



Republic of the Philippines

## DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. \_\_\_\_\_

### **GUIDELINES, RULES AND PROCEDURES IN THE ADMINISTRATION, CLASSIFICATION AND CERTIFICATION FOR ENERGY SERVICE COMPANY (ESCO)**

**WHEREAS**, Section 2 of Republic Act No. 7638 or the "Department of Energy (DOE) Act of 1992" states that it is the policy of the State to ensure a continuous, adequate, reliable, and economic supply of energy through, among others, judicious conservation, renewal, and efficient utilization of energy, to keep pace with the country's growth and economic development;

**WHEREAS**, Section 5 of Republic Act No. 11285 or the "Energy Efficiency and Conservation Act" (EEC Act) provides that the DOE shall be the lead agency in the implementation of this Act with the responsibility for the planning, formulation, development, implementation, enforcement, and monitoring of energy management policies and other related energy efficiency and conservation plans and programs;

**WHEREAS**, Section 13 of EEC Act mandates the DOE to strengthen the existing ESCO certification system to develop this service sector and to provide the market with a source of technically and financially capable entities that can assist in the delivery of energy efficiency-related projects;

**WHEREAS**, Department Circular No. DC2008-09-0004 or the Accreditation of ESCO and Energy Service Providers requires all ESCOs to secure accreditation and submit reports to the DOE on projects undertaken;

**WHEREAS**, Section 53 of Department Circular No. DC2019-11-0014 or the Implementing Rules and Regulations of the EEC Act (EEC IRR) mandates the DOE to develop guidelines for ESCOs which shall include among others, certification requirements, review and evaluation process, and the classification of ESCOs; and

**WHEREAS**, Section 53 of the EEC IRR further states that ESCOs applying for certification must demonstrate their technical and managerial competence to design and implement energy efficiency projects, including energy audits, design engineering, providing or arranging project financing, construction management, operations and maintenance of energy efficient technologies, and verifying energy savings.

**NOW THEREFORE**, for and in consideration of the foregoing premises, the DOE hereby issues the following:

**Section 1. Title.** This Circular shall be known as the "Guidelines, Rules and Procedures in the Administration, Classification and Certification of ESCOs."

**Section 2. Scope.** This Department Circular shall establish the guidelines, rules and procedures in the administration, classification and certification for ESCOs with the goal of elevating the standards professionalism and quality of services.

**Section 3. Definition of Terms.** As used in this Department Circular, the following terms shall be understood to mean:

- 3.1 "Energy Audit" refers to the evaluation of energy consumption and review of current energy cost to determine appropriate intervention measures and efficiency projects in which energy can be judiciously and efficiently used to achieve savings
- 3.2 "Energy Conservation" refers to the reduction of losses or wastage in various energy stages from energy production to energy consumption through the adoption of appropriate measures which may, among others be, technologically feasible, economically sound, environmentally-friendly, or socially affordable
- 3.3 "Energy Efficiency" refers to the way of managing or restraining the growth in energy consumption resulting in the delivery of more services for the same energy input or the same services for less energy input
- 3.4 "Energy Efficiency Projects" refer to projects designed to reduce energy consumption or costs by any improvement, repair, alteration, or betterment of any building or facility, or any equipment, fixture, or furnishing to be added to or used in any building, facility, or vehicle including the manufacturing and provision of services related thereto
- 3.5 "Energy Management" refers to the process of designing and/or implementing an optimal program of purchasing, generating, and consuming various types of energy based on the end user's overall short-term and long-term management program, with due consideration of factors including costs, availability, economics, and environmental impact;
- 3.6 "Energy Service Company (ESCO)" refers to a juridical entity that offers multi-technology services and goods towards developing and designing energy efficiency projects, delivering and guaranteeing energy savings, and ensuring cost-effective and optimal performance. Their services include energy supply and management, energy financing, technical engineering expertise and consultancy, equipment supply, installation, operation, maintenance and upgrade, and monitoring and verification of performance and savings. Their goods include lighting, motors, drives, heating, ventilation, air conditioning systems, building envelope improvements, and waste heat recovery, cooling, heating, or other usable forms of energy control systems

