DEPARTMENT CIRCULAR NO. DC2021- 08-0027

PRESCRIBING THE GUIDELINES AND PROCEDURES FOR THE APPROVAL AND AWARD OF PROJECTS PROPOSED BY SERVICE PROVIDERS FOR THE ENHANCEMENT, ACQUISITION, PROCESSING, INTERPRETATION AND MARKETING OF UPSTREAM PETROLEUM DATA IN THE PHILIPPINES

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

WHEREAS, Section 4 of Presidential Decree No. 87, as amended, otherwise known as the *"Oil Exploration and Development Act of 1972"*, mandates the Philippine Government (the "Government") to directly explore for and produce indigenous petroleum;

WHEREAS, the DOE is continuously adopting new mechanisms and strategies to effectively carry out its plans and programs as mandated under PD 87, as amended;

WHEREAS, the DOE intends to ensure a judicious, expeditious, transparent, competitive and efficient process in the selection, evaluation, award, and implementation of project proposals for petroleum data enhancement, acquisition, processing, interpretation and marketing, which arrangements will entail no cost to the government;

NOW, THEREFORE, in consideration of the foregoing premises, the following guidelines, policies and procedures in the selection, evaluation, award and implementation of contracts with service providers for petroleum data enhancement, acquisition, processing, interpretation and marketing are hereby adopted and promulgated for compliance by all concerned:

Section 1. Scope. This Circular shall prescribe the process of selection, evaluation, award and implementation of contracts/agreements with service providers for petroleum data enhancement, acquisition, processing, interpretation and marketing and, for this purpose, the reconstitution of the Review and Evaluation Committee (REC).

Section 2. Policy in the Acceptance of Project Proposals, Selection of Service Provider, Approval and Award of Service Provider Contracts.

2.1 In the acceptance of project proposals, the DOE shall take significant consideration of the latest applicable technology in data enhancement, acquisition, processing and interpretation.

2.2 Prior to the award of contracts under this Circular, all prospective service providers/applicants, including the project proponent, shall be subjected to legal, technical and financial evaluation, which shall be conducted in a transparent, competitive and expeditious manner and only to ensure that

prospective service provider possesses sufficient legal, technical and financial capability.

2.3 After due evaluation, the contract shall be awarded to the highest ranked applicant, in accordance with the criteria approved by the REC.

Section 3. Organization of the Review and Evaluation Committee (REC). In order to carry out the responsibilities set forth in this Circular, the REC shall be composed of the following officials:

Chairperson	-	Undersecretary-in-charge of the Energy Resource Development Bureau (ERDB)
Vice Chairman	-	Assistant Secretary in-charge of ERDB
Members		Director of the ERDB Director of the Financial Services (FS) Director of the Legal Services (LS) Director of the Information Technology and Management Services (ITMS)

Section 4. REC Technical Working Group (TWG) and Secretariat.

4.1 The REC TWG and Secretariat is hereby constituted to assist the REC in the discharge of its functions and responsibilities including, but not limited to coordination, administration, supervision, evaluation and regulation of project proposals. The REC-TWG shall be composed of the following:

Head	Assistant Director of the ERDB
Members	Chief, Petroleum Resources Development Division (PRDD) Chief, Conventional Energy Resources Compliance Division (CERCD) Chief, Upstream Conventional Energy Legal Services Division (UCELSD) Chief, Information Services Division (ISD) Chief, Information and Data Management Division (IDMD)
Secretariat	Supervising Science Research Specialist and Staff of the PRDD's Geology and Geophysics Section and Information and Data Management Division

Section 5. Responsibilities of the REC

5.1 Receive, evaluate and accept project proposals for petroleum data enhancement, acquisition, processing, interpretation and marketing;

5.2 Review and evaluate the legal, technical, and financial capabilities of prospective service providers;

5.3 Recommend to the Secretary the award and selection in favor of the highest-ranked applicant;

5.4 Address any questions and inquiries that may be raised by the Secretary in connection with the highest-ranked applicant;

5.5 Institute and implement a system of coordination, administration, supervision and regulation during contract implementation.

