



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

ADVISORY

TO : ALL DISTRIBUTION UTILITIES
NATIONAL ELECTRIFICATION ADMINISTRATION
ENERGY REGULATORY COMMISSION

FROM : SECRETARY RAPHAEL P.M. LOTILLA

SUBJECT : ADVISORY ON THE IMPLEMENTATION OF DOE
DEPARTMENT CIRCULAR NO. DC2023-06-0021

DATE : 31 August 2023

To provide clarification on the implementation of Section 7 of Department Circular (DC) No. DC2023-06-0021,¹ and in consideration of the roles and responsibilities of the National Electrification Administration (NEA) and the Energy Regulatory Commission (ERC) under Sections 5 and 6 thereof, respectively, the DOE hereby issues this Advisory for the smooth transition of the new Competitive Selection Process (CSP) Policy until the respective guidelines by the ERC and the NEA are issued pursuant to said Circular.

1. Section 7 of DC No. DC2023-06-0021 shall be implemented as follows:
 - 1.1. Except for Emergency Power Supply Agreement (EPSA), all pending applications for Certificate of Exemption from the Conduct of Competitive Selection Process (COE-CSP) received by the DOE by 18 July 2023, either with complete or incomplete documentary requirements, shall be processed in accordance with DC No. DC2018-02-0003,² as amended and supplemented by DC No. DC2021-09-0030.³ Requests with incomplete documentary requirements shall be required immediately to submit all lacking documents to the DOE before the issuance and effectivity of the ERC guidelines on the CSP. Otherwise, the application shall be deemed disapproved and shall be reverted to the concerned distribution utility (DU).
 - 1.2. Applications for COE-CSP received by the DOE after 18 July 2023 shall no longer be processed. Thereafter, all instances exempted from CSP shall be submitted or applied with the ERC.
 - 1.3. All pending applications before the DOE on the selection process for two (2) representatives from the captive customers to the Third-Party Bids and Awards Committee (TPBAC) prior to 18 July 2023 shall be evaluated in

¹ "Prescribing the Policy for the Mandatory Conduct of the Competitive Selection Process by the Distribution Utilities for the Procurement of Power Supply for their Captive Market"

² "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market"

³ "Amending Certain Provisions of and Supplementing Department Circular No. DC2018-02-0003 on the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market"

accordance with DC No. DC2018-02-0003, as amended and supplemented by DC No. DC2021-09-0030, subject to submission of complete documentary requirements, as applicable, to the DOE before the issuance and effectivity of the ERC guidelines on the CSP. Otherwise, the application shall be deemed disapproved and shall be reverted to the concerned DU.

- 1.4. Applications on the selection process for two (2) representatives from the captive customers to the TPBAC received by the DOE on or after 18 July 2023 shall no longer be processed. Such applications shall be reverted to the concerned DU. Accordingly, the NEA in the case of electric cooperatives (ECs), and the ERC in the case of DUs other than ECs, shall be responsible for ensuring the transparency and fairness of the TPBAC selection process, until the issuance by the ERC of the applicable guidelines.
2. Section 4.3 of DC No. DC2023-06-0021 shall be implemented as follows:
 - 2.1. For the Terms of Reference (TOR) pending with or to be submitted to the NEA before the ERC issues its guidelines pursuant to DC No. DC2023-06-0021, the NEA shall review the TOR based on the following:
 - a) Annex "B" of DC No. DC2021-09-0030 (*i.e.*, the Standard Template for TOR);
 - b) Annex "H" of NEA Memorandum No. 2019-007 (*i.e.*, TOR Template); and
 - c) Generally accepted industry practices.

Accordingly, the NEA will continue to issue the corresponding Notice to Proceed (NTP) to the concerned EC following NEA Memorandum No. 2019-007. The NTP shall be equivalent to the Certificate of Conformity as provided under DC No. DC2023-06-0021, until the issuance by the NEA of its guidelines.
 - 2.2. For TORs to be submitted to the NEA after the issuance and effectivity of the ERC guidelines pursuant to DC No. DC2023-06-0021, the same shall be reviewed under DC No. DC2023-06-0021 and the pertinent ERC guidelines and in accordance with NEA guidelines upon its issuance.
 - 2.3. The DOE shall continue to evaluate the TORs of the DUs, other than ECs, for CSP and consequently issue the Certificate of Conformity pursuant to DC No. DC2023-06-0021.
 3. The succeeding activities of ongoing CSPs shall continue to observe the CSP process applicable at the time it commenced. All DUs shall expeditiously conclude the remaining CSP activities within the prescribed timeframes.
 4. All DUs with issued COE-CSP for embedded generators for a contract capacity of less than 10 MW, shall apply for the ERC's approval of the corresponding Power Supply Agreements (PSAs), subject to the Commission's rules and procedures.

5. All EPSAs intended to be executed before the effectivity of the ERC Guidelines pursuant to DC No. DC2023-06-0021 shall be directly filed with the ERC for its approval in accordance with Item No. I.A. of the 03 April 2023 DOE Advisory on the Moratorium and DC No. DC2018-02-0003, as amended and supplemented by DC No. DC2021-09-0030.

This Advisory shall be effective immediately upon its posting on the DOE website.

For your guidance and compliance.

Thank you.


RAPHAEL P.M. LOTILLA
Secretary

