



# **COMPETITIVE SELECTION PROCESS POLICY and ENERGY REGULATION 1-94 PROGRAM**

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## **DOE DEPARTMENT CIRCULAR NO.DC2018-02-0003**

“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”



# **BACKGROUND OF CSP**

# DU's Obligation

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Section 23 of EPIRA provides **Distribution Utilities (DUs) shall have the obligation to supply electricity in the least-cost manner** to their Captive Market.



# Brief Background

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## **Department Circular No. DC2004-01-001**

*“Prescribing the Rules and Procedures for Private Sector Participation in Existing NPC-SPUG Areas Pursuant to Rule 13 of the Implementing Rules and Regulations of the Electric Power Industry Reform Act of 2001 (EPIRA-IRR)”*

## **Department Circular No. DC2015-06-0008**

*“Mandating All Distribution Utilities to Undergo Competitive Selection Process (CSP) in Securing Power Supply Agreements”*



# Department Circular No.DC2004-01-001

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## “Prescribing Rules and Procedures for Private Sector Participation in Existing NPC-SPUG Areas”



### Highlights:

- Signed on 26 January 2004
- DUs to use competitive selection process to select one or more New Private Providers (NPPs) to supply power to their areas
- DU options in managing CSP to select NPPs
  - Use a Transaction Advisor
  - Allow NPC-SPUG to assign its PSA with DU to an NPP through a competitive process
  - DU manages the competitive selection process by itself



# Department Circular No. DC2015-06-0008

## *“Mandating All DUs to Undergo CSP in Securing PSAs”*



### Highlights:

- Signed on 11 June 2015 and published on 30 June 2015 at the Philippine Daily Inquirer and The Philippine Star.
- Requires all DUs to conduct CSP, through a Third Party.
- Conduct of CSP shall observe the following:
  - Aggregation of DUs' un-contracted demand requirements;
  - Annual conduct of CSP; and
  - Uniform PSA Template on the terms and conditions



# SUBSEQUENT ISSUANCES

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- Joint ERC and DOE Resolution No.1 “A Resolution Enjoining All Distribution Utilities to Conduct Competitive Selection Process (CSP) in the Procurement of Supply for their Captive Market”
- ERC Resolution No.13, Series of 2015 “A Resolution Directing All Distribution Utilities (DUs) To Conduct A Competitive Selection Process (CSP) In The Procurement Of Their Supply To The Captive Market”
- ERC Resolution No. 1, series of 2016 “A Resolution Clarifying the Effectivity of ERC Resolution No.13, series of 2015”





# Brief Background

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## Department Circular No. DC2018-02-0003

*“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”*



# Department Circular No. DC2018-02-0003

**“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”**



## **Highlights:**

- **Signed on 1 February 2018;**
- **Published on 9 February 2018 at The Philippine Star and The Manila Times;**
- **Deemed effective on 10 February 2018; and**
- **Requires all DUs to conduct CSP, through a Third Party Bids and Awards Committee (TPBAC) or in the absence of TPBAC, the Third Party Auctioneer**





# **SALIENT FEATURES OF THE CSP**

# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Scope</b>	The CSP Policy shall apply to all distribution utilities (DUs) in the <b>main grid and off-grid areas</b> .
<b>Objective</b>	CSP Policy for all DUs will define a clear, <b>transparent and fair</b> supply procurement process that will promote competition and greater private sector participation in the provision of adequate generation capacity to meet the demand in the captive market, and full accountability of the DUs in the provision of least cost electricity prices to their captive market;
<b>Mode of CSP</b>	De-centralized bidding

# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Supply Management of DU</b>	<p>Every DU shall prepare and submit its <b>Power Supply Procurement Plan (PSPP)</b> to the DOE as part of its annual submission of the Distribution Development Plan (DDP) and undertake a cost-benefit analysis of the power supply requirements for its captive market taking into consideration, among others:</p> <ol style="list-style-type: none"><li>1. prevailing price in the market</li><li>2. energy demand forecasting</li><li>3. load matrix</li></ol> <p>PSPP should be updated annually and approved by the Board of Directors and shall be posted by DOE in the DOE electronic portal.</p>

# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Options in Managing CSP</b>	<p>The <b>Third Party Bids and Awards Committee (TPBAC)</b> or <b>Joint TPBAC</b> shall manage the DUs' CSP and be responsible on the preparation of all Bid Documents.</p> <p>In the absence of TPBAC, the DU may opt to engage a <b>Third Party Auctioneer (TPA)</b> to conduct and manage the CSP in accordance with the CSP Policy.</p> <p>The TPBAC, Joint TPBAC and the TPA shall have <b>representation from the consumers.</b></p> <p>For ECs with limited capability to undertake CSP, <b>NEA shall provide necessary assistance at no cost to ECs.</b></p> <p><b>Each CSP shall be completed within five (5) months</b> from the time of publication of invitation to bid until submission of the PSA to the ERC.</p>

# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Transparency</b>	All stages and updates on the CSP must be reflected in the <b>DOE electronic portal</b> .
<b>Review of Bid Documents and evaluation of Bids</b>	The TPBAC, Joint TPBAC or TPA shall evaluate the legal, technical and financial requirements of the bid documents against the Terms of Reference (TOR).

# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Exemptions from CSP (cont.)</b>	<p>The following instances shall warrant an exemption from the conduct of the CSP:</p> <ol style="list-style-type: none"><li data-bbox="498 454 1798 544">1. Any generation project owned by the DU funded by <b>grants or donations</b>;</li><li data-bbox="498 558 1812 801">2. Negotiated procurement of <b>emergency power supply</b>; Provided, that the cooperation period of the corresponding PSA shall not exceed one (1) year; Provided further, that the rate shall not be higher than the latest ERC approved generation tariff for same or similar technology in the area;</li><li data-bbox="498 815 1750 1001">3. Provision of power supply by any <b>mandated Government Owned and Controlled Corporation (GOCC) for off-grid areas</b> prior to, and until the entry of New Power Providers (NPP) in an area; and</li><li data-bbox="498 1015 1798 1358">4. Provision of power supply by the <b>Power Sector Assets and Liabilities Management (PSALM)</b> Corporation through bilateral contracts for the power produced from the <b>undisposed generating assets and Independent Power Producer (IPP)</b> contracts duly sanctioned by the “Electric Power Industry Reform Act of 2001” or EPIRA as deemed by the DUs, subject to a periodic review by the DOE.</li></ol>



