



Republic of the Philippines
DEPARTMENT OF ENERGY
(Kagawaran ng Enerhiya)

DEPARTMENT ORDER NO. DO2023-01-0002 *J*

PROVIDING THE INTERIM GUIDELINES ON THE ALLOCATION AND AVAILMENT OF THE TRAINING COMMITMENT FUND (TCF) AND DEVELOPMENT ASSISTANCE FUND (DAF) SOURCED FROM ENERGY SERVICE/OPERATING CONTRACTS AND MULTI-CLIENT AGREEMENTS

WHEREAS, Republic Act (RA) 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 performs the above mandate through, among others, the issuance of energy service and/or operating contracts for the exploration, development and utilization of indigenous sources of energy, including petroleum, coal and renewable energy, to qualified contractors;

WHEREAS, RA 9513¹, Presidential Decree (PD) No. 87² and PD 972³ allow the DOE to provide in the service/operating contract such terms and conditions as may be deemed necessary and appropriate under the circumstances;

WHEREAS, to enable the DOE to effectively perform its powers and functions of regulating, supervising and monitoring the exploration, development and operation of energy resources and projects, and compliance by the service contractors/energy developers with their obligations, the provisions of service/operating contracts expressly stipulate an obligation for the Coal, Petroleum, Renewable Energy service/operating and multiclient contractors (the "Contractor/s") to provide the DOE with training and development assistance in an amount agreed upon by both parties;

WHEREAS, on 25 February 2016, the Commission on Audit (COA) issued Notice of Disallowance No. 2016-01-101TF (15), holding that "*disbursements for traveling expenses, both local and foreign, communication, representation and training expenses of officials and employees of DOE incurred and charged to the Training and Commitment Fund are hereby disallowed in audit,*"

WHEREAS, on 13 June 2019, the concerned DOE officials filed their Petition for Review before the COA Commission Proper, docketed as COA CP Case No. 2019-504, maintaining, among others, that the Training Fund is a voluntary assistance from energy service contractors to DOE officials and employees and that they received the benefits from the Training Fund in good faith. It was further maintained that the TCF

¹ Renewable Energy Act of 2008

² Oil Exploration and Development Act of 1972

³ Coal Development Act of 1976

is intended not as income for the government, but a fund agreed upon by the DOE and the Service Contractors to be provided or advanced by the latter for the capacity building of DOE personnel, among others and thus, the ownership of the fund and the manner of its utilization were expressly and specifically provided for and agreed upon by the parties in the service contracts;

WHEREAS, by reason of said Notice of Disallowance, the DOE was unable to utilize the TCF, wary of further financial liability arising therefrom in view of the pendency of the appeal to the COA Commission Proper;

WHEREAS, on 02 December 2020, as an interim measure and to preclude the further issuance of findings, the DOE remitted to the Bureau of Treasury (BTr) the balance of the TCF, without prejudice to the final resolution of the issues raised in COA CP Case No. 2019-504, which is still pending resolution, and to whatever legal action that the DOE will avail of as may be permitted under the law;

WHEREAS, as a further interim measure in order for the DOE to be able to utilize the TCF and the DAF while the issues raised in COA CP Case No. 2019-504 are pending resolution, there is a need to establish guidelines for the availment and utilization of the TCF and DAF without incurring further financial liability from the COA that may arise therefrom;

NOW THEREFORE, premises considered, the following guidelines on the utilization and availment of the TCF and DAF are hereby adopted for the compliance of all concerned:

1. **Scope and Coverage.** This Department Order (DO) shall provide the rules and procedures in the availment and allocation of the TCF and the DAF sourced from energy service/operating contracts and multi-client agreements entered into by the DOE.
2. **Policies in the Availment and Allocation of the TCF and DAF.** In the allocation and availment of the TCF, the policies of transparency, accountability, fairness, and equity shall be observed.
3. **Definition of the TCF.** TCF shall refer to the assistance for training programs, scholarships, conferences, seminars, and other similar activities as agreed upon by the DOE and the Contractor in the service/operating contract and multi-client contracts, which the latter shall provide to support the effective performance by the DOE of its mandate, powers and functions, the aggregate amount thereof is expressly stipulated in the respective service/operating contract.
4. **Allowable Uses for TCF.** Subject to the approval of the Secretary, the TCF shall be utilized for purposes in the following order of priority:
 - 4.1 Activities directly relating to the operations of the service contracts, including health, safety and environment concerns, and activities relating to the monitoring and regulation of service contracts such as auditing, planning, contract negotiations and implementation, etc.