**Section 3. Classification of ESCO.** To contribute towards the pursuit of energy efficiency projects and attainment of the goals under the National Energy Efficiency and Conservation Plan, the following ESCO classification is hereby introduced:

- 3.1 Registered ESCO refers to an ESCO that meets the minimum of requirements on legal and technical capacity. The validity of the Certificate for Registered ESCO shall be valid for two (2) years.
- 3.2 Certified ESCO refers to an ESCO which in addition to meeting the requirements of a Registered ESCO also has performance or results-based projects savings experience and with proven customer experiences. The validity of the Certificate of Certified ESCO shall be valid for three (3) years.

**Section 4. Application Procedure.** The application procedure for the issuance of a Certificate for Registered ESCO shall require the submission of the following:

- 4.1 Duly accomplished ESCO Application Form (Annex A)
- 4.2 Certified True Copy of the Documents on Corporate Personality
  - 4.2.1 For sole proprietorship entity, Business Registration
  - 4.2.2 For corporate, partnership and joint venture entities, the following documents
    - i. Business registration
    - ii. Business permits
    - iii. SEC registration
    - iv. Articles of incorporation
- 4.3 Company Profile/Background (Annex B)
- 4.4 Proof of payment of the Application Fee of Five Thousand Pesos (PhP 5,000.00) for Certificate of Registered ESCO.

In addition to the requirements required for the Certificate of Registered ESCO, the following shall be submitted for the Certificate of Certified ESCO:

- 4.5 Company Ownership/Management which includes list of names of officers, personnel and their position in the company including energy auditors (Annex C)
- 4.6 Audited financial statement in the last two (2) years
- 4.7 List of Energy Audit equipment and other similar testing instruments including the date of its last calibration (Annex D)
- 4.8 List of Projects undertaken in the last three (3) year (Annex E)
- 4.9 Proof of Payment of the Application Fee of Twenty-Five Thousand Pesos (PhP 25,000.00) for Certificate of Certified ESCOs.

Applications shall be filed with the DOE Records which shall in turn forward to the Energy Utilization Management Bureau (EUMB) - Office of the Director within one (1) day from receipt. Application will be returned to applicants when the application form has not been properly filled out and/or there are missing annexes without prejudice to reapplication.

EUMB – Office of the Director will forward all received applications to the Energy Efficiency and Conservation Technology Promotion and Program Management Division (EPMPD) which will conduct the technical evaluation and facilitate the financial evaluation of the Power Compliance Division (PCD) and legal evaluation of the General Legal Services Division (GLSD).

**Section 5. Evaluation Criteria.** The evaluation criteria herein prescribed shall be based on the technical, financial and business operation of an ESCO applicant. The evaluation process system involves the following Criteria:

- 5.1 The technical evaluation criteria for an ESCO applicant shall be based on the checklist provided as Annex F.
- 5.2 The legal evaluation criteria will be based on the ESCO applicant's completeness of the business documents submitted in Section 4.2
- 5.3 The financial evaluation criteria for an ESCO applicant shall be based on the submitted Financial Statement of the company in the last two (2) years and must be able to pass the criteria as shown below:

Evaluation on the financial condition for the calendar year ending December 31

1. Working Capital = Current Assets – Current Liabilities
  2. Current Ratio
  3. Quick Ratio
  4. Debt-to-Equity Ratio
- 5.4 Technical and Legal Evaluation will be conducted for all applications for the Certificates for Registered ESCO and Certified ESCO.
- 5.5. Financial Evaluation will only be conducted for applications for Certificate of Certified ESCO.

**Section 6. Evaluation.** The evaluation process of the technical, legal and financial shall be conducted simultaneously and must be completed within four (4) days from receipt of documents. Should there be a need for clarification on the submitted documents, the same must be relayed to the applicant in writing within the same period. The evaluation process period is stayed until the applicant's compliance with the written letter.

**Section 7. Issuance of Certificate of Registered ESCO.** EPMPD shall prepare an endorsement memorandum for the issuance of the Certificate of Registered ESCO addressed to the EUMB Director. The endorsement memorandum shall be supported by the recommendation arising from the technical and legal evaluation. The EUMB Director shall have two (2) days act on the endorsement memorandum and issue the Certificate of Registered ESCO. EUMB shall provide a report on the Certificates of Registered ESCOs issued every quarter for the DOE Secretary.

