6.8. Covered by the AOI of other energy resource; or
 - 18.6.9. Open for GSC Application.
- 18.7. **Area Verification Results.** ITMS shall provide GEMD with the results of area verification through the EVOSS System. Within three (3) calendar days upon receipt of the verification results, GEMD, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Sections 18.9.7 or 18.6.9. If the AOI falls under Sections 18.6.1 to 18.6.6 or



1290 18.6.8, the GSC Applicant shall be issued a Notice to Apply only after
1291 complying with the succeeding paragraph.
1292

1293 If the GSC Application cannot proceed based on the final verification results,
1294 the interested participant may either (a) reconfigure the AOI; (b) file a request
1295 to allow the development of multiple resources in the area; or (c) comply with
1296 Section 18.7.3, as applicable.
1297

1298 **18.7.1. Reconfigured Area of Interest.** Within ten (10) calendar days from
1299 uploading of the area verification results or from receipt of notice that
1300 multiple resource development in the overlapping area is not feasible
1301 under Section 18.7.2, the interested participant and GEMD may
1302 conduct an assessment if the AOI may be reconfigured without material
1303 adverse effect on the feasibility of the proposed geothermal project. The
1304 interested participant may reconfigure its AOI to cover only such portion
1305 as may allow the GSC Application to proceed. After confirmation by
1306 ITMS that no portion of the reconfigured AOI falls under Sections 18.6.1
1307 or 18.6.5 (for same energy resource), 18.6.2, 18.6.3, 18.6.6 or 18.6.8
1308 (for other energy resource), GEMD shall upload in the EVOSS System
1309 a Notice to Apply to the interested participant for the filing of the GSC
1310 Application.
1311

1312 **18.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
1313 overlaps with the area of an existing energy service or operating
1314 contract or an application therefor of another RE Developer not affiliated
1315 to the interested participant as provided under Sections 18.6.2 and
1316 18.6.3, the interested participant may still pursue the GSC Application,
1317 subject to the provisions herein below set forth:
1318

- 1319 (a) The interested participant shall:
1320
1321 (i) Explain in writing why the proposed geothermal project
1322 should include the overlapping area; and
1323
1324 (ii) Submit a notarized acknowledgment and undertaking
1325 that the interested participant recognizes and shall
1326 continue to recognize the prior rights of the existing
1327 applicants and/or developers of other energy resources
1328 within the overlapping area; and that all costs needed
1329 therefor shall be borne by the interested participant.
1330
1331 (b) GEMD shall inform the existing applicant or energy
1332 contractor/developer of the intent to develop the geothermal
1333 resources within the overlapping area. Copies of the interested
1334 participant's LOI, the written explanation, and their supporting
1335 documents shall be furnished to the existing applicant or
1336 contractor/developer.
1337
1338 (c) If no objection is received from the existing applicant or energy
1339 contractor/developer within ten (10) calendar days from receipt
1340 of notice, GEMD shall upload in the EVOSS System a Notice to
1341 Proceed to the interested participant for the filing of the GSC
1342 Application.
1343



- 1344 (d) If the existing applicant or energy contractor/developer objects
1345 to the proposal, the said applicant or energy
1346 contractor/developer shall notify GEMD thereof and provide a
1347 copy to the interested participant within ten (10) calendar days
1348 from receipt of notice, citing the impracticability of multiple
1349 resource development as to additional costs, safety, substantial
1350 decrease in the utilization of the energy resource, and other
1351 relevant factors. Copies of the written objection shall be
1352 furnished to the DOE Division processing the application or
1353 administering the energy project. A statement that multiple
1354 resource development in the overlapping area is impracticable
1355 without technical basis shall not be considered as an objection.
1356
- 1357 (e) Within five (5) calendar days from receipt of an objection, GEMD
1358 and the concerned DOE Division shall jointly determine whether
1359 exploration of geothermal resources within the overlapping area
1360 may be conducted without material adverse effect on the
1361 activities of the existing energy contractor/developer. Such
1362 determination shall consider the interested participant's
1363 proposal, the objection and the technical bases cited therein.
1364 The evaluation shall be endorsed to the REMB Director.
1365
- 1366 (f) Upon receipt of the endorsement, the REMB Director may, if he
1367 concurs that the geothermal project will not cause material
1368 injury, issue a recommendation to the DOE Secretary based on
1369 the feasibility of multiple resource development in the
1370 overlapping area, taking into account the most beneficial use of
1371 the resources.
1372
- 1373 (g) The DOE Secretary shall decide whether to allow multiple
1374 resource development in the overlapping area. If the DOE
1375 Secretary allows the same, the REMB Assistant Director shall
1376 issue a Notice to Apply to the interested participant.
1377
- 1378 18.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the
1379 area as provided under Section 18.6.4, the interested participant may
1380 still pursue the GSC Application if there is no material adverse effect on
1381 the feasibility of the proposed geothermal project after applying the
1382 provisions herein below set forth:
1383
- 1384 (a) If the AOI overlaps with areas within strict protection zones
1385 under the ENIPAS, the interested participant shall submit a
1386 revised AOI net of the said areas;
1387
- 1388 (b) If the AOI overlaps with areas outside strict protection zones
1389 under the ENIPAS, the REMB Director shall issue a Notice to
1390 Apply for the said AOI: *Provided*, That the Contract Area may
1391 be reduced subject to the ENIPAS and its IRR;
1392
- 1393 (c) If the AOI overlaps with ancestral domains with Certificate of
1394 Ancestral Domain Title or Claim, the REMB Director shall issue
1395 a Notice to Apply for the said AOI: *Provided*, That the Contract
1396 Area may be reduced subject to the IPRA and its IRR.
1397



- 1398 (d) If the AOI overlaps with areas with tenurial instruments from
1399 other government agencies, the REMB Director shall issue a
1400 Notice to Apply for the said AOI: *Provided*, That the Contract
1401 Area may be reduced subject to the relevant rules and
1402 regulations of the concerned government agency.
1403
1404 (e) If the AOI overlaps with areas prohibited, reserved, or used for
1405 national defense, navigation, irrigation, and other development
1406 projects, and other areas, the REMB Director shall issue a
1407 Notice to Apply for the said AOI: *Provided*, That the Contract
1408 Area may be reduced subject to the relevant rules and
1409 regulations of the concerned government agency.
1410

1411 **Part 3. Filing and Evaluation of Geothermal Service Contract Applications**

1412

- 1413 18.8. **Orientation of GSC Applicant.** The orientation is intended to inform GSC
1414 Applicant about the GSC application requirements, and to guide them through
1415 the process for evaluation thereof, awarding of GSC and the registration of a
1416 geothermal project.
1417

1418 The Notice to Apply uploaded in the EVOSS System shall include the schedule
1419 of the mandatory orientation for GSC Applicants, facilitated by representatives
1420 from the LS, GEMD, and FS. The GSC Applicant shall ensure the attendance
1421 of legal, technical, and financial staff during the orientation.
1422

- 1423 18.9. **Receipt of Geothermal Service Contract Applications.** After the Notice to
1424 Apply is uploaded in the EVOSS System, the interested participant may file its
1425 GSC Application by complying with the procedures and requirements, as
1426 follows:
1427

1428 18.9.1. The GSC Applicant shall submit through the EVOSS System the
1429 complete set of documentary requirements based on the Checklist of
1430 Requirements (Annex "M").
1431

1432 18.9.2. GEMD shall check the completeness and consistency of the
1433 submission and ITMS shall validate the area applied for the geothermal
1434 project within three (3) working days.
1435

1436 18.9.3. If the submission is complete and the AOI is still free for development,
1437 GEMD shall upload a copy of the order of payment for the application
1438 and processing fees. The EVOSS System shall notify the GSC
1439 Applicant through a system-generated email to pay the application and
1440 processing fees within five (5) working days. Failure to do so will result
1441 in the abandonment of the application.
1442

1443 18.9.4. The AOI is not reserved for the GSC Applicant until the complete
1444 application documents and proof of payment of application and
1445 processing fees are submitted.
1446

1447 18.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete
1448 submission.
1449



- 1450 18.9.6. In case the AOI is no longer free for development, the GSC Applicant
1451 shall be notified through the EVOSS System and the Application shall
1452 be denied accordingly.
1453
- 1454 18.9.7. To ensure the orderly processing of GSC Applications, the EVOSS
1455 System shall be modified such that ITMS must input its confirmation
1456 therein that the AOI is available before a GSC Applicant can upload the
1457 documentary requirements. Pending such modification, GEMD shall
1458 revalidate with ITMS whether the AOI is open for application before
1459 issuing the order for the payment of application and processing fees
1460 mentioned in Section 18.8.3.
1461
- 1462 **18.10. Proof of Access to Proposed Area of Interest.** As part of the application
1463 requirements, the GSC Applicant shall submit an Affidavit of Acquisition of
1464 Possessory Rights in accordance with Annex "L", as the case may be, and a
1465 copy of the Board Resolution authorizing the affiant to execute the instrument
1466 on behalf of the GSC Applicant.
1467
- 1468 **18.11. Evaluation of Geothermal Service Contract Applications.**
- 1469
- 1470
- 1471 18.11.1. After the payment of the processing fee, GEMD, LS, and FS shall
1472 conduct the simultaneous technical, legal, and financial evaluations
1473 within five (5) calendar days from uploading of the proof of payment
1474 of application and processing fees in the EVOSS System.
1475
- 1476 18.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal
1477 evaluation under Section 18.11.1, LS shall evaluate the Affidavit of
1478 Acquisition of Possessory Rights mentioned in Section 18.10.
1479
- 1480 18.11.3. GEMD shall consolidate all the evaluation results and proceed with
1481 the processing of the application, as follows:
1482
- 1483 (a) If the GSC Application passes the evaluations, GEMD shall,
1484 within two (2) calendar days from its receipt of the evaluation
1485 documents, prepare REMB's memorandum for the DOE
1486 Secretary endorsing the award of the GSC Application; the
1487 draft COA, as applicable; and the draft GSC. The
1488 endorsement must include the original copy of the results of
1489 area verification and the legal, technical and financial
1490 evaluations with all their attachments, and the project area
1491 map and its technical descriptions. Upon concurrence of
1492 ITMS, FS, REMB and LS on the endorsement, the DOE
1493 Secretary shall act on the GSC Application in accordance with
1494 Section 20.
1495
- 1496 (b) If the GSC Application does not pass the legal, technical,
1497 and/or financial evaluations, GEMD shall notify the GSC
1498 Applicant through the EVOSS System to rectify the
1499 submission within ten (10) working days.
- 1500
- 1501 (i) Failure of the GSC Applicant to submit supplementary
1502 documents within the prescribed period shall be
1503 deemed an abandonment of the GSC Application.



- 1504 GEMD shall notify the GSC Applicant, LS, FS, and
1505 ITMS of the disqualification through the EVOSS
1506 System.
1507
- 1508 (ii) If the GSC Applicant submits supplementary complete
1509 documents within the prescribed period above, GEMD,
1510 LS and FS shall be notified by the EVOSS System of
1511 the submission. GEMD, FS and LS shall finish the
1512 simultaneous technical, legal, and financial
1513 evaluations within three (3) calendar days.
1514
- 1515 (iii) Should the GSC Application still fail to pass any of the
1516 subsequent legal, technical, or financial evaluations,
1517 the REMB Assistant Director shall recommend the
1518 disqualification of the GSC Application to the
1519 Supervising Assistant Secretary who shall then issue
1520 a formal notice to the GSC Applicant stating the basis
1521 of the disqualification. GEMD shall notify the GSC
1522 Applicant, LS, FS, and ITMS of the disqualification
1523 through the EVOSS System. After five (5) calendar
1524 days from receipt of the GSC Applicant of the letter of
1525 disqualification, the REMB shall prepare a
1526 memorandum to the ITMS to immediately re-open the
1527 area for RE Applications by posting such information
1528 on the DOE website and send notifications to
1529 concerned interested participants or RE Applicants
1530 through electronic mail pending the necessary
1531 modifications to the the EVOSS System.
1532
- 1533 18.11.4. The GSC Applicant shall submit all supplemental documents through
1534 the EVOSS System. Documents submitted outside the EVOSS
1535 System and those submitted through the EVOSS System but beyond
1536 the prescribed period shall not be accepted or evaluated. Further,
1537 once the rectification documents are submitted through the EVOSS
1538 system within the ten (10) working days, the remaining days, if there
1539 are any, shall be forfeited. Therefore, the GSC Applicant must ensure
1540 that all its documents are final and complete before submitting the
1541 same through the EVOSS System.
1542
- 1543 18.11.5. No RR of any of the legal, technical, financial evaluation or the
1544 disqualification shall be entertained, except when the GSC Applicant
1545 failed to submit the required documents within the prescribed
1546 timelines due to a fault in the EVOSS System, as confirmed by the
1547 IPO. In such circumstances, the GSC Applicant shall file the RR with
1548 REMB within three (3) working days from uploading of the Notice of
1549 Disqualification.
1550
- 1551 (a) Upon receipt of the RR, GEMD shall request the IPO to
1552 confirm the occurrence of the technical problem. If so
1553 confirmed and the same prevented the timely submission,
1554 GEMD, FS and/or LS shall evaluate the GSC Application
1555 considering the additional submission.
1556



1557 (b) If the GSC Application passes the evaluation, REMB shall
1558 grant the RR. Thereafter, GEMD shall proceed in accordance
1559 with Section 18.11.3(a).

1560
1561 18.12. If the Geothermal Developer waived the COA during the pre-application
1562 process, GEMD shall proceed with the application in accordance with Section
1563 20.2.

1564
1565 18.13. **Re-application for GSC.** After ITMS re-opens the area for RE Applications
1566 pursuant to Section 18.11.3(b)(iii), the GSC Applicant may re-apply for the
1567 same AOI by complying with Section 18.9.1.

1568
1569 During the checking of the submission for completeness and consistency under
1570 Section 18.9.2 and prior to giving notice of any deficiency, GEMD shall stamp
1571 the Notice to Apply "Revalidated" with the appropriate date if the area is still
1572 open for GSC Applications.

1573
1574 If another GSC Applicant is issued a Notice to Apply over the same AOI or a
1575 portion thereof and uploads the documentary requirements through EVOSS
1576 System, the completeness check referred to above and the validation of the
1577 area with the ITMS shall be on a first-come, first-serve basis. GEMD shall issue
1578 an order of payment for the application and processing fees to the GSC
1579 Applicant which first files the complete documentary requirements based on
1580 the EVOSS logs.

1581
1582 **Section 19. Terms of Certificate of Authority.** The awardee of a GSC shall have exclusive
1583 authority to procure permits or certifications and tenurial instruments needed for the
1584 exploration, development and utilization of the geothermal resources within an area specified
1585 in the GSC Application and conduct reconnaissance and other activities needed for pre-
1586 feasibility studies upon the issuance of COA by the DOE.

1587
1588 19.1. The COA shall be valid for a period not exceeding three (3) years. During its
1589 validity, the COA shall serve as the DOE's exclusive endorsement for the
1590 Geothermal Developer to conduct reconnaissance and other pre-feasibility
1591 activities and secure the necessary permits or certifications and tenurial
1592 instruments from government agencies, LGUs, entities or instrumentalities
1593 having jurisdiction over any aspect of the geothermal operations. The
1594 denomination of each permit or certification or tenurial instrument to be
1595 procured as well as the reconnaissance and other activities to be conducted
1596 for the geothermal project shall be listed in the COA.

1597
1598 19.2. The COA shall reflect the metes and bounds of the area as proposed in the
1599 GSC Application over which reconnaissance and other pre-feasibility activities
1600 may be conducted and permits and tenurial instruments may be secured by the
1601 Geothermal Developer for the project. For this purpose, a copy of the technical
1602 description of the area to be covered by the GSC shall form part of the COA.

1603
1604 19.3. The validity of the COA shall not be extendible. Any reconnaissance activity
1605 and other pre-feasibility studies that is not conducted and/or permit or
1606 certification or tenurial instrument that remains unissued upon the lapse of the
1607 COA shall be procured and the necessary activities therefor conducted, as part
1608 of the Pre-Development Stage.

1609



- 1610 19.4. The Geothermal Developer shall have the option to waive, shorten, or utilize
1611 the maximum period of validity of the COA.
1612
1613 19.4.1. If the Geothermal Developer opts to shorten the period of validity, it shall
1614 give written notice to the DOE with a request to execute the GSC, a
1615 proposed Work Program and a terminal report on the permits,
1616 certifications or tenorial instruments procured and/or reconnaissance
1617 and other activities needed for pre-feasibility studies conducted.
1618
1619 19.4.2. If the Geothermal Developer opts to utilize the full term, it shall give
1620 written notice to the DOE with a request to execute the GSC, a
1621 proposed Work Program and the terminal report mentioned in Section
1622 19.4.1 not earlier than six (6) months but not later than three (3) months
1623 prior to the expiration of the validity of the COA.
1624
1625 19.4.3. Failure of the Geothermal Developer to give written notice to the DOE
1626 within the period mentioned in the preceding paragraph shall be
1627 deemed an abandonment of the GSC Application, following the
1628 procedure set forth in Section 18.11.3(b)(iii).
1629
1630 19.5. Within three (3) calendar days from notice, GEMD shall prepare REMB's
1631 memorandum for the DOE Secretary endorsing the execution of the GSC in
1632 accordance with Section 20.2.
1633

1634 **Section 20. Award of Geothermal Service Contract and Registration of Geothermal**
1635 **Developers.**
1636

- 1637 20.1. **Issuance of Certificate of Authority.** After the approval and award of a GSC
1638 Application and before the execution of a GSC, the DOE shall issue a COA:
1639 *Provided*, That the COA may be waived in accordance with Section 19.4.
1640
1641 20.2. **Signing of the Geothermal Service Contract.** The following procedure shall
1642 govern the awarding of GSC:
1643
1644 20.2.1. **Notification of Award.** The DOE shall notify the selected (under
1645 OCSP) or qualified (under Direct Application) GSC Applicant of the
1646 award of the GSC.
1647
1648 20.2.2. **Signing of the Geothermal Service Contract.** The signing of the GSC
1649 shall be divided into two stages, namely: a) pre-signing by the GSC
1650 Applicant; and b) signing of the DOE Secretary: *Provided*, That any
1651 GSC in the nature of a financial or technical assistance agreement shall
1652 be approved and executed by the President of the Philippines, upon the
1653 recommendation by the DOE Secretary, in accordance with Section 2,
1654 Article XII of the Philippine Constitution.
1655
1656 (a) The REMB Supervising Assistant Secretary shall review the
1657 recommendation and endorse the same to the REMB
1658 Supervising Undersecretary within two (2) calendar days from
1659 receipt thereof. The Undersecretary shall act on the
1660 endorsement within two (2) calendar days from receipt of the
1661 documents. Within one (1) calendar day from the concurrence
1662 of the Undersecretary with the REMB's recommendation, the
1663 REMB Director shall require the GSC Applicant to pre-sign the



1664 original copies of the GSC following the prescribed template.
1665 The GSC Applicant is then required to pre-sign the GSC within
1666 thirty (30) calendar days upon receipt of the notice. Failure to
1667 comply within this timeframe shall result in the GSC application
1668 being deemed abandoned. Notifications will be sent through
1669 EVOSS at ten (10)-day intervals within this thirty (30)-day period
1670 to the GSC Applicant.

1671
1672 (b) Within one (1) calendar day, the GEMD shall validate the pre-
1673 signed GSC, and shall forward the pre-signed GSC, along with
1674 the endorsement and all its attachments to the Office of the DOE
1675 Secretary. Incomplete pre-signed GSC shall be returned to the
1676 Applicant for rectification.

1677
1678 (c) The Office of the DOE Secretary shall receive the pre-signed
1679 GSC and all its attachments, and the DOE Secretary shall act
1680 on the documents within seven (7) calendar days from receipt
1681 thereof.

1682
1683 20.2.3. **Payment of Signing Fee.** The GEMD, through the EVOSS System,
1684 shall issue the order of payment within one (1) calendar day.

1685
1686 The GSC Applicant shall pay the signing fee directly to the Treasury
1687 and upload the proof of payment thereof within fifteen (15) calendar
1688 days from receipt of the order of payment. The failure of the Geothermal
1689 Developer to do so shall cause the GSC to be deemed void.

1690
1691 20.2.4. **Posting of Performance Bond.** Subject to Section 89, the GSC
1692 Applicant shall post the performance bond covering the first Contract
1693 Year in accordance with Section 64 within the sixty (60) calendar days
1694 from receipt of notice. The failure of the Geothermal Developer to do so
1695 shall cause the GSC to be deemed void.

1696
1697 20.2.5. **Delivery of the Signed Geothermal Service Contract.** Upon receipt
1698 of the proof of payment of the signing fee within the prescribed period,
1699 the GEMD shall upload in the EVOSS System the signed and notarized
1700 copy of the GSC and COR, as applicable.

1701
1702 The Geothermal Developer shall personally receive the original copies
1703 of the GSC and COR, as applicable, after submission of the proof of
1704 posting of the performance bond within the prescribed period.
1705 Simultaneous with the receipt of the GSC, the Geothermal Developer
1706 shall surrender to the DOE the COA issued pursuant to this Circular.

1707
1708 20.3. **Duty to Maintain Records.** The GEMD shall maintain a record of all LOIs
1709 received, pending GSC Applications, and signed GSC in the EVOSS System.

1710
1711 20.4. The ITMS shall make the area available to other applicants only when: a) the
1712 GSC Applicant failed to qualify; or b) withdraws or abandons its LOI or GSC
1713 Application, as the case may be, and only after due notice is given to the
1714 concerned interested participant/GSC Applicant of such information by the
1715 REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said
1716 notice. Such information shall be posted on the DOE website and previously
1717 denied applicants shall be notified through the EVOSS System. Once an area



1718 is declared to be available, subsequent RE Applications covering the same may
1719 be allowed, and only on a first-come, first-served basis.

1720
1721 20.5. **Registration of Geothermal Developers.** The DOE, through the REMB, shall
1722 issue a COR to a Geothermal Developer holding a valid GSC for purposes of
1723 entitlement to the incentives under the RE Act, subject to Chapter XI of this
1724 Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the
1725 issuance of a COR may be availed of upon the award of the GSC, at the option
1726 of the Geothermal Developer.

1727
1728 **Section 21. Terms of Geothermal Service Contract.** The development of geothermal
1729 resources shall be covered by a GSC following the prescribed template (Annex "C").

1730
1731 21.1. The Geothermal Developer shall be given a period of five (5) years from the
1732 date of execution of the GSC, extendible up to two (2) years, to determine the
1733 existence of geothermal resources in Commercial Quantities and shall be
1734 called Pre-Development Stage.

1735
1736 21.2. The Geothermal Developer may file a request to extend the term of the Pre-
1737 Development Stage for justifiable reasons not earlier than six (6) months but
1738 not later than three (3) months prior to its expiration, which shall be decided by
1739 the REMB Supervising Undersecretary.

1740
1741 21.3. The Development/Commercial Stage shall commence prior to the expiration of
1742 the Pre-Development Stage and upon the issuance of the COCOC and shall
1743 continue for the remainder of term of the GSC.

1744
1745 21.4. The GSC shall have a term of twenty-five (25) years from the date of execution,
1746 which shall include the Pre-Development Stage and Development/Commercial
1747 Stage but shall exclude the period covered by the COA.

1748
1749 21.5. Not earlier than six (6) years but not later than three (3) years prior to the
1750 expiration of the twenty-five (25)-year contract term, the GSC may be renewed
1751 for another twenty-five (25) years, subject to the terms and conditions of the
1752 GSC.

1753
1754 **Section 22. Stages of Geothermal Service Contract.** A GSC shall cover two (2) stages of
1755 the geothermal project, namely:

1756
1757 22.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment
1758 and feasibility study up to Financial Closing and approval of DOC of the
1759 geothermal project, including the identification of the proposed Production
1760 Area; and

1761
1762 22.2. **Development/Commercial Stage.** It involves the development, construction,
1763 and commercial operation of the geothermal project, production, and the
1764 production and utilization of geothermal resources.

1765
1766 **Section 23. Investments.**

1767
1768 23.1. **New Investments.** Geothermal Developers undertaking discovery,
1769 exploration, development and/or utilization of new geothermal resources within
1770 the Contract Area distinct from the originally registered operations may qualify
1771 as new projects, subject to setting up of new separate books of accounts. The



1772 Geothermal Developer may, upon its discretion, relinquish the Contract Area
1773 and apply for a new GSC over the area of new investment, subject to
1774 constitutional term limits.

1775
1776 23.2. **Additional Investments.** Additional investment may cover investment for
1777 improvements, modernization, rehabilitation, or expansion duly registered with
1778 the DOE, which may or may not result in increased capacity, subject to the
1779 conditions to be determined by the DOE, such as, but not limited to, the
1780 following:

1781
1782 23.2.1. Identification of and investment in sequential phases/stages of
1783 production, or undertaking scheduled modernization or rehabilitation;
1784 and

1785
1786 23.2.2. Improvements such as reduced production/operational costs,
1787 increased production, improved operational efficiency, and better
1788 reliability of the geothermal facilities.

1789
1790 If, by reason of the additional investment, the capacity of the geothermal project
1791 is increased by at least ten percent (10%) as validated by REMB, the
1792 Geothermal Developer shall have the option to avail of an additional COR
1793 indicating the type of additional investment. Upon the issuance of the additional
1794 COR, the applicable incentives under the RE Act shall be reset.

1795
1796 In cases where the period to avail of duty-free importation has lapsed and the
1797 additional investment involves the importation of RE machinery, equipment
1798 and/or materials, the DOE, upon the request of the Geothermal Developer, may
1799 be issued an additional COR indicating the type of additional investment prior
1800 to the actual increase of the capacity based on the following:

1801
1802 (a) Full and detailed feasibility study showing that upon installation of the
1803 RE equipment, machinery and/or materials specified therein, the
1804 capacity of the geothermal project will be increased by at least ten
1805 percent (10%);

1806
1807 (b) Binding agreements for the purchase of RE equipment, machinery
1808 and/or materials with the same specifications mentioned in the
1809 feasibility study;

1810
1811 (c) Detailed timeline of activities to implement the improvement,
1812 modernization, rehabilitation or expansion; and

1813
1814 (d) Subject to Section 89, proof of posting of performance bond as provided
1815 in Section 64.

