

**[ DOE DEPARTMENT CIRCULAR NO. DC2014-08-0013, August 01, 2014 ]**

**ADOPTING NEW MECHANISMS AND PROCEDURES IN THE REGISTRATION OF ALL SUBCONTRACTS AND AGREEMENTS ENTERED INTO BY PETROLEUM SERVICE CONTRACTORS UNDER PRESIDENTIAL DECREE NO. 87, AS AMENDED, AND COAL OPERATING CONTRACT HOLDERS UNDER PRESIDENTIAL DECREE NO. 972, AS AMENDED, AMENDING FOR THIS PURPOSE OFFICE OF ENERGY AFFAIRS CIRCULAR NOS. 82-09-09, 82-09-09A, 89-01-02 AND 89-08-09**

*Adopted: 01 August 2014*

*Date Filed: 18 August 2014*

**WHEREAS**, Section 5 (h) of Republic Act No. 7638 or the "Department of Energy Act of 1992", as amended, states that the Department of Energy (DOE) shall exercise supervision and control over all government activities relative to energy projects;

**WHEREAS**, Presidential Decree No. 1354, which imposes final income tax on subcontractors and alien employees of Petroleum Service Contractors and subcontractors engaged in petroleum operations in the Philippines mandates the registration of subcontracts with the Bureau of Energy Development (BED);

**WHEREAS**, the Office of Energy Affairs (OEA) issued OEA Circular Nos. 82- 09-09, 82-09-09A and 89-08-09 mandating, for cost recovery purposes, the registration with the BED of all subcontracts entered into by Coal Operating Contract ("COC") holders not later than 30 days from execution thereof;

**WHEREAS**, the OEA (now the DOE) also issued OEA Circular No. 89-01-02 requiring the submission of two (2) copies of subcontracts entered into by petroleum Service Contractors (the "Service Contractors") under Presidential Decree No. (PD) 87, as amended, for registration and approval by the BED not later than 60 days from execution thereof, for cost recovery purposes;

**WHEREAS**, it has been observed in actual practice that the period prescribed in the abovementioned Circulars within which to submit the subcontracts are not sufficient resulting in late submission especially since the Service Contractors, in the interest of economy and efficiency, have resorted to submitting these subcontracts in bulk, especially those executed or entered into overseas; and

**WHEREAS**, it is in the best interest of the Government and the Service Contractors/COC holders to simplify and rationalize the registration/approval of the subcontracts/agreements entered into under PD 87, as amended, and PD 972, as amended, by clarifying the procedures and lengthening the period with which to submit these subcontracts to the DOE.

**NOW, THEREFORE,** for and in consideration of the foregoing premises and pursuant to Section 5 (h) of Republic Act No. 7638, the following procedures and additional rules and regulations are hereby issued for strict compliance by the Service Contractors and COC holders:

**Section 1. Scope and Application.** This Circular shall govern the registration of all subcontracts and agreements entered for Service Contractors under PD 87, as amended, and COC holders under PD 972, as amended.

**Section 2. General Provisions.** All Service Contractors and COC holders shall comply with the following procedures:

- a. All services covered by subcontracts or agreements to be entered into by Service Contractors and COC holders with their subcontractors and/or service providers in pursuance of their SCs or COCs shall be included and incorporated in their Work Program (WP) that is submitted to and approved by DOE;
- b. All activities under the COC may be allowed to be subcontracted except those work/activities related to coal mining, coal extraction and other activities related to coal production which shall be performed directly by the COC holder. To ensure that all subcontracts for coal operations shall comply with this provision, these subcontracts or agreements, subject to Section 2.d hereof, shall be submitted for registration and approval prior to the actual implementation thereof;
- c. Administrative contracts under PD 87, as amended, as defined under Section 2.f of Revenue Regulation No. 15-78<sup>[1]</sup>, need not be registered with the DOE. However, a copy of each administrative contract shall be nonetheless be furnished the DOE for records purposes;
- d. All subcontracts or agreements entered into by Service Contractors and COC holders with subcontractors and/or service providers on or after the effectivity date of this Circular, which are sought to be cost recovered under PD 87 and PD 972, respectively, shall be submitted to DOE for registration not later than six (6) months from the date of execution thereof: Provided, That for the purposes of this Section, date of execution shall mean: (i) the date of signing by all the parties of the subcontract or agreement if all made on the same date, or  
(ii) if a subcontract or agreement is signed on different dates, the date of signing by the last party to sign;
- e. Subcontracts or agreements shall be submitted in two (2) original or certified true copies. Subcontracts executed pursuant to PD 87, as amended, shall contain a provision regarding the deductions, withholding and remittance of final income tax imposed in relation to Section 1 of PD 1354, from the gross income paid by Service Contractor to the subcontractor. If by the nature of the subcontract and/or agreement, the contract value and the applicable tax to be withheld or paid is contingent or not yet determinable at the time of registration, the Service Contractor shall submit related documents evidencing compliance with the deduction, withholding and remittance of final income tax under PD 1354, within six (6) months from the end of the calendar year that the tax is paid or prior to the conduct of audit by the Compliance Division, Financial Services ("CD-FS");
- f. Subcontract or agreement which provides petroleum and/or coal as payment for the services of the subcontractor shall be deemed in excess of the authority