



DEPARTMENT CIRCULAR NO. DC2024-06-0018 *and*

**REVISED OMNIBUS GUIDELINES GOVERNING THE AWARD AND
ADMINISTRATION OF RENEWABLE ENERGY CONTRACTS AND THE
REGISTRATION OF RENEWABLE ENERGY DEVELOPERS**

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

WHEREAS, solar, hydropower, wind, ocean and tidal energy resources are energy sources for the country;

WHEREAS, under Section 2 of Republic Act (RA) No. 7638, as amended, otherwise known as the "*Department of Energy Act of 1992*", the Department of Energy (DOE) is mandated 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, among others;

WHEREAS, Section 5(b) of the same Act empowers the DOE 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 which program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry and reduction of dependency on oil-fired plants;

WHEREAS, Section 2 of RA 9136, otherwise known as the "*Electric Power Industry Reform Act of 2001*" or "EPIRA", declares that it is the policy of the State to, among others, (i) ensure and accelerate the total electrification of the country; (ii) enhance the inflow of private capital and broaden the ownership base of the power generation, transmission and distribution sectors; (iii) assure socially and environmentally compatible energy sources and infrastructure; and (iv) promote the utilization of indigenous and new and renewable energy (RE) resources in power generation in order to reduce dependence on imported energy;

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

WHEREAS, Section 2 of RA 9513, otherwise known as the "*Renewable Energy Act of 2008*" or "RE Act", directs the State to encourage and accelerate the exploration, development and utilization of RE resources such as, but not limited to, biomass, solar, wind, hydropower, geothermal, and ocean energy sources, and including hybrid systems;

WHEREAS, Section 19(c), Rule 6 of Department Circular (DC) No. DC2009-05-0008 which prescribes the Implementing Rules and Regulations (IRR) of the RE Act, requires the DOE to issue a regulatory framework containing the guidelines that shall govern the transparent and competitive system of awarding RE Service/Operating Contracts from Pre-Development to Development into Commercial Operations Stage, or the awarding of direct operating contracts to specific RE technologies, among others;

WHEREAS, under Section 2 of RA 11032, otherwise known as the “*Ease of Doing Business and Efficient Government Service Delivery Act of 2018*”, it is the duty of the State to, among others, promote integrity, accountability, proper management of public affairs and public property, aimed at efficient turnaround of the delivery of government services and the prevention of graft and corruption in government;

WHEREAS, in Section 2 of RA 11234, otherwise known as the “*Energy Virtual One-Stop Shop Act*” or “*EVOSS Act*”, the State is likewise commanded to, among others, ensure transparency and accountability in the process of approving power generation, transmission, or distribution projects, and deliver efficient and effective service to the public;

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

WHEREAS, after DC No. DC2009-07-0011 took effect, the DOE implemented enhancements in the award and administration of RE Contracts and the registration of RE Developers, as follows:

- (a) DC No. DC2009-07-0011 dated 12 July 2009;
- (b) Department Order (DO) No. DO2013-08-0011 dated 20 July 2013;
- (c) DO No. DO2013-10-0018 dated 09 October 2013;
- (d) DO No. DO2013-12-0020 dated 02 December 2013;
- (e) DO No. DO2013-12-0023 dated 27 December 2013;
- (f) DO No. DO2014-06-0010 dated 09 June 2014;
- (g) DO No. DO2014-10-0018 dated 14 October 2014;
- (h) DO No. DO2016-09-0011 dated 05 September 2016;
- (i) DO No. DO2016-06-0010 dated 24 June 2016;
- (j) DO No. DO2017-04-0005 dated 07 April 2017;
- (k) DO No. DO2018-03-0003 dated 16 March 2018;
- (l) DO No. DO2019-01-0003 dated 11 January 2019; and
- (m) DO No. DO2019-07-0018 dated 30 July 2019;

WHEREAS, on 01 October 2019, the DOE promulgated DC No. DC2019-10-0013, otherwise known as the “*Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers*”;

WHEREAS, further enhancements in the award and administration of RE Contracts and the registration of RE Developers were subsequently issued, as follows:

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

WHEREAS, with the huge influx of received Letters of Intent and RE Contract applications to develop solar and wind energy potential in the country and to provide efficient service to RE Developers, the DOE issued on 19 July 2023 DO No. DO2023-07-0020 which operationalized the strengthening of the Solar and Wind Energy Management Division (SWEMD) through the interim creation of sub-groups, namely: Solar Energy Management Group (SEMG) and Wind Energy Management Group (WEMG);

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

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

CHAPTER I - GENERAL PROVISIONS

1. Title. This Circular shall be known as the "*Revised Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers*" (*Revised Omnibus RE Guidelines*).

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

- 2.1. The pre-application, application, and award of RE Contracts;
- 2.2. The conversion of existing service contracts to RE Contracts for the exploration, development or utilization of RE resources with the DOE, subject to Section 39, Rule 13 of the IRR of the RE Act;
- 2.3. The issuance by the DOE of Certificates of Registration (COR) for RE Developers of projects with or without RE Contracts; and
- 2.4. The administration of RE Contracts.

3. Definition of Terms. As used in this Circular and in other DOE issuances, the following terms shall be understood to mean:

- 3.1. "*Biomass Energy Operating Contract*" or "*BEOC*" refers to the RE Contract issued for the development and operation of RE Projects utilizing biomass as RE Resource.
- 3.2. "*Blocking System*" refers to the subdivision of the Philippines, for purposes of RE Applications for wind, geothermal and ocean resources, into RE meridional blocks (RE blocks) of thirty (30) seconds of latitude

and thirty (30) seconds of longitude using the Philippine Reference System of 1992 (PRS'92) as the standard reference system. One (1) RE block shall have an approximate area of eighty-one (81) hectares. Each block shall have a unique number designated by the DOE.

- 3.3. "*Certificate of Authority*" or "*COA*" refers to the certificate duly signed by the DOE Secretary exclusively authorizing an RE Developer to procure the necessary permits and tenurial instruments for the exploration, development, construction and installation, and commercial operation of the RE Project and conduct reconnaissance and other activities needed for pre-feasibility studies, as applicable, within the area specified in the certificate. The COA grants an RE Developer the privilege to procure the aforesaid permits and tenurial instruments outside of the contract term.
- 3.4. "*Certificate of Confirmation of Commerciality*" or "*COCOC*" refers to the certificate duly signed by the DOE Secretary confirming the Declaration of Commerciality (DOC) by the RE Developer and shall serve as a notice to proceed with the construction of the RE Project or the installation of the RE facilities. The date of issuance of the COCOC shall be considered as the commencement date of the Development Stage of the RE Project.
- 3.5. "*Certificate of Registration*" or "*COR*" refers to the certificate issued by the DOE that serves as the proof that an RE Developer has registered with the DOE.
- 3.6. "*Commercial Operations*" refers to the phase commencing at the operation of the RE Project, following its successful testing and commissioning, and confirming its readiness to inject power into the grid to sell or supply its produced energy, as duly confirmed by the Energy Regulatory Commission (ERC).
- 3.7. "*Commercial Quantities*" refers to quantities of energy to be produced from the RE Resources using commercially available technology to develop the RE systems which have a reasonable chance of being sufficient and technically compliant to support the Commercial Operations of the RE Project.
- 3.8. "*Contract Area*" refers to the total area, which is the subject of the RE Contract as detailed and outlined in the map with its technical description, and where the RE Developer has the exclusive right to explore, develop and utilize the RE Resources: *Provided*, That for BEOC/WTEOC as defined below, the Contract Area refers to the project site.
- 3.9. "*Contract Year*" refers to a period of twelve (12) consecutive calendar months counted from the Effective Date of the RE Contract and thereafter, from the anniversary of such Effective Date.

- 3.10. "*Declaration of Commerciality*" or "*DOC*" refers to a written declaration made by the RE Developer to the DOE, stating that the RE Resource is of Commercial Quantities.
- 3.11. "*Direct Application*" refers to the mode of RE Application whereby the RE Applicant identifies a Contract Area it wishes to explore and develop. The identified Contract Area must first be certified by the DOE to be free and open for exploration or development.
- 3.12. "*Financial Closing*" refers to such milestone when the RE Developer has secured a written commitment from the financier/s to provide its full funding requirements through equity and/or commercial borrowings, or other financing schemes for the RE Project to transition from the Pre-Development to Development Stage, in the case RE Service Contracts, or to transition from Development to Commercial Stage, in the case of RE Operating Contracts.
- 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. "*Offshore Wind Energy Service Contract*" or "*OsWESC*" refers to the RE Contract issued and awarded by the DOE for the exploration, development and/or utilization of wind energy in offshore areas, which include estuaries and other bodies of water. This includes WESCs awarded for offshore wind development prior to the issuance of Executive Order No. 21, s. 2023, and its Implementing Guidelines.
- 3.19. "*Onshore Wind Energy Service Contract*" or "*OnWESC*" refers to the RE Contract issued and awarded by the DOE for the exploration, development and/or utilization of wind energy as RE Resource in onshore areas.

- 3.20. "*Pre-Determined Area*" or "*PDA*" refers to area/s with RE Resource potential through sufficient available technical data as may be determined by the Renewable Energy Management Bureau (REMB) and approved by the DOE Secretary for its inclusion in the Open and Competitive Selection Process (OCSP).
- 3.21. "*Person*" refers to a natural or juridical person, as the case may be.
- 3.22. "*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.
- 3.23. "*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.
- 3.24. "*RE Application*" refers to the set of documents submitted by an RE Applicant pertaining to its 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.
- 3.25. "*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.
- 3.26. "*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.
- 3.27. "*RE Operating Contract*" refers to the service agreement between the DOE and an RE Developer for the development and/or utilization of biomass, solar, wind 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.
- 3.28. "*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.

- 3.29. “*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.
- 3.30. “*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.
- 3.31. “*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, wind, geothermal, ocean energy, and hydropower, conforming with internationally accepted norms and standards on dams, and other emerging RE technologies.
- 3.32. “*RE Service Contract*” refers to a service agreement between the Philippine Government, through the President or the DOE Secretary, and the RE Developer, covering an appropriate period as stated therein, in which the RE Developer shall have the exclusive right to explore, develop and utilize geothermal, hydropower, wind, ocean and other RE Resources within a particular area.
- 3.33. “*Renewable Energy Management Bureau*” or “*REMB*” refers to the unit of the DOE created under Section 32 of the RE Act, mandated to, among others, implement policies, plans, and programs aimed at accelerating the development, transformation, utilization, and commercialization of RE Resources and technologies.
- 3.34. “*Solar Energy Operating Contract*” or “*SEOC*” refers to the RE Contract issued for the development and operation of RE Projects utilizing solar energy as RE Resource.
- 3.35. “*Waste-to-Energy Operating Contract*” or “*WTEOC*” refers to the RE Contract issued for the development and operation of RE Projects utilizing Waste-to-Energy Resources.
- 3.36. “*Waste-to-Energy Resources*” refers to municipal and industrial wastes that do not have an upper limit on the total quantity to be used and are renewable on a regular basis, and whose renewal rate is relatively rapid to consider availability over an indefinite period of time.

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

CHAPTER II – COMPLIANCE WITH THE EVOSS TIMELINE

4. The processes set forth in this Circular shall be completed within the DOE’s timeframe as provided in the EVOSS Act and its IRR.

- 4.1. The EVOSS System shall be open for submission of documents by RE Applicants at all times. However, documents shall be considered officially filed as of the date of submission only when such documents are uploaded during the following timeframe:

- (a) 8:00 am to 5:00 pm from Monday to Thursday; or
- (b) 8:00 am to 12:00 noon on a Friday or a working day preceding a holiday.

Submissions received beyond the designated schedule, on a Saturday or Sunday or a holiday, or during official work suspensions affecting the DOE shall be considered filed as of the next working day.

- 4.2. Notwithstanding the foregoing, the processing of pending applications and delivery of other services shall continue throughout the workweek. The period given to the DOE and the RE Developer to complete tasks within a process, such as but not limited to the following, shall be deemed outside of the EVOSS timeframe:

4.2.1. For the DOE:

- 4.2.1.1. Checking of completeness of documents;
- 4.2.1.2. Validation of applicable fees;
- 4.2.1.3. Validation of pre-signed RE Contract; and
- 4.2.1.4. Validation of notarized RE Contract.

4.2.2. For the RE Developer:

- 4.2.2.1. Payment of application and processing fees;
- 4.2.2.2. Rectification of submissions;
- 4.2.2.3. Pre-signing of RE Contract;
- 4.2.2.4. Notarization of RE Contract; and

4.2.2.5. Payment of signing fee.

- 4.3. In case the deadline for each activity falls on a non-working day (i.e., Saturday or Sunday), legal holiday, special non-working holiday, or other non-working days duly declared by the President, Governor, Mayor or other Government Official authorized to make such declaration, the deadline shall be the next working day.

CHAPTER III – BIOMASS AND WASTE-TO-ENERGY RESOURCES

5. Biomass Projects. Biomass projects shall refer to energy systems which use biomass resources to produce heat, steam, mechanical power, electricity, or fuel through either thermochemical, biochemical or physico-chemical processes, or through such other technologies which shall comply with prescribed environmental standards pursuant to applicable laws and regulations.

6. Waste-to-Energy Projects. Waste-to-Energy projects shall refer to energy systems with a process of converting non-recyclable waste materials into usable heat, electricity, or fuel through processes such as anaerobic digestion, direct combustion, and gasification, among others, subject to the provisions and intent of RA 8749 or the “Clean Air Act of 1999” and RA 9003 or the “Ecological Solid Waste Management Act of 2000”.

7. Eligibility of Biomass Energy or Waste-to-Energy Operating Contract Applicant. Any Person may apply for BEOC or WTEOC, subject to the provisions in this Chapter.

- 7.1. The BEOC/WTEOC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in the development and utilization of biomass/waste-to-energy resources: *Provided*, That in case the BEOC/WTEOC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under RA 11232, otherwise known as the “Revised Corporation Code of the Philippines” (Revised Corporation Code), or secure the appropriate license from the Securities and Exchange Commission (SEC), in case the joint venture or consortium was incorporated outside of the Philippines.
- 7.2. An Applicant which applies for a BEOC/WTEOC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including Commonwealth Act No. 108 or the “Anti-Dummy Law” on the appointment of officers of the corporation.

8. Modes of Awarding Biomass Energy or Waste-to-Energy Operating Contract. BEOC/WTEOC shall be awarded through Direct Application.

- 8.1. Direct Application shall be available for the selection and award of BEOC/WTEOC in an area available for development and/or utilization of biomass/waste-to-energy resources.
- 8.2. Biomass/Waste-to-Energy Projects for Own-Use and/or for Non-Commercial Purposes shall not require the issuance of BEOC/WTEOC but shall comply with the registration requirements provided under Chapter XI.

9. Procedure for Awarding Biomass Energy or Waste-to-Energy Operating Contract under Direct Application.

- 9.1. **Coverage.** Direct Application shall be observed in processing BEOC/WTEOC Applications for biomass/waste-to-energy resources.

Part 1. Pre-Application Process

- 9.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with the Biomass Energy Management Division (BEMD). The list of requirements necessary for registration is detailed in Annex "J".
- 9.3. **Submission of Letter of Intent (LOI).** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the Certificate of Authority (COA) referred to in Sections 10 and 11.1 of this Circular. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex A.1 or Annex B.1, as applicable. The submission of the LOI shall not be considered as a filing of a BEOC/WTEOC Application and shall not commence the application process.
- 9.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform interested participants about the BEOC/WTEOC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the BEOC/WTEOC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 9.5. **Configuration of Area of Interest (AOI).** The interested participant shall comply with the mapping requirements under Annex "N". ITMS

shall check the completeness of the mapping requirements within three (3) working days.

9.6. **Area Verification.** Within eighteen (18) calendar days from receipt of the LOI with complete documents, the ITMS shall complete the area verification and determine whether the AOI is:

9.6.1. Covered by a BEOC/WTEOC, BEOC/WTEOC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;

9.6.2. Within or overlaps with the area of an existing energy service or operating contract such as Petroleum Service Contract (PSC), Coal Operating Contract (COC), Small-Scale Coal Mining Permit (SSCMP) or Renewable Energy Service Contract (RESC), other than BEOC/WTEOC;

9.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than BEOC/WTEOC Application;

9.6.4. Within the protected and environmentally critical areas under RA 11038, or the "Expanded National Integrated Protected Areas System Act of 2018" (ENIPAS), i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the Marine Spatial Planning (MSP) of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001 titled, "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the BEOC/WTEOC Application based on available data on file with ITMS and the Philippine Geoportal Project website of the National Mapping Resource Information Authority (NAMRIA).

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

9.6.5. Covered by the COA of other energy resource;

9.6.6. Covered by the COA of the same energy resource; and/or

9.6.7. Subject to Section 9.9.4, open for BEOC/WTEOC Applications:

9.6.7.1. Covered by AOI of the same/other energy resource; or

9.6.7.2. Not covered by AOI of the same/other energy resource.

9.7. **Area Verification Results.** ITMS shall provide BEMD with the results of area verification through the EVOSS System. Within five (5) calendar days upon receipt of the verification results, BEMD, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 9.6.7. If the AOI falls under Sections 9.6.1 to 9.6.5, the BEOC/WTEOC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the BEOC/WTEOC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 9.7.3, as applicable.

9.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from uploading of the final technical verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 9.7.2, the interested participant and BEMD may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed Biomass/Waste-to-Energy project. The interested participant may reconfigure its AOI to cover only such portion as may allow the BEOC/WTEOC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 9.6.1 or 9.6.6 (for same energy resource), and Sections 9.6.2, 9.6.3, 9.6.5 (for other energy resource), or Section 9.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 9.7.3.5, if applicable, BEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the BEOC/WTEOC Application.

9.7.2. **Multiple Resources in an Area.** If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA of another RE Developer not affiliated to the interested participant as provided under Sections 9.6.2, 9.6.3 and 9.6.5, the interested participant may still pursue the BEOC/WTEOC Application, subject to the following provisions:

9.7.2.1. The interested participant shall:

- 9.7.2.1.1. Explain in writing why the proposed biomass/waste-to-energy project will not be feasible without the overlapping area, with justification on the technical viability of the project; and
 - 9.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing applicants and/or developers of other energy resources within the overlapping area; that the design of the proposed biomass/waste-to-energy project will ensure safe and optimal development of biomass/waste-to-energy and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.
- 9.7.2.2. BEMD shall inform the existing applicant or energy contractor/developer of the intent to develop the biomass/waste-to-energy resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.
- 9.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within ten (10) working days from receipt of notice, BEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the BEOC/WTEOC Application.
- 9.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify BEMD thereof and provide a copy to the interested participant within ten (10) calendar 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.

- 9.7.2.5. Within five (5) calendar days from receipt of an objection, BEMD and the concerned DOE Division shall jointly determine whether the development of biomass/waste-to-energy resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.
- 9.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he/she concurs that the biomass/waste-to-energy project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple resource development in the overlapping area, taking into account the most beneficial use of the resources.
- 9.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 9.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 9.6.4, the interested participant may still pursue the BEOC/WTEOC Application if there is no material adverse effect on the feasibility of the proposed biomass/waste-to-energy project after applying the provisions below:
 - 9.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI net of the said areas.
 - 9.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the ENIPAS and its IRR.
 - 9.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to RA 8371 or "The Indigenous Peoples' Right Act of 1997" (IPRA) and its IRR.

- 9.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant 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.
- 9.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant 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.
- 9.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform, pipelines, loading buoy and other related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participant shall secure a prior authorization from the DOE and the Department of National Defense (DND), and prior consent from the Service Contractor of Service Contract (SC) No. 38 pursuant to Section 1 of Proclamation No. 72, Series of 2001.

Part 3. Filing and Evaluation of Biomass Energy or Waste-to-Energy Operating Contract Applications

- 9.8. **Orientation of BEOC/WTEOC Applicant.** The orientation is intended to inform BEOC/WTEOC Applicant about the BEOC/WTEOC application requirements, and to guide them through the process for evaluation thereof, awarding of BEOC/WTEOC and the registration of a biomass/waste-to-energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for BEOC/WTEOC Applicants, facilitated by representatives from the Legal Services (LS), BEMD, and Financial Services (FS). The BEOC/WTEOC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

- 9.9. **Receipt of Biomass Energy or Waste-to-Energy Operating Contract Applications.** After the scheduled orientation, the interested participant may file its BEOC/WTEOC Application by complying with the following procedures and requirements:

- 9.9.1. The BEOC/WTEOC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").
 - 9.9.2. BEMD shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the biomass/waste-to-energy project within three (3) working days.
 - 9.9.3. If the submission is complete and the AOI is still free for development, BEMD shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the BEOC/WTEOC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.
 - 9.9.4. The AOI is not reserved for the BEOC/WTEOC Applicant until the complete application documents and proof of payment of application and processing fees are submitted.
 - 9.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
 - 9.9.6. In case the AOI is no longer free for development, the BEOC/WTEOC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.
 - 9.9.7. To ensure the orderly processing of BEOC/WTEOC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before a BEOC/WTEOC Applicant can upload the documentary requirements. Pending such modification, BEMD shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 9.9.3.
- 9.10. **Proof of Access to Proposed Area of Interest.** As part of the application requirements, the BEOC/WTEOC Applicant shall submit proof of ownership or possessory rights over real properties covered by the AOI.
- 9.10.1. **Acceptable Proof of Possessory Rights over Public Lands.** The BEOC/WTEOC Applicant may submit the following documents as proof of possessory rights over public lands:
 - 9.10.1.1. Permits and clearances issued in favor of the BEOC/WTEOC Applicant by a government agency or instrumentality that has jurisdiction over the AOI

authorizing the use of such AOI for the Biomass/Waste-to-Energy Project; or

9.10.1.2. Any other permits issued by the relevant government agency or instrumentality, including Notice of Award.

9.10.2. **Acceptable Proof of Ownership or Possessory Rights over Private Lands.** In the order of precedence hereunder, any of the following documents may be submitted by the BEOC/WTEOC Applicant as proof of ownership or possessory rights over private lands:

9.10.2.1. Certificates of title to the real properties in the name of the BEOC/WTEOC Applicant; or

9.10.2.2. Contracts, deeds, agreements and the like that unconditionally grant the BEOC/WTEOC Applicant ownership or right to possess the real properties for purposes of construction, installation, maintenance and operation of the biomass or waste-to-energy project thereon; or

9.10.2.3. Contracts, deeds, agreements, and the like that unconditionally grant the BEOC/WTEOC Applicant an exclusive option to acquire the ownership or the right to possess the real properties: *Provided*, That the right to construct, install, maintain and operate the biomass or waste-to-energy project thereon is vested unto the BEOC/WTEOC Applicant.

9.10.3. **Conflicting Claims over Private Lands.** If there are conflicting claims over the AOI, the conflict shall be resolved in favor of the Applicant whose proof of ownership or possessory right has the highest precedence based on the order of precedence set out in Section 9.10.2.

9.10.4. **Affidavit of Acquired Possessory Rights over Private Lands.** If, at the time the BEOC/WTEOC Application is filed, the acceptable proof of ownership or possessory rights under Section 9.10.2 are not available and the AOI is not subject of a conflicting claim, the BEOC/WTEOC Applicant shall submit an Affidavit of Acquired Possessory Rights executed strictly in accordance with the template provided in Annex "N-1" hereof and a copy of the Board Resolution authorizing the affiant to execute the instrument on behalf of the BEOC/WTEOC Applicant.

The BEOC/WTEOC Applicant shall submit the acceptable proof of ownership or possessory rights and supporting documents mentioned in Sections 9.10.2 and 9.10.5 not later than thirty (30)

calendar days after the issuance of the COA or, if the BEOC/WTEOC Applicant did not avail of the COA, after the execution of the BEOC/WTEOC. Failure of the BEOC/WTEOC Applicant to submit such documents within the prescribed period shall render the COA or BEOC/WTEOC, whichever is applicable, void *ab initio*.

9.10.5. **Supporting Documents.** In addition to the acceptable proof of ownership or possessory rights under Section 9.10.2, the BEOC/WTEOC Applicant shall also submit all documents needed to establish the authenticity and due execution of the contracts, deeds, agreements, etc. mentioned in Sections 9.10.2.2 and 9.10.2.3, namely:

9.10.5.1. Board Resolution or Secretary's Certificate of the BEOC/WTEOC Applicant and: (i) if the registered owner of the real property is a corporation, Board Resolution or Secretary's Certificate issued by such corporation; or (ii) if the registered owner is acting through a representative, a Special Power of Attorney in favor of the registered owner's representative, each authorizing the parties to enter into the contracts, deeds, agreements, and the like;

9.10.5.2. Proof of identity of the registered owner and the signatories to the contracts, deeds, agreements, and the like; and

9.10.5.3. Three (3) specimen signature of the said signatories:

Provided, however, That in cases where the right to dispose of the real property has transferred wholly or partly to persons other than the registered owner either by succession or voluntary conveyance, the judicial/extrajudicial settlement of the estate of the deceased owner or of his/her spouse, or the deed of conveyance, as the case may be, with the proof of authority and proof of identity abovementioned, shall be submitted by the BEOC/WTEOC Applicant.