1816
1817 **CHAPTER IV – SOLAR ENERGY RESOURCE**

1818
1819 **Section 24. Eligibility of Solar Energy Operating Contract Applicant.** Any Person may
1820 apply for Solar Energy Operating Contract (SEOC), subject to the provisions in this Chapter.

1821
1822 24.1. The SEOC Applicant may be a Filipino and/or a foreign citizen, or a Filipino-
1823 and/or foreign-owned corporation or association which is authorized by its
1824 articles or deed of incorporation to engage in the development and utilization
1825 solar energy resources: *Provided*, That in case the SEOC Applicant is a joint



1826 venture or a consortium, the partners of the joint venture or members of the
1827 consortium shall organize themselves as a corporation under the Revised
1828 Corporation Code or secure the appropriate license from the SEC, in case the
1829 joint venture or consortium was incorporated outside of the Philippines.

1830
1831 24.2. An Applicant which applies for a SEOC that involves activities reserved to
1832 Filipino citizens or corporations or associations at least sixty percent (60%) of
1833 whose capital is owned by Filipinos shall comply with the nationality
1834 requirements under applicable laws, including the Anti-Dummy Law on the
1835 appointment of officers of the corporation.

1836
1837 **Section 25. Modes of Awarding Solar Energy Operating Contract.** SEOC shall be
1838 awarded through Direct Application.

1839
1840 25.1. Direct Application shall be available for the selection and award of SEOC in an
1841 area identified by a SEOC Applicant and verified with or confirmed by the ITMS
1842 as available for the development and/or utilization of solar energy resources.

1843
1844 25.2. Solar Power Projects for Own-Use and/or for Non-Commercial Purposes shall
1845 not require the issuance of SEOC but shall comply with the registration
1846 requirements provided under Chapter X: *Provided*, That the physical
1847 connection of such projects shall be as a self-generating facility the generating
1848 unit of which has no connection to the distribution system or grid.

1849
1850 **Section 26. Procedure for Awarding Solar Energy Operating Contract under Direct**
1851 **Application.**

1852
1853 26.1. **Coverage.** Direct Application shall be observed in processing SEOC
1854 Applications for solar energy resources.

1855
1856 **Part 1. Pre-Application Process**

1857
1858 26.2. **Registration in the EVOSS System.** If the interested participant has no
1859 EVOSS System account yet, it shall submit a request for registration in the
1860 EVOSS System with SEMG. The list of requirements necessary for registration
1861 is detailed in Annex "J".

1862
1863 26.3. **Submission of Letter of Intent.** All interested participants shall submit through
1864 the EVOSS System an LOI to develop a certain area (Annex "K"), in
1865 accordance with the mapping requirements (Annex "N"). The LOI shall be
1866 addressed to the REMB Director and shall indicate whether the interested
1867 participant will avail of the COA referred to in Section 27 and 28.1. The
1868 submission of the LOI shall not be considered as a filing of a SEOC Application
1869 and shall not commence the application process.

1870
1871 26.4. **Pre-Application Orientation of Interested Participant.** The orientation is
1872 intended to inform interested participants about the SEOC pre-application and
1873 mapping requirements and processes.

1874
1875 Any interested participant may request for an orientation by signifying such
1876 intent in its LOI; otherwise, it shall be presumed that the interested participant
1877 is aware of the SEOC pre-application and mapping requirements and
1878 processes.

1879



1880 **Part 2. Area Verification and Technical Guidelines**

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- 26.5. **Configuration of Area of Interest.** The interested participant shall specify the type of solar power project, whether it is land-based (e.g., ground-mounted, roof-mounted, or other similar solar power projects) or floating, with or without integrated ESS, and indicate the geographic coordinates of the AOI, except for roof-mounted solar power project. In the case of roof-mounted solar power project, only the size of AOI in hectares and the latitude and longitude points shall be submitted with the LOI. The AOI for the SEOC Application shall either be polygonal or in block following the Blocking System or a combination of both.
- 26.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the LOI, the ITMS shall complete the area verification and determine whether the AOI is:
- 26.6.1. Covered by a SEOC, SEOC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
 - 26.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than SEOC or Solar Energy Service Contract (SESC);
 - 26.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than SEOC Application;
 - 26.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the Marine Spatial Planning (MSP) of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001, entitled “Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan”, and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the SEOC Application based on available data on file with ITMS and NAMRIA’s Philippine Geoportal Project website;

Pursuant to the mandate of the DOE to supervise and control all government activities relative to energy project under the EPIRA, concerned government agencies and entities shall provide the DOE the list of abovementioned areas with technical description;
 - 26.6.5. Covered by the COA of the same energy resource;
 - 26.6.6. Covered by the COA of other energy resource;
 - 26.6.7. Covered by the AOI of the same energy resource;



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26.6.8. Covered by the AOI of other energy resource; or

26.6.9. Open for SEOC Application.

26.7. **Area Verification Results.** ITMS shall provide SEMG with the results of area verification through the EVOSS System. Within three (3) calendar days upon receipt of the verification results, SEMG, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Sections 26.6.7 or 26.6.9. If the AOI falls under Sections 26.6.1 to 26.6.6 or 26.6.8, the SEOC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the SEOC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 26.7.3, as applicable.

26.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from uploading of the final technical verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 26.7.2, the interested participant and SEMG may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed solar power project. The interested participant may reconfigure its AOI to cover only such portion as may allow the SEOC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 26.6.1 or 26.6.5 (for same energy resource) 26.6.2, 26.6.3, 26.6.6 or 26.6.8 (for other energy resource), SEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the SEOC Application.

26.7.2. **Multiple Resources in an Area.** If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor of another RE Developer not affiliated to the interested participant, as provided under Sections 26.6.2 and 26.6.3, the interested participant may still pursue the SEOC Application, subject to the provisions herein below set forth:

- (a) The interested participant shall:
 - (i) Explain in writing why the proposed solar power project will not be feasible without the overlapping area, with justification on the technical viability of the project; and
 - (ii) Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing applicants and/or developers of other energy resources within the overlapping area; that the design of the proposed solar power project will ensure safe and



- 1988 optimal development of solar energy and other energy
1989 resources in the overlapping area; and that all costs
1990 needed therefor shall be borne by the interested
1991 participant.
- 1992
- 1993 (b) SEMG shall inform the existing applicant or energy
1994 contractor/developer of the intent to develop the solar energy
1995 resources within the overlapping area. Copies of the interested
1996 participant's LOI, the written explanation, and their supporting
1997 documents shall be furnished to the existing applicant or
1998 contractor/developer.
- 1999
- 2000 (c) If no objection is received from the existing applicant or energy
2001 contractor/developer within ten (10) calendar days from receipt
2002 of notice, SEMG shall upload in the EVOSS System a Notice to
2003 Apply to the interested participant for the filing of the SEOC
2004 Application.
- 2005
- 2006 (d) If the existing applicant or energy contractor/developer objects
2007 to the proposal, the said applicant or energy
2008 contractor/developer shall notify SEMG thereof and provide a
2009 copy to the interested participant within ten (10) calendar days
2010 from receipt of notice, citing the impracticability of multiple
2011 resource development as to additional costs, safety, substantial
2012 decrease in the utilization of the energy resource, and other
2013 relevant factors. Copies of the written objection shall be
2014 furnished to the DOE Division processing the application or
2015 administering the energy project. A statement that multiple
2016 resource development in the overlapping area is impracticable
2017 without technical basis shall not be considered as an objection.
- 2018
- 2019 (e) Within five (5) calendar days from receipt of an objection, SEMG
2020 and the concerned DOE Division shall jointly determine whether
2021 the development of solar energy resources within the
2022 overlapping area may be conducted without material adverse
2023 effect on the activities of the existing energy
2024 contractor/developer. Such determination shall consider the
2025 interested participant's proposal, the objection and the technical
2026 bases cited therein. The evaluation shall be endorsed to the
2027 REMB Director.
- 2028
- 2029 (f) Upon receipt of the endorsement, the REMB Director may, if he
2030 concurs that the solar power project will not cause material
2031 injury, issue a recommendation to the DOE Secretary based on
2032 the feasibility of multiple resource development in the
2033 overlapping area, taking into account the most beneficial use of
2034 the resources.
- 2035
- 2036 (g) The DOE Secretary shall decide whether to allow multiple
2037 resource development in the overlapping area. If the DOE
2038 Secretary allows the same, the REMB Assistant Director shall
2039 issue a Notice to Apply to the interested participant.
- 2040



2041 26.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the
2042 area as provided under Section 26.6.4, the interested participant may
2043 still pursue the SEOC Application if there is no material adverse effect
2044 on the feasibility of the proposed solar power project after applying the
2045 provisions herein below set forth:

2046
2047 (a) If the AOI overlaps with areas within strict protection zones
2048 under the ENIPAS and exclusion and no build zones under the
2049 MSP of DOE, the interested participant shall submit a revised
2050 AOI net of the said areas.

2051
2052 (b) If the AOI overlaps with areas outside strict protection zones
2053 under the ENIPAS, the REMB Director shall issue a Notice to
2054 Apply for the said AOI: *Provided*, That the Contract Area may
2055 be reduced subject to the ENIPAS and its IRR.

2056
2057 (c) If the AOI overlaps with ancestral domains with Certificate of
2058 Ancestral Domain Title or Claim, the REMB Director shall issue
2059 a Notice to Apply for the said AOI: *Provided*, That the Contract
2060 Area may be reduced subject to the IPRA and its IRR.

2061
2062 (d) If the AOI overlaps with areas with tenurial instruments from
2063 other government agencies, the REMB Director shall issue a
2064 Notice to Apply for the said AOI: *Provided*, That the Contract
2065 Area may be reduced subject to the relevant rules and
2066 regulations of the concerned government agency.

2067
2068 (e) If the AOI overlaps with areas prohibited, reserved, or used for
2069 national defense, navigation, irrigation, and other development
2070 projects, and other areas, the REMB Director shall issue a
2071 Notice to Apply for the said AOI: *Provided*, That the Contract
2072 Area may be reduced subject to the relevant rules and
2073 regulations of the concerned government agency.

2074
2075 (f) If the AOI is within the safety and exclusion zones for offshore
2076 natural gas wells, flowlines, platform, pipelines, loading buoy
2077 and other related facilities related facilities for the Malampaya
2078 Deep Water Gas-To-Power Project over certain waters and
2079 submerged lands adjacent to Batangas, Mindoro and Palawan,
2080 the interested participant shall secure a prior authorization from
2081 the DOE and the Department of National Defense (DND), and
2082 prior consent from the Service Contract (SC) No. 38 Service
2083 Contractor pursuant to Section 1 of Proclamation No. 72, Series
2084 of 2001.

2085 **Part 3. Filing and Evaluation of Solar Energy Operating Contract Applications**

2086
2087
2088 26.8. **Orientation of SEOC Applicant.** The orientation is intended to inform SEOC
2089 Applicant about the SEOC application requirements, and to guide them through
2090 the process for evaluation thereof, awarding of SEOC and the registration of a
2091 solar energy project.

2092
2093 The Notice to Apply uploaded in the EVOSS System shall include the schedule
2094 of the mandatory orientation for SEOC Applicants, facilitated by



- 2095 representatives from the LS, SEMG, and FS. The SEOC Applicant shall ensure
2096 the attendance of legal, technical, and financial staff during the orientation.
2097
- 2098 **26.9. Receipt of Solar Energy Operating Contract Applications.** After the
2099 scheduled orientation, the interested participant may file its SEOC Application
2100 by complying with the procedures and requirements, as follows:
2101
- 2102 26.9.1. The SEOC Applicant shall submit through the EVOSS System the
2103 complete set of documentary requirements based on the Checklist of
2104 Requirements (Annex "M").
2105
- 2106 26.9.2. SEMG shall check the completeness and consistency of the submission
2107 and ITMS shall validate the area applied for the solar power project
2108 within three (3) working days.
2109
- 2110 26.9.3. If the submission is complete and the AOI is still free for development,
2111 SEMG shall upload a copy of the order of payment for the application
2112 and processing fees. The EVOSS System shall notify the SEOC
2113 Applicant through a system-generated email to pay the application and
2114 processing fees within five (5) working days. Failure to do so will result
2115 in the abandonment of the application.
2116
- 2117 26.9.4. The AOI is not reserved for the SEOC Applicant until the complete
2118 application documents and proof of payment of application and
2119 processing fees are submitted.
2120
- 2121 26.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete
2122 submission.
2123
- 2124 26.9.6. In case the AOI is no longer free for development, the SEOC Applicant
2125 shall be notified through the EVOSS System and the Application shall
2126 be denied accordingly.
2127
- 2128 26.9.7. To ensure the orderly processing of SEOC Applications, the EVOSS
2129 System shall be modified such that ITMS must input its confirmation
2130 therein that the AOI is available before a SEOC Applicant can upload
2131 the documentary requirements. Pending such modification, SEMG shall
2132 revalidate with ITMS whether the AOI is open for application before
2133 issuing the order for the payment of application and processing fees
2134 mentioned in Section 26.9.3.
2135
- 2136 **26.10. Proof of Access to Proposed Area of Interest.** As part of the application
2137 requirements, the SEOC Applicant shall submit proof of ownership or
2138 possessory rights over real properties covered by the AOI located in private
2139 lands: *Provided*, That if the AOI covers real properties located in public lands,
2140 proof of application to acquire possessory rights over the said real properties
2141 shall suffice.
2142
- 2143 26.10.1. **Acceptable Proof of Ownership or Possessory Rights.** In the
2144 order of precedence hereunder, any of the following documents may
2145 be submitted by the SEOC Applicant as proof of ownership or
2146 possessory rights:
2147



- 2148 (a) Certificates of title to the real properties in the name of the
2149 SEOC Applicant; or
2150
2151 (b) Contracts, deeds, agreements and the like that
2152 unconditionally grant the SEOC Applicant ownership or right
2153 to possess the real properties for purposes of construction,
2154 installation, maintenance and operation of the solar energy
2155 project thereon; or
2156
2157 (c) Contracts, deeds, agreements, and the like that
2158 unconditionally grant the SEOC Applicant an exclusive option
2159 to acquire the ownership or the right to possess the real
2160 properties: *Provided*, That the right to construct, install,
2161 maintain and operate the solar energy project thereon is
2162 vested unto the SEOC Applicant.
2163

2164 26.10.2. **Conflicting Claims.** If there are conflicting claims over the AOI, the
2165 conflict shall be resolved in favor of the Applicant whose proof of
2166 ownership or possessory right has the highest precedence based on
2167 the order of precedence set out in Section 26.10.1.
2168

2169 26.10.3. **Affidavit of Acquisition of Possessory Rights.** If, at the time the
2170 SEOC Application is filed, the acceptable proof of ownership or
2171 possessory rights under Section 26.10.1 are not available and the AOI
2172 is not subject of a conflicting claim, the SEOC Applicant shall submit
2173 an Affidavit of Acquisition of Possessory Rights executed strictly in
2174 accordance with the template provided in Annex "N-1" hereof and a
2175 copy of the Board Resolution authorizing the affiant to execute the
2176 instrument on behalf of the SEOC Applicant.
2177

2178 The SEOC Applicant shall submit the acceptable proof of ownership
2179 or possessory rights and supporting documents mentioned in
2180 Sections 26.10.1 and 26.10.4 not later than thirty (30) calendar days
2181 after the issuance of the COA or, if the SEOC Applicant did not avail
2182 of the COA, after the execution of the SEOC. The failure of the SEOC
2183 Applicant to submit such documents within the prescribed period shall
2184 render the COA or SEOC, whichever is applicable, void *ab initio*.
2185
2186

2187 26.10.4. **Supporting Documents.** In addition to the acceptable proof of
2188 ownership or possessory rights under Section 26.10.1, the SEOC
2189 Applicant shall also submit all documents needed to establish the
2190 authenticity and due execution of the contracts, deeds, agreements,
2191 etc. mentioned in Sections 26.10.1(b) and 26.10.1(c), namely:
2192

- 2193 (a) Board Resolution or Secretary's Certificate of the SEOC
2194 Applicant and: (i) if the registered owner of the real property is
2195 a corporation, Board Resolution or Secretary's Certificate
2196 issued by such corporation; or (ii) if the registered owner is
2197 acting through a representative, a Special Power of Attorney
2198 in favor of the registered owner's representative, each
2199 authorizing the parties to enter into the contracts, deeds,
2200 agreements, and the like;
2201



- 2202 (b) Proof of identity of the registered owner and the signatories to
2203 the contracts, deeds, agreements, and the like; and
2204
2205 (c) Three (3) specimen signature of the said signatories:
2206
2207 *Provided, however,* That in cases where the right to dispose of the
2208 real property has transferred wholly or partly to persons other than the
2209 registered owner either by succession or voluntary conveyance, the
2210 judicial/extrajudicial settlement of the estate of the deceased owner
2211 or of his/her spouse, or the deed of conveyance, as the case may be,
2212 with the proof of authority and proof of identity abovementioned, shall
2213 be submitted by the SEOC Applicant.
2214
2215 The documents above shall be covered by a scanned copy of the
2216 sworn statement of the SEOC Applicant's authorized representative
2217 containing the details of the document/s constituting the proof of
2218 ownership or possessory rights, to wit:
2219
2220 (a) The denomination of the contracts, deeds, agreements, etc.,
2221 the date/s of execution and the term thereof, with inclusive
2222 dates;
2223
2224 (b) The names and addresses of the parties to the contracts,
2225 deeds, agreements, etc., indicating their relation, *e.g.*, seller
2226 and buyer, lessor and lessee, and the like;
2227
2228 (c) The specific section/clause in the contract, deed, agreement,
2229 etc. by which the ownership or possession of the real property
2230 is conveyed, with the said provision quoted in full;
2231
2232 (d) An affirmation that the conveyance is effective, or a summary
2233 of the limitations, conditions and other terms that must be
2234 complied with before the conveyance becomes effective; and
2235
2236 (e) The date of notarization of the documents above.
2237
2238 (f) A read-only excel file and attached to the sworn statement
2239 where the details below are presented:
2240
2241 (i) The SEOC Applicant has the authority to acquire
2242 ownership/possession and that its counterparty in the
2243 contracts, deeds, agreements, etc. has the right and/or
2244 authority to dispose of the same in favor the SEOC
2245 Applicant;
2246
2247 (ii) The contract, deed, agreement, etc. was executed by
2248 persons identified as having the right to dispose of the
2249 ownership or possession of the real properties subject
2250 thereof.
2251
2252 26.10.5. Contracts, deeds, agreements, etc., powers of attorney, or any other
2253 document mentioned above that are executed outside the Philippines
2254 must be submitted with the corresponding apostille or notarized, as
2255 the case may be.



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26.11. Evaluation of Solar Energy Operating Contract Applications.

26.11.1. After the payment of the processing fee, SEMG, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.

26.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal evaluation under Section 26.11.1, LS shall:

- (a) Evaluate the certificates of title submitted by the SEOC Applicant;
- (b) In the evaluation of the contracts, deeds, agreements etc. mentioned in Sections 26.10.1(b) and 26.10.1(c), shall only consider the SEOC Applicant's sworn statement and excel file attached thereto; or
- (c) Evaluate the Affidavit of Acquired Possessory Rights mentioned in Section 26.10.3.

DOE reserves the right to evaluate the BEOC/WTEOC Applicant's proof of ownership or possessory rights and supporting documents.

26.11.3. SEMG shall consolidate all the evaluation results and proceed with the processing of the application, as follows:

- (a) If the SEOC Application passes the evaluations, SEMG shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the SEOC Application; the draft COA, as applicable; and the draft SEOC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the SEOC Application in accordance with Section 28.
- (b) If the SEOC Application does not pass the legal, technical, and/or financial evaluations, SEMG shall notify the SEOC Applicant through the EVOSS System to rectify the submission within ten (10) working days.
 - (i) Failure of the SEOC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the SEOC Application. SEMG shall notify the SEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.



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- (ii) If the SEOC Applicant submits supplementary complete documents within the prescribed period above, SEMG, LS and FS shall be notified by the EVOSS System of the submission. SEMG, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.
- (iii) Should the SEOC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the SEOC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the SEOC Applicant stating the basis of the disqualification. SEMG shall notify the SEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the SEOC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the the EVOSS System.
- 26.11.4. The SEOC Applicant shall submit all supplemental documents through the EVOSS System. Documents submitted outside the EVOSS System and those submitted through the EVOSS System but beyond the prescribed period shall not be accepted or evaluated. Further, once the rectification documents are submitted through the EVOSS system within the ten (10) working days, the remaining days, if there are any, shall be forfeited. Therefore, the SEOC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.
- 26.11.5. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the SEOC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the SEOC Applicant may file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.
- (a) Upon receipt of the RR, SEMG shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, SEMG, FS and/or LS shall evaluate the SEOC Application considering the additional submission.
- (b) If the SEOC Application passes the evaluation, REMB shall grant the RR. Thereafter, SEMG shall proceed in accordance with Section 26.11.3(a).



2362 26.12. If the Solar Energy Developer waived the COA during the pre-application
2363 process, SEMG shall proceed with the application in accordance with Section
2364 28.2.

2365
2366 26.13. **Re-application for SEOC.** After ITMS re-opens the area for RE Applications
2367 pursuant to Section 26.11.3(b)(iii), the SEOC Applicant may re-apply for the
2368 same AOI by complying with Section 26.9.1.

2369
2370 During the checking of the submission for completeness and consistency under
2371 Section 26.9.2 and prior to giving notice of any deficiency, SEMG shall stamp
2372 the Notice to Apply “Revalidated” with the appropriate date if the area is still
2373 open for SEOC Applications.

2374
2375 If another SEOC Applicant is issued a Notice to Apply over the same AOI or a
2376 portion thereof and uploads the documentary requirements through EVOSS
2377 System, the completeness check referred to above and the validation of the
2378 area with the ITMS shall be on a first-come, first-serve basis. SEMG shall issue
2379 an order of payment for the application and processing fees to the SEOC
2380 Applicant which first files the complete documentary requirements based on
2381 the EVOSS logs.

2382
2383 **Section 27. Terms of Certificate of Authority.** The awardee of a SEOC shall have exclusive
2384 authority to procure permits or certifications and tenurial instruments needed for the
2385 development and utilization of the solar energy resources within an area specified in the SEOC
2386 Application and conduct reconnaissance and other activities needed for pre-feasibility studies
2387 upon the issuance of COA by the DOE.

2388
2389 27.1. The COA shall be valid for a period not exceeding one (1) year, for land-based
2390 solar power projects, and two (2) years, for floating solar power projects. During
2391 its validity, the COA shall serve as the DOE’s exclusive endorsement for the
2392 Solar Energy Developer to conduct reconnaissance and other pre-feasibility
2393 activities and secure the necessary permits or certifications and tenurial
2394 instruments from government agencies, LGUs, entities or instrumentalities
2395 having jurisdiction over any aspect of the solar energy operations. The
2396 denomination of each permit or certification or tenurial instrument to be
2397 procured as well as the reconnaissance and other activities to be conducted
2398 for the solar power project shall be listed in the COA.

2399
2400 27.2. The COA shall reflect the metes and bounds of the area as proposed in the
2401 SEOC Application over which reconnaissance and other pre-feasibility
2402 activities may be conducted and permits and tenurial instruments may be
2403 secured by the Solar Energy Developer for the project. For this purpose, a copy
2404 of the technical description of the area to be covered by the SEOC shall form
2405 part of the COA.

2406
2407 27.3. The validity of the COA shall not be extendible. Any reconnaissance activity
2408 and other pre-feasibility studies that is not conducted and/or permit or
2409 certification or tenurial instrument that remains unissued upon the lapse of the
2410 COA shall be procured and the necessary activities therefor conducted, as part
2411 of the Development Stage.

2412
2413 27.4. The Solar Energy Developer shall have the option to waive, shorten or utilize
2414 maximum period of validity of the COA.

2415



- 2416 27.4.1. If the Solar Energy Developer opts to shorten the period of validity, it
2417 shall give written notice to the DOE with a request to execute the SEOC,
2418 a proposed Work Program and a terminal report on the permits,
2419 certifications or tenorial instruments procured and/or reconnaissance
2420 and other activities needed for pre-feasibility studies conducted.
2421
- 2422 27.4.2. If the Solar Energy Developer opts to utilize the full term, it shall give
2423 written notice to the DOE with a request to execute the SEOC, a
2424 proposed Work Program and the terminal report mentioned in Section
2425 27.4.1 not earlier than six (6) months but not later than three (3) months
2426 prior to the expiration of the validity of the COA.
2427
- 2428 27.4.3. Failure of the Solar Energy Developer to give written notice to the DOE
2429 within the period mentioned in the preceding paragraph shall be
2430 deemed an abandonment of the SEOC Application, following the
2431 procedure set forth in Section 26.11.3(b)(iii).
2432
- 2433 27.4.4. In cases under Section 28.2.3, each solar power project shall be
2434 covered by a separate COA and shall have the same period of validity.
2435
- 2436 27.5. Within three (3) calendar days from notice, SEMG shall prepare REMB's
2437 memorandum for the DOE Secretary endorsing the execution of the SEOC in
2438 accordance with Section 28.2.
2439

2440 **Section 28. Award of Solar Energy Operating Contract and Registration of Solar Energy**
2441 **Developers.**
2442

- 2443 28.1. **Issuance of Certificate of Authority.** After the approval of a SEOC
2444 Application and before the execution of a SEOC, the DOE shall issue a COA:
2445 *Provided*, That the COA may be waived in accordance with Section 27.4.
2446
- 2447 28.2. **Signing of the Solar Energy Operating Contract.** The following procedure
2448 shall govern the awarding of SEOC:
2449
- 2450 28.2.1. **Notification of Award.** The DOE shall notify the qualified SEOC
2451 Applicant of the award of the SEOC.
2452
- 2453 28.2.2. **Signing of the Solar Energy Operating Contract.** The signing of the
2454 SEOC shall be divided into two stages, namely: a) pre-signing by the
2455 SEOC Applicant; and b) signing of the DOE Secretary.
2456
- 2457 (a) The REMB Supervising Assistant Secretary shall review the
2458 recommendation and endorse the same to the REMB
2459 Supervising Undersecretary within two (2) calendar days from
2460 receipt thereof. The Undersecretary shall act on the
2461 endorsement within two (2) calendar days from receipt of the
2462 documents. Within one (1) calendar day from the concurrence
2463 of the Undersecretary with the REMB's recommendation, the
2464 REMB Director shall require the SEOC Applicant to pre-sign the
2465 original copies of the SEOC following the prescribed template.
2466 The SEOC Applicant is then required to pre-sign the SEOC
2467 within thirty (30) calendar days upon receipt of the notice.
2468 Failure to comply within this timeframe shall result in the SEOC
2469 application being deemed abandoned. Notifications will be sent



2470 through EVOSS at ten (10)-day intervals within this thirty (30)-
2471 day period to the SEOC Applicant.