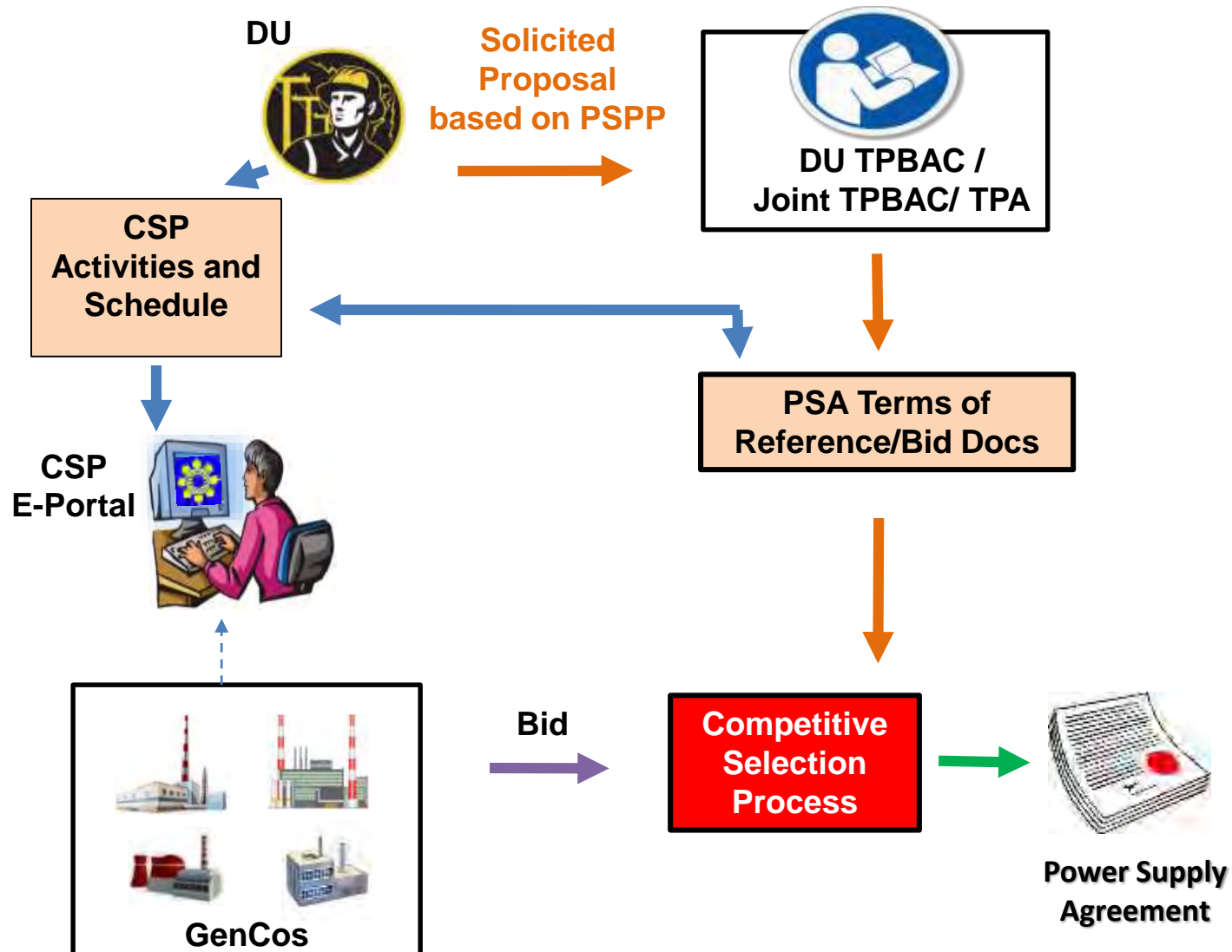
# SALIENT FEATURES OF THE CSP POLICY

Particulars	CSP Policy
<b>Regulatory Support</b>	<p>The <b>ERC</b>, in the exercise of its powers and functions under the EPIRA shall establish and impose existing fines/ and or penalties for non-compliance of electric power industry participants to support the enforcement of this Policy.</p> <p>The <b>ERC</b> shall have the power to review whether the parties have complied with the requirements of CSP and shall issue appropriate regulations as may be necessary.</p> <p><b>ERC shall develop PSA template, and rules and procedure to address dispute</b> arising from the conduct of the CSP within <b>60 days upon effectivity of this Policy</b>.</p> <p><b>NEA</b> shall <b>develop</b> rules and procedure to <b>support this Policy</b> within 60 days upon this effectivity.</p>



# ***CSP DESIGN & PROCESS***

# CSP Design



# CSP Process



TPBAC, Joint TPBAC or TPA

Submit the following:

1. PSPP
2. Distribution Impact Study
2. Due diligence report of existing plants



## PUBLICATION AT THE DOE CSP PORTAL

Posting of PSPP

Posting of the following stages and updates on the CSP in the DOE CSP Portal:

1. Invitation to Bid
2. Pre-bid conference
3. Submission and Opening of Bids
4. Bid evaluation
5. Post-qualification, if any
6. Awarding and contract-signing update
7. Joint filing before the ERC



