

1 **AMENDMENT TO DEPARTMENT CIRCULAR NO. DC2019-10-0013**

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

7 **WHEREAS**, under Section 2 of Republic Act (RA) No. 7638, as amended, otherwise
8 known as the “*Department of Energy Act of 1992*”, the Department of Energy (DOE)
9 is mandated to prepare, integrate, coordinate, supervise and control all plans,
10 programs, projects and activities of the Government relative to energy exploration,
11 development, utilization, distribution and conservation, among others;

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

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

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

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

38 **WHEREAS**, Section 19(c), Rule 6 of Department Circular (DC) No. DC2009-05-0008
39 which prescribes the Implementing Rules and Regulations (IRR) of the RE Act,
40 requires the DOE to issue a regulatory framework containing the guidelines that shall
41 govern the transparent and competitive system of awarding RE Service/Operating
42 Contracts from Pre-Development to Development onto Commercial Operations stage,

43 or the awarding of direct operating contracts to specific RE technologies, among
44 others;

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

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

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

58 **WHEREAS**, after DC No. DC2019-10-0013 took effect, the DOE implemented further
59 enhancements in the award and administration of RE Contracts and the registration
60 of RE Developers, to wit:

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

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76 **WHEREAS**, after DC No. DC2019-10-0013 took effect, the DOE implemented further
77 enhancements in the award and administration of RE Contracts and the registration
78 of RE Developers, to wit:

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- 80 (a) DC2022-11-0034 dated 15 November 2022;
- 81 (b) Advisory No. 1 dated 15 March 2023;
- 82 (c) Advisory No. 2 dated 15 March 2023; and
- 83 (d) Advisory No. 3 dated 29 April 2023;

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

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

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CHAPTER I - GENERAL PROVISIONS

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

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

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2.1 The pre-application, application, and award of RE Contracts;

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2.2 The conversion of existing service contracts to RE Contracts for the
101 exploration, development or utilization of RE resources with the DOE,
102 subject to Section 39, Rule 13, of the IRR of the RE Act;

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2.3 The issuance by the DOE of Certificates of Registration (COR) for RE
105 Developers of projects with or without RE Contracts; and

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107

2.4 The administration of RE Contracts.

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

112 3.1 *“Biomass Energy Operating Contract”* or *“BEOC”* refers to the RE Contract
113 issued for the development and operation of RE Projects utilizing biomass as
114 RE Resource.

115

116 3.2 *“Blocking System”* refers to the subdivision of the Philippines, for purposes of
117 RE Applications for wind, geothermal and ocean resources, into RE meridional
118 blocks (RE blocks) of 30 seconds of latitude and 30 seconds of longitude using
119 Philippine Reference System of 1992 (PRS’92) as the standard reference
120 system. One (1) RE block shall have an approximate area of eighty-one (81)
121 hectares. Each block shall have a unique number designated by the DOE.

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123 3.3 *“Certificate of Authority”* refers to the certificate duly signed by the DOE
124 Secretary exclusively authorizing an RE Developer to procure the necessary
125 permits and tenurial instruments for the exploration, development, construction
126 and installation, and commercial operation of the RE Project and conduct
127 reconnaissance and other activities needed for pre-feasibility studies.

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- 129 3.4 “*Certificate of Confirmation of Commerciality*” or “*COCOC*” refers to the
130 certificate duly signed by the DOE Secretary confirming the Declaration of
131 Commerciality by the RE Developer and shall serve as a notice to proceed for
132 the construction of the RE Project or the installation of the RE Facilities. The
133 date of issuance of the COCOC shall be considered as the commencement
134 date of the Development Stage of the RE Project.
135
- 136 3.5 “*Commercial Operations*” refers to the phase commencing at the operation of
137 the RE Project, following its successful testing and commissioning, and
138 confirming its readiness to inject power into the grid to sell or supply its
139 produced energy, as duly confirmed by the DOE and other relevant regulatory
140 bodies.
141
- 142 3.6 “*Commercial Quantities*” refers to quantities of energy to be produced from the
143 RE Resources using commercially available technology to develop the RE
144 Systems which have a reasonable chance of being sufficient and technically
145 compliant to support the Commercial Operations of the project.
146
- 147 3.7 “*Contract Area*” refers to the total area, which is the subject of the RE Contract
148 as detailed and outlined in the map with its technical description, and where the
149 RE Developer has the exclusive right to explore, develop and utilize the RE
150 Resources.
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- 152 3.8 “*Declaration of Commerciality*” or “*DOC*” refers to a written declaration made by
153 the RE Developer to the DOE, stating that the RE Resource is of Commercial
154 Quantities.
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- 156 3.9 “*Direct Application*” refers to the mode of RE Application whereby the RE
157 Applicant identifies a Contract Area it wishes to explore and develop. The
158 identified Contract Area must first be certified by the DOE to be free and open
159 for exploration or development.
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- 161 3.10 “*Energy Application Management System*” or “*EAMS*” refers to an intranet-
162 based system utilizing radio frequency identification (RFID) technology to
163 uniquely identify an application and monitor its real-time location.
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- 165 3.11 “*Financial Closing*” refers to such milestone in the Pre-Development or
166 Development Stage of the RE Project when the RE Developer has secured a
167 written commitment from the financier/s to provide its full funding
168 requirements through equity and/or commercial borrowings, or other financing
169 schemes.
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- 171 3.12 “*Financial Qualifications*” refers to the criteria and procedures set out by the
172 DOE to establish the financial capability of the RE Developer to implement the

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RE Project.

- 3.13 *“Force Majeure”* refers to extraordinary events not foreseeable or avoidable, events that could not be foreseen, or which, though foreseen, are inevitable.
- 3.14 *“Geothermal Service Contract”* or *“GSC”* refers to the RE Contract issued for the exploration, development and/or utilization of geothermal resources as RE Resource for the operation of RE Projects.
- 3.15 *“Hydropower Service Contract”* or *“HSC”* refers to the RE Contract for the exploration, development and/or utilization of hydropower resources as RE Resource for the operation of RE Projects.
- 3.16 *“Letter of Intent”* or *“LOI”* refers to the written notice or document submitted by a Person to the DOE, indicating interest in the exploration, development, utilization and commercialization of RE Resource.
- 3.17 *“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 *“Pre-Determined Area”* or *“PDA”* refers to area/s with RE Resource potential through sufficient available technical data as may be determined by the REMB, and approved by the DOE Secretary for its inclusion in the Open and Competitive Process (OCSP).
- 3.19 *“Person”* refers to a natural or juridical person, as the case may be.
- 3.20 *“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.
- 3.21 *“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
- 3.22 *“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.
- 3.23 *“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.

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3.24 *“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.

3.25 *“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.

3.26 *“RE Operating Contract”* refers to the service agreement between the DOE and RE Developer for the development and/or utilization of biomass, solar and other RE Resources as may be determined by the DOE which, due to their inherent technical characteristics, need not go through Pre-Development Stage.

3.27 *“RE Project”* refers to the power generation and related facilities utilizing RE Resources under a particular RE Contract or COR issued by the DOE pursuant to the RE Act.

3.28 *“RE Project for Non-Commercial Operations”* refers to an RE Project which is intended for demonstration purposes of any new or modified RE technologies, and those that are covered by Official Development Assistance (ODA), and all other programs and projects which are not designed and operated for profit.

3.29 *“RE Project for Own-Use”* refers to an RE Project located within the premises of or in an area contiguous to an End-User’s premises, and operated solely for the supply of a portion or all of the electricity requirements of such End-User. For this purpose, an *“End-User”* shall refer to any person or entity requiring the supply and delivery of electricity generated by the RE Project dedicated for its own consumption, which facility is installed either by the End-User or through a third-party provider.

3.30 *“RE Resource”* refers to energy resources that do not have an upper limit on the total quantity to be used. Such resources are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time. These include, but are not limited to, biomass, solar,

261 wind, geothermal, ocean energy, and hydropower, conforming with
262 internationally accepted norms and standards on dams, and other emerging
263 RE technologies.

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265 3.31 *“RE Service Contract”* refers to a service agreement between the Philippine
266 Government, through the President or the DOE Secretary, and RE Developer,
267 covering an appropriate period as stated therein, in which the RE Developer
268 shall have the exclusive right to explore, develop and utilize geothermal,
269 hydropower, wind, ocean and other RE Resources within a particular area.

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271 3.32 *“Renewable Energy Management Bureau”* or *“REMB”* refers to the unit of the
272 DOE created under Section 32 of the RE Act, mandated to, among others,
273 implement policies, plans, and programs aimed at accelerating the
274 development, transformation, utilization, and commercialization of RE
275 Resources and technologies.

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277 3.33 *“Solar Energy Operating Contract”* or *“SEOC”* refers to the RE Contract
278 issued for the development and operation of RE Projects utilizing solar energy
279 as RE Resource.

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281 3.34 *“Wind Energy Service Contract”* or *“WESC”* shall refer to the RE Contract
282 issued for the exploration, development and/or utilization of wind energy as
283 RE Resource for the operation of RE Projects.

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285 3.35 *“Offshore Wind Energy Service Contract”* or *“OSWESC”* refers to the RE
286 Contract issued and awarded by the DOE for the exploration, development
287 and/or utilization of wind energy in offshore areas, which include estuaries and
288 other bodies of water. This includes WESCs awarded for offshore wind
289 development prior to the issuance of Executive Order No. 21 and its
290 Implementing Guidelines.

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292 3.36 *“Work Program”* refers to the plans and programs and other related activities
293 formulated for the performance of the work obligations under the RE Contract
294 by the RE Developer, along with the corresponding budgetary estimate, duly
295 approved by the DOE.

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297 **CHAPTER II – BIOMASS ENERGY RESOURCE**
298 **CHAPTER III – GEOTHERMAL ENERGY RESOURCE**
299 **CHAPTER IV – SOLAR ENERGY RESOURCE**

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305 **CHAPTER V– HYDROPOWER ENERGY RESOURCE**
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307 **Section 1. Eligibility of Hydropower Service Contract Applicant.** Any Person, local
308 or foreign, may apply for Hydropower Service Contract (HSC), subject to the
309 provisions in this Chapter.
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311 1.1 The HSC Applicant may be a Filipino and/or a foreign citizen, or a Filipino-
312 and/or foreign-owned corporation or association which is authorized by its
313 articles or deed of incorporation to engage in hydropower exploration,
314 development, and utilization.
315

316 1.2 The appropriation of water direct from a natural source shall be reserved to
317 Filipino citizens or corporations or associations at least sixty percent (60%) of
318 whose capital is owned by Filipinos.
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320 1.3 In case the HSC Applicant is a joint venture or a consortium, the partners of the
321 joint venture or members of the consortium shall organize themselves as a
322 corporation under the RA No. 11232, otherwise known as the “Revised
323 Corporation Code of the Philippines,” or secure the appropriate license from the
324 Securities and Exchange Commission, in case the joint venture or consortium
325 was incorporated outside of the Philippines; Provided, that the incorporated
326 joint venture or consortium which applies for an HSC that involves activities
327 reserved to Filipino citizens or corporations or associations at least sixty percent
328 (60%) of whose capital is owned by Filipinos shall comply with the nationality
329 requirements as provided for in the preceding paragraph, and Commonwealth
330 Act No. 108, or the “Anti-Dummy Law,” on the appointment of officers of the
331 corporation.
332

333 **Section 2. Modes of Awarding Hydropower Service Contract.** HSC shall be
334 awarded through (a) an Open and Competitive Selection Process (OCSP) or (b) Direct
335 Application.
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337 2.1 The OCSP shall be adopted for the selection and award of HSCs for Pre-
338 Determined Areas (PDAs) covering hydropower resources for commercial
339 purposes. This shall be governed by Sections 3 and 4 of this Chapter.
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341 2.2 Direct Application shall be available for the selection and award of:

342 (a) Hydropower Operating Contract (HOC);
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344 (b) HSCs covering PDAs, following a failed OCSP pursuant to Section 4.4
345 and the procedures in Section 4 of this Chapter; and
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347 (c) HSC in an area identified by an HSC Applicant and verified with or
348 confirmed by the DOE-Information Technology and Management
349 Services (ITMS) as available for exploration, development and/or
350 utilization of hydropower resources.
351

352 **Section 3. Pre-Determined Areas.** Interested parties may apply for HSC for PDAs
353 offered by the DOE during a prescribed period (Annex G).

354 **3.1 Election of PDAs.** The REMB shall identify and submit a list of PDAs for HSC
355 Application, with the respective location maps and technical descriptions
356 thereof, to the DOE Secretary, through its Supervising Assistant Secretary and
357 Undersecretary, for approval.
358

359 **3.2 Launch and Publication.** PDAs approved by the DOE Secretary shall be
360 scheduled for launch and shall be publicly announced by the DOE for
361 submission of HSC Applications. PDAs for offer shall be published for at least
362 once (1) a week for two (2) consecutive weeks in at least two (2) newspapers
363 of general circulation and shall likewise be posted at the DOE website.
364

365 **3.3 Data Packages and Promotional Activities.** The REMB shall arrange for the
366 availability of data packages for the approved PDAs that can be purchased by
367 interested parties in support of their applications. The REMB shall conduct
368 promotional activities to promote the OCSP and the corresponding data
369 packages so as to ensure maximum participation and awareness of prospective
370 investors and stakeholders.
371

372 **Section 4. Procedure for Awarding Hydropower Service Contract under Open**
373 **and Competitive Selection Process.**

374 **4.1 Hydropower Service Contract Application.** Applications may be submitted a
375 day after the publication date until the last day of submission which shall be
376 sixty (60) days from the date of first publication in accordance with the following
377 requirements:
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379 4.1.1. The HSC Applicant shall submit to the DOE a Letter of Intent (LOI)
380 following the prescribed format (Annex H) together with the HSC
381 Application in accordance with prescribed Checklist of
382 Requirements (Annex I). The LOI shall be addressed to the REMB
383 Director and shall indicate whether the interested participant will
384 avail of the Certificate of Authority referred to in Sections 6 and
385 7.1 of this Chapter.
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387 Each HSC Application shall cover only one PDA as published;
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- 389 4.1.2. The HSC Application must be in both paper and electronic (flash
 390 drive in Portable Data Format) copies, which shall use Times New
 391 Roman in 12-point font size and employ single line spacing.
 392 Figures and maps shall be printed and submitted in a document
 393 that is not smaller than A3 size. For legibility, figures and maps
 394 shall be submitted at a larger scale (1:10,000) as appendices; and
 395
- 396 4.1.3. An application fee shall be paid by each HSC Applicant, along with
 397 the submission of HSC Application. All payments may be made in
 398 cash, manager/company cheque, payable to “Department of
 399 Energy” or by wire/bank transfer. All wire/bank transfers should be
 400 net of all applicable bank and financial charges.
 401

402 **4.2. Opening and Evaluation of Hydropower Service Contract Applications.**

403 The DOE shall open the applications at exactly 1300H, on the last day of the
 404 submission of HSC Applications.
 405

406 **4.3. Evaluation, Selection and Award.** The evaluation and selection of HSC
 407 Applications and award of HSC shall be conducted following the criteria and
 408 procedures set hereunder:

409 4.3.1 Applications with incomplete documents based on the Checklist
 410 of Requirements shall be automatically disqualified during the
 411 opening of HSC Applications. No additional documents shall be
 412 accepted after the deadline for submission of HSC Applications.
 413

414 4.3.2 HSC Applicants shall be duly informed by the Review Committee
 415 (REC) Chairperson whether their application passed the
 416 completeness check and shall be subjected to further legal,
 417 technical, and financial evaluations. Applicants who were
 418 disqualified for submitting incomplete documents shall likewise be
 419 informed by the REC Chairperson of the fact of their
 420 disqualification and the reasons therefor.
 421

422 4.3.3 HSC Applications which passed the completeness check shall be
 423 evaluated based on the following criteria:
 424

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

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 429 The guidelines and procedures, including the qualification criteria
 430 per scoring item, of every OCSP shall be determined at the

431 beginning of every OCSP round and will be covered by a
432 Department Circular.