5.6 Perform other functions that are necessary to carry out its responsibilities and objectives.

Section 6. Responsibilities of the REC-TWG and Secretariat

6.1 Prepare and submit the agenda during the REC meeting;

6.2 Document the proceedings of the REC meetings;

6.3 Prepare the highlights of consensus points of the REC after every meeting;

6.4 Handle all administrative requirements relative to the conduct of the meeting and posting of proposals in the DOE website;

6.5 Conduct initial technical, financial and legal evaluation and prepare the necessary documentation on the results of such evaluation and necessary action documents to be endorsed to the REC and/or to the Secretary for approval;

6.6 Determine the necessary geophysical activity and/or applicable technical data enhancement on the identified areas of interest, as reference in the review and evaluation of project proposals.

Section 7. Qualifications of a Service Provider. A service provider may be any local/foreign individual company or group of companies organized or authorized for the purpose of providing services related to upstream petroleum data enhancement, acquisition, processing, interpretation and marketing and, after due evaluation, was found legally, technically and financially qualified by the DOE

Section 8. Process for the Submission, Evaluation, and Acceptance of Project Proposals and the Evaluation, Selection and Award of Service Provider Contracts. The process for the submission, evaluation and acceptance of project proposals and the evaluation, selection and award of contract shall be in accordance with Annex "A" of this Circular entitled *"Guidelines in the Selection of Service Providers for the Philippine Upstream Petroleum Data Enhancement, Acquisition, Processing, Interpretation and Marketing."*

Section 9. Requirements for Prospective Service Providers. All applicants/prospective service providers shall submit the documents listed under Annex "B" of this Circular entitled *"Service Provider Checklist for Submissions of*

Proposals," which shall be the basis in the evaluation and determination of their legal, technical and financial qualifications.

Section 10. Motions for Reconsideration and Appeals. The REC, for sufficient and valid cause, may at any given time reject any or all submitted proposal/s or application/s. The decision of the REC shall be immediately executory unless a motion for reconsideration is filed with the REC within fifteen (15) days from receipt of the decision rejecting the proposal.

A party desiring to appeal the decision of the REC shall address their concern to the Secretary within fifteen (15) days from receipt of the denial of the motion for reconsideration.

Section 11. Disqualification. All entities with cancelled/terminated project and with outstanding work and financial obligations with the DOE, are disqualified to participate.

Section 12. Data Ownership

12.1 The DOE wholly and exclusively owns the data generated by the Service Provider under the contracts entered under this Circular, except for data generated with proprietary rights or as may have been agreed under the Service Provider's contract.

12.2 Within six (6) months from the completion of acquisition, processing, reprocessing or any form of enhancement of the data, the Service Provider shall submit all deliverables free of charge to the DOE for their internal use and retention.

12.3 The Service Provider, if so agreed under the contract, shall be afforded a reasonable period to exclusively market and sell the data, after which the same shall be exclusively owned by the DOE.

Section 13. Separability Clause. If for any reason, any section or provision of this Circular and its Annexes is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 14. Repealing Clause. All prior issuances of the DOE that are inconsistent with the provisions of this Circular are hereby repealed or amended accordingly.

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

Issued this _____ 2021 in Bonifacio Global City, Taguig City, Metro Manila.

Alfonso G. Cusi
Secretary

Annex "A"

Republic of the Philippines
DEPARTMENT OF ENERGY
Energy Center, Rizal Drive corner 34th Street
Bonifacio Global City, Taguig City
Metro Manilla

GUIDELINES IN THE SELECTION OF SERVICE PROVIDERS FOR THE PHILIPPINE UPSTREAM PETROLEUM DATA ENHANCEMENT, ACQUISITION, PROCESSING, INTERPRETATION AND MARKETING

I. Procedure for Nomination, Publication, and Submission of Applications

A. Prospective project proponents for upstream petroleum data enhancement, acquisition, processing, interpretation and marketing shall formally submit their project proposals through written communication addressed to the Review and Evaluation Committee (REC) with all relevant supporting documents which may aid the REC in the evaluation thereof.

B. The REC shall acknowledge receipt of the proposal within five (5) working days therefrom indicating that the proposal will be undergoing initial evaluation.

C. After due evaluation and upon recommendation of the TWG, the REC may accept the proposal, require the proponent to clarify certain matters in the proposal in the manner the REC deems appropriate, including but not limited to the submission of additional documents relative thereto, allow the proponent to submit a modified proposal, or altogether reject the proposal. In all instances, the proponent shall be duly notified of any action of the REC on the proposal.