The documents above shall be covered by a scanned copy of the sworn statement of the BEOC/WTEOC Applicant's authorized representative containing the details of the document/s constituting the proof of ownership or possessory rights, as follows:

(a) The denomination of the contracts, deeds, agreements, etc., the date/s of execution and the term thereof, with inclusive dates;

- (b) The names and addresses of the parties to the contracts, deeds, agreements, etc., indicating their relation, e.g., seller and buyer, lessor and lessee, and the like;
- (c) The specific section/clause in the contract, deed, agreement, etc. by which the ownership or possession of the real property is conveyed, with the said provision quoted in full;
- (d) An affirmation that the conveyance is effective, or a summary of the limitations, conditions and other terms that must be complied with before the conveyance becomes effective;
- (e) The date of notarization of the above documents; and
- (f) A read-only Excel file attached to the sworn statement where the details below are presented:
 - (i) The BEOC/WTEOC Applicant has the authority to acquire ownership/possession and that its counterparty in the contracts, deeds, agreements, etc. has the right and/or authority to dispose of the same in favor the BEOC/WTEOC Applicant; and
 - (ii) The contract, deed, agreement, etc. was executed by persons identified as having the right to dispose of the ownership or possession of the real properties subject thereof.

9.10.6. Contracts, deeds, agreements, etc., powers of attorney, or any other document mentioned above that are executed outside the Philippines must be submitted with the corresponding apostille or notarized, as the case may be.

9.11. Evaluation of Biomass Energy or Waste-to-Energy Operating Contract Applications.

9.11.1. After the payment of the processing fee, BEMD, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.

9.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal evaluation under Section 9.11.1, LS shall:

- 9.11.2.1. Evaluate the certificates of title submitted by the BEOC/WTEOC Applicant;
- 9.11.2.2. In the evaluation of the contracts, deeds, agreements etc. mentioned in Sections 9.10.2.2 and 9.10.2.3, only consider the BEOC/WTEOC Applicant's sworn statement and Excel file attached thereto; or
- 9.11.2.3. Evaluate the Affidavit of Acquired Possessory Rights mentioned in Section 9.10.4.

DOE reserves the right to evaluate the BEOC/WTEOC Applicant's proof of ownership or possessory rights and supporting documents.

- 9.11.3. BEMD shall consolidate all the evaluation results and proceed with the processing:
 - 9.11.3.1. If the BEOC/WTEOC Application passes the evaluations, BEMD shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the BEOC/WTEOC Application; the draft COA, as applicable; and the draft BEOC/WTEOC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the BEOC/WTEOC Application in accordance with Section 11.
 - 9.11.3.2. If the BEOC/WTEOC Application does not pass the legal, technical, and/or financial evaluations, BEMD shall notify the BEOC/WTEOC Applicant through the EVOSS System to rectify the submission within ten (10) working days. BEMD shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.
 - 9.11.3.2.1. Failure of the BEOC/WTEOC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the BEOC/WTEOC Application. BEMD shall notify the

BEOC/WTEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.

- 9.11.3.2.2. If the BEOC/WTEOC Applicant submits supplementary documents within the prescribed period above and BEMD determines that the submission is incomplete, the BEOC/WTEOC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.
 - 9.11.3.2.3. BEMD, LS and FS shall be notified by the EVOSS System of the submission. BEMD, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.
 - 9.11.3.2.4. Should the BEOC/WTEOC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the BEOC/WTEOC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the BEOC/WTEOC Applicant stating the basis of the disqualification. BEMD shall notify the BEOC/WTEOC Applicant, LS and FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the BEOC/WTEOC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.
- 9.11.4. The BEOC/WTEOC 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. Further, the BEOC/WTEOC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 9.11.3.2, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the BEOC/WTEOC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.

9.11.5. No Request for Reconsideration (RR) of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the BEOC/WTEOC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the Investment Promotion Office (IPO). In such circumstances, the BEOC/WTEOC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.

9.11.5.1. Upon receipt of the RR, BEMD shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, BEMD, FS and/or LS shall evaluate the BEOC/WTEOC Application considering the additional submission.

9.11.5.2. If the BEOC/WTEOC Application passes the evaluation, REMB shall grant the RR. Thereafter, BEMD shall proceed in accordance with Section 9.11.3.1.

9.12. If the Biomass/Waste-to-Energy Developer waived the COA during the pre-application process, BEMD shall proceed with the application in accordance with Section 11.2.

9.13. **Re-application for BEOC/WTEOC.** After ITMS re-opens the area for RE Applications pursuant to Section 9.11.3.2.4, the BEOC/WTEOC Applicant may re-apply for the same AOI by complying with Section 9.9.1.

During the checking of the submission for completeness and consistency under Section 9.9.2 and prior to giving notice of any deficiency, BEMD shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for BEOC/WTEOC Applications.

If another BEOC/WTEOC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred

to above and the validation of the area with the ITMS shall be on a first-come, first-serve basis. BEMD shall issue an order of payment for the application and processing fees to the BEOC/WTEOC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

10. Terms of Certificate of Authority. The awardee of a BEOC/WTEOC shall have exclusive authority to procure permits or certifications and tenurial instruments needed for the development and utilization of the biomass/waste-to-energy resources within an area specified in the BEOC/WTEOC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

- 10.1. The COA shall be valid for a period not exceeding three (3) years. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Biomass/Waste-to-Energy Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenurial instruments from government agencies, local government units (LGUs), entities or instrumentalities having jurisdiction over any aspect of the biomass/waste-to-energy operations. The denomination of each permit or certification or tenurial instrument to be procured as well as the reconnaissance and other activities to be conducted for the biomass/waste-to-energy project shall be listed in the COA.
- 10.2. The COA shall reflect the metes and bounds of the area as proposed in the BEOC/WTEOC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial instruments may be secured by the Biomass/Waste-to-Energy Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the BEOC/WTEOC shall form part of the COA.
- 10.3. Within thirty (30) calendar days from the issuance of the COA under Section 11.1, the Biomass/Waste-to-Energy Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt Chart form, with the minimum work commitment under Annex A.1 or B.1, as applicable.

The above timeline shall not be revised.

- 10.4. Not later than thirty (30) calendar days after the end of each year of the COA, the Biomass/Waste-to-Energy Developer shall submit an annual report on the permits, certifications or tenurial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted. The annual report shall follow the format prescribed in the COA: *Provided*, That during the last year of COA validity, the Biomass/Waste-to-Energy Developer shall submit a report covering the first quarter of such year not later thirty (30) calendar days after the last day of the period covered: *Provided; however*, That if the

Biomass/Waste-to-Energy Developer opts to shorten the period of COA validity and the Biomass/Waste-to-Energy Developer gives notice to execute the BEOC/WTEOC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.

- 10.5. The DOE shall evaluate the annual accomplishments of the Biomass/Waste-to-Energy Developer based on the fixed timeline above-mentioned:
 - 10.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Biomass/Waste-to-Energy Developer, or from the lapse of the period given under Section 10.4.
 - 10.5.2. Within ten (10) working days from notice thereof, the Biomass/Waste-to-Energy Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.
 - 10.5.3. In every case, REMB shall complete the evaluation within the prescribed period: *Provided*, That the period for rectification shall not be counted against REMB's period for evaluation.
- 10.6. After due evaluation, the DOE may recall the COA if the Biomass/Waste-to-Energy Developer is unable to show, through proper documentation, reasonable efforts to undertake the activities. If the DOE, through REMB, finds that the COA should be recalled, it shall give the Biomass/Waste-to-Energy Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Biomass/Waste-to-Energy Developer to pre-sign the BEOC/WTEOC in accordance with Section 11.2.
- 10.7. The decision of the DOE to recall the COA shall be final and non-appealable.
- 10.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit, certification, or tenurial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Biomass/Waste-to-Energy Developer, shall be procured and the necessary activities therefor conducted, as part of the Development Stage.
- 10.9. The Biomass/Waste-to-Energy Developer shall have the option to waive, shorten or utilize the maximum period of validity of the COA.
 - 10.9.1. If the Biomass/Waste-to-Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the BEOC/WTEOC, a proposed Work Program and a terminal report on the permits, certifications or

tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.

10.9.2. If the Biomass/Waste-to-Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the BEOC/WTEOC, a proposed Work Program and the terminal report mentioned in Section 10.9.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA.

10.9.3. Failure of the Biomass/Waste-to-Energy Developer to give written notice to the DOE within the period mentioned in the preceding paragraph shall be deemed an abandonment of the BEOC/WTEOC Application, following the procedure set forth in Section 9.11.3.2.4.

10.10. Within three (3) calendar days from notice, BEMD shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the BEOC/WTEOC in accordance with Section 11.2.

11. Award of Biomass Energy or Waste-to-Energy Operating Contracts and Registration of Biomass/Waste-to-Energy Developers.

11.1. **Issuance of Certificate of Authority.** After the approval of a BEOC/WTEOC Application and before the execution of a BEOC/WTEOC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 10.9.

11.2. **Signing of the Biomass Energy or Waste-to-Energy Operating Contract.** The following procedure shall govern the awarding of BEOC/WTEOC:

11.2.1. **Notification of Award.** The DOE shall notify the qualified BEOC/WTEOC Applicant of the award of the BEOC/WTEOC.

11.2.2. **Signing of the Biomass Energy or Waste-to-Energy Operating Contract.** The signing of the BEOC/WTEOC shall be divided into two stages, namely: a) pre-signing by the BEOC/WTEOC Applicant; and b) signing by the DOE Secretary.

11.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary through LS within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the

REMB's recommendation, the REMB Director shall require the BEOC/WTEOC Applicant to pre-sign the original copies of the BEOC/WTEOC following the prescribed template. The BEOC/WTEOC Applicant is then required to pre-sign the BEOC/WTEOC within thirty (30) calendar days upon receipt of the notice. Failure to comply within this timeframe shall result in the BEOC/WTEOC application being deemed abandoned. Notifications will be sent through the EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the BEOC/WTEOC Applicant.

11.2.2.2. The BEOC/WTEOC Applicant shall submit the pre-signed BEOC/WTEOC to BEMD. Within one (1) working day, BEMD shall check the completeness of the pre-signed BEOC/WTEOC, and, if the same is in order, BEMD shall forward the pre-signed BEOC/WTEOC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed BEOC/WTEOC shall be returned to the BEOC/WTEOC Applicant for rectification.

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

11.2.3. **Payment of Signing Fee.** The BEMD, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The BEOC/WTEOC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days from receipt of the order of payment. Failure of the Biomass/Waste-to-Energy Developer to do so shall cause the BEOC/WTEOC to be deemed void.

11.2.4. **Posting of Performance Bond.** Subject to Section 91, the BEOC/WTEOC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within the sixty (60) calendar days from receipt of notice. Failure of the Biomass/Waste-to-Energy Developer to do so shall cause the BEOC/WTEOC to be deemed void.

11.2.5. **Delivery of Signed Biomass Energy or Waste-to-Energy Operating Contract.** Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, BEMD shall, after due validation thereof, upload in the

EVOSS System the signed and notarized copy of the BEOC/WTEOC and COR, as applicable.

The Biomass/Waste-to-Energy Developer shall personally receive the original copies of the BEOC/WTEOC and COR, as applicable, after submission of the proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the BEOC/WTEOC, the Biomass/Waste-to-Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

- 11.3. **Duty to Maintain Records.** The BEMD shall maintain a record of all LOIs received, pending BEOC/WTEOC Applications, and signed BEOC/WTEOC in the EVOSS System.
- 11.4. **Reopening of the Area of Interest.** The ITMS shall make the area available to other applicants only when: a) the BEOC/WTEOC Applicant failed to qualify and the period under Section 9.11.3.2 has lapsed; or b) withdraws or abandons its LOI or BEOC/WTEOC Application, as the case may be, and only after due notice is given to the concerned interested participant/ BEOC/WTEOC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-serve basis.
- 11.5. **Registration of Biomass/Waste-to-Energy Developers.** The DOE, through the REMB, shall issue a COR to a Biomass/Waste-to-Energy Developer holding a valid BEOC/WTEOC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon receipt of proof of Financial Closing. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the BEOC/WTEOC, at the option of the Biomass/Waste-to-Energy Developer.

In the case of biofuels producers, the accreditation of biofuels producers shall be governed by the procedures under JAO No. 2008-1, Series of 2008, pursuant to RA 9367. At their option, accredited biofuels producers may register with the DOE as RE Developers to avail of incentives under the RE Act and shall be issued with a COR.

12. Terms of Biomass/Waste-to-Energy Operating Contract. The development of biomass/waste-to-energy resources shall be covered by a BEOC/WTEOC following the prescribed template (Annexes "A" and "B", respectively).

- 12.1. The Biomass/Waste-to-Energy Developer shall be given a non-extendible period of three (3) years from the date of execution of the

BEOC/WTEOC to achieve Commercial Operations and shall be called the Development Stage.

- 12.2. The BEOC/WTEOC shall have a term of twenty-five (25) years from the date of execution, which shall include the Development/Commercial Stage but shall exclude the period covered by the COA.
- 12.3. Not earlier than six (6) months but not later than three (3) months prior to the expiration of the twenty-five (25)-year period, the BEOC/WTEOC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the BEOC/WTEOC.

13. Stages of Biomass Energy or Waste-to-Energy Operating Contract. A BEOC/WTEOC shall cover two (2) stages of the biomass/waste-to-energy project, namely:

- 13.1. **Development Stage.** It involves the conduct of final feasibility study up to achievement of Financial Closing, development, construction, installation, testing and commissioning and until application of Certificate of Compliance (COC) of the biomass/waste-to-energy project; and
- 13.2. **Commercial Stage.** It involves the commercial operation of the biomass/waste-to-energy project which shall commence from the issuance of COC by the ERC.

14. Investments.

- 14.1. **Additional Investments.** Additional investment may cover investment for improvements, modernization, rehabilitation, or expansion duly registered with the DOE, which may or may not result in increased capacity, subject to the conditions to be determined by the DOE, such as, but not limited to, the following:
 - 14.1.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and
 - 14.1.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the biomass/waste-to-energy facilities.

If, by reason of the additional investment, the capacity of the biomass/waste-to-energy project is increased by at least thirty percent (30%) as validated by REMB, the Biomass/Waste-to-Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery,

equipment and/or materials, the DOE, upon the request of the Biomass/Waste-to-Energy Developer, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- 14.1.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the biomass/waste-to-energy project will be increased by at least thirty percent (30%);
- 14.1.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;
- 14.1.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and
- 14.1.2.4. Subject to Section 91, proof of posting of the performance bond as provided in Section 65.

CHAPTER IV – GEOTHERMAL ENERGY RESOURCE

15. Eligibility of Geothermal Service Contract Applicant. Any Person may apply for a Geothermal Service Contract (GSC), subject to the provisions in this Chapter.

- 15.1. The GSC Applicant must be a Filipino citizen or, if a corporation, must be a Filipino corporation, with at least sixty percent (60%) of its capitalization duly owned and controlled by Filipinos, duly registered with the SEC and organized or authorized for the purpose of engaging in exploration, development and utilization of geothermal resources: *Provided*, That in case the GSC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.
- 15.2. For the large-scale exploration, development and utilization of geothermal resources, defined under Section 4(s) of the RE Act as a mineral resource, the Government, through the President, may enter into agreements with foreign-owned corporations involving technical or financial assistance pursuant to Article XII, Section 2 of the Philippine Constitution: *Provided*, That large-scale exploration, development and utilization of geothermal resources refers to a project with an initial investment of at least Fifty Million US Dollars (US\$50,000,000.00). The initial investment shall include capitalization necessary during the Pre-Development Stage up to drilling of appropriate number of production wells.

- 15.3. An Applicant which applies for a GSC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

16. Modes of Awarding Geothermal Service Contract. GSC shall be awarded through (a) an OCSP, or (b) Direct Application.

- 16.1. The OCSP shall be adopted for the selection and award of GSCs for Pre-Determined Areas (PDAs) covering geothermal resources for commercial purposes. This shall be governed by Section 17 and such guidelines as may be issued by the DOE pursuant to Section 18.

16.2. Direct Application shall be available for the selection and award of:

- 16.2.1. GSCs covering PDAs, following a failed OCSP pursuant to the guidelines issued under Section 18; and

- 16.2.2. GSC in an area identified by a GSC Applicant and verified with or confirmed by the ITMS as available for exploration, development and/or utilization of geothermal resources.

17. Pre-Determined Areas. Interested parties may apply for GSC for PDAs offered by the DOE during a prescribed period.

- 17.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for GSC Application, with the respective location maps and technical descriptions thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.

- 17.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of GSC Applications.

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

18. Procedure for Awarding Geothermal Service Contract under Open and Competitive Selection Process. The DOE shall issue specific guidelines for the conduct of, and award of GSCs under, OCSP.

If an OCSP is declared a failure with respect to any or all PDAs included therein, all the affected PDAs shall be opened for Direct Application.

19. Procedure for Awarding Geothermal Service Contract under Direct Application.

- 19.1. **Coverage.** Direct Application shall be observed in processing GSC Applications for: (a) geothermal resources located in PDAs which the DOE shall declare as available under this mode pursuant to the guidelines issued under Section 18; and (b) geothermal resources in areas other than those included in the PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 19.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with Geothermal Energy Management Division (GEMD). The list of requirements necessary for registration is detailed in Annex "J".
- 19.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in Sections 20 and 21.1. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex C.1. The submission of the LOI shall not be considered as a filing of an GSC Application and shall not commence the application process.
- 19.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform interested participants about the GSC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the GSC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 19.5. **Configuration of Area of Interest.** The AOI for the GSC Application shall either be polygonal or in blocks following the Blocking System or a combination of both. ITMS shall check the completeness of the mapping requirements within three (3) working days.
- 19.6. **Area Verification.** Within eighteen (18) calendar days from receipt of the LOI with complete documents, ITMS shall complete the area verification and determine whether the AOI is:

- 19.6.1. Covered by an existing PDA under the OCSP, GSC/GOC, GSC/GOC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
- 19.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than GSC or GOC;
- 19.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than GSC Application;
- 19.6.4. Within the protected areas and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenorial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the MSP of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001, entitled "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the GSC Application based on available data on file with ITMS and the Philippine Geoportal Project website of NAMRIA;

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

- 19.6.5. Covered by the COA of other energy resource;
- 19.6.6. Covered by the COA of the same energy resource; and/or
- 19.6.7. Subject to Section 19.9.4, open for GSC Applications:
 - 19.6.7.1. Covered by AOI of the same/other energy resource; or
 - 19.6.7.2. Not covered by AOI of the same/other energy resource.

- 19.7. **Area Verification Results.** ITMS shall provide GEMD with the results of area verification through the EVOSS System. Within five (5) calendar days upon receipt of the verification results, GEMD, through the REMB

Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 19.6.7. If the AOI falls under Sections 19.6.2 to 19.6.5, the GSC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the GSC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 19.7.3, as applicable.

19.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from uploading of the area verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 19.7.2, the interested participant and GEMD may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed Geothermal project. The interested participant may reconfigure its AOI to cover only such portion as may allow the GSC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 19.6.1 or 19.6.6 (for same energy resource), and Sections 19.6.2, 19.6.3, 19.6.5 (for other energy resource), or Section 19.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 19.7.3.6, if applicable, GEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the GSC Application.

19.7.2. **Multiple Resources in an Area.** If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA of another RE Developer not affiliated to the interested participant as provided under Sections 19.6.2, 19.6.3 and 19.6.5, the interested participant may still pursue the GSC Application, subject to the following provisions:

19.7.2.1. The interested participant shall:

19.7.2.1.1. Explain in writing why the proposed geothermal project should include the overlapping area; and

19.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize

the prior rights of the existing applicants and/or developers of other energy resources within the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

- 19.7.2.2. GEMD shall inform the existing applicant or energy contractor/developer of the intent to develop the geothermal resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.
- 19.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within ten (10) working days from receipt of notice, GEMD shall upload in the EVOSS System a Notice to Proceed to the interested participant for the filing of the GSC Application.
- 19.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify GEMD thereof and provide a copy to the interested participant within ten (10) calendar 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.
- 19.7.2.5. Within five (5) calendar days from receipt of an objection, GEMD and the concerned DOE Division shall jointly determine whether exploration of geothermal resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.
- 19.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he concurs that the geothermal project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple

resource development in the overlapping area, taking into account the most beneficial use of the resources.

- 19.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 19.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 19.6.4, the interested participant may still pursue the GSC Application if there is no material adverse effect on the feasibility of the proposed geothermal project after applying the provisions below:
 - 19.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI net of the said areas;
 - 19.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the ENIPAS and its IRR;
 - 19.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the IPRA and its IRR.
 - 19.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant 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.
 - 19.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant 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.
 - 19.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform,

pipelines, loading buoy and other related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participant shall secure a prior authorization from the DOE and the DND, and prior consent from the SC No. 38 Service Contractor pursuant to Section 1 of Proclamation No. 72, Series of 2001.

Part 3. Filing and Evaluation of Geothermal Service Contract Applications

- 19.8. **Orientation of GSC Applicant.** The orientation is intended to inform GSC Applicant about the GSC application requirements, and to guide them through the process for evaluation thereof, awarding of GSC and the registration of a geothermal project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for GSC Applicants, facilitated by representatives from the LS, GEMD, and FS. The GSC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

- 19.9. **Receipt of Geothermal Service Contract Applications.** After the Notice to Apply is uploaded in the EVOSS System, the interested participant may file its GSC Application by complying with the following procedures and requirements:

19.9.1. The GSC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").

19.9.2. GEMD shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the geothermal project within three (3) working days.

19.9.3. If the submission is complete and the AOI is still free for development, GEMD shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the GSC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.

19.9.4. The AOI is not reserved for the GSC Applicant until the complete application documents and proof of payment of application and processing fees are submitted.

19.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.

- 19.9.6. In case the AOI is no longer free for development, the GSC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.
- 19.9.7. To ensure the orderly processing of GSC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before a GSC Applicant can upload the documentary requirements. Pending such modification, GEMD shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 19.9.3.

19.10. Evaluation of Geothermal Service Contract Applications.

- 19.10.1. After the payment of the processing fee, GEMD, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.
- 19.10.2. GEMD shall consolidate all the evaluation results and proceed with the processing of the application, as follows:
 - 19.10.2.1. If the GSC Application passes the evaluations, GEMD shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the GSC Application; the draft COA, as applicable; and the draft GSC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the GSC Application in accordance with Section 21.
 - 19.10.2.2. If the GSC Application does not pass the legal, technical, and/or financial evaluations, GEMD shall notify the GSC Applicant through the EVOSS System to rectify the submission within ten (10) working days. GEMD shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

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

19.10.2.2.2. If the GSC Applicant submits supplementary documents within the prescribed period above and GEMD determines that the submission is incomplete, the GSC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

19.10.2.2.3. GEMD, LS and FS shall be notified by the EVOSS System of the submission. GEMD, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.

19.10.2.2.4. Should the GSC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the GSC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the GSC Applicant stating the basis of the disqualification. GEMD shall notify the GSC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the GSC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.

19.10.3. The GSC 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. Further, the GSC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 19.10.2.2, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the GSC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.

19.10.4. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the GSC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the GSC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.

19.10.4.1. Upon receipt of the RR, GEMD shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, GEMD, FS and/or LS shall evaluate the GSC Application considering the additional submission.

19.10.4.2. If the GSC Application passes the evaluation, REMB shall grant the RR. Thereafter, GEMD shall proceed in accordance with Section 19.10.2.1.

19.11. If the Geothermal Developer waived the COA during the pre-application process, GEMD shall proceed with the application in accordance with Section 21.2.

19.12. **Re-application for GSC.** After ITMS re-opens the area for RE Applications pursuant to Section 19.10.2.2.3, the GSC Applicant may re-apply for the same AOI by complying with Section 19.9.1.

During the checking of the submission for completeness and consistency under Section 19.9.2 and prior to giving notice of any deficiency, GEMD shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for GSC Applications.

If another GSC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred to above and the validation of the area with the ITMS shall be on a first-come, first-serve basis. GEMD shall issue an order of payment for the application and

processing fees to the GSC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

20. Terms of Certificate of Authority. The awardee of a GSC shall have exclusive authority to procure permits or certifications and tenorial instruments needed for the exploration, development and utilization of the geothermal resources within an area specified in the GSC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

- 20.1. The COA shall be valid for a period not exceeding three (3) years. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Geothermal Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenorial instruments from government agencies, LGUs, entities or instrumentalities having jurisdiction over any aspect of the geothermal operations. The denomination of each permit or certification or tenorial instrument to be procured as well as the reconnaissance and other activities to be conducted for the geothermal project shall be listed in the COA.
- 20.2. The COA shall reflect the metes and bounds of the area as proposed in the GSC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenorial instruments may be secured by the Geothermal Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the GSC shall form part of the COA.
- 20.3. Within thirty (30) calendar days from the issuance of the COA under Section 21.1, the Geothermal Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt chart form, with the minimum work commitment under Annex C.1.

The above timeline shall not be revised.