- 4.2 Institutional strengthening by training of management and staff in various fields through:
 - 4.2.1 General courses such as local or foreign post graduate diploma courses and training programs;
 - 4.2.2 Workshops, conferences, conventions, and fora whether solicited by DOE, other government or non-government agencies, including participation in meetings/fora to fulfill cooperation commitments/agreements on international and local levels; and
 - 4.2.3 Other programs that are technology-related or for institutional or personnel development.
- 4.3 Other programs or activities for institutional strengthening such as:
 - 4.3.1 In-house training programs, planning workshops, team building workshops;
 - 4.3.2 Seminar/workshops with a view to streamlining/upgrading DOE's policies, guidelines, or procedures; and
 - 4.3.3 Health and wellness programs.
- 4.4 Investment promotion in the upstream and downstream sector through exhibits, fora, roadshow, and other similar activities.
- 4.5 Membership fees of DOE personnel on the relevant associations or organizations that offer opportunities of information sharing, networking, and training programs.
- 4.6 In accordance with the general accounting and auditing rules, the following expenses shall also be allowed in the utilization of the TCF:
 - 4.6.1 Program Fees – Actual fees such as course fees, conference fees, required taxes on fees, visa fees, and other fees as may be necessary for the program;
 - 4.6.2 Airplane Fare – Actual roundtrip economy fare using the most direct/economical route from DOE office (Main or Field Office, as the case may be) to the venue of training (quotations from at least three airline agencies required);
 - 4.6.3 Per Diem – per diem allowance pursuant to existing approved rates;
 - 4.6.4 Necessary expenditures for the preparation of relevant materials, brochures, promotional items, exhibit expenses, and packaging, courier expenses, and transportation of required materials; and

4.6.5 Other expenses as may be approved by the Secretary.

5. **Definition of the DAF.** DAF shall refer to the developmental assistance as agreed upon by the DOE and the Contractor in the service/operating contract and multi-client contracts, which the latter shall provide to support the effective performance by the DOE of its mandate, powers and functions, the aggregate amount thereof is provided in their respective service/operating contract.

6. **Allowable Uses for DAF.** Subject to the approval of the Secretary, the DAF shall be utilized for purposes in the following order of priority:

6.1. Acquisition of equipment, materials and services needed and necessary for the effective discharge of functions directly related to the control, supervision, and monitoring of energy service and operating contracts by the DOE personnel, subject to the provisions of RA 9184 or the Government Procurement Reform Act and its Revised Implementing Rules and Regulations;

6.2. Maintenance, repair and replenishment of existing equipment and materials referred to in Section 6.1 above;

6.3. Provision of equipment, materials, services and activities that are deemed vital and necessary for the effective performance by the DOE personnel of its official mandate and functions;

6.4. Acquisition of equipment, facilities and services necessary to promote the health, safety, security, and well-being of DOE personnel; and

6.5. Health and wellness programs.

7. **Creation of the Training Commitment and Development Assistance Management Committee (TC-DA-MC).** The TC-DA-MC is hereby constituted to carry out the responsibilities set in this DO and shall be composed of the following:

Chairperson : Undersecretary Supervising the Administrative Services or his/her equivalent official

Vice Chairperson : Assistant Secretary Supervising the Administrative Services or his/her equivalent official

Members : Director, Energy Resource Development Bureau (ERDB)
Director, Renewable Energy Management Bureau (REMB)
Director, Energy Planning and Policy Bureau (EPPB)
Director, Legal Services (LS)

Director, Financial Services (FS)

Director, Information Technology Management Services
(ITMS)

A majority of the TC-DA-MC shall constitute a quorum for the transaction of business, provided that the presence of either the Chairperson or the Vice Chairperson shall be required at all times.

8. **Responsibilities of the TC-DA-MC.** The TC-DA-MC shall perform the following:
- 8.1. Manage and directly supervise the allocation of the TCF and DAF for the various uses set forth in this Department Order. For this purpose, an Annual Plan must be prepared to coincide with the preparation of the Budget Proposal for the succeeding year;
 - 8.2. Ensure that the request from offices, bureaus, services, and units of the DOE adhere to the guidelines provided in this DO for the utilization of the TCF and DAF;
 - 8.3. Review and approve the prioritization of allocation of available TCF and DAF balance;
 - 8.4. Upon its prior approval, issue, through the Chairperson, the necessary requests, letters, and recommendations/endorsements as set forth under this DO;
 - 8.5. Recommend for approval of the Secretary the Consolidated Annual TCF and DAF Request of Availment in line with its Annual Program of Activities;
 - 8.6. Submit an annual status report to the Secretary containing, among others, the comprehensive data of available TCF and DAF of each service/operating contractor and their availment by DOE offices, bureaus, services, and units not later than January 31 of the succeeding year together with the proposed Annual Plan;
 - 8.7. Determine the percentage of yearly allocation of the TCF and DAF per bureau/service/office of the DOE;
 - 8.8. While the training and developmental needs of the technical bureaus may be given priority, ensure a fair and equitable distribution and opportunity for availment of all DOE units in the utilization of the TCF and DAF; and
 - 8.9. Perform such other functions as may be necessary for the effective implementation of this DO.