433 4.3.4 The highest ranked HSC Application that meets the legal,
434 technical, and financial requirements shall be selected.

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436 4.3.5 After a complete review and evaluation of the legal, technical and
437 financial qualifications of the HSC Applications, the REC
438 Chairperson, shall transmit to the DOE Secretary a written
439 endorsement of the selected HSC Application.

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441 4.3.6 The DOE Secretary shall act on the HSC Application in
442 accordance with Section 7 of this Chapter after the concurrence
443 of ITMS, Financial Services (FS), REMB and Legal Services (LS)
444 on the endorsement.

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446 4.4 An OCSP, with respect to any or all PDAs included therein, as applicable, shall
447 be declared a failure when any of the following circumstances exists:

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449 4.4.1 No HSC Application was received by the DOE;

450 4.4.2 No HSC Application passed the legal requirements; or

451 4.4.3 When one or more HSC Applications passed the legal
452 requirements but after the evaluation of technical and financial
453 proposals, none of such HSC Applications were able to meet either
454 the technical or financial requirements.

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

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462 **Section 5. Procedure for Awarding Hydropower Service Contract under Direct**
463 **Application.**

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465 **5.1 Coverage.** Direct Application shall be observed in processing HSC Applications
466 for: (a) hydropower resources located in PDAs which the DOE shall declare as
467 available under this mode pursuant to Section 4.4 of this Chapter, and (b)
468 hydropower resources in areas other than those included in the or PDAs,
469 subject to the procedures provided herein.

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

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474 **5.2 Registration in the EVOSS System.** If the interested participant has no
475 EVOSS System account yet, it shall submit a request for registration in the
476 EVOSS System with Hydropower and Ocean Energy Management Division
477 (HOEMD).

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479 **5.3 Submission of Letter of Intent.** All interested participants shall submit through
480 the EVOSS System an LOI to develop a certain area, in accordance with the
481 mapping requirements (Annex J). The LOI shall be addressed to the REMB
482 Director and shall indicate whether the interested participant will avail of the
483 Certificate of Authority referred to in Sections 6 and 7.1 of this Chapter. The
484 submission of the LOI shall not be considered as a filing of an HSC Application
485 and shall not commence the application process.

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487 **5.4 Orientation of Interested Participant.** The orientation is intended to inform
488 interested participants about the HSC Application requirements, and to guide
489 them through the process for evaluation thereof, awarding of HSC and the
490 registration of a hydropower project.

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492 5.4.1 All interested participants shall be informed of the schedule of
493 orientation or briefing on the HSC Application requirements and
494 processes.

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496 5.4.2 Any interested participant may waive attendance to the orientation
497 in writing either in its LOI or in response to the notice of the
498 schedule of orientation provided in the preceding paragraph.

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

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504 **5.5 Configuration of Area of Interest.** The interested participant shall indicate the
505 geographic coordinates of the proposed location of the weir and powerhouse,
506 with elevation, on the area of interest (AOI) for the HSC Application.

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508 **5.6 Area Verification.** Within fourteen (14) days from receipt of the LOI, ITMS shall
509 complete the area verification and determine whether the AOI is:

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511 5.6.1 Covered by an existing PDA under the OCSP, HSC or HOC
512 pending application, or other energy resource assessment

513 activities as submitted by the concerned DOE unit and verified by
514 ITMS;

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516 5.6.2 Within or overlaps with the area of an existing energy service or
517 operating contract such as Petroleum Service Contract (PSC),
518 Coal Operating Contract (COC), Small-Scale Coal Mining Permit
519 (SSCMP) or Renewable Energy Service Contract (RESC), other
520 than HSC or HOC;

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522 5.6.3 Within or overlaps with the area of an existing energy service or
523 operating contract application such as Petroleum SC, COC,
524 SSCMP or RESC, other than HSC Application;

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526 5.6.4 Within the protected and environmentally critical areas under RA
527 No. 11038, or the “Expanded National Integrated Protected Areas
528 System Act of 2018” (“ENIPAS”), *i.e.*, within or outside the strict
529 protection zones, ancestral domains with Certificate of Ancestral
530 Domain Title or Claim, areas with Tenurial Instruments from other
531 government agencies, areas prohibited, reserved, or used for
532 national defense, navigation, irrigation, and other development
533 projects, and other areas covered by significant geospatial data
534 that will be identified as necessary in the evaluation of the HSC
535 Application based on available data on file with ITMS and the
536 National Mapping Resource Information Authority’s Philippine
537 Geoportal Project website.

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539 Pursuant to the mandate of the DOE to supervise and control all
540 government activities relative to energy project under the EPIRA,
541 concerned government agencies and entities shall provide the
542 DOE the list of abovementioned areas with technical description.

543
544 5.6.5 Covered by the LOI of the same or other energy resource; or

545
546 5.6.6. Open for HSC Applications.

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548 **5.7 Area Verification Results.** ITMS shall provide HOEMD with the results of area
549 verification through the EVOSS System. HOEMD shall conduct the final
550 technical verification and determine whether the proposed hydropower project
551 will cause substantial disruption to an existing hydropower project. Within three
552 (3) days upon receipt of the final technical verification results, HOEMD, through
553 the REMB Assistant Director, shall endorse the final verification results and
554 upload the letter containing the results of area verification in the EVOSS
555 System.

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557 If the HSC Application cannot proceed based on the final technical verification
558 results, the interested participant may either (a) reconfigure the AOI, (b) file a
559 request to allow the development of multiple resources in the area; or (c) comply
560 with Section 5.7.3 of this Chapter, as applicable.

561
562 **5.7.1 Reconfigured Area of Interest.** Within ten (10) days from
563 uploading of the final technical verification results, the interested
564 participant and HOEMD may conduct an assessment if the AOI
565 may be reconfigured without material adverse effect on the
566 feasibility of the proposed hydropower project. The interested
567 participant may reconfigure its AOI to cover only such portion as
568 may allow the HSC Application to proceed. After confirmation by
569 ITMS that no portion of the reconfigured AOI falls under Sections
570 5.6.1, 5.6.2, 5.6.3 or 5.6.5 of this Chapter, HOEMD shall upload in
571 the EVOSS System a Notice to Apply to the interested participant
572 for the filing of the HSC Application.

573
574 **5.7.2 Multiple Resources in an Area.** If the AOI of the interested
575 participant overlaps with the area of an existing energy service or
576 operating contract or an application therefor as provided under
577 Sections 5.6.2 and 5.6.3 of this Chapter, the interested participant
578 may still pursue the HSC Application, subject to the provisions
579 herein below set forth:
580

581 (a) The interested participant shall:

- 582 i. Explain in writing why the proposed hydropower
583 project will not be feasible without the
584 overlapping area, with justification on the
585 technical viability of the project.
- 586 ii. Submit a notarized acknowledgment and
587 undertaking that the interested participant
588 recognizes and shall continue to recognize the
589 prior rights of the existing applicants and/or
590 developers of other energy resources within the
591 overlapping area; that the design of the
592 proposed hydropower project will ensure safe
593 and optimal development of hydropower and
594 other energy resources in the overlapping area;
595 and that all costs needed therefor shall be borne
596 by the interested participant.

597
598 (b) HOEMD shall inform the applicant or energy
599 contractor/developer on the intent to develop the
600 hydropower resources within the overlapping area.
601 Copies of the interested participant's LOI, the written

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explanation, and their supporting documents shall be furnished to the applicant or contractor/developer.

- (c) If no objection is received from the applicant or energy contractor/developer within the prescribed period, HOEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the HSC Application.
- (d) If the applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify HOEMD thereof within ten (10) days from receipt of notice, citing the impracticability of multiple resource development as to additional costs, safety, substantial decrease in the utilization of the energy resource, and other relevant factors. Copies of the written objection shall be furnished to the DOE Division processing the application or administering the energy project. A statement that multiple resource development in the overlapping area is impracticable without technical basis shall not be considered as an objection.
- (e) Within five (5) days from receipt of an objection, HOEMD shall furnish the interested participant with a copy thereof. Within the same period, HOEMD and the concerned DOE Division shall jointly determine whether exploration of hydropower resources within the overlapping area may be conducted without material adverse effect on the activities of the energy contractor/developer. Such determination shall consider the interested participant's proposal, the objection and the technical bases cited therein. The evaluation shall be endorsed to the REMB Director.
- (f) Upon receipt of the endorsement, the REMB Director may issue a Notice to Apply if s/he concurs that the exploration will not cause material injury. The contract area of the HSC so awarded shall be finally determined by REMB during the Pre-Development Stage based on the feasibility of multiple resource development in the overlapping area.

645 **5.7.3 Other Areas.** If the AOI of the interested participant overlaps with
646 the area as provided under Section 5.6.4 of this Chapter, the
647 interested participant may still pursue the HSC Application if there
648 is no material adverse effect on the feasibility of the proposed
649 hydropower project after applying the provisions herein below set
650 forth:
651

652 (a) If the AOI overlaps with areas within strict protection
653 zones under the ENIPAS, the interested participant
654 shall submit a revised AOI net of the said areas.
655

656 (b) If the AOI overlaps with areas outside strict protection
657 zones under the ENIPAS, the REMB Director shall
658 issue a Notice to Apply for the said AOI; Provided, that
659 the contract area may be reduced shall be subject to
660 the ENIPAS and its implementing rules and
661 regulations.
662

663 (c) If the AOI overlaps with ancestral domains with
664 Certificate of Ancestral Domain Title or Claim, the
665 REMB Director shall issue a Notice to Apply for the said
666 AOI; Provided, that the contract area may be reduced
667 subject to RA No. 8371 or "The Indigenous Peoples
668 Rights Act of 1997" and its implementing rules and
669 regulations.
670

671 (d) If the AOI overlaps with areas with Tenurial Instruments
672 from other government agencies, the REMB Director
673 shall issue a Notice to Apply for the said AOI; Provided,
674 that the contract area may be reduced subject to the
675 relevant rules and regulations of the concerned
676 government agency.
677

678 (e) If the AOI overlaps with areas prohibited, reserved, or
679 used for national defense, navigation, irrigation, and
680 other development projects, and other areas, the
681 REMB Director shall issue a Notice to Apply for the said
682 AOI; Provided, that the contract area may be reduced
683 subject to the relevant rules and regulations of the
684 concerned government agency.
685

686 ***Part 3. Filing and Evaluation of Hydropower Service Contract Applications***

687

688 **5.8 Receipt of Hydropower Service Contract Applications.** After the Notice to
689 Apply is uploaded in the EVOSS System, the interested participant may file its
690 HSC Application by complying with the procedures and requirements, as
691 follows:
692

693 5.8.1 The HSC Applicant shall submit through the EVOSS System the
694 complete set of documentary requirements based on the Checklist
695 of Requirements (Annex I).
696

697 5.8.2 HOEMD shall check the completeness and consistency of the
698 submission and ITMS shall validate the area applied for the
699 hydropower project within three (3) days.
700

701 5.8.3 If the submission is complete, HOEMD shall upload a copy of the
702 order of payment for the application and processing fees. The
703 EVOSS System shall notify the HSC Applicant through a system-
704 generated email to pay the application and processing fees within
705 five (5) days. Failure to do so will result in the abandonment of the
706 application.
707

708 5.8.4 The EVOSS System shall notify LS, FS and ITMS of the complete
709 submission.
710

711 **5.9 Evaluation of Hydropower Service Contract Applications.**

712

713 5.9.1 After the payment of the processing fee, HOEMD, LS, and FS shall
714 conduct the simultaneous technical, legal, and financial evaluations
715 within five (5) days from uploading of the proof of payment of
716 application and processing fees in the EVOSS System.
717

718 5.9.2 Preference shall be given to proposed hydropower projects that are
719 situated in close proximity to existing and available transmission
720 facilities. Alternatively, preference may also be given to HSC
721 Applicants with a proposal for the construction of the necessary
722 transmission facilities.
723

724 5.9.3 HOEMD shall consolidate all the evaluation results and proceed
725 with the processing:
726

727 (a) If the HSC Application passes the evaluations,
728 HOEMD shall, within two (2) days from its receipt of the
729 evaluation documents, prepare REMB's memorandum
730 for the Secretary endorsing the award of the HSC
731 Application; the draft Certificate of Authority; and the
732 draft HSC. The endorsement must include the original
733 copy of the results of area verification and the legal,
734 technical and financial evaluations with all their

735 attachments, and the project area map and its technical
736 descriptions. Upon concurrence of ITMS, FS, REMB
737 and LS on the endorsement, the Secretary shall act on
738 the HSC Application in accordance with Section 7 of
739 this Chapter.

740
741 (b) If the HSC Application does not pass the legal,
742 technical, and/or financial evaluations, HOEMD shall
743 notify the HSC Applicant through the EVOSS System
744 to rectify the submission within ten (10) days.

745 i. Failure of the HSC Applicant to submit
746 supplementary documents within the
747 prescribed period shall be deemed an
748 abandonment of the HSC Application. HOEMD
749 shall notify the HSC Applicant, LS, FS, and
750 ITMS of the disqualification through the
751 EVOSS System.

752 ii. If the HSC Applicant submits supplementary
753 complete documents within the prescribed
754 period above, HOEMD, LS and FS shall be
755 notified by the EVOSS System of the
756 submission. HOEMD, FS and LS shall finish
757 the simultaneous technical, legal, and financial
758 evaluations within three (3) days.

759 iii. Should the HSC Application still fail to pass any
760 of the subsequent legal, technical, or financial
761 evaluations, HOEMD shall notify the HSC
762 Applicant, LS, FS, and ITMS of the
763 disqualification through the EVOSS System.
764 Upon receipt of the RE Applicant of the letter
765 of disqualification, the REMB shall prepare a
766 memorandum to the ITMS to immediately re-
767 open the area for RE Applications by posting
768 such information on the DOE website.

769
770 5.9.4 The HSC Applicant shall submit all supplemental documents
771 through the EVOSS System. Documents submitted outside the
772 EVOSS System and those submitted through the EVOSS System
773 but beyond the prescribed period shall not be accepted or
774 evaluated.

775
776 5.9.5 No Request for Reconsideration (RR) of any of the legal, technical,
777 financial evaluation or the disqualification shall be entertained,
778 except when the HSC Applicant failed to submit the required

779 documents within the prescribed timelines due to a fault in the
780 EVOSS System, as confirmed by Investment Promotion Office
781 (IPO). In such circumstances, the HSC Applicant shall file the RR
782 with REMB within three (3) days from uploading of the Notice of
783 Disqualification.
784

785 (a) Upon receipt of the RR, HOEMD shall request IPO to
786 confirm the occurrence of the technical problem. If so
787 confirmed and the same prevented the timely
788 submission, HOEMD, FS and/or LS shall evaluate the
789 HSC Application considering the additional
790 submission.