- 20.4. Not later than thirty (30) calendar days after the end of each year of the COA, the Geothermal Developer shall submit an annual report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted. The annual report shall follow the format prescribed in the COA: *Provided*, That during the last year of COA validity, the Geothermal Developer shall submit a report covering the first quarter of such year not later thirty (30) calendar days after the last day of the period covered: *Provided, however*, That if the Geothermal Developer opts to shorten the period of COA validity and the Geothermal Developer gives notice to execute the GSC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.
- 20.5. The DOE shall evaluate the annual accomplishments of the Geothermal Developer based on the fixed timeline above-mentioned:

- 20.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Geothermal Developer, or from the lapse of the period given under Section 20.4.
- 20.5.2. Within ten (10) working days from notice thereof, the Geothermal Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.
- 20.5.3. In every case, REMB shall complete the evaluation within the prescribed period: *Provided*, That the period for rectification shall not be counted against REMB's period for evaluation.
- 20.6. After due evaluation, the DOE may withdraw the COA if the Geothermal Developer is unable to show, through proper documentation, reasonable efforts to undertake the activities. If the DOE, through REMB, finds that the COA should be withdrawn, it shall give the Geothermal Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Geothermal Developer to pre-sign the GSC in accordance with Section 21.2.
- 20.7. The decision of the DOE to withdraw the COA shall be final and non-appealable.
- 20.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit or certification or tenurial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Geothermal Developer, shall be procured and the necessary activities therefor conducted, as part of the Pre-Development Stage.
- 20.9. The Geothermal Developer shall have the option to waive, shorten, or utilize the maximum period of validity of the COA.
 - 20.9.1. If the Geothermal Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the GSC, a proposed Work Program and a terminal report on the permits, certifications or tenurial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.
 - 20.9.2. If the Geothermal Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the GSC, a proposed Work Program and the terminal report mentioned in Section 20.9.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA.
 - 20.9.3. Failure of the Geothermal Developer to give written notice to the DOE within the period mentioned in the preceding paragraph

shall be deemed an abandonment of the GSC Application, following the procedure set forth in Section 19.10.2.2.4.

- 20.10. Within three (3) calendar days from notice, GEMD shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the GSC in accordance with Section 21.2.

21. Award of Geothermal Service Contract and Registration of Geothermal Developers.

- 21.1. **Issuance of Certificate of Authority.** After the approval and award of a GSC Application and before the execution of a GSC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 20.9.

- 21.2. **Signing of the Geothermal Service Contract.** The following procedure shall govern the awarding of GSC:

21.2.1. **Notification of Award.** The DOE shall notify the selected (under OCSP) or qualified (under Direct Application) GSC Applicant of the award of the GSC.

21.2.2. **Signing of the Geothermal Service Contract.** The signing of the GSC shall be divided into two stages, namely: a) pre-signing by the GSC Applicant; and b) signing by the DOE Secretary: *Provided*, That any GSC in the nature of a financial or technical assistance agreement shall be approved and executed by the President of the Philippines, upon the recommendation by the DOE Secretary, in accordance with Section 2, Article XII of the Philippine Constitution.

21.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary through LS within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the GSC Applicant to pre-sign the original copies of the GSC following the prescribed template. The GSC Applicant is then required to pre-sign the GSC within thirty (30) calendar days upon receipt of the notice. Failure to comply within this timeframe shall result in the GSC application being deemed abandoned. Notifications will be sent through EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the GSC Applicant.

21.2.2.2. The GSC Applicant shall submit the pre-signed GSC to GEMD. Within one (1) working day, GEMD shall check the completeness of the pre-signed GSC and, if the same is in order, and shall forward the pre-signed GSC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed GSC shall be returned to the GSC Applicant for rectification.

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

21.2.3. **Payment of Signing Fee.** The GEMD, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The GSC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days from receipt of the order of payment. Failure of the Geothermal Developer to do so shall cause the GSC to be deemed void.

21.2.4. **Posting of Performance Bond.** Subject to Section 91, the GSC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within sixty (60) calendar days from receipt of notice. Failure of the Geothermal Developer to do so shall cause the GSC to be deemed void.

21.2.5. **Delivery of the Signed Geothermal Service Contract.** Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, GEMD shall, after due validation thereof, upload in the EVOSS System the signed and notarized copy of the GSC and COR, as applicable.

The Geothermal Developer shall personally receive the original copies of the GSC and COR, as applicable, after submission of the proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the GSC, the Geothermal Developer shall surrender to the DOE the COA issued pursuant to this Circular.

21.3. **Duty to Maintain Records.** The GEMD shall maintain a record of all LOIs received, pending GSC Applications, and signed GSC in the EVOSS System.

21.4. **Reopening of the Area of Interest.** The ITMS shall make the area available to other applicants only when: a) the GSC Applicant failed to

qualify and the period under Section 19.10.2.2 has lapsed; or b) withdraws or abandons its LOI or GSC Application, as the case may be, and only after due notice is given to the concerned interested participant/GSC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-serve basis.

- 21.5. **Registration of Geothermal Developers.** The DOE, through the REMB, shall issue a COR to a Geothermal Developer holding a valid GSC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the GSC, at the option of the Geothermal Developer.

22. Terms of Geothermal Service Contract. The development of geothermal resources shall be covered by a GSC following the prescribed template (Annex "C").

- 22.1. The Geothermal Developer shall be given a period of five (5) years from the date of execution of the GSC, extendible up to two (2) years, to determine the existence of geothermal resources in Commercial Quantities and shall be called Pre-Development Stage.
- 22.2. The Geothermal Developer may file a request to extend the term of the Pre-Development Stage for justifiable reasons not earlier than six (6) months but not later than three (3) months prior to its expiration, which shall be decided by the REMB Supervising Undersecretary.
- 22.3. The Development/Commercial Stage shall commence prior to the expiration of the Pre-Development Stage and upon the issuance of the COCOC and shall continue for the remainder of term of the GSC.
- 22.4. The GSC shall have a term of twenty-five (25) years from the date of execution, which shall include the Pre-Development Stage and Development/Commercial Stage but shall exclude the period covered by the COA.
- 22.5. Not earlier than six (6) years but not later than three (3) years prior to the expiration of the twenty-five (25)-year contract term, the GSC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the GSC.

23. Stages of Geothermal Service Contract. A GSC shall cover two (2) stages of the geothermal project, namely:

- 23.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of

DOC of the geothermal project, including the identification of the proposed Production Area; and

- 23.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the geothermal project, production, and the production and utilization of geothermal resources.

24. Investments.

- 24.1. **New Investments.** Geothermal Developers undertaking discovery, exploration, development and/or utilization of new geothermal resources within the Contract Area distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Geothermal Developer may, upon its discretion, relinquish the Contract Area and apply for a new GSC over the area of new investment, subject to constitutional term limits.

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

24.2.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and

24.2.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the geothermal facilities.

If, by reason of the additional investment, the capacity of the geothermal project is increased by at least ten percent (10%) as validated by REMB, the Geothermal Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Geothermal Developer, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- 24.2.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the geothermal project will be increased by at least ten percent (10%);

24.2.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;

24.2.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and

24.2.2.4. Subject to Section 91, proof of posting of performance bond as provided in Section 65.

CHAPTER V – SOLAR ENERGY RESOURCE

25. Eligibility of Solar Energy Operating Contract Applicant. Any Person may apply for Solar Energy Operating Contract (SEOC), subject to the provisions in this Chapter.

25.1. The SEOC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in the development and utilization solar energy resources: *Provided*, That in case the SEOC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.

25.2. An Applicant which applies for a SEOC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

26. Modes of Awarding Solar Energy Operating Contract. SEOC shall be awarded through Direct Application.

26.1. Direct Application shall be available for the selection and award of SEOC in an area identified by a SEOC Applicant and verified with or confirmed by the ITMS as available for the development and/or utilization of solar energy resources.

26.2. Solar Power Projects for Own-Use and/or for Non-Commercial Purposes shall not require the issuance of SEOC but shall comply with the registration requirements provided under Chapter XI: *Provided*, That the physical connection of such projects shall be as a self-generating facility the generating unit of which has no connection to the distribution system or grid.

27. Procedure for Awarding Solar Energy Operating Contract under Direct Application.

- 27.1. **Coverage.** Direct Application shall be observed in processing SEOC Applications for solar energy resources.

Part 1. Pre-Application Process

- 27.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with SEMG. The list of requirements necessary for registration is detailed in Annex "J".
- 27.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in Sections 28 and 29.1. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex D.1 or Annex E.1, as applicable. The submission of the LOI shall not be considered as a filing of a SEOC Application and shall not commence the application process.
- 27.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform interested participants about the SEOC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the SEOC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 27.5. **Configuration of Area of Interest.** The interested participant shall specify the type of solar power project, whether it is land-based (e.g., ground-mounted, roof-mounted, or other similar solar power projects) or floating, with or without integrated ESS, and indicate the geographic coordinates of the AOI. The AOI for the SEOC Application shall either be polygonal or in block following the Blocking System or a combination of both. ITMS shall check the completeness of the mapping requirements within three (3) working days.
- 27.6. **Area Verification.** Within eighteen (18) calendar days from receipt of the LOI with complete documents, the ITMS shall complete the area verification and determine whether the AOI is:

- 27.6.1. Covered by a SEOC, SEOC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
- 27.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than SEOC or Solar Energy Service Contract (SESC);
- 27.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than SEOC Application;
- 27.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the MSP of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001, titled "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the SEOC Application based on available data on file with ITMS and NAMRIA's Philippine Geoportal Project website;

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

- 27.6.5. Covered by the COA of other energy resource;
- 27.6.6. Covered by the COA of the same energy resource; and/or
- 27.6.7. Subject to Section 27.9.4, open for SEOC Applications:
 - 27.6.7.1. Covered by AOI of the same/other energy resource; or
 - 27.6.7.2. Not covered by AOI of the same/other energy resource.

27.7. Area Verification Results. ITMS shall provide SEMG with the results of area verification through the EVOSS System. Within five (5) calendar days upon receipt of the verification results, SEMG, through the REMB Assistant Director, shall endorse the final verification results and upload

the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 27.6.7. If the AOI falls under Sections 27.6.1 to 27.6.5, the SEOC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the SEOC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 27.7.3, as applicable.

27.7.1. Reconfigured Area of Interest. Within ten (10) calendar days from uploading of the final technical verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 27.7.2, the interested participant and SEMG may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed solar power project. The interested participant may reconfigure its AOI to cover only such portion as may allow the SEOC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 27.6.1 or 27.6.6 (for same energy resource), and Sections 27.6.2, 27.6.3, 27.6.5 (for other energy resource) or 27.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 27.7.3.6, if applicable, SEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the SEOC Application.

27.7.2. Multiple Resources in an Area. If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA of another RE Developer not affiliated to the interested participant, as provided under Sections 27.6.2, 27.6.3 and 27.6.5, the interested participant may still pursue the SEOC Application, subject to the following provisions:

27.7.2.1. The interested participant shall:

27.7.2.1.1. Explain in writing why the proposed solar power project will not be feasible without the overlapping area, with justification on the technical viability of the project; and

27.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing applicants

and/or developers of other energy resources within the overlapping area; that the design of the proposed solar power project will ensure safe and optimal development of solar energy and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

- 27.7.2.2. SEMG shall inform the existing applicant or energy contractor/developer of the intent to develop the solar energy resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.
- 27.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within ten (10) working days from receipt of notice, SEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the SEOC Application.
- 27.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify SEMG thereof and provide a copy to the interested participant within ten (10) calendar 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.
- 27.7.2.5. Within five (5) calendar days from receipt of an objection, SEMG and the concerned DOE Division shall jointly determine whether the development of solar energy resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.

- 27.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he/she concurs that the solar power project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple resource development in the overlapping area, taking into account the most beneficial use of the resources.
- 27.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 27.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 27.6.4, the interested participant may still pursue the SEOC Application if there is no material adverse effect on the feasibility of the proposed solar power project after applying the provisions below:
- 27.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI net of the said areas.
- 27.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the ENIPAS and its IRR.
- 27.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the IPRA and its IRR.
- 27.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant 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.
- 27.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant 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.

27.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform, pipelines, loading buoy and other related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participant shall secure a prior authorization from the DOE and the DND, and prior consent from the Service Contractor of SC No. 38 pursuant to Section 1 of Proclamation No. 72, Series of 2001.

Part 3. Filing and Evaluation of Solar Energy Operating Contract Applications

27.8. **Orientation of SEOC Applicant.** The orientation is intended to inform SEOC Applicant about the SEOC application requirements, and to guide them through the process for evaluation thereof, awarding of SEOC and the registration of a solar energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for SEOC Applicants, facilitated by representatives from the LS, SEMG, and FS. The SEOC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

27.9. **Receipt of Solar Energy Operating Contract Applications.** After the scheduled orientation, the interested participant may file its SEOC Application by complying with the following procedures and requirements:

27.9.1. The SEOC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").

27.9.2. SEMG shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the solar power project within three (3) working days.

27.9.3. If the submission is complete and the AOI is still free for development, SEMG shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the SEOC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.

- 27.9.4. The AOI is not reserved for the SEOC Applicant until the complete application documents and proof of payment of application and processing fees are submitted.
 - 27.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
 - 27.9.6. In case the AOI is no longer free for development, the SEOC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.
 - 27.9.7. To ensure the orderly processing of SEOC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before a SEOC Applicant can upload the documentary requirements. Pending such modification, SEMG shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 27.9.3.
- 27.10. **Proof of Access to Proposed Area of Interest.** As part of the application requirements, the SEOC Applicant shall submit proof of ownership or possessory rights over real properties covered by the AOI.
- 27.10.1. **Acceptable Proof of Possessory Rights over Public Lands.** The SEOC Applicant may submit the following documents as proof of possessory rights over public lands:
 - 27.10.1.1. Permits and clearances issued in favor of the SEOC Applicant by a government agency or instrumentality that has jurisdiction over the AOI authorizing the use of such AOI for the Solar Power Project; or
 - 27.10.1.2. Any other permits issued by the relevant government agency or instrumentality, including Notice of Award.
 - 27.10.2. **Acceptable Proof of Ownership or Possessory Rights over Private Lands.** In the order of precedence hereunder, any of the following documents may be submitted by the SEOC Applicant as proof of ownership or possessory rights over private lands:
 - 27.10.2.1. Certificates of title to the real properties in the name of the SEOC Applicant; or
 - 27.10.2.2. Contracts, deeds, agreements and the like that unconditionally grant the SEOC Applicant ownership or right to possess the real properties for purposes of construction, installation, maintenance

and operation of the solar energy project thereon;
or

27.10.2.3. Contracts, deeds, agreements, and the like that unconditionally grant the SEOC Applicant an exclusive option to acquire the ownership or the right to possess the real properties: *Provided*, That the right to construct, install, maintain and operate the solar energy project thereon is vested unto the SEOC Applicant.

27.10.3. **Conflicting Claims over Private Lands.** If there are conflicting claims over the AOI, the conflict shall be resolved in favor of the Applicant whose proof of ownership or possessory right has the highest precedence based on the order of precedence set out in Section 27.10.2.

27.10.4. **Affidavit of Acquired Possessory Rights over Private Lands.** If, at the time the SEOC Application is filed, the acceptable proof of ownership or possessory rights under Section 27.10.2 are not available and the AOI is not subject of a conflicting claim, the SEOC Applicant shall submit an Affidavit of Acquired Possessory Rights executed strictly in accordance with the template provided in Annex "N-1" hereof and a copy of the Board Resolution authorizing the affiant to execute the instrument on behalf of the SEOC Applicant.

The SEOC Applicant shall submit the acceptable proof of ownership or possessory rights and supporting documents mentioned in Sections 27.10.2 and 27.10.5 not later than thirty (30) calendar days after the issuance of the COA or, if the SEOC Applicant did not avail of the COA, after the execution of the SEOC. Failure of the SEOC Applicant to submit such documents within the prescribed period shall render the COA or SEOC, whichever is applicable, void *ab initio*.

27.10.5. **Supporting Documents.** In addition to the acceptable proof of ownership or possessory rights under Section 27.10.2, the SEOC Applicant shall also submit all documents needed to establish the authenticity and due execution of the contracts, deeds, agreements, etc. mentioned in Sections 27.10.2.2 and 27.10.2.3, namely:

27.10.5.1. Board Resolution or Secretary's Certificate of the SEOC Applicant and: (i) if the registered owner of the real property is a corporation, Board Resolution or Secretary's Certificate issued by such corporation; or (ii) if the registered owner is acting through a representative, a Special Power of Attorney in favor of the registered owner's

representative, each authorizing the parties to enter into the contracts, deeds, agreements, and the like;

27.10.5.2. Proof of identity of the registered owner and the signatories to the contracts, deeds, agreements, and the like; and

27.10.5.3. Three (3) specimen signature of the said signatories:

Provided, however, That in cases where the right to dispose of the real property has transferred wholly or partly to persons other than the registered owner either by succession or voluntary conveyance, the judicial/extrajudicial settlement of the estate of the deceased owner or of his/her spouse, or the deed of conveyance, as the case may be, with the proof of authority and proof of identity abovementioned, shall be submitted by the SEOC Applicant.

The documents above shall be covered by a scanned copy of the sworn statement of the SEOC Applicant's authorized representative containing the details of the document/s constituting the proof of ownership or possessory rights, as follows:

- (a) The denomination of the contracts, deeds, agreements, etc., the date/s of execution and the term thereof, with inclusive dates;
- (b) The names and addresses of the parties to the contracts, deeds, agreements, etc., indicating their relation, *e.g.*, seller and buyer, lessor and lessee, and the like;
- (c) The specific section/clause in the contract, deed, agreement, etc. by which the ownership or possession of the real property is conveyed, with the said provision quoted in full;
- (d) An affirmation that the conveyance is effective, or a summary of the limitations, conditions and other terms that must be complied with before the conveyance becomes effective;
- (e) The date of notarization of the documents above; and

(f) A read-only Excel file and attached to the sworn statement where the details below are presented:

(i) The SEOC Applicant has the authority to acquire ownership/possession and that its counterparty in the contracts, deeds, agreements, etc. has the right and/or authority to dispose of the same in favor the SEOC Applicant; and

(ii) The contract, deed, agreement, etc. was executed by persons identified as having the right to dispose of the ownership or possession of the real properties subject thereof.

27.10.6. Contracts, deeds, agreements, etc., powers of attorney, or any other document mentioned above that are executed outside the Philippines must be submitted with the corresponding apostille or notarized, as the case may be.

27.11. Evaluation of Solar Energy Operating Contract Applications.

27.11.1. After the payment of the processing fee, SEMG, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.

27.11.2. **Evaluation of Proof of Possessory Rights.** As part of the legal evaluation under Section 27.11.1, LS shall:

27.11.2.1. Evaluate the certificates of title submitted by the SEOC Applicant;

27.11.2.2. In the evaluation of the contracts, deeds, agreements etc. mentioned in Sections 27.10.2.2 and 27.10.2.3, shall only consider the SEOC Applicant's sworn statement and excel file attached thereto; or

27.11.2.3. Evaluate the Affidavit of Acquired Possessory Rights mentioned in Section 27.10.4.

DOE reserves the right to evaluate the SEOC Applicant's proof of ownership or possessory rights and supporting documents.

27.11.3. SEMG shall consolidate all the evaluation results and proceed with the processing of the application, as follows:

27.11.3.1. If the SEOC Application passes the evaluations, SEMG shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the SEOC Application; the draft COA, as applicable; and the draft SEOC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the SEOC Application in accordance with Section 29.

27.11.3.2. If the SEOC Application does not pass the legal, technical, and/or financial evaluations, SEMG shall notify the SEOC Applicant through the EVOSS System to rectify the submission within ten (10) working days. SEMG shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

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

27.11.3.2.2. If the SEOC Applicant submits supplementary documents within the prescribed period above and SEMG determines that the submission is incomplete, the SEOC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

27.11.3.2.3. SEMG, LS and FS shall be notified by the EVOSS System of the submission.

SEMG, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.

27.11.3.2.4. Should the SEOC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the SEOC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the SEOC Applicant stating the basis of the disqualification. SEMG shall notify the SEOC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the SEOC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.

27.11.4. The SEOC 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. Further, the SEOC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 27.11.3.2.1, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the SEOC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.

27.11.5. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the SEOC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the SEOC Applicant may file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.

- 27.11.5.1. Upon receipt of the RR, SEMG shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, SEMG, FS and/or LS shall evaluate the SEOC Application considering the additional submission.
 - 27.11.5.2. If the SEOC Application passes the evaluation, REMB shall grant the RR. Thereafter, SEMG shall proceed in accordance with Section 27.11.3.1.
- 27.12. If the Solar Energy Developer waived the COA during the pre-application process, SEMG shall proceed with the application in accordance with Section 29.2.
- 27.13. **Re-application for SEOC.** After ITMS re-opens the area for RE Applications pursuant to Section 27.11.3.2.3, the SEOC Applicant may re-apply for the same AOI by complying with Section 27.9.1.

During the checking of the submission for completeness and consistency under Section 27.9.2 and prior to giving notice of any deficiency, SEMG shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for SEOC Applications.

If another SEOC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred to above and the validation of the area with the ITMS shall be on a first-come, first-served basis. SEMG shall issue an order of payment for the application and processing fees to the SEOC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

28. Terms of Certificate of Authority. The awardee of a SEOC shall have exclusive authority to procure permits or certifications and tenorial instruments needed for the development and utilization of the solar energy resources within an area specified in the SEOC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

- 28.1. The COA shall be valid for a period not exceeding one (1) year, for land-based solar power projects, and two (2) years, for floating solar power projects. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Solar Energy Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenorial instruments from government agencies, LGUs, entities or instrumentalities having jurisdiction over any aspect of the solar energy operations. The denomination of each permit or certification or tenorial instrument to be procured as well as the reconnaissance and other activities to be conducted for the solar power project shall be listed in the COA.

- 28.2. The COA shall reflect the metes and bounds of the area as proposed in the SEOC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial instruments may be secured by the Solar Energy Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the SEOC shall form part of the COA.
- 28.3. Within thirty (30) calendar days from the issuance of the COA under Section 29.1, the Solar Energy Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt chart form, with the minimum work commitment under Annex D.1 or E.1, as applicable.

The above timeline shall not be revised.

- 28.4. The Solar Energy Developer shall submit a report on the permits, certifications or tenurial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted not later than thirty (30) calendar days after the last day of the period covered, as follows:

- 28.4.1. For land-based solar power projects, the report shall cover the first three (3) quarters of the COA;

- 28.4.2. For floating solar power projects, the report shall cover the first year of the COA: *Provided*, That during the last year of COA validity, the report shall cover the first quarter of such year.

Provided, however, That if the Solar Energy Developer opts to shorten the period of COA validity after procuring an SIS, and the Solar Energy Developer gives notice to execute the SEOC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.

The annual report shall follow the format prescribed in the COA.

- 28.5. The DOE shall evaluate the annual accomplishments of the Solar Energy Developer based on the fixed timeline above-mentioned:
 - 28.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Solar Energy Developer, or from the lapse of the period given under Section 28.4.
 - 28.5.2. Within ten (10) working days from notice thereof, the Solar Energy Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.
 - 28.5.3. In every case, REMB shall complete the evaluation within the prescribed period.

- 28.6. After due evaluation, the DOE may withdraw the COA if the Solar Energy Developer procured the SIS but is unable to show, through proper documentation, reasonable efforts to undertake the other activities. If the DOE, through REMB, finds that the COA should be withdrawn, it shall give the Solar Energy Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Solar Energy Developer to pre-sign the SEOC in accordance with Section 29.2.

However, notwithstanding Sections 28.8 and 30.2, the DOE shall extend the validity of the COA until the SIS is issued, if the Solar Energy Developer submitted the complete documents for an SIS Application within six (6) months from the date of the COA: *Provided*, That if the Solar Energy Developer fails to submit the complete SIS Application requirements within such period and the validity of the COA is extended, the period of the extension shall be deducted from the term of the SEOC: *Provided*, That if the Solar Energy Developer does not submit the complete SIS requirements prior to DOE's evaluation, the SEOC Application shall be deemed abandoned.

- 28.7. The decision of the DOE to withdraw the COA shall be final and non-appealable.
- 28.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit or certification or tenorial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Solar Energy Developer, shall be procured and the necessary activities therefor conducted, as part of the Development Stage.
- 28.9. The Solar Energy Developer shall have the option to waive, shorten or utilize maximum period of validity of the COA.
- 28.9.1. If the Solar Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the SEOC, a proposed Work Program and a terminal report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.
- 28.9.2. If the Solar Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the SEOC, a proposed Work Program and the terminal report mentioned in Section 27.4.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA: *Provided*, That for land-based solar power projects, the aforesaid written notice shall be given not earlier than two (2) months but not later than one (1) month prior to such expiration.

- 28.9.3. Failure of the Solar Energy Developer to give written notice to the DOE within the period mentioned in the preceding paragraph shall be deemed an abandonment of the SEOC Application, following the procedure set forth in Section 27.11.3.2.3.
- 28.9.4. In cases under Section 29.2.3, each solar power project shall be covered by a separate COA and shall have the same period of validity.
- 28.10. Within three (3) calendar days from notice, SEMG shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the SEOC in accordance with Section 29.2, if the Solar Energy Developer secured the required SIS.

29. Award of Solar Energy Operating Contract and Registration of Solar Energy Developers.

- 29.1. **Issuance of Certificate of Authority.** After the approval of a SEOC Application and before the execution of a SEOC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 28.9.
- 29.2. **Signing of the Solar Energy Operating Contract.** The following procedure shall govern the awarding of SEOC:
 - 29.2.1. **Notification of Award.** The DOE shall notify the qualified SEOC Applicant of the award of the SEOC.
 - 29.2.2. **Signing of the Solar Energy Operating Contract.** The signing of the SEOC shall be divided into two stages, namely: a) pre-signing by the SEOC Applicant; and b) signing by the DOE Secretary.
 - 29.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the SEOC Applicant to pre-sign the original copies of the SEOC following the prescribed template. The SEOC Applicant is then required to pre-sign the SEOC within thirty (30) calendar days upon receipt of the notice. Failure to comply within this timeframe shall result in the

SEOC application being deemed abandoned. Notifications will be sent through EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the SEOC Applicant.