In the case the REC receives more than one proposal involving the same or similar scope of work prior to acceptance of the proposal, the first in time approach shall be used whereby the first proposal received by the REC shall be evaluated and decided upon. The second proposal will only be evaluated in the event the proceedings relative to the first proposal is terminated.

D. Within seven (7) calendar days from receipt of the notice of acceptance of the proposal through any of the acceptable modes of service thereof, the proponent shall publish, at its own expense, the existence of its proposal as accepted by the DOE in two (2) broadsheets of general circulation. The publication shall contain an invitation to prospective applicants to participate in the selection process and clearly providing

the deadline for the submission of applications. Proof of such publication shall be submitted to the DOE within seven (7) calendar days therefrom. The REC shall likewise post the same invitation in the DOE website from the date of publication until the deadline for the submission of documents.

Should the proponent, for whatever reason, fail to publish the project proposal or fail to present proof of such publication within the required period, the proposal shall be nullified and the proceedings relative thereto shall be terminated.

E. Within thirty (30) calendar days from the date of publication, all applicants, including the project proponent, shall submit the legal, technical and financial documents under Item II hereof. All applications and documentary requirements must be stamped received by the DOE Records Division on or before 1100H Philippine time (GMT +8). The opening and evaluation on the completeness of the applications/requirements shall be held on the same day at 1330H (GMT +8).

F. Except for the project proponent, all applicants shall pay to the DOE a non-refundable fee of One Hundred Thousand Pesos (Php 100,000.00) prior to the submission of its application and documentary requirements. Proof of payment thereof should be attached to the application.

G. Applicants shall submit their applications in three (3) separately sealed envelopes, each containing a copy of its legal, technical and financial documents. These envelopes shall then be enclosed in a bigger envelope, submitted to the DOE and addressed to:

The Chair
Review and Evaluation Committee
Department of Energy
Energy Center, Rizal Drive
Bonifacio Global City (BGC), Taguig City
Metro Manila, 1632 Philippines

II. Documentation Requirements

A. Legal Documentation

1. Duly filled out covering information sheet showing a summary of the application:

SAMPLE COVERING SHEET FORM

Company Name	**Country of Registration**	**Parent Company (If Applicable)**
Address:		
Authorized Contact person/s	**Telephone:**	**Fax:**
Email Address:	**Website:**	
It is certified that the foregoing information are true and correct. It is understood that any omission or misinterpretation of the required information shall be sufficient cause for the rejection of this application. _____ Authorized Representative and Signature		

2. Certified true copies of the Securities and Exchange Commission (SEC) Certificate of Registration, Articles of Incorporation and By-Laws. The corporate purpose of the proponent shall include the exploration, development and utilization of petroleum resources.

3. Certified true copy of the General Information Sheet (GIS) stamped-received by the Securities and Exchange Commission (SEC) not more than twelve (12) months old at the time of filing of application.

4. Original Copy of the Certificate of Authority from the Board of Directors of the proponent authorizing a designated representative/s to apply, negotiate, sign any documents and execute the Service Provider Contract (SPC). The said Certificate of Authority shall be executed under oath by the Corporate Secretary.

5. Any interested party organized in a foreign country shall submit legal and financial documents, or its equivalent, as required hereunder, issued by the appropriate governing body and duly authenticated by the Philippine consulate having appropriate jurisdiction.

B. **Technical Documentation**

Technical documents should have the following details:

1. Background/General Description of the Project;
2. Objectives/Rationale;
3. Project Outline/timeline;
4. Technical Description/Focus;
5. Work Program with Budget (estimate)
6. Benefits on both parties;
7. Deliverables;
8. Company Information/Similar projects completed;

Particulars of the technical and industrial qualifications, eligibilities and work-related experiences of the proponent and its employees. Particulars on the experiences, achievements, and track records of the proponent and its employees related to technical and industrial undertakings. Operational organization, including expertise, and experience.

