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REITERATING A TRANSPARENT AND COMPETITIVE SYSTEM OF AWARDING SERVICE AND OPERATING CONTRACTS FOR PETROLEUM AND COAL PROSPECTIVE AREAS, REPEALING FOR THIS PURPOSE DEPARTMENT CIRC...

DOE DEPARTMENT CIRCULAR NO. DC2014-02-0005, February 24, 2014

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WHEREAS, Section 4 of Presidential Decree No. (PD) 87, as amended, otherwise known as the “Oil Exploration and Development Act of 1972” and Section 4 of PD 972, as amended, otherwise known as “The Coal Development Act of 1976”, allow the Philippine Government (the “Government”) to promote and undertake the exploration, development, and production of the country’s indigenous petroleum and coal resources through service/operating contracts with contractors;

WHEREAS, Republic Act No. 7638, as amended, otherwise known as “The Department of Energy (DOE) Act of 1992”, mandates the DOE to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation;

WHEREAS, the DOE through Department Circular No. DC2011-12-0010 (the “4th Philippine Energy Contracting Round [PECR4] Guidelines”) desires to adopt the most effective strategy of promoting exploration, development and utilization of petroleum and coal resources in the Philippines and streamline the service contracting process;

WHEREAS, the DOE issued Department Circular No. DC2012-02-0003 guaranteed greater participation of interested applicants and ensured the transparent and competitive nature of submission and evaluation of proposals, extended the timelines for submission, subdivided the previous offered areas, provided additional guidelines and clarified certain provisions in the PECR4 Guidelines;

WHEREAS, the DOE reiterates and acknowledges the need to continue adopting a transparent and competitive system for awarding service and operating contracts for the exploration, development, and production of the country’s petroleum and coal resources.

NOW, THEREFORE, in consideration of the aforementioned premises, the following procedures shall govern the transparent and competitive system of awarding service and operating contracts for petroleum and coal exploration, development and production.

Section 1. Scope of Coverage. This Circular shall apply to the determination of the legal, technical and financial qualifications of applicants, the evaluation of their applications, and the award of corresponding service and operating contracts for petroleum and coal resources.

Section 2. Creation of the Review and Evaluation Committee (REC). The REC is hereby constituted to carry out the responsibilities set forth in this Circular and shall be composed of the following officials:

Chair

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:

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

Vice Chair

:

Assistant Secretary-in-charge of ERDB

Members

:

Director of the Legal Services (LS)
Director of the Financial Services (FS)
Director of the ERDB

Section 3. Responsibilities of the REC. The REC shall perform the following responsibilities:

3.1

Identify prospective petroleum and coal areas found in the Philippine territory including its maritime zones and continental shelf for inclusion in the PECR. In this regard, the REC shall notify the local government units (LGUs) of the offered areas within their territorial jurisdiction, prior to the inclusion to the PECR;

3.2

Examine, evaluate, and review the legal, technical, and financial capabilities of the project applicants and their applications as provided for in PD Nos. 87 and 972, the pertinent constitutional provisions and existing rules, and regulations thereon;

3.3

Recommend to the Secretary the award of the service and operating contracts after a successful evaluation of the legal, technical, and financial capabilities of the winning applicant;

3.4

Address any questions and inquiries that may be raised by the Secretary in connection with the petroleum service and coal operating contracts endorsed for execution and approval; and

3.5

Resolve issues in relation to the legal, technical and financial capabilities of applicants, including motions for reconsideration.

Section 4. Procedure for Awarding Petroleum Service and Coal Operating Contracts.

4.1

Preparation for PECR Applications

a.

The REC shall submit to the Secretary for approval the prospective petroleum and coal areas for inclusion in the

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PECR. The Secretary, based on reports submitted by REC, and if he deems fit, shall declare such areas open for application for the PECR.

The REC shall not accept any application for exploration, development, and production of petroleum service and coal operating contracts except through the PECR.

No application for small-scale mining permits for coal operations shall be entertained in the offered areas until after the coal operating contracts for the PECR have been awarded.

b.

The REC shall prepare the PECR documents with a description of available data and the prospect of petroleum and coal resources in each area which shall include, among others, the following:

i.

Location Map and Technical Description of the areas being offered during the PECR;

ii.

Schedule of activities for the PECR; and

iii.

Such other information as the REC may deem appropriate.

c.

The REC, or through its authorized agent, shall prepare the PECR data package, which shall be available to interested parties upon payment of applicable fees.

4.2

Pre-submission Conference for PECR Applications

The REC shall schedule a pre-submission conference to discuss relevant circulars and rules and entertain questions or clarifications from prospective applicants within the period prescribed in Section 4.5 hereof.

4.3

Submission of PECR Applications

a.