29.2.2.2. The SEOC Applicant shall submit the pre-signed SEOC to SEMG. Within one (1) working day, SEMG shall check the completeness of the pre-signed SEOC, and, if the same is in order, SEMG shall forward the pre-signed SEOC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed SEOC shall be returned to the SEOC Applicant for rectification.

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

29.2.3. **Multiple Solar Power Projects.** A Solar Energy Developer shall have the option to avail of a single SEOC for multiple solar power projects by signifying such intent in its LOI: Provided, That the proposed capacity of each solar power project shall not exceed five megawatts (5 MW): Provided, further, That all such projects shall be located within the same province or, if in Metro Manila, within the same city: Provided, finally, That the Solar Energy Developer shall be required to avail of the COA for all such projects.

29.2.4. **Payment of Signing Fee.** The SEMG, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The SEOC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days from receipt of the order of payment. Failure of the Solar Energy Developer to do so shall cause the SEOC to be deemed void.

29.2.5. **Posting of Performance Bond.** Subject to Section 91, the SEOC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within the sixty (60) calendar days from receipt of notice. Failure of the Solar Energy Developer to do so shall cause the SEOC to be deemed void.

29.2.6. **Delivery of the Signed Solar Energy Operating Contract.** Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, SEMG shall, after due validation thereof, upload in the EVOSS System the signed and notarized copy of the SEOC and COR, as applicable.

The Solar Energy Developer shall personally receive the original copies of the SEOC and COR, as applicable, after submission of the proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the SEOC, the Solar Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

- 29.3. **Duty to Maintain Records.** The SEMG shall maintain a record of all LOIs received, pending SEOC Applications, and signed SEOC in the EVOSS System.
- 29.4. **Reopening of the Area of Interest.** The ITMS shall make the area available to other applicants only when: a) the SEOC Applicant failed to qualify and the period under Section 27.11.3.2 has lapsed; or b) withdraws or abandons its LOI or SEOC Application, as the case may be, and only after due notice is given to the concerned interested participant/ SEOC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-served basis.
- 29.5. **Registration of Solar Energy Developers.** The DOE, through the REMB, shall issue a COR to a Solar Energy Developer holding a valid SEOC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon receipt of proof of Financial Closing. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the SEOC, at the option of the Solar Energy Developer.

30. Terms of Solar Energy Operating Contract. The development of solar energy resources shall be covered by a Land-Based or Floating SEOC following the prescribed template (Annex "D" or "E", respectively).

- 30.1. The Solar Energy Developer shall be given a non-extendible period of five (5) years, in the case of land-based solar power projects, and six (6) years, in the case of floating solar power projects, from the date of execution of the SEOC to achieve Commercial Operations and shall be called the Development Stage.
- 30.2. The SEOC shall have a term of twenty-five (25) years from the date of execution, which shall include the Development/Commercial Stage but shall exclude the period covered by the COA.
- 30.3. Not earlier than six (6) months but not later than three (3) months prior to the expiration of the twenty-five (25)-year period, the SEOC may be

renewed for another twenty-five (25) years, subject to the terms and conditions of the SEOC.

- 30.4. The Work Program depends on the type of development, whether the land-based or floating solar power project.

31. Stages of Solar Energy Contract.

- 31.1. **Stages of Solar Energy Operating Contract.** A SEOC shall cover two (2) stages of the solar power project, namely:

31.1.1. **Development Stage.** It involves the conduct of final feasibility study up to achievement of Financial Closing, development, construction, installation, testing and commissioning and until application of COC of the solar power project; and

31.1.2. **Commercial Stage.** It involves the commercial operation of the solar power project which shall commence from the issuance of COC by the ERC.

- 31.2. **Stages of Solar Energy Service Contract.** A SESC executed under DOE DO No. DO2013-08-0011 shall cover two (2) stages of the solar power project, namely:

31.2.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the solar power project, including the identification of the proposed Production Area; and

31.2.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the solar power project, production, and the production and utilization of solar energy resources.

32. Investments.

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

32.1.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and

32.1.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the solar energy facilities.

If, by reason of the additional investment, the capacity of the solar power project is increased by at least thirty percent (30%) as validated by REMB, the Solar Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Solar Energy Developer, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- 32.1.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the solar power project will be increased by at least thirty percent (30%);
- 32.1.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;
- 32.1.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and
- 32.1.2.4. Subject to Section 91, proof of posting of performance bond as provided in Section 65.

CHAPTER VI – HYDROPOWER AND OCEAN ENERGY RESOURCES

33. Eligibility of Hydropower or Ocean Energy Service Contract Applicant. Any Person may apply for Hydropower Service Contract (HSC) or Ocean Energy Service Contract (OESC), subject to the provisions in this Chapter.

- 33.1. The HSC/OESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in the exploration, development, and utilization of hydropower/ocean energy resources: *Provided*, That in case the HSC/OESC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.
- 33.2. The appropriation of water direct from a natural source shall be reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos.

- 33.3. An Applicant which applies for an HSC/OESC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements as provided for in the preceding paragraph and under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

34. Modes of Awarding Hydropower or Ocean Energy Service Contract. HSC/OESC shall be awarded through (a) an OCSP, or (b) Direct Application.

- 34.1. The OCSP shall be adopted for the selection and award of HSCs/OESCs for PDAs covering hydropower/ocean energy resources for commercial purposes. This shall be governed by Section 35 and such guidelines as may be issued by the DOE pursuant to Section 36.
- 34.2. Direct Application shall be available for the selection and award of:
 - 34.2.1. HSCs/OESCs covering PDAs, following a failed OCSP pursuant to the guidelines issued under Section 36; and
 - 34.2.2. HSC/OESC in an area identified by an HSC/OESC Applicant and verified with or confirmed by the ITMS as available for exploration, development and/or utilization of hydropower/ocean energy resources.

35. Pre-Determined Areas. Interested parties may apply for HSC/OESC for PDAs offered by the DOE during a prescribed period.

- 35.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for HSC/OESC Application, with the respective location maps and technical descriptions thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.
- 35.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of HSC/OESC Applications.
- 35.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the availability of data packages for the approved PDAs that can be purchased by interested parties in support of their applications. The REMB shall conduct promotional activities to promote the OCSP and the corresponding data packages so as to ensure maximum participation and awareness of prospective investors and stakeholders.

36. Procedure for Awarding Hydropower or Ocean Energy Service Contract under Open and Competitive Selection Process. The DOE shall issue specific guidelines for the conduct of, and award of HSCs/OESCs under, OCSP.

If an OCSP is declared a failure with respect to any or all PDAs included therein, all the affected PDAs shall be opened for Direct Application.

37. Procedure for Awarding Hydropower or Ocean Energy Service Contract under Direct Application.

- 37.1. **Coverage.** Direct Application shall be observed in processing HSC/OESC Applications for: (a) hydropower/ocean energy resources located in PDAs which the DOE shall declare as available under this mode pursuant to the guidelines issued under Section 36; and (b) hydropower/ocean energy resources in areas other than those included in the PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 37.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with Hydropower and Ocean Energy Management Division (HOEMD). The list of requirements necessary for registration is detailed in Annex "J".
- 37.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in Sections 38 and 39.1. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex F.1 or Annex G.1, as applicable. The submission of the LOI shall not be considered as a filing of an HSC/OESC Application and shall not commence the application process.
- 37.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform interested participants about the HSC/OESC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the HSC/OESC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 37.5. **Configuration of Area of Interest.** The interested participant shall indicate the geographic coordinates of the proposed location of the weir and powerhouse, with elevation, on the AOI for the HSC Application. The AOI for the OESC Application shall either be polygonal or in block following the Blocking System or a combination of both. ITMS shall

check the completeness of the mapping requirements within three (3) working days.

37.6. Area Verification. Within eighteen (18) calendar days from receipt of the LOI with complete documents, ITMS shall complete the area verification and determine whether the AOI is:

37.6.1. Covered by an existing PDA under the OCSP, HSC/OESC, HSC/OESC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;

37.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than HSC/OESC;

37.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than HSC/OESC Application;

37.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the MSP of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001, titled "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the HSC/OESC Application based on available data on file with ITMS and NAMRIA's Philippine Geoportal Project website.

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

37.6.5. Covered by the COA of other energy resource;

37.6.6. Covered by the COA of the same energy resource; and/or

37.6.7. Subject to Section 37.9.4, open for HSC/OESC Applications:

37.6.7.1. Covered by AOI of the same/other energy resource; or

37.6.7.2. Not covered by AOI of the same/other energy resource.

37.7. Area Verification Results. ITMS shall provide HOEMD with the results of area verification through the EVOSS System. HOEMD shall conduct the final technical verification and determine whether the proposed hydropower/ocean energy project will cause substantial disruption to an existing hydropower/ocean energy project. Within five (5) calendar days upon receipt of the verification results, HOEMD, through the REMB Assistant Director, shall endorse the final technical verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 37.6.7. If the AOI falls under Sections 37.6.1 to 37.6.5, the HSC/OESC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the HSC/OESC Application cannot proceed based on the final technical verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 37.7.3, as applicable.

37.7.1. Reconfigured Area of Interest. Within ten (10) calendar days from uploading of the final technical verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 37.7.2, the interested participant and HOEMD may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed hydropower/ocean energy project. The interested participant may reconfigure its AOI to cover only such portion as may allow the HSC/OESC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 37.6.1 or 37.6.6 for same energy resource), and Sections 37.6.2, 37.6.3, 37.6.5 (for other energy resource) or 37.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 37.7.3.6, if applicable, HOEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the HSC/OESC Application.

37.7.2. Multiple Resources in an Area. If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA of another RE Developer not affiliated to the interested participant as provided under Sections 37.6.2, 37.6.3 and 37.6.5, the interested participant may still pursue the HSC/OESC Application, subject to the following provisions:

37.7.2.1. The interested participant shall:

37.7.2.1.1. Explain in writing why the proposed hydropower/ocean energy project will not be feasible without the overlapping area, with justification on the technical viability of the project; and

37.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing applicants and/or developers of other energy resources within the overlapping area; that the design of the proposed hydropower/ocean energy project will ensure safe and optimal development of hydropower/ocean energy and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

37.7.2.2. HOEMD shall inform the existing applicant or energy contractor/developer of the intent to develop the hydropower/ocean energy resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.

37.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within ten (10) working days from receipt of notice, HOEMD shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the HSC/OESC Application.

37.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify HOEMD thereof and provide a copy to the interested participant within ten (10) calendar 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.

- 37.7.2.5. Within five (5) calendar days from receipt of an objection, HOEMD and the concerned DOE Division shall jointly determine whether exploration of hydropower/ocean energy resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.
 - 37.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he/she concurs that the hydropower/ocean energy project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple resource development in the overlapping area, taking into account the most beneficial use of the resources.
 - 37.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 37.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 37.6.4, the interested participant may still pursue the HSC/OESC Application if there is no material adverse effect on the feasibility of the proposed hydropower/ocean energy project after applying the provisions below:
- 37.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI net of the said areas.
 - 37.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be modified subject to the ENIPAS and its IRR.
 - 37.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to Apply

for the said AOI: *Provided*, That the Contract Area may be modified subject to the IPRA and its IRR.

- 37.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be modified subject to the relevant rules and regulations of the concerned government agency.
- 37.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be modified subject to the relevant rules and regulations of the concerned government agency.
- 37.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform, pipelines, loading buoy and other related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participant shall secure a prior authorization from the DOE and the DND, and prior consent from the Service Contractor of SC No. 38 pursuant to Section 1 of Proclamation No. 72, Series of 2001.

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

- 37.8. **Orientation of HSC/OESC Applicant.** The orientation is intended to inform HSC/OESC Applicant about the HSC/OESC application requirements, and to guide them through the process for evaluation thereof, awarding of HSC/OESC and the registration of a hydropower or ocean energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for HSC/OESC Applicants, facilitated by representatives from the LS, HOEMD, and FS. The HSC/OESC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

- 37.9. **Receipt of Hydropower or Ocean Energy Service Contract Applications.** After the Notice to Apply is uploaded in the EVOSS System, the interested participant may file its HSC/OESC Application by complying with the following procedures and requirements:

- 37.9.1. The HSC/OESC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").
 - 37.9.2. HOEMD shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the hydropower/ocean energy project within three (3) working days.
 - 37.9.3. If the submission is complete and the AOI is still free for development, HOEMD shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the HSC/OESC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.
 - 37.9.4. The AOI is not reserved for the HSC/OESC Applicant until the complete application documents and proof of payment of application and processing fees are submitted.
 - 37.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
 - 37.9.6. In case the AOI is no longer free for development, the HSC/OESC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.
 - 37.9.7. To ensure the orderly processing of HSC/OESC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before an HSC/OESC Applicant can upload the documentary requirements. Pending such modification, HOEMD shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 37.9.3.
- 37.10. Evaluation of Hydropower or Ocean Energy Service Contract Applications.**
- 37.10.1. After the payment of the processing fee, HOEMD, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.
 - 37.10.2. HOEMD shall consolidate all the evaluation results and proceed with the processing:

37.10.2.1. If the HSC/OESC Application passes the evaluations, HOEMD shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of the HSC/OESC Application; the draft COA, as applicable; and the draft HSC/OESC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the HSC/OESC Application in accordance with Section 39.

37.10.2.2. If the HSC/OESC Application does not pass the legal, technical, and/or financial evaluations, HOEMD shall notify the HSC/OESC Applicants through the EVOSS System to rectify the submission within ten (10) working days. HOEMD shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

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

37.10.2.2.2. If the HSC/OESC Applicant submits supplementary documents within the prescribed period above and HOEMD determines that the submission is incomplete, the HSC/OESC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

37.10.2.2.3. 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) calendar days.

- 37.10.2.2.4. Should the HSC/OESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the HSC/OESC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the HSC/OESC Applicant stating the basis of the disqualification. HOEMD shall notify the HSC/OESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the HSC/OESC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.
- 37.10.3. The HSC/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. Further, the HSC/OESC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 37.10.2.2.1, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the HSC/OESC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.
- 37.10.4. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the HSC/OESC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the HSC/OESC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.

37.10.4.1. Upon receipt of the RR, HOEMD shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, HOEMD, FS and/or LS shall evaluate the HSC/OESC Application considering the additional submission.

37.10.4.2. If the HSC/OESC Application passes the evaluation, REMB shall grant the RR. Thereafter, HOEMD shall proceed in accordance with Section 37.10.2.1.

37.11. If the Hydropower/Ocean Energy Developer waived the COA during the pre-application process, HOEMD shall proceed with the application in accordance with Section 39.2.

37.12. **Re-application for HSC/OESC.** After ITMS re-opens the area for RE Applications pursuant to Section 37.10.2.2.4, the HSC/OESC Applicant may re-apply for the same AOI by complying with Section 37.9.1.

During the checking of the submission for completeness and consistency under Section 37.9.2 and prior to giving notice of any deficiency, HOEMD shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for HSC/OESC Applications.

If another HSC/OESC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred to above and the validation of the area with the ITMS shall be on a first-come, first-served basis. HOEMD shall issue an order of payment for the application and processing fees to the HSC/OESC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

38. Terms of Certificate of Authority. The awardee of an HSC/OESC shall have exclusive authority to procure permits or certifications and tenurial instruments needed for the exploration, development and utilization of the hydropower/ocean energy resources within an area specified in the HSC/OESC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

38.1. The COA shall be valid for a period not exceeding three (3) years. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Hydropower/Ocean Energy Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenurial instruments from government agencies, LGUs, entities or instrumentalities having jurisdiction over any aspect of the hydropower/ocean energy operations. The denomination of each permit or certification or tenurial instrument to be procured as well as the

reconnaissance and other activities to be conducted for the hydropower/ocean energy project shall be listed in the COA.

- 38.2. The COA shall reflect the metes and bounds of the area as proposed in the HSC/OESC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial instruments may be secured by the Hydropower/Ocean Energy Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the HSC/OESC shall form part of the COA.
- 38.3. Within thirty (30) calendar days from the issuance of the COA under Section 39.1, the Hydropower/Ocean Energy Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt chart form, with the minimum work commitment under Annexes F.1 and G.1, as applicable.

The above timeline shall not be revised.

- 38.4. Not later than thirty (30) calendar days after the end of each year of the COA, the Hydropower/Ocean Energy Developer shall submit an annual report on the permits, certifications or tenurial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted. The annual report shall follow the format prescribed in the COA: *Provided*, That during the last year of COA validity, the Hydropower/Ocean Energy Developer shall submit a report covering the first quarter of such year not later thirty (30) calendar days after the last day of the period covered: *Provided, however*, That if the Hydropower/Ocean Energy Developer opts to shorten the period of COA validity and the Hydropower/Ocean Energy Developer gives notice to execute the HSC/OESC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.
- 38.5. The DOE shall evaluate the annual accomplishments of the Hydropower/Ocean Energy Developer based on the fixed timeline above-mentioned:
 - 38.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Hydropower/Ocean Energy Developer, or from the lapse of the period given under Section 38.3.
 - 38.5.2. Within ten (10) working days from notice thereof, the Hydropower/Ocean Energy Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.
 - 38.5.3. In every case, REMB shall complete the evaluation within the prescribed period: *Provided*, That the period for rectification shall not be counted against REMB's period for evaluation.

- 38.6. After due evaluation, the DOE may withdraw the COA if the Hydropower/Ocean Energy Developer is unable to show, through proper documentation, reasonable efforts to undertake the activities. If the DOE, through REMB, finds that the COA should be withdrawn, it shall give the Hydropower/Ocean Energy Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Hydropower/Ocean Energy Developer to pre-sign the HSC/OESC in accordance with Section 39.2.
- 38.7. The decision of the DOE to withdraw the COA shall be final and non-appealable.
- 38.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit or certification or tenurial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Hydropower/Ocean Energy Developer, shall be procured and the necessary activities therefor conducted, as part of the Pre-Development Stage.
- 38.9. The Hydropower/Ocean Energy Developer shall have the option to waive, shorten or utilize maximum period of validity of the COA.
 - 38.9.1. If the Hydropower/Ocean Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the HSC/OESC, a proposed Work Program and a terminal report on the permits, certifications or tenurial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.
 - 38.9.2. If the Hydropower/Ocean Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the HSC/OESC, a proposed Work Program and the terminal report mentioned in Section 38.9.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA.
 - 38.9.3. Failure of the Hydropower/Ocean Energy Developer to give written notice to the DOE within the period mentioned in the preceding paragraph shall be deemed an abandonment of the HSC/OESC Application, following the procedure set forth in Section 37.10.2.2.4.
- 38.10. Within three (3) calendar days from notice, HOEMD shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the HSC/OESC in accordance with Section 39.2.

39. Award of Hydropower or Ocean Energy Service Contract and Registration of Hydropower/Ocean Energy Developers.

39.1. **Issuance of Certificate of Authority.** After the approval of an HSC/OESC Application and before the execution of an HSC/OESC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 38.9.

39.2. **Signing of the Hydropower or Ocean Energy Service Contract.** The following procedure shall govern the awarding of HSC/OESC:

39.2.1. **Notification of Award.** The DOE shall notify the selected (under the OCSP) or qualified (under Direct Application) HSC/OESC Applicant of the award of the HSC/OESC.

39.2.2. **Signing of the Hydropower or Ocean Energy Service Contract.** The signing of the HSC/OESC shall be divided into two stages, namely: a) pre-signing by the HSC/OESC Applicant; and b) signing by the DOE Secretary.

39.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary through LS within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the HSC/OESC Applicant to pre-sign the original copies of the HSC/OESC following the prescribed template. The HSC/OESC Applicant is then required to pre-sign the HSC/OESC within thirty (30) calendar days upon receipt of the notice. Failure to comply within this timeframe shall result in the HSC/OESC application being deemed abandoned. Notifications will be sent through EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the HSC/OESC Applicant.

39.2.2.2. The HSC/OESC Applicant shall submit the pre-signed HSC/OESC to HOEMD. Within one (1) working day, the HOEMD shall check the completeness of the pre-signed HSC/OESC, and, if the same is in order, shall forward the pre-signed HSC/OESC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed HSC/OESC shall be returned to the HSC/OESC Applicant for rectification.

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

39.2.3. **Payment of Signing Fee.** The HOEMD, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The HSC/OESC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days from receipt of the order of payment. Failure of the Hydropower/Ocean Energy Developer to do so shall cause the HSC/OESC to be deemed void.

39.2.4. **Posting of Performance Bond.** Subject to Section 91, the HSC/OESC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within the sixty (60) calendar days from receipt of notice. Failure of the Hydropower/Ocean Energy Developer to do so shall cause the HSC/OESC to be deemed void.

39.2.5. **Delivery of the Signed Hydropower or Ocean Energy Service Contract.** Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, HOEMD shall, after due validation thereof, upload in the EVOSS System the signed and notarized copy of the HSC/OESC and COR, as applicable.

The Hydropower/Ocean Energy Developer shall personally receive the original copies of the HSC/OESC and COR, as applicable, after submission of the proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the HSC/OESC, the Hydropower/Ocean Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

39.3. **Duty to Maintain Records.** The HOEMD shall maintain a record of all LOIs received, pending HSC/OESC Applications, and signed HSC/OESC in the EVOSS System.

39.4. **Reopening of the Area of Interest.** The ITMS shall make the area available to other applicants only when: (a) the HSC/OESC Applicant failed to qualify and the period under Section 37.10.2.2 has lapsed; or (b) withdraws or abandons its LOI or HSC/OESC Application, as the case may be, and only after due notice is given to the concerned interested participant/ HSC/OESC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS

System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-served basis.

- 39.5. **Registration of Hydropower or Ocean Energy Developers.** The DOE, through the REMB, shall issue a COR to a Hydropower/Ocean Energy Developer holding a valid HSC/OESC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the HSC/OESC, at the option of the Hydropower/Ocean Energy Developer.

40. Types of Hydropower Projects. Hydropower projects shall include, but not be limited to:

- 40.1. **Run-of-River (ROR)** – diverts a portion of a river through a canal and/or a penstock, to spin a turbine which activates a generator to produce electricity. ROR hydropower plants utilizes a weir and does not require the use of a large dam or reservoir;
- 40.2. **Impoundment** – uses a large dam to store or impound river water in a reservoir. Water may be released to serve as base load to meet changing electricity demand for weeks or even months; and
- 40.3. **Pumped Storage** – stores and generates power by moving water between two or more reservoirs at different elevations. When the demand for electricity is low, a pumped storage facility pumps water from a lower reservoir to the upper reservoir for later use. During periods of high electrical demand, the water is released back to the lower reservoir in order to generate electricity.

41. Terms of Hydropower or Ocean Energy Service Contract. The development of hydropower/ocean energy resources shall be covered by an HSC/OESC following the prescribed template (Annexes “F” or “G”, respectively).

- 41.1. The Hydropower/Ocean Energy Developer shall be given the following periods, reckoned from the date of execution of the HSC/OESC, to determine the existence of hydropower/ocean energy resources in Commercial Quantities, which shall be called Pre-Development Stage:
- 41.1.1. Run-of-River - three (3) years extendible for a period of two (2) years;
- 41.1.2. Impoundment/Pumped Storage/Ocean Energy - five (5) years extendible for a period of two (2) years;
- 41.2. The Hydropower/Ocean Energy Developer may file a request to extend the term of the Pre-Development Stage for justifiable reasons not earlier than six (6) months but not later than three (3) months prior to its

expiration, which shall be decided by the REMB Supervising Undersecretary.

- 41.3. The Development/Commercial Stage shall commence immediately upon the expiration of the Pre-Development Stage and upon the issuance of the COCOC, and shall continue for the remainder of term of the HSC/OESC.
- 41.4. The HSC/OESC shall have a term of twenty-five (25) years from the date of execution, which shall include the Pre-Development Stage and Development/Commercial Stage but shall exclude the period covered by the COA.
- 41.5. Not earlier than six (6) months but not later than three (3) months prior to the expiration of the twenty-five (25)-year period, the HSC/OESC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the HSC/OESC.

42. Stages of Hydropower or Ocean Energy Service Contract. An HSC/OESC shall cover two (2) stages of the hydropower/ocean energy project, namely:

- 42.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the hydropower/ocean energy project, including the identification of the proposed Production Area; and
- 42.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the hydropower/ocean energy project, and the production and utilization of hydropower/ocean energy resources.

43. Investment.

- 43.1. **New Investments.** Hydropower/Ocean Energy Developers undertaking discovery, exploration, development and/or utilization of new hydropower/ocean energy resources within the Contract Area distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Hydropower/Ocean Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new HSC/OESC over the area of new investment, subject to constitutional term limits.
- 43.2. **Additional Investments.** Additional investment may cover investment for improvements, modernization, rehabilitation, or expansion duly registered with the DOE, which may or may not result in increased capacity, subject to the conditions to be determined by the DOE, such as, but not limited to, the following:

- 43.2.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and
- 43.2.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the hydropower/ocean energy facilities.