2472
2473 (b) Within one (1) working day, SEMG shall validate the pre-signed
2474 SEOC, and shall forward the pre-signed SEOC, along with the
2475 endorsement and all its attachments to the Office of the DOE
2476 Secretary. Incomplete pre-signed SEOC shall be returned to the
2477 Applicant for rectification.

2478
2479 (c) The Office of the DOE Secretary shall receive the pre-signed
2480 SEOC and all its attachments, and the DOE Secretary shall act
2481 on the documents within seven (7) calendar days from receipt
2482 thereof.

2483
2484 **28.2.3. Multiple Solar Power Projects.** A Solar Energy Developer shall have
2485 the option to avail of a single SEOC for multiple solar power projects by
2486 signifying such intent in its LOI: *Provided*, That the proposed capacity
2487 of each solar power project shall not exceed five megawatts (5MW):
2488 *Provided, further*, That all such projects shall be located within the same
2489 province or, if in Metro Manila, within the same city: *Provided, finally*,
2490 That the Solar Energy Developer shall be required to avail of the COA
2491 for all such projects.

2492
2493 **28.2.4. Payment of Signing Fee.** The SEMG, through the EVOSS System,
2494 shall issue the order of payment within one (1) calendar day.

2495
2496 The SEOC Applicant shall pay the signing fee directly to the Treasury
2497 and upload the proof of payment thereof within fifteen (15) calendar
2498 days from receipt of the order of payment. The failure of the Solar
2499 Energy Developer to do so shall cause the SEOC to be deemed void.

2500
2501 **28.2.5. Posting of Performance Bond.** Subject to Section 89, the SEOC
2502 Applicant shall post the performance bond covering the first Contract
2503 Year in accordance with Section 64 within the sixty (60) calendar days
2504 from receipt of notice. The failure of the Solar Energy Developer to do
2505 so shall cause the SEOC to be deemed void.

2506
2507 **28.2.6. Delivery of the Signed Solar Energy Operating Contract.** Upon
2508 receipt of the proof of payment of the signing fee within the prescribed
2509 period, the SEMG shall upload in the EVOSS System the signed and
2510 notarized copy of the SEOC and COR, as applicable.

2511
2512 The Solar Energy Developer shall personally receive the original copies
2513 of the SEOC and COR, as applicable, after submission of the proof of
2514 posting of the performance bond within the prescribed period.
2515 Simultaneous with the receipt of the SEOC, the Solar Energy Developer
2516 shall surrender to the DOE the COA issued pursuant to this Circular.

2517
2518 **28.3. Duty to Maintain Records.** The SEMG shall maintain a record of all LOIs
2519 received, pending SEOC Applications, and signed SEOC in the EVOSS
2520 System.

2521
2522 **28.4.** The ITMS shall make the area available to other applicants only when: a) the
2523 SEOC Applicant failed to qualify; or b) withdraws or abandons its LOI or SEOC



2524 Application, as the case may be, and only after due notice is given to the
2525 concerned interested participant/ SEOC Applicant of such information by the
2526 REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said
2527 notice. Such information shall be posted on the DOE website and previously
2528 denied applicants shall be notified through the EVOSS System. Once an area
2529 is declared to be available, subsequent RE Applications covering the same may
2530 be allowed, and only on a first-come, first-served basis.

2531
2532 28.5. **Registration of Solar Energy Developers.** The DOE, through the REMB,
2533 shall issue a COR to a Solar Energy Developer holding a valid SEOC for
2534 purposes of entitlement to the incentives under the RE Act, subject to Chapter
2535 XI of this Circular, upon receipt of proof of Financial Closing. Notwithstanding
2536 the foregoing, the issuance of a COR may be availed of upon the award of the
2537 SEOC, at the option of the Solar Energy Developer.

2538
2539 **Section 29. Terms of Solar Energy Operating Contract.** The development of solar energy
2540 resources shall be covered by a Land-Based or Floating SEOC following the prescribed
2541 template (Annex “D” or “E”, respectively).

2542
2543 29.1. The Solar Energy Developer shall be given a non-extendible period of five (5)
2544 years, in the case of land-based solar power projects, and six (6) years, in the
2545 case of floating solar power projects, from the date of execution of the SEOC
2546 to achieve Commercial Operations and shall be called the Development Stage.

2547
2548 29.2. The SEOC shall have a term of twenty-five (25) years from the date of
2549 execution, which shall include the Development/Commercial Stage but shall
2550 exclude the period covered by the COA.

2551
2552 29.3. Not earlier than six (6) months but not later than three (3) months prior to the
2553 expiration of the twenty-five (25)-year period, the SEOC may be renewed for
2554 another twenty-five (25) years, subject to the terms and conditions of the
2555 SEOC.

2556
2557 29.4. The Work Program depends on the type of development, whether the land-
2558 based or floating solar power project.

2559
2560 **Section 30. Stages of Solar Energy Contract.**

2561
2562 30.1. **Stages of Solar Energy Operating Contract.** A SEOC shall cover two (2)
2563 stages of the solar power project, namely:

2564
2565 30.1.1. **Development Stage.** It involves the conduct of final feasibility study up
2566 to achievement of Financial Closing, development, construction,
2567 installation, testing and commissioning and until application of COC of
2568 the solar power project; and

2569
2570 30.1.2. **Commercial Stage.** It involves the commercial operation of the solar
2571 power project which shall commence from the issuance of COC by the
2572 ERC.

2573
2574 30.2. **Stages of Solar Energy Service Contract.** A SESC shall cover two (2) stages
2575 of the solar power project, namely:

2576



2577 30.2.1. **Pre-Development Stage.** It involves the conduct of preliminary
2578 assessment and feasibility study up to Financial Closing and approval
2579 of DOC of the solar power project, including the identification of the
2580 proposed Production Area; and

2581
2582 30.2.2. **Development/Commercial Stage.** It involves the development,
2583 construction, and commercial operation of the solar power project,
2584 production, and the production and utilization of solar energy resources.
2585

2586 **Section 31. Investments.**

2587
2588 31.1. **Additional Investments.** Additional investment may cover investment for
2589 improvements, modernization, rehabilitation, or expansion duly registered with
2590 the DOE, which may or may not result in increased capacity, subject to the
2591 conditions to be determined by the DOE, such as, but not limited to, the
2592 following:

2593
2594 31.1.1. Identification of and investment in sequential phases/stages of
2595 production, or undertaking scheduled modernization or rehabilitation;
2596 and

2597
2598 31.1.2. Improvements such as reduced production/operational costs,
2599 increased production, improved operational efficiency, and better
2600 reliability of the solar energy facilities.
2601

2602 If, by reason of the additional investment, the capacity of the solar power project
2603 is increased by at least thirty percent (30%) as validated by REMB, the Solar
2604 Energy Developer shall have the option to avail of an additional COR indicating
2605 the type of additional investment. Upon the issuance of the additional COR, the
2606 applicable incentives under the RE Act shall be reset.
2607

2608 In cases where the period to avail of duty-free importation has lapsed and the
2609 additional investment involves the importation of RE machinery, equipment
2610 and/or materials, the DOE, upon the request of the Solar Energy Developer,
2611 may be issued an additional COR indicating the type of additional investment
2612 prior to the actual increase of the capacity based on the following:
2613

2614 (a) Full and detailed feasibility study showing that upon installation of the
2615 RE equipment, machinery and/or materials specified therein, the
2616 capacity of the solar power project will be increased by at least thirty
2617 percent (30%);
2618

2619 (b) Binding agreements for the purchase of RE equipment, machinery
2620 and/or materials with the same specifications mentioned in the
2621 feasibility study;
2622

2623 (c) Detailed timeline of activities to implement the improvement,
2624 modernization, rehabilitation or expansion; and
2625

2626 (d) Subject to Section 89, proof of posting of performance bond as provided
2627 in Section 64.
2628

2629 **CHAPTER V – HYDROPOWER AND OCEAN ENERGY RESOURCES**
2630



2631 **Section 32. Eligibility of Hydropower or Ocean Energy Service Contract Applicant.** Any
2632 Person may apply for Hydropower Service Contract (HSC) or Ocean Energy Service Contract
2633 (OESC), subject to the provisions in this Chapter.

2634
2635 32.1. The HSC/OESC Applicant may be a Filipino and/or a foreign citizen, or a
2636 Filipino- and/or foreign-owned corporation or association which is authorized
2637 by its articles or deed of incorporation to engage in the exploration,
2638 development, and utilization of hydropower/ocean energy resources: *Provided,*
2639 That in case the HSC/OESC Applicant is a joint venture or a consortium, the
2640 partners of the joint venture or members of the consortium shall organize
2641 themselves as a corporation under the Revised Corporation Code or secure
2642 the appropriate license from the SEC, in case the joint venture or consortium
2643 was incorporated outside of the Philippines.

2644
2645 32.2. The appropriation of water direct from a natural source shall be reserved to
2646 Filipino citizens or corporations or associations at least sixty percent (60%) of
2647 whose capital is owned by Filipinos.

2648
2649 32.3. An Applicant which applies for an HSC/OESC that involves activities reserved
2650 to Filipino citizens or corporations or associations at least sixty percent (60%)
2651 of whose capital is owned by Filipinos shall comply with the nationality
2652 requirements as provided for in the preceding paragraph and under applicable
2653 laws, including the Anti-Dummy Law on the appointment of officers of the
2654 corporation.

2655
2656 **Section 33. Modes of Awarding Hydropower or Ocean Energy Service Contract.**
2657 HSC/OESC shall be awarded through (a) an OCSP, or (b) Direct Application.

2658
2659 33.1. The OCSP shall be adopted for the selection and award of HSCs/OESCs for
2660 PDAs covering hydropower/ocean energy resources for commercial purposes.
2661 This shall be governed by Section 34 and such guidelines as may be issued by
2662 the DOE pursuant to Section 35.

2663
2664 33.2. Direct Application shall be available for the selection and award of:

2665
2666 33.2.1. HSCs/OESCs covering PDAs, following a failed OCSP pursuant to the
2667 guidelines issued under Section 35; and

2668
2669 33.2.2. HSC/OESC in an area identified by an HSC/OESC Applicant and
2670 verified with or confirmed by the ITMS as available for exploration,
2671 development and/or utilization of hydropower/ocean energy resources.

2672
2673 **Section 34. Pre-Determined Areas.** Interested parties may apply for HSC/OESC for PDAs
2674 offered by the DOE during a prescribed period.

2675
2676 34.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for
2677 HSC/OESC Application, with the respective location maps and technical
2678 descriptions thereof, to the DOE Secretary, through its Supervising Assistant
2679 Secretary and Undersecretary, for approval.

2680
2681 34.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be
2682 scheduled for launch and shall be publicly announced by the DOE for
2683 submission of HSC/OESC Applications.

2684



2685 34.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the
2686 availability of data packages for the approved PDAs that can be purchased by
2687 interested parties in support of their applications. The REMB shall conduct
2688 promotional activities to promote the OCSP and the corresponding data
2689 packages so as to ensure maximum participation and awareness of
2690 prospective investors and stakeholders.

2691
2692 **Section 35. Procedure for Awarding Hydropower or Ocean Energy Service Contract**
2693 **under Open and Competitive Selection Process.** The DOE shall issue specific guidelines
2694 for the conduct of, and award of HSCs/OESCs under, OCSP.

2695
2696 If an OCSP is declared a failure with respect to any or all PDAs included therein, all the
2697 affected PDAs shall be opened for Direct Application.

2698
2699 **Section 36. Procedure for Awarding Hydropower or Ocean Energy Service Contract**
2700 **under Direct Application.**

2701
2702 36.1. **Coverage.** Direct Application shall be observed in processing HSC/OESC
2703 Applications for: (a) hydropower/ocean energy resources located in PDAs
2704 which the DOE shall declare as available under this mode pursuant to the
2705 guidelines issued under Section 35, and (b) hydropower/ocean energy
2706 resources in areas other than those included in the PDAs, subject to the
2707 procedures provided herein.

2708
2709 **Part 1. Pre-Application Process**

2710
2711 36.2. **Registration in the EVOSS System.** If the interested participant has no
2712 EVOSS System account yet, it shall submit a request for registration in the
2713 EVOSS System with Hydropower and Ocean Energy Management Division
2714 (HOEMD). The list of requirements necessary for registration is detailed in
2715 Annex "J".

2716
2717 36.3. **Submission of Letter of Intent.** All interested participants shall submit through
2718 the EVOSS System an LOI to develop a certain area (Annex "K"), in
2719 accordance with the mapping requirements (Annex "N"). The LOI shall be
2720 addressed to the REMB Director and shall indicate whether the interested
2721 participant will avail of the COA referred to in Section 37 and 38.1. The
2722 submission of the LOI shall not be considered as a filing of an HSC/OESC
2723 Application and shall not commence the application process.

2724
2725 36.4. **Pre-Application Orientation of Interested Participant.** The orientation is
2726 intended to inform interested participants about the HSC/OESC pre-application
2727 and mapping requirements and processes.

2728
2729 Any interested participant may request for an orientation by signifying such
2730 intent in its LOI; otherwise, it shall be presumed that the interested participant
2731 is aware of the HSC/OESC pre-application and mapping requirements and
2732 processes.

2733
2734 **Part 2. Area Verification and Technical Guidelines**

2735
2736 36.5. **Configuration of Area of Interest.** The interested participant shall indicate the
2737 geographic coordinates of the proposed location of the weir and powerhouse,
2738 with elevation, on the AOI for the HSC Application. The AOI for the OESC



2739 Application shall either be polygonal or in block following the Blocking System
2740 or a combination of both.

2741

2742 36.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the LOI,
2743 ITMS shall complete the area verification and determine whether the AOI is:

2744

2745 36.6.1. Covered by an existing PDA under the OCSP, HSC/OESC,
2746 HSC/OESC pending application, or other energy resource assessment
2747 activities as submitted by the concerned DOE unit and verified by ITMS;

2748

2749 36.6.2. Within or overlaps with the area of an existing energy service or
2750 operating contract such as PSC, COC, SSCMP or RESC, other than
2751 HSC/OESC;

2752

2753 36.6.3. Within or overlaps with the area of an existing energy service or
2754 operating contract application such as PSC, COC, SSCMP or RESC,
2755 other than HSC/OESC Application;

2756

2757 36.6.4. Within the protected and environmentally critical areas under the
2758 ENIPAS, i.e., within or outside the strict protection zones, ancestral
2759 domains with Certificate of Ancestral Domain Title or Claim, areas with
2760 tenurial instruments from other government agencies, areas prohibited,
2761 reserved, or used for national defense, navigation, irrigation, and other
2762 development projects, zones identified under the MSP of the DOE,
2763 safety and exclusion zones under Proclamation No. 72, Series of 2001,
2764 and other areas covered by significant geospatial data that will be
2765 identified as necessary in the evaluation of the HSC/OESC Application
2766 based on available data on file with ITMS and NAMRIA's Philippine
2767 Geoportal Project website.

2768

2769 Pursuant to the mandate of the DOE to supervise and control all
2770 government activities relative to energy project under the EPIRA,
2771 concerned government agencies and entities shall provide the DOE the
2772 list of abovementioned areas with technical description.

2773

2774 36.6.5. Covered by the COA of the same energy resource;

2775

2776 36.6.6. Covered by the COA of other energy resource;

2777

2778 36.6.7. Covered by the AOI of the same energy resource;

2779

2780 36.6.8. Covered by the AOI of other energy resource; or

2781

2782 36.6.9. Open for HSC/OESC Applications.

2783

2784 36.7. **Area Verification Results.** ITMS shall provide HOEMD with the results of area
2785 verification through the EVOSS System. HOEMD shall conduct the final
2786 technical verification and determine whether the proposed hydropower/ocean
2787 energy project will cause substantial disruption to an existing
2788 hydropower/ocean energy project. Within three (3) calendar days upon receipt
2789 of the verification results, HOEMD, through the REMB Assistant Director, shall
2790 endorse the final technical verification results and upload the letter containing
2791 the results of area verification in the EVOSS System.

2792



2793 The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under
2794 Sections 36.6.7 or 36.6.9. If the AOI falls under Sections 36.6.1 to 36.6.6 or
2795 36.6.8, the HSC/OESC Applicant shall be issued a Notice to Apply only after
2796 complying with the succeeding paragraph.

2797
2798 If the HSC/OESC Application cannot proceed based on the final technical
2799 verification results, the interested participant may either (a) reconfigure the
2800 AOI; (b) file a request to allow the development of multiple resources in the
2801 area; or (c) comply with Section 36.7.3, as applicable.

2802
2803 **36.7.1. Reconfigured Area of Interest.** Within ten (10) calendar days from
2804 uploading of the final technical verification results or from receipt of
2805 notice that multiple resource development in the overlapping area is not
2806 feasible under Section 36.7.2, the interested participant and HOEMD
2807 may conduct an assessment if the AOI may be reconfigured without
2808 material adverse effect on the feasibility of the proposed
2809 hydropower/ocean energy project. The interested participant may
2810 reconfigure its AOI to cover only such portion as may allow the
2811 HSC/OESC Application to proceed. After confirmation by ITMS that no
2812 portion of the reconfigured AOI falls under Sections 36.6.1 or 36.6.5 for
2813 same energy resource), 36.6.2, 36.6.3, 36.6.6 or 36.6.8 (for other
2814 energy resource), HOEMD shall upload in the EVOSS System a Notice
2815 to Apply to the interested participant for the filing of the HSC/OESC
2816 Application.

2817
2818 **36.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
2819 overlaps with the area of an existing energy service or operating
2820 contract or an application therefor of another RE Developer not affiliated
2821 to the interested participant as provided under Sections 36.6.2 and
2822 36.6.3, the interested participant may still pursue the HSC/OESC
2823 Application, subject to the provisions herein below set forth:

2824 (a) The interested participant shall:
2825
2826 (i) Explain in writing why the proposed hydropower/ocean
2827 energy project will not be feasible without the
2828 overlapping area, with justification on the technical
2829 viability of the project; and
2830

2831 (ii) Submit a notarized acknowledgment and undertaking
2832 that the interested participant recognizes and shall
2833 continue to recognize the prior rights of the existing
2834 applicants and/or developers of other energy resources
2835 within the overlapping area; that the design of the
2836 proposed hydropower/ocean energy project will ensure
2837 safe and optimal development of hydropower/ocean
2838 energy and other energy resources in the overlapping
2839 area; and that all costs needed therefor shall be borne
2840 by the interested participant.

2841 (b) HOEMD shall inform the existing applicant or energy
2842 contractor/developer of the intent to develop the
2843 hydropower/ocean energy resources within the overlapping
2844 area. Copies of the interested participant's LOI, the written
2845
2846



- 2847 explanation, and their supporting documents shall be furnished
2848 to the existing applicant or contractor/developer.
2849
- 2850 (c) If no objection is received from the existing applicant or energy
2851 contractor/developer within ten (10) calendar days from receipt
2852 of notice, HOEMD shall upload in the EVOSS System a Notice
2853 to Apply to the interested participant for the filing of the
2854 HSC/OESC Application.
2855
- 2856 (d) If the existing applicant or energy contractor/developer objects
2857 to the proposal, the said applicant or energy
2858 contractor/developer shall notify HOEMD thereof and provide a
2859 copy to the interested participant within ten (10) calendar days
2860 from receipt of notice, citing the impracticability of multiple
2861 resource development as to additional costs, safety, substantial
2862 decrease in the utilization of the energy resource, and other
2863 relevant factors. Copies of the written objection shall be
2864 furnished to the DOE Division processing the application or
2865 administering the energy project. A statement that multiple
2866 resource development in the overlapping area is impracticable
2867 without technical basis shall not be considered as an objection.
2868
- 2869 (e) Within five (5) calendar days from receipt of an objection,
2870 HOEMD and the concerned DOE Division shall jointly determine
2871 whether exploration of hydropower/ocean energy resources
2872 within the overlapping area may be conducted without material
2873 adverse effect on the activities of the existing energy
2874 contractor/developer. Such determination shall consider the
2875 interested participant's proposal, the objection and the technical
2876 bases cited therein. The evaluation shall be endorsed to the
2877 REMB Director.
2878
- 2879 (f) Upon receipt of the endorsement, the REMB Director may, if he
2880 concurs that the hydropower/ocean energy project will not
2881 cause material injury, issue a recommendation to the DOE
2882 Secretary based on the feasibility of multiple resource
2883 development in the overlapping area, taking into account the
2884 most beneficial use of the resources.
2885
- 2886 (g) The DOE Secretary shall decide whether to allow multiple
2887 resource development in the overlapping area. If the DOE
2888 Secretary allows the same, the REMB Assistant Director shall
2889 issue a Notice to Apply to the interested participant.
2890
- 2891 36.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the
2892 area as provided under Section 36.6.4, the interested participant may
2893 still pursue the HSC/OESC Application if there is no material adverse
2894 effect on the feasibility of the proposed hydropower/ocean energy
2895 project after applying the provisions herein below set forth:
2896
- 2897 (a) If the AOI overlaps with areas within strict protection zones
2898 under the ENIPAS and exclusion and no build zones under the
2899 MSP of DOE, the interested participant shall submit a revised
2900 AOI.