791 (b) If the HSC Application passes the evaluation, REMB
792 shall grant the RR. Thereafter, HOEMD shall proceed
793 in accordance with Section 5.9.3(a).
794

795 5.10 If the Hydropower Developer waived the Certificate of Authority during the
796 pre-application process, HOEMD shall proceed with the application in
797 accordance with Section 7.2 of this Chapter.
798

799 **Section 6. Terms of Certificate of Authority.** The awardee of an HSC shall have
800 exclusive authority to procure permits or certifications and tenorial instruments needed
801 for the exploration, development and utilization of the hydropower resources within an
802 area specified in the HSC Application and conduct reconnaissance and other activities
803 needed for pre-feasibility studies upon the issuance of Certificate of Authority by the
804 DOE.
805

806 6.1 The Certificate of Authority shall be valid for a period not exceeding five (5)
807 years. During its validity, the Certificate of Authority shall serve as the DOE's
808 exclusive endorsement for the Hydropower Developer to secure the necessary
809 permits or certifications and tenorial instruments from government agencies,
810 entities or instrumentalities having jurisdiction over any aspect of the
811 hydropower operations. The denomination of each permit or certification or
812 tenorial instrument to be procured for the hydropower project shall be listed in
813 the Certificate of Authority.
814

815 6.2 The Certificate of Authority shall reflect the metes and bounds of the area as
816 proposed in the HSC Application over which reconnaissance and other pre-
817 feasibility activities may be conducted and permits and tenorial instruments may
818 be secured by the Hydropower Developer for the project. For this purpose, a
819 copy of the technical description of the area to be covered by the HSC shall
820 form part of the Certificate of Authority.
821

822 6.3 The validity of the Certificate of Authority shall not be extendible. Any
823 reconnaissance activity that is not conducted and/or permit or certification or
824 tenurial instrument that remains unissued upon the lapse of the Certificate of
825 Authority shall be procured and the necessary activities therefor conducted, as
826 part of the Pre-Development Stage.

827
828 6.4 The Hydropower Developer shall have the option to shorten the period of
829 validity of the Certificate of Authority or utilize its full term.

830
831 6.4.1 If the Hydropower Developer opts to shorten the period of validity,
832 it shall give written notice to the DOE with a request to execute the
833 HSC and a proposed Work Program.

834
835 6.4.2 If the Hydropower Developer opts to utilize the full term, it shall give
836 written notice to the DOE with a request to execute the HSC and a
837 proposed Work Program not earlier than six (6) months but not later
838 than three (3) months prior to the expiration of the validity of the
839 Certificate of Authority.

840
841 6.4.3 Failure of the Hydropower Developer to give written notice to the
842 DOE within the period mentioned in the preceding paragraph shall
843 be deemed an abandonment of the HSC Application, following the
844 procedure set forth in Section 5.9.3(b)(iii).

845
846 6.5 Within three (3) days from notice, HOEMD shall prepare REMB's memorandum
847 for the Secretary endorsing the execution of the HSC in accordance with
848 Section 7.2 of this Chapter.

849
850
851 **Section 7. Award of Hydropower Service Contract and Registration of**
852 **Hydropower Developers.**

853 **7.1 Issuance of Certificate of Authority.** After the approval of an HSC
854 Application and before the execution of an HSC, the DOE shall issue a
855 Certificate of Authority; Provided, that the Certificate of Authority may be
856 waived in accordance with Section 6.4 of this Chapter.

857
858 **7.2 Signing of the Hydropower Service Contract.** The following procedure
859 shall govern the awarding of HSC:

860 **7.2.1 Notification of Award.** The DOE shall notify the selected (under
861 the OCSP) or qualified (under Direct Application) HSC Applicant of
862 the award of the HSC.

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7.2.2 Signing of the Hydropower Service Contract. The signing of the HSC shall be divided into two stages, namely: a) pre-signing by the HSC Applicant; and b) signing of the DOE Secretary.

7.2.2.1 The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary within two (2) days from receipt thereof. The Undersecretary shall act on the endorsement within two (2) days from receipt of the documents. Within one (1) day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the HSC Applicant to pre-sign the original copies of the HSC following the prescribed template.

7.2.2.2 Within one (1) day, the HOEMD shall validate the pre-signed HSC, and shall forward the pre-signed HSC, along with the endorsement and all its attachments to the Office of the DOE Secretary.

7.2.2.3 The Office of the DOE Secretary shall receive the pre-signed HSC and all its attachments, shall act on the documents within seven (7) days from receipt thereof.

7.3 Payment of Signing Fee. The HOEMD, through the EVOSS System, shall issue the Order of Payment within one (1) day. The HSC Applicant shall pay the signing fee within fifteen (15) days, which shall be paid directly to the Treasury, and post the performance bond, within the relevant period, covering the first contract year.

The HSC Applicant shall upload proof of payment of the signing fee within fifteen (15) days from receipt of notice. The failure of the Hydropower Developer to do so shall be deemed as an abandonment of the HSC Application and shall cause the revocation of the HSC. Further, non-posting of the performance bond within thirty (30) days from receipt of notice shall cause the HSC to be deemed void.

7.2.4 Delivery of the Signed Hydropower Service Contract. The HOEMD shall upload the signed and notarized copy of the HSC and COR, as applicable, and inform the Hydropower Developer to pick up the said documents. Simultaneous with the receipt of the HSC, the Hydropower Developer shall surrender to the DOE the Certificate of Authority issued pursuant to this Circular.

905 **7.2.5 Duty to Maintain Records.** The HOEMD shall maintain a record
906 of all LOIs received, pending HSC Applications, and signed HSC in
907 the EVOSS System.

908
909 **7.2.6** The ITMS shall make the area available to other applicants only
910 when: a) the HSC Applicant failed to qualify; or b) withdraws or
911 abandons its LOI or HSC Application, as the case may be, and only
912 after due notice is given to the concerned interested
913 participant/HSC Applicant of such information by the REMB
914 Supervising Assistant Secretary, copy furnishing the ITMS with the
915 said notice. Once an area is declared to be available, subsequent
916 HSC Applications covering the same may be allowed, and only on
917 a first-come, first-served basis.

918
919
920 **7.4 Registration of Hydropower Developers.** The DOE, through the REMB, shall
921 issue a COR to a Hydropower Developer holding a valid HSC for purposes of
922 entitlement to the incentives under Chapter IX of this Circular upon the issuance
923 of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be
924 availed of upon the award of the HSC, at the option of the Hydropower
925 Developer.

926
927 **Section 8. Types of Hydropower Projects.** Hydropower projects shall include, but
928 not be limited to:

929 8.1 Run-of-River – diverts a portion of a river through a canal and/or a penstock, to
930 spin a turbine which activates a generator to produce electricity. ROR
931 hydropower plants utilizes a weir and does not require the use of a large dam
932 or reservoir;

933
934 8.2 Impoundment – uses a large dam to store or impound river water in a reservoir.
935 Water may be released to serve as base load to meet changing electricity
936 demand for weeks or even months; and

937
938 8.3 Pumped Storage – stores and generates power by moving water between two
939 or more reservoirs at different elevations. When the demand for electricity is
940 low, a pumped storage facility pumps water from a lower reservoir to the upper
941 reservoir for later use. During periods of high electrical demand, the water is
942 released back to the lower reservoir in order to generate electricity.

943
944 **Section 9. Terms of Hydropower Service Contract.** The development of
945 hydropower resources shall be covered by an HSC following the prescribed template
946 (Annex D).

947 9.1 The Hydropower Developer shall be given a non-extendible period of three (3)
948 years, in the case of run-of-river, and five (5) years, in the case of impoundment
949 and pumped storage, from the date of execution of the HSC to determine the
950 existence of hydropower resource in Commercial Quantities and shall be called
951 Pre-Development Stage.

952
953 9.2 The Development/Commercial Stage shall commence prior to the expiration of
954 the Pre-Development Stage and upon the issuance of the Certificate of
955 Confirmation of Commerciality (COCOC), and shall continue for the remainder
956 of term of the HSC.

957
958 9.3 The HSC shall have a term of twenty-five (25) years from the date of execution,
959 which shall include the Pre-Development Stage and Development/Commercial
960 Stage but shall exclude the period covered by the Certificate of Authority.

961
962 9.4 Not earlier than six (6) months prior to the expiration of the twenty-five (25) year
963 period, the HSC may be renewed for another twenty-five (25) years, subject to
964 the terms and conditions of the HSC.

965

966 **Section 10. Stages of Hydropower Contract.**

967 **10.1 Stages of a Hydropower Operating Contract.** An HOC shall cover only the
968 Development/Commercial Stage, which involves the development, construction
969 and installation and commercial operation of the hydropower project, including
970 the achievement of Financial Closing.

971

972 **10.2 Stages of a Hydropower Service Contract.** An HSC shall cover two (2)
973 stages of the hydropower project, namely:

974

975 (a) Pre-Development Stage. Involves the conduct of preliminary assessment
976 and feasibility study up to Financial Closing and Declaration of
977 Commerciality (DOC) of the hydropower project, including the
978 identification of the proposed Production Area; and

979 (b) Development/Commercial Stage. Involves the development, construction,
980 and commercial operation of the hydropower project, production, and

981

982 **Section 11. Conversion of Existing Hydropower Service Contract.** For existing
983 hydropower projects that have been operating prior to the effectivity of the RE Act
984 pursuant to contracts issued under the relevant preceding laws and those that have
985 been issued HSCs after the RE Act but prior to this Circular, the contract holder may
986 elect to convert its service contract or agreement by applying for an HSC under this
987 Circular, within one (1) year from the effectivity of this Circular. However, the period of
988 the HSC to be issued in relation thereto shall be the balance of the contract term
989 remaining under the existing and valid service/operating contract or agreement. The

990 requirements and procedures for conversion to HSC templates in Annex D is provided
991 in Section 4 of Chapter 7 of this circular.

992

993 **Section 12. Investment**

994 **12.1 New Investments.** Hydropower Developers undertaking discovery,
995 exploration, development and/or utilization of new hydropower resources or the
996 development of new generation facilities within the Contract Area distinct from
997 the originally registered operations may qualify as new projects, subject to
998 setting up of new separate books of accounts. The Hydropower Developer may,
999 upon its discretion, relinquish the Contract Area and apply for a new HSC over
1000 the area of new investment, subject to constitutional term limits.

1001

1002 **12.2 Additional Investments.** Additional investment may cover investment for
1003 improvements, modernization, rehabilitation, or expansion duly registered with
1004 the DOE, which may or may not result in increased capacity, subject to the
1005 conditions to be determined by the DOE, such as, but not limited to, the
1006 following:

- 1007 (a) Identification of and investment in sequential phases/stages of production,
1008 or undertaking scheduled modernization or rehabilitation of the
1009 hydropower systems; and
- 1010 (b) Improvements to the hydropower systems such as reduced
1011 production/operational costs, increased production, improved operational
1012 efficiency, and better reliability of the hydropower project.

1013

1014 If, by reason of the additional investment, the capacity of the hydropower
1015 project will be increased by at least thirty percent (30%), the Hydropower
1016 Developer shall have the option to pre-terminate its existing contract and
1017 enter into a new HSC, subject to constitutional term limits. Upon the award
1018 of the new HSC, the incentives under the RE Act shall be reset.

1019 If the additional investment will not increase the capacity of the
1020 hydropower project by thirty percent (30%), the Hydropower Developer
1021 shall only be entitled to such incentives as may be warranted under the
1022 RE Act.

1023 **CHAPTER VI – OCEAN ENERGY RESOURCE**

1024

1025 **Section 1. Eligibility of Ocean Energy Service Contract Applicant.** Any Person,
1026 local or foreign, may apply for Ocean Energy Service Contract (OESC), subject to the
1027 provisions in the Chapter.

1028

1029 1.1 The OESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino-
1030 and/or foreign-owned corporation or association which is authorized by its

1031 articles or deed of incorporation to engage in ocean energy exploration,
1032 development, and utilization.

1033

1034 1.2 The appropriation of water direct from a natural source shall be reserved to
1035 Filipino citizens or corporations or associations at least sixty percent (60%) of
1036 whose capital is owned by Filipinos.

1037

1038 1.3 In case the OESC Applicant is a joint venture or a consortium, the partners of
1039 the joint venture or members of the consortium shall organize themselves as a
1040 corporation under the RA No. 11232, otherwise known as the "Revised
1041 Corporation Code of the Philippines," or secure the appropriate license from the
1042 Securities and Exchange Commission, in case the joint venture or consortium
1043 was incorporated outside of the Philippines; Provided, that the incorporated
1044 joint venture or consortium which applies for an OESC that involves activities
1045 reserved to Filipino citizens or corporations or associations at least sixty percent
1046 (60%) of whose capital is owned by Filipinos shall comply with the nationality
1047 requirements as provided for in the preceding paragraph, and Commonwealth
1048 Act No. 108, or the "Anti-Dummy Law," on the appointment of officers of the
1049 corporation.

1050

1051 **Section 2. Modes of Awarding Ocean Energy Service Contract.** OESC shall be
1052 awarded through (a) an Open and Competitive Selection Process (OCSP) or (b) Direct
1053 Application.

1054

1055 2.1 In case the OESC Applicant is a joint venture or a consortium, the partners of
1056 the joint venture or members of the consortium shall organize themselves as a
1057 corporation under the RA No. 11232, otherwise known as the "Revised
1058 Corporation Code of the Philippines," or secure the appropriate license from the
1059 Securities and Exchange Commission, in case the joint venture or consortium
1060 was incorporated outside of the Philippines; Provided, that the incorporated
1061 joint venture or consortium which applies for an OESC that involves activities
1062 reserved to Filipino citizens or corporations or associations at least sixty percent
1063 (60%) of whose capital is owned by Filipinos shall comply with the nationality
1064 requirements as provided for in the preceding paragraph, and Commonwealth
1065 Act No. 108, or the "Anti-Dummy Law," on the appointment of officers of the
1066 corporation.

1067

1068 2.2 The OCSP shall be adopted for the selection and award of OESCs for Pre-
1069 Determined Areas (PDAs) covering ocean energy resources for commercial
1070 purposes. This shall be governed by Sections 3 and 4 of this Chapter.

1071

1072 2.3 Direct Application shall be available for the selection and award of:

1073 (a) OESCs covering PDAs, following a failed OCSP pursuant to Section 4.4
1074 and the procedures in Section 4 of this Chapter; and

1075 (b) OESC in an area identified by an OESC Applicant and verified with or
1076 confirmed by the DOE-Information Technology and Management
1077 Services (ITMS) as available for exploration, development and/or
1078 utilization of ocean energy resources.

1079

1080 **Section 3. Pre-Determined Areas.** Interested parties may apply for OESC for PDAs
1081 offered by the DOE during a prescribed period (Annex G).

1082

1083 **3.1 Selection of PDAs.** The REMB shall identify and submit a list of PDAs for
1084 OESC Application, with the respective location maps and technical descriptions
1085 thereof, to the DOE Secretary, through its Supervising Assistant Secretary and
1086 Undersecretary, for approval.

1087

1088 **3.2 Launch and Publication.** PDAs approved by the DOE Secretary shall be
1089 scheduled for launch and shall be publicly announced by the DOE for
1090 submission of OESC Applications. PDAs for offer shall be published for at least
1091 once (1) a week for two (2) consecutive weeks in at least two (2) newspapers
1092 of general circulation and shall likewise be posted at the DOE website.

1093

1094 **3.3 Data Packages and Promotional Activities.** The REMB shall arrange for the
1095 availability of data packages for the approved PDAs that can be purchased by
1096 interested parties in support of their applications. The REMB shall conduct
1097 promotional activities to promote the OCSP and the corresponding data
1098 packages so as to ensure maximum participation and awareness of prospective
1099 investors and stakeholders.