If, by reason of the additional investment, the capacity of the hydropower project is increased by at least twenty percent (20%), or thirty percent (30%) in the case of an ocean energy project, as validated by REMB, the Hydropower/Ocean Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Hydropower/Ocean Energy Developers, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- 43.2.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the hydropower/ocean energy project will be increased by at least twenty percent (20%) or thirty percent (30%), as applicable;
- 43.2.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;
- 43.2.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and
- 43.2.2.4. Subject to Section 91, proof of posting of performance bond as provided in Section 65.

CHAPTER VII – ONSHORE WIND ENERGY RESOURCE

44. Eligibility of Onshore Wind Energy Service Contract Applicant. Any Person may apply for an Onshore Wind Energy Service Contract (OnWESC), subject to the provisions in this Chapter.

- 44.1. The OnWESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in the exploration, development, and utilization of onshore wind energy resources: *Provided*, That in case the OnWESC Applicant is a joint

venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.

- 44.2. An Applicant which applies for an OnWESC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

45. Modes of Awarding Onshore Wind Energy Service Contract. OnWESC shall be awarded through (a) an OCSP, or (b) Direct Application.

- 45.1. The OCSP shall be adopted for the selection and award of OnWESC for PDAs covering onshore wind energy resources for commercial purposes. This shall be governed by Section 46 and such guidelines as may be issued by the DOE pursuant to Section 47.
- 45.2. Direct Application shall be available for the selection and award of:
 - 45.2.1. OnWESCs covering PDAs, following a failed OCSP pursuant to the guidelines issued under Section 47; and
 - 45.2.2. OnWESC in an area identified by an OnWESC Applicant and verified with or confirmed by the ITMS as available for exploration, development and/or utilization of onshore wind energy resources.
- 45.3. Onshore Wind Energy Projects for Own-Use and/or for Non-Commercial Purposes shall not require the issuance of OnWESC but shall comply with the registration requirements provided under Chapter XI of this Circular.

46. Pre-Determined Areas. Interested parties may apply for OnWESC for PDAs offered by the DOE during a prescribed period.

- 46.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for OnWESC Application, with the respective location maps, technical descriptions, and wind resource data thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.
- 46.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of OnWESC Applications.
- 46.3. **Data Packages and Promotional Activities.** The REMB shall arrange for the availability of data packages for the approved PDAs that can be

purchased by interested parties in support of their applications. The REMB shall conduct promotional activities to promote the OCSP and the corresponding data packages so as to ensure maximum participation and awareness of prospective investors and stakeholders.

47. Procedure for Awarding of Onshore Wind Energy Service Contract under the Open and Competitive Selection Process. The DOE shall issue specific guidelines for the conduct of, and award of OnWESCs under, OCSP.

If an OCSP is declared a failure with respect to any or all PDAs included therein, all the affected PDAs shall be opened for Direct Application.

48. Procedure for Awarding Onshore Wind Energy Service Contract under Direct Application.

- 48.1. **Coverage.** Direct Application shall be observed in processing OnWESC Applications for: (a) onshore wind energy resources located in PDAs which the DOE shall declare as available under this mode pursuant the guidelines issued under Section 47, and (b) onshore wind energy resources in areas other than those included in the PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 48.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with the WEMG. The list of requirements necessary for registration is detailed in Annex "J".
- 48.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in 49 and 50.1. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex H.1. The submission of the LOI shall not be considered as a filing of an OnWESC Application and shall not commence the application process.
- 48.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform the interested participants about the OnWESC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested participant is aware of the OnWESC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 48.5. **Configuration of Area of Interest.** The AOI for the OnWESC Application shall either be polygonal or in blocks following the Blocking System or a combination of both. ITMS shall check the completeness of the mapping requirements within three (3) working days.
- 48.6. **Area Verification.** Within eighteen (18) calendar days from receipt of the LOI with complete documents, ITMS shall complete the area verification and determine whether the AOI is:
- 48.6.1. Covered by an existing PDA under the OCSP, OnWESC, Offshore Wind Energy Service Contract (OsWESC), or OnWESC or OsWESC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
 - 48.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP or RESC, other than OnWESC or OsWESC;
 - 48.6.3. Within or overlaps the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than OnWESC or OsWESC Application;
 - 48.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the MSP of the DOE, safety and exclusion zones under Proclamation No. 72, Series of 2001, titled "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the OnWESC Application based on available data on file with ITMS and NAMRIA's Philippine Geoportal Project website.

Pursuant to the mandate of the DOE to supervise and control all government activities relative to energy project under the EPIRA, concerned government agencies and entities shall provide the DOE the list of abovementioned areas with technical descriptions and corresponding geospatial data;

- 48.6.5. Covered by the COA of other energy resource;
- 48.6.6. Covered by the COA of the same energy resource; and/or
- 48.6.7. Subject to Section 48.9.4, open for OnWESC Applications:

- 48.6.7.1. Covered by AOI of the same/other energy resource; or

- 48.6.7.2. Not covered by AOI of the same/other energy resource.

- 48.7. **Area Verification Results.** ITMS shall provide WEMG with the results of area verification through the EVOSS System. Within five (5) calendar days upon receipt of the verification results, WEMG, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 48.6.7. If the AOI falls under Sections 48.6.1 to 48.6.5, the OnWESC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the OnWESC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 48.7.3, as applicable.

- 48.7.1. **Reconfigured Area of Interest.** Within ten (10) calendar days from uploading of the final verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 48.7.2, the interested participant and WEMG may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed onshore wind energy project. The interested participant may reconfigure its AOI to cover only such portion as may allow the OnWESC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 48.6.1 or 48.6.6 (for same energy resource), and Sections 48.6.2, 48.6.3, 48.6.5 (for other energy resource) or 48.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 48.7.3.6, if applicable, WEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the OnWESC Application.

- 48.7.2. **Multiple Resources in an Area.** If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA of another RE Developer not affiliated to the interested participant as provided under Sections 48.6.2, 48.6.3 and

48.6.5, the interested participant may still pursue the OnWESC Application, subject to the following provisions:

48.7.2.1. The interested participant shall:

48.7.2.1.1. Explain in writing why the proposed onshore wind energy project will not be feasible without the overlapping area, with justification on the technical viability of the project; and

48.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing developers of other energy resources within the overlapping area; that the design of the proposed onshore wind energy project will ensure safe and optimal development of onshore wind energy and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

48.7.2.2. WEMG shall inform the existing applicant or energy contractor/developer of the intent to develop the onshore wind energy resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the existing applicant or contractor/developer.

48.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within ten (10) working days from receipt of notice, WEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the OnWESC Application.

48.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or energy contractor/developer shall notify WEMG thereof and provide a copy to the interested participant within ten (10) calendar 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.

- 48.7.2.5. Within five (5) calendar days from receipt of an objection, WEMG and the concerned DOE Division shall jointly determine whether exploration of onshore wind energy resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.
- 48.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he concurs that the onshore wind energy project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple resource development in the overlapping area, taking into account the most beneficial use of the resources.
- 48.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 48.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 48.6.4, the interested participant may still pursue the OnWESC Application if there is no material adverse effect on the feasibility of the proposed onshore wind energy project after applying the provisions below:
 - 48.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI net of the said areas.
 - 48.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the ENIPAS and its IRR.
 - 48.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to

Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the IPRA and its IRR.

48.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant 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.

48.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant 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.

48.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform, pipelines, loading buoy and other related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participant shall secure a prior authorization from the DOE and the DND, and prior consent from the SC No. 38 Service Contractor pursuant to Section 1 of Proclamation No. 72, Series of 2001.

Part 3. Filing and Evaluation of Onshore Wind Energy Service Contract Applications

48.8. **Orientation of OnWESC Applicant.** The orientation is intended to inform OnWESC Applicant about the OnWESC application requirements, and to guide them through the process for evaluation thereof, awarding of OnWESC and the registration of an onshore wind energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for OnWESC Applicants, facilitated by representatives from the LS, WEMG, and FS. The OnWESC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

48.9. **Receipt of Onshore Wind Energy Service Contract Applications.** After the Notice to Apply is uploaded in the EVOSS System, the

interested participant may file its OnWESC Application by complying with the procedures and requirements, as follows:

- 48.9.1. The OnWESC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").
- 48.9.2. WEMG shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the onshore wind energy project within three (3) working days.
- 48.9.3. If the submission is complete and the AOI is still free for development, WEMG shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the OnWESC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.
- 48.9.4. The AOI is not reserved for the OnWESC Applicant until the submission of complete application documents and proof of payment of application and processing fees.
- 48.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
- 48.9.6. In case the AOI is no longer free for development, the OnWESC Applicant shall be notified through the EVOSS System and the Application shall be denied accordingly.
- 48.9.7. To ensure the orderly processing of OnWESC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before a OnWESC Applicant can upload the documentary requirements. Pending such modification, WEMG shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 48.9.3.

48.10. Evaluation of Onshore Wind Energy Service Contract Applications.

- 48.10.1. After the payment of the processing fee, WEMG, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.
- 48.10.2. WEMG shall consolidate all the evaluation results and proceed with the processing:

48.10.2.1. If the OnWESC Application passes the evaluations, WEMG shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of OnWESC Application; the draft COA, as applicable; and the draft OnWESC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the OnWESC Application in accordance with Section 50.

48.10.2.2. If the OnWESC Application does not pass the legal, technical, and/or financial evaluations, WEMG shall notify the OnWESC Applicant through the EVOSS System to rectify the submission within ten (10) working days. WEMG shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

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

48.10.2.2.2. If the OnWESC Applicant submits supplementary documents within the prescribed period above and WEMG determines that the submission is incomplete, the OnWESC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

48.10.2.2.3. WEMG, LS and FS shall be notified by the EVOSS System of the submission. WEMG, FS and LS shall finish the simultaneous

technical, legal, and financial evaluations within three (3) calendar days.

- 48.10.2.2.4. Should the OnWESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the OnWESC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the OnWESC Applicant stating the basis of the disqualification. WEMG shall notify the OnWESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the OnWESC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.
- 48.10.3. The OnWESC 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. Further, the OnWESC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 48.10.2.2, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the OnWESC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS System.
- 48.10.4. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the OnWESC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the OnWESC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.
- 48.10.4.1. Upon receipt of the RR, WEMG shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely

submission, WEMG, FS and/or LS shall evaluate the OnWESC Application considering the additional submission.

- 48.10.4.2. If the OnWESC Application passes the evaluation, REMB shall grant the RR. Thereafter, WEMG shall proceed in accordance with Section 48.10.2.1.
- 48.11. If the Onshore Wind Energy Developer waived the COA during the pre-application process, WEMG shall proceed with the application in accordance with Section 50.2.
- 48.12. **Re-application for OnWESC.** After ITMS re-opens the area for RE Applications pursuant to Section 48.10.2.2.3, the OnWESC Applicant may re-apply for the same AOI by complying with Section 48.9.1.

During the checking of the submission for completeness and consistency under Section 48.9.2 and prior to giving notice of any deficiency, WEMG shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for OnWESC Applications.

If another OnWESC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred to above and the validation of the area with the ITMS shall be on a first-come, first-serve basis. WEMG shall issue an order of payment for the application and processing fees to the OnWESC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

49. Terms of Certificate of Authority. The awardee of an OnWESC shall have exclusive authority to procure permits or certifications and tenurial instruments needed for the exploration, development and utilization of the onshore wind energy resources within an area specified in the OnWESC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

- 49.1. The COA shall be valid for a period not exceeding three (3) years. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Onshore Wind Energy Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenurial instruments from government agencies, LGUs, entities or instrumentalities having jurisdiction over any aspect of the onshore wind energy operations. The denomination of each permit or certification or tenurial instrument to be procured as well as the reconnaissance and other activities to be conducted for the onshore wind energy project shall be listed in the COA.
- 49.2. The COA shall reflect the metes and bounds of the area as proposed in the OnWESC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial

instruments may be secured by the Onshore Wind Energy Developer for the project. For this purpose, a copy of the technical description of the area to be covered by the OnWESC shall form part of the COA.

- 49.3. Within thirty (30) calendar days from the issuance of the COA under Section 50.1, the Onshore Wind Energy Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt chart form, with the minimum work commitment under Annex H.1.

The above timeline shall not be revised.

- 49.4. Not later than thirty (30) calendar days after the end of each year of the COA, the Onshore Wind Energy Developer shall submit an annual report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted. The annual report shall follow the format prescribed in the COA: *Provided*, That during the last year of COA validity, the Onshore Wind Energy Developer shall submit a report covering the first quarter of such year not later thirty (30) calendar days after the last day of the period covered: *Provided, however*, That if the Onshore Wind Energy Developer opts to shorten the period of COA validity and the Onshore Wind Energy Developer gives notice to execute the OnWESC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.

- 49.5. The DOE shall evaluate the annual accomplishments of the Onshore Wind Energy Developer based on the fixed timeline above-mentioned:

49.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Onshore Wind Energy Developer, or from the lapse of the period given under Section 49.3.

49.5.2. Within ten (10) working days from notice thereof, the Onshore Wind Energy Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.

49.5.3. In every case, REMB shall complete the evaluation within the prescribed period: *Provided*, That the period for rectification shall not be counted against REMB's period for evaluation.

- 49.6. After due evaluation, the DOE may withdraw the COA if the Onshore Wind Energy Developer is unable to show, through proper documentation, reasonable efforts to undertake the activities. If the DOE, through REMB, finds that the COA should be withdrawn, it shall give the Onshore Wind Energy Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Onshore Wind Energy Developer to pre-sign the OnWESC in accordance with Section 50.2.

- 49.7. The decision of the DOE to withdraw the COA shall be final and non-appealable.
- 49.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit or certification or tenorial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Onshore Wind Energy Developer, shall be procured and the necessary activities therefor conducted, as part of the Pre-Development Stage.
- 49.9. The Onshore Wind Energy Developer shall have the option to waive, shorten or utilize maximum period of validity of the COA.
- 49.9.1. If the Onshore Wind Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the OnWESC, a proposed Work Program and a terminal report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.
- 49.9.2. If the Onshore Wind Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the OnWESC, a proposed Work Program and the terminal report mentioned in Section 49.9.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA.
- 49.9.3. Failure of the Onshore Wind Energy Developer to give written notice to the DOE within the period mentioned in the preceding paragraph shall be deemed an abandonment of the OnWESC Application and disqualified following the procedure set forth in Section 48.10.2.2.3.
- 49.10. Within three (3) calendar days from notice, WEMG shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the OnWESC in accordance with Section 50.2.

50. Award of Onshore Wind Energy Service Contracts and Registration of Onshore Wind Energy Developers.

- 50.1. **Issuance of Certificate of Authority.** After the approval of an OnWESC Application and before the execution of an OnWESC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 49.9.
- 50.2. **Signing of the Onshore Wind Energy Service Contract.** The following procedure shall govern the awarding of OnWESC:

- 50.2.1. **Notification of Award.** The DOE shall notify the selected (under the OCSP) or qualified (under Direct Application) OnWESC Applicant of the award of the OnWESC.
- 50.2.2. **Signing of the Onshore Wind Energy Service Contract.** The signing of the OnWESC shall be divided into two stages, namely: a) pre-signing by the OnWESC Applicant; and b) signing by the DOE Secretary.
- 50.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary through LS within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the OnWESC Applicant to pre-sign the original copies of the OnWESC following the prescribed template. The OnWESC Applicant is then required to pre-sign the OnWESC within thirty (30) calendar days upon receipt of the notice. Failure to comply within this timeframe shall result in the OnWESC application being deemed abandoned. Notifications will be sent through EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the OnWESC Applicant.
- 50.2.2.2. The OnWESC Applicant shall submit the pre-signed OnWESC to WEMG. Within one (1) working day, the WEMG shall check the completeness of the pre-signed OnWESC, and, if the same is in order, shall forward the pre-signed OnWESC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed OnWESC shall be returned to the OnWESC Applicant for rectification.
- 50.2.2.3. The Office of the DOE Secretary shall receive the pre-signed OnWESC and all its attachments, and the DOE Secretary shall act on the documents within seven (7) calendar days from receipt thereof.
- 50.2.3. **Payment of Signing Fee.** The WEMG, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The OnWESC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days

from receipt of the order of payment. Failure of the Onshore Wind Energy Developer to do so shall cause the OnWESC to be deemed void.

50.2.4. Posting of Performance Bond. Subject to Section 91, the OnWESC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within the sixty (60) calendar days from receipt of notice. Failure of the Onshore Wind Energy Developer to do so shall cause the OnWESC to be deemed void.

50.2.5. Delivery of the Signed Onshore Wind Energy Service Contract. Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, WEMG shall, after due validation thereof, upload in the EVOSS System the signed and notarized copy of the OnWESC and COR, as applicable.

The Onshore Wind Energy Developer shall personally receive the original copies of the OnWESC and COR, as applicable, after submission of proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the OnWESC, the Onshore Wind Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

50.3. Duty to Maintain Records. The WEMG shall maintain a record of all LOIs received, pending OnWESC Applications, and signed OnWESC in the EVOSS System.

50.4. Reopening of the Area. The ITMS shall make the area available to other applicants only when: a) the OnWESC Applicant failed to qualify and the period under Section 48.10.2.2 has lapsed; or b) withdraws or abandons its LOI or OnWESC Application, as the case may be, and only after due notice is given to the concerned OnWESC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-served basis.

50.5. Registration of Onshore Wind Energy Developers. The DOE, through the REMB, shall issue a COR to an Onshore Wind Energy Developer holding a valid OnWESC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the OnWESC, at the option of the Wind Energy Developer.

51. Terms of Onshore Wind Energy Service Contract. The development of onshore wind energy resources shall be covered by an OnWESC following the prescribed template (Annex "H").

- 51.1. The Onshore Wind Energy Developer shall be given a non-extendible period of five (5) years from the date of execution of the OnWESC to determine the existence of onshore wind energy resource in Commercial Quantities and shall be called Pre-Development Stage.
- 51.2. The Development/Commercial Stage shall commence immediately upon the expiration of the Pre-Development Stage and upon the issuance of the COCOC, and shall continue for the remainder of term of the OnWESC.
- 51.3. The OnWESC shall have a term of twenty-five (25) years from the date of execution, which shall include the Pre-Development Stage and Development/Commercial Stage but shall exclude the period covered by the COA.
- 51.4. Not earlier than two (2) years but not later than one (1) year prior to the expiration of the twenty-five (25)-year period, the OnWESC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the OnWESC.

52. Stages of Onshore Wind Energy Service Contract. An OnWESC shall cover two (2) stages of the onshore wind energy project, namely:

- 52.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the onshore wind energy project, including the identification of the proposed Production Area; and
- 52.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the onshore wind energy project, and the production and utilization of onshore wind energy resources.

53. Investments.

- 53.1. **New Investments.** Onshore Wind Energy Developers undertaking discovery, exploration, development and/or utilization of onshore wind energy resources within the Contract Area using new onshore wind energy technology distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Onshore Wind Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new OnWESC over the area of new investment, subject to constitutional term limits.
- 53.2. **Additional Investments.** Additional investment may cover investment for improvements, modernization, rehabilitation, or expansion duly

registered with the DOE, which may or may not result in increased capacity, subject to the conditions to be determined by the DOE, such as, but not limited to, the following:

- 53.2.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and
- 53.2.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the onshore wind energy facilities.

If, by reason of the additional investment, the capacity of the onshore wind energy project is increased by at least thirty percent (30%) as validated by REMB, the Onshore Wind Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Onshore Wind Energy Developers, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

- 53.2.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the wind power energy will be increased by at least thirty percent (30%);
- 53.2.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;
- 53.2.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and
- 53.2.2.4. Subject to Section 91, proof of posting of performance bond as provided in Section 65.

CHAPTER VIII – OFFSHORE WIND ENERGY RESOURCE

54. Eligibility of Offshore Wind Energy Service Contract Applicant. Any Person may apply for OsWESC, subject to the relevant provisions in this Chapter.

- 54.1. The OsWESC Applicant may be a Filipino and/or a foreign citizen, or a Filipino- and/or foreign-owned corporation or association which is authorized by its articles or deed of incorporation to engage in the exploration, development, and utilization of offshore wind energy

resources: *Provided*, That in case the OsWESC Applicant is a joint venture or a consortium, the partners of the joint venture or members of the consortium shall organize themselves as a corporation under the Revised Corporation Code or secure the appropriate license from the SEC, in case the joint venture or consortium was incorporated outside of the Philippines.

- 54.2. An Applicant which applies for an OsWESC that involves activities reserved to Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipinos shall comply with the nationality requirements under applicable laws, including the Anti-Dummy Law on the appointment of officers of the corporation.

55. Modes of Awarding Offshore Wind Energy Service Contract. OsWESC shall be awarded through (a) an OCSP, or (b) Direct Application.

- 55.1. The OCSP shall be adopted for the selection and award of OsWESC for PDAs covering offshore wind energy resources for commercial purposes. This shall be governed by Section 56 and such guidelines as may be issued by the DOE pursuant to Section 57.

- 55.2. Direct Application shall be available for the selection and award of:

- 55.2.1. OsWESC covering PDAs, following a failed OCSP pursuant to the guidelines issued under Section 57; and

- 55.2.2. OsWESC in an area identified by an OsWESC Applicant and verified with or confirmed by the ITMS as available for exploration, development and/or utilization of offshore wind energy resources.

- 55.3. Offshore Energy Projects for Own-Use and/or for Non-Commercial and Non-Commercial Purposes shall not require the issuance of OsWESC but shall comply with the registration requirements provided under Chapter XI of this Circular.

56. Pre-Determined Areas. Interested parties may apply for OsWESC for PDAs offered by the DOE during a prescribed period.

- 56.1. **Selection of PDAs.** The REMB shall identify and submit a list of PDAs for OsWESC Applications, with the respective location maps, technical descriptions, and wind resource data thereof, to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary, for approval.
- 56.2. **Launch and Publication.** PDAs approved by the DOE Secretary shall be scheduled for launch and shall be publicly announced by the DOE for submission of OsWESC Applications.

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

57. Procedure for Awarding Offshore Wind Energy Service Contract under the Open and Competitive Selection Process. The DOE shall issue specific guidelines for the conduct of, and award of OsWESCs under, OCSP.

If an OCSP is declared a failure with respect to any or all PDAs included therein, all the affected PDAs shall be opened for Direct Application.

58. Procedure for Awarding Offshore Wind Energy Service Contract under Direct Application.

- 58.1. **Coverage.** Direct Application shall be observed in processing OsWESC Applications for: (a) offshore wind energy resources located in PDAs which the DOE shall declare as available under this mode pursuant to guidelines issued under Section 57, and (b) offshore wind energy resources in areas other than those included in the PDAs, subject to the procedures provided herein.

Part 1. Pre-Application Process

- 58.2. **Registration in the EVOSS System.** If the interested participant has no EVOSS System account yet, it shall submit a request for registration in the EVOSS System with the WEMG. The list of requirements necessary for registration is detailed in Annex "J".
- 58.3. **Submission of Letter of Intent.** All interested participants shall submit through the EVOSS System an LOI to develop a certain area (Annex "K"), in accordance with the mapping requirements (Annex "N"). The LOI shall be addressed to the REMB Director and shall indicate whether the interested participant will avail of the COA referred to in 59 and 60.1. If the interested participant opts to avail of the COA, its LOI shall include a list of all permits and activities to be procured/conducted during the validity of the COA: *Provided*, That the list must cover the minimum set of permits and activities mentioned in Annex I.1. The submission of the LOI shall not be considered as a filing of an OsWESC Application and shall not commence the application process.
- 58.4. **Pre-Application Orientation of Interested Participant.** The orientation is intended to inform the interested participants about the OsWESC pre-application and mapping requirements and processes.

Any interested participant may request for an orientation by signifying such intent in its LOI; otherwise, it shall be presumed that the interested

participant is aware of the OsWESC pre-application and mapping requirements and processes.

Part 2. Area Verification and Technical Guidelines

- 58.5. Configuration of Area of Interest.** The AOI for the OsWESC Application shall either be polygonal or in block following the Blocking System or a combination of both. ITMS shall check the completeness of the mapping requirements within three (3) working days.
- 58.6. Area Verification.** Within eighteen (18) calendar days from receipt of the LOI with complete documents, ITMS shall complete the area verification and determine whether the AOI is:
- 58.6.1. Covered by an existing PDA under the OCSP, WESC, OsWESC or OnWESC, OsWESC or OnWESC pending application, or other energy resource assessment activities as submitted by the concerned DOE unit and verified by ITMS;
 - 58.6.2. Within or overlaps with the area of an existing energy service or operating contract such as PSC, COC, SSCMP, or RESC other than OsWESC or OnWESC;
 - 58.6.3. Within or overlaps with the area of an existing energy service or operating contract application such as PSC, COC, SSCMP or RESC, other than OsWESC or OnWESC Application;
 - 58.6.4. Within the protected and environmentally critical areas under the ENIPAS, i.e., within or outside the strict protection zones, ancestral domains with Certificate of Ancestral Domain Title or Claim, areas with tenurial instruments from other government agencies, areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, zones identified under the MSP of the DOE, safety and exclusion zones under Proclamation No. 72, series of 2001 titled, "Establishing Safety and Exclusion Zones for Offshore Natural Gas Wells, Flowlines, Platform, Pipelines, Loading Buoy and Other Related Facilities for the Malampaya Deep Water Gas-to-Power Project over Certain Waters and Submerged Lands Adjacent to Batangas, Mindoro and Palawan", and other areas covered by significant geospatial data that will be identified as necessary in the evaluation of the OsWESC Application based on available data on file with ITMS and the NAMRIA's Philippine Geportal Project website.