DOE CSP PORTAL

Prepare the TOR and Bid Documents

Issuance of Bid Documents

Pre-Bid Conference

Receipt and Opening of Bids

Bid Evaluation

Declaration of Winning Bidder

Pre-/Post Qualification

PSA Signing

Joint filing of PSA



# ***UPDATES ON CSP***

# **LIST OF DUs WITH APPROVED TPBAC SELECTION PROCESS FOR CAPTIVE CUSTOMER REPRESENTATIVES**

**(as of 17 October 2018)**

## **LUZON (5)**

- NEECO I
- MARELCO
- SORECO II
- BATELEC II
- OMECO

## **VISAYAS (1)**

- CELCO

## **MINDANAO (3)**

- SOCOTECO II
- BASELCO
- DLPC

# **LIST OF DUs WITH PSPP POSTED AT THE DOE CSP PORTAL**

**(as of 17 October 2018)**

## **LUZON (1)**

- Tarlac Electric Inc. (TEI)

## **VISAYAS (6)**

- Balamban Enerzone Corporation (BEZ)
- Mactan Enerzone Corporation (MEZ)
- Leyte IV Electric Cooperative, Inc. (LEYECO IV)
- Province of Siquijor Electric Cooperative, Inc. (PROSIELCO)
- Iloilo II Electric Cooperative, Inc. (ILECO II)
- Negros Oriental I Electric Cooperative (NORECO I)

## **MINDANAO (3)**

- Surigao del Sur I Electric Cooperative, Inc. (SURSECO I)
- Davao Light & Power Company (DLPC)
- Zamboanga del Norte Electric Cooperative, Inc. (ZANECO)

# CSP EXEMPTIONS APPROVED BY DOE

## LUZON (3)

- MERALCO (Therma Mobile Inc.)
- ROMELCO (Cobrador Solar-Diesel Battery Hybrid Power Generation System)
- IFELCO (Likud Mini-Hydro Power Plant)



# COORDINATION MEETING WITH ERC

## Objective

- Harmonize CSP Policy provisions with that of ERC's *Rules Governing the Procurement, Execution, and Evaluation of Power Supply Agreements Entered into by the Distribution Utilities for the Supply of Electricity to Their Captive Market*"

# COORDINATION MEETING WITH ERC

## Proposal

- 1. Creation of the TPBAC in lieu of the BAC;**
- 2. Additional Exemptions**

- ✓ Any generation project owned by the DU funded through internally generated funds or through loans;
- ✓ Any generation project directly donated to the DU;
- ✓ Any generation project donated to a DU through government agencies, LGUs and other institutions;
- ✓ Small-scale Renewable Energy-based generating facilities, maximum of 1MW, duly recognized by the Department of Energy

# COORDINATION MEETING WITH ERC

## 3. Additional conditions on Unsolicited Proposal

- ✓ Existence of uncontracted demand / energy requirement over and above PSA/s quantities;
- ✓ The unsolicited proposal does not result to stranded PSA capacity and energy quantities on the part of the DU; and
- ✓ The unsolicited proposal involves no government subsidy for the resultant Power Supply Agreement.



# **Development on ER 1-94 Program Implementation & Salient Features of DC2018-08-0021 entitled**

**“PROVIDING FOR THE AMENDMENTS TO  
RULE 29 PART (A) OF THE IMPLEMENTING RULES  
AND REGULATIONS OF REPUBLIC ACT NO. 9136”**

# BENEFITS TO HOST COMMUNITIES



Generation Companies



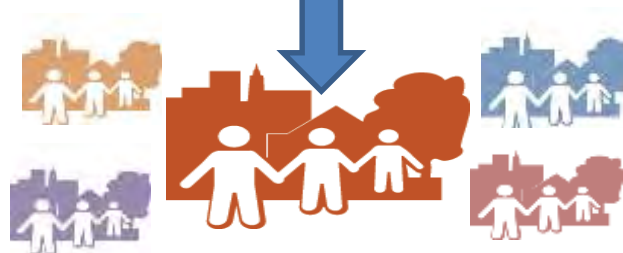
Distribution Utilities

(P0.01/kWh)

