

Overview / Salient Features of the Proposed Department Circular for Awarding Coal Operating Contracts and Creation of Review and Evaluation Committee Repealing DC2014-02-0005 and DO2014-08-0017

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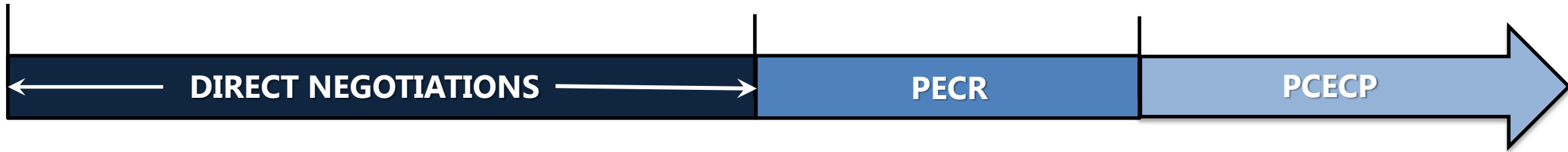
Historical Background

1976 ISSUANCE OF PD 972

2006

2016

2017



DC2005-04-004 – Aug. 31, 2005

DC 2006-12-0014 – Dec. 22, 2006

DC 2009-04-004 – May 8, 2009

DC-2010-03-005 – Mar. 24, 2010

DC-2011-12-0010 – Dec. 1, 2011

DC 2014-02-005 – May 9, 2014

COMBINATION OF
DIRECT NEGOTIATION
AND PECP



Scope of Coverage / Objectives

1. To adopt the Philippine Conventional Energy Contracting Program (PCECP) by nomination/publication.
2. To facilitate the acceptance of applications for Coal Operating Contract (COC) from interested applicants on any given time.
3. To provide procedures that shall govern the selection process in the awarding of COCs to qualified applicants shall be conducted in a transparent, open, competitive and expeditious contracting program and the creation of the Review and Evaluation Committee (REC).
4. To repeal Department Circular No. DC2014-02-0005 and Department Order No. DO2014-08-0017.



Various Modes in Awarding COCs

1. Applicant/s Nomination and Publication of Area/s of Interest

Applicant/s for COC shall formally nominate the area/s of their interest for the REC consideration

- **Direct Negotiation** – allowed when only one application is submitted after the prescribed period
- **Modified Public Bidding** – applies in the event that there is/are challenge/s received within the prescribed period

2. DOE Publication of Coal Area/s Open for Application

- The DOE thru the REC may publish identified coal area/s not covered by any application for the purpose of inviting interested applicant/s to file application.
- Provision for Direct Negotiation and Modified Public Bidding shall also apply for this mode.



Creation of Review and Evaluation Committee (REC)

Chairperson: Undersecretary-in-charge of the Energy Resource Development Bureau (ERDB)

Vice Chair: Assistant Secretary

Members:

- ◆ Director of the ERDB
- ◆ Director of the Financial Services (FS)
- ◆ Director of the Legal Services (LS)
- ◆ Director of the Information Technology and Management Services (ITMS)



Creation of REC TWG / Secretariat

Head: Assistant Director of the ERDB

TWG Members:

- Chief, Coal and Nuclear Minerals Division (CNMD)
- Chief, Conventional Energy Resource Compliance Division (CERCD)
- Chief, Upstream Conventional Energy Legal Services Division (UCELSD)
- Chief, Information Services Division (ISD)
- Chief, Information and Data Management Division (IDMD)
- DOE Field Offices (LFO, VFO and MFO)

↳ to assist the TWG in the performance of its functions in their respective area/s jurisdiction

Secretariat: Supervising Science Research Specialist and Staff,
CNMD Exploration and Geoscientific Research Section (EGRS)

Qualifications of COC Applicant

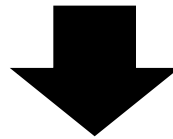
- Applicant must be a corporation or partnership with **at least sixty percent (60%) of its capitalization is owned by Filipinos** duly registered with the Securities and Exchange Commission (SEC), or cooperative, organized or authorized for the purpose of engaging in coal exploration and development.
- Applicant shall comply with Section 2-A of Commonwealth Act (CA) No. 108 or the “**Anti-Dummy Law**” and **Foreign Investment Act**.