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

- 58.6.5. Covered by the COA of other energy resource;
- 58.6.6. Covered by the COA of the same energy resource; and/or
- 58.6.7. Subject to Section 58.9.4, open for OsWESC Applications:

- 58.6.7.1. Covered by AOI of the same/other energy resource; or

- 58.6.7.2. Not covered by AOI of the same/other energy resource.

58.7. Area Verification Results. ITMS shall provide WEMG with the results of area verification through the EVOSS System. Within five (5) calendar days upon the receipt of the verification results, WEMG, through the REMB Assistant Director, shall endorse the final verification results and upload the letter containing the results of area verification in the EVOSS System.

The REMB Assistant Director shall issue a Notice to Apply if the AOI falls under Section 58.6.7. If the AOI falls under Sections 58.6.1 to 58.6.5, the OsWESC Applicant shall be issued a Notice to Apply only after complying with the succeeding paragraph.

If the OsWESC Application cannot proceed based on the final verification results, the interested participant may either (a) reconfigure the AOI; (b) file a request to allow the development of multiple resources in the area; or (c) comply with Section 58.7.3, as applicable.

58.7.1. Reconfigured Area of Interest. Within ten (10) calendar days from uploading of the final verification results or from receipt of notice that multiple resource development in the overlapping area is not feasible under Section 58.7.2, the interested participant and WEMG may conduct an assessment if the AOI may be reconfigured without material adverse effect on the feasibility of the proposed offshore wind energy project. The interested participant may reconfigure its AOI to cover only such portion as may allow the OsWESC Application to proceed. After confirmation by ITMS that no portion of the reconfigured AOI falls under Sections 58.6.1 or 58.6.6 (for same energy resource), and Sections 58.6.2, 58.6.3, 58.6.5 (for other energy resource), or Section 58.7.3.1 (for strict protection zones, exclusion and no-build zones), or if authority and consent is granted under Section 9.7.3.5, if applicable, WEMG shall upload in the EVOSS System a Notice to Apply to the interested participant for the filing of the OsWESC Application.

58.7.2. Multiple Resources in an Area. If the AOI of the interested participant overlaps with the area of an existing energy service or operating contract or an application therefor, or of the COA

of another RE Developer not affiliated to the interested participant as provided under Sections 58.6.2, 58.6.3 and 58.6.5, the interested participant may still pursue the OsWESC Application, subject to the following provisions:

58.7.2.1. The interested participant shall:

58.7.2.1.1. Explain in writing why the proposed offshore wind energy project will not be feasible without the overlapping area, with justification on the technical viability of the project; and

58.7.2.1.2. Submit a notarized acknowledgment and undertaking that the interested participant recognizes and shall continue to recognize the prior rights of the existing developers of other energy resources within the overlapping area; that the design of the proposed offshore wind energy project will ensure safe and optimal development of offshore wind energy and other energy resources in the overlapping area; and that all costs needed therefor shall be borne by the interested participant.

58.7.2.2. WEMG shall inform the existing applicant or energy contractor/developer of the intent to develop the offshore wind energy resources within the overlapping area. Copies of the interested participant's LOI, the written explanation, and their supporting documents shall be furnished to the applicant or contractor/developer.

58.7.2.3. If no objection is received from the existing applicant or energy contractor/developer within the prescribed period, WEMG shall upload in the EVOSS System the Notice to Apply to the interested participant for the filing of the OsWESC Application

58.7.2.4. If the existing applicant or energy contractor/developer objects to the proposal, the said applicant or applicant or energy contractor/developer shall notify WEMG thereof and provide a copy to the interested participant within ten (10) calendar 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.

- 58.7.2.5. Within five (5) calendar days from receipt of an objection, WEMG and the concerned DOE Division shall jointly determine whether exploration of offshore wind energy resources within the overlapping area may be conducted without material adverse effect on the activities of the existing 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.
- 58.7.2.6. Upon receipt of the endorsement, the REMB Director may, if he concurs that the offshore wind energy project will not cause material injury, issue a recommendation to the DOE Secretary based on the feasibility of multiple resource development in the overlapping area, taking into account the most beneficial use of the resources.
- 58.7.2.7. The DOE Secretary shall decide whether to allow multiple resource development in the overlapping area. If the DOE Secretary allows the same, the REMB Assistant Director shall issue a Notice to Apply to the interested participant.
- 58.7.3. **Other Areas.** If the AOI of the interested participant overlaps with the area as provided under Section 58.6.4, the interested participant may still pursue the OsWESC Application if there is no material adverse effect on the feasibility of the proposed offshore wind energy project after applying the provisions below:
 - 58.7.3.1. If the AOI overlaps with areas within strict protection zones under the ENIPAS and exclusion and no build zones under the MSP of DOE, the interested participant shall submit a revised AOI which is net of the said areas.
 - 58.7.3.2. If the AOI overlaps with areas outside strict protection zones under the ENIPAS, the REMB Assistant Director shall issue a Notice to Apply for the said AOI: *Provided*, That the Contract Area may be reduced subject to the ENIPAS and its IRR.
 - 58.7.3.3. If the AOI overlaps with ancestral domains with Certificate of Ancestral Domain Title or Claim, the REMB Assistant Director shall issue a Notice to Apply for the

said AOI: *Provided*, That the Contract Area may be reduced subject to the IPRA and its IRR.

58.7.3.4. If the AOI overlaps with areas with tenurial instruments from other government agencies, the REMB Assistant 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.

58.7.3.5. If the AOI overlaps with areas prohibited, reserved, or used for national defense, navigation, irrigation, and other development projects, and other areas, the REMB Assistant 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.

58.7.3.6. If the AOI is within the safety and exclusion zones for offshore natural gas wells, flowlines, platform, pipelines, loading buoy and related facilities for the Malampaya Deep Water Gas-To-Power Project over certain waters and submerged lands adjacent to Batangas, Mindoro and Palawan, the interested participants should secure a prior authorization from the DOE and the DND, and prior consent from the SC No. 38 Service Contractor pursuant to Section 1 of Proclamation No. 72, Series of 2001.

Part 3. Filing and Evaluation of Offshore Wind Energy Service Contract Applications

58.8. **Orientation of OsWESC Applicant.** The orientation is intended to inform OsWESC Applicant about the OsWESC application requirements, and to guide them through the process for evaluation thereof, awarding of OsWESC and the registration of an onshore wind energy project.

The Notice to Apply uploaded in the EVOSS System shall include the schedule of the mandatory orientation for OsWESC Applicants, facilitated by representatives from the LS, WEMG, and FS. The OsWESC Applicant shall ensure the attendance of legal, technical, and financial staff during the orientation.

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

- 58.9.1. The OsWESC Applicant shall submit through the EVOSS System the complete set of documentary requirements based on the Checklist of Requirements (Annex "M").
- 58.9.2. WEMG shall check the completeness and consistency of the submission and ITMS shall validate the area applied for the offshore wind energy project within three (3) working days.
- 58.9.3. If the submission is complete and the AOI is still free for development, WEMG shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the OsWESC Applicant through a system-generated email to pay the application and processing fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.
- 58.9.4. The AOI is not reserved for the OsWESC Applicant until the submission of complete application documents and proof of payment of application and processing fees.
- 58.9.5. The EVOSS System shall notify LS, FS and ITMS of the complete submission.
- 58.9.6. In case the AOI is no longer free for development, the OsWESC Applicant shall be notified through the EVOSS System and the OsWESC Application shall be denied accordingly.
- 58.9.7. To ensure the orderly processing of OsWESC Applications, the EVOSS System shall be modified such that ITMS must input its confirmation therein that the AOI is available before an OsWESC Applicant can upload the documentary requirements. Pending such modification, WEMG shall revalidate with ITMS whether the AOI is open for application before issuing the order for the payment of application and processing fees mentioned in Section 58.9.3.

58.10. Evaluation of Offshore Wind Energy Service Contract Applications.

- 58.10.1. After the payment of the processing fee, WEMG, LS, and FS shall conduct the simultaneous technical, legal, and financial evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.
- 58.10.2. WEMG shall consolidate all the evaluation results and proceed with the processing:

- 58.10.2.1. If the OsWESC Application passes the evaluations, WEMG shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the award of OsWESC Application; the draft COA, as applicable; and the draft OsWESC. The endorsement must include the original copy of the results of area verification and the legal, technical and financial evaluations with all their attachments, and the project area map and its technical descriptions. Upon concurrence of ITMS, FS, REMB and LS on the endorsement, the DOE Secretary shall act on the OsWESC Application in accordance with Section 60.
- 58.10.2.2. If the OsWESC Application does not pass the legal, technical, and/or financial evaluations, WEMG shall notify the OsWESC Applicant through the EVOSS System to rectify the submission within ten (10) working days. WEMG shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.
 - 58.10.2.2.1. Failure of the OsWESC Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the OsWESC Application. WEMG shall notify the OsWESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System.
 - 58.10.2.2.2. If the OsWESC Applicant submits supplementary documents within the prescribed period above and WEMG determines that the submission is incomplete, the OsWESC Applicant shall have the remainder of the rectification period, if any, to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.
 - 58.10.2.2.3. WEMG, LS and FS shall be notified by the EVOSS System of the submission. WEMG, FS and LS shall finish the simultaneous technical, legal, and financial evaluations within three (3) calendar days.

- 58.10.2.2.4. Should the OsWESC Application still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Assistant Director shall recommend the disqualification of the OsWESC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the OsWESC Applicant stating the basis of the disqualification. WEMG shall notify the OsWESC Applicant, LS, FS, and ITMS of the disqualification through the EVOSS System. After five (5) calendar days from receipt of the OsWESC 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 and send notifications to concerned interested participants or RE Applicants through electronic mail pending the necessary modifications to the EVOSS System.
- 58.10.3. The OsWESC 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. Further, the OsWESC Applicant shall have a one-time opportunity to address the deficiencies found after the completeness check mentioned in Section 58.10.2.2, which shall be made within the ten (10) working day period. The remaining days, if there are any, shall be forfeited. Therefore, the OsWESC Applicant must ensure that all its documents are final and complete before submitting the same through the EVOSS system.
- 58.10.4. No RR of any of the legal, technical, financial evaluation or the disqualification shall be entertained, except when the OsWESC Applicant failed to submit the required documents within the prescribed timelines due to a fault in the EVOSS System, as confirmed by the IPO. In such circumstances, the OsWESC Applicant shall file the RR with REMB within three (3) working days from uploading of the Notice of Disqualification.
- 58.10.4.1. Upon receipt of the RR, WEMG shall request the IPO to confirm the occurrence of the technical problem. If so confirmed and the same prevented the timely submission, WEMG, FS and/or LS shall

evaluate the OsWESC Application considering the additional submission.

58.10.4.2. If the OsWESC Application passes the evaluation, REMB shall grant the RR. Thereafter, WEMG shall proceed in accordance with Section 58.10.2.1.

58.11. If the Offshore Wind Energy Developer waived the COA during the pre-application process, WEMG shall proceed with the application in accordance with Section 60.2.

58.12. **Re-application for OsWESC.** After ITMS re-opens the area for RE Applications pursuant to Section 58.10.2.2.3, the OsWESC Applicant may re-apply for the same AOI by complying with Section 58.9.1.

During the checking of the submission for completeness and consistency under Section 58.9.2 and prior to giving notice of any deficiency, WEMG shall stamp the Notice to Apply "Revalidated" with the appropriate date if the area is still open for OsWESC Applications.

If another OsWESC Applicant is issued a Notice to Apply over the same AOI or a portion thereof and uploads the documentary requirements through EVOSS System, the completeness check referred to above and the validation of the area with the ITMS shall be on a first-come, first-served basis. WEMG shall issue an order of payment for the application and processing fees to the OsWESC Applicant which first files the complete documentary requirements based on the EVOSS System logs.

59. Terms of Certificate of Authority. The awardee of an OsWESC shall have exclusive authority to procure permits or certifications and tenurial instruments needed for the exploration, development and utilization of the offshore wind energy resources within an area specified in the OsWESC Application and conduct reconnaissance and other activities needed for pre-feasibility studies upon the issuance of COA by the DOE.

59.1. The COA shall be valid for a period not exceeding three (3) years. During its validity, the COA shall serve as the DOE's exclusive endorsement for the Offshore Wind Energy Developer to conduct reconnaissance and other pre-feasibility activities and secure the necessary permits or certifications and tenurial instruments from government agencies, LGUs, entities or instrumentalities having jurisdiction over any aspect of the offshore wind energy operations. The denomination of each permit or certification or tenurial instrument to be procured as well as the reconnaissance and other activities to be conducted for the offshore wind energy project shall be listed in the COA.

59.2. The COA shall reflect the metes and bounds of the area as proposed in the OsWESC Application over which reconnaissance and other pre-feasibility activities may be conducted and permits and tenurial instruments may be secured by the Offshore Wind Energy Developer for

the project. For this purpose, a copy of the technical description of the area to be covered by the OsWESC shall form part of the COA.

- 59.3. Within thirty (30) calendar days from the issuance of the COA under Section 60.1, the Offshore Wind Energy Developer shall submit a fixed timeline for the procurement of permits and conduct of activities in Gantt chart form, with the minimum work commitment under Annex I.1.

The above timeline shall not be revised.

- 59.4. Not later than thirty (30) calendar days after the end of each year of the COA, the Offshore Wind Energy Developer shall submit an annual report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted. The annual report shall follow the format prescribed in the COA: *Provided*, That during the last year of COA validity, the Offshore Wind Energy Developer shall submit a report covering the first quarter of such year not later thirty (30) calendar days after the last day of the period covered: *Provided, however*, That if the Offshore Wind Energy Developer opts to shorten the period of COA validity and the Offshore Wind Energy Developer gives notice to execute the OsWESC before the reportorial obligation herein arises, the report and corresponding evaluation shall be dispensed with.

- 59.5. The DOE shall evaluate the annual accomplishments of the Offshore Wind Energy Developer based on the fixed timeline above-mentioned:

59.5.1. REMB shall conduct an initial evaluation within ten (10) working days from receipt of the report of the Offshore Wind Energy Developer, or from the lapse of the period given under Section 59.3.

59.5.2. Within ten (10) working days from notice thereof, the Offshore Wind Energy Developer may submit additional documents refuting REMB's findings and/or rectifying any deficiency in the annual report or its supporting documents.

59.5.3. In every case, REMB shall complete the evaluation within the prescribed period: *Provided*, That the period for rectification shall not be counted against REMB's period for evaluation.

- 59.6. After due evaluation, the DOE may withdraw the COA if the Offshore Wind Energy Developer is unable to show, through proper documentation, reasonable efforts to undertake the activities. If the DOE, through REMB, finds that the COA should be withdrawn, it shall give the Offshore Wind Energy Developer written notice within fifteen (15) working days that it has forfeited the benefit of the COA and shall direct the Offshore Wind Energy Developer to pre-sign the OsWESC in accordance with Section 60.2.

- 59.7. The decision of the DOE to withdraw the COA shall be final and non-appealable.
- 59.8. The validity of the COA shall not be extendible. Any reconnaissance activity and other pre-feasibility studies that is not conducted and/or permit or certification or tenorial instrument that remains unissued upon the lapse of the COA, despite the due diligence of the Offshore Wind Energy Developer, shall be procured and the necessary activities therefor conducted, as part of the Pre-Development Stage.
- 59.9. The Offshore Wind Energy Developer shall have the option to waive, shorten or utilize maximum period of validity of the COA.
- 59.9.1. If the Offshore Wind Energy Developer opts to shorten the period of validity, it shall give written notice to the DOE with a request to execute the OsWESC, a proposed Work Program and a terminal report on the permits, certifications or tenorial instruments procured and/or reconnaissance and other activities needed for pre-feasibility studies conducted.
- 59.9.2. If the Offshore Wind Energy Developer opts to utilize the full term, it shall give written notice to the DOE with a request to execute the OsWESC, a proposed Work Program and the terminal report mentioned in Section 59.9.1 not earlier than six (6) months but not later than three (3) months prior to the expiration of the validity of the COA.
- 59.9.3. Failure of the Offshore Wind Energy Developer to give written notice to the DOE within the period mentioned in the preceding paragraph may be deemed an abandonment of the OsWESC Application and disqualified following the procedure set forth in Section 58.10.2.2.3.
- 59.10. Within three (3) calendar days from notice, WEMG shall prepare REMB's memorandum for the DOE Secretary endorsing the execution of the OsWESC in accordance with Section 60.2.

60. Award of Offshore Wind Energy Service Contracts and Registration of Offshore Wind Energy Developers.

- 60.1. **Issuance of Certificate of Authority.** After the approval of an OsWESC Application and before the execution of an OsWESC, the DOE shall issue a COA: *Provided*, That the COA may be waived in accordance with Section 59.9.
- 60.2. **Signing of the Offshore Wind Energy Service Contract.** The following procedure shall govern the awarding of OsWESC:

- 60.2.1. **Notification of Award.** The DOE shall notify the selected (under the OCSP) or qualified (under Direct Application) OsWESC Applicant of the award of the OsWESC.
- 60.2.2. **Signing of the Offshore Wind Energy Service Contract.** The signing of the OsWESC shall be divided into two stages, namely: a) pre-signing by the OsWESC Applicant; and b) signing of the DOE Secretary.
- 60.2.2.1. The REMB Supervising Assistant Secretary shall review the recommendation and endorse the same to the REMB Supervising Undersecretary through LS within two (2) calendar days from receipt thereof. LS shall act on the endorsement within two (2) calendar days from receipt of the documents. The Undersecretary shall act on the endorsement within two (2) calendar days from receipt of the documents. Within one (1) calendar day from the concurrence of the Undersecretary with the REMB's recommendation, the REMB Director shall require the OsWESC Applicant to pre-sign the original copies of the OsWESC following the prescribed template. The OsWESC Applicant is then required to pre-sign the OsWESC within thirty (30) days upon receipt of the notice. Failure to comply within this timeframe shall result in the OsWESC Application being deemed abandoned. Notifications will be sent through EVOSS System at ten (10)-day intervals within this thirty (30)-day period to the OsWESC Applicant.
- 60.2.2.2. The OsWESC Applicant shall submit the pre-signed OsWESC to WEMG. Within one (1) working day, the WEMG shall check the completeness of the pre-signed OsWESC and, if the same is in order, shall forward the pre-signed OsWESC, along with the endorsement and all its attachments to the Office of the DOE Secretary one (1) calendar day thereafter. Incomplete pre-signed OsWESC shall be returned to the OsWESC Applicant for rectification.
- 60.2.2.3. The Office of the DOE Secretary shall receive the pre-signed OsWESC and all its attachments, and the DOE Secretary shall act on the documents within seven (7) calendar days from receipt thereof.
- 60.2.3. **Payment of Signing Fee.** The WEMG, through the EVOSS System, shall issue the order of payment within one (1) calendar day.

The OsWESC Applicant shall pay the signing fee and upload the proof of payment thereof within fifteen (15) calendar days

from receipt of the order of payment. Failure of the Offshore Wind Energy Developer to do so shall cause the OsWESC to be deemed void.

60.2.4. **Posting of Performance Bond.** Subject to Section 91, the OsWESC Applicant shall post the performance bond covering the first Contract Year in accordance with Section 65 within the sixty (60) calendar days from receipt of notice. Failure of the Offshore Wind Energy Developer to do so shall cause the OsWESC to be deemed void.

60.2.5. **Delivery of the Signed Offshore Wind Energy Service Contract.** Within one (1) calendar day from receipt of the proof of payment of the signing fee within the prescribed period, WEMG shall, after due validation thereof, upload in the EVOSS System the signed and notarized copy of the OsWESC and COR, as applicable.

The Offshore Wind Energy Developer shall personally receive the original copies of the OsWESC and COR, as applicable, after submission of proof of posting of the performance bond within the prescribed period. Simultaneous with the receipt of the OsWESC, the Offshore Wind Energy Developer shall surrender to the DOE the COA issued pursuant to this Circular.

60.3. **Duty to Maintain Records.** The WEMG shall maintain a record of all LOIs received, pending OsWESC Applications, and signed OsWESC in the EVOSS System.

60.4. **Reopening of the Area of Interest.** The ITMS shall make the area available to other applicants only when: a) the OsWESC Applicant failed to qualify and the period under Section 58.10.2.2 has lapsed; or b) withdraws or abandons its LOI or OsWESC Application, as the case may be, and only after due notice is given to the concerned OsWESC Applicant of such information by the REMB Supervising Assistant Secretary, copy furnishing the ITMS with the said notice. Such information shall be posted on the DOE website and previously denied applicants shall be notified through the EVOSS System. Once an area is declared to be available, subsequent RE Applications covering the same may be allowed, and only on a first-come, first-served basis.

60.5. **Registration of Offshore Wind Energy Developers.** The DOE, through the REMB, shall issue a COR to an Offshore Wind Energy Developer holding a valid OsWESC for purposes of entitlement to the incentives under the RE Act, subject to Chapter XII of this Circular, upon the issuance of the COCOC. Notwithstanding the foregoing, the issuance of a COR may be availed of upon the award of the OsWESC, at the option of the Offshore Wind Energy Developer.

61. Types of Offshore Wind Energy Projects. Offshore wind energy projects shall include, but not be limited to:

- 61.1. Fixed-Bottom Platforms which are attached to the seabed by piles or gravity bases installed in shallow waters; and
- 61.2. Floating Platforms which are anchored to the seabed by mooring lines or cables and deployed in deeper waters.

62. Terms of Offshore Wind Energy Service Contract. The development of offshore wind energy resources shall be covered by an OsWESC following the prescribed template (Annex "I").

- 62.1. The Offshore Wind Energy Developer shall be given a period of five (5) years from the date of execution of the OsWESC, extendible up to two (2) years, to determine the existence of offshore wind energy resources in Commercial Quantities and shall be called Pre-Development Stage.
- 62.2. The Offshore Wind Energy Developer may file a request to extend the term of the Pre-Development Stage for justifiable reasons not earlier than six (6) months but not later than three (3) months prior to its expiration, which shall be decided by the REMB Supervising Undersecretary.
- 62.3. The Development/Commercial Stage shall commence immediately upon the expiration of the Pre-Development Stage and the issuance of the COCOC, and shall continue for the remainder of term of the OsWESC.
- 62.4. The OsWESC shall have a term of twenty-five (25) years from the date of execution, which shall include the Pre-Development Stage and Development/Commercial Stage but shall exclude the period covered by the COA.
- 62.5. Not earlier than two (2) years but not later than one (1) year prior to the expiration of the twenty-five (25)-year period, the OsWESC may be renewed for another twenty-five (25) years, subject to the terms and conditions of the OsWESC.

63. Stages of Offshore Wind Energy Service Contract. An OsWESC shall cover two (2) stages of the offshore wind energy project, namely:

- 63.1. **Pre-Development Stage.** It involves the conduct of preliminary assessment and feasibility study up to Financial Closing and approval of DOC of the offshore wind energy project, including the identification of the proposed Production Area; and
- 63.2. **Development/Commercial Stage.** It involves the development, construction, and commercial operation of the offshore wind energy project, and the production and utilization of offshore wind energy resources.

64. Investments.

64.1. **New Investments.** Offshore Wind Energy Developers undertaking discovery, exploration, development and/or utilization of offshore wind energy resources within the Contract Area using new offshore wind energy technology distinct from the originally registered operations may qualify as new projects, subject to setting up of new separate books of accounts. The Offshore Wind Energy Developer may, upon its discretion, relinquish the Contract Area and apply for a new OSWESC over the area of new investment, subject to constitutional term limits.

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

64.2.1. Identification of and investment in sequential phases/stages of production, or undertaking scheduled modernization or rehabilitation; and

64.2.2. Improvements such as reduced production/operational costs, increased production, improved operational efficiency, and better reliability of the offshore wind energy facilities.

If, by reason of the additional investment, the capacity of the offshore wind energy project will be increased by at least thirty percent (30%) as validated by REMB, the Offshore Wind Energy Developer shall have the option to avail of an additional COR indicating the type of additional investment. Upon the issuance of the additional COR, the applicable incentives under the RE Act shall be reset.

In cases where the period to avail of duty-free importation has lapsed and the additional investment involves the importation of RE machinery, equipment and/or materials, the DOE, upon the request of the Offshore Wind Energy Developers, may issue an additional COR indicating the type of additional investment prior to the actual increase of the capacity based on the following:

64.2.2.1. Full and detailed feasibility study showing that upon installation of the RE equipment, machinery and/or materials specified therein, the capacity of the wind energy project will be increased by at least thirty percent (30%);

64.2.2.2. Binding agreements for the purchase of RE equipment, machinery and/or materials with the same specifications mentioned in the feasibility study;

64.2.2.3. Detailed timeline of activities to implement the improvement, modernization, rehabilitation or expansion; and

64.2.2.4. Subject to Section 91, proof of posting of performance bond as provided in Section 65.

CHAPTER IX – RE RESOURCES UNDER NEW EMERGING TECHNOLOGIES

For other RE Resources which are developed through emerging RE technologies and are not enumerated in Chapters III to VIII of this Circular, the REMB shall develop a regulatory framework for the exploration, development, utilization and commercialization of such RE Resources utilizing such emerging technologies. In the absence of such regulatory framework, the procedures governing a particular RE Resource that is most analogous to the emerging technology shall be adopted.