1100

1101 **Section 4. Procedure for Awarding Ocean Energy Service Contract under Open
1102 and Competitive Selection Process.**

1103

1104 **4.1 Ocean Energy Service Contract Application.** Applications may be submitted
1105 a day after the publication date until the last day of submission which shall be
1106 sixty (60) days from the date of first publication in accordance with the following
1107 requirements:

1108

1109 4.1.1. The OESC Applicant shall submit to the DOE a Letter of Intent
1110 (LOI) following the prescribed format (Annex H) together with the
1111 OESC Application in accordance with prescribed Checklist of
1112 Requirements (Annex I). The LOI shall be addressed to the REMB
1113 Director and shall indicate whether the interested participant will
1114 avail of the Certificate of Authority referred to in Sections 6 and 7.1
1115 of this Chapter.

1116

1117 Each OESC Application shall cover only one PDA as published;

1118

1119 4.1.2 The OESC Application must be in both paper and electronic (flash
1120 drive in Portable Data Format) copies, which shall use Times New
1121 Roman in 12-point font size and employ single line spacing. Figures
1122 and maps shall be printed and submitted in a document that is not
1123 smaller than A3 size. For legibility, figures and maps shall be
1124 submitted at a larger scale (1:10,000) as appendices; and
1125

1126 4.1.3 An application fee shall be paid by each OESC Applicant, along
1127 with the submission of OESC Application. All payments may be
1128 made in cash, manager/company cheque, payable to "Department
1129 of Energy" or by wire/bank transfer. All wire/bank transfers should
1130 be net of all applicable bank and financial charges.
1131

1132 **4.2 Opening and Evaluation of Ocean Energy Service Contract Applications.**
1133 The DOE shall open the applications at exactly 1300H, on the last day of the
1134 submission of OESC Applications.
1135

1136 **4.3 Evaluation, Selection and Award.** The evaluation and selection of OESC
1137 Applications and award of OESC shall be conducted following the criteria and
1138 procedures set hereunder:
1139

1140 4.3.1 Applications with incomplete documents based on the Checklist of
1141 Requirements shall be automatically disqualified during the
1142 opening of OESC Applications. No additional documents shall be
1143 accepted after the deadline for submission of OESC Applications.
1144

1145 4.3.2 OESC Applicants shall be duly informed by the Review Committee
1146 (REC) Chairperson whether their application passed the
1147 completeness check and shall be subjected to further legal,
1148 technical, and financial evaluations. Applicants who were
1149 disqualified for submitting incomplete documents shall likewise be
1150 informed by the REC Chairperson of the fact of their disqualification
1151 and the reasons therefor.
1152

1153 4.3.3 OESC Applications which passed the completeness check shall be
1154 evaluated based on the following criteria:
1155

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

1156
1157 The guidelines and procedures, including the qualification criteria
1158 per scoring item, of every OCSP shall be determined at the

1159 beginning of OCSP round and will be covered by a Department
1160 Circular.

1161

1162 4.3.4 The highest ranked OESC Application that meets the legal,
1163 technical, and financial requirements shall be selected.

1164

1165 4.3.5 After a complete review and evaluation of the legal, technical and
1166 financial qualifications of the OESC Applications, the REC
1167 Chairperson, shall transmit to the DOE Secretary a written
1168 endorsement of the selected OESC Application.

1169

1170 4.3.6 The DOE Secretary shall act on the OESC Application in
1171 accordance with Section 7 of this Chapter after the concurrence of
1172 ITMS, Financial Services (FS), REMB and Legal Services (LS) on
1173 the endorsement.

1174

1175 4.4 An OCSP, with respect to any or all PDAs included therein, as applicable, shall
1176 be declared a failure when any of the following circumstances exists:

1177

1178 4.4.1 No OESC Application was received by the DOE;

1179 4.4.2 No OESC Application passed the legal requirements; or

1180 4.4.3 When one or more OESC Applications passed the legal
1181 requirements but after the evaluation of technical and financial
1182 proposals, none of such OESC Applications were able to meet
1183 either the technical or financial requirements.

1184

1185 In any of the foregoing cases, the PDA shall be opened for Direct Applications.
1186 To initiate the change of mode of awarding OESC from OCSP to Direct
1187 Application for the relevant areas, the DOE shall include in the announcement
1188 of the result of the OCSP the area/s which shall be open for Direct Application,
1189 indicating thereat when the new application process shall commence.

1190

1191 **Section 5. Procedure for Awarding Ocean Energy Service Contract under** 1192 **Direct Application.**

1193

1194 **5.1 Coverage.** Direct Application shall be observed in processing OESC
1195 Applications for: (a) ocean energy resources located in PDAs which the DOE
1196 shall declare as available under this mode pursuant to Section 4.4 of this
1197 Chapter, and (b) ocean energy resources in areas other than those included in
1198 the PDAs, subject to the procedures provided herein.

1199

1200

1201 ***Part 1. Pre-Application Process***

1202

1203 **5.2 Registration in the EVOSS System.** If the interested participant has no
1204 EVOSS System account yet, it shall submit a request for registration in the
1205 EVOSS System with Hydropower and Ocean Energy Management Division
1206 (HOEMD).

1207
1208 **5.3 Submission of Letter of Intent.** All interested participants shall submit through
1209 the EVOSS System an LOI to develop a certain area, in accordance with the
1210 mapping requirements (Annex J). The LOI shall be addressed to the REMB
1211 Director and shall indicate whether the interested participant will avail of the
1212 Certificate of Authority referred to in Sections 6 and 7.1 of this Chapter. The
1213 submission of the LOI shall not be considered as a filing of an OESC Application
1214 and shall not commence the application process.

1215
1216 **5.4 Orientation of Interested Participant.** The orientation is intended to inform
1217 interested participants about the OESC Application requirements, and to guide
1218 them through the process for evaluation thereof, awarding of OESC and the
1219 registration of an ocean energy project.

1220
1221 5.4.1 All interested participants shall be informed of the schedule of
1222 orientation or briefing on the OESC Application requirements and
1223 processes.

1224 5.4.2 Any interested participant may waive attendance to the orientation
1225 in writing either in its LOI or in response to the notice of the
1226 schedule of orientation provided in the preceding paragraph.

1227

1228 ***Part 2. Area Verification and Technical Guidelines***

1229

1230 **5.5 Configuration of Area of Interest.** The area of interest (AOI) for the OESC
1231 Application shall either be polygonal or in block following the Blocking System
1232 or a combination of both.

1233

1234 **5.6 Area Verification.** Within fourteen (14) days from receipt of the LOI, ITMS shall
1235 complete the area verification and determine whether the AOI is:

1236 5.6.1 Covered by an existing PDA under the OCSP or OESC pending
1237 application, or other energy resource assessment activities as
1238 submitted by the concerned DOE unit and verified by ITMS;

1239

1240 5.6.2 Within or overlaps with the area of an existing energy service or
1241 operating contract such as Petroleum Service Contract (PSC), Coal
1242 Operating Contract (COC), Small-Scale Coal Mining Permit
1243 (SSCMP) or Renewable Energy Service Contract (RESC), other
1244 than OESC;

1245

1246 5.6.3 Within or overlaps with the area of an existing energy service or
1247 operating contract application such as Petroleum SC, COC,
1248 SSCMP or RESC, other than OESC Application;

1249
1250 5.6.4 Within the protected and environmentally critical areas under RA
1251 No. 11038, or the “Expanded National Integrated Protected Areas
1252 System Act of 2018” (“ENIPAS”), *i.e.*, within or outside the strict
1253 protection zones, ancestral domains with Certificate of Ancestral
1254 Domain Title or Claim, areas with Tenurial Instruments from other
1255 government agencies, areas prohibited, reserved, or used for
1256 national defense, navigation, irrigation, and other development
1257 projects, and other areas covered by significant geospatial data
1258 that will be identified as necessary in the evaluation of the OESC
1259 Application based on available data on file with ITMS and the
1260 National Mapping Resource Information Authority’s Philippine
1261 Geoportal Project website.

1262
1263 Pursuant to the mandate of the DOE to supervise and control all
1264 government activities relative to energy project under the EPIRA,
1265 concerned government agencies and entities shall provide the
1266 DOE the list of abovementioned areas with technical description;

1267
1268 5.6.5 Covered by the LOI of the same or other energy resource; or

1269
1270 5.6.6 Open for OESC Applications.

1271
1272 **5.7 Area Verification Results.** ITMS shall provide HOEMD with the results of area
1273 verification through the EVOSS System. HOEMD shall conduct the final
1274 technical verification and determine whether the proposed ocean energy project
1275 will cause substantial disruption to an existing ocean energy project. Within
1276 three (3) days upon receipt of the final technical verification results, HOEMD,
1277 through the REMB Assistant Director, shall endorse the final verification results
1278 and upload the letter containing the results of area verification in the EVOSS
1279 System.

1280
1281 If the OESC Application cannot proceed based on the final technical verification
1282 results, the interested participant may either (a) reconfigure the AOI, (b) file a
1283 request to allow the development of multiple resources in the area; or (c)
1284 comply with Section 5.7.3 of this Chapter, as applicable.

1285
1286 5.7.1 **Reconfigured Area of Interest.** Within ten (10) days from
1287 uploading of the final technical verification results, the interested
1288 participant and HOEMD may conduct an assessment if the AOI
1289 may be reconfigured without material adverse effect on the

1290 feasibility of the proposed ocean energy project. The interested
1291 participant may reconfigure its AOI to cover only such portion as
1292 may allow the OESC Application to proceed. After confirmation by
1293 ITMS that no portion of the reconfigured AOI falls under Sections
1294 5.6.1, 5.6.2, 5.6.3 or 5.6.5 of this Chapter, HOEMD shall upload in
1295 the EVOSS System a Notice to Apply to the interested participant
1296 for the filing of the OESC Application.

1297
1298 **5.7.2 Multiple Resources in an Area.** If the AOI of the interested
1299 participant overlaps with the area of an existing energy service or
1300 operating contract or an application therefor as provided under
1301 Sections 5.6.2 and 5.6.3 of this Chapter, the interested participant
1302 may still pursue the OESC Application, subject to the provisions
1303 herein below set forth:

- 1304
1305 (a) The interested participant shall:
- 1306 i. Explain in writing why the proposed ocean
1307 energy project will not be feasible without the
1308 overlapping area, duly supported by technical
1309 data, proposed project design, and other
1310 relevant information.
 - 1311
1312 ii. Submit a notarized acknowledgment and
1313 undertaking that the interested participant
1314 recognizes and shall continue to recognize the
1315 prior rights of the existing applicants and/or
1316 developers of other energy resources within the
1317 overlapping area; that the design of the
1318 proposed ocean energy project will ensure safe
1319 and optimal development of ocean energy and
1320 other energy resources in the overlapping area;
1321 and that all costs needed therefor shall be borne
1322 by the interested participant.

1323
1324 (b) HOEMD shall inform the applicant or energy
1325 contractor/developer on the intent to develop the
1326 ocean energy resources within the overlapping area.
1327 Copies of the interested participant's LOI, the written
1328 explanation, and their supporting documents shall be
1329 furnished to the applicant or contractor/developer.

1330
1331 (c) If no objection is received from the applicant or energy
1332 contractor/developer within the prescribed period,

1333 HOEMD shall upload in the EVOSS System a Notice
1334 to Apply to the interested participant for the filing of
1335 the OESC Application.

1336
1337 (d) If the applicant or energy contractor/developer objects
1338 to the proposal, the said applicant or energy
1339 contractor/developer shall notify HOEMD thereof
1340 within ten (10) days from receipt of notice, citing the
1341 impracticability of multiple resource development as
1342 to additional costs, safety, substantial decrease in the
1343 utilization of the energy resource, and other relevant
1344 factors. Copies of the written objection shall be
1345 furnished to the DOE Division processing the
1346 application or administering the energy project. A
1347 statement that multiple resource development in the
1348 overlapping area is impracticable without technical
1349 basis shall not be considered as an objection.

1350
1351 (e) Within five (5) days from receipt of an objection,
1352 HOEMD shall furnish the interested participant with a
1353 copy thereof. Within the same period, HOEMD and
1354 the concerned DOE Division shall jointly determine
1355 whether exploration of ocean energy resources within
1356 the overlapping area may be conducted without
1357 material adverse effect on the activities of the energy
1358 contractor/developer. Such determination shall
1359 consider the interested participant's proposal, the
1360 objection and the technical bases cited therein. The
1361 evaluation shall be endorsed to the REMB Director.

1362
1363 (f) Upon receipt of the endorsement, the REMB Director
1364 may issue a Notice to Apply if s/he concurs that the
1365 exploration will not cause material injury. The contract
1366 area of the OESC so awarded shall be finally
1367 determined by REMB during the Pre-Development
1368 Stage based on the feasibility of multiple resource
1369 development in the overlapping area.

1370
1371 **5.7.3. Other Areas.** If the AOI of the interested participant overlaps with
1372 the area as provided under Section 5.6.4 of this Chapter, the
1373 interested participant may still pursue the OESC Application if there
1374 is no material adverse effect on the feasibility of the proposed
1375 ocean energy project after applying the provisions herein below set
1376 forth:

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- (a) If the AOI overlaps with areas within strict protection zones under the ENIPAS, the interested participant shall submit a revised AOI net of the said areas.
- (b) If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced shall be subject to the ENIPAS and its implementing rules and regulations.
- (c) If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced subject to RA No. 8371 or “The Indigenous Peoples Rights Act of 1997” and its implementing rules and regulations.
- (d) If the AOI overlaps with areas with Tenurial Instruments from other government agencies, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced subject to the relevant rules and regulations of the concerned government agency.
- (e) If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Director shall issue a Notice to Apply for the said AOI; Provided, that the contract area may be reduced subject to the relevant rules and regulations of the concerned government agency.

Part 3. Filing and Evaluation of Ocean Energy Service Contract Applications

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5.8. Receipt of Ocean Energy Service Contract Applications. After the Notice to Apply is uploaded in the EVOSS System, the interested participant may file its OESC Application by complying with the procedures and requirements, as follows:

5.8.1 The OESC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex I).

1423 5.8.2 HOEMD shall check the completeness and consistency of the
1424 submission and ITMS shall validate the area applied for the ocean
1425 energy project within three (3) days.

1426
1427 5.8.3 If the submission is complete, HOEMD shall upload a copy of the
1428 order of payment for the application and processing fees. The
1429 EVOSS System shall notify the OESC Applicant through a system-
1430 generated email to pay the application and processing fees within
1431 five (5) days. Failure to do so will result in the abandonment of the
1432 application.

1433
1434 5.8.4 The EVOSS System shall notify LS, FS and ITMS of the complete
1435 submission.

1436

1437 **5.9 Evaluation of Ocean Energy Service Contract Applications.**

1438
1439 5.9.1 After the payment of the processing fee, HOEMD, LS, and FS shall
1440 conduct the simultaneous technical, legal, and financial evaluations
1441 within five (5) days from uploading of the proof of payment of
1442 application and processing fees in the EVOSS System.

1443
1444 5.9.2 Preference shall be given to proposed ocean energy projects that
1445 are situated in close proximity to existing and available
1446 transmission facilities. Alternatively, preference may also be given
1447 to OESC Applicants with a proposal for the construction of the
1448 necessary transmission facilities.

1449
1450 5.9.3 HOEMD shall consolidate all the evaluation results and proceed
1451 with the processing of the application, as follows:

1452
1453 (a) If the OESC Application passes the evaluations,
1454 HOEMD shall, within two (2) days from its receipt of
1455 the evaluation documents, prepare REMB's
1456 memorandum for the Secretary endorsing the award
1457 of the OESC Application; the draft Certificate of
1458 Authority; and the draft OESC. The endorsement
1459 must include the original copy of the results of area
1460 verification and the legal, technical and financial
1461 evaluations with all their attachments, and the project
1462 area map and its technical descriptions. Upon
1463 concurrence of ITMS, FS, REMB and LS on the
1464 endorsement, the Secretary shall act on the OESC
1465 Application in accordance with Section 7 of this
1466 Chapter.