Procedures for Nomination and Publication (1/3)

Nomination and Publication of area/s of interest

- **Technical Description** of nominated area/s as verified by the DOE-ITMS
- **Area Clearance** of nominated area/s from the DOE-ITMS
- **Certification from the DENR** that the nominated area/s is/are not within a Protected Area/s
- **Certification from the LGU** that the nominated area/s is/are not within a mining activity ban



Approval/Rejection for the publication on the existence of an application for nominated area/s

Within 15 working days from receipt of the nomination, the REC will inform the applicant on the **approval or rejection for the publication on the existence of an application for nominated area/s.**



Procedures for Nomination and Publication (2/3)

Publication on the existence of an application for nominated area/s

- The nominating applicant, at its own expense, shall cause **the publication on the existence of an application for the nominated area/s** with an invitation for challenge in two (2) broadsheet of general circulation within 15 calendar days upon receipt of written notice from the DOE, otherwise, the applicant's nomination shall be nullified and the area will be open for new nomination.
- The nominating applicant submit a **proof of publication including copies of Official Receipt of payment within seven (7) calendar days** from the date of publication.
- The REC shall post the existence of an application for the nominated area/s with an invitation for challenge in the DOE website from the publication date until the deadline for submission of documents.

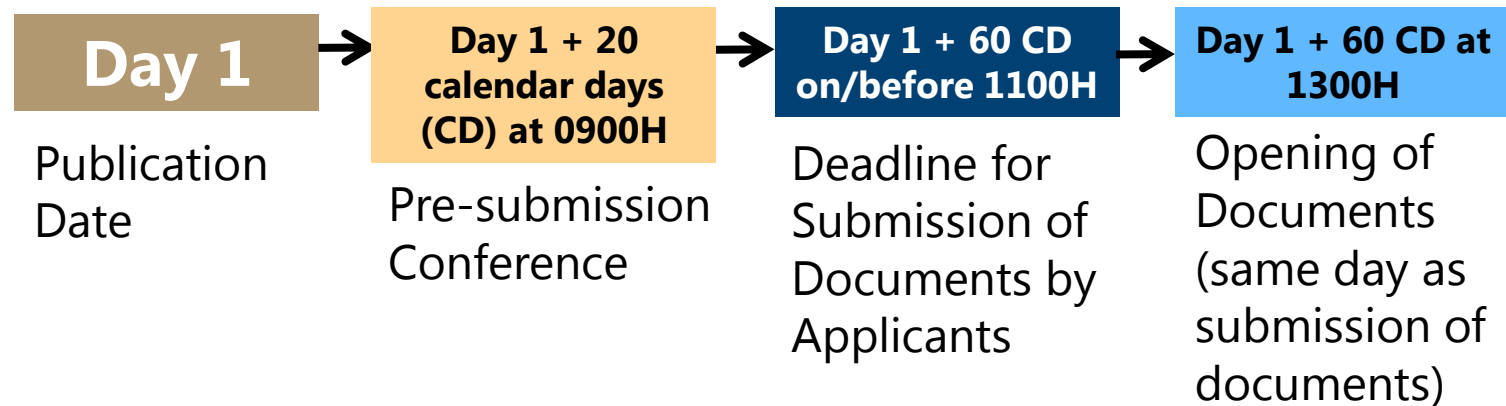


Procedures for Nomination and Publication (3/3)

Publication on the existence of an application for nominated area/s

The nominating applicant shall follow the template layout of the items for publication, which shall include the following:

a. Timeline for contracting program by publication



b. Location Map and Technical Description of the area/s (as certified by the DOE-ITMS)

c. Other information that the REC deems appropriate



Procedure for Submission of COC Application

- Applicant/s shall submit **3 complete sets** of legal, technical, and financial documents
- Each application shall cover **only one** predefined area of interest with corresponding number of coal blocks as nominated and published
- Only **Exploration Work Program** in the application for COC that conforms to the Work Program Documentation
- A non-refundable application fee of **Php 200,000.00 per area** shall be paid by the applicant upon submission