DLF – for projects supporting development and livelihood opportunities

RWMHEEF – for projects supporting environmental and health agenda

EF – for projects supporting the total electrification

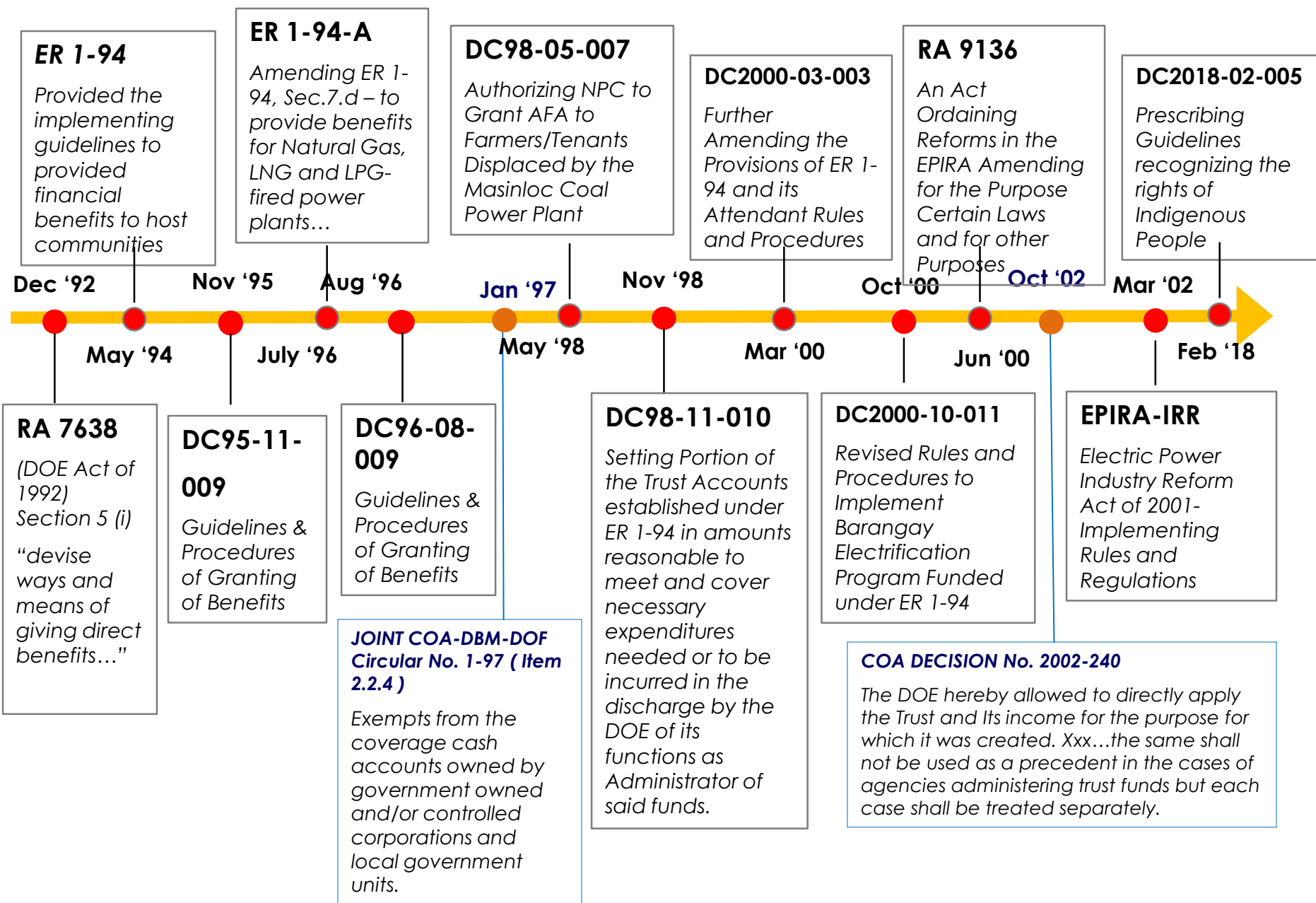


Host Communities

Energy Regulations No. 1-94 is a program intended to recompense for the contribution made by the communities hosting Energy Resources and/or Energy Generating Facilities.