- 2901
2902 (b) If the AOI overlaps with areas outside strict protection zones
2903 under the ENIPAS, the REMB Director shall issue a Notice to
2904 Apply for the said AOI: *Provided*, That the Contract Area may
2905 be modified subject to the ENIPAS and its IRR.
2906
2907 (c) If the AOI overlaps with ancestral domains with Certificate of
2908 Ancestral Domain Title or Claim, the REMB Director shall issue
2909 a Notice to Apply for the said AOI: *Provided*, That the Contract
2910 Area may be modified subject to the IPRA and its IRR.
2911
2912 (d) If the AOI overlaps with areas with tenurial instruments from
2913 other government agencies, the REMB Director shall issue a
2914 Notice to Apply for the said AOI: *Provided*, That the Contract
2915 Area may be modified subject to the relevant rules and
2916 regulations of the concerned government agency.
2917
2918 (e) If the AOI overlaps with areas prohibited, reserved, or used for
2919 national defense, navigation, irrigation, and other development
2920 projects, and other areas, the REMB Director shall issue a
2921 Notice to Apply for the said AOI: *Provided*, That the Contract
2922 Area may be modified subject to the relevant rules and
2923 regulations of the concerned government agency.
2924
2925 (f) If the AOI is within the safety and exclusion zones for offshore
2926 natural gas wells, flowlines, platform, pipelines, loading buoy
2927 and other related facilities related facilities for the Malampaya
2928 Deep Water Gas-To-Power Project over certain waters and
2929 submerged lands adjacent to Batangas, Mindoro and Palawan,
2930 the interested participant shall secure a prior authorization from
2931 the DOE and the DND, and prior consent from the SC No. 38
2932 Service Contractor pursuant to Section 1 of Proclamation No.
2933 72, Series of 2001.
2934

2935 **Part 3. Filing and Evaluation of Hydropower or Ocean Energy Service Contract**
2936 **Applications**
2937

- 2938 36.8. **Orientation of HSC/OESC Applicant.** The orientation is intended to inform
2939 HSC/OESC Applicant about the HSC/OESC application requirements, and to
2940 guide them through the process for evaluation thereof, awarding of HSC/OESC
2941 and the registration of a hydropower or ocean energy project.
2942

2943 The Notice to Apply uploaded in the EVOSS System shall include the schedule
2944 of the mandatory orientation for HSC/OESC Applicants, facilitated by
2945 representatives from the LS, HOEMD, and FS. The HSC/OESC Applicant shall
2946 ensure the attendance of legal, technical, and financial staff during the
2947 orientation.
2948

- 2949 36.9. **Receipt of Hydropower or Ocean Energy Service Contract Applications.**
2950 After the Notice to Apply is uploaded in the EVOSS System, the interested
2951 participant may file its HSC/OESC Application by complying with the
2952 procedures and requirements, as follows:
2953



- 2954 36.9.1. The HSC/OESC Applicant shall submit through the EVOSS System the
2955 complete set of documentary requirements based on the Checklist of
2956 Requirements (Annex "M").
2957
- 2958 36.9.2. HOEMD shall check the completeness and consistency of the
2959 submission and ITMS shall validate the area applied for the
2960 hydropower/ocean energy project within three (3) working days.
2961
- 2962 36.9.3. If the submission is complete and the AOI is still free for development,
2963 HOEMD shall upload a copy of the order of payment for the application
2964 and processing fees. The EVOSS System shall notify the HSC/OESC
2965 Applicant through a system-generated email to pay the application and
2966 processing fees within five (5) calendar days. Failure to do so will result
2967 in the abandonment of the application.
2968
- 2969 36.9.4. The AOI is not reserved for the HSC/OESC Applicant until the complete
2970 application documents and proof of payment of application and
2971 processing fees are submitted.
2972
- 2973 36.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete
2974 submission.
2975
- 2976 36.9.6. In case the AOI is no longer free for development, the HSC/OESC
2977 Applicant shall be notified through the EVOSS System and the
2978 Application shall be denied accordingly.
2979
- 2980 36.9.7. To ensure the orderly processing of HSC/OESC Applications, the
2981 EVOSS System shall be modified such that ITMS must input its
2982 confirmation therein that the AOI is available before an HSC/OESC
2983 Applicant can upload the documentary requirements. Pending such
2984 modification, HOEMD shall revalidate with ITMS whether the AOI is
2985 open for application before issuing the order for the payment of
2986 application and processing fees mentioned in Section 36.8.3.
2987
- 2988 36.10. **Proof of Access to Proposed Area of Interest.** As part of the application
2989 requirements, the HSC/OESC Applicant shall submit an Affidavit of Acquisition
2990 of Possessory Rights in accordance with Annex "L", as the case may be, and
2991 a copy of the Board Resolution authorizing the affiant to execute the instrument
2992 on behalf of the HSC/OESC Applicant.
2993
- 2994 36.11. **Evaluation of Hydropower or Ocean Energy Service Contract**
2995 **Applications.**
2996
- 2997 36.11.1. After the payment of the processing fee, HOEMD, LS, and FS shall
2998 conduct the simultaneous technical, legal, and financial evaluations
2999 within five (5) calendar days from uploading of the proof of payment
3000 of application and processing fees in the EVOSS System.
3001
- 3002 36.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal
3003 evaluation under Section 36.11.1, LS shall evaluate the Affidavit of
3004 Acquisition of Possessory Rights mentioned in Section 36.10.
3005
- 3006 36.11.3. HOEMD shall consolidate all the evaluation results and proceed with
3007 the processing:



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- (a) If the HSC/OESC Application passes the evaluations, HOEMD shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the HSC/OESC Application; the draft COA, as applicable; and the draft HSC/OESC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the HSC/OESC Application in accordance with Section 38.
 - (b) If the HSC/OESC Application does not pass the legal, technical, and/or financial evaluations, HOEMD shall notify the HSC/OESC Applicants through the EVOSS System to rectify the submission within ten (10) working days.
 - (i) Failure of the HSC/OESC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the HSC/OESC Application. HOEMD shall notify the HSC/OESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.
 - (ii) If the HSC/OESC Applicant submits supplementary complete documents within the prescribed period above, HOEMD, LS and FS shall be notified by the EVOSS System of the submission. HOEMD, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.
 - (iii) Should the HSC/OESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the HSC/OESC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the HSC/OESC Applicant stating the basis of the disqualification. HOEMD shall notify the HSC/OESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the HSC/OESC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the the EVOSS System.
- 36.11.4. The HSC/OESC Applicant shall submit all supplemental documents through the EVOSS System. Documents submitted outside the EVOSS System and those submitted through the EVOSS System but



3062 beyond the prescribed period shall not be accepted or evaluated.
3063 Further, once the rectification documents are submitted through the
3064 EVOSS system within the ten (10) working days, the remaining days,
3065 if there are any, shall be forfeited. Therefore, the HSC/OESC
3066 Applicant must ensure that all its documents are final and complete
3067 before submitting the same through the EVOSS System.
3068

3069 36.11.5. No RR of any of the legal, technical, financial evaluation or the
3070 disqualification shall be entertained, except when the HSC/OESC
3071 Applicant failed to submit the required documents within the
3072 prescribed timelines due to a fault in the EVOSS System, as
3073 confirmed by the IPO. In such circumstances, the HSC/OESC
3074 Applicant shall file the RR with REMB within three (3) working days
3075 from uploading of the Notice of Disqualification.
3076

3077 (a) Upon receipt of the RR, HOEMD shall request the IPO to
3078 confirm the occurrence of the technical problem. If so
3079 confirmed and the same prevented the timely submission,
3080 HOEMD, FS and/or LS shall evaluate the HSC/OESC
3081 Application considering the additional submission.
3082

3083 (b) If the HSC/OESC Application passes the evaluation, REMB
3084 shall grant the RR. Thereafter, HOEMD shall proceed in
3085 accordance with Section 36.11.3(a).
3086

3087 36.12. If the Hydropower/Ocean Energy Developer waived the COA during the pre-
3088 application process, HOEMD shall proceed with the application in accordance
3089 with Section 38.2.
3090

3091 36.13. **Re-application for HSC/OESC.** After ITMS re-opens the area for RE
3092 Applications pursuant to Section 36.11.3(b)(iii), the HSC/OESC Applicant may
3093 re-apply for the same AOI by complying with Section 36.9.1.
3094

3095 During the checking of the submission for completeness and consistency under
3096 Section 36.9.2 and prior to giving notice of any deficiency, HOEMD shall stamp
3097 the Notice to Apply "Revalidated" with the appropriate date if the area is still
3098 open for HSC/OESC Applications.
3099

3100 If another HSC/OESC Applicant is issued a Notice to Apply over the same AOI
3101 or a portion thereof and uploads the documentary requirements through
3102 EVOSS System, the completeness check referred to above and the validation
3103 of the area with the ITMS shall be on a first-come, first-serve basis. HOEMD
3104 shall issue an order of payment for the application and processing fees to the
3105 HSC/OESC Applicant which first files the complete documentary requirements
3106 based on the EVOSS logs.
3107

3108 **Section 37. Terms of Certificate of Authority.** The awardee of an HSC/OESC shall have
3109 exclusive authority to procure permits or certifications and tenurial instruments needed for the
3110 exploration, development and utilization of the hydropower/ocean energy resources within an
3111 area specified in the HSC/OESC Application and conduct reconnaissance and other activities
3112 needed for pre-feasibility studies upon the issuance of COA by the DOE.
3113

3114 37.1. The COA shall be valid for a period not exceeding three (3) years. During its
3115 validity, the COA shall serve as the DOE's exclusive endorsement for the



3116 Hydropower/Ocean Energy Developer to conduct reconnaissance and other
3117 pre-feasibility activities and secure the necessary permits or certifications and
3118 tenurial instruments from government agencies, LGUs, entities or
3119 instrumentalities having jurisdiction over any aspect of the hydropower/ocean
3120 energy operations. The denomination of each permit or certification or tenurial
3121 instrument to be procured as well as the reconnaissance and other activities to
3122 be conducted for the hydropower/ocean energy project shall be listed in the
3123 COA.

3124
3125 37.2. The COA shall reflect the metes and bounds of the area as proposed in the
3126 HSC/OESC Application over which reconnaissance and other pre-feasibility
3127 activities may be conducted and permits and tenurial instruments may be
3128 secured by the Hydropower/Ocean Energy Developer for the project. For this
3129 purpose, a copy of the technical description of the area to be covered by the
3130 HSC/OESC shall form part of the COA.

3131
3132 37.3. The validity of the COA shall not be extendible. Any reconnaissance activity
3133 and other pre-feasibility studies that is not conducted and/or permit or
3134 certification or tenurial instrument that remains unissued upon the lapse of the
3135 COA shall be procured and the necessary activities therefor conducted, as part
3136 of the Pre-Development Stage.

3137
3138 37.4. The Hydropower/Ocean Energy Developer shall have the option to waive,
3139 shorten or utilize maximum period of validity of the COA.

3140
3141 37.4.1. If the Hydropower/Ocean Energy Developer opts to shorten the period
3142 of validity, it shall give written notice to the DOE with a request to
3143 execute the HSC/OESC, a proposed Work Program and a terminal
3144 report on the permits, certifications or tenurial instruments procured
3145 and/or reconnaissance and other activities needed for pre-feasibility
3146 studies conducted.

3147
3148 37.4.2. If the Hydropower/Ocean Energy Developer opts to utilize the full term,
3149 it shall give written notice to the DOE with a request to execute the
3150 HSC/OESC, a proposed Work Program and the terminal report
3151 mentioned in Section 37.4.1 not earlier than six (6) months but not later
3152 than three (3) months prior to the expiration of the validity of the COA.

3153
3154 37.4.3. Failure of the Hydropower/Ocean Energy Developer to give written
3155 notice to the DOE within the period mentioned in the preceding
3156 paragraph shall be deemed an abandonment of the HSC/OESC
3157 Application, following the procedure set forth in Section 36.11.3(b)(iii).

3158
3159 37.5. Within three (3) calendar days from notice, HOEMD shall prepare REMB's
3160 memorandum for the DOE Secretary endorsing the execution of the
3161 HSC/OESC in accordance with Section 38.2.

3162
3163 **Section 38. Award of Hydropower or Ocean Energy Service Contract and Registration**
3164 **of Hydropower/Ocean Energy Developers.**

3165
3166 38.1. **Issuance of Certificate of Authority.** After the approval of an HSC/OESC
3167 Application and before the execution of an HSC/OESC, the DOE shall issue a
3168 COA: *Provided*, That the COA may be waived in accordance with Section 37.4.

3169



3170 38.2. **Signing of the Hydropower or Ocean Energy Service Contract.** The
3171 following procedure shall govern the awarding of HSC/OESC:
3172

3173 38.2.1. **Notification of Award.** The DOE shall notify the selected (under the
3174 OCSP) or qualified (under Direct Application) HSC/OESC Applicant of
3175 the award of the HSC/OESC.
3176

3177 38.2.2. **Signing of the Hydropower or Ocean Energy Service Contract.** The
3178 signing of the HSC/OESC shall be divided into two stages, namely: a)
3179 pre-signing by the HSC/OESC Applicant; and b) signing of the DOE
3180 Secretary.
3181

3182 (a) The REMB Supervising Assistant Secretary shall review the
3183 recommendation and endorse the same to the REMB
3184 Supervising Undersecretary within two (2) calendar days from
3185 receipt thereof. The Undersecretary shall act on the
3186 endorsement within two (2) calendar days from receipt of the
3187 documents. Within one (1) calendar day from the concurrence
3188 of the Undersecretary with the REMB's recommendation, the
3189 REMB Director shall require the HSC/OESC Applicant to pre-
3190 sign the original copies of the HSC/OESC following the
3191 prescribed template. The HSC/OESC Applicant is then required
3192 to pre-sign the HSC/OESC within thirty (30) calendar days upon
3193 receipt of the notice. Failure to comply within this timeframe shall
3194 result in the HSC/OESC application being deemed abandoned.
3195 Notifications will be sent through EVOSS at ten (10)-day
3196 intervals within this thirty (30)-day period to the HSC/OESC
3197 Applicant.
3198

3199 (b) Within one (1) calendar day, the HOEMD shall validate the pre-
3200 signed HSC/OESC, and shall forward the pre-signed
3201 HSC/OESC, along with the endorsement and all its attachments
3202 to the Office of the DOE Secretary. Incomplete pre-signed
3203 SEOC shall be returned to the Applicant for rectification.
3204

3205 (c) The Office of the DOE Secretary shall receive the pre-signed
3206 HSC/OESC and all its attachments, and the DOE Secretary
3207 shall act on the documents within seven (7) calendar days from
3208 receipt thereof.
3209

3210 38.2.3. **Payment of Signing Fee.** The HOEMD, through the EVOSS System,
3211 shall issue the order of payment within one (1) calendar day.
3212

3213 The HSC/OESC Applicant shall pay the signing fee directly to the
3214 Treasury and upload the proof of payment thereof within fifteen (15)
3215 calendar days from receipt of the order of payment. The failure of the
3216 Hydropower/Ocean Energy Developer to do so shall cause the
3217 HSC/OESC to be deemed void.
3218

3219 38.2.4. **Posting of Performance Bond.** Subject to Section 89, the HSC/OESC
3220 Applicant shall post the performance bond covering the first Contract
3221 Year in accordance with Section 64 within the sixty (60) calendar days
3222 from receipt of notice. The failure of the Hydropower/Ocean Energy
3223 Developer to do so shall cause the HSC/OESC to be deemed void.



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38.2.5. Delivery of the Signed Hydropower or Ocean Energy Service Contract. Upon receipt of the proof of payment of the signing fee within the prescribed period, the HOEMD shall upload in the EVOSS System the signed and notarized copy of the HSC/OESC and COR, as applicable.

The Hydropower/Ocean Energy Developer shall personally receive the original copies of the HSC/OESC and COR, as applicable, after submission of the proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the HSC/OESC, the Hydropower/Ocean Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

38.3. Duty to Maintain Records. The HOEMD shall maintain a record of all LOIs received, pending HSC/OESC Applications, and signed HSC/OESC in the EVOSS System.

38.4. The ITMS shall make the area available to other applicants only when: (a) the HSC/OESC Applicant failed to qualify; or (b) withdraws or abandons its LOI or HSC/OESC Application, as the case may be, and only after due notice is given to the concerned interested participant/ HSC/OESC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. 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.

38.5. Registration of Hydropower or Ocean Energy Developers. The DOE, through the REMB, shall issue a COR to a Hydropower/Ocean Energy Developer holding a valid HSC/OESC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XI of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the HSC/OESC, at the option of the Hydropower/Ocean Energy Developer.

Section 39. Types of Hydropower Projects. Hydropower projects shall include, but not be limited to:

39.1. Run-of-River – diverts a portion of a river through a canal and/or a penstock, to spin a turbine which activates a generator to produce electricity. ROR hydropower plants utilizes a weir and does not require the use of a large dam or reservoir;

39.2. Impoundment – uses a large dam to store or impound river water in a reservoir. Water may be released to serve as base load to meet changing electricity demand for weeks or even months; and

39.3. Pumped Storage – stores and generates power by moving water between two or more reservoirs at different elevations. When the demand for electricity is low, a pumped storage facility pumps water from a lower reservoir to the upper reservoir for later use. During periods of high electrical demand, the water is released back to the lower reservoir in order to generate electricity.



3278 **Section 40. Terms of Hydropower or Ocean Energy Service Contract.** The development
3279 of hydropower/ocean energy resources shall be covered by an HSC/OESC following the
3280 prescribed template (Annexes "F" or "G", respectively).

3281
3282 40.1. The Hydropower/Ocean Energy Developer shall be given the following periods,
3283 reckoned from the date of execution of the HSC/OESC, to determine the
3284 existence of hydropower/ocean energy resources in Commercial Quantities,
3285 which shall be called Pre-Development Stage:

3286
3287 40.1.1. Run-of-River - three (3) years extendible for a period of two (2) years;

3288
3289 40.1.2. Impoundment/Pumped Storage/Ocean Energy - five (5) years
3290 extendible for a period of two (2) years;

3291
3292 40.2. The Hydropower/Ocean Energy Developer may file a request to extend the
3293 term of the Pre-Development Stage for justifiable reasons not earlier than six
3294 (6) months but not later than three (3) months prior to its expiration, which shall
3295 be decided by the REMB Supervising Undersecretary.

3296
3297 40.3. The Development/Commercial Stage shall commence prior to the expiration of
3298 the Pre-Development Stage and upon the issuance of the COCOC, and shall
3299 continue for the remainder of term of the HSC/OESC.

3300
3301 40.4. The HSC/OESC shall have a term of twenty-five (25) years from the date of
3302 execution, which shall include the Pre-Development Stage and
3303 Development/Commercial Stage but shall exclude the period covered by the
3304 COA.

3305
3306 40.5. Not earlier than six (6) months but not later than three (3) months prior to the
3307 expiration of the twenty-five (25)-year period, the HSC/OESC may be renewed
3308 for another twenty-five (25) years, subject to the terms and conditions of the
3309 HSC/OESC.

3310
3311 **Section 41. Stages of Hydropower or Ocean Energy Service Contract.** An HSC/OESC
3312 shall cover two (2) stages of the hydropower/ocean energy project, namely:

3313
3314 41.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment
3315 and feasibility study up to Financial Closing and approval of DOC of the
3316 hydropower/ocean energy project, including the identification of the proposed
3317 Production Area; and

3318
3319 41.2. **Development/Commercial Stage.** It involves the development, construction,
3320 and commercial operation of the hydropower/ocean energy project, and the
3321 production and utilization of hydropower/ocean energy resources.

3322
3323 **Section 42. Investment.**

3324
3325 42.1. **New Investments.** Hydropower/Ocean Energy Developers undertaking
3326 discovery, exploration, development and/or utilization of new
3327 hydropower/ocean energy resources within the Contract Area distinct from the
3328 originally registered operations may qualify as new projects, subject to setting
3329 up of new separate books of accounts. The Hydropower/Ocean Energy
3330 Developer may, upon its discretion, relinquish the Contract Area and apply for



3331 a new HSC/OESC over the area of new investment, subject to constitutional
3332 term limits.

3333

3334 42.2. **Additional Investments.** Additional investment may cover investment for
3335 improvements, modernization, rehabilitation, or expansion duly registered with
3336 the DOE, which may or may not result in increased capacity, subject to the
3337 conditions to be determined by the DOE, such as, but not limited to, the
3338 following:

3339

3340 42.2.1. Identification of and investment in sequential phases/stages of
3341 production, or undertaking scheduled modernization or rehabilitation;
3342 and

3343

3344 42.2.2. Improvements such as reduced production/operational costs,
3345 increased production, improved operational efficiency, and better
3346 reliability of the hydropower/ocean energy facilities.

3347

3348 If, by reason of the additional investment, the capacity of the hydropower/ocean
3349 energy project is increased by at least thirty percent (30%) as validated by
3350 REMB, the Hydropower/Ocean Energy Developer shall have the option to avail
3351 of an additional COR indicating the type of additional investment. Upon the
3352 issuance of the additional COR, the applicable incentives under the RE Act
3353 shall be reset.

3354

3355 In cases where the period to avail of duty-free importation has lapsed and the
3356 additional investment involves the importation of RE machinery, equipment
3357 and/or materials, the DOE, upon the request of the Hydropower/Ocean Energy
3358 Developers, may be issued an additional COR indicating the type of additional
3359 investment prior to the actual increase of the capacity based on the following:

3360

3361 (a) Full and detailed feasibility study showing that upon installation of the
3362 RE equipment, machinery and/or materials specified therein, the
3363 capacity of the hydropower/ocean energy project will be increased by
3364 at least thirty percent (30%);

3365

3366 (b) Binding agreements for the purchase of RE equipment, machinery
3367 and/or materials with the same specifications mentioned in the
3368 feasibility study;

3369

3370 (c) Detailed timeline of activities to implement the improvement,
3371 modernization, rehabilitation or expansion; and

3372

3373 (d) Subject to Section 89, proof of posting of performance bond as provided
3374 in Section 64.

3375

3376

CHAPTER VI – ONSHORE WIND ENERGY RESOURCE

3377

3378 **Section 43. Eligibility of Onshore Wind Energy Service Contract Applicant.** Any Person
3379 may apply for an Onshore Wind Energy Service Contract (OnWESC), subject to the provisions
3380 in this Chapter.

3381

3382 43.1. The OnWESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino-
3383 and/or foreign-owned corporation or association which is authorized by its
3384 articles or deed of incorporation to engage in the exploration, development, and



3385 utilization of onshore wind energy resources: *Provided*, That in case the
3386 OnWESC Applicant is a joint venture or a consortium, the partners of the joint
3387 venture or members of the consortium shall organize themselves as a
3388 corporation under the Revised Corporation Code or secure the appropriate
3389 license from the SEC, in case the joint venture or consortium was incorporated
3390 outside of the Philippines.

3391
3392 43.2. An Applicant which applies for an OnWESC that involves activities reserved to
3393 Filipino citizens or corporations or associations at least sixty percent (60%) of
3394 whose capital is owned by Filipinos shall comply with the nationality
3395 requirements under applicable laws, including the Anti-Dummy Law on the
3396 appointment of officers of the corporation.

3397
3398 **Section 44. Modes of Awarding Onshore Wind Energy Service Contract.** OnWESC shall
3399 be awarded through (a) an OCSP, or (b) Direct Application.

3400
3401 44.1. The OCSP shall be adopted for the selection and award of OnWESC for PDAs
3402 covering onshore wind energy resources for commercial purposes. This shall
3403 be governed by Section 45 and such guidelines as may be issued by the DOE
3404 pursuant to Section 46.

3405
3406 44.2. Direct Application shall be available for the selection and award of:

3407
3408 44.2.1. OnWESCs covering PDAs, following a failed OCSP pursuant to the
3409 guidelines issued under Section 46; and

3410
3411 44.2.2. OnWESC in an area identified by an OnWESC Applicant and verified
3412 with or confirmed by the ITMS as available for exploration, development
3413 and/or utilization of onshore wind energy resources.

3414
3415 44.3. Onshore Wind Energy Projects for Own-Use and/or for Non-Commercial
3416 Purposes shall not require the issuance of OnWESC but shall comply with the
3417 registration requirements provided under Chapter X of this Circular.

3418
3419 **Section 45. Pre-Determined Areas.** Interested parties may apply for OnWESC for PDAs
3420 offered by the DOE during a prescribed period.

3421
3422 45.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for
3423 OnWESC Application, with the respective location maps, technical
3424 descriptions, and wind resource data thereof, to the DOE Secretary, through
3425 its Supervising Assistant Secretary and Undersecretary, for approval.

3426
3427 45.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be
3428 scheduled for launch and shall be publicly announced by the DOE for
3429 submission of OnWESC Applications.

3430
3431 45.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the
3432 availability of data packages for the approved PDAs that can be purchased by
3433 interested parties in support of their applications. The REMB shall conduct
3434 promotional activities to promote the OCSP and the corresponding data
3435 packages so as to ensure maximum participation and awareness of
3436 prospective investors and stakeholders.

3437



3438 **Section 46. Procedure for Awarding of Onshore Wind Energy Service Contract under**
3439 **the Open and Competitive Selection Process.** The DOE shall issue specific guidelines for
3440 the conduct of, and award of OnWESCs under, OCSP.

3441
3442 If an OCSP is declared a failure with respect to any or all PDAs included therein, all the
3443 affected PDAs shall be opened for Direct Application.

3444
3445 **Section 47. Procedure for Awarding Onshore Wind Energy Service Contract under**
3446 **Direct Application.**

3447
3448 47.1. **Coverage.** Direct Application shall be observed in processing OnWESC
3449 Applications for: (a) onshore wind energy resources located in PDAs which the
3450 DOE shall declare as available under this mode pursuant the guidelines issued
3451 under Section 46, and (b) onshore wind energy resources in areas other than
3452 those included in the PDAs, subject to the procedures provided herein.

3453
3454 **Part 1. Pre-Application Process**

3455
3456 47.2. **Registration in the EVOSS System.** If the interested participant has no
3457 EVOSS System account yet, it shall submit a request for registration in the
3458 EVOSS System with the WEMG. The list of requirements necessary for
3459 registration is detailed in Annex "J".

3460
3461 47.3. **Submission of Letter of Intent.** All interested participants shall submit through
3462 the EVOSS System an LOI to develop a certain area (Annex "K"), in
3463 accordance with the mapping requirements (Annex "N"). The LOI shall be
3464 addressed to the REMB Director and shall indicate whether the interested
3465 participant will avail of the COA referred to in Section 48 and 49.1. The
3466 submission of the LOI shall not be considered as a filing of an OnWESC
3467 Application and shall not commence the application process.

3468
3469 47.4. **Pre-Application Orientation of Interested Participant.** The orientation is
3470 intended to inform the interested participants about the OnWESC pre-
3471 application and mapping requirements and processes.

3472
3473 Any interested participant may request for an orientation by signifying such
3474 intent in its LOI; otherwise, it shall be presumed that the interested participant
3475 is aware of the OnWESC pre-application and mapping requirements and
3476 processes.

3477
3478 **Part 2. Area Verification and Technical Guidelines**

3479
3480 47.5. **Configuration of Area of Interest.** The AOI for the OnWESC Application shall
3481 either be polygonal or in blocks following the Blocking System or a combination
3482 of both.