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(b) If the OESC Application does not pass the legal, technical, and/or financial evaluations, HOEMD shall notify the OESC Applicant through the EVOSS System to rectify the submission within ten (10) days.

i. Failure of the OESC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the OESC Application. HOEMD shall notify the OESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.

ii. If the 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) days.

iii. Should the OESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, HOEMD shall notify the HSC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.

Upon receipt of the RE Applicant of the letter of disqualification, the REMB shall prepare a memorandum to the ITMS to immediately re-open the area for RE Applications by posting such information on the DOE website.

5.9.4 The 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 beyond the prescribed period shall not be accepted or evaluated.

5.9.5 No Request for Reconsideration (RR) of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the OESC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as

1511 confirmed by Investment Promotion Office (IPO). In such circumstances,
1512 the OESC Applicant shall file the RR with REMB within three (3) days
1513 from uploading of the Notice of Disqualification.

1514
1515 (a) Upon receipt of the RR, HOEMD shall request IPO to confirm the
1516 occurrence of the technical problem. If so confirmed and the same
1517 prevented the timely submission, HOEMD, FS and/or LS shall
1518 evaluate the OESC Application considering the additional
1519 submission.

1520
1521 (b) If the OESC Application passes the evaluation, REMB shall grant
1522 the RR. Thereafter, HOEMD shall proceed in accordance with
1523 Section 5.9.3(a) of this Chapter.

1524
1525 5.10. If the Ocean Energy Developer waived the Certificate of Authority during
1526 the pre-application process, HOEMD shall proceed with the application
1527 in accordance with Section 7.2 of this Chapter.

1528
1529 **Section 6. Terms of Certificate of Authority.** The awardee of an OESC shall have
1530 exclusive authority to procure permits or certifications and tenurial instruments needed
1531 for the exploration, development and utilization of the ocean energy resources within
1532 an area specified in the OESC Application and conduct reconnaissance and other
1533 activities needed for pre-feasibility studies upon the issuance of Certificate of Authority
1534 by the DOE.

1535
1536 6.1 The Certificate of Authority shall be valid for a period not exceeding five (5)
1537 years. During its validity, the Certificate of Authority shall serve as the DOE's
1538 exclusive endorsement for the Ocean Energy Developer to secure the
1539 necessary permits or certifications and tenurial instruments from government
1540 agencies, entities or instrumentalities having jurisdiction over any aspect of the
1541 hydropower operations. The denomination of each permit or certification or
1542 tenurial instrument to be procured for the ocean energy project shall be listed
1543 in the Certificate of Authority.

1544
1545 6.2 The Certificate of Authority shall reflect the metes and bounds of the area as
1546 proposed in the OESC Application over which reconnaissance and other pre-
1547 feasibility activities may be conducted and permits and tenurial instruments may
1548 be secured by the Ocean Energy Developer for the project. For this purpose, a
1549 copy of the technical description of the area to be covered by the OESC shall
1550 form part of the Certificate of Authority.

1551
1552 6.3 The validity of the Certificate of Authority shall not be extendible. Any
1553 reconnaissance activity that is not conducted and/or permit or certification or
1554 tenurial instrument that remains unissued upon the lapse of the Certificate of

1555 Authority shall be procured and the necessary activities therefor conducted, as
1556 part of the Pre-Development Stage.

1557

1558 6.4 The Ocean Energy Developer shall have the option to shorten the period of
1559 validity of the Certificate of Authority or utilize its full term.

1560

1561 6.4.1 If the Ocean Energy Developer opts to shorten the period of
1562 validity, it shall give written notice to the DOE with a request to
1563 execute the OESC and a proposed Work Program.

1564

1565 6.4.2 If the Ocean Energy Developer opts to utilize the full term, it shall
1566 give written notice to the DOE with a request to execute the OESC
1567 and a proposed Work Program not earlier than six (6) months but
1568 not later than three (3) months prior to the expiration of the validity
1569 of the Certificate of Authority.

1570

1571 6.4.3 Failure of the Ocean Energy Developer to give written notice to the
1572 DOE within the period mentioned in the preceding paragraph shall
1573 be deemed an abandonment of the OESC Application, following
1574 the procedure set forth in Section 5.9.3(b)(iii).

1575

1576 6.5 Within three (3) days from notice, HOEMD shall prepare REMB's memorandum
1577 for the Secretary endorsing the execution of the OESC in accordance with
1578 Section 7.2 of this Chapter.

1579

1580 **Section 7. Award of Ocean Energy Service Contract and Registration of Ocean** 1581 **Energy Developers.**

1582

1583 **7.1 Issuance of Certificate of Authority.** After the approval of an OESC
1584 Application and before the execution of an OESC, the DOE shall issue a
1585 Certificate of Authority; Provided, that the Certificate of Authority may be waived
1586 in accordance with Section 6.4 of this Chapter.

1587

1588 **7.2 Signing of the Ocean Energy Service Contract.** The following procedure
1589 shall govern the awarding of OESC:

1590

1591 **7.2.1 Notification of Award.** The DOE shall notify the selected (under
1592 the OCSP) or qualified (under Direct Application) OESC Applicant
1593 of the award of the OESC.

1594

1595 **7.2.2 Signing of the Ocean Energy Service Contract.** The signing of
1596 the OESC shall be divided into two stages, namely: a) pre-signing
1597 by the OESC Applicant; and b) signing of the DOE Secretary.

1598

1599 7.2.2.1. The REMB Supervising Assistant Secretary shall review
1600 the recommendation and endorse the same to the REMB
1601 Supervising Undersecretary within two (2) days from
1602 receipt thereof. The Undersecretary shall act on the
1603 endorsement within two (2) days from receipt of the
1604 documents. Within one (1) day from the concurrence of
1605 the Undersecretary with the REMB's recommendation,
1606 the REMB Director shall require the OESC Applicant to
1607 pre-sign the original copies of the OESC following the
1608 prescribed template.

1609
1610 7.2.2.2. Within one (1) day, the HOEMD shall validate the pre-
1611 signed OESC, and shall forward the pre-signed OESC,
1612 along with the endorsement and all its attachments to the
1613 Office of the DOE Secretary.

1614
1615 7.2.2.3. The Office of the DOE Secretary shall receive the pre-
1616 signed OESC and all its attachments, and the DOE
1617 Secretary shall act on the documents within seven (7)
1618 days from receipt thereof.

1619
1620 **7.2.3 Payment of Signing Fee.** The HOEMD, through the EVOSS
1621 System, shall issue the Order of Payment within one (1) day. The
1622 OESC Applicant shall pay the signing fee within fifteen (15) days,
1623 which shall be paid directly to the Treasury, and post the
1624 performance bond, within the relevant period, covering the first
1625 contract year.

1626
1627 The OESC Applicant shall upload proof of payment of the signing
1628 fee within fifteen (15) days from receipt of notice. The failure of the
1629 Ocean Energy Developer to do so shall be deemed as an
1630 abandonment of the OESC Application and shall cause the
1631 revocation of the OESC. Further, non-posting of the performance
1632 bond within thirty (30) days from receipt of notice shall cause the
1633 OESC to be deemed void.

1634
1635 **7.2.4 Delivery of the Signed Ocean Energy Service Contract.** The
1636 HOEMD shall upload the signed and notarized copy of the OESC
1637 and COR, as applicable, and inform the Ocean Energy Developer
1638 to pick up the said documents. Simultaneous with the receipt of the
1639 OESC, the Ocean Energy Developer shall surrender to the DOE
1640 the Certificate of Authority issued pursuant to this Circular.

1641

1642 **7.2.5 Duty to Maintain Records.** The HOEMD shall maintain a record
1643 of all LOIs received, pending OESC Applications, and signed
1644 OESC in the EVOSS System.
1645

1646 7.2.6. The ITMS shall make the area available to other applicants only
1647 when: a) the OESC Applicant failed to qualify; or b) withdraws or
1648 abandons its LOI or OESC Application, as the case may be, and
1649 only after due notice is given to the concerned interested
1650 participant/ OESC Applicant of such information by the REMB
1651 Supervising Assistant Secretary, copy furnishing the ITMS with the
1652 said notice. Once an area is declared to be available, subsequent
1653 OESC Applications covering the same may be allowed, and only
1654 on a first-come, first-served basis.
1655

1656 **7.3 Registration of Ocean Energy Developers.** The DOE, through the REMB,
1657 shall issue a COR to an Ocean Energy Developer holding a valid OESC for
1658 purposes of entitlement to the incentives under Chapter IX of this Circular upon
1659 the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a
1660 COR may be availed of upon the award of the OESC, at the option of the Ocean
1661 Energy Developer.
1662

1663 **Section 8. Terms of Ocean Energy Service Contract.** The development of ocean
1664 energy resources shall be covered by an OESC following the prescribed template
1665 (Annex E).
1666

1667 8.1 The Ocean Energy Developer shall be given a non-extendible period of five (5)
1668 years from the date of execution of the OESC to determine the existence of
1669 ocean power resource in Commercial Quantities and shall be called Pre-
1670 Development Stage.
1671

1672 8.2 The Development/Commercial Stage shall commence prior to the expiration of
1673 the Pre-Development Stage and upon the issuance of the Certificate of
1674 Confirmation of Commerciality (COCOC), and shall continue for the remainder
1675 of term of the OESC.
1676

1677 8.3 The OESC shall have a term of twenty-five (25) years from the date of
1678 execution, which shall include the Pre-Development Stage and
1679 Development/Commercial Stage but shall exclude the period covered by the
1680 Certificate of Authority.
1681

1682 8.4 Not earlier than six (6) months prior to the expiration of the twenty-five (25) year
1683 period, the OESC may be renewed for another twenty-five (25) years, subject
1684 to the terms and conditions of the OESC.
1685

1686 **Section 9. Stages of Ocean Energy Contract.**

1687
1688 **9.1 Stages of an Ocean Energy Service Contract.** An OESC shall cover two (2)
1689 stages of the ocean energy project, namely:

- 1690
1691 (a) Pre-Development Stage. Involves the conduct of preliminary assessment
1692 and feasibility study up to Financial Closing and Declaration of
1693 Commerciality (DOC) of the ocean energy project, including the
1694 identification of the proposed Production Area; and
1695 (b) Development/Commercial Stage. Involves the development, construction,
1696 and commercial operation of the ocean energy project, production, and
1697 utilization of ocean energy resources.

1698
1699 **9.2 Transition from Pre-Development Stage to Development/Commercial**
1700 **Stage.** The OESC shall transition from the Pre-Development Stage to
1701 Development/Commercial Stage only after issuance by the DOE of a COCOC.
1702 The process of the issuance of a COCOC is provided in Section 15.3 of this
1703 Chapter.

1704
1705 **9.3 Contract Area.** Upon transition from the Pre-Development to Development
1706 Stage of the OESC, the Contract Area shall be amended, if necessary, to cover
1707 the Production Area only.

1708
1709 **Section 10. Investments.**

1710
1711 **10.1 New Investments.** Ocean Energy Developers undertaking discovery,
1712 exploration, development and/or utilization of new ocean energy resources or
1713 the development of new generation facilities within the Contract Area distinct
1714 from the originally registered operations may qualify as new projects, subject to
1715 setting up of new separate books of accounts. The Ocean Energy Developer
1716 may, upon its discretion, relinquish the Contract Area and apply for a new
1717 OESC over the area of new investment, subject to constitutional term limits.

1718
1719 **10.2 Additional Investments.** Additional investment may cover investment for
1720 improvements, modernization, rehabilitation, or expansion duly registered with
1721 the DOE, which may or may not result in increased capacity, subject to the
1722 conditions to be determined by the DOE, such as, but not limited to, the
1723 following:

- 1724
1725 (a) Identification of and investment in sequential phases/stages of production,
1726 or undertaking scheduled modernization or rehabilitation of the ocean
1727 energy systems; and

1728 (b) Improvements to the ocean energy systems such as reduced
1729 production/operational costs, increased production, improved operational
1730 efficiency, and better reliability of the ocean energy project.
1731

1732 If, by reason of the additional investment, the capacity of the ocean energy
1733 project will be increased by at least thirty percent (30%), the Ocean Energy
1734 Developer shall have the option to pre-terminate its existing contract and enter
1735 into a new OESC, subject to constitutional term limits. Upon the award of the
1736 new OESC, the incentives under the RE Act shall be reset.
1737

1738 If the additional investment will not increase the capacity of the ocean energy
1739 project by thirty percent (30%), the Ocean Energy Developer shall only be
1740 entitled to such incentives as may be warranted under the RE Act.
1741

1742
1743 **CHAPTER VII – ADMINISTRATION OF RENEWABLE ENERGY**
1744 **SERVICE/OPERATING CONTRACTS**
1745

1746 **Section 1. Posting of a Performance Bond.** The RE Developer shall post a bond or
1747 any other guarantee of sufficient amount, but not less than the minimum expenditures
1748 commitment for the first contract year, which shall be a condition precedent for the
1749 effectivity of the RE Contract. A valid and subsisting performance bond is required to
1750 be maintained annually until the pre-construction phase of the RE Project.
1751

1752 **Section 2. Updating of RE Projects Data to the EVOSS System and DOE Website.**
1753 The following shall govern the posting and updating of RE Contracts awarded and
1754 pending RE Applications on the DOE website.

1755 2.1 The REMB-Technical Service Management Division (TSMD), in coordination
1756 with the relevant REMB divisions, shall collate and update the list of RE
1757 Contracts awarded and RE Applications filed and under evaluation on a
1758 quarterly basis. Upon full operation of the EVOSS System, updating of data
1759 shall be in accordance with the periods provided in the system.

1760 2.2 All concerned DOE units shall provide updates to the EVOSS System and DOE
1761 websites.

1762
1763 2.3. All RE Developers shall be required to register with the EVOSS System for
1764 regular updating of their respective RE Projects.

1765 **Section 3. Transition from Pre-Development Stage to Development/Commercial**
1766 **Stage.** The RE Service Contract shall transition from the Pre-Development Stage to
1767 Development/Commercial Stage only after issuance by the DOE of a COCOC.

