

DEPARTMENT CIRCULAR DC NO. _____

**GUIDELINES ON THE AWARDING OF PETROLEUM SERVICE CONTRACTS
FOR DEVELOPMENT AND PRODUCTION**

WHEREAS, Section 2, Article XII of the 1987 Constitution provides that *“xxx The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. xxx”*;

WHEREAS, under Sections 4 and 5 of Presidential Decree No. (PD) 87, as amended, otherwise known as the *“Oil Exploration and Development Act of 1972”*, the Government may directly explore for and produce indigenous petroleum or indirectly undertake the same under service contracts, which, subject to the approval of the President, may be executed after due public notice pre-qualification and public bidding or concluded through negotiations;

WHEREAS, under Sections 5 (b) and (c) of Republic Act No. 7638, as amended, otherwise known as *“The Department of Energy (DOE) Act of 1992”*, the DOE is mandated to *“develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy”* and to *“establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling and storage of energy resources of all forms, whether conventional or non-conventional”*;

WHEREAS, Section 5 (f) of RA 7638, as amended, further mandates the DOE to *“assess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies”*;

WHEREAS, to implement its mandate under PD 87 and in order to attract private entities which have the capital, the technology and the experience into exploring and developing the country's oil resources, the Government, through the DOE, has adopted various modes of awarding PSCs – from direct negotiation to public contracting rounds;

WHEREAS, on 27 December 2017, the DOE promulgated DOE Department Circular No. DC2017-12-0017, entitled *“Adopting the Philippine Conventional Energy Contracting Program (PCECP) of Awarding Petroleum Service Contracts (PSCs) and Creating the Review and Evaluation Committee (REC)”*;

WHEREAS, under the PCECP, PSCs may be awarded through (1) nomination and publication of area/s of interest and (2) offering of pre-determined areas;

WHEREAS, as a result of the government's efforts in attracting local and foreign investments for oil exploration, there has been a significant increase in explored areas in the country, but due to legal (contractual), technical and financial constraints, confirmed petroleum reserves in some explored areas are not fully developed and produced;

WHEREAS, there is a need to adopt a new strategy of awarding PSCs that will allow for the development and production of confirmed petroleum reserves in consideration of the intensive capital requirements and the needed technical expertise to carry out the necessary work program to fully exhaust petroleum reserves;

WHEREAS, there is a need to implement a judicious and cost-effective way to optimize the development and utilization of confirmed petroleum resources to avoid stranded petroleum reserves which will result in substantial losses to the Philippine Government;

WHEREAS, in consonance with the Philippine Development Plan, the country needs to accelerate exploration, development and utilization of indigenous petroleum resources to contribute to the country's energy security, create jobs, and generate wealth;

NOW, THEREFORE, in consideration of the aforementioned premises, the following policies and guidelines are hereby adopted and promulgated.

Section 1. Scope. This Circular shall govern the awarding of PSCs for development and production to accelerate the development and utilization of areas with confirmed petroleum reserve validated by the DOE.

Section 2. Area Coverage. The proposed contract area must include the area with DOE-validated producible petroleum reserves and shall cover no less than 6,250 nor more than 93,750 hectares for onshore areas or less than 10,000 nor more than 187,500 hectares for offshore areas representing the allowable range of retention areas for production contracts as provided for in Sections 9 (e) and 18 (b) of PD 87.

Section 3. Contract Term. The PSC shall have an initial term corresponding to the period necessary for the full exhaustion of the producible reserves based on the Plan of Development (POD) approved by the DOE in the contract area, and, subject to Constitutional limitations, may be renewed for an additional period under such terms and conditions agreed upon by the parties at the time of renewal.

Section 4. Modes of Award of a Development and Production PSC.

4.1. Nomination and Publication of Area/s of Interest – Interested applicant/s for a Development and Production PSC shall formally nominate the area/s of their interest which must comply with Section 2 hereof, in accordance with the procedures in Item I of Annex A of DOE Department Circular No. DC2017-12-0017.

4.2 Direct Negotiation – Operators of PSCs with producible petroleum reserves beyond its remaining production term, as validated by the DOE, shall have the option to apply for a new PSC through direct negotiation under this Circular, Provided, that the application be made prior to the expiration of the remaining production term.

4.3 Offering of Pre-Determined Areas (PDA) – The DOE, thru the Review and Evaluation Committee (REC), may publish identified petroleum area/s with remaining producible reserves inviting interested applicants to file application in accordance with Item II of Annex A of DC2017-12-0017.

The REC shall negotiate the terms and conditions of the PSC which shall not be less the minimum terms required under PD 87 and other applicable laws.

Section 5. Criteria for Evaluating Applicant/s for PSCs for Development and Production. Applicants shall be evaluated on the following selection criteria, to wit:

- i. Legal qualification
- ii. Technical qualification
- iii. Financial qualification
- iv. Work Program

Section 6. The Review and Evaluation Committee (REC), REC Technical Working Group (TWG) and Secretariat. The REC, its TWG and Secretariat, created pursuant to DC2017-12-0017, are hereby directed to perform the functions and responsibilities provided under this Circular.

Section 7. Procedures of Awarding PSCs through Direct Negotiation. The REC shall, upon the effectivity of this Circular, issue supplemental rules and procedures to govern the application process under this Circular, as may be necessary.

Section 8. Applicability of DC2017-12-0017. The provisions of DC2017-12-0017 shall be applicable in the implementation of this Circular.

Section 9. Repealing Clause. All issuances that are inconsistent with the provisions of this Circular are hereby repealed or amended accordingly.

Section 10. Separability Clause. If for any reason, any section or provision of this Circular and its Annexes is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 12. Effectivity. This Circular shall be effective fifteen (15) calendar days after its publication in two (2) newspapers of general circulation. Let copies of this Circular be furnished the University of the Philippines Law Center – Office of the National Administrative Register (UPLC-ONAR)."

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

RAPHAEL P. M. LOTILLA
Secretary