Submission of PECR applications shall be in accordance with the guidelines for petroleum and coal, attached herein as Annexes A and B, respectively, and within the period prescribed in Section 4.5 hereof.

Applications with incomplete documents based on the checklist for petroleum and coal attached hereto as Annexes C-1 and C-2, respectively, shall be automatically disqualified from the PECR during the opening of applications. No additional documentary requirements shall be accepted after the deadline of submission for PECR applications.

b.

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The REC shall issue additional guidelines on the venue, set-up and procedures in the opening of the PECR applications.

4.4

Awarding of Petroleum Service and Coal Operating Contracts

a.

The REC shall conduct evaluation of the submitted applications based on the following criteria:

i.

Legal qualification

-

Pass or Fail

ii.

Work Program

-

40%

iii.

Technical qualification

-

20%

iv.

Financial qualification

-

40%

b.

The highest ranked applicant who meets the legal, technical and financial requirements shall be selected.

c.

LS in coordination with ERDB and the Compliance Division of the FS shall prepare the final petroleum service or coal operating contract using the Model Contracts and its accounting procedures. No deviations from the Model Contract and its accounting procedures shall be allowed.

d.

Within seven (7) days from receipt of notice of award, the winning applicant shall pay a processing fee of Forty-eight centavos (Php 0.48)/hectare for petroleum and Thirty Thousand Pesos (Php30,000.00)/block for coal based on the DOE's schedule of fees and charges in compliance with Executive Order No. 197, series of 2000.

e.

After complete review and evaluation of the legal, technical, and financial qualifications of the applicant for petroleum service and coal operating contracts and the production of the execution copy of the petroleum service or coal operating contract, the REC shall transmit to the Secretary their written endorsements of the winning applicant in the form of Annex D hereof.

f.

The REC, for sufficient and valid cause, may at any given time reject any or all applications submitted. Any motion for reconsideration or appeal from the decision of the REC and/or the Secretary shall comply with applicable provisions of Department Circular No. DC2002-07-004 or the "Rules of Practice and Procedure Before the Department of Energy".

4.5

Timelines for PECR 5

Timelines for all activities in relation to PECR 5 shall be referred to in Annexes A-1 (Petroleum) and B-1 (Coal).

4.6

Review and Approval by the Secretary

Based on the written endorsement of the REC, the Secretary may approve the application for petroleum service and coal operating contracts. The Secretary may convene the REC for any questions or inquiries pertaining to the review and evaluation undertaken.

Section 5. Creation of the REC Secretariat. The REC Secretariat shall assist the REC in all activities related to PECR and shall be composed of the following:

Head

:

Assistant Director, ERDB

Members

:

Chief, Contracts Division (LS)
Chief, Compliance Division (FS)
Chief, Information Services Division, Information Technology and Management Services (ITMS)
Chief, Petroleum Resources Development Division (ERDB)
Chief, Coal and Nuclear Minerals Division (ERDB)

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Section 6. Option for Philippine National Oil Company - Exploration Corporation (PNOC-EC) to participate in Petroleum Service Contracts. For petroleum service contracts proposed under this Circular, an option shall be reserved for the PNOC-EC for a maximum of ten percent (10%) participating interest in a proposed service contract involving one (1) or more Filipino participant or maximum of fifteen percent (15%) participating interest in a proposed service contract involving no Filipino participant. DOE shall inform PNOC-EC within thirty (30) days from the award of the service contract, and, PNOC-EC shall give proper notice, within thirty (30) days from receipt thereof, to the winning applicant and the DOE whether it shall exercise said option. All rights, privileges, benefits, costs, expenses, obligations and liabilities of PNOCEC shall be in proportion to its participating interest in the proposed service contract.

Section 7. Track Record. Previous petroleum service and coal operating contractors with cancelled/terminated service/operating contracts for cause and/or with outstanding work and financial obligations with the DOE, as determined by the REC, are not eligible to join the PECR.

Section 8. Nominated Areas. Prospective applicants for petroleum service or coal operating contracts may formally nominate areas of interest, subject to the DOE Blocking System for petroleum and coal areas, for inclusion in the PECR within the period prescribed in Section 4.5 hereof. The REC may include such nominated area in the offered areas under the PECR.

Section 9. 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 10. Repealing Clause. Department Circular Nos. DC2011-12-0010 and DC2012-02-0003 and provisions of all other DOE issuances that are inconsistent with the provisions of this Circular are hereby repealed.

Section 11. Effectivity. This Circular shall take into effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation and shall remain in effect until otherwise revoked.

Issued this January 2014 in Bonifacio Global City, Taguig City, Metro Manila.

(SGD) CARLOS JERICHO L. PETILLA
Secretary

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