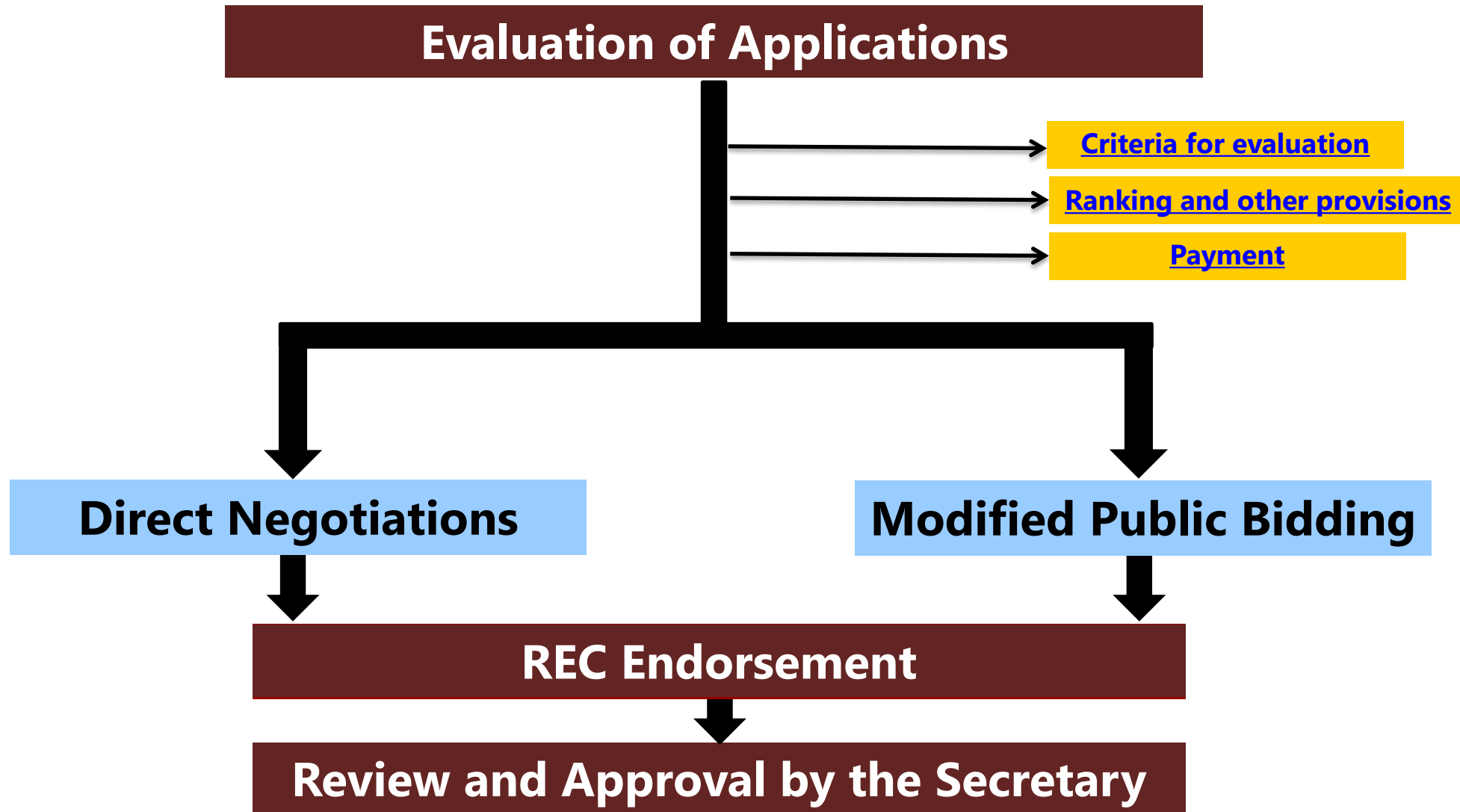


Documentation Requirements

Applicant/s must submit **Legal, Work Program, Technical and Financial** requirements to the DOE in compliance with the PCECP Guidelines.



Evaluation, Selection and Awarding Procedures



Timeline of Activities

- **12 July 2017** : E-Power Mo! – Presentation of Philippine Conventional Energy Contracting Program (PCECP) to coal Stakeholders
- **26 July 2017** : Public Consultation at DOE AVR
- **TBD (week of 14 August 2017)** :Review and Evaluation Committee (REC) Approval and Endorsement to SAGC
- **3rd Qtr 2017**: IEC Mindanao, Davao City
- **3rd Qtr 2017**: IEC Visayas, Cebu City
- **3rd Qtr 2017**: IEC Luzon, Legazpi City

Summary

- Proponents can nominate their area/s of interest **at any given time**
- Promotes **transparency** through publication
- Shorter period of processing time – **30 working days** from the opening of the application to the awarding of COC
- Proponents have familiarity on the situation over the area



THANK YOU



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Legal Basis

1. Republic Act (RA) No. 7638:

"The Department of Energy (DOE) Act of 1992"

2. Presidential Decree No. 972 "The Coal Development Act of 1976 "

Section 4 and 6 of PD 972, as amended, allow the Philippine Government to promote and undertake the exploration, development and production of the country's indigenous coal resources through Coal Operating Contracts, which may be awarded either by bidding or negotiation.