9. Creation of Technical Working Group (TWG) for TCF and DAF

A TWG shall be constituted to carry out the responsibilities set forth in this DO for the availment of TCF and shall be composed of the following officials:

- Head : Director, Administrative Services
- Assistant Head : Assistant Director, ERDB
- Members : Assistant Director, REMB
 - Chief, Petroleum Resources Development Division (ERDB-PRDD)
 - Chief, Coal and Nuclear Minerals Division (ERDB-CNMD)
 - Chief, Solar and Wind Energy Management Division (REMB-SWEMD)
 - Chief, Geothermal Energy Management Division (REMB-GEMD)
 - Chief, Biomass Energy Management Division (REMB-BEMD)
 - Chief, Hydropower and Ocean Energy Management Division (REMB-HOEMD)
 - Chief, Budget Division
 - Chief, Accounting Division
 - Chief, General Legal Services Division

A majority of the TWG shall constitute a quorum for the transaction of business, provided that the presence of either the Head or the Assistant Head shall be required at all times.

10. Responsibilities of the TWG. The TWG shall perform the following duties and responsibilities:

- 10.1 Review requests from offices, bureaus, services, and units of the DOE for the allocation and utilization of the TCF and DAF;
- 10.2 Recommend to the TC-DA-MC the utilization and prioritization of the Funds in accordance with the guidelines provided in this DO;
- 10.3 Regularly monitor the TCF and DAF balances;

- 10.4 In case of DAF availment, ensure compliance with applicable procurement rules;
- 10.5 Submit, at the end of the year, and copy furnished all end-users, an annual status report on the utilization of the TCF and DAF to the TC-DA MC, to include the amount utilized in the preceding year and the current balance of the TCF for each corresponding end-user; and
- 10.6 Perform such other functions as may be necessary for the effective accomplishment of its assigned tasks and responsibilities under this DO.

11. Creation of Secretariat - A Secretariat is hereby created to discharge the following functions:

- 11.1. Provide administrative support to the TC-DA-MC and TWG;
- 11.2. Organize and make all necessary arrangements for TC-DA-MC and TWG meetings;
- 11.3. Prepare minutes of meetings and other necessary documentation;
- 11.4. Collate all TCF and DAF requests from DOE units; and
- 11.5. Such other functions as may be necessary for the effective accomplishment of the objectives of the DO.

The AS-HRMD is designated as the Secretariat for the TCF while the AS-GSD is designated as the Secretariat for the DAF.

12. Fund Request Procedures for TCF and DAF

The TCF and DAF shall be lodged under Fund 151 which is a "Trust Liabilities Account" based on COA guidelines while these are referred to as "Off Budget Accounts" by the Department of Budget and Management (DBM). This fund is accessible through the issuance of a Notice of Cash Allocation (NCA) which needs to be requested from DBM.

To request for an NCA, the following are required:

- 12.1. Program of Activities for the period, signed and approved by the Head of Agency;
- 12.2. BTr Certificate of Remittance and Fund Balance;
- 12.3. TCF Guidelines on Fund Utilization; and
- 12.4. Such other documents required in support of such transactions.

All of these documents are required by COA while Sections 12.1 and 12.2 hereof are the requirements of the DBM.

13. Procedures in the Availment of the TCF and DAF. The end-users shall avail of the TCF and DAF through the Annual TCF and DAF Request as provided hereunder:

- 13.1 All units within the DOE shall prepare an Annual TCF and DAF Request for their respective units and submit the same to the concerned Secretariat **not later than 31 March of every year**;
- 13.2 Within a reasonable time thereafter, the TWG shall convene to review and prioritize the requests from all units of the DOE in accordance with the order of priorities and fair and equitable distribution of the TCF and DAF as provided in this DO;
- 13.3 Upon review, the TWG shall submit its recommendation to the TC-DA-MC for consideration;
- 13.4 The TC-DA-MC shall then recommend for approval by the Secretary the Annual TCF and DAF Request. Once approved, the Annual TCF and DAF shall be transmitted to FS-AD and FS Budget Division for inclusion in the expenditure program to be submitted to the Department of Budget and Management (DBM) during budget preparation; and
- 13.5 In case of urgent training requirements, emergency assistance, or any other training requirements/development assistance not included in the submitted Annual TCF and DAF Request, a supplemental request may be submitted to the concerned Secretariat and shall follow the same approval process.

14. Repealing Clause. The provisions of other rules and regulations issued by the DOE that are inconsistent with this DO are hereby repealed or modified accordingly.

15. Separability Clause. If, for any reason, any section or provision of this DO is declared invalid, contrary to law or unconstitutional, such parts that are not so declared and/or affected shall remain in full force and effect.

16. Effectivity. This DO shall take effect immediately.

Issued this 11 January 2023 at the DOE, Energy Center, Rizal Drive cor. 34th St., Bonifacio Global City, Taguig City, Metro Manila.


RAPHAEL P.M. LOTILLA
Secretary