C. **Financial Documentation**

1. For corporations existing for more than two (2) years at the time of filing of application:

   a. Original Copy of the Annual Report or Audited Financial Statements (FS) for the last two (2) years from the filing date and Original Copy of the latest Unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer if the Audited FS is more than six (6) months old at the time of filing;

   b. Original Copy of the Bank Certification to substantiate the cash balance as of the latest unaudited FS;

   c. Original Copy of the Projected Cash Flow Statement for two (2) years covering fund source if applicable; and

   d. For domestic corporations, certified true copy of the latest income tax return filed with the Bureau of Internal Revenue, and duly validated with the tax payments made thereon.

2. For newly-organized corporations existing for less than two (2) years at the time of filing of application:

   a. Original Copy of the Audited Financial Statements (FS) or unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer;

   b. Original Copy of the Bank Certification to substantiate the cash balance as of the latest unaudited FS; and

c. Original Copy of the Projected Cash Flow Statement for two (2) years covering fund sources if applicable.

3. For Parent Company that guarantees for corporations with insufficient working capital, the Parent Company's fund guarantee shall be limited to the corresponding participating interest and shall submit the following:

a. Original Copy of the Parent Company's financial documents per C.1.a and C.1.b hereof; and

b. Original Copy of duly notarized Letter of Undertaking / Support from the Parent Company to fund the Work Program.

4. Minimum working capital (Liquid Assets less Current Liabilities) is 100% of the financial commitment for the first contract year of the proposed work program and budget. Liquid Assets shall consist only of cash, trade accounts receivables and short-term investments/placements. Credit line is not a Liquid Asset.

III. Evaluation and Awarding Procedures

A. Applications with incomplete documents/requirements based on the checklist attached as Annex “B” shall be automatically disqualified during the opening of the applications. After the deadline for the submission of documents, no applicant shall be allowed to submit additional documents to rectify any defect or lacking document in its application.

The disqualified applicant may file for a request for reconsideration within three (3) calendar days from the date of opening of applications, which shall be decided upon by the REC within seven (7) working days from receipt thereof.

B. After the opening of the application documents, the REC shall immediately convene and shall conduct evaluation of qualified applications based on the following criteria:

1. Legal qualification - Pass or Fail
2. Technical qualification - 70%
3. Financial qualification - 30%

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

D. After complete review and evaluation of the legal, technical, and financial qualifications of the applicants, the REC shall endorse to the Secretary the results of the evaluation and recommend to the Secretary the award and selection in favor of the highest-ranked applicant.

E. The DOE Secretary will issue the corresponding Notice of Award to the winning applicant. The REC TWG and Secretariat shall then prepare the final Agreement, which shall be signed by the winning applicant within the specified period stated in the Notice of Award.

F. In case of failure, refusal or inability of the winning applicant to enter into contract within the above period, or to commence the implementation of the project within a reasonable time, the REC may recommend to the DOE Secretary to cancel the award and consider the next highest ranked applicant.

----Nothing Follows----

Annex "B"

Republic of the Philippines
DEPARTMENT OF ENERGY
Energy Center, Rizal Drive corner 34th Street
Bonifacio Global City, Taguig City
Metro Manilla

SERVICE PROVIDER CHECKLIST FOR SUBMISSION OF PROPOSALS

- APPLICATION CHECKLIST – LEGAL (Petroleum)

All applications shall be submitted with a cover letter addressed to the REC and a digital copy (preferably contained in a USB drive) of its legal, technical and financial documents enumerated herein:

I. LEGAL	**DOCUMENT FORMAT**
☐ 1) Duly filled-out covering information sheet (DOE Format);	*Original*
☐ 2) SEC Certificate of Registration or Incorporation;	*Certified True Copy*
☐ 3) SEC Articles of Incorporation and By-Laws (The corporate purpose of the proponent shall include the exploration, development and utilization of petroleum resources);	*Certified True Copy*
☐ 4) General Information Sheet (GIS) stamp-received by the SEC not more than twelve (12) months old at the time of filing of application;	*Certified True Copy*
☐ 5) Certificate of Authority from the Board of Directors of the proponent authorizing designated representative/s to apply, negotiate, sign all documents, and execute the Service Provider Contract (SPC). The said Certificate of Authority shall be executed under oath by the Corporate Secretary;	*Original*
☐ 6) For applicants other than the project proponent, proof of payment of Php 100,000.00	*Certified True Copy*

NOTE: ***For foreign proponents:***
Document Nos. 2 – 5, proponents shall submit equivalent legal documents issued by the appropriate governing body and duly authenticated by the Philippine Consulate having the appropriate jurisdiction.