1768 **3.1 Procedure for the Transition from Pre-Development to Development.**
1769

- 1770 3.1.1 The RE Developer shall submit through the EVOSS System the
1771 complete documentary requirements specified in Annex L of this
1772 Circular prior to the expiration of the Pre-Development Stage. The
1773 concerned REMB division shall determine the completeness and
1774 consistency of the submission within three (3) days.
1775
- 1776 3.1.2 If the submission is complete, the concerned REMB division, ITMS
1777 and LS shall conduct the evaluations and upload the evaluation
1778 results through the EVOSS System within seven (7) days.
1779
- 1780 3.1.3 The concerned REMB division shall consolidate the evaluation
1781 results and endorse, through REMB Director, the recommendation
1782 for approval of LS within two (2) days.
1783
- 1784 3.1.4 The Supervising Assistant Secretary and Undersecretary shall act
1785 on the recommendation and endorse the same to the DOE
1786 Secretary for approval within four (4) days.
1787
- 1788 3.1.5 The concerned REMB division, through the EVOSS System, shall
1789 upload the signed letter and COCOC and notify the Hydropower
1790 Developer to pick-up the said documents.
1791
- 1792 3.1.6 Within thirty-one (31) days from receipt of the DOC, the DOE shall
1793 either:
- 1794 3.1.6.1 Issue the COCOC, if the results of the evaluation of the
1795 DOC are satisfactory, which shall likewise be considered
1796 the transition of the RE Contract from Pre-Development
1797 Stage to Development/ Commercial Stage; or
1798
- 1799 3.1.6.2 Issue a written notice to the RE Developer indicating that it
1800 has the remainder of the Pre-Development Stage to correct
1801 any deficiencies and/or satisfy the requirements for
1802 issuance of the COCOC, if the results of the evaluation of
1803 the DOC are unsatisfactory. Said written notice shall be
1804 signed by the REMB Director.
1805
- 1806 3.1.7 The failure of the RE Developer to correct any deficiencies or
1807 otherwise satisfy the requirements for issuance of the COCOC
1808 before the expiration of its Pre-Development Stage shall be a cause
1809 for the termination of its RE Contract.
1810

1811 **Section 4. Conversion to the New RE Contract Template.** Holders of
1812 contracts/agreements prior to the effectivity of this Circular may apply for conversion

1813 to the new RE Contracts templates provided in Annexes A to F hereof, and are subject
1814 to the conditions and procedures hereinbelow provided.

1815 **4.1 Requirements for Conversion to New RE Contract Template.**

1816 Contractors/RE Developers may apply for conversion to the new RE Contract
1817 templates subject to the following conditions:

1818
1819 4.1.1. Contractors/RE Developers must be fully compliant with the
1820 terms of the approved Work Program/Work Plan and the
1821 material terms and conditions of the contract/agreement for
1822 the past six (6) months prior to the date of filing its application
1823 for conversion. For RE Developers with RE Contracts
1824 executed less than six (6) months from date of application for
1825 conversion, the evaluation of their compliance of the
1826 commitments under the approved Work Program and of the
1827 material terms and conditions of the RE Contract shall be the
1828 basis of their performance.

1829 4.1.2. Submission of a letter of application for conversion with the
1830 following documentary requirements:

1831 (a) Work Program covering the first five (5) years of the
1832 remaining term of the old contract/agreement,
1833 reckoned from the date of its execution.

1834 (b) Revised Contract Area following the mapping
1835 requirements provided in Annex J hereof. In the case
1836 of biomass and solar development, the revised
1837 Contract Area is its Production Area only. Any
1838 remaining portion of the original Contract Area shall be
1839 deemed relinquished.

1840 4.1.3 The conversion of RE Contracts awarded under the RE Act but
1841 prior to the effectivity of this Circular shall be limited to those
1842 covering RE projects which are under pre-
1843 commissioning/commercial operation phase.
1844

1845 **4.2 Procedures for Application.** Applications for conversion to the new RE
1846 Contract template shall be processed based on the following procedures:

1847
1848 4.2.1 The RE Developer shall submit through the EVOSS System the
1849 complete documents, and the relevant REMB division shall check
1850 the completeness and consistency of the submission within three
1851 (3) days.

1852 4.2.2 The concerned REMB division and LS shall conduct technical and
1853 legal (if required) evaluation based on performance of the
1854 contractor/RE Developer of its contractual obligations under the old

- 1855 contract/agreement and its application documents within five (5)
1856 days.
- 1857 4.2.3 The REMB shall then endorse the mapping requirements to the
1858 ITMS who shall produce/print the map of the Production Area within
1859 three (3) days.
- 1860 4.2.4 Qualified applications shall be endorsed by the REMB to the
1861 Supervising Assistant Secretary and Undersecretary, which shall
1862 be acted upon within four (4) days.
- 1863 4.2.5 Upon the concurrence of the Assistant and Undersecretary, the
1864 REMB shall notify the RE Developer of such fact and require the
1865 pre-signing of the HSC within two (2) days.
- 1866 4.2.6 Within one (1) day from the RE Contract pre-signing, the REMB
1867 shall endorse the pre-signed RE Contract along with the evaluation
1868 results to the DOE Secretary for approval. The DOE Secretary shall
1869 act on the documents within seven (7) days from receipt thereof.
- 1870 4.2.7 The REMB, through the EVOSS System, shall upload the copy of
1871 the New RE Contract and notify the Hydropower Developer to pick-
1872 up a copy of said document.

1873

1874 **Section 5. Amendment of RE Contracts.**

1875 **5.1 Amendment of RE Contracts.** RE Contracts shall be amended in any of the
1876 following instances:

- 1877 5.1.1 Change to the Contract Area;
1878 5.1.2 Increase or decrease in the installed capacity of the RE project; or
1879 5.1.3 Change of location of project site.

1880

1881 **5.2** No amendment to the RE Contract is required when the RE project transitions
1882 from the Pre-Development to the Development Stage. However, the
1883 relinquishment of a portion of the Contract Area after identifying the Production
1884 Area pursuant to Section 3.2 of this Chapter shall result in the issuance of new
1885 annex to the RE Contract, indicating the revised Contract Area, with
1886 corresponding map and technical description.

1887

1888 **5.3 Requirements for Amendments to the Contract Area.** The RE Developer
1889 shall submit a request in writing addressed to the REMB Director, and shall
1890 comply with the following:

1891 5.3.1 Technical description of proposed amendment to the Contract Area
1892 indicates the technical specifications and other mapping
1893 requirement for the purpose of area verification;

1894

1895 5.3.2 The proposed amendment shall cover an area contiguous to the
1896 existing Contract Area and, upon verification by the ITMS pursuant
1897 to the process in Sections [per RE technology] of this Chapter, is

1898 available and open for RE resource exploration, development
1899 and/or utilization;

1900
1901 5.3.3 The amendment of the Contract Area is justified and reasonable,
1902 which may be proven by: (a) the results of the resource
1903 assessment, duly verified by the concerned REMB unit; (b) proof
1904 that the RE Developer is not in default of its technical and financial
1905 obligations under the RE Contract; and (c) other relevant facts
1906 and/or documents; and

1907
1908 5.3.4 The Work Program with respect to the amended Contract Area is
1909 acceptable.

1910
1911 **5.4 Requirements for Other Amendments.** The RE Developer shall submit a
1912 request in writing addressed to the REMB Director, together with the following:

- 1913
1914 5.4.1 Proof that the amendment is justified and reasonable;
1915 5.4.2 Proof that the RE Developer is not in default of its technical and
1916 financial obligations under the RE Contract; and
1917 5.4.3 Other relevant facts and/or documents.

1918
1919 **5.5** Only a revised COR shall be issued in case of the following changes:

- 1920 5.5.1 Company name of the RE Developer; and/or
1921 5.5.2 Assignment of RE Contract in accordance with the terms thereof,
1922 to an entity that has the legal, technical, and financial qualifications
1923 to undertake the RE project.

1924
1925 The amendments under this Section shall require the surrender of the original
1926 COR prior to evaluation of the request; Provided, that in the case of an
1927 amendment solely for the change of the company name, the request shall be
1928 directly endorsed to the DOE Secretary after legal evaluation.

1929 **5.6 Evaluation of Requests for Amendment of RE Service Contract.** The RE
1930 Developer shall submit through the EVOSS System the complete set of
1931 documentary requirements for the request for amendment of RE Contract,
1932 which shall be processed as follows:

1933 5.6.1 The concerned REMB division shall check the completeness and
1934 consistency of the submission within three (3) days.

1935
1936 5.6.1.1 If the submission is complete, REMB shall upload a copy
1937 of the order of payment to pay for the application and
1938 processing fees. The EVOSS System shall notify the

1939 Hydropower Developer through a system generated email
1940 to pay the fees within five (5) days.

1941
1942 5.6.2 After payment of the processing fee, the concerned REMB Division
1943 shall evaluate the request within five (5) days. In case the
1944 evaluation of the concerned REMB Division shows that: (a) there
1945 are additional costs to be incurred that should warrant another
1946 financial evaluation; (b) there are any legal concerns regarding the
1947 RE Project; and/or (c) there is a need of re-plotting the Contract
1948 Area, REMB, through the EVOSS System, shall endorse the
1949 request to FS, LS and/or ITMS which shall conduct simultaneous
1950 financial and legal evaluations, and/or area verification within five
1951 (5) days.

1952 5.6.3 The concerned REMB Division shall consolidate all the evaluation
1953 results and recommend the same to the REMB Director for further
1954 action and if the RE Developer passes the evaluation, endorse the
1955 Memorandum to the Undersecretary and Approval Letter / Revised
1956 COR through LS within two (2) days.

1957
1958 5.6.4 The Supervising Assistant Secretary and Undersecretary shall act
1959 on the recommendation and endorse the same to the DOE
1960 Secretary for approval within four (4) days.

1961
1962 5.6.5 Requests to change the terms of the RE Contract other than those
1963 in Section 5.1 of this Chapter may be considered by the DOE if the
1964 RE Developer complies with the conditions set forth in Section 5.4
1965 hereof, subject to negotiations between the DOE and the
1966 Hydropower Developer.

1967
1968 **5.8 Revision of the Work Program.** Subject to terms and conditions stipulated in
1969 the RE Contract, the RE Developer may request for revision of its Work
1970 Program with justification on such revision; Provided, that such revision shall
1971 not extend the Pre-Development Stage.

1972
1973 **5.8.1 Evaluation of Requests for Revision of the Work Program.** The
1974 RE Developer shall submit through the EVOSS System the
1975 complete set of documentary requirements for the request for
1976 revision of the Work Program, which shall be processed as follows:

1977
1978 5.8.1.1 The concerned REMB division shall check the
1979 completeness and consistency of the submission within
1980 three (3) days.

1981 5.8.1.2 If the submission is complete, REMB, LS and FS shall
1982 conduct simultaneous technical, legal (if necessary), and

1983 financial (for Pre-Development Stage only) evaluations
1984 within five (5) days.
1985 5.8.1.3 The concerned REMB Division shall consolidate all the
1986 evaluation results and recommend the same to the REMB
1987 Director for further action and if the RE Developer passes
1988 the evaluation, endorse the Memorandum to the
1989 Undersecretary and Approval Letter, through LS, within two
1990 (2) days. REMB, through the REMB Director, shall provide
1991 the Supervising Assistant Secretary with its
1992 recommendation on the request and the complete basis
1993 thereof.
1994 5.8.1.4 The Supervising Assistant Secretary shall act on the
1995 recommendation and endorse the same to the
1996 Undersecretary for approval within two (2) days.
1997 5.8.1.5 The concerned REMB Division, through the EVOSS
1998 System, shall notify the Hydropower Developer of the
1999 approval and upload a copy of the letter approving the
2000 revised work program.
2001 5.8.1.6 The concerned REMB Division shall immediately provide
2002 to the TSMD, ITMS, and DOE-Investment Promotion Office
2003 (IPO) the status of the RE Contract and/or COR for timely
2004 update of database.
2005
2006 5.8.2 The changes to the Work Program necessitated by Force Majeure
2007 that extends the Pre-Development Stage shall be treated as an
2008 amendment of the RE Contract and shall be approved in
2009 accordance with Section 5.

2010
2011 **Section 6. Assignment of RE Contracts.**
2012

2013 6.1 All assignments of RE Contracts shall be subject to prior written approval of the
2014 DOE.
2015
2016 6.2 The RE Developer may assign all of its rights and obligations under the HSC to
2017 its Affiliate or any third party, subject to Section 6.1 hereof, and in accordance
2018 with the following:
2019 6.2.1 The RE Developer shall submit to the DOE copies of the written
2020 document which unequivocally shows the agreement of the parties
2021 thereat to the assignment of the RE Contract;
2022 6.2.2 The RE Developer shall guarantee in writing to the DOE the
2023 performance of the assigned rights and obligations; and

2024 6.2.3 The assignee shall be substituted for the RE Developer in the
2025 performance bond posted in accordance with Section 1 of this
2026 Chapter.

2027

2028 **6.3 Evaluation of Requests for Assignment of RE Contract.** The RE Developer
2029 shall submit through the EVOSS System the complete set of documentary
2030 requirements for the request for assignment of the RE Contract, which shall be
2031 processed as follows:

2032

2033 6.3.1 The concerned REMB Division shall check the completeness and
2034 consistency of the submission within three (3) days.

2035

2036 6.3.2 If the submission is complete, the concerned REMB shall upload a
2037 copy of the order of payment to pay for the application and
2038 processing fees. The EVOSS System shall notify the RE Developer
2039 through a system generated email to pay the fees within five (5)
2040 days.

2041

2042 6.3.3 After payment of the processing fee, REMB, LS and FS shall
2043 conduct simultaneous technical, legal, and financial evaluations
2044 within seven (7) days.

2045

2046 6.3.4 The concerned REMB Division shall consolidate all the evaluation
2047 results and endorse, through REMB Director, the recommendation
2048 for approval of LS within two (2) days.

2049

2050 6.3.5 The Supervising Assistant Secretary and Undersecretary shall act
2051 on the recommendation and endorse the same to the DOE
2052 Secretary for approval within four (4) days.

2053

2054 **Section 7. Change in Control.** Any sale or acquisition of shares or other share capital
2055 that results in a change in control over the RE Developer shall be subject to the prior
2056 written approval of the DOE. Such approval shall be given if the RE Developer remains
2057 legally, technically and financially qualified and capable of discharging the obligations
2058 under the RE Contract. For this purpose, the RE Developer shall submit to the DOE
2059 copies of the instrument of conveyance and other documents showing that the sale or
2060 acquisition will not affect its legal, technical and financial qualification. The procedure
2061 for evaluation approval of the sale or acquisition shall be in accordance with Section
2062 6.3 of this Chapter.

2063 Control is presumed to exist when, as a result of the sale or acquisition, the buyer/s or
2064 transferee/s shall own more than one half (1/2) of the voting power of the Hydropower
2065 Developer.

2066 **Section 8. Abandonment.** The Abandonment and Termination Plan shall be prepared
2067 by the RE Developer and submitted as a requirement for issuance of a COCOC and
2068 approved by the Department of Environment and Natural Resources (DENR) and the
2069 DOE for the decommissioning, abandonment and surface restoration or rehabilitation
2070 of the Contract Area. Such abandonment work plan may be amended, supplemented
2071 or modified by the RE Developer, the DOE, and the DENR from time to time.

2072 **Section 9. Performance Review and Audit**

2073 9.1 The DOE shall conduct regular performance review of the RE Developers and
2074 recommend appropriate actions therefor.

2075

2076 9.2 The DOE shall have the right to inspect the RE Developers books and accounts
2077 directly relating to the RE Contract for any calendar or fiscal year sixty (60)
2078 months following the end of each calendar or fiscal year. Any such audit shall
2079 be completed within one (1) year from its commencement. Any exceptions must
2080 be made to the RE Developer in writing within ninety (90) days following the
2081 completion of such audit. If the DOE fails to give such written exception within
2082 such time, then the RE Developer's books of accounts and statements for such
2083 calendar or fiscal year shall be established as correct and final for all purpose.

2084

2085 9.3 The DOE, upon at least fifteen (15) days advance written notice to the RE
2086 Developer, is entitled to access, during reasonable hours without affecting RE
2087 operations, all books of accounts and records and may inspect such sites and
2088 facilities as necessary.

2089

2090 9.4 If the DOE notifies the RE Developer of an exception to the RE Developer's
2091 books of accounts within the period specified in Section 9.2 of this Chapter, the
2092 RE Developer shall within ninety (90) days from receipt of written exception
2093 from the DOE, question its validity, otherwise, the same shall become final and
2094 binding on the RE Developer. If the DOE and the RE Developer are not able to
2095 agree on the exceptions or adjustments after ninety (90) days from the date of
2096 receipt of the RE Developer's response to the DOE's exception report, they
2097 shall resolve the dispute in accordance with the RE Contract.