CHAPTER X – ADMINISTRATION OF RENEWABLE ENERGY CONTRACTS

65. Performance Bond. Subject to Section 91, the RE Developer shall post a bond or any other guarantee of sufficient amount, but not less than the minimum expenditures commitment for the applicable Contract Year, which shall be a condition precedent for the effectivity of the RE Contract: *Provided*, That RE Projects with a capacity of five megawatts (5 MW) or below shall be exempt from such requirement. The bond or other guarantee shall be in the form of cash, manager's check, standby letter of credit with drawing certificate or bank guarantees, or surety bond issued by surety or insurance company duly accredited and of good standing under applicable rules and regulations.

If the RE Developer, through its own fault, fails to observe or perform its work obligations under the Work Program, the DOE, upon prior written notice, may proceed against the performance bond or other guarantee: *Provided*, That should the work obligations under the Work Program be fulfilled, and through the efficiency of the RE Developer, the corresponding actual expenditures thereon are lower than the estimated expenditures stated in the Work Program, the same shall be considered as full compliance of the work obligations.

A valid and subsisting performance bond is required to be maintained annually until:

- 65.1. Biomass, Waste-to-Energy and Solar Power Projects – The RE Developer submits a duly executed Engineering, Procurement and Construction (EPC) contract which shall be subject to the evaluation and validation by the DOE for a period not exceeding ninety (90) days from submission of the EPC contract; *Provided*, That, the RE Developer shall, as applicable, maintain or extend the performance bond until the end of the ninety (90)-day period: *Provided*, further, That, if the EPC contract is submitted prior to the submission of proof of Financial Closing, the RE Developer shall, as applicable, maintain or extend the performance bond until submission of the proof of Financial Closing, or until the end of the ninety (90) day period for the evaluation and validation by the DOE of the EPC contract, whichever comes later.
- 65.2 Geothermal, Hydropower, Ocean Energy, and Wind Energy Projects – The RE Developer submits a duly executed Engineering, Procurement

and Construction (EPC) contract which shall be subject to the evaluation and validation by the DOE for a period not exceeding ninety (90) days from submission of the EPC contract; *Provided*, That, the RE Developer shall, as applicable, maintain or extend the performance bond until the end of the ninety (90)-day period: *Provided*, further, That if the EPC contract is submitted prior to the submission of DOC, the RE Developer shall, as applicable, maintain or extend the performance bond until the issuance of the COCOC, or until the end of the ninety (90) day period for the evaluation and validation by the DOE of the EPC contract, whichever comes later.

The obligation to post the performance bond or other guarantee shall cease upon the lapse of the period for evaluation and validation: *Provided*, That the DOE shall audit the performance of the RE Developer after two (2) years from the submission of the EPC contract or submission of proof of Financial Closing or issuance of the COCOC, as the case may be, whichever comes later: *Provided*, further, That if the RE Developer incurs unreasonable delay in undertaking the construction activities per approved Work Program for an aggregate period of one (1) year within such period, the DOE shall cancel the RE Contract unless the RE Developer posts a performance bond equivalent to thirty percent (30%) of the cost of the financial commitment for the applicable Contract Year: *Provided*, finally, That the budgetary estimate for the activities that were not completed shall form part of the financial commitment for such Contract Year and shall be accounted for in computing the amount of the performance bond or other guarantee for such Contract Year.

In case of Additional Investments, the RE Developer shall post a performance bond or other guarantee of sufficient amount, but not less than the approximate cost of the duties and other charges that would have been due if the RE equipment, machinery or materials are imported without duty-free incentive, as may be determined by REMB based on the computation submitted by the RE Developer. Such performance bond or other guarantee shall be conditioned upon the actual increase of the installed capacity by ten percent (10%) for Geothermal Energy Projects and thirty percent (30%) for other RE Projects, and shall be maintained until the RE equipment, machinery or materials are installed and for ninety (90) calendar days from the last day of validity of the performance bond, if necessary, for the DOE's evaluation and validation.

66. Updating of RE Projects Data to the EVOSS System and DOE Website. The following shall govern the posting and updating of RE Contracts awarded and pending RE Applications on the DOE website.

- 66.1. The REMB-Technical Service Management Division (TSMD), in coordination with the relevant REMB divisions, shall collate and update the list of RE Contracts awarded and RE Applications filed and under evaluation on a quarterly basis. Upon full operation of the EVOSS System, the updating of data shall be in accordance with the periods provided in the system.
- 66.2. All concerned DOE units shall provide updates to the EVOSS System and DOE website.

- 66.3. All RE Developers shall be required to register with the EVOSS System for regular updating of their respective RE Projects.

67. Transition from Pre-Development Stage to Development/Commercial Stage.

The RE Service Contract shall transition from the Pre-Development Stage to Development/Commercial Stage only after issuance by the DOE of a COCOC.

- 67.1. **Procedure for the Transition from Pre-Development to Development Stage.** An application for DOC shall be processed, as follows:

- 67.1.1. The RE Developer shall submit through the EVOSS System the application for DOC and the complete documentary requirements specified in Annex "O" of this Circular prior to the expiration of the Pre-Development Stage. The concerned REMB Division shall determine the completeness and consistency of the submission within three (3) working days.

- 67.1.1.1. If, at the time the Application for DOC is filed, the acceptable proof of ownership or possessory rights, such as certificates of title, contracts, deeds, or agreements granting ownership or the right to possess or an exclusive option to acquire the ownership or the right to possess the real properties are not available and the Production Area is not subject of a conflicting claim, the RE Developer shall submit an Affidavit of Acquisition of Possessory Rights executed strictly in accordance with the template provided in Annexes "N-3" or "N-4" hereof and a copy of the Board Resolution authorizing the affiant to execute the instrument on behalf of the RE Developer.

The RE Developer shall submit the acceptable proof of ownership or possessory rights and supporting documents prior to commencement of construction activities. The RE Developer cannot commence construction activities without the submission of such documents.

- 67.1.2. If the submission is complete, the concerned REMB Division, ITMS and LS shall conduct the evaluations and upload the evaluation results through the EVOSS System within nine (9) calendar days.
- 67.1.3. Within two (2) calendar days after evaluation, the concerned REMB Division shall consolidate the evaluation results and recommend the issuance of:

67.1.3.1. The COCOC, if the evaluations found the DOC satisfactory; or

67.1.3.2. A written notice to the RE Developer indicating that it has to correct any deficiencies and/or satisfy the requirements for issuance of the COCOC in accordance with Section 67.1.1, if any evaluation found the DOC unsatisfactory.

67.1.4. Upon receipt of the recommendation, the REMB Director shall:

67.1.4.1. Endorse the issuance of the COCOC to the DOE Secretary for approval, through LS, the Supervising Assistant Secretary and Undersecretary. LS and REMB's Assistant Secretary and Undersecretary shall act on the recommendation within one (1), two (2), and two (2) calendar days, respectively, while the DOE Secretary shall act on the endorsement within seven (7) calendar days;

67.1.4.2. Sign the written notice. In such cases, REMB shall notify the RE Developer through the EVOSS System to rectify the submission within thirty (30) calendar days. Thereafter, REMB shall comply with the procedure below:

67.1.4.2.1. Failure of the RE Developer to submit supplementary documents within the prescribed period shall be deemed an abandonment of the DOC Application. REMB shall notify the RE Developer and the concerned DOE bureaus/services of the disqualification through the EVOSS System.

67.1.4.2.2. If the RE Developer submits supplementary documents within the prescribed period above, the concerned DOE bureaus/services shall check the completeness of the rectification documents within three (3) working days from receipt thereof. The RE Developer shall have the remainder of the period of the rectification to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

67.1.4.2.3. The concerned DOE bureaus/services shall be notified by the EVOSS System of the submission, which shall finish the

simultaneous technical and legal evaluations, and area verification within four (4) calendar days. Thereafter, the concerned REMB Division shall consolidate the results of the re-evaluation within two (2) calendar days.

67.1.4.2.4. Should the RE Developer still fail to pass any of the subsequent evaluations, the concerned REMB Division shall recommend the disapproval of the DOC Application to the REMB Director.

67.1.4.2.5. Should the RE Developer pass the subsequent evaluations, the concerned REMB Division shall endorse the issuance of the COCOC to the REMB Director. The latter shall then proceed in accordance with Section 67.1.4.1.

67.1.4.3. Endorse the disqualification of the DOC Application to the Supervising Assistant Secretary who shall then issue a formal notice to the RE Developer stating the basis of the disapproval. REMB shall notify the RE Developer and the concerned DOE bureau/services of the disqualification through the EVOSS System.

67.1.5. In every case, the concerned REMB Division shall upload the signed letter or the COCOC in the EVOSS System within two (2) calendar days from the Secretary's approval and notify the RE Developer to receive the said documents not later than thirty-one (31) calendar days from confirmation of completeness and consistency of the submission.

67.2. If the written notice under Section 67.1.4.2 is issued during the Pre-Development Stage, the RE Developer shall have the remainder thereof to correct any deficiencies and/or satisfy the requirements for issuance of the COCOC. If the written notice is issued after the expiration of the Pre-Development Stage, the RE Developer shall be given a one-time opportunity to rectify its submission within thirty (30) calendar days from receipt of the result of evaluation.

67.3. Failure of the RE Developer to file the application for DOC, or correct any deficiencies or otherwise satisfy the requirements for issuance of the COCOC within the applicable periods above shall be a cause for the termination of the RE Service Contract.

67.4. The date of issuance of the COCOC shall be considered the date of transition of the RE Service Contract from Pre-Development Stage to Development/ Commercial Stage, which shall be reflected in the COCOC.

- 67.5. Upon transition from the Pre-Development to Development Stage of the RE Service Contract, the Contract Area shall be amended, if necessary, to cover the Production Area only.

68. Conversion to the New RE Contract Template. Within one (1) year from the effectivity of this Circular, an RE Developer may apply for conversion of its RE Contract to the new RE Contract templates provided in Annexes "A" to "K" hereof. However, the period of the RE Contract to be issued in relation thereto shall be the balance of the contract term remaining under the existing and valid service/operating contract or agreement.

68.1. Availability of Certificate of Authority.

- 68.1.1. RE Developers whose RE Contracts were awarded within one (1) year, or within five (5) years in the case of OsWESCs, prior to the effectivity of this Circular and who have not availed of any fiscal incentives under the RE Contract may avail of the COA by signifying such intent in the application for conversion: *Provided*, That upon the issuance of a COA, the RE Developer shall deliver its RE Contract and corresponding COR to the DOE for cancellation.

During the validity of the COA, the running of the constitutional term limits and, subject to prior coordination with the Board of Investments (BOI) and other relevant government agencies, the period to avail of the incentives under the RE Act shall be suspended and shall resume only upon the execution of the new RE Contract and/or issuance of the new COR, respectively, in accordance with Sections 11, 21, 0, 39, 50 and 60, as the case may be: *Provided*, That the RE Developer shall no longer be required to pay the signing fee.

- 68.1.2. RE Contracts not falling within Section 68.1.1 may apply for conversion but shall not be entitled to avail of the COA.

68.2. Availability of Incentives. Upon the execution of the new RE Contract, the RE Developer may avail of such incentives as may be warranted by the circumstances.

68.3. Requirements for Conversion to New RE Contract Template. The application for conversion to the new RE Contract templates shall be subject to the following conditions:

- 68.3.1. RE Developers must be substantially compliant with the approved Work Program/Work Plan and the material terms and conditions of the RE Contract for the past six (6) months prior to the date of filing its application for conversion. For RE Developers with RE Contracts executed less than six (6) months from the date of application for conversion, the

evaluation shall be based on their compliance with the approved Work Program and the material terms and conditions from the time of the award of the RE Contract until the filing of the application.

68.3.2. Submission of a letter of application for conversion with the following documentary requirements:

68.3.2.1. Work Program covering the first five (5) years of the remaining term of the existing RE Contract, reckoned from the date of its execution.

68.3.2.2. Revised Contract Area following the mapping requirements provided in Annex "L" hereof, as applicable.

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

68.4.1. The RE Developer shall submit through the EVOSS System the complete documents, and the relevant REMB division shall check the completeness and consistency of the submission within three (3) working days.

68.4.2. The concerned REMB Division and LS shall conduct technical and legal (if required) evaluation based on performance of the contractor/RE Developer of its contractual obligations under the old contract/agreement and its application documents within five (5) calendar days.

68.4.3. Within two (2) calendar days, the concerned REMB Division shall then consolidate the evaluation results and endorse the mapping requirements to the ITMS who shall produce/print the map of the Contract/Production Area.

68.4.4. If the RE Developer does not pass the technical and legal evaluations, the concerned REMB Division shall notify the RE Developer through the EVOSS System to rectify the submission within five (5) working days. The concerned REMB Division shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

68.4.4.1. Failure of the RE Developer to submit supplementary documents within the prescribed period shall be deemed an abandonment of the application for conversion. The concerned REMB Division shall notify the RE Developer

and LS of the disqualification through the EVOSS System.

68.4.4.2. If the RE Developer submits supplementary documents within the prescribed period above and the concerned REMB Division determines that the submission is incomplete, the RE Developer shall have the remainder of the period of the rectification to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.

68.4.4.3. The concerned REMB Division shall be notified by the EVOSS System of the submission. The concerned REMB Division and/or LS shall finish the evaluations within seven (7) calendar days.

68.4.4.4. Should the RE Developer still fail to pass any of the subsequent legal or technical evaluations, the REMB Director shall recommend the disqualification of the application for conversion to the Supervising Assistant Secretary who shall then issue a formal notice to the RE Developer stating the basis of the disqualification. The concerned REMB Division shall notify the RE Developer of the disqualification through the EVOSS System.

68.4.5. Qualified applications shall be endorsed by the REMB to the Supervising Assistant Secretary and Undersecretary through LS, which shall act thereon within three (3) calendar days. The Assistant Secretary and Undersecretary shall each act upon the endorsement within three (3) calendar days.

68.4.6. The DOE shall then issue a COA, if warranted, or proceed with the execution of the RE Contract in accordance with the applicable timeline and procedure for the award of RE Contracts and registration of RE Developers.

68.5. An application for conversion to new RE Contract template shall be processed within thirty-one (31) calendar days.

69. Amendment of RE Contracts.

69.1. **Amendment of RE Contracts.** RE Contracts shall be amended in any of the following instances:

69.1.1. Change to the Contract Area;

69.1.2. The awarded Contract Area falls within or overlaps with the no build zones as identified in the MSP;

- 69.1.3. Increase or decrease in the installed capacity of the RE Project: *Provided*, That changes to the potential capacity shall not be considered as an amendment of RE Contracts and shall be approved by the Supervising Assistant Secretary and Undersecretary.

As used herein, installed capacity of an RE Project shall refer to the sum of the maximum capacity/ies of all generating unit/s operating under optimal conditions, while its potential capacity shall refer to the sum of the expected maximum capacity/ies of all generating unit/s based on the result of resource assessment, grid capacity, and/or engineering design;

- 69.1.4. Change of location of project site for Biomass and Hydropower Projects, or correction of project location for Solar Power Projects; or
- 69.1.5. Changes to address inconsistencies between the RE Contract and the RE Contract template and its annexes, as applicable, or changes to the Contract Area necessitated by the RE Developer's non-compliance with the Affidavit of Acquisition of Possessory Rights.

- 69.2. No amendment to the RE Contract is required when the RE Project transitions from the Pre-Development to the Development Stage. However, upon the relinquishment of a portion of the Contract Area after identifying the Production Area pursuant to Section 67.5, a new annex to the RE Contract indicating the revised Contract Area, with corresponding map and technical description, shall be issued.

Further, no amendment to the RE Contract shall be required if there are changes in the registered capacity of an RE Project: *Provided*, That the DOE shall, when necessary, endorse the RE Developer's application for amendment or renewal of COC with the ERC.

- 69.3. **Requirements for Amendment to the Contract Area.** The RE Developer shall submit a request in writing addressed to the REMB Director, and shall submit and/or comply with the following:

- 69.3.1. Technical description of the proposed Contract Area and other mapping requirements for the purpose of area verification;
- 69.3.2. The proposed amendment shall cover an area contiguous or, for microgrid projects, proximal to the existing Contract Area, and available and open for RE resource exploration, development and/or utilization based on the verification by the ITMS;
- 69.3.3. The amendment of the Contract Area is justified and reasonable, which may be proven by: (a) the results of the

resource assessment, duly verified by the concerned REMB unit; and (b) proof that the RE Developer is not in default of its technical and financial obligations under the RE Contract;

69.3.4. The Work Program with respect to the amended Contract Area is acceptable; and

69.3.5. Affidavit of Acquisition of Possessory Rights, as applicable.

69.4. **Requirements for Other Amendments.** The RE Developer shall submit a request in writing addressed to the REMB Director, together with proof of the following:

69.4.1. That the amendment is justified and reasonable; and

69.4.2. That the RE Developer is not in default of its technical and financial obligations under the RE Contract.

69.5. Only an amended COR shall be issued in case of the following changes:

69.5.1. Company name of the RE Developer or name of the RE Project;
or

69.5.2. Assignment of RE Contract in accordance with the terms thereof.

The amendments under this Section shall require the surrender of the original COR upon issuance of the amended COR: *Provided*, That in the case of an amendment solely for the change of the company name, the request shall be directly endorsed to the DOE Secretary after legal evaluation.

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

69.6.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

69.6.2. If the submission is complete, the concerned REMB Division shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within three (3) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from uploading, DOE shall validate the proof of payment.

- 69.6.3. After payment of the processing fee, the concerned REMB Division shall evaluate the request within five (5) calendar days. In case the evaluation of the concerned REMB Division shows that: (a) there are additional costs to be incurred that should warrant another financial evaluation; (b) there are any legal concerns regarding the RE Project; and/or (c) there is a need of re-plotting the Contract Area, the concerned REMB Division, through the EVOSS System, shall endorse the request to FS, LS and/or ITMS which shall conduct simultaneous financial and legal evaluations, and/or area verification within five (5) calendar days.
- 69.6.4. The concerned REMB Division shall consolidate all the evaluation results within two (2) calendar days and proceed with the processing:
- 69.6.4.1. If the RE Developer passes the evaluations, the concerned REMB Division shall prepare REMB's memorandum for the DOE Secretary endorsing the amendment of contract and the draft letter, as applicable, through LS, REMB's Supervising Assistant Secretary and Undersecretary.
- 69.6.4.2. If the RE Developer does not pass the legal, technical, and/or financial evaluations, the concerned REMB Division shall notify the RE Developer through the EVOSS System to rectify the submission within fourteen (14) calendar days. The concerned REMB Division shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.
- 69.6.4.2.1. Failure of the RE Developer to submit supplementary documents within the prescribed period shall be deemed an abandonment of the application for amendment. The concerned REMB Division shall notify the RE Developer, LS, FS, and ITMS of the disqualification through the EVOSS System.
- 69.6.4.2.2. If the RE Developer submits supplementary documents within the prescribed period above and the concerned REMB Division determines that the submission is incomplete, the RE Developer shall have the remainder of the period of the rectification to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in

accordance with the next succeeding subparagraph.

69.6.4.2.3. The concerned REMB Division shall be notified by the EVOSS System of the submission. The concerned REMB Division, FS, LS and/or ITMS shall finish the evaluations within five (5) calendar days.

69.6.4.2.4. Should the RE Developer still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Director shall recommend the disqualification of the application for amendment to the Supervising Assistant Secretary who shall then issue a formal notice to the RE Developer stating the basis of the disqualification. The concerned REMB Division shall notify the RE Developer of the disqualification through the EVOSS System.

69.6.5. In cases falling under Section 69.6.4.1, LS shall act on the endorsement within four (4) calendar days, while the Supervising Assistant Secretary and Undersecretary shall each have four (4) calendar days to act on the recommendation and endorse the same to the DOE Secretary for approval. The latter shall act thereon within five (5) calendar days.

69.6.6. The concerned REMB Division, through the EVOSS System, shall notify the RE Developer of the approval and upload a copy of the letter approving the application for amendment within two (2) calendar days.

69.7. An application to amend an RE Contract shall be processed within thirty-one (31) calendar days from the date of submission of complete documents.

69.8. Requests to change the terms of the RE Contract other than those in Section 69.1 may be considered by the DOE if the RE Developer complies with the conditions set forth in Section 69.4, subject to negotiations between the DOE and the RE Developer.

69.9. The changes referred to in Section 69.1.5 shall be initiated by the concerned REMB Division.

If the change relates to the material terms and conditions of the RE Contract or to the Contract Area, as may be necessitated by the RE Developer's non-compliance with the Affidavit of Acquisition of Possessory Rights, the REMB Director shall recommend the amendment of the RE Contract and/or its annex, through LS, the

Supervising Assistant Secretary and Undersecretary, to the DOE Secretary.

69.10. Revision of the Work Program. Subject to terms and conditions stipulated in the RE Contract, the RE Developer may request the revision of its Work Program with justification on such revision: *Provided*, That such revision shall not extend the Pre-Development Stage.

69.10.1. Evaluation of Requests for Revision of the Work Program.

The RE Developer shall submit through the EVOSS System the complete set of documentary requirements for the request for revision of the Work Program, which shall be processed as follows:

69.10.1.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

69.10.1.2. If the submission is complete, REMB, LS and FS shall conduct simultaneous technical, legal (if necessary), and financial (for Pre-Development Stage only) evaluations within three (3) calendar days.

69.10.1.3. The concerned REMB Division shall consolidate all the evaluation results and recommend the same to the REMB within two (2) calendar days.

69.10.1.4. If the RE Developer passes the evaluations, the concerned REMB Division shall prepare REMB's memorandum for the REMB Undersecretary endorsing the revision of the Work Program and the draft letter, if applicable, through LS and the Supervising Assistant Secretary.

69.10.1.5. If the Application does not pass the legal, technical, and/or financial evaluations, the concerned REMB Division shall notify the RE Developer through the EVOSS System to rectify the submission within fourteen (14) calendar days. The concerned REMB Division shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe. The RE Developer shall have a one-time opportunity to address the deficiencies: *Provided*, That such rectification shall be made within the fourteen (14) calendar day period. The remaining days, if there are any, shall be forfeited.

- 69.10.1.5.1. Failure of the RE Developer to submit supplementary documents within the prescribed period shall be deemed an abandonment of the application for amendment. The concerned REMB Division shall notify the RE Developer, LS and FS of the disqualification through the EVOSS System.
- 69.10.1.5.2. If the RE Developer submits supplementary documents within the prescribed period above and the concerned REMB Division determines that the submission is incomplete, the RE Developer shall have the remainder of the period of the rectification to submit the lacking documents. Upon receipt of the said documents, reevaluation shall proceed in accordance with the next succeeding subparagraph.
- 69.10.1.5.3. The concerned REMB Division shall be notified by the EVOSS System of the submission. The concerned REMB Division, FS and/or LS shall finish the evaluations within five (5) calendar days.
- 69.10.1.5.4. Should the RE Developer still fail to pass any of the subsequent legal, technical, or financial evaluations, the REMB Director shall recommend the disqualification of the application for amendment to the Supervising Assistant Secretary who shall then issue a formal notice to the RE Developer stating the basis of the disqualification. The concerned REMB Division shall notify the RE Developer of the disqualification through the EVOSS System.
- 69.10.1.6. In cases falling under Section 69.10.1.4, LS shall act on the endorsement within one (1) calendar day, while the Supervising Assistant Secretary and Undersecretary shall each have two (2) calendar days to act on the recommendation.
- 69.10.1.7. The concerned REMB Division, through the EVOSS System, shall notify the RE Developer of the approval

and upload a copy of the letter approving the revised work program within three (3) calendar days.

69.10.1.8. The concerned REMB Division shall immediately provide to the TSMD, ITMS, and IPO the status of the RE Contract and/or COR for timely update of database.

69.10.1.9. The changes to the Work Program necessitated by Force Majeure that extends the Pre-Development Stage shall be treated as an amendment of the RE Contract and shall be approved in accordance with Section 69.

69.10.2. An application to revise a Work Program shall be processed within eighteen (18) calendar days from the date of submission of complete documents.

70. Assignment of RE Contract.

70.1. The RE Developer may assign all of its rights and obligations under the RE Contract to an entity that has the legal, technical, and financial qualifications to undertake the RE project, subject to prior written approval of the DOE, and in accordance with the following:

70.1.1. The RE Developer shall submit to the DOE copies of the written document which unequivocally shows the agreement of the parties thereto to the assignment of the RE Contract; and

70.1.2. **Assignment to an Affiliate.** An RE Contract may be assigned to an affiliate of the RE Developer at any time and any number of times during its term.

70.1.3. **Assignment to a Non-Affiliate.**

70.1.3.1. An RE Service Contract may be assigned only once during the Pre-Development Stage after two (2) years from its effectivity: *Provided*, That the 2-year limitation shall not apply if, prior to the date of the assignment, the applicable minimum set of permits and activities were procured/conducted by the RE Developer. It may be assigned any number of times during the Development Stage.

70.1.3.2. An RE Operating Contract may be assigned only once during the Development Stage after two (2) years from its effectivity. It may be assigned any number of times during the Commercial Stage.

70.2. **RE Act Incentive Available to Assignee.** If an RE Contract is assigned within ten (10) years from its award and issuance of COR and the

assignor has not availed of duty-free importation for the RE Project prior to the assignment, the assignee thereof may, in accordance with Sections 15(b) and 26 of the RE Act, avail of duty-free importation incentives within ten (10) years from the date of issuance of a Certificate of Registration in favor of such assignee.