For local proponents:
Document Nos. 2 – 4 shall be duly authenticated by the SEC

APPLICATION CHECKLIST – TECHNICAL
(Petroleum)

		DOCUMENT FORMAT
II.	**TECHNICAL (Project Proposal)**	
	1) Background	
☐	a) Summary of general description of the project proposed, work program and estimate expenditure for each proposed activity - Main Objectives or Rationale	*Digital and printed copy*
☐	b) Project Timeline/Outline - Flowchart or - Gantt Chart	*Digital and printed copy*
☐	c) Work Program and Budget (item each activities)	*Digital and printed copy*
☐	d) Benefits / Disadvantages of the Project	*Digital and printed copy*
☐	e) Deliverables	*Digital and printed copy*
☐	f) Technical description and Map of the proposed area coverage	*Digital and printed copy*

Additional Documents for Data Enhancement and/ or Interpretation Proposal

☐	g) Technology to be used / proposed improvement to be done - data to be used	*Digital and printed copy*
☐	h) sequences of activities to be employed	*Digital and printed copy*

Additional Document for Seismic Acquisition, Processing and/ or Interpretation Proposal

☐	i) Seismic Survey Plan	*Digital and printed copy*
☐	j) processing sequence to be employed	*Digital and printed copy*

2. Company Information / Technical Documentation

☐	a) The proponent shall submit a company overview/profile of all its Energy Related Projects.	*Digital and printed copy*
☐	b) Technical Personnel's relevant experience and similar projects conducted and completed	*Digital and printed copy*

CHECKLIST – FINANCIAL
(Petroleum)

III. FINANCIAL	**DOCUMENT FORMAT**
1) For corporations existing for more than 2 years at the time of filing of application:	
☐ a) Annual Report or Audited Financial Statements (FS) for the last two (2) years from the filing date and latest Unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer if the Audited FS is more than six (6) months old at the time of filing;	*Original*
☐ b) Bank Certification to substantiate the cash balance as of the latest unaudited FS; and	*Original*
☐ c) Projected Cash Flow Statement for three (3) years covering fund sources if applicable, with supports by any or all of the following:	*Original*
- Sales Agreement/Purchase Order of Buyer for projected revenues on existing operations;	*Certified True Copy*
- Sworn Letter of Commitment from stockholders for additional equity/cash infusion within one (1) year of operation;	*Original*
- Bank-approved loan/credit line earmarked for the proposed operation.	*Original*
☐ d) For domestic corporations, latest income tax returns filed with the Bureau of Internal Revenue, and duly validated with tax payments made thereon.	*Certified True Copy*
2) For newly-organized corporations (existing for two (2) years or less at the time of filing)	
☐ a) Audited Financial Statements (FS) or unaudited FS duly signed by the responsible official such as the President and/or Chief Finance Officer;	*Original*
☐ b) Bank Certification to substantiate the cash balance as of the latest unaudited FS;	*Original*

☐	c) Projected Cash Flow Statement for three (3) years covering fund sources if applicable, with supports by any or all of the following:	*Original*
	- Sales Agreement/Purchase Order of Buyer for projected revenues on existing operations;	*Certified True Copy*
	- Sworn Letter of Commitment from stockholders for additional equity/cash infusion within one (1) year of operation;	*Original*
	- Bank-approved loan/credit line earmarked for the proposed operation.	*Original*

3) For Parent Company's guarantee for corporations with insufficient working capital:

☐	a) Parent Company's financial documents per Application Checklist Items III.1.a and III.1.b;	*Original*
☐	b) Duly notarized Letter of Undertaking/ Support from the Parent Company to fund the Work Program;	*Original*
☐	c) General Information Sheet (GIS) of the shareholder availing of the Parent Company fund guarantee.	*Certified True Copy*

<u>NOTE</u>:

- Minimum working capital (Liquid Assets less Current Liabilities) is 100% of the financial commitment of the first contract year of the proposed work program and budget. Liquid Assets shall consist only of cash, trade accounts receivables and short-term investments/placements. Credit line is not a Liquid Asset.

---- Nothing Follows----