2098

2099 **Section 10. Suspension of Obligations under the RE Service/Operating Contract.**

2100 In case the default of the RE Developer is attributable to Force Majeure, the obligation
2101 of the RE Developer may be suspended for a period of six (6) months or until the Force
2102 Majeure event ceases to exist, whichever comes earlier, subject to the following
2103 conditions:

2104 10.1 The RE Developer shall file a notice of Force Majeure to the concerned REMB
2105 Division within fifteen (15) days from its existence along with proof that:

2106 10.1.1 The Force Majeure exists;

2107

2108 10.1.2 The event/s occurred independent of the will of the RE Developer;
2109
2110 10.1.3 The event/s rendered it impossible for the RE Developer to fulfill
2111 its obligations in a normal manner;
2112
2113 10.1.4 The RE Developer is free of participation in, or aggravation of, the
2114 injury to the DOE.
2115

2116 10.2 After due validation which shall be made within twenty (20) days from receipt of
2117 such notice, the REMB Director shall issue an approval of suspension of
2118 contractual obligation/s affected by Force Majeure; Provided, that if the
2119 suspension of the obligations will extend the Pre-Development Stage, the
2120 REMB Director shall endorse the approval to the DOE Secretary.
2121

2122 10.3 Within ten (10) days from receipt of the notice of approval, the concerned REMB
2123 Division shall submit a new Work Program to be acted upon by the Supervising
2124 Assistant Secretary and thereafter endorsed to the Undersecretary for
2125 approval.
2126

2127 10.4 The RE Developer shall continue to post the performance bond, if necessary,
2128 observe administrative requirements and comply with reportorial obligations on
2129 its work commitments not affected by Force Majeure.
2130

2131 10.5 Once the Force Majeure has ceased, the RE Developer shall notify the REMB
2132 within five (5) days from cessation together with the revised Work Program
2133 covering the remaining contract term.
2134

2135 10.6 Any failure or delay on the part of the RE Developer or the DOE in the
2136 performance of its obligations or duties under the HSC shall be excused to the
2137 extent attributable to Force Majeure.
2138

2139 10.7 If the RE operations are curtailed or prevented by such causes, then the time
2140 for enjoying the rights and carrying out the obligations thereby affected, and all
2141 rights and obligations hereunder shall be extended for a period equal to the
2142 period of delay, curtailment or prevention; Provided, however, that the
2143 suspension of obligation shall in no way extend the term of the contract;
2144 Provided, further, that if operations are delayed, curtailed or prevented by Force
2145 Majeure for a continuous period of six (6) months, the RE Developer may, at its
2146 option (a) terminate the HSC, or (b) request for the suspension of the RE
2147 Contract in accordance with Section 11 of this Chapter, subject to confirmation
2148 of the DOE.
2149

2150 10.8 The party whose ability to perform its obligations under the RE Contract is so
2151 affected shall notify the other party thereof in writing stating the cause and such
2152 affected party shall do all reasonably within its power to remove such cause.
2153

2154 **Section 11. Suspension of the RE Service/Operating Contract.** In case the RE
2155 operations are delayed, curtailed or prevented by Force Majeure for a continuous
2156 period of six (6) months, the efficacy of the RE Contract may be suspended for a
2157 maximum period of three (3) years or until the Force Majeure event ceases to exist,
2158 whichever comes earlier. The period of such suspension shall not be counted against
2159 the constitutional term limits.

2160 The RE Developer and the DOE shall comply with the following conditions:

2161 11.1 Upon strict compliance with the conditions under Section 10 of this Chapter, the
2162 RE Developer may file a request for suspension of the RE Contract with REMB
2163 within fifteen (15) days following the last day of the said six (6)-month period.
2164

2165 11.2 The concerned REMB Division shall endorse the request to the REMB. For a
2166 period of ninety (90) days from receipt of endorsement, REMB shall exert best
2167 efforts to enable the Hydropower Developer to resume hydropower operations.
2168

2169 11.3 If, despite such efforts, the Force Majeure persists and the RE operations
2170 cannot resume, the DOE shall approve the request for suspension of the RE
2171 Contract. Notice of suspension shall be given to the RE Developer within fifteen
2172 (15) days following the last day of the ninety (90)-day period.
2173

2174 11.4 Within ten (10) days from receipt of notice of suspension, the RE Developer
2175 shall submit a sworn undertaking to notify the DOE and submit proof that the
2176 Force Majeure has ceased. Failure to give notice within ten (10) days from
2177 cessation shall be deemed a relinquishment of the RE Contract.
2178

2179 11.5 If the RE Developer intends to resume operations, it shall submit to REMB a
2180 request to resume RE operations together with the notice abovementioned.
2181

2182 11.6 After due evaluation and if warranted, the concerned REMB Division shall
2183 endorse the approval of the request to the REMB Director, who may endorse
2184 the same to the DOE Secretary for approval.
2185

2186 11.7 The RE Developer may only avail of the above suspension of the RE Contract
2187 once during its term.
2188

2189 **Section 12. Power to Compel or Conduct Operations.** The DOE shall have the
2190 power to compel the RE Developer to perform RE operations when the following
2191 conditions exist:

- 2192 a. The RE Developer fails, refuses or neglects to perform the RE
2193 operations without any justifiable cause; and
- 2194 b. Such failure, refusal or neglect:
- 2195 i. Results in or contributes to a shortage in the supply of electricity,
2196 based on the report of the EPIMB; and
- 2197 ii. Poses an imminent threat to the country's national security and/or
2198 economy, as determined by the DOE Secretary and as
2199 recommended by the concerned government agencies.

2200 If the RE Developer does not comply with the DOE's directive within three (3) calendar
2201 days from receipt, such noncompliance shall be deemed sufficient authority for the
2202 DOE to conduct RE operations directly or through another government entity;
2203 Provided, that the DOE's authority herein set forth shall only subsist for such period
2204 as may be needed to avert or arrest the threat, or upon the RE Developer's resumption
2205 of RE operations, whichever comes earlier.

2206 **Section 13. Termination of RE Contracts.** The DOE shall have the power to
2207 terminate RE Contracts, after due notice to the RE Developer.

2208 **13.1 Evaluation Process for RE Contract Termination.** The concerned REMB
2209 Division shall recommend the termination of the RE Contract within the
2210 following timelines:

2211

2212 13.1.1 Five (5) days from the lapse of the Pre-Development Stage of the
2213 RE Contract where the RE Developer failed to submit its DOC;

2214

2215 13.1.2 Three (3) days from the voluntary relinquishment of the RE
2216 Developer of the RE Contract;

2217

2218 13.1.3 Prior to the pre-construction phase of the RE Contract, upon the
2219 discovery that the RE Developer failed to maintain the required
2220 performance bond;

2221

2222 13.1.4 During the Development Stage, upon the DOE's finding that the
2223 conditions set forth in Section 12 (a) and (b) of this Chapter exist;
2224 or

2225

2226 13.1.5 At any stage of the RE Contract, upon findings of any of the
2227 grounds for RE Contract termination as stipulated therein.

2228

2229 The failure of the DOE to adhere to the periods provided above shall not be
2230 construed as a waiver of its power to evaluate and recommend the
2231 termination of RE Contracts at a later time.

2232

2233 13.2With respect to Sections 13.1.1, 13.1.4 and 13.1.5 of this Chapter, the
2234 concerned REMB Division shall prepare a letter, signed by the REMB Director,
2235 requiring the RE Developer to explain in writing why its RE Contract should not
2236 be terminated. The RE Developer shall be given a non-extendible period of
2237 thirty (30)–days to submit its explanation, which shall be accompanied by
2238 supporting documents.

2239
2240 13.3No later than twenty (20) days from its receipt of the RE Developer’s written
2241 explanation, the concerned REMB Division shall submit its findings and
2242 recommendation to the REMB Director.

2243
2244 13.4Within three (3) days from receipt of the findings and/or recommendation, the
2245 REMB Director shall act upon the same and recommend a course of action to
2246 the DOE Secretary, through its Supervising Assistant Secretary and
2247 Undersecretary.

2248
2249 13.5In case the DOE Secretary approves the REMB Director’s recommendation,
2250 the RE Developer shall be notified in writing of the termination of its RE
2251 Contract. The concerned REMB Division shall inform the TSMD, ITMS, and IPO
2252 of such fact.

2253
2254 13.6Subject to the conditions under this Section, areas covered by terminated RE
2255 Contracts shall be declared by the DOE open for development, specifying the
2256 mode of awarding of the RE Contract, which, if the area is determined as within
2257 a PDA, RE Contract Applications shall be through OCSP, respectively, as
2258 provided herein. Otherwise, the area shall be available to all interested parties
2259 for RE resource development under Direct Application, and only on a first- come
2260 first-served basis.

2261
2262 **Section 14. Request for Reconsideration.** An RE Developer whose RE Contract
2263 was terminated may request for the reconsideration of the same. The request shall be
2264 made in writing, addressed to the REMB Director, and filed within ten (10) days from
2265 the RE Developer’s receipt of the notice of termination. The REMB Director shall
2266 evaluate the merits of the request for reconsideration and endorse such
2267 recommendations to the DOE Secretary, through the REMB Supervising Assistant
2268 Secretary and Undersecretary.

2269 **14.1 Procedures for Processing of Request for Reconsideration.** Request for
2270 reconsideration shall be processed based on the following procedures:

2271 14.1.1 The RE Developer shall submit through the EVOSS System the
2272 complete documents, and the concerned REMB Division shall
2273 check the completeness and consistency of the submission within
2274 three (3) days.

- 2275 14.1.2 The REMB, LS, FS, ITMS shall conduct simultaneous technical,
2276 legal, financial evaluations and area verification within ten (10)
2277 days.
- 2278 14.1.3 The concerned REMB Division shall consolidate all the evaluation
2279 results and endorse, through the REMB Director, the
2280 recommendation for approval of LS within three (3) days.
- 2281 14.1.4 Qualified applications shall be endorsed by the REMB to the
2282 Supervising Assistant Secretary and Undersecretary, which shall
2283 be acted upon within six (6) days.
- 2284 14.1.5 Upon the concurrence of the Assistant and Undersecretary,
2285 REMB shall endorse the recommendation to the DOE Secretary.
2286 The DOE Secretary shall act on the documents within five (5) days
2287 from receipt thereof.
- 2288 14.1.6 The concerned REMB Division, through the EVOSS System,
2289 shall upload a copy of the letter approving or denying the request
2290 for reconsideration and notify the RE Developer to pick-up a copy
2291 of said document.

2292
2293 **Section 15. Registration of RE Projects for Own-use and/or Non- commercial**
2294 **Operations**

2295
2296
2297 **CHAPTER VIII – WIND ENERGY RESOURCE**

2298
2299 **CHAPTER IX – INCENTIVES**

2300
2301 **Section 1. Fiscal Incentives for Renewable Energy Projects and Activities.**

2302 DOE-certified existing and new RE Developers of RE facilities, including Hybrid
2303 Systems, in proportion to and to the extent of the RE component, for both Power and
2304 Non-Power Applications, shall be entitled to the following incentives under the RE Act:

2305
2306 **A. Income Tax Holiday (ITH)**

2307
2308 (1) **Period of Availment.** The duly registered RE Developer shall be fully
2309 exempt from income taxes levied by the Government for the period as
2310 follows:

- 2311 (a) Existing RE Projects — seven (7) years from the start of
2312 Commercial Operations; All RE Developers that acquire, operate
2313 and/or administer existing RE facilities that were or have been in
2314 Commercial Operation for more than seven (7) years, upon the
2315 effectivity of the RE Act, shall not be entitled to ITH, except for
2316 any additional investment.

2317 (b) New investment in RE Resources — seven (7) years from the
2318 start of Commercial Operations resulting from new investments;
2319 and

2320 (c) Additional investment in the RE Project — not more than three

2321

2322 (3) times the period of the initial availment by the existing or new RE
2323 project or covering new or additional investments.

2324

2325 The maximum period within which an RE Developer may be entitled to
2326 an ITH shall be twenty-one (21) years, inclusive of the initial seven (7)-
2327 year ITH for its new and additional investments in a specific RE facility.

2328

2329 **(2) Entitlement for New and Additional Investments subject to prior**
2330 **approval by the DOE**

2331

2332 (d) New Investment. A fresh package of ITH from the start of
2333 commercial operations shall apply.

2334 (e) Additional Investment. The ITH for additional investments in an
2335 existing RE project shall be applied only to the income
2336 attributable to the additional investment.

2337

2338 **B. Exemption from Duties on RE Machinery, Equipment, and** 2339 **Materials**

2340

2341 Within the first ten (10) years from the issuance of a COR to an RE
2342 Developer, the importation of machinery and equipment, and materials
2343 and parts thereof, including control and communication equipment, shall
2344 be exempt from tariff duties.

2345

2346 (1) Conditions for Duty-Free Importation. An RE Developer may import
2347 machinery and equipment, materials and parts thereof exempt from the
2348 payment of any and all tariff duties due thereon subject to the following
2349 conditions:

2350 (f) The machinery and equipment are directly and actually needed
2351 and will be used exclusively in the RE facilities for the
2352 transformation of and delivery of energy to the point of use;

2353 (g) The importation of materials and spare parts shall be restricted
2354 only to component materials and parts for the specific machinery
2355 and/or equipment authorized to be imported;

2356 (h) The kind of capital machinery and equipment to be imported
2357 must be in accordance with the approved work and financial
2358 program of the RE facilities; and

2359 (i) Such importation shall be covered by shipping documents in the
2360 name of the duly registered RE Developer/operator to whom the
2361 shipment will be directly delivered by customs authorities.

2362
2363 (2) **Sale or Disposition of Capital Equipment.** Any sale, transfer,
2364 assignment, donation, or other modes of disposition of originally
2365 imported capital equipment/machinery including materials and spare
2366 parts, brought into the RE facilities of the RE Developer which availed of
2367 duty-free importation within ten (10) years from date of importation shall
2368 require prior endorsement of the DOE. Such endorsement shall be
2369 granted only if any of the following conditions is present:

- 2370
- 2371 (j) If made to another RE Developer enjoying tax and duty
2372 exemption on imported capital equipment;
 - 2373 (k) If made to a non-RE Developer, upon payment of any taxes and
2374 duties due on the net book value of the capital equipment to be
2375 sold;
 - 2376 (l) Exportation of the used capital equipment, machinery, spare
2377 parts, or source documents or those required for RE
2378 development; and
 - 2379 (m) For reasons of proven technical obsolescence as may be
2380 determined by the DOE.

2381
2382 When the aforementioned sale, transfer, or disposition is made under
2383 any of the conditions provided for in the foregoing paragraphs after ten
2384 (10) years from the date of importation, the sale, transfer, or disposition
2385 shall require prior endorsement by the DOE and shall no longer be
2386 subject to the payment of taxes and duties.

2387
2388 **C. Special Realty Tax Rates on Equipment and Machinery**

2389
2390 Realty and other taxes on civil works, equipment, machinery, and other
2391 improvements by a registered RE Developer actually and exclusively
2392 used for RE facilities shall not exceed one and a half percent (1.5%) of
2393 their original cost less accumulated normal depreciation or net book
2394 value; Provided, that in the case of an integrated RE resource
2395 development and Generation Facility as provided under the RE Act, the
2396 real property tax shall be imposed only on the power plant.