**Section 7. Issuance of Certificate of Certified ESCO.** EPMPD shall prepare an endorsement memorandum for the issuance of the Certificate of Certified ESCO through the EUMB Director for consideration of the DOE Secretary. The endorsement

memorandum shall be supported by the recommendation arising from the technical, financial and legal evaluation.

**Section 8. Obligations under the ESCO Certificate.** All ESCOs are required to comply with the following obligations:

- 8.1 Submit an annual report of their projects whether on-going or completed in the form prescribed by EUMB no later than 30 April of every year;
- 8.2 Provide support for coordination and monitoring with the EUMB for projects undertaken which in no case shall exceed the application fee indicated in Section 4 of this Department Circular per annum;
- 8.3 Subject themselves and their projects to Independent Verification upon the issuance of the guidelines for the same; and
- 8.4 Such other requirements as may be required by the DOE for the attainment of the objectives of the EEC Act and EEC IRR.

The DOE, through EUMB, shall issue guidelines for the effective administration of the obligations of ESCOs including the procedure for the monitoring, verification and enforcement: *Provided, That* the guidelines shall only be issued after public consultation: *Provided further, That* the effectivity and timelines of any issued guidelines will be mutually agreed upon by the DOE and ESCOs.

**Section 9. Administration of Certificates of Registered and Certified ESCOs.** EUMB shall maintain and publish the registry of all issued Certificates of Registered and Certified ESCOs. The registry shall contain such pertinent information on the ESCO and its projects so as to apprise and guide the general public on their services.

**Section 10. Prohibited Acts.** Pursuant to Section 30 of the EEC Act, ESCOs or their responsible officers shall be subject to penalties provided under Section 11 of this Department Circular for:

- 10.1 Failing to comply with the obligations under Section 8 of this Department Circular; and
- 10.2 Failing to comply with issued orders of the DOE

**Section 11. Penalties.** The DOE may consider the following measures prior to the imposition of fines, penalties and administrative liabilities for the responsible officers of ESCOs:

- 11.1 Require an explanation supported by reports, returns and other documents to rebut the alleged commission of the prohibited act;
- 11.2 In cases where an explanation has been issued but the DOE finds a violation because of materially insufficient reports, false returns, non-submission of required documents, provide a recommendation to the said person or entity;

- 11.3 Disclose the name of the person or entity after it has received a recommendation and comply with such recommendation; and
- 11.4 Issue an order in cases where the said person or entity fails to follow or comply with the recommendation of the DOE. The failure on the part of the person or entity to comply with the order shall be a valid ground for the imposition of the administrative fines and penalties in accordance with Annex. Schedule of Penalties and Fines.

After due process, the Certificate of Registered or Certified ESCO may likewise be revoked with the blacklisting of the responsible officers of said ESCO for future application.

**Section 12. Transitory Clause.** All pending applications at the time of the effectivity of this Department Circular shall be governed by the same. All existing ESCO Certificate of Accreditation shall remain valid until the expiration indicated with the additional obligation to comply with the obligations indicated in Section 8 of this Department Circular.

**Section 13. Information, Education and Communication Activities.** Pursuant to Section 85 of the EEC IRR, the DOE shall develop and undertake a national awareness and advocacy program covering energy efficiency and conservation and pursue partnerships with relevant stakeholders for the appreciation of this Department Circular.

**Section 14. Repealing Clause.** The provisions of other circulars, orders, issuances, rules and regulations, which are inconsistent with the provisions of this Department Circular are hereby repealed, amended, modified or superseded accordingly.

**Section 15. Separability Clause.** If for any reason, any section or provision of this Department Circular is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

**Section 16. Effectivity.** This Department Circular shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation. Copies of this Department Circular shall be filed with the University of the Philippines Law Center - Office of the National Administrative Register.

Issued at Energy Center, Bonifacio Global City, Taguig City.

**ALFONSO G. CUSI**  
Secretary