# Evolution of ER 1-94 Program



# Developments in ER 1-94 Administration

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- **Rigid and tedious documentary requirements resulted to delays in ER 1-94 project implementation**
- **About Php7Billion ER 1-94 funds remain unutilized under DOE's administered Trust Accounts**
- **Delay in the immediate delivery of financial benefits to host LGUs only results to opportunity loss –**
  - ✓ *Economic opportunities*
  - ✓ *Poverty alleviation*
  - ✓ *Rural development*
  - ✓ *Improved Human Development Index*



# Directive and Way Forward

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- ***EPIMB to prepare an action plan to redirect the administration of ER 1-94 Funds.***
  
- ***Revisit Options considered:***
  - *Amend Rule 29 (A) of the EPIRA-IRR*
  - *Amend Section 5 of Rule 29 (A) to create another trust account under the name of another agency*
  - *Transfer the Trust Funds to the LGU*





# GENERAL PROVISION

Rule 29(A) EPIRA-IRR  
(Previous)

DC2018-08-0021  
(Way Forward/Present)

## Definition of Terms

Annual Work Program/Project Proposals qualified by the DOE shall be prepared by the LGU with assistance of the GenCo designated Community Relation Officer (COMREL) and Concern Distribution Utility and shall be submitted to DOE

“Annual Work Program or AWP” refers to the list of **tangible projects** to be implemented within the reference year.

For the DLF and RWMHEEF, the AWP shall be supported by a Resolution from their respective Sanggunian for the LGUs, or Council for the Region and ICCs/IPs,

**For the EF, the AWP refers to the document prepared by the DU/s in accordance with the DDP.**

All AWPs shall be submitted to the GenCo and/or Energy Resource Developer for validation and consolidation in reference to the available and/or projected funds.

# GENERAL PROVISION

Rule 29(A) EPIRA-IRR  
(Previous)

DC2018-08-0021  
(Way Forward/Present)

## Obligation to Provide Financial Benefit

1. Spin-off facilities of NPC or their transferees, including Generation Facilities owned by NPC transferred to PSALM and subsequently privatized pursuant to the Act;
2. Agus and Pulangui Complexes;
3. Facilities owned and operated by NPC-Small Power Utilities Group (NPC-SPUG);
4. Facilities under the Build Operate and Transfer (BOT) arrangement and other variants such as NPC-Independent Power Producers (NPC-IPPs), NPC-SPUG, National Irrigation Administration, and other government agencies;

1. Spin-off Facilities of NPC or their transferees, including Generation Facilities owned by NPC transferred to PSALM and subsequently privatized pursuant to the EPIRA;
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# GENERAL PROVISION

Rule 29(A) EPIRA-IRR  
(Previous)

DC2018-08-0021  
(Way Forward/Present)

## Obligation to Provide Financial Benefit

5. Facilities under BOT arrangement and other variants with the IPPs of DUs;

6. Facilities owned or operated by a DU;

7. Facilities operating in EZs,

8. Self-Generation facilities; and

9. Integrated energy resource development and Generation Facilities such as hydro, geothermal, and coal.

5. Facilities under BOT arrangement and other variants with the IPPs of DUs;

6. Facilities owned or operated by a DU;

7. Integrated energy resource development and/or Energy Generating Facilities;

8. Energy Generating Facilities operating in Economic Zones;

**9.** Self-Generation facilities that sell excess power to the grid; and

**10.** Other emerging technologies for power generation, deemed to be considered by the DOE.

# GENERAL PROVISION

**Rule 29(A) EPIRA-IRR  
(Previous)**

**DC2018-08-0021  
(Way Forward/Present)**

## **Beneficiaries with Respect to Generation Facilities**

Host LGU and Region is that where the Generation Facility is physically located. In the case of