2397
2398 "Original Cost" shall refer to (1) the tangible cost of construction of the
2399 power plant component, or of any improvement thereon, regardless of
2400 any subsequent transfer of ownership of such power plant; or (2) the
2401 assessed value prevailing at the time the RE Act took into effect or at the
2402 time of the completion of the power plant project after the effectivity of

2403 the RE Act, as the case may be, and in any case assessed at a maximum
2404 level of eighty percent (80%), whichever is lower.

2405
2406 "Net Book Value" shall refer to the amount determined by applying
2407 normal depreciation on the original cost based on the estimated useful
2408 life.

2409
2410 **D. Net Operating Loss Carry-Over (NOLCO)**

2411
2412 The NOLCO of the RE Developer during the first three (3) years from the
2413 start of commercial operation shall be carried over as a deduction from
2414 gross income for the next seven (7) consecutive taxable years
2415 immediately following the year of such loss, subject to the following
2416 conditions:

- 2417 (n) The NOLCO had not been previously offset as a deduction from
2418 gross income; and
2419 (o) The loss should be a result of the operation and not from the
2420 availment of incentives provided for in the RE Act.

2421
2422 **E. Corporate Tax Rate**

2423
2424 After availment of the ITH, all Registered RE Developers shall pay a
2425 corporate tax of ten percent (10%) on their net taxable income as defined
2426 in the National Internal Revenue Code (NIRC) of 1997, as amended;
2427 Provided, that the RE Developers shall pass on the savings to the end-
2428 users in the form of lower power rates.

2429
2430 All RE Developers that acquire, operate, and/or administer existing RE
2431 facilities that were or have been in commercial operation for more than
2432 seven (7) years, upon the effectivity of the RE Act, shall pay a corporate
2433 tax rate of ten percent (10%) on their net taxable income, upon
2434 registration with the DOE.

2435
2436 **F. Accelerated Depreciation**

2437
2438 If an RE project fails to receive an ITH before full operation, the RE
2439 Developer may apply for accelerated depreciation in its tax books and
2440 be taxed on the basis of the same.

2441
2442 If an RE Developer applies for accelerated depreciation, the project or
2443 its expansions shall no longer be eligible to avail of the ITH. Plant,
2444 machinery and equipment that are reasonably needed and actually used
2445 for the exploration, development and utilization of RE Resources may be
2446 depreciated using a rate not exceeding twice the rate which would have
2447 been used had the annual allowance been computed in accordance with
2448 the rules and regulations prescribed by the Department of Finance

2449 (DOF) and the provisions of the NIRC of 1997, as amended. Any of the
2450 following methods of accelerated depreciation may be adopted:

- 2451
2452 (a)Declining balance method; and
2453 (b)Sum-of-the years digit method.

2454

2455 **G. Zero Percent Value-Added Tax Rate**

2456

2457 The following transactions/activities shall be subject to zero percent (0%)
2458 value-added tax (VAT), pursuant to the NIRC of 1997, as amended: to
2459 the NIRC of 1997, as amended:

2460

- 2461 (p) Sale of fuel from RE sources or power generated from renewable
2462 sources of energy such as, but not limited to, biomass, solar, wind,
2463 hydropower, geothermal, ocean energy, and other emerging energy
2464 sources using technologies such as fuel cells and hydrogen fuels;
2465 (q) Purchase of local goods, properties and services needed for the
2466 development, construction, and installation of the plant facilities of RE
2467 Developers; and
2468 (r) Whole process of exploration and development of RE sources up to its
2469 conversion into power, including, but not limited to, the services
2470 performed by subcontractors and/or contractors.

2471

2472 **H. Tax Exemption of Carbon Credits**

2473

2474 All proceeds from the sale of carbon emission credits shall be exempt
2475 from any and all taxes.

2476

2477 **I. Tax Credit on Domestic Capital Equipment and Services Related**
2478 **to the Installation of Equipment and Machines.**

2479

2480 A tax credit equivalent to one hundred percent (100%) of the value of the
2481 VAT and customs duties that would have been paid on the RE
2482 machinery, equipment, materials, and parts had these items been
2483 imported shall be given to a registered RE Developer who purchases
2484 machinery, equipment, materials, and parts from a domestic
2485 manufacturer, fabricator or supplier subject to the following conditions:

2486

- 2487 (s) The said equipment, machinery, and spare parts are reasonably
2488 needed and shall be used exclusively by the Registered RE Developer
2489 in its registered activity;
2490 (t) That the purchase of such equipment, machinery, and spare parts is
2491 made from an accredited or recognized domestic source, in which case,

2492 prior approval by the DOE should be obtained by the local
2493 manufacturer, fabricator, or supplier; and

2494 (u) That the acquisition of such machinery, equipment, materials, and parts
2495 shall be made within the validity of the RE Service/Operating Contract.

2496
2497 Any sale, transfer, assignment, donation, or other mode of disposition
2498 of machinery, equipment, materials, and parts purchased from
2499 domestic source, if made within ten (10) years from the date of
2500 acquisition, shall require prior DOE approval.

2501
2502 **Section 2. Hybrid and Co-generation Systems.** The tax exemptions and/or
2503 incentives provided for in Section 13 and item D, Section 17 of the IRR of the RE Act
2504 shall be availed of by a registered RE Developer of hybrid and cogeneration systems
2505 utilizing both RE sources and conventional energy. However, the tax exemptions and
2506 incentives for hybrid and cogeneration systems shall apply only to the equipment,
2507 machinery, and/or devices utilizing RE Resources.

2508
2509 **Section 3. Incentives for RE Commercialization.** All manufacturers, fabricators, and
2510 suppliers of locally produced RE equipment and components shall be entitled to the
2511 privileges set forth below pursuant to the RE Act:

2512
2513 **A. Tax and Duty-free Importation of Components, Parts, and**
2514 **Materials**

2515
2516 All shipments necessary for the manufacture and/or fabrication of RE
2517 equipment and components shall be exempted from importation tariff
2518 and duties and value-added tax (VAT); Provided, that the said
2519 components, parts, and materials are:

- 2520
2521 1) Not manufactured domestically in reasonable quantity and quality
2522 at competitive prices;
2523 2) Directly and actually needed and shall be used exclusively in the
2524 manufacture/fabrication of RE equipment; and
2525 3) Covered by shipping documents in the name of the duly registered
2526 manufacturer/fabricator to whom the shipment will be directly
2527 delivered by customs authorities. Prior approval of the DOE shall
2528 be required before the importation of such components, parts, and
2529 materials.

2530
2531 **B. Tax Credit on Domestic Capital Components, Parts, and**
2532 **Materials**

2533
2534 A tax credit equivalent to one hundred percent (100%) of the amount of
2535 the value-added tax (VAT) and customs duties that would have been paid
2536 on the components, parts, and materials had these items been imported

2537 shall be given to an RE equipment manufacturer, fabricator, and supplier
2538 who purchases RE components, parts, and materials from a domestic
2539 manufacturer; Provided, that such components and parts are directly
2540 needed and shall be used exclusively by the RE manufacturer, fabricator,
2541 and supplier for the manufacture, fabrication and sale of the RE
2542 equipment; Provided, further, That prior approval by the DOE was
2543 obtained by the local manufacturer.

2544

2545 **C. Income Tax Holiday and Exemption**

2546

2547 For seven (7) years starting from the date of recognition/accreditation
2548 provided under Section 18 of the IRR of the RE Act, an RE manufacturer,
2549 fabricator, and supplier of RE equipment shall be fully exempt from
2550 income taxes levied by the National Government on net income derived
2551 only from the sale of RE equipment, machinery, parts, and services.

2552

2553 **D. Zero-Rated Value-Added Tax Transaction**

2554

2555 All manufacturers, fabricators, and suppliers of locally produced RE
2556 equipment shall be subject to zero-rated value-added tax on their
2557 transactions with local suppliers of goods, properties, and services.

2558

2559 **Section 4. Incentives for Farmers Engaged in the Plantation of Biomass**
2560 **Resources.** All individuals and entities engaged in the plantation of crops and trees
2561 used as biomass resources shall be entitled to duty-free importation and exemption
2562 from payment of VAT on all types of agricultural inputs, equipment, and machinery
2563 within ten (10) years from the effectivity of the RE Act, subject to the certification by
2564 the DOE and the following conditions:

2565

2566 (a) That the crops and trees such as, but not limited to, jatropha, coconut,
2567 and sugarcane shall be actually utilized for the production of biomass
2568 resources; and

2569

2570 (b) That the agricultural inputs, equipment and machinery such as, but
2571 not limited to, fertilizers, insecticides, pesticides, tractors, trailers,
2572 trucks, farm implements and machinery, harvesters, threshers, hybrid
2573 seeds, genetic materials, sprayers, packaging machinery and
2574 materials, bulk handling facilities, such as conveyors and mini-
2575 loaders, weighing scales, harvesting equipment, and spare parts of all
2576 agricultural equipment shall be used actually and primarily for the
2577 production of said biomass resources.

2578

2579 **Section 5. Other Incentives and Privileges.**

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A. Tax Rebate for Purchase of RE Component

To encourage the adoption of RE technologies, the DOF shall, in consultation with the Department of Science and Technology (DOST), DOE, and Department of Trade and Industry (DTI), provide rebates for all or part of the tax paid for the purchase of RE equipment for residential, industrial, or community use.

B. Financial Assistance Program

Government financial institutions (GFIs) such as the Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), Philippine Exim Bank and others shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, provide preferential financial packages for the development, utilization, and commercialization of RE projects that are duly recommended and endorsed by the DOE.

C. Exemption from the Universal Charge

"Universal Charge" refers to the charge, if any, imposed for the recovery of the stranded cost and other purposes pursuant to Section 34 of the EPIRA.

All consumers shall be exempted from paying the Universal Charge under the following circumstances:

- (1) If the power or electricity generated through the RE System is consumed by the generators themselves; and/or
- (2) If the power or electricity through the RE System is distributed free of charge in the off-grid areas.

D. Cash Incentive of Renewable Energy Developers for Missionary Electrification

An RE Developer registered pursuant to Section 15 of the RE Act and Section 18 of the IRR of the RE Act, shall be entitled to a cash generation-based incentive per kilowatt-hour rate generated, equivalent to fifty percent (50%) of the universal charge for the power needed to service missionary areas where it operates the same, to be chargeable against the universal charge for Missionary Electrification. This provision shall apply to RE capacities for Missionary Electrification undertaken upon effectivity of the Act.

E. Payment of Transmission Charge

2627 A registered RE Developer producing power and electricity from an
2628 intermittent RE Resource may opt to pay the transmission and wheeling
2629 charges of National Transmission Corporation (TRANSCO), its
2630 concessionaire or its successor-in-interests on a per kilowatt-hour basis
2631 at a cost equivalent to the average per kilowatt-hour rate of all other
2632 electricity transmitted through the Grid.

2633
2634 **F. Priority and Must Dispatch for Intermittent RE Resource**

2635
2636 Qualified and registered RE generating units with intermittent RE
2637 Resources shall be considered "must dispatch" based on available
2638 energy and shall enjoy the benefit of priority dispatch.

2639
2640 TRANSCO or its successor-in-interest shall, in consultation with
2641 stakeholders, determine, through technical and economic analysis, the
2642 maximum penetration limit of the intermittent RE-based power plants to
2643 the Grid.

2644
2645 The Philippine Electricity Market Corporation (PEMC) and TRANSCO or
2646 its successor-in-interest shall implement technical mitigation and
2647 improvements in the system in order to ensure safety and reliability of
2648 electricity transmission.

2649
2650 "RE generating units with intermittent RE Resources" refers to an RE
2651 generating unit or group of units connected to a common connection
2652 point whose RE Resource is location-specific, naturally difficult to
2653 precisely predict the availability of the RE Resource thereby making the
2654 energy generated variable, unpredictable and irregular, and the
2655 availability of the resource inherently uncontrollable, which include
2656 plants utilizing wind, solar, run-of-river hydropower, or ocean energy.

2657
2658 **Section 6. Incentive Regime.** In lieu of the incentives allowed under the RE Act, as
2659 enumerated in the preceding Sections of this Chapter, an RE Developer may elect to
2660 avail itself of the incentives under the NIRC of 1997, as amended by RA No. 11534,
2661 otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act"
2662 or "CREATE". Unless the RE Developer signifies its intention to avail itself of the
2663 incentives under CREATE at the time of issuance of COR, it shall be considered as
2664 having availed itself of the incentives under the RE Act. Once the RE Developer elects
2665 to avail itself of the incentives under CREATE, such election shall be considered
2666 irrevocable and no incentives under the RE Act shall be allowed thereafter.

2667

2668 **CHAPTER X – TRANSITORY PROVISIONS**

2669

2670 **Section 1. Evaluation of Pending Applications.** RE Applications filed prior to the
2671 effectivity of this Circular shall be governed by the existing guidelines at the time of the
2672 filing of the applications. The ITMS shall report to the REMB all areas covered by

2673 pending RE Applications and RE Contracts within fifteen (15) days from the date of
2674 this Circular. REMB shall use this information to commence the process of identifying
2675 PDAs for preparation of the OCSP. RE Applicants that have passed the legal,
2676 technical and financial requirements under the existing guidelines prior to the
2677 effectivity of this Circular shall be given an option to choose which RE Contract
2678 template to adopt: *Provided, however*, that should there be any new application
2679 requirements for RE Contract covering development of a particular type of RE
2680 resource, the applicant must satisfy first such requirement/s.
2681

2682 **Section 2. Re-filing of the Application for RE Contract and Certificate of**
2683 **Registration.** Pending applications for RE Contract or issuance of CORs may be re-
2684 applied, at the option of the RE Applicant, within (30) days from effectivity of this
2685 Circular without need of new or re-payment of the application fees. Failure of the
2686 applicants to re-file its application within the said period shall be construed as its
2687 decision to: (a) submit to the ongoing evaluation of its RE Application under the prior
2688 rules or guidelines, and (b) comply with the results of such evaluation of its pending
2689 RE Application.
2690

2691 **CHAPTER XI – FINAL PROVISIONS**

2692 **Section 1. Extension of Timelines.** Subject to the provisions of RA No. 11032, the
2693 respective timelines provided under this Circular may be extended for the same period
2694 prior to the lapse of the subject period, *Provided*, That the DOE shall notify the affected
2695 party in writing of the reason for the extension and shall provide the final date of
2696 release of the matter requested.
2697

2698 Only one extension is allowed and shall, in no case, exceed sixty (60) days. For this
2699 purpose, the Citizen’s Charter of the REMB shall be amended to reflect the timelines
2700 herein provided.

2701 **Section 2. Information, Education and Communication Activities.** Pursuant to
2702 Section 31, Rule 10 of the IRR of the RE Act, the DOE, together with National
2703 Renewable Energy Board, shall develop and implement a comprehensive information,
2704 education and communication activities that are designed to increase the public
2705 awareness and appreciation of this Circular and the RE industry in general.
2706

2707 **Section 3. Separability Clause.** If for any reason, any provision of this Circular is
2708 declared unconstitutional or invalid by a court of competent jurisdiction, the other parts
2709 or provisions not affected thereby shall remain in full force and effect.
2710

2711 **Section 4. Repealing Clause.** The provisions of other circulars, orders, issuances,
2712 rules and regulations, which are inconsistent with the provisions of this Circular are
2713 hereby repealed, amended, superseded or modified accordingly.
2714

2715 **Section 5. Effectivity.** This Circular shall take into effect fifteen (15) days following its
2716 publication in at least two (2) newspapers of general circulation. Copies of this Circular
2717 shall be filed with the University of the Philippines Law Center – Office of the National
2718 Administrative Register.