This provision shall have retroactive application.

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

70.3.1. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

70.3.2. If the submission is complete, the concerned REMB shall upload a copy of the order of payment to pay for the application and processing fees. The EVOSS System shall notify the RE Developer through a system generated email to pay the fees within three (3) working days.

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

70.3.4. The concerned REMB Division shall consolidate all the evaluation results and proceed with the processing of the request for assignment of RE Contract in accordance with the timeline and procedure provided in Sections 69.6.4 to 69.6.6.

70.4. The processing of a request to assign an RE Contract shall be completed within thirty-one (31) calendar days from the date of submission of complete documents.

71. Change in Control. Any sale or acquisition of shares or other share capital, or a series thereof, that results in a change in control over the RE Developer shall be subject to the prior written approval of the DOE. Such approval shall be given if the RE Developer remains legally, technically and financially qualified and capable of discharging the obligations under the RE Contract. For this purpose, the RE Developer shall submit to the DOE copies of the instrument of conveyance and other documents showing that the sale or acquisition will not affect its legal, technical and financial qualification. The procedure for evaluation and approval of the sale or acquisition shall be in accordance with Sections 70.3 and 70.4.

72. Abandonment. The Abandonment and Termination Plan shall be prepared by the RE Developer and submitted as a requirement for issuance of a COCOC or to transition from the Development Stage to Commercial Stage, as applicable, and approved by the Department of Environment and Natural Resources (DENR) and the

DOE for the decommissioning, abandonment and surface restoration or rehabilitation of the Contract Area. Such abandonment work plan may be amended, supplemented or modified by the RE Developer, in accordance with the rules and regulations of the DOE and the DENR.

73. Performance Review and Audit.

- 73.1. The DOE shall conduct regular performance review of the RE Developers and recommend appropriate actions therefor.
- 73.2. The DOE shall have the right to inspect the RE Developer's books and accounts directly relating to the RE Contract for any Contract Year.
- 73.3. The period to conduct audit, the prescriptive period of audit, and the review and appeal process of audit and/or assessments shall be in accordance with the Guidelines on the Conduct of Audit and Reportorial and Remittance Obligations of Energy Contractors and/or Energy Resource Developers to be issued by the DOE.
- 73.4. The DOE, upon at least fifteen (15) calendar days advance written notice to the RE Developer, is entitled to access, during reasonable hours without affecting RE operations, all books of accounts and records and may inspect such sites and facilities as necessary.

74. Suspension of Obligations under the RE Service/Operating Contract. In case the default of the RE Developer is attributable to Force Majeure, the obligation of the RE Developer may be suspended until the Force Majeure event ceases to exist, subject to the following conditions:

- 74.1. The RE Developer shall file a notice of Force Majeure to the concerned REMB Division within fifteen (15) calendar days from its existence along with proof that:
 - 74.1.1. The Force Majeure exists;
 - 74.1.2. The event/s occurred independent of the will of the RE Developer;
 - 74.1.3. The event/s rendered it impossible for the RE Developer to fulfill its obligations in a normal manner; and
 - 74.1.4. The RE Developer is free of participation in, or aggravation of, the injury to the DOE.
- 74.2. After due validation which shall be made within twenty (20) calendar days from receipt of such notice, the REMB Director shall issue an approval of suspension of contractual obligation/s affected by Force Majeure: *Provided*, That if the suspension of the obligations will extend the Pre-Development Stage, the REMB Director shall endorse the approval to the DOE Secretary.

- 74.3. Within ten (10) calendar days from receipt of the notice of approval, the concerned REMB Division shall submit a new Work Program to be acted upon by the Supervising Assistant Secretary and thereafter endorsed to the Undersecretary for approval.
- 74.4. The RE Developer shall continue to post the performance bond, if necessary, observe administrative requirements and comply with reportorial obligations on its work commitments not affected by Force Majeure.
- 74.5. Once the Force Majeure has ceased, the RE Developer shall notify the REMB within five (5) calendar days from cessation together with the revised Work Program covering the remaining contract term.
- 74.6. Any failure or delay on the part of the RE Developer or the DOE in the performance of its obligations or duties under the RE Contract shall be excused to the extent attributable to Force Majeure.
- 74.7. If the RE operations are curtailed or prevented by such causes, then the time for enjoying the rights and carrying out the obligations thereby affected, and all rights and obligations hereunder shall be extended for a period equal to the period of delay, curtailment or prevention: *Provided, however,* that the suspension of obligation shall in no way extend the term of the contract: *Provided, further,* That if operations are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months, the RE Developer may, at its option, request for the suspension of the RE Contract in accordance with Section 75, subject to confirmation of the DOE.
- 74.8. The party whose ability to perform its obligations under the RE Contract is so affected shall notify the other party thereof in writing stating the cause and such affected party shall do all reasonably within its power to remove such cause.

75. Suspension of the RE Service/Operating Contract. In case the RE operations are delayed, curtailed or prevented by Force Majeure for a continuous period of six (6) months, the Contract may be suspended for a maximum period of three (3) years or until the Force Majeure event ceases to exist, whichever comes earlier. The period of such suspension shall not be counted against its term.

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

- 75.1. Upon strict compliance with the conditions under Section 74, the RE Developer may file a request for suspension of the RE Contract with REMB within fifteen (15) calendar days following the last day of the said six (6)-month period.
- 75.2. The concerned REMB Division shall endorse the request to the REMB. For a period of ninety (90) calendar days from receipt of endorsement,

REMB shall exert best efforts to enable the RE Developer to resume RE operations.

- 75.3. If, despite such efforts, the Force Majeure persists and the RE operations cannot resume, the DOE shall approve the request for suspension of the RE Contract. Notice of suspension shall be given to the RE Developer within fifteen (15) calendar days following the last day of the ninety (90)-day period.
- 75.4. Within ten (10) calendar days from receipt of notice of suspension, the RE Developer shall submit a sworn undertaking to notify the DOE and submit proof that the Force Majeure has ceased. Failure to give notice within ten (10) calendar days from cessation shall be deemed a relinquishment of the RE Contract.
- 75.5. If the RE Developer intends to resume operations, it shall submit to REMB a request to resume RE operations together with the notice abovementioned.
- 75.6. After due evaluation and if warranted, the concerned REMB Division shall endorse the approval of the request to the REMB Director, who may endorse the same to the DOE Secretary for approval.
- 75.7. The RE Developer may only avail of the above suspension of the RE Contract once during its term.

76. Power to Compel or Conduct Operations. The DOE shall have the power to compel the RE Developer to perform RE operations when the following conditions exist:

- 76.1. The RE Developer fails, refuses or neglects to perform the RE operations without any justifiable cause; and
- 76.2. Such failure, refusal or neglect:
 - 76.2.1. Results in or contributes to a shortage in the supply of electricity, based on the report of the Electric Power Industry Management Bureau (EPIMB); and
 - 76.2.2. Poses an imminent threat to the country's national security and/or economy, as determined by the DOE Secretary and as recommended by the concerned government agencies.

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

77. Wind Data Submission and Access. To hasten the development of wind energy resources and reduce risk and costs from the private sector, the RE Developers shall submit wind data set to the DOE, through the Energy Data Center of the Philippines (EDCP).

- 77.1. **Wind Data Set.** The wind data set shall have an average time interval of ten (10) minutes and shall include, but are not limited to, wind speed measured at three (3) different heights, wind direction measured at two (2) different heights, and temperature. If encrypted, the RE Developer shall provide the data encryption.
- 77.2. **Submission of Wind Data Set.** The RE Developer, with RE Contract issued after the effectivity of this Circular or RE Contract converted into new template under this Circular, shall submit to REMB the electronic copy of wind data set described in Section 77.1 from the following RE Projects:
 - 77.2.1. RE Project under Pre-Development Stage – wind data set gathered during this Stage as part of the DOC requirement.
 - 77.2.2. Operational RE Project – Annual wind data set.
 - 77.2.3. Terminated or relinquished RE Contract – all gathered wind data sets.
- 77.3. **Management of Data.** The EDCP shall manage the wind data set following the existing guidelines of the EDCP.
- 77.4. **Data Access.** Access to the wind data set for other RE Developers and other interested industry players under the following conditions:
 - 77.4.1. Adherence to EDCP's established guidelines governing data access and acquisition;
 - 77.4.2. The RE Project associated with the wind data has achieved commercial operation;
 - 77.4.3. In the event that the RE Contract associated with the wind data has been terminated or relinquished;
 - 77.4.4. In accordance with Section 77.5; and
 - 77.4.5. The DOE may access and use the data sets without the need for payment of fees for its resource mapping, data gathering, policy making and for government planning purposes.
- 77.5. **Fee for Data Access.** Fee for the access/acquisition of one (1) year wind data set for one (1) site shall be determined by the DOE based on actual costs expended by the RE Developer, and updated from time to time. To partially or fully recover the cost borne by the concerned RE

Developer in the course of wind measurement campaign, half of the proceeds shall be paid to the concerned RE Developer while the other half shall be paid to the DOE.

77.6. The DOE shall, as far as practicable, apply this Section to other RE technologies.

78. Termination of RE Contracts. The DOE shall have the power to terminate RE Contracts, after due notice to the RE Developer.

78.1. Evaluation Process for RE Contract Termination. The concerned REMB Division shall recommend the termination of the RE Contract within the following timelines:

78.1.1. Five (5) calendar days from the lapse of the Pre-Development Stage of the RE Contract where the RE Developer failed to submit its DOC;

78.1.2. Five (5) calendar days from the lapse of the Development Stage of the RE Contract where the RE Developer failed to secure its Certificate of Compliance (COC);

78.1.3. Three (3) calendar days from the voluntary relinquishment of the RE Developer, without prejudice to the DOE requiring the RE Developer to comply with the applicable penalties for non-compliance with its work obligations in accordance with the provisions of the RE Contract;

78.1.4. Prior to the pre-construction phase of the RE Contract, upon the discovery that the RE Developer failed to maintain the required performance bond;

78.1.5. During the Development Stage, upon the DOE's finding that the conditions set forth in Sections 76.1 and 76.2 exist; or

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

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

78.2. With respect to Sections 78.1.1, 78.1.2, 78.1.4, and 78.1.5, the concerned REMB Division shall prepare a letter, signed by the REMB Director, requiring the RE Developer to explain in writing why its RE Contract should not be terminated. The RE Developer shall be given a non-extendible period of thirty (30) calendar days to submit its explanation, which shall be accompanied by supporting documents.

- 78.3. No later than twenty (20) calendar days from its receipt of the RE Developer's written explanation or from the lapse of the period mentioned in Section 78.2, the concerned REMB Division shall submit its findings and recommendation to the REMB Director.
- 78.4. Within three (3) calendar days from receipt of the findings and/or recommendation, the REMB Director shall act upon the same and recommend a course of action to the DOE Secretary, through its Supervising Assistant Secretary and Undersecretary.
- 78.5. In case the DOE Secretary approves the REMB Director's recommendation, the RE Developer shall be notified in writing of the termination of its RE Contract. The concerned REMB Division shall inform the TSMD, ITMS, and IPO of such fact.
- 78.6. Subject to the conditions under this Section, areas covered by terminated RE Contracts shall be declared by the DOE open for development, specifying the mode of awarding of the RE Contract, which, if the area is determined as within a PDA, RE Contract Applications shall be through OCSP, respectively, as provided herein. Otherwise, the area shall be available to all interested parties for RE resource development under Direct Application, and only on a first-come first-serve basis.

79. Request for Reconsideration. An RE Developer whose RE Contract was terminated may request for the reconsideration of the same. The request shall be made in writing, addressed to the REMB Director, and filed within a non-extendible period of ten (10) working days from the RE Developer's receipt of the notice of termination. The REMB Director shall evaluate the merits of the request for reconsideration and endorse such recommendations to the DOE Secretary, through LS, the REMB Supervising Assistant Secretary and Undersecretary.

- 79.1. **Procedures for Processing of Request for Reconsideration.** Requests for reconsideration shall be processed in accordance with the procedure below:
 - 79.1.1. The RE Developer shall submit through the EVOSS System the complete documents, and the concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.
 - 79.1.2. REMB, LS, FS and ITMS shall conduct simultaneous technical, legal, financial evaluations and area verification within ten (10) calendar days.
 - 79.1.3. The concerned REMB Division shall consolidate all the evaluation results and, consistent with such results, recommend the approval or denial of the request for reconsideration to the REMB Director through a memorandum for the DOE Secretary. If the REMB Director agrees with the recommendation, REMB

shall endorse the documents to the DOE Secretary, through LS, the Supervising Assistant Secretary and Undersecretary. The consolidation and endorsement herein mentioned shall be completed within three (3) calendar days.

79.1.4. LS shall act on the endorsement within three (3) calendar days, while the Supervising Assistant Secretary and Undersecretary shall each have four (4) calendar days to act on the recommendation and endorse the same to the DOE Secretary for approval. The latter shall act thereon within seven (7) calendar days.

79.1.5. The concerned REMB Division, through the EVOSS System, shall upload a copy of the letter approving or denying request for reconsideration and notify the RE Developer to receive a copy of said document.

79.2. A request to reconsider the termination of an RE Contract shall be processed within thirty-one (31) calendar days from the date of submission of complete documents.

CHAPTER XI – REGISTRATION OF RE PROJECTS FOR OWN-USE AND/OR NON-COMMERCIAL OPERATIONS

Part 1. General Provisions

80. Certificate of Registration. A COR is the proof of registration of the RE Developer with the DOE and is required to avail of the incentives under the RE Act. RE Projects for Own-Use and/or Non-Commercial Operations are not required to enter into an RE Contract to secure a COR.

Part 2. Procedures for Registration

81. Issuance of Certificate of Registration for RE Projects for Own-Use and/or for Non-Commercial Operations. The COR shall be issued to the RE Developer only upon its complete submission of the requirements herein below provided, and only after the evaluation of the same by the REMB which shall recommend its approval to the DOE Secretary.

82. Documentary Requirements. Any proponent intending to install, construct, and operate an RE Project under this Chapter shall strictly comply with the following:

82.1. Technical Requirements.

82.1.1. Application letter addressed to the REMB Director;

82.1.2. Project description detailing the technical design, financing structure, the target commissioning date, location of the RE Project and the RE Resource to be used;

82.1.3. Target commissioning date; and

82.1.4. Proof of ownership of proposed project site.

82.2. **Legal Requirements.** – The same legal requirements in Checklist of Requirements in Annex “M” of this Circular shall be submitted.

To ensure the completeness of the application documents, the REMB may provide a venue to serve as the pre-filing conference/meeting/orientation among the concerned DOE units and the proponent, prior to submission of formal application through the EVOSS System.

83. Filing an Evaluation of Application for Registration.

83.1. **Receipt of Application for Registration.** An interested participant may file its Application by complying with the requirements and procedures, as follows:

83.1.1. The Applicant shall submit through the EVOSS System the complete set of documentary requirements for registration prescribed under Section 82.

83.1.2. The concerned REMB Division shall check the completeness and consistency of the submission within three (3) working days.

No order for payment of application and processing fee shall be issued unless all the documentary requirements have been complied with and submitted by the proponent.

83.2. **Payment of Application and Processing Fees.** If the submission is complete, the concerned REMB Division shall upload a copy of the order of payment for the application and processing fees. The EVOSS System shall notify the applicant through system-generated email to pay the application and processing fees within five (5) working days. Failure to do so will result in the abandonment of the application. Within one (1) working day from payment, DOE shall validate the proof of payment. No application shall be accepted without the payment of the application and processing fees.

83.3. **Processing Period.** The application shall be processed within twenty-eight (28) calendar days from the receipt of the complete documents and the payment of the application and processing fees.

84. Evaluation and Process for Issuance of Certificate of Registration.

84.1. **Qualification Evaluation.** After the payment of the processing fee, the concerned REMB Division and LS shall conduct the simultaneous

technical and legal evaluations within five (5) calendar days from uploading of the proof of payment of application and processing fees in the EVOSS System.

84.2. The concerned REMB Division shall consolidate all the evaluation results and proceed with the processing:

84.2.1. If the Application passes the evaluations, the concerned REMB Division shall, within two (2) calendar days from its receipt of the evaluation documents, prepare REMB's memorandum for the DOE Secretary endorsing the issuance of Certificate of Registration. The endorsement must include the original copy of the results of legal and technical evaluations with all their attachments. Upon concurrence of LS and the REMB Assistant Secretary and Undersecretary on the endorsement, which shall be completed within two (2) and four (4) calendar days, respectively, the DOE Secretary shall act on the Application within seven (7) calendar days.

84.2.2. If the Application does not pass the legal, and/or technical evaluations, The concerned REMB Division shall notify the Applicant through the EVOSS System to rectify the submission within five (5) working days. The concerned REMB Division shall check the completeness of the submission within three (3) working days. Such period for rectification and checking of completeness of the rectification documents shall be deemed outside of the EVOSS timeframe.

(a) Failure of the Applicant to submit supplementary documents within the prescribed period shall be deemed an abandonment of the Application. The concerned REMB Division shall notify the Applicant and LS of the disqualification through the EVOSS System.

(b) If the Applicant submits supplementary documents within the prescribed period above, reevaluation shall proceed in accordance with the next succeeding subparagraph.

(c) The concerned REMB Division and LS shall be notified by the EVOSS System of the submission. The concerned REMB Division and LS shall finish the simultaneous technical, and legal evaluations within three (3) calendar days.

(d) Should the Application still fail to pass any of the subsequent legal and technical evaluations, the REMB Assistant Director shall recommend the disqualification of the Application to the Supervising Assistant Secretary who shall then issue a formal notice to the Applicant stating the basis of the disqualification. The concerned REMB Division shall notify the Applicant, and LS of the disqualification through the EVOSS System.

84.3. Request for Reconsideration. The Applicant may request a reconsideration of the disqualification in writing, addressed to the REMB Supervising Undersecretary, within ten (10) working days from receipt of notice of disqualification.

The REMB Supervising Undersecretary shall resolve the request for reconsideration within five (5) working days from receipt of the same.

85. Validity of the Registration. The COR shall have an initial validity period of five (5) years, renewable for the same period until the end-of-project life is reached or a maximum of twenty-five (25) years.

86. Terms and Conditions of the Registration. Any RE Developer and its Project shall be issued a COR (Annex "P") which shall contain the terms and conditions thereof.

CHAPTER XII – INCENTIVES

87. Incentive Regime. In lieu of the incentives allowed under the RE Act, an RE Developer may elect to avail itself of the incentives under the National Internal Revenue Code of 1997, as amended by RA 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" (CREATE). Unless the RE Developer signifies its intention to avail itself of the incentives under CREATE at the time of issuance of COR, it shall be considered as having availed itself of the incentives under the RE Act. Once the RE Developer elects to avail itself of the incentives under CREATE, such election shall be considered irrevocable and no incentives under the RE Act shall be allowed thereafter.

CHAPTER XIII – TRANSITORY PROVISIONS

88. Evaluation of Pending Applications. RE Applications filed prior to the effectivity of this Circular shall be governed by the existing guidelines at the time of the filing of the applications. The ITMS shall report to the REMB all areas covered by pending RE Applications and RE Contracts within fifteen (15) calendar days from the date of this Circular. REMB shall use this information to commence the process of identifying PDAs for preparation of the OCSP. RE Applicants that have passed the legal, technical and financial requirements under the existing guidelines prior to the effectivity of this Circular shall be given an option to choose which RE Contract template to adopt: *Provided, however,* That should there be any new application requirements for RE Contract covering development of a particular type of RE resource, the applicant must satisfy first such requirement/s.

89. Re-filing of the Application for RE Contract and Certificate of Registration. Pending applications for RE Contract or issuance of CORs may be re-applied, at the option of the RE Applicant, within (30) calendar days from effectivity of this Circular without need of new or re-payment of the application fees. Failure of the applicants to re-file its application within the said period shall be construed as its decision to: (a) submit to the ongoing evaluation of its RE Application under the prior rules or

guidelines, and (b) comply with the results of such evaluation of its pending RE Application.

90. Temporary Suspension of Acceptance of LOIs and RE Applications. The seamless transition from DC No. DC2019-10-0013 to the Revised Omnibus RE Guidelines entails the conduct of the following activities by the DOE:

- 90.1. Coordinate with concerned government agencies and instrumentalities (e.g., BOI, DENR, LGUs) for alignment with their respective processes;
- 90.2. Update the list of requirements and process flow diagrams posted in the EVOSS System;
- 90.3. Introduce necessary modifications to the EVOSS System;
- 90.4. Update the list of de-listed RE Contracts; and
- 90.5. Establish a procedure for real-time updating of available areas for RE Service/Operating Contract applications.

To enable concerned DOE personnel to fully participate and timely accomplish the aforementioned activities, the DOE shall suspend the processing of LOIs and RE Applications beginning on the date the Revised Guidelines takes effect, and for a period of five (5) months thereafter. For this purpose, the uploading of LOIs and RE Applications in the EVOSS System shall be temporarily disabled for the same period above-mentioned.

Processing of LOIs and RE Applications as well as uploading of LOIs and RE Applications in the EVOSS System shall be resumed through a DOE Advisory.

CHAPTER XIV – MISCELLANEOUS PROVISIONS

91. Temporary Suspension of Posting of Performance Bond. The DOE hereby temporarily suspends the requirement for RE Developers to post a performance bond. The suspension shall remain in effect until the DOE issues an Advisory to lift the suspension. Upon lifting, RE Developers shall be required to post a performance bond.

92. Mandatory Review. The DOE shall conduct a comprehensive review and evaluation of the implementation of the requirements for RE Applications under Annex “M” within six (6) months or as necessary from the effectivity of this Circular. The review shall assess whether the requirements for RE Contract Applications align with the objectives of the RE Act and its IRR. Based on the findings of the review and evaluation, the DOE may revise the requirements for RE Applications under Annex “M” through an Advisory.

CHAPTER XV – FINAL PROVISIONS

93. Extension of Timelines. Subject to the provisions of RA 11234, the respective timelines provided under this Circular may be extended for the same period prior to the lapse of the subject period: *Provided*, That the DOE shall notify the affected party

in writing of the reason for the extension and shall provide the final date of release of the matter requested.

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

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

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

96. Repealing Clause. The provisions of other circulars, orders, issuances, rules and regulations, which are inconsistent with the provisions of this Circular are hereby repealed, amended, superseded or modified accordingly.

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

Issued this JUN 04 2024 at the Department of Energy, Energy Center, Rizal Drive cor. 34th Street, Bonifacio Global City, Taguig City, Metro Manila.


RAPHAEL P.M. LOTILLA
Secretary



APPENDIX: Annexes of the Revised Omnibus RE Guidelines

ANNEX "A"	Template Biomass Energy Operating Contract
A.1	Template Certificate of Authority
A.2	Template Certificate of Registration
A.3	Template Work Program
ANNEX "B"	Template Waste-to-Energy Operating Contract
B.1	Template Certificate of Authority
B.2	Template Certificate of Registration
B.3	Template Work Program
ANNEX "C"	Template Geothermal Service Contract
C.1	Template Certificate of Authority
C.2	Template Certificate of Registration
C.3	Template Accounting Procedures
C.4	Template Work Program
ANNEX "D"	Template Land-Based Solar Energy Operating Contract
D.1	Template Certificate of Authority
D.2	Template Certificate of Registration
D.3	Template Accounting Procedures
D.4	Template Work Program
ANNEX "E"	Template Floating Solar Energy Operating Contract
E.1	Template Certificate of Authority
E.2	Template Certificate of Registration
E.3	Template Accounting Procedures
E.4	Template Work Program
ANNEX "F"	Template Hydropower Service Contract
F.1	Template Certificate of Authority
F.2	Template Certificate of Registration
F.3	Template Accounting Procedures
F.4	Template Work Program
ANNEX "G"	Template Ocean Energy Service Contract
G.1	Template Certificate of Authority
G.2	Template Certificate of Registration
G.3	Template Accounting Procedures
G.4	Template Work Program
ANNEX "H"	Template Onshore Wind Energy Service Contract
H.1	Template Certificate of Authority
H.2	Template Certificate of Registration
H.3	Template Accounting Procedures
H.4	Template Work Program
ANNEX "I"	Template Offshore Wind Energy Service Contract
I.1	Template Certificate of Authority
I.2	Template Certificate of Registration
I.3	Template Accounting Procedures
I.4	Template Work Program

ANNEX "J"	EVOSS Registration Requirements
ANNEX "K"	Template Letter of Intent (LOI)
ANNEX "L"	Template Affidavit of Acquisition of Possessory Rights
L.1	Template Affidavit of Acquisition of Possessory Rights over Private Lands for RE Operating Contract Application
L.2	Template Affidavit of Filing of Application to Acquire Possessory Rights over Public Lands for RE Operating Contract Application
L.3	Template Affidavit of Acquisition of Possessory Rights over Private Lands for RE Service Contract Application
L.4	Template Affidavit of Acquisition of Possessory Rights over Public Lands for RE Service Contract Application
ANNEX "M"	Checklist of Requirements for RE Application
ANNEX "N"	Mapping Requirements
ANNEX "O"	Checklist of Requirements for RE Contract Transition
ANNEX "P"	Template Certificate of Registration for Own-Use

"Annexes to the Revised Omnibus Guidelines Governing the Award and Administration of Renewable Energy Contracts and the Registration of Renewable Energy Developers and the Registration of RE Developers."