3483
3484 47.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the
3485 complete LOI, ITMS shall complete the area verification and determine whether
3486 the AOI is:

3487
3488 47.6.1. Covered by an existing PDA under the OCSP, OnWESC, Offshore
3489 Wind Energy Service Contract (OsWESC), or OnWESC or OsWESC
3490 pending application, or other energy resource assessment activities as
3491 submitted by the concerned DOE unit and verified by ITMS;



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- 47.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than OnWESC or OsWESC;
- 47.6.3. Within or overlaps the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than OnWESC or OsWESC Application;
- 47.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the OnWESC Application based on available data on file with ITMS and NAMRIA's Philippine Geoportal Project website.
- Pursuant to the mandate of the DOE to supervise and control all government activities relative to energy project under the EPIRA, concerned government agencies and entities shall provide the DOE the list of abovementioned areas with technical descriptions and corresponding geospatial data;
- 47.6.5. Covered by the COA of the same energy resource;
- 47.6.6. Covered by the COA of other energy resource;
- 47.6.7. Covered by the AOI of the same energy resource;
- 47.6.8. Covered by the AOI of other energy resource; or
- 47.6.9. Open for OnWESC Applications.
- 47.7. **Area Verification Results.** ITMS shall provide WEMG with the results of area verification through the EVOSS System. Within three (3) working days upon the receipt of the verification results, WEMG, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.
- The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Sections 47.6.7 or 47.6.9. If the AOI falls under Sections 47.6.1 to 47.6.6 or 47.6.8, the OnWESC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.
- If the OnWESC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 47.7.3, as applicable.
- 47.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from uploading of the final verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible



3546 under Section 47.7.2, the interested participant and WEMG may
3547 conduct an assessment if the AOI may be reconfigured without material
3548 adverse effect on the feasibility of the proposed onshore wind energy
3549 project. The interested participant may reconfigure its AOI to cover only
3550 such portion as may allow the OnWESC Application to proceed. After
3551 confirmation by ITMS that no portion of the reconfigured AOI falls under
3552 Sections 47.6.1 or 47.6.5 (for same energy resource), 47.6.2, 47.6.3,
3553 47.6.6 or 47.6.8 (for other energy resource), WEMG shall upload in the
3554 EVOSS System a Notice to Apply to the interested participant for the
3555 filing of the OnWESC Application.
3556

3557 **47.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
3558 overlaps with the area of an existing energy service or operating
3559 contract or an application therefor of another RE Developer not affiliated
3560 to the interested participant as provided under Sections 47.6.2 and
3561 47.6.3, the interested participant may still pursue the OnWESC
3562 Application, subject to the provisions herein below set forth:
3563

- 3564 (a) The interested participant shall:
- 3565
- 3566 (i) Explain in writing why the proposed onshore wind
3567 energy project will not be feasible without the
3568 overlapping area, with justification on the technical
3569 viability of the project; and
3570
- 3571 (ii) Submit a notarized acknowledgment and undertaking
3572 that the interested participant recognizes and shall
3573 continue to recognize the prior rights of the existing
3574 developers of other energy resources within the
3575 overlapping area; that the design of the proposed
3576 onshore wind energy project will ensure safe and optimal
3577 development of onshore wind energy and other energy
3578 resources in the overlapping area; and that all costs
3579 needed therefor shall be borne by the interested
3580 participant.
3581
- 3582 (b) WEMG shall inform the existing applicant or energy
3583 contractor/developer of the intent to develop the onshore wind
3584 energy resources within the overlapping area. Copies of the
3585 interested participant's LOI, the written explanation, and their
3586 supporting documents shall be furnished to the existing
3587 applicant or contractor/developer.
3588
- 3589 (c) If no objection is received from the existing applicant or energy
3590 contractor/developer within ten (10) calendar days from receipt
3591 of notice, WEMG shall upload in the EVOSS System a Notice to
3592 Apply to the interested participant for the filing of the OnWESC
3593 Application.
3594
- 3595 (d) If the existing applicant or energy contractor/developer objects
3596 to the proposal, the said applicant or energy
3597 contractor/developer shall notify WEMG thereof and provide a
3598 copy to the interested participant within ten (10) calendar days
3599 from receipt of notice, citing the impracticability of multiple



- 3600 resource development as to additional costs, safety, substantial
3601 decrease in the utilization of the energy resource, and other
3602 relevant factors. Copies of the written objection shall be
3603 furnished to the DOE Division processing the application or
3604 administering the energy project. A statement that multiple
3605 resource development in the overlapping area is impracticable
3606 without technical basis shall not be considered as an objection.
3607
3608 (e) Within five (5) calendar days from receipt of an objection,
3609 WEMG and the concerned DOE Division shall jointly determine
3610 whether exploration of onshore wind energy resources within
3611 the overlapping area may be conducted without material
3612 adverse effect on the activities of the existing energy
3613 contractor/developer. Such determination shall consider the
3614 interested participant's proposal, the objection and the technical
3615 bases cited therein. The evaluation shall be endorsed to the
3616 REMB Director.
3617
3618 (f) Upon receipt of the endorsement, the REMB Director may, if he
3619 concurs that the onshore wind energy project will not cause
3620 material injury, issue a recommendation to the DOE Secretary
3621 based on the feasibility of multiple resource development in the
3622 overlapping area, taking into account the most beneficial use of
3623 the resources.
3624
3625 (g) The DOE Secretary shall decide whether to allow multiple
3626 resource development in the overlapping area. If the DOE
3627 Secretary allows the same, the REMB Assistant Director shall
3628 issue a Notice to Apply to the interested participant.
3629
3630 47.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the
3631 area as provided under Section 47.6.4, the interested participant may
3632 still pursue the OnWESC Application if there is no material adverse
3633 effect on the feasibility of the proposed onshore wind energy project
3634 after applying the provisions herein below set forth:
3635
3636 (a) If the AOI overlaps with areas within strict protection zones
3637 under the ENIPAS, the interested participant shall submit a
3638 revised AOI net of the said areas.
3639
3640 (b) If the AOI overlaps with areas outside strict protection zones
3641 under the ENIPAS, the REMB Director shall issue a Notice to
3642 Apply for the said AOI: *Provided*, That the Contract Area may
3643 be reduced subject to the ENIPAS and its IRR.
3644
3645 (c) If the AOI overlaps with ancestral domains with Certificate of
3646 Ancestral Domain Title or Claim, the REMB Director shall issue
3647 a Notice to Apply for the said AOI: *Provided*, That the Contract
3648 Area may be reduced subject to the IPRA and its IRR.
3649
3650 (d) If the AOI overlaps with areas with tenurial instruments from
3651 other government agencies, the REMB Director shall issue a
3652 Notice to Apply for the said AOI: *Provided*, That the Contract



3653 Area may be reduced subject to the relevant rules and
3654 regulations of the concerned government agency.

3655
3656 (e) If the AOI overlaps with areas prohibited, reserved, or used for
3657 national defense, navigation, irrigation, and other development
3658 projects, and other areas, the REMB Director shall issue a
3659 Notice to Apply for the said AOI: *Provided*, That the Contract
3660 Area may be reduced subject to the relevant rules and
3661 regulations of the concerned government agency.

3662
3663 **Part 3. Filing and Evaluation of Onshore Wind Energy Service Contract Applications**
3664

3665 47.8. **Orientation of OnWESC Applicant.** The orientation is intended to inform
3666 OnWESC Applicant about the OnWESC application requirements, and to guide
3667 them through the process for evaluation thereof, awarding of OnWESC and the
3668 registration of an onshore wind energy project.

3669
3670 The Notice to Apply uploaded in the EVOSS System shall include the schedule
3671 of the mandatory orientation for OnWESC Applicants, facilitated by
3672 representatives from the LS, WEMG, and FS. The OnWESC Applicant shall
3673 ensure the attendance of legal, technical, and financial staff during the
3674 orientation.

3675
3676 47.9. **Receipt of Onshore Wind Energy Service Contract Applications.** After the
3677 Notice to Apply is uploaded in the EVOSS System, the interested participant
3678 may file its OnWESC Application by complying with the procedures and
3679 requirements, as follows:

3680
3681 47.9.1. The OnWESC Applicant shall submit through the EVOSS System the
3682 complete set of documentary requirements based on the Checklist of
3683 Requirements (Annex "M").

3684
3685 47.9.2. WEMG shall check the completeness and consistency of the
3686 submission and ITMS shall validate the area applied for the onshore
3687 wind energy project within three (3) working days.

3688
3689 47.9.3. If the submission is complete and the AOI is still free for development,
3690 WEMG shall upload a copy of the order of payment for the application
3691 and processing fees. The EVOSS System shall notify the OnWESC
3692 Applicant through a system-generated email to pay the application and
3693 processing fees within five (5) working days. Failure to do so will result
3694 in the abandonment of the application.

3695
3696 47.9.4. The AOI is not reserved for the OnWESC Applicant until the submission
3697 of complete application documents and proof of payment of application
3698 and processing fees.

3699
3700 47.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete
3701 submission.

3702
3703 47.9.6. In case the AOI is no longer free for development, the OnWESC
3704 Applicant shall be notified through the EVOSS System and the
3705 Application shall be denied accordingly.
3706



- 3707 47.9.7. To ensure the orderly processing of OnWESC Applications, the EVOSS
3708 System shall be modified such that ITMS must input its confirmation
3709 therein that the AOI is available before a OnWESC Applicant can upload
3710 the documentary requirements. Pending such modification, WEMG
3711 shall revalidate with ITMS whether the AOI is open for application
3712 before issuing the order for the payment of application and processing
3713 fees mentioned in Section 47.8.3.
3714
- 3715 47.10. **Proof of Access to Proposed Area of Interest.** As part of the application
3716 requirements, the OnWESC Applicant shall submit an Affidavit of
3717 Acquisition/Acquired of Possessory Rights in accordance with Annex “L”, as
3718 the case may be, and a copy of the Board Resolution authorizing the affiant to
3719 execute the instrument on behalf of the OnWESC Applicant.
3720
- 3721 47.11. **Evaluation of Onshore Wind Energy Service Contract Applications.**
3722
- 3723 47.11.1. After the payment of the processing fee, WEMG, LS, and FS shall
3724 conduct the simultaneous technical, legal, and financial evaluations
3725 within five (5) calendar days from uploading of the proof of payment
3726 of application and processing fees in the EVOSS System.
3727
- 3728 47.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal
3729 evaluation under Section 47.11.1, LS shall evaluate the Affidavit of
3730 Acquired Possessory Rights mentioned in Section 47.10.
3731
- 3732 47.11.3. WEMG shall consolidate all the evaluation results and proceed with
3733 the processing:
3734
- 3735 (a) If the OnWESC Application passes the evaluations, WEMG
3736 shall, within two (2) calendar days from its receipt of the
3737 evaluation documents, prepare REMB’s memorandum for the
3738 DOE Secretary endorsing the award of OnWESC Application;
3739 the draft COA, as applicable; and the draft OnWESC. The
3740 endorsement must include the original copy of the results of
3741 area verification and the legal, technical and financial
3742 evaluations with all their attachments, and the project area
3743 map and its technical descriptions. Upon concurrence of
3744 ITMS, FS, REMB and LS on the endorsement, the DOE
3745 Secretary shall act on the OnWESC Application in accordance
3746 with Section 49.
3747
- 3748 (b) If the OnWESC Application does not pass the legal, technical,
3749 and/or financial evaluations, WEMG shall notify the OnWESC
3750 Applicant through the EVOSS System to rectify the
3751 submission within ten (10) working days.
3752
- 3753 (i) Failure of the OnWESC Applicant to submit
3754 supplementary documents within the prescribed
3755 period shall be deemed an abandonment of the
3756 OnWESC Application. WEMG shall notify the
3757 OnWESC Applicant, LS, FS, and ITMS of the
3758 disqualification through the EVOSS System.
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- (ii) If the OnWESC Applicant submits supplementary complete documents within the prescribed period above, WEMG, LS and FS shall be notified by the EVOSS System of the submission. WEMG, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.
 - (iii) Should the OnWESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the OnWESC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the OnWESC Applicant stating the basis of the disqualification. WEMG shall notify the OnWESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the OnWESC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the the EVOSS System.
- 47.11.4. The OnWESC Applicant shall submit all supplemental documents through the EVOSS System. Documents submitted outside the EVOSS System and those submitted through the EVOSS System but beyond the prescribed period shall not be accepted or evaluated. Further, once the rectification documents are submitted through the EVOSS system within the ten (10) working days, the remaining days, if there are any, shall be forfeited. Therefore, the OnWESC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS system.
- 47.11.5. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the OnWESC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the OnWESC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.
- (a) Upon receipt of the RR, WEMG shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, WEMG, FS and/or LS shall evaluate the OnWESC Application considering the additional submission.
 - (b) If the OnWESC Application passes the evaluation, REMB shall grant the RR. Thereafter, WEMG shall proceed in accordance with Section 47.11.3(a).



3813 47.12. If the Onshore Wind Energy Developer waived the COA during the pre-
3814 application process, WEMG shall proceed with the application in accordance
3815 with Section 49.2.
3816

3817 47.13. **Re-application for OnWESC.** After ITMS re-opens the area for RE
3818 Applications pursuant to Section 47.11.3(b)(iii), the OnWESC Applicant may
3819 re-apply for the same AOI by complying with Section 47.9.1.
3820

3821 During the checking of the submission for completeness and consistency under
3822 Section 47.9.2 and prior to giving notice of any deficiency, WEMG shall stamp
3823 the Notice to Apply “Revalidated” with the appropriate date if the area is still
3824 open for OnWESC Applications.
3825

3826 If another OnWESC Applicant is issued a Notice to Apply over the same AOI
3827 or a portion thereof and uploads the documentary requirements through
3828 EVOSS System, the completeness check referred to above and the validation
3829 of the area with the ITMS shall be on a first-come, first-serve basis. WEMG
3830 shall issue an order of payment for the application and processing fees to the
3831 OnWESC Applicant which first files the complete documentary requirements
3832 based on the EVOSS logs.
3833

3834 **Section 48. Terms of Certificate of Authority.** The awardee of an OnWESC shall have
3835 exclusive authority to procure permits or certifications and tenurial instruments needed for the
3836 exploration, development and utilization of the onshore wind energy resources within an area
3837 specified in the OnWESC Application and conduct reconnaissance and other activities needed
3838 for pre-feasibility studies upon the issuance of COA by the DOE.
3839

3840 48.1. The COA shall be valid for a period not exceeding three (3) years. During its
3841 validity, the COA shall serve as the DOE’s exclusive endorsement for the
3842 Onshore Wind Energy Developer to conduct reconnaissance and other pre-
3843 feasibility activities and secure the necessary permits or certifications and
3844 tenurial instruments from government agencies, LGUs, entities or
3845 instrumentalities having jurisdiction over any aspect of the onshore wind energy
3846 operations. The denomination of each permit or certification or tenurial
3847 instrument to be procured as well as the reconnaissance and other activities to
3848 be conducted for the onshore wind energy project shall be listed in the COA.
3849

3850 48.2. The COA shall reflect the metes and bounds of the area as proposed in the
3851 OnWESC Application over which reconnaissance and other pre-feasibility
3852 activities may be conducted and permits and tenurial instruments may be
3853 secured by the Onshore Wind Energy Developer for the project. For this
3854 purpose, a copy of the technical description of the area to be covered by the
3855 OnWESC shall form part of the COA.
3856

3857 48.3. The validity of the COA shall not be extendible. Any reconnaissance activity
3858 and other pre-feasibility studies that is not conducted and/or permit or
3859 certification or tenurial instrument that remains unissued upon the lapse of the
3860 COA shall be procured and the necessary activities therefor conducted, as part
3861 of the Pre-Development Stage.
3862

3863 48.4. The Onshore Wind Energy Developer shall have the option to waive, shorten
3864 or utilize maximum period of validity of the COA.
3865



- 3866 48.4.1. If the Onshore Wind Energy Developer opts to shorten the period of
3867 validity, it shall give written notice to the DOE with a request to execute
3868 the OnWESC, a proposed Work Program and a terminal report on the
3869 permits, certifications or tenorial instruments procured and/or
3870 reconnaissance and other activities needed for pre-feasibility studies
3871 conducted.
3872
- 3873 48.4.2. If the Onshore Wind Energy Developer opts to utilize the full term, it
3874 shall give written notice to the DOE with a request to execute the
3875 OnWESC, a proposed Work Program and the terminal report
3876 mentioned in Section 48.4.1 not earlier than six (6) months but not later
3877 than three (3) months prior to the expiration of the validity of the COA.
3878
- 3879 48.4.3. Failure of the Onshore Wind Energy Developer to give written notice to
3880 the DOE within the period mentioned in the preceding paragraph shall
3881 be deemed an abandonment of the OnWESC Application and
3882 disqualified following the procedure set forth in Section 47.11.3(b)(iii).
3883
- 3884 48.5. Within three (3) calendar days from notice, WEMG shall prepare REMB's
3885 memorandum for the DOE Secretary endorsing the execution of the OnWESC
3886 in accordance with Section 49.2.
3887

3888 **Section 49. Award of Onshore Wind Energy Service Contracts and Registration of**
3889 **Onshore Wind Energy Developers.**
3890

- 3891 49.1. **Issuance of Certificate of Authority.** After the approval of an OnWESC
3892 Application and before the execution of an OnWESC, the DOE shall issue a
3893 COA: *Provided*, That the COA may be waived in accordance with Section 48.4.
3894
- 3895 49.2. **Signing of the Onshore Wind Energy Service Contract.** The following
3896 procedure shall govern the awarding of OnWESC:
3897
- 3898 49.2.1. **Notification of Award.** The DOE shall notify the selected (under the
3899 OCSP) or qualified (under Direct Application) OnWESC Applicant of the
3900 award of the OnWESC.
3901
- 3902 49.2.2. **Signing of the Onshore Wind Energy Service Contract.** The signing
3903 of the OnWESC shall be divided into two stages, namely: a) pre-signing
3904 by the OnWESC Applicant; and b) signing of the DOE Secretary.
3905
- 3906 (a) The REMB Supervising Assistant Secretary shall review the
3907 recommendation and endorse the same to the REMB
3908 Supervising Undersecretary within two (2) calendar days from
3909 receipt thereof. The Undersecretary shall act on the
3910 endorsement within two (2) calendar days from receipt of the
3911 documents. Within one (1) calendar day from the concurrence
3912 of the Undersecretary with the REMB's recommendation, the
3913 REMB Director shall require the OnWESC Applicant to pre-sign
3914 the original copies of the OnWESC following the prescribed
3915 template. The OnWESC Applicant is then required to pre-sign
3916 the OnWESC within thirty (30) calendar days upon receipt of the
3917 notice. Failure to comply within this timeframe shall result in the
3918 OnWESC application being deemed abandoned. Notifications



3919 will be sent through EVOSS at ten (10)-day intervals within this
3920 thirty (30)-day period to the OnWESC Applicant.

3921
3922 (b) Within one (1) calendar day, the WEMG shall validate the pre-
3923 signed OnWESC, and shall forward the pre-signed OnWESC,
3924 along with the endorsement and all its attachments to the Office
3925 of the DOE Secretary. Incomplete pre-signed OnWESC shall be
3926 returned to the OnWESC Applicant for rectification.

3927
3928 (c) The Office of the DOE Secretary shall receive the pre-signed
3929 OnWESC and all its attachments, and the DOE Secretary shall
3930 act on the documents within seven (7) calendar days from
3931 receipt thereof.

3932
3933 49.2.3. **Payment of Signing Fee.** The WEMG, through the EVOSS System,
3934 shall issue the order of payment within one (1) calendar day.

3935
3936 The OnWESC Applicant shall pay the signing fee directly to the
3937 Treasury and upload the proof of payment thereof within fifteen (15)
3938 calendar days from receipt of the order of payment. The failure of the
3939 Onshore Wind Energy Developer to do so shall cause the OnWESC to
3940 be deemed void.

3941
3942 49.2.4. **Posting of Performance Bond.** Subject to Section 89, the OnWESC
3943 Applicant shall post the performance bond covering the first Contract
3944 Year in accordance with Section 64 within the sixty (60) calendar days
3945 from receipt of notice. The failure of the Onshore Wind Energy
3946 Developer to do so shall cause the OnWESC to be deemed void.

3947
3948 49.2.5. **Delivery of the Signed Onshore Wind Energy Service Contract.**
3949 Upon receipt of the proof of payment of the signing fee within the
3950 prescribed period, the WEMG shall upload in the EVOSS System the
3951 signed and notarized copy of the OnWESC and COR, as applicable.

3952
3953 The Onshore Wind Energy Developer shall personally receive the
3954 original copies of the OnWESC and COR, as applicable, after
3955 submission of proof of posting of the performance bond within the
3956 prescribed period. Simultaneous with the receipt of the OnWESC, the
3957 Onshore Wind Energy Developer shall surrender to the DOE the COA
3958 issued pursuant to this Circular.

3959
3960 49.3. **Duty to Maintain Records.** The WEMG shall maintain a record of all LOIs
3961 received, pending OnWESC Applications, and signed OnWESC in the EVOSS
3962 System.

3963
3964 49.4. The ITMS shall make the area available to other applicants only when: a) the
3965 OnWESC Applicant failed to qualify; or b) withdraws or abandons its LOI or
3966 OnWESC Application, as the case may be, and only after due notice is given
3967 to the concerned OnWESC Applicant of such information by the REMB
3968 Supervising Assistant Secretary, copy furnishing the ITMS with the said notice.
3969 Such information shall be posted on the DOE website and previously denied
3970 applicants shall be notified through the EVOSS System. Once an area is
3971 declared to be available, subsequent RE Applications covering the same may
3972 be allowed, and only on a first-come, first-served basis.



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- 49.5. **Registration of Onshore Wind Energy Developers.** The DOE, through the REMB, shall issue a COR to an Onshore Wind Energy Developer holding a valid OnWESC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XI of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the OnWESC, at the option of the Wind Energy Developer.

Section 50. Terms of Onshore Wind Energy Service Contract. The development of onshore wind energy resources shall be covered by an OnWESC following the prescribed template (Annex “H”).

- 50.1. The Onshore Wind Energy Developer shall be given a non-extendible period of five (5) years from the date of execution of the OnWESC to determine the existence of onshore wind energy resource in Commercial Quantities and shall be called Pre-Development Stage.
- 50.2. The Development/Commercial Stage shall commence prior to the expiration of the Pre-Development Stage and upon the issuance of the COCOC, and shall continue for the remainder of term of the OnWESC.
- 50.3. The OnWESC shall have a term of twenty-five (25) years from the date of execution, which shall include the Pre-Development Stage and Development/Commercial Stage but shall exclude the period covered by the COA.
- 50.4. Not earlier than two (2) years but not later than one (1) year prior to the expiration of the twenty-five (25)-year period, the OnWESC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the OnWESC.

Section 51. Stages of Onshore Wind Energy Service Contract. An OnWESC shall cover two (2) stages of the onshore wind energy project, namely:

- 51.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the onshore wind energy project, including the identification of the proposed Production Area; and
- 51.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the onshore wind energy project, and the production and utilization of onshore wind energy resources.

Section 52. Investments.

- 52.1. **New Investments.** Onshore Wind Energy Developers undertaking discovery, exploration, development and/or utilization of onshore wind energy resources within the Contract Area using new onshore wind energy technology distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Onshore Wind Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new OnWESC over the area of new investment, subject to constitutional term limits.



4027 52.2. **Additional Investments.** Additional investment may cover investment for
4028 improvements, modernization, rehabilitation, or expansion duly registered with
4029 the DOE, which may or may not result in increased capacity, subject to the
4030 conditions to be determined by the DOE, such as, but not limited to, the
4031 following:

4032
4033 52.2.1. Identification of and investment in sequential phases/stages of
4034 production, or undertaking scheduled modernization or rehabilitation;
4035 and

4036
4037 52.2.2. Improvements such as reduced production/operational costs,
4038 increased production, improved operational efficiency, and better
4039 reliability of the onshore wind energy facilities.

4040
4041 If, by reason of the additional investment, the capacity of the onshore wind
4042 energy project is increased by at least thirty percent (30%) as validated by
4043 REMB, the Onshore Wind Energy Developer shall have the option to avail of
4044 an additional COR indicating the type of additional investment. Upon the
4045 issuance of the additional COR, the applicable incentives under the RE Act
4046 shall be reset.

4047
4048 In cases where the period to avail of duty-free importation has lapsed and the
4049 additional investment involves the importation of RE machinery, equipment
4050 and/or materials, the DOE, upon the request of the Onshore Wind Energy
4051 Developers, may be issued an additional COR indicating the type of additional
4052 investment prior to the actual increase of the capacity based on the following:

4053
4054 (a) Full and detailed feasibility study showing that upon installation of the
4055 RE equipment, machinery and/or materials specified therein, the
4056 capacity of the wind power energy will be increased by at least thirty
4057 percent (30%);

4058
4059 (b) Binding agreements for the purchase of RE equipment, machinery
4060 and/or materials with the same specifications mentioned in the
4061 feasibility study;

4062
4063 (c) Detailed timeline of activities to implement the improvement,
4064 modernization, rehabilitation or expansion; and

4065
4066 (d) Subject to Section 89, proof of posting of performance bond as provided
4067 in Section 64.

4068
4069 **CHAPTER VII – OFFSHORE WIND ENERGY RESOURCE**

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4071 **Section 53. Eligibility of Offshore Wind Energy Service Contract Applicant.** Any Person
4072 may apply for OsWESC, subject to the relevant provisions in this Chapter.

4073
4074 53.1. The OsWESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino-
4075 and/or foreign-owned corporation or association which is authorized by its
4076 articles or deed of incorporation to engage in the exploration, development, and
4077 utilization of offshore wind energy resources: *Provided*, That in case the
4078 OsWESC Applicant is a joint venture or a consortium, the partners of the joint
4079 venture or members of the consortium shall organize themselves as a
4080 corporation under the Revised Corporation Code or secure the appropriate



4081 license from the SEC, in case the joint venture or consortium was incorporated
4082 outside of the Philippines.
4083

4084 53.2. An Applicant which applies for an OsWESC that involves activities reserved to
4085 Filipino citizens or corporations or associations at least sixty percent (60%) of
4086 whose capital is owned by Filipinos shall comply with the nationality
4087 requirements under applicable laws, including the Anti-Dummy Law on the
4088 appointment of officers of the corporation.
4089

4090 **Section 54. Modes of Awarding Offshore Wind Energy Service Contract.** OsWESC shall
4091 be awarded through (a) an OCSP, or (b) Direct Application.
4092

4093 54.1. The OCSP shall be adopted for the selection and award of OsWESC for PDAs
4094 covering offshore wind energy resources for commercial purposes. This shall
4095 be governed by Section 55 and such guidelines as may be issued by the DOE
4096 pursuant to Section 56.
4097

4098 54.2. Direct Application shall be available for the selection and award of:

4099 54.2.1. OsWESC covering PDAs, following a failed OCSP pursuant to the
4100 guidelines issued under Section 56; and
4101

4102 54.2.2. OsWESC in an area identified by an OsWESC Applicant and verified
4103 with or confirmed by the ITMS as available for exploration, development
4104 and/or utilization of offshore wind energy resources.
4105
4106

4107 54.3. Offshore Energy Projects for Own-Use and/or for Non-Commercial and Non-
4108 Commercial Purposes shall not require the issuance of OsWESC but shall
4109 comply with the registration requirements provided under Chapter X of this
4110 Circular.
4111

4112 **Section 55. Pre-Determined Areas.** Interested parties may apply for OsWESC for PDAs
4113 offered by the DOE during a prescribed period.
4114

4115 55.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for
4116 OsWESC Applications, with the respective location maps, technical
4117 descriptions, and wind resource data thereof, to the DOE Secretary, through
4118 its Supervising Assistant Secretary and Undersecretary, for approval.
4119

4120 55.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be
4121 scheduled for launch and shall be publicly announced by the DOE for
4122 submission of OsWESC Applications.
4123

4124 55.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the
4125 availability of data packages for the approved PDAs that can be purchased by
4126 interested parties in support of their applications. The REMB shall conduct
4127 promotional activities to promote the OCSP and the corresponding data
4128 packages so as to ensure maximum participation and awareness of
4129 prospective investors and stakeholders.
4130

4131 **Section 56. Procedure for Awarding Offshore Wind Energy Service Contract under the**
4132 **Open and Competitive Selection Process.** The DOE shall issue specific guidelines for the
4133 conduct of, and award of OsWESCs under, OCSP.
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If an OCSP is declared a failure with respect to any or all PDAs included therein, all the affected PDAs shall be opened for Direct Application.