3. DOE Department Circular No. DC2014-02-0005 (PECR 5):

"Reiterating a Transparent and Competitive System of Awarding Service and Operating Contracts for Petroleum and Coal Prospective Areas, Repealing for this Purpose Department Circular Nos. DC2011-12-0010 and DC2012-02-0003"



Responsibilities of the REC

- Accept, evaluate and approve/reject the application for nomination of area/s of interest for publication;
- Examine, evaluate, and review the legal, technical, and financial capabilities of the applicant/s and their application/s as provided for in PD No. 972, and existing laws, rules, and regulations;
- Recommend to the Secretary the award and issuance of COCs in favor of those applicants found after evaluation to be the highest ranked or legally, technically, and financially qualified in case of sole applicant;
- Address any questions and inquiries that may be raised by the Secretary in connection with the COCs endorsed for award and issuance;
- Resolve issues in relation to the legal, technical and financial capabilities of applicants, including motions for reconsideration;



Responsibilities of the REC

- Cause the publication of coal area/s open for COC applications under Section 3.2 of this Circular;
- Institute and implement a system of coordination and administration, supervision and regulation during the implementation and operation of the COCs such as, but not limited to, the following:
 - a) Extension, amendment, cancellation / termination and relinquishment of COCs;
 - b) Transfer and assignment of COCs;
 - c) Disposal of assets; and,
 - d) Recommend allocation and utilization of all assistance funds generated from the awarded COCs in accordance with the existing rules and regulations.
- Other functions of REC that the Secretary may delegate and additional tasks that may be deemed necessary to carry out its responsibilities and objectives.

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Responsibilities of the REC

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- Recommend to the Secretary the award and issuance of COCs in favor of those applicants found after evaluation to be the highest ranked or legally, technically, and financially qualified in case of sole applicant;
- Address any questions and inquiries that may be raised by the Secretary in connection with the COCs endorsed for execution and approval;
- Resolve issues in relation to the legal, technical and financial capabilities of applicants, including motions for reconsideration;
- Institute and implement a system of coordination and administration, supervision and regulation during the implementation and operation of the COCs such as, but not limited to, the following:
 - Publish coal area/s open for COC applications; and,
 - Other functions of REC as may be deemed necessary.

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Criteria for REC Evaluation

i. Legal Qualification	Pass or Fail
ii. Work Program	40%
iii. Technical Qualification	20%
iv. Financial Qualification	40%

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Ranking and other Provisions

- The highest ranked applicant who meets the legal, technical and financial requirements shall be selected.
 - In case the nominating applicant loses to a challenger, **the winning applicant shall reimburse in cash or Manager's cheque the nominating applicant of its publication expenses and application fee within 7 calendar days** from receipt of notice of award of COC.
 - **Failure of the winning applicant to reimburse said expenses within said period shall automatically nullify the award of COC** and the second highest-ranked applicant shall be issued the notice of award of COC subject to the same conditions.
 - If the losing nominating applicant refuses to accept the reimbursement of expenses, the winning applicant **shall open an escrow account** in a government banking institution in favor of the losing nominating applicant. The winning applicant shall submit proof of the escrow account or payment of reimbursement of expenses to the REC.

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Payment

- A non-refundable application fee of **Php 200,000.00 per area** shall be paid by the applicant upon submission of the application and its supporting documents
- Pursuant to **DOF-DBM-NEDA Joint Circular No. 1-2013** dated **30 January 2013**, the winning applicant shall pay a processing fee of **PhP 30,000/coal block**

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Minimum Requirements (*BED Circular 81-11-10*)

Coal Block Areas

<i>Maximum area for nomination</i>	15 coal blocks*
*per Coal Region	

Drillhole Meterage per Coal Block

Underground	9,000 feet = 2,743 meters/year
Open Pit	3,000 feet = 914 meters/year

Work Equivalents

Drift/Tunnel/Adit or Cross-cut	
A: 30 sq. ft.	1:3 dhe or meterage x 3
A: <30 sq. ft.	1:2 dhe or meterage x 2
Shaft/Raise/Winze	
Inclination: 10-90 degrees	1:4 dhe or meterage x 4
Inclination: <10 degrees	1:2 dhe or meterage x 2
Trench	2:1 dhe or meterage x 0.5
Test Pit	1:1 dhe or meterage x 1

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