Section 57. Procedure for Awarding Offshore Wind Energy Service Contract under Direct Application.

- 57.1. **Coverage.** Direct Application shall be observed in processing OsWESC Applications for: (a) offshore wind energy resources located in PDAs which the DOE shall declare as available under this mode pursuant to guidelines issued under Section 56, and (b) offshore wind energy resources in areas other than those included in the PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 57.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with the WEMG. The list of requirements necessary for registration is detailed in Annex “J”.

- 57.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex “K”), in accordance with the mapping requirements (Annex “N”). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in Section 58 and 59.1. The submission of the LOI shall not be considered as a filing of an OsWESC Application and shall not commence the application process.

- 57.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform the interested participants about the OsWESC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the OsWESC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 57.5. **Configuration of Area of Interest.** The AOI for the OsWESC Application shall either be polygonal or in block following the Blocking System or a combination of both.

- 57.6. **Area Verification.** Within fourteen (14) calendar days from receipt of the complete LOI, ITMS shall complete the area verification and determine whether the AOI is:

- 57.6.1. Covered by an existing PDA under the OCSP, WESC, OsWESC or OnWESC, OsWESC or OnWESC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;



- 4187 57.6.2. Within or overlaps with the area of an existing energy service or
4188 operating contract such as PSC, COC, SSCMP, or RESC other than
4189 OsWESC or OnWESC;
4190
- 4191 57.6.3. Within or overlaps with the area of an existing energy service or
4192 operating contract application such as PSC, COC, SSCMP or RESC,
4193 other than OsWESC or OnWESC Application;
4194
- 4195 57.6.4. Within the protected and environmentally critical areas under the
4196 ENIPAS, i.e., within or outside the strict protection zones, ancestral
4197 domains with Certificate of Ancestral Domain Title or Claim, areas with
4198 tenurial instruments from other government agencies, areas prohibited,
4199 reserved, or used for national defense, navigation, irrigation, and other
4200 development projects, zones identified under the MSP of the DOE,
4201 safety and exclusion zones under Proclamation No. 72, series of 2001,
4202 and other areas covered by significant geospatial data that will be
4203 identified as necessary in the evaluation of the OsWESC Application
4204 based on available data on file with ITMS and the NAMRIA's Philippine
4205 Geoportal Project website.
4206
- 4207 Pursuant to the mandate of the DOE to supervise and control all
4208 government activities relative to energy project under the EPIRA,
4209 concerned government agencies and entities shall provide the DOE the
4210 list of abovementioned areas with technical description and
4211 corresponding shapefiles;
4212
- 4213 57.6.5. Covered by the COA of the same energy resource;
4214
- 4215 57.6.6. Covered by the COA of other energy resource;
4216
- 4217 57.6.7. Covered by the AOI of the same energy resource;
4218
- 4219 57.6.8. Covered by the AOI of other energy resource; or
4220
- 4221 57.6.9. Open for OsWESC Applications.
4222
- 4223 **57.7. Area Verification Results.** ITMS shall provide WEMG with the results of area
4224 verification through the EVOSS System. Within three (3) working days upon
4225 the receipt of the verification results, WEMG, through the REMB Assistant
4226 Director, shall endorse the final verification results and upload the letter
4227 containing the results of area verification in the EVOSS System.
4228
- 4229 The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under
4230 Sections 57.6.7 or 57.6.9. If the AOI falls under Sections 57.6.1 to 57.6.6 or
4231 57.6.8, the OsWESC Applicant shall be issued a Notice to Apply only after
4232 complying with the succeeding paragraph.
4233
- 4234 If the OsWESC Application cannot proceed based on the final verification
4235 results, the interested participant may either (a) reconfigure the AOI; (b) file a
4236 request to allow the development of multiple resources in the area; or (c)
4237 comply with Section 57.7.3, as applicable.
4238
- 4239 **57.7.1. Reconfigured Area of Interest.** Within ten (10) calendar days from
4240 uploading of the final verification results or from receipt of notice that



4241 multiple resource development in the overlapping area is not feasible
4242 under Section 57.7.2, the interested participant and WEMG may
4243 conduct an assessment if the AOI may be reconfigured without material
4244 adverse effect on the feasibility of the proposed offshore wind energy
4245 project. The interested participant may reconfigure its AOI to cover only
4246 such portion as may allow the OsWESC Application to proceed. After
4247 confirmation by ITMS that no portion of the reconfigured AOI falls under
4248 Sections 57.6.1 or 57.6.5 (for same energy resource), 57.6.2, 57.6.3,
4249 57.6.6 or 57.6.8 (for other energy resource), WEMG shall upload in the
4250 EVOSS System a Notice to Apply to the interested participant for the
4251 filing of the OsWESC Application.
4252

4253 **57.7.2. Multiple Resources in an Area.** If the AOI of the interested participant
4254 overlaps with the area of an existing energy service or operating
4255 contract or an application therefor of another RE Developer not affiliated
4256 to the interested participant as provided under Sections 57.6.2 and
4257 57.6.3, the interested participant may still pursue the OsWESC
4258 Application, subject to the provisions herein below set forth:
4259

- 4260 (a) The interested participant shall:
- 4261
- 4262 (i) Explain in writing why the proposed offshore wind
4263 energy project will not be feasible without the
4264 overlapping area, with justification on the technical
4265 viability of the project; and
4266
- 4267 (ii) Submit a notarized acknowledgment and undertaking
4268 that the interested participant recognizes and shall
4269 continue to recognize the prior rights of the existing
4270 developers of other energy resources within the
4271 overlapping area; that the design of the proposed
4272 offshore wind energy project will ensure safe and optimal
4273 development of offshore wind energy and other energy
4274 resources in the overlapping area; and that all costs
4275 needed therefor shall be borne by the interested
4276 participant.
4277
- 4278 (b) WEMG shall inform the existing applicant or energy
4279 contractor/developer of the intent to develop the offshore wind
4280 energy resources within the overlapping area. Copies of the
4281 interested participant's LOI, the written explanation, and their
4282 supporting documents shall be furnished to the applicant or
4283 contractor/developer.
4284
- 4285 (c) If no objection is received from the existing applicant or energy
4286 contractor/developer within the prescribed period, WEMG shall
4287 upload in the EVOSS System the Notice to Apply to the
4288 interested participant for the filing of the OsWESC Application
4289
- 4290 (d) If the existing applicant or energy contractor/developer objects
4291 to the proposal, the said applicant or applicant or energy
4292 contractor/developer shall notify WEMG thereof and provide a
4293 copy to the interested participant within ten (10) calendar days
4294 from receipt of notice, citing the impracticability of multiple



- 4295 resource development as to additional costs, safety, substantial
4296 decrease in the utilization of the energy resource, and other
4297 relevant factors. Copies of the written objection shall be
4298 furnished to the DOE Division processing the application or
4299 administering the energy project. A statement that multiple
4300 resource development in the overlapping area is impracticable
4301 without technical basis shall not be considered as an objection.
4302
- 4303 (e) Within five (5) calendar days from receipt of an objection,
4304 WEMG and the concerned DOE Division shall jointly determine
4305 whether exploration of offshore wind energy resources within
4306 the overlapping area may be conducted without material
4307 adverse effect on the activities of the existing energy
4308 contractor/developer. Such determination shall consider the
4309 interested participant's proposal, the objection and the technical
4310 bases cited therein. The evaluation shall be endorsed to the
4311 REMB Director.
4312
- 4313 (f) Upon receipt of the endorsement, the REMB Director may, if he
4314 concurs that the offshore wind energy project will not cause
4315 material injury, issue a recommendation to the DOE Secretary
4316 based on the feasibility of multiple resource development in the
4317 overlapping area, taking into account the most beneficial use of
4318 the resources.
4319
- 4320 (g) The DOE Secretary shall decide whether to allow multiple
4321 resource development in the overlapping area. If the DOE
4322 Secretary allows the same, the REMB Assistant Director shall
4323 issue a Notice to Apply to the interested participant.
4324
- 4325 **57.7.3. Other Areas.** If the AOI of the interested participant overlaps with the
4326 area as provided under Section 57.6.4, the interested participant may
4327 still pursue the OsWESC Application if there is no material adverse
4328 effect on the feasibility of the proposed offshore wind energy project
4329 after applying the provisions herein below set forth:
4330
- 4331 (a) If the AOI overlaps with areas within strict protection zones
4332 under the ENIPAS and exclusion and no build zones under the
4333 MSP of DOE, the interested participant shall submit a revised
4334 AOI which is net of the said areas.
4335
- 4336 (b) If the AOI overlaps with areas outside strict protection zones
4337 under the ENIPAS, the REMB Director shall issue a Notice to
4338 Apply for the said AOI: *Provided*, That the Contract Area may
4339 be reduced subject to the ENIPAS and its IRR.
4340
- 4341 (c) If the AOI overlaps with ancestral domains with Certificate of
4342 Ancestral Domain Title or Claim, the REMB Director shall issue
4343 a Notice to Apply for the said AOI: *Provided*, That the Contract
4344 Area may be reduced subject to the IPRA and its IRR.
4345
- 4346 (d) If the AOI overlaps with areas with tenurial instruments from
4347 other government agencies, the REMB Director shall issue a
4348 Notice to Apply for the said AOI: *Provided*, That the Contract



- 4349 Area may be reduced subject to the relevant rules and
4350 regulations of the concerned government agency.
4351
4352 (e) If the AOI overlaps with areas prohibited, reserved, or used for
4353 national defense, navigation, irrigation, and other development
4354 projects, and other areas, the REMB Director shall issue a
4355 Notice to Apply for the said AOI: *Provided*, that the Contract
4356 Area may be reduced subject to the relevant rules and
4357 regulations of the concerned government agency.
4358
4359 (f) If the AOI is within the safety and exclusion zones for offshore
4360 natural gas wells, flowlines, platform, pipelines, loading buoy
4361 and other related facilities related facilities for the Malampaya
4362 Deep Water Gas-To-Power Project over certain waters and
4363 submerged lands adjacent to Batangas, Mindoro and Palawan,
4364 the interested participants should secure a prior authorization
4365 from the DOE and the DND, and prior consent from the SC No.
4366 38 Service Contractor pursuant to Section 1 of Proclamation No.
4367 72, Series of 2001.
4368

4369 **Part 3. Filing and Evaluation of Offshore Wind Energy Service Contract Applications**

- 4370
4371 57.8. **Orientation of OsWESC Applicant.** The orientation is intended to inform
4372 OsWESC Applicant about the OsWESC application requirements, and to guide
4373 them through the process for evaluation thereof, awarding of OsWESC and the
4374 registration of an onshore wind energy project.
4375
4376 The Notice to Apply uploaded in the EVOSS System shall include the schedule
4377 of the mandatory orientation for OsWESC Applicants, facilitated by
4378 representatives from the LS, WEMG, and FS. The OsWESC Applicant shall
4379 ensure the attendance of legal, technical, and financial staff during the
4380 orientation.
4381
4382 57.9. **Receipt of Offshore Wind Energy Service Contract Applications.** After the
4383 Notice to Apply is uploaded in the EVOSS System, the interested participant
4384 may file its OsWESC Application by complying with the procedures and
4385 requirements, as follows:
4386
4387 57.9.1. The OsWESC Applicant shall submit through the EVOSS System the
4388 complete set of documentary requirements based on the Checklist of
4389 Requirements (Annex "M").
4390
4391 57.9.2. WEMG shall check the completeness and consistency of the
4392 submission and ITMS shall validate the area applied for the offshore
4393 wind energy project within three (3) working days.
4394
4395 57.9.3. If the submission is complete and the AOI is still free for development,
4396 WEMG shall upload a copy of the order of payment for the application
4397 and processing fees. The EVOSS System shall notify the OsWESC
4398 Applicant through a system-generated email to pay the application and
4399 processing fees within five (5) working days. Failure to do so will result
4400 in the abandonment of the application.
4401



- 4402 57.9.4. The AOI is not reserved for the OsWESC Applicant until the submission
4403 of complete application documents and proof of payment of application
4404 and processing fees.
4405
- 4406 57.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete
4407 submission.
4408
- 4409 57.9.6. In case the AOI is no longer free for development, the OsWESC
4410 Applicant shall be notified through the EVOSS System and the
4411 OsWESC Application shall be denied accordingly.
4412
- 4413 57.9.7. To ensure the orderly processing of OsWESC Applications, the EVOSS
4414 System shall be modified such that ITMS must input its confirmation
4415 therein that the AOI is available before an OsWESC Applicant can
4416 upload the documentary requirements. Pending such modification,
4417 WEMG shall revalidate with ITMS whether the AOI is open for
4418 application before issuing the order for the payment of application and
4419 processing fees mentioned in Section 57.8.3.
4420
- 4421 **57.10. Proof of Access to Proposed Area of Interest.** As part of the application
4422 requirements, the OsWESC Applicant shall submit an Affidavit of Acquisition of
4423 Possessory Rights in accordance with Annex "L" and a copy of the Board
4424 Resolution authorizing the affiant to execute the instrument on behalf of the
4425 OsWESC Applicant.
4426
- 4427 **57.11. Evaluation of Offshore Wind Energy Service Contract Applications.**
4428
- 4429 57.11.1. After the payment of the processing fee, WEMG, LS, and FS shall
4430 conduct the simultaneous technical, legal, and financial evaluations
4431 within five (5) calendar days from uploading of the proof of payment
4432 of application and processing fees in the EVOSS System.
4433
- 4434 57.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal
4435 evaluation under Section 57.11.1, LS shall evaluate the Affidavit of
4436 Acquired Possessory Rights mentioned in Section 57.10.
4437
- 4438 57.11.3. WEMG shall consolidate all the evaluation results and proceed with
4439 the processing:
4440
- 4441 (a) If the OsWESC Application passes the evaluations, WEMG
4442 shall, within two (2) calendar days from its receipt of the
4443 evaluation documents, prepare REMB's memorandum for the
4444 DOE Secretary endorsing the award of OsWESC Application;
4445 the draft COA, as applicable; and the draft OsWESC. The
4446 endorsement must include the original copy of the results of
4447 area verification and the legal, technical and financial
4448 evaluations with all their attachments, and the project area
4449 map and its technical descriptions. Upon concurrence of
4450 ITMS, FS, REMB and LS on the endorsement, the DOE
4451 Secretary shall act on the OsWESC Application in accordance
4452 with Section 59.
4453
- 4454 (b) If the OsWESC Application does not pass the legal, technical,
4455 and/or financial evaluations, WEMG shall notify the OsWESC



- 4456 Applicant through the EVOSS System to rectify the
4457 submission within ten (10) working days.
4458
- 4459 (i) Failure of the OsWESC Applicant to submit
4460 supplementary documents within the prescribed
4461 period shall be deemed an abandonment of the
4462 OsWESC Application. WEMG shall notify the
4463 OsWESC Applicant, LS, FS, and ITMS of the
4464 disqualification through the EVOSS System.
4465
- 4466 (ii) If the OsWESC Applicant submits supplementary
4467 complete documents within the prescribed period
4468 above, WEMG, LS and FS shall be notified by the
4469 EVOSS System of the submission. WEMG, FS and LS
4470 shall finish the simultaneous technical, legal, and
4471 financial evaluations within three (3) calendar days.
4472
- 4473 (iii) Should the OsWESC Application still fail to pass any
4474 of the subsequent legal, technical, or financial
4475 evaluations, the REMB Assistant Director shall
4476 recommend the disqualification of the OsWESC
4477 Application to the Supervising Assistant Secretary who
4478 shall then issue a formal notice to the OsWESC
4479 Applicant stating the basis of the disqualification.
4480 WEMG shall notify the OsWESC Applicant, LS, FS,
4481 and ITMS of the disqualification through the EVOSS
4482 System. After five (5) calendar days from receipt of the
4483 OsWESC Applicant of the letter of disqualification, the
4484 REMB shall prepare a memorandum to the ITMS to
4485 immediately re-open the area for RE Applications by
4486 posting such information on the DOE website and
4487 send notifications to concerned interested participants
4488 or RE Applicants through electronic mail pending the
4489 necessary modifications to the the EVOSS System.
4490
- 4491 57.11.4. The OsWESC Applicant shall submit all supplemental documents
4492 through the EVOSS System. Documents submitted outside the
4493 EVOSS System and those submitted through the EVOSS System but
4494 beyond the prescribed period shall not be accepted or evaluated.
4495 Further, once the rectification documents are submitted through the
4496 EVOSS system within the ten (10) working days, the remaining days,
4497 if there are any, shall be forfeited. Therefore, the OsWESC Applicant
4498 must ensure that all its documents are final and complete before
4499 submitting the same through the EVOSS system.
4500
- 4501 57.11.5. No RR of any of the legal, technical, financial evaluation or the
4502 disqualification shall be entertained, except when the OsWESC
4503 Applicant failed to submit the required documents within the
4504 prescribed timelines due to a fault in the EVOSS System, as
4505 confirmed by the IPO. In such circumstances, the OsWESC Applicant
4506 shall file the RR with REMB within three (3) working days from
4507 uploading of the Notice of Disqualification.
4508



4509 (a) Upon receipt of the RR, WEMG shall request the IPO to
4510 confirm the occurrence of the technical problem. If so
4511 confirmed and the same prevented the timely submission,
4512 WEMG, FS and/or LS shall evaluate the OsWESC Application
4513 considering the additional submission.

4514
4515 (b) If the OsWESC Application passes the evaluation, REMB
4516 shall grant the RR. Thereafter, WEMG shall proceed in
4517 accordance with Section 57.11.3(a).

4518
4519 57.12. If the Offshore Wind Energy Developer waived the COA during the pre-
4520 application process, WEMG shall proceed with the application in accordance
4521 with Section 59.2.

4522
4523 57.13. **Re-application for OsWESC.** After ITMS re-opens the area for RE
4524 Applications pursuant to Section 57.11.3(b)(iii), the OsWESC Applicant may re-
4525 apply for the same AOI by complying with Section 57.9.1.

4526
4527 During the checking of the submission for completeness and consistency under
4528 Section 57.9.2 and prior to giving notice of any deficiency, WEMG shall stamp
4529 the Notice to Apply "Revalidated" with the appropriate date if the area is still
4530 open for OsWESC Applications.

4531
4532 If another OsWESC Applicant is issued a Notice to Apply over the same AOI
4533 or a portion thereof and uploads the documentary requirements through
4534 EVOSS System, the completeness check referred to above and the validation
4535 of the area with the ITMS shall be on a first-come, first-serve basis. WEMG
4536 shall issue an order of payment for the application and processing fees to the
4537 OsWESC Applicant which first files the complete documentary requirements
4538 based on the EVOSS logs.

4539
4540 **Section 58. Terms of Certificate of Authority.** The awardee of an OsWESC shall have
4541 exclusive authority to procure permits or certifications and tenurial instruments needed for the
4542 exploration, development and utilization of the offshore wind energy resources within an area
4543 specified in the OsWESC Application and conduct reconnaissance and other activities needed
4544 for pre-feasibility studies upon the issuance of COA by the DOE.

4545
4546 58.1. The COA shall be valid for a period not exceeding three (3) years. During its
4547 validity, the COA shall serve as the DOE's exclusive endorsement for the
4548 Offshore Wind Energy Developer to conduct reconnaissance and other pre-
4549 feasibility activities and secure the necessary permits or certifications and
4550 tenurial instruments from government agencies, LGUs, entities or
4551 instrumentalities having jurisdiction over any aspect of the offshore wind energy
4552 operations. The denomination of each permit or certification or tenurial
4553 instrument to be procured as well as the reconnaissance and other activities to
4554 be conducted for the offshore wind energy project shall be listed in the COA.

4555
4556 58.2. The COA shall reflect the metes and bounds of the area as proposed in the
4557 OsWESC Application over which reconnaissance and other pre-feasibility
4558 activities may be conducted and permits and tenurial instruments may be
4559 secured by the Offshore Wind Energy Developer for the project. For this
4560 purpose, a copy of the technical description of the area to be covered by the
4561 OsWESC shall form part of the COA.

4562



- 4563 58.3. The validity of the COA shall not be extendible. Any reconnaissance activity
4564 and other pre-feasibility studies that is not conducted and/or permit or
4565 certification or tenurial instrument that remains unissued upon the lapse of the
4566 COA shall be procured and the necessary activities therefor conducted, as part
4567 of the Pre-Development Stage.
4568
- 4569 58.4. The Offshore Wind Energy Developer shall have the option to waive, shorten
4570 or utilize maximum period of validity of the COA.
4571
- 4572 58.4.1. If the Offshore Wind Energy Developer opts to shorten the period of
4573 validity, it shall give written notice to the DOE with a request to execute
4574 the OsWESC, a proposed Work Program and a terminal report on the
4575 permits, certifications or tenurial instruments procured and/or
4576 reconnaissance and other activities needed for pre-feasibility studies
4577 conducted.
4578
- 4579 58.4.2. If the Offshore Wind Energy Developer opts to utilize the full term, it
4580 shall give written notice to the DOE with a request to execute the
4581 OsWESC, a proposed Work Program and the terminal report
4582 mentioned in Section 58.4.1 not earlier than six (6) months but not later
4583 than three (3) months prior to the expiration of the validity of the COA.
4584
- 4585 58.4.3. Failure of the Offshore Wind Energy Developer to give written notice to
4586 the DOE within the period mentioned in the preceding paragraph may
4587 be deemed an abandonment of the OsWESC Application and
4588 disqualified following the procedure set forth in Section 57.11.3(b)(iii).
4589
- 4590 58.5. Within three (3) calendar days from notice, WEMG shall prepare REMB's
4591 memorandum for the DOE Secretary endorsing the execution of the OsWESC
4592 in accordance with Section 59.2.
4593

4594 **Section 59. Award of Offshore Wind Energy Service Contracts and Registration of**
4595 **Offshore Wind Energy Developers.**
4596

- 4597 59.1. **Issuance of Certificate of Authority.** After the approval of an OsWESC
4598 Application and before the execution of an OsWESC, the DOE shall issue a
4599 COA: *Provided*, That the COA may be waived in accordance with Section 58.4.
4600
- 4601 59.2. **Signing of the Offshore Wind Energy Service Contract.** The following
4602 procedure shall govern the awarding of OsWESC:
4603
- 4604 59.2.1. **Notification of Award.** The DOE shall notify the selected (under the
4605 OCSP) or qualified (under Direct Application) OsWESC Applicant of the
4606 award of the OsWESC.
4607
- 4608 59.2.2. **Signing of the Offshore Wind Energy Service Contract.** The signing
4609 of the OsWESC shall be divided into two stages, namely: a) pre-signing
4610 by the OsWESC Applicant; and b) signing of the DOE Secretary.
4611
- 4612 (a) The REMB Supervising Assistant Secretary shall review the
4613 recommendation and endorse the same to the REMB
4614 Supervising Undersecretary within two (2) calendar days from
4615 receipt thereof. The Undersecretary shall act on the
4616 endorsement within two (2) calendar days from receipt of the



4617 documents. Within one (1) calendar day from the concurrence
4618 of the Undersecretary with the REMB's recommendation, the
4619 REMB Director shall require the OsWESC Applicant to pre-sign
4620 the original copies of the OsWESC following the prescribed
4621 template. The OsWESC Applicant is then required to pre-sign
4622 the OsWESC within thirty (30) days upon receipt of the notice.
4623 Failure to comply within this timeframe shall result in the
4624 OsWESC Application being deemed abandoned. Notifications
4625 will be sent through EVOSS at ten (10)-day intervals within this
4626 thirty (30)-day period to the OsWESC Applicant.

4627
4628 (b) Within one (1) calendar day, the WEMG shall validate the pre-
4629 signed OSWESC, and shall forward the pre-signed OsWESC,
4630 along with the endorsement and all its attachments to the Office
4631 of the DOE Secretary. Incomplete pre-signed OsWESC shall be
4632 returned to the OsWESC Applicant for rectification.

4633
4634 (c) The Office of the DOE Secretary shall receive the pre-signed
4635 OsWESC and all its attachments, and the DOE Secretary shall
4636 act on the documents within seven (7) calendar days from
4637 receipt thereof.

4638
4639 **59.2.3. Payment of Signing Fee.** The WEMG, through the EVOSS System,
4640 shall issue the order of payment within one (1) calendar day.

4641
4642 The OsWESC Applicant shall pay the signing fee directly to the
4643 Treasury and upload the proof of payment thereof within fifteen (15)
4644 calendar days from receipt of the order of payment. The failure of the
4645 Offshore Wind Energy Developer to do so shall cause the OsWESC to
4646 be deemed void.

4647
4648 **59.2.4. Posting of Performance Bond.** Subject to Section 89, the OsWESC
4649 Applicant shall post the performance bond covering the first Contract
4650 Year in accordance with Section 64 within the sixty (60) calendar days
4651 from receipt of notice. The failure of the Offshore Wind Energy
4652 Developer to do so shall cause the OsWESC to be deemed void.

4653
4654 **59.2.5. Delivery of the Signed Offshore Wind Energy Service Contract.**
4655 Upon receipt of the proof of payment of the signing fee within the
4656 prescribed period, the WEMG shall upload in the EVOSS System the
4657 signed and notarized copy of the OsWESC and COR, as applicable.

4658
4659 The Offshore Wind Energy Developer shall personally receive the
4660 original copies of the OsWESC and COR, as applicable, after
4661 submission of proof of posting of the performance bond within the
4662 prescribed period. Simultaneous with the receipt of the OsWESC, the
4663 Offshore Wind Energy Developer shall surrender to the DOE the COA
4664 issued pursuant to this Circular.

4665
4666 **59.3. Duty to Maintain Records.** The WEMG shall maintain a record of all LOIs
4667 received, pending OsWESC Applications, and signed OsWESC in the EVOSS
4668 System.

4669



4670 59.4. The ITMS shall make the area available to other applicants only when: a) the
4671 OsWESC Applicant failed to qualify; or b) withdraws or abandons its LOI or
4672 OsWESC Application, as the case may be, and only after due notice is given
4673 to the concerned OsWESC Applicant of such information by the REMB
4674 Supervising Assistant Secretary, copy furnishing the ITMS with the said notice.
4675 Such information shall be posted on the DOE website and previously denied
4676 applicants shall be notified through the EVOSS System. Once an area is
4677 declared to be available, subsequent RE Applications covering the same may
4678 be allowed, and only on a first-come, first-served basis.

4679
4680 59.5. **Registration of Offshore Wind Energy Developers.** The DOE, through the
4681 REMB, shall issue a COR to an Offshore Wind Energy Developer holding a
4682 valid OsWESC for purposes of entitlement to the incentives under the RE Act,
4683 subject to Chapter XI of this Circular, upon the issuance of the COCOC.
4684 Notwithstanding the foregoing, the issuance of a COR may be availed of upon
4685 the award of the OsWESC, at the option of the Offshore Wind Energy
4686 Developer.

4687
4688 **Section 60. Types of Offshore Wind Energy Projects.** Offshore wind energy projects shall
4689 include, but not be limited to:

4690
4691 60.1. Fixed-Bottom Platforms which are attached to the seabed by piles or gravity
4692 bases installed in shallow waters; and

4693
4694 60.2. Floating Platforms which are anchored to the seabed by mooring lines or cables
4695 and deployed in deeper waters.

4696
4697 **Section 61. Terms of Offshore Wind Energy Service Contract.** The development of
4698 offshore wind energy resources shall be covered by an OsWESC following the prescribed
4699 template (Annex "I").

4700
4701 61.1. The Offshore Wind Energy Developer shall be given a period of five (5) years
4702 from the date of execution of the OsWESC, extendible up to two (2) years, to
4703 determine the existence of offshore wind energy resources in Commercial
4704 Quantities and shall be called Pre-Development Stage.

4705
4706 61.2. The Offshore Wind Energy Developer may file a request to extend the term of
4707 the Pre-Development Stage for justifiable reasons not earlier than six (6)
4708 months but not later than three (3) months prior to its expiration, which shall be
4709 decided by the REMB Supervising Undersecretary.

4710
4711 61.3. The Development/Commercial Stage shall commence immediately upon the
4712 expiration of the Pre-Development Stage and the issuance of the COCOC, and
4713 shall continue for the remainder of term of the OsWESC.

4714
4715 61.4. The OsWESC shall have a term of twenty-five (25) years from the date of
4716 execution, which shall include the Pre-Development Stage and
4717 Development/Commercial Stage but shall exclude the period covered by the
4718 COA.

4719
4720 61.5. Not earlier than two (2) years but not later than one (1) year prior to the
4721 expiration of the twenty-five (25)-year period, the OsWESC may be renewed
4722 for another twenty-five (25) years, subject to the terms and conditions of the
4723 OsWESC.



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Section 62. Stages of Offshore Wind Energy Service Contract. An OsWESC shall cover two (2) stages of the offshore wind energy project, namely:

- 62.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the offshore wind energy project, including the identification of the proposed Production Area; and
- 62.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the offshore wind energy project, and the production and utilization of offshore wind energy resources.

Section 63. Investments.

- 63.1. **New Investments.** Offshore Wind Energy Developers undertaking discovery, exploration, development and/or utilization of offshore wind energy resources within the Contract Area using new offshore wind energy technology distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Offshore Wind Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new OSWESC over the area of new investment, subject to constitutional term limits.
- 63.2. **Additional Investments.** Additional investment may cover investment for improvements, modernization, rehabilitation, or expansion duly registered with the DOE, which may or may not result in increased capacity, subject to the conditions to be determined by the DOE, such as, but not limited to, the following:
 - 63.2.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and
 - 63.2.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the offshore wind energy facilities.

If, by reason of the additional investment, the capacity of the offshore wind energy project will be increased by at least thirty percent (30%) as validated by REMB, the Offshore Wind Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Offshore Wind Energy Developers, may be issued an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- (a) Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the



- 4777 capacity of the wind energy project will be increased by at least thirty
4778 percent (30%);
4779
4780 (b) Binding agreements for the purchase of RE equipment, machinery
4781 and/or materials with the same specifications mentioned in the
4782 feasibility study;
4783
4784 (c) Detailed timeline of activities to implement the improvement,
4785 modernization, rehabilitation or expansion; and
4786
4787 (d) Subject to Section 89, proof of posting of performance bond as provided
4788 in Section 64.
4789

4790 CHAPTER VIII – RE RESOURCES UNDER NEW EMERGING TECHNOLOGIES

4791
4792 For other RE Resources which are developed through emerging RE technologies and are not
4793 enumerated in Chapters II to VII of this Circular, the REMB shall develop a regulatory
4794 framework for the exploration, development, utilization and commercialization of such RE
4795 Resources utilizing such emerging technologies. In the absence of such regulatory framework,
4796 the procedures governing a particular RE Resource that is most analogous to the emerging
4797 technology shall be adopted.
4798

4799 CHAPTER IX – ADMINISTRATION OF RENEWABLE ENERGY CONTRACTS

4800
4801 **Section 64. Performance Bond.** Subject to Section 89, the RE Developer shall post a bond
4802 or any other guarantee of sufficient amount, but not less than the minimum expenditures
4803 commitment for the applicable Contract Year, which shall be a condition precedent for the
4804 effectivity of the RE Contract: *Provided*, That RE Projects with a capacity of five megawatts
4805 (5MW) or below shall be exempt from such requirement. The bond or other guarantee shall
4806 be in the form of cash, manager's check, standby letter of credit with drawing certificate or
4807 bank guarantees, or surety bond issued by surety or insurance company duly accredited and
4808 of good standing under applicable rules and regulations.
4809

4810 If the RE Developer, through its own fault, fails to observe or perform its work obligations under
4811 the Work Program, the DOE, upon prior written notice, may proceed against the performance
4812 bond or other guarantee: *Provided*, That should the work obligations under the Work Program
4813 be fulfilled, and through the efficiency of the RE Developer, the corresponding actual
4814 expenditures thereon are lower than the estimated expenditures stated in the Work Program,
4815 the same shall be considered as full compliance of the work obligations.
4816

4817 A valid and subsisting performance bond is required to be maintained annually until:
4818

4819 64.1. Biomass, Waste-to-Energy and Solar Power Projects – The RE Developer
4820 submits a duly executed Engineering, Procurement and Construction (EPC)
4821 contract and for ninety (90) calendar days from the last day of validity of the
4822 performance bond, for the DOE's evaluation and validation and posting of
4823 performance bond, if necessary: *Provided*, That if the EPC contract is
4824 submitted prior to submission of proof of Financial Closing, the performance
4825 bond or other guarantee shall be maintained until submission of such proof,
4826 without prejudice to the ninety (90)-day period for evaluation and validation and
4827 posting of performance bond, if necessary.
4828

4829 64.2. Geothermal, Hydropower, Ocean Energy, and Wind Energy Projects – The RE
4830 Developer submits a duly executed EPC contract and for ninety (90) calendar



4831 days from the last day of validity of the performance bond, for the DOE's
4832 evaluation and validation and posting of performance bond, if necessary:
4833 *Provided*, That if the EPC contract is submitted prior to the submission of DOC,
4834 the performance bond or other guarantee shall be maintained until the issuance
4835 of the COCOC, without prejudice to the ninety (90)-day period for evaluation
4836 and validation and posting of performance bond, if necessary.

4837
4838 The obligation to post the performance bond or other guarantee shall cease upon the lapse of
4839 the period for evaluation and validation: *Provided*, That the DOE shall audit the performance
4840 of the RE Developer after two (2) years from the submission of the EPC contract or submission
4841 of proof of Financial Closing or issuance of the COCOC, as the case may be, whichever comes
4842 later: *Provided, further*, That if the RE Developer incurs unreasonable delay in undertaking the
4843 construction activities per approved Work Program for an aggregate period of one (1) year
4844 within such period, the DOE shall cancel the RE Contract unless the RE Developer posts a
4845 performance bond equivalent to thirty percent (30%) of the cost of the financial commitment
4846 for the applicable Contract Year: *Provided, finally*, That the budgetary estimate for the activities
4847 that were not completed shall form part of the financial commitment for such Contract Year
4848 and shall be accounted for in computing the amount of the performance bond or other
4849 guarantee for such Contract Year.

4850
4851 In case of Additional Investments, the RE Developer shall post a performance bond or other
4852 guarantee of sufficient amount, but not less than the approximate cost of the duties and other
4853 charges that would have been due if the RE equipment, machinery or materials are imported
4854 without duty-free incentive, as may be determined by REMB based on the computation
4855 submitted by the RE Developer. Such performance bond or other guarantee shall be
4856 conditioned upon the actual increase of the installed capacity by ten percent (10%) for
4857 Geothermal Energy Projects and thirty percent (30%) for other RE Projects, and shall be
4858 maintained until the RE equipment, machinery or materials are installed and for ninety (90)
4859 calendar days from the last day of validity of the performance bond, if necessary, for the DOE's
4860 evaluation and validation.

4861
4862 **Section 65. Updating of RE Projects Data to the EVOSS System and DOE Website.** The
4863 following shall govern the posting and updating of RE Contracts awarded and pending RE
4864 Applications on the DOE website.

4865
4866 65.1. The REMB-Technical Service Management Division (TSMD), in coordination
4867 with the relevant REMB divisions, shall collate and update the list of RE
4868 Contracts awarded and RE Applications filed and under evaluation on a
4869 quarterly basis. Upon full operation of the EVOSS System, updating of data
4870 shall be in accordance with the periods provided in the system.

4871
4872 65.2. All concerned DOE units shall provide updates to the EVOSS System and DOE
4873 websites.

4874
4875 65.3. All RE Developers shall be required to register with the EVOSS System for
4876 regular updating of their respective RE Projects.

4877
4878 **Section 66. Transition from Pre-Development Stage to Development/Commercial**
4879 **Stage.** The RE Service Contract shall transition from the Pre-Development Stage to
4880 Development/Commercial Stage only after issuance by the DOE of a COCOC.

4881
4882 66.1. **Procedure for the Transition from Pre-Development to Development**
4883 **Stage.** An application for DOC shall be processed, as follows:
4884



- 4885 66.1.1. The RE Developer shall submit through the EVOSS System the
4886 application for DOC and the complete documentary requirements
4887 specified in Annex "O" of this Circular prior to the expiration of the Pre-
4888 Development Stage. The concerned REMB division shall determine the
4889 completeness and consistency of the submission within three (3)
4890 working days.
- 4891
- 4892 66.1.2. If the submission is complete, the concerned REMB division, ITMS and
4893 LS shall conduct the evaluations and upload the evaluation results
4894 through the EVOSS System within seven (7) calendar days.
- 4895
- 4896 66.1.3. Within two (2) calendar days after evaluation, the concerned REMB
4897 division shall consolidate the evaluation results and recommend the
4898 issuance of:
- 4899
- 4900 (a) The COCOC, if the evaluations found the DOC satisfactory; or
- 4901
- 4902 (b) A written notice to the RE Developer indicating that it has to
4903 correct any deficiencies and/or satisfy the requirements for
4904 issuance of the COCOC in accordance with Section 66.1.4, if
4905 any evaluation found the DOC unsatisfactory.
- 4906
- 4907 66.1.4. Upon receipt of the recommendation, the REMB Director shall:
- 4908
- 4909 (a) Endorse the issuance of the COCOC to the DOE Secretary for
4910 approval, through LS, the Supervising Assistant Secretary and
4911 Undersecretary. The latter shall act on the recommendation
4912 within seven (7) calendar days;
- 4913
- 4914 (b) Sign the written notice; or
- 4915
- 4916 (c) Deny the issuance of COCOC, if the RE Developer fails to rectify
4917 within the periods provided under Section 66.2.
- 4918
- 4919 66.1.5. The concerned REMB division shall upload the signed letter or the
4920 COCOC in the EVOSS System and notify the RE Developer to receive
4921 the said documents.
- 4922
- 4923 66.2. If the written notice under Section 66.1.4(b) is issued during the Pre-
4924 Development Stage, the RE Developer shall have the remainder thereof to
4925 correct any deficiencies and/or satisfy the requirements for issuance of the
4926 COCOC. If the written notice is issued after the expiration of the Pre-
4927 Development Stage, the RE Developer shall be given a one-time opportunity to
4928 rectify its submission within thirty (30) calendar days from receipt of the result
4929 of evaluation.
- 4930
- 4931 66.3. The failure of the RE Developer to file the application for DOC, or correct any
4932 deficiencies or otherwise satisfy the requirements for issuance of the COCOC
4933 within the applicable periods above shall be a cause for the termination of the
4934 RE Service Contract.
- 4935
- 4936 66.4. The date of issuance of the COCOC shall be considered the date of transition
4937 of the RE Service Contract from Pre-Development Stage to Development/
4938 Commercial Stage, which shall be reflected in the COCOC.



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- 66.5. Upon transition from the Pre-Development to Development Stage of the RE Service Contract, the Contract Area shall be amended, if necessary, to cover the Production Area only.

Section 67. Conversion to the New RE Contract Template. Within one (1) year from the effectivity of this Circular, an RE Developer may apply for conversion of its RE Contract to the new RE Contract templates provided in Annexes “A” to “K” hereof. 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.

67.1. Availability of Certificate of Authority.

67.1.1. RE Developers whose RE Contracts were awarded within one (1) year, or within five (5) years in the case of OsWESCs, prior to the effectivity of this Circular and who have not availed of any fiscal incentives under the RE Contract may avail of the COA by signifying such intent in the application for conversion: *Provided*, That upon the issuance of a COA, the RE Developer shall deliver its RE Contract and corresponding COR to the DOE for cancellation.

During the validity of the COA, the running of the constitutional term limits and, subject to prior coordination with the Board of Investments (BOI) and other relevant government agencies, the period to avail of the incentives under the RE Act shall be suspended and shall resume only upon the execution of the new RE Contract and/or issuance of the new COR, respectively, in accordance with Section 10, Section 20, Section 28, Section 38, Section 49 and Section 59, as the case may be: *Provided*, That the RE Developer shall no longer be required to pay the signing fee.

67.1.2. RE Contracts not falling within Section 67.1.1 may apply for conversion but shall not be entitled to avail of the COA.

67.2. Availability of Incentives. Upon the execution of the new RE Contract, the RE Developer may avail of such incentives as may be warranted by the circumstances.

67.3. Requirements for Conversion to New RE Contract Template. The application for conversion to the new RE Contract templates shall be subject to the following conditions:

67.3.1. RE Developers must be substantially compliant with the approved Work Program/Work Plan and the material terms and conditions of the RE Contract 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 the date of application for conversion, the evaluation shall be based on their compliance with the approved Work Program and the material terms and conditions from the time of the award of the RE Contract until the filing of the application.

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



4993 (a) Work Program covering the first five (5) years of the remaining
4994 term of the existing RE Contract, reckoned from the date of its
4995 execution.

4996
4997 (b) Revised Contract Area following the mapping requirements
4998 provided in Annex "L" hereof, as applicable.
4999

5000 67.4. **Procedures for Application.** Applications for conversion to the new RE
5001 Contract template shall be processed based on the following procedures:

5002 67.4.1. The RE Developer shall submit through the EVOSS System the
5003 complete documents, and the relevant REMB division shall check the
5004 completeness and consistency of the submission within three (3)
5005 working days.
5006

5007 67.4.2. The concerned REMB division and LS shall conduct technical and legal
5008 (if required) evaluation based on performance of the contractor/RE
5009 Developer of its contractual obligations under the old
5010 contract/agreement and its application documents within five (5)
5011 calendar days.
5012

5013 67.4.3. The REMB shall then endorse the mapping requirements to the ITMS
5014 who shall produce/print the map of the Production Area within three (3)
5015 calendar days.
5016

5017 67.4.4. Qualified applications shall be endorsed by the REMB to the
5018 Supervising Assistant Secretary and Undersecretary, which shall be
5019 acted upon within four (4) calendar days.
5020

5021 67.4.5. Within two (2) calendar days from the concurrence of the Assistant
5022 Secretary and Undersecretary, the DOE shall issue a COA, if
5023 warranted, or proceed with the execution of the RE Contract in
5024 accordance with the applicable procedure for the award of RE
5025 Contracts and registration of RE Developers.
5026

5027
5028 **Section 68. Amendment of RE Contracts.**

5029 68.1. **Amendment of RE Contracts.** RE Contracts shall be amended in any of the
5030 following instances:
5031

5032 68.1.1. Change to the Contract Area;
5033

5034 68.1.2. The awarded Contract Area falls within or overlaps with the no build
5035 zones as identified in the MSP;
5036

5037 68.1.3. Increase or decrease in the installed capacity of the RE Project:
5038 *Provided*, That changes to the potential capacity shall not be
5039 considered as an amendment of RE Contracts and shall be approved
5040 by the Supervising Assistant Secretary and Undersecretary.
5041

5042 As used herein, installed capacity of an RE Project shall refer to the
5043 sum of the maximum capacity/ies of all generating unit/s operating
5044 under optimal conditions, while its potential capacity shall refer to the
5045 sum of the expected maximum capacity/ies of all generating unit/s
5046



- 5047 based on the result of resource assessment, grid capacity, and/or
5048 engineering design;
5049
- 5050 68.1.4. Change of location of project site for Biomass and Hydropower
5051 Projects, or correction of project location for Solar Power Projects; or
5052
- 5053 68.1.5. Changes to address inconsistencies between the RE Contract and the
5054 RE Contract template and its annexes, as applicable, or changes to the
5055 Contract Area necessitated by the RE Developer's non-compliance with
5056 the Affidavit of Acquisition of Possessory Rights.
5057
- 5058 68.2. No amendment to the RE Contract is required when the RE Project transitions
5059 from the Pre-Development to the Development Stage. However, upon the
5060 relinquishment of a portion of the Contract Area after identifying the Production
5061 Area pursuant to Section 66.5, a new annex to the RE Contract indicating the
5062 revised Contract Area, with corresponding map and technical description, shall
5063 be issued.
5064
- 5065 Further, no amendment to the RE Contract shall be required if there are
5066 changes in the registered capacity of an RE Project: *Provided*, That the DOE
5067 shall, when necessary, endorse the RE Developer's application for amendment
5068 or renewal of COC with the ERC.
5069
- 5070 68.3. **Requirements for Amendment to the Contract Area.** The RE Developer
5071 shall submit a request in writing addressed to the REMB Director, and shall
5072 submit and/or comply with the following:
5073
- 5074 68.3.1. Technical description of the proposed Contract Area and other mapping
5075 requirements for the purpose of area verification;
5076
- 5077 68.3.2. The proposed amendment shall cover an area contiguous or, for
5078 microgrid projects, proximal to the existing Contract Area, and available
5079 and open for RE resource exploration, development and/or utilization
5080 based on the verification by the ITMS;
5081
- 5082 68.3.3. The amendment of the Contract Area is justified and reasonable, which
5083 may be proven by: (a) the results of the resource assessment, duly
5084 verified by the concerned REMB unit; and (b) proof that the RE
5085 Developer is not in default of its technical and financial obligations under
5086 the RE Contract;
5087
- 5088 68.3.4. The Work Program with respect to the amended Contract Area is
5089 acceptable; and
5090
- 5091 68.3.5. Affidavit of Acquisition of Possessory Rights, as applicable.
5092
- 5093 68.4. **Requirements for Other Amendments.** The RE Developer shall submit a
5094 request in writing addressed to the REMB Director, together with proof of the
5095 following:
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- 5097 68.4.1. That the amendment is justified and reasonable; and
5098
- 5099 68.4.2. That the RE Developer is not in default of its technical and financial
5100 obligations under the RE Contract.



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- 68.5. Only an amended COR shall be issued in case of the following changes:
- 68.5.1. Company name of the RE Developer or name of the RE Project; or
- 68.5.2. Assignment of RE Contract in accordance with the terms thereof.
- The amendments under this Section shall require the surrender of the original COR upon issuance of the amended COR: *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.
- 68.6. **Evaluation of Requests for Amendment of RE Service Contract.** The RE Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for amendment of RE Contract, which shall be processed as follows:
- 68.6.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.
- If the submission is complete, the concerned REMB Division shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within five (5) working days.
- 68.6.2. After payment of the processing fee, the concerned REMB Division shall evaluate the request within five (5) calendar days. In case the evaluation of the concerned REMB Division shows that: (a) there are additional costs to be incurred that should warrant another financial evaluation; (b) there are any legal concerns regarding the RE Project; and/or (c) there is a need of re-plotting the Contract Area, the concerned REMB Division, through the EVOSS System, shall endorse the request to FS, LS and/or ITMS which shall conduct simultaneous financial and legal evaluations, and/or area verification within five (5) calendar days.
- 68.6.3. The concerned REMB Division shall consolidate all the evaluation results and recommend the same to the REMB Director for further action and if the RE Developer passes the evaluation, endorse the Memorandum to the Undersecretary and Approval Letter/Amended COR through LS within two (2) calendar days.
- 68.6.4. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) calendar days.
- 68.7. Requests to change the terms of the RE Contract other than those in Section 68.1 may be considered by the DOE if the RE Developer complies with the conditions set forth in Section 68.4, subject to negotiations between the DOE and the RE Developer.
- 68.8. The changes referred to in Section 68.1.5 shall be initiated by the concerned REMB division.



5155 If the change relates to the material terms and conditions of the RE Contract or
5156 to the Contract Area, as may be necessitated by the RE Developer's non-
5157 compliance with the Affidavit of Acquisition of Possessory Rights, the REMB
5158 Director shall recommend the amendment of the RE Contract and/or its annex,
5159 through LS, the Supervising Assistant Secretary and Undersecretary, to the
5160 DOE Secretary.

5161
5162 68.9. **Revision of the Work Program.** Subject to terms and conditions stipulated in
5163 the RE Contract, the RE Developer may request the revision of its Work
5164 Program with justification on such revision: *Provided*, That such revision shall
5165 not extend the Pre-Development Stage.

5166
5167 68.9.1. **Evaluation of Requests for Revision of the Work Program.** The RE
5168 Developer shall submit through the EVOSS System the complete set of
5169 documentary requirements for the request for revision of the Work
5170 Program, which shall be processed as follows:

5171
5172 (a) The concerned REMB division shall check the completeness
5173 and consistency of the submission within three (3) working days.

5174
5175 (b) If the submission is complete, REMB, LS and FS shall conduct
5176 simultaneous technical, legal (if necessary), and financial (for
5177 Pre-Development Stage only) evaluations within five (5)
5178 calendar days.

5179
5180 (c) The concerned REMB Division shall consolidate all the
5181 evaluation results and recommend the same to the REMB within
5182 (2) calendar days. REMB, through the REMB Director, shall
5183 provide the Supervising Assistant Secretary with its
5184 recommendation on the request and the complete basis thereof.

5185
5186 (d) The Supervising Assistant Secretary shall act on the
5187 recommendation and endorse the same to the Undersecretary
5188 for approval within two (2) calendar days.

5189
5190 (e) The concerned REMB Division, through the EVOSS System,
5191 shall notify the RE Developer of the approval and upload a copy
5192 of the letter approving the revised work program.

5193
5194 (f) The concerned REMB Division shall immediately provide to the
5195 TSMD, ITMS, and IPO the status of the RE Contract and/or
5196 COR for timely update of database.

5197
5198 (g) The changes to the Work Program necessitated by Force
5199 Majeure that extends the Pre-Development Stage shall be
5200 treated as an amendment of the RE Contract and shall be
5201 approved in accordance with Section 68.

5202
5203 **Section 69. Assignment of RE Contract.**

5204
5205 69.1. The RE Developer may assign all of its rights and obligations under the RE
5206 Contract to an entity that has the legal, technical, and financial qualifications to
5207 undertake the RE project, subject to prior written approval of the DOE, and in
5208 accordance with the following:



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69.1.1. The RE Developer shall submit to the DOE copies of the written document which unequivocally shows the agreement of the parties thereat to the assignment of the RE Contract; and

69.1.2. **Assignment to an Affiliate.** An RE Contract may be assigned to an affiliate of the RE Developer at any time and any number of times during its term.

69.1.3. **Assignment to a Non-Affiliate.**

(a) An RE Service Contract may be assigned only once during the Pre-Development Stage after two (2) years from its effectivity. It may be assigned any number of times during the Development Stage.

(b) An RE Operating Contract may be assigned only once during the Development Stage after two (2) years from its effectivity. It may be assigned any number of times during the Commercial Stage.

69.2. **Evaluation of Requests for Assignment of RE Contract.** The RE Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for assignment of the RE Contract, which shall be processed as follows:

69.2.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

69.2.2. If the submission is complete, the concerned REMB shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within five (5) working days.

69.2.3. After payment of the processing fee, REMB, LS and FS shall conduct simultaneous technical, legal, and financial evaluations within seven (7) calendar days.

69.2.4. The concerned REMB Division shall consolidate all the evaluation results and endorse, through REMB Director, the recommendation for approval of LS within two (2) calendar days.

69.2.5. The Supervising Assistant Secretary and Undersecretary shall act on the recommendation and endorse the same to the DOE Secretary for approval within four (4) calendar days.

Section 70. Change in Control. Any sale or acquisition of shares or other share capital, or a series thereof, that results in a change in control over the RE Developer shall be subject to the prior written approval of the DOE. Such approval shall be given if the RE Developer remains legally, technically and financially qualified and capable of discharging the obligations under the RE Contract. For this purpose, the RE Developer shall submit to the DOE copies of the instrument of conveyance and other documents showing that the sale or acquisition will not affect its legal, technical and financial qualification. The procedure for evaluation and approval of the sale or acquisition shall be in accordance with Section 69.1.3.



5263
5264 Control is presumed to exist when, as a result of the sale or acquisition, the buyer/s or
5265 transferee/s shall own or exercise more than one half (1/2) of the voting power of the RE
5266 Developer.

5267
5268 **Section 71. Abandonment.** The Abandonment and Termination Plan shall be prepared by
5269 the RE Developer and submitted as a requirement for issuance of a COCOC or to transition
5270 from the Development Stage to Commercial Stage, as applicable, and approved by the
5271 Department of Environment and Natural Resources (DENR) and the DOE for the
5272 decommissioning, abandonment and surface restoration or rehabilitation of the Contract Area.
5273 Such abandonment work plan may be amended, supplemented or modified by the RE
5274 Developer, the DOE, and the DENR from time to time.

5275
5276 **Section 72. Performance Review and Audit.**

5277
5278 72.1. The DOE shall conduct regular performance review of the RE Developers and
5279 recommend appropriate actions therefor.

5280
5281 72.2. The DOE shall have the right to inspect the RE Developer's books and
5282 accounts directly relating to the RE Contract for any Contract Year.

5283
5284 72.3. The period to conduct audit, the prescriptive period of audit, and the review and
5285 appeal process of audit and/or assessments shall be in accordance with the
5286 Guidelines on the Conduct of Audit and Reportorial and Remittance Obligations
5287 of Energy Contractors and/or Energy Resource Developers to be issued by the
5288 DOE.

5289
5290 72.4. The DOE, upon at least fifteen (15) calendar days advance written notice to the
5291 RE Developer, is entitled to access, during reasonable hours without affecting
5292 RE operations, all books of accounts and records and may inspect such sites
5293 and facilities as necessary.

5294
5295 **Section 73. Suspension of Obligations under the RE Service/Operating Contract.** In
5296 case the default of the RE Developer is attributable to Force Majeure, the obligation of the RE
5297 Developer may be suspended for a period of six (6) months or until the Force Majeure event
5298 ceases to exist, whichever comes earlier, subject to the following conditions:

5299
5300 73.1. The RE Developer shall file a notice of Force Majeure to the concerned REMB
5301 Division within fifteen (15) calendar days from its existence along with proof
5302 that:

5303
5304 73.1.1. The Force Majeure exists;

5305
5306 73.1.2. The event/s occurred independent of the will of the RE Developer;

5307
5308 73.1.3. The event/s rendered it impossible for the RE Developer to fulfill its
5309 obligations in a normal manner; and

5310
5311 73.1.4. The RE Developer is free of participation in, or aggravation of, the injury
5312 to the DOE.

5313
5314 73.2. After due validation which shall be made within twenty (20) calendar days from
5315 receipt of such notice, the REMB Director shall issue an approval of suspension
5316 of contractual obligation/s affected by Force Majeure: *Provided*, That if the



5317 suspension of the obligations will extend the Pre-Development Stage, the
5318 REMB Director shall endorse the approval to the DOE Secretary.

5319
5320 73.3. Within ten (10) calendar days from receipt of the notice of approval, the
5321 concerned REMB Division shall submit a new Work Program to be acted upon
5322 by the Supervising Assistant Secretary and thereafter endorsed to the
5323 Undersecretary for approval.

5324
5325 73.4. The RE Developer shall continue to post the performance bond, if necessary,
5326 observe administrative requirements and comply with reportorial obligations on
5327 its work commitments not affected by Force Majeure.

5328
5329 73.5. Once the Force Majeure has ceased, the RE Developer shall notify the REMB
5330 within five (5) calendar days from cessation together with the revised Work
5331 Program covering the remaining contract term.

5332
5333 73.6. Any failure or delay on the part of the RE Developer or the DOE in the
5334 performance of its obligations or duties under the RE Contract shall be excused
5335 to the extent attributable to Force Majeure.

5336
5337 73.7. If the RE operations are curtailed or prevented by such causes, then the time
5338 for enjoying the rights and carrying out the obligations thereby affected, and all
5339 rights and obligations hereunder shall be extended for a period equal to the
5340 period of delay, curtailment or prevention: *Provided, however,* that the
5341 suspension of obligation shall in no way extend the term of the contract:
5342 *Provided, further,* That if operations are delayed, curtailed or prevented by
5343 Force Majeure for a continuous period of six (6) months, the RE Developer
5344 may, at its option (a) terminate the RE Contract, or (b) request for the
5345 suspension of the RE Contract in accordance with Section 74, subject to
5346 confirmation of the DOE.

5347
5348 73.8. The party whose ability to perform its obligations under the RE Contract is so
5349 affected shall notify the other party thereof in writing stating the cause and such
5350 affected party shall do all reasonably within its power to remove such cause.

5351
5352 **Section 74. Suspension of the RE Service/Operating Contract.** In case the RE operations
5353 are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months,
5354 the efficacy of the RE Contract may be suspended for a maximum period of three (3) years or
5355 until the Force Majeure event ceases to exist, whichever comes earlier. The period of such
5356 suspension shall not be counted against the constitutional term limits.

5357
5358 The RE Developer and the DOE shall comply with the following conditions:

5359
5360 74.1. Upon strict compliance with the conditions under Section 73, the RE Developer
5361 may file a request for suspension of the RE Contract with REMB within fifteen
5362 (15) calendar days following the last day of the said six (6)-month period.

5363
5364 74.2. The concerned REMB Division shall endorse the request to the REMB. For a
5365 period of ninety (90) calendar days from receipt of endorsement, REMB shall
5366 exert best efforts to enable the RE Developer to resume RE operations.

5367
5368 74.3. If, despite such efforts, the Force Majeure persists and the RE operations
5369 cannot resume, the DOE shall approve the request for suspension of the RE



- 5370 Contract. Notice of suspension shall be given to the RE Developer within fifteen
5371 (15) calendar days following the last day of the ninety (90)-day period.
5372
5373 74.4. Within ten (10) calendar days from receipt of notice of suspension, the RE
5374 Developer shall submit a sworn undertaking to notify the DOE and submit proof
5375 that the Force Majeure has ceased. Failure to give notice within ten (10)
5376 calendar days from cessation shall be deemed a relinquishment of the RE
5377 Contract.
5378
5379 74.5. If the RE Developer intends to resume operations, it shall submit to REMB a
5380 request to resume RE operations together with the notice abovementioned.
5381
5382 74.6. After due evaluation and if warranted, the concerned REMB Division shall
5383 endorse the approval of the request to the REMB Director, who may endorse
5384 the same to the DOE Secretary for approval.
5385
5386 74.7. The RE Developer may only avail of the above suspension of the RE Contract
5387 once during its term.
5388

5389 **Section 75. Power to Compel or Conduct Operations.** The DOE shall have the power to
5390 compel the RE Developer to perform RE operations when the following conditions exist:
5391

- 5392 75.1. The RE Developer fails, refuses or neglects to perform the RE operations
5393 without any justifiable cause; and
5394
5395 75.2. Such failure, refusal or neglect:
5396
5397 75.2.1. Results in or contributes to a shortage in the supply of electricity, based
5398 on the report of the Electric Power Industry Management Bureau
5399 (EPIMB); and
5400
5401 75.2.2. Poses an imminent threat to the country's national security and/or
5402 economy, as determined by the DOE Secretary and as recommended
5403 by the concerned government agencies.
5404

5405 If the RE Developer does not comply with the DOE's directive within three (3) calendar days
5406 from receipt, such noncompliance shall be deemed sufficient authority for the DOE to conduct
5407 RE operations directly or through another government entity: *Provided*, That the DOE's
5408 authority herein set forth shall only subsist for such period as may be needed to avert or arrest
5409 the threat, or upon the RE Developer's resumption of RE operations, whichever comes earlier.
5410

5411 **Section 76. Wind Data Submission and Access.** To hasten the development of wind energy
5412 resources and reduce risk and costs from the private sector, the RE Developers shall submit
5413 wind data set to the DOE, through the Energy Data Center of the Philippines (EDCP).
5414

- 5415 76.1. **Wind Data Set.** The wind data set shall have an average time interval of ten
5416 (10) minutes and shall include, but are not limited to, wind speed measured at
5417 three (3) different heights, wind direction measured at two (2) different heights,
5418 and temperature. If encrypted, the RE Developer shall provide the data
5419 encryption.
5420
5421 76.2. **Submission of Wind Data Set.** The RE Developer, with RE Contract issued
5422 after the effectivity of this Circular or RE Contract converted into new template



5423 under this Circular, shall submit to REMB the electronic copy of wind data set
5424 described in Section 76.1 from the following RE Projects:

5425
5426 76.2.1. RE Project under Pre-Development Stage – wind data set gathered
5427 during this Stage as part of the DOC requirement.

5428
5429 76.2.2. Operational RE Project – Annual wind data set.

5430
5431 76.2.3. Terminated or relinquished RE Contract – all gathered wind data sets.

5432
5433 76.3. **Management of Data.** The EDCP shall manage the wind data set following the
5434 existing guidelines of the EDCP.

5435
5436 76.4. **Data Access.** Access to the wind data set for other RE Developers and other
5437 interested industry players under the following conditions:

5438
5439 76.4.1. Adherence to EDCP's established guidelines governing data access
5440 and acquisition;

5441
5442 76.4.2. The RE Project associated with the wind data has achieved commercial
5443 operation;

5444
5445 76.4.3. In the event that the RE Contract associated with the wind data has
5446 been terminated or relinquished;

5447
5448 76.4.4. In accordance with Section 76.5; and

5449
5450 76.4.5. The DOE may access and use the data sets without the need for
5451 payment of fees for its resource mapping, data gathering, policy making
5452 and for government planning purposes.

5453
5454 76.5. **Fee for Data Access.** Fee for the access/acquisition of one (1) year wind data
5455 set for one (1) site shall be determined by the DOE based on actual costs
5456 expended by the RE Developer, and updated from time to time. To partially or
5457 fully recover the cost borne by the concerned RE Developer in the course of
5458 wind measurement campaign, half of the proceeds shall be paid to the
5459 concerned RE Developer while the other half shall be paid to the DOE.

5460
5461 76.6. The DOE shall, as far as practicable, apply this Section to other RE
5462 technologies.

5463
5464 **Section 77. Termination of RE Contracts.** The DOE shall have the power to terminate RE
5465 Contracts, after due notice to the RE Developer.

5466
5467 77.1. **Evaluation Process for RE Contract Termination.** The concerned REMB
5468 Division shall recommend the termination of the RE Contract within the
5469 following timelines:

5470
5471 77.1.1. Five (5) calendar days from the lapse of the Pre-Development Stage of
5472 the RE Contract where the RE Developer failed to submit its DOC;

5473
5474 77.1.2. Five (5) calendar days from the lapse of the Development Stage of the
5475 RE Contract where the RE Developer failed to secure its Certificate of
5476 Compliance (COC);



- 5477
5478 77.1.3. Three (3) calendar days from the voluntary relinquishment of the RE
5479 Developer of the RE Contract;
5480
5481 77.1.4. Prior to the pre-construction phase of the RE Contract, upon the
5482 discovery that the RE Developer failed to maintain the required
5483 performance bond;
5484
5485 77.1.5. During the Development Stage, upon the DOE's finding that the
5486 conditions set forth in Sections 75.1 and 75.2 exist; or
5487
5488 77.1.6. At any stage of the RE Contract, upon findings of any of the grounds for
5489 RE Contract termination as stipulated therein.
5490
5491 The failure of the DOE to adhere to the periods provided above shall not be
5492 construed as a waiver of its power to evaluate and recommend the termination
5493 of RE Contracts at a later time.
5494
5495 77.2. With respect to Sections 77.1.1, 77.1.2, 77.1.4, and 77.1.5, the concerned
5496 REMB Division shall prepare a letter, signed by the REMB Director, requiring
5497 the RE Developer to explain in writing why its RE Contract should not be
5498 terminated. The RE Developer shall be given a non-extendible period of thirty
5499 (30) calendar days to submit its explanation, which shall be accompanied by
5500 supporting documents.
5501
5502 77.3. No later than twenty (20) calendar days from its receipt of the RE Developer's
5503 written explanation or from the lapse of the period mentioned in Section 77.2,
5504 the concerned REMB Division shall submit its findings and recommendation to
5505 the REMB Director.
5506
5507 77.4. Within three (3) calendar days from receipt of the findings and/or
5508 recommendation, the REMB Director shall act upon the same and recommend
5509 a course of action to the DOE Secretary, through its Supervising Assistant
5510 Secretary and Undersecretary.
5511
5512 77.5. In case the DOE Secretary approves the REMB Director's recommendation,
5513 the RE Developer shall be notified in writing of the termination of its RE
5514 Contract. The concerned REMB Division shall inform the TSMD, ITMS, and
5515 IPO of such fact.
5516
5517 77.6. Subject to the conditions under this Section, areas covered by terminated RE
5518 Contracts shall be declared by the DOE open for development, specifying the
5519 mode of awarding of the RE Contract, which, if the area is determined as within
5520 a PDA, RE Contract Applications shall be through OCSP, respectively, as
5521 provided herein. Otherwise, the area shall be available to all interested parties
5522 for RE resource development under Direct Application, and only on a first-
5523 come first-served basis.
5524
5525 **Section 78. Request for Reconsideration.** An RE Developer whose RE Contract was
5526 terminated may request for the reconsideration of the same. The request shall be made in
5527 writing, addressed to the REMB Director, and filed within a non-extendible period of ten (10)
5528 working days from the RE Developer's receipt of the notice of termination. The REMB Director
5529 shall evaluate the merits of the request for reconsideration and endorse such



5530 recommendations to the DOE Secretary, through the REMB Supervising Assistant Secretary
5531 and Undersecretary.

5532

5533 **78.1. Procedures for Processing of Request for Reconsideration.** Request for
5534 reconsideration shall be processed based on the following procedures:

5535

5536 78.1.1. The RE Developer shall submit through the EVOSS System the
5537 complete documents, and the concerned REMB Division shall check
5538 the completeness and consistency of the submission within three (3)
5539 working days.

5540

5541 78.1.2. The REMB, LS, FS, ITMS shall conduct simultaneous technical, legal,
5542 financial evaluations and area verification within ten (10) calendar days.

5543

5544 78.1.3. The concerned REMB Division shall consolidate all the evaluation
5545 results and endorse, through the REMB Director, the recommendation
5546 for approval of LS within three (3) calendar days.

5547

5548 78.1.4. Qualified applications shall be endorsed by the REMB to the
5549 Supervising Assistant Secretary and Undersecretary, which shall be
5550 acted upon within six (6) calendar days.

5551

5552 78.1.5. Upon the concurrence of the Assistant and Undersecretary, REMB shall
5553 endorse the recommendation to the DOE Secretary. The DOE
5554 Secretary shall act on the documents within five (5) calendar days from
5555 receipt thereof.

5556

5557 78.1.6. The concerned REMB Division, through the EVOSS System, shall
5558 upload a copy of the letter approving or denying request for
5559 reconsideration and notify the RE Developer to receive a copy of said
5560 document.

5561

5562 **CHAPTER X – REGISTRATION OF RE PROJECTS FOR OWN-USE AND/OR NON-** 5563 **COMMERCIAL OPERATIONS**

5564

5565 ***Part 1. General Provisions***

5566

5567 **Section 79. Certificate of Registration.** A COR is the proof of registration of the RE
5568 Developer with the DOE and is required to avail of the incentives under the RE Act. An RE
5569 Contract is required for the issuance of a COR except for RE Projects for Own-Use and/or
5570 Non-Commercial Operations.

5571

5572 ***Part 2. Procedures for Registration***

5573

5574 **Section 80. Issuance of Certificate of Registration for RE Projects for Own-Use and/or**
5575 **for Non-Commercial Operations.** The COR shall be issued to the RE Developer only upon
5576 its complete submission of the requirements herein below provided, and only after the
5577 evaluation of the same by the REMB which shall recommend its approval to the DOE
5578 Secretary.

5579

5580 **Section 81. Documentary Requirements.** Any proponent intending to install, construct, and
5581 operate an RE Project under this Chapter shall strictly comply with the following:

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5583 **81.1. Technical Requirements.**



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- 81.1.1. Application letter addressed to the REMB Director;
- 81.1.2. Project description detailing the technical design, financing structure, the target commissioning date, location of the RE Project and the RE Resource to be used;
- 81.1.3. Target commissioning date; and
- 81.1.4. Proof of ownership of proposed project site.

81.2. **Legal Requirements.** – The same legal requirements in Checklist of Requirements in Annex “M” 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 Records Management Division (RMD).

Section 82. Pre-Qualification, Filing, and Processing of Application for Registration.

82.1. **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 81. Thereafter, the concerned REMB Division shall issue a billing statement for application and processing fees.

No billing statement shall be issued unless all the documentary requirements have been complied with and submitted by the proponent.

82.2. **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.

82.3. **Processing Period.** The application shall be processed within twenty-eight (28) working days from the receipt of the complete documents and the payment of the application and processing fees.

Section 83. Evaluation and Process for Issuance of Certificate of Registration.

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

83.1.1. 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.

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



5637 In case additional documents are required to support the legal qualifications of
5638 the Application, the LS shall immediately notify the concerned REMB Division
5639 of the documents required.

5640
5641 The concerned REMB Division has two (2) working days from its receipt of the
5642 notice of the LS, to notify the Applicant of the additional documents required for
5643 the evaluation of its Application. Thereafter, the Applicant shall be given five
5644 (5) working days to submit the documents required.

5645
5646 If the Application is deemed legally and technically qualified, the Application
5647 shall be submitted for final processing by the concerned REMB Division for the
5648 issuance of a COR.

5649
5650 **83.2. Request for Reconsideration.** In case any Application is deemed not legally,
5651 technically or financially qualified, the REMB Assistant Secretary shall, within
5652 two (2) working days from receipt of the full evaluation result from the
5653 concerned REMB Division, issue a written notice to the Applicant of the
5654 decision on its Application. The notice to the Applicant shall indicate the basis
5655 of or reasons for the disqualification.

5656
5657 The Applicant, however, may request for reconsideration in writing, addressed
5658 to the REMB Supervising Undersecretary, within ten (10) working days from
5659 receipt of notice of disqualification.

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5661 The REMB Supervising Undersecretary shall resolve the request for
5662 reconsideration within five (5) working days from receipt of the same.

5663
5664 **Section 84. Validity of the Registration.** The COR shall have an initial validity period of five
5665 (5) years, renewable for the same period until the end-of-project life is reached or a maximum
5666 of twenty-five (25) years.

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5668 **Section 85. Terms and Conditions of the Registration.** Any RE Developer and its Project
5669 shall be issued a COR (Annex "P") which shall contain the terms and conditions thereof.

5670 CHAPTER XI – INCENTIVES

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5673 **Section 86. Incentive Regime.** In lieu of the incentives allowed under the RE Act, an RE
5674 Developer may elect to avail itself of the incentives under the National Internal Revenue Code
5675 of 1997, as amended by RA No. 11534, otherwise known as the "Corporate Recovery and
5676 Tax Incentives for Enterprises Act" (CREATE). Unless the RE Developer signifies its intention
5677 to avail itself of the incentives under CREATE at the time of issuance of COR, it shall be
5678 considered as having availed itself of the incentives under the RE Act. Once the RE Developer
5679 elects to avail itself of the incentives under CREATE, such election shall be considered
5680 irrevocable and no incentives under the RE Act shall be allowed thereafter.

5681 CHAPTER XII – TRANSITORY PROVISIONS

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5684 **Section 87. Evaluation of Pending Applications.** RE Applications filed prior to the effectivity
5685 of this Circular shall be governed by the existing guidelines at the time of the filing of the
5686 applications. The ITMS shall report to the REMB all areas covered by pending RE Applications
5687 and RE Contracts within fifteen (15) calendar days from the date of this Circular. REMB shall
5688 use this information to commence the process of identifying PDAs for preparation of the
5689 OCSP. RE Applicants that have passed the legal, technical and financial requirements under
5690 the existing guidelines prior to the effectivity of this Circular shall be given an option to choose



5691 which RE Contract template to adopt: *Provided, however,* That should there be any new
5692 application requirements for RE Contract covering development of a particular type of RE
5693 resource, the applicant must satisfy first such requirement/s.
5694

5695 **Section 88. Re-filing of the Application for RE Contract and Certificate of Registration.**

5696 Pending applications for RE Contract or issuance of CORs may be re- applied, at the option
5697 of the RE Applicant, within (30) calendar days from effectivity of this Circular without need of
5698 new or re-payment of the application fees. Failure of the applicants to re-file its application
5699 within the said period shall be construed as its decision to: (a) submit to the ongoing evaluation
5700 of its RE Application under the prior rules or guidelines, and (b) comply with the results of such
5701 evaluation of its pending RE Application.
5702

5703 **CHAPTER XIII – MISCELLANEOUS PROVISIONS**
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5705 **Section 89. Temporary Suspension of Posting of Performance Bond.** The DOE hereby
5706 temporarily suspends the requirement for RE Developers to post a performance bond. The
5707 suspension shall remain in effect until the DOE issues an Advisory to lift the suspension. Upon
5708 lifting, RE Developers shall be required to post a performance bond.
5709

5710 **Section 90. Mandatory Review.** The DOE shall conduct a comprehensive review and
5711 evaluation of the implementation of the requirements for RE Applications under Annex “M”
5712 within one (1) year from the effectivity of this Circular. The review shall assess whether the
5713 additional requirements for RE Operating Contract Applications align with the objectives of the
5714 RE Act and its IRR. Based on the findings of the review and evaluation, the DOE may revise
5715 the requirements for RE Applications under Annex "M" through an Advisory.
5716

5717 **CHAPTER XIV – FINAL PROVISIONS**
5718

5719 **Section 91. Extension of Timelines.** Subject to the provisions of RA No. 11032, the
5720 respective timelines provided under this Circular may be extended for the same period prior
5721 to the lapse of the subject period: *Provided,* That the DOE shall notify the affected party in
5722 writing of the reason for the extension and shall provide the final date of release of the matter
5723 requested.
5724

5725 Only one extension is allowed and shall, in no case, exceed sixty (60) calendar days. For this
5726 purpose, the Citizen’s Charter of the REMB shall be amended to reflect the timelines herein
5727 provided.
5728

5729 **Section 92. Information, Education and Communication Activities.** Pursuant to Section
5730 31, Rule 10 of the IRR of the RE Act, the DOE, together with National Renewable Energy
5731 Board, shall develop and implement a comprehensive information, education and
5732 communication activities that are designed to increase the public awareness and appreciation
5733 of this Circular and the RE industry in general.
5734

5735 **Section 93. Separability Clause.** If for any reason, any provision of this Circular is declared
5736 unconstitutional or invalid by a court of competent jurisdiction, the other parts or provisions not
5737 affected thereby shall remain in full force and effect.
5738

5739 **Section 94. Repealing Clause.** The provisions of other circulars, orders, issuances, rules and
5740 regulations, which are inconsistent with the provisions of this Circular are hereby repealed,
5741 amended, superseded or modified accordingly.
5742

5743 **Section 95. Effectivity.** This Circular shall take into effect fifteen (15) calendar days following
5744 its publication in at least two (2) newspapers of general circulation. Copies of this Circular shall



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be filed with the University of the Philippines Law Center – Office of the National Administrative Register.

RAPHAEL P.M. LOTILLA
 Secretary

Issued on _____ at the Department of Energy, Energy Center, Rizal Drive, Bonifacio Global City, Taguig City, Metro Manila.

APPENDIX: Annexes of the Revised Omnibus RE Guidelines

ANNEX “A”	Template Biomass Energy Operating Contract
A.1	Template Certificate of Authority
A.2	Template Certificate of Registration
A.3	Template Work Program
ANNEX “B”	Template Waste-to-Energy Operating Contract
B.1	Template Certificate of Authority
B.2	Template Certificate of Registration
B.3	Template Work Program
ANNEX “C”	Template Geothermal Service Contract
C.1	Template Certificate of Authority
C.2	Template Certificate of Registration
C.3	Template Accounting Procedures
C.4	Template Work Program
ANNEX “D”	Template Land-Based Solar Energy Operating Contract
D.1	Template Certificate of Authority
D.2	Template Certificate of Registration
D.3	Template Accounting Procedures
D.4	Template Work Program
ANNEX “E”	Template Floating Solar Energy Operating Contract
E.1	Template Certificate of Authority
E.2	Template Certificate of Registration
E.3	Template Accounting Procedures
E.4	Template Work Program
ANNEX “F”	Template Hydropower Service Contract
F.1	Template Certificate of Authority
F.2	Template Certificate of Registration
F.3	Template Accounting Procedures
F.4	Template Work Program
ANNEX “G”	Template Ocean Energy Service Contract
G.1	Template Certificate of Authority
G.2	Template Certificate of Registration
G.3	Template Accounting Procedures
G.4	Template Work Program
ANNEX “H”	Template Onshore Wind Energy Service Contract
H.1	Template Certificate of Authority
H.2	Template Certificate of Registration



H.3	Template Accounting Procedures
H.4	Template Work Program
ANNEX "I"	Template Offshore Wind Energy Service Contract
I.1	Template Certificate of Authority
I.2	Template Certificate of Registration
I.3	Template Accounting Procedures
I.4	Template Work Program
ANNEX "J"	EVOSS Registration Requirements
ANNEX "K"	Template Letter of Intent (LOI)
ANNEX "L"	Template Affidavit of Acquisition of Possessory Rights
L.1	Template Affidavit of Acquisition of Possessory Rights over Private Lands for RE Operating Contract Application
L.2	Template Affidavit of Filing of Application to Acquire Possessory Rights over Public Lands for RE Operating Contract Application
L.3	Template Affidavit of Acquisition of Possessory Rights over Private Lands for RE Service Contract Application
L.4	Template Affidavit of Acquisition of Possessory Rights over Public Lands for RE Service Contract Application
ANNEX "M"	Checklist of Requirements for RE Application
ANNEX "N"	Mapping Requirements
ANNEX "O"	Checklist of Requirements for RE Contract Transition
ANNEX "P"	Template Certificate of Registration for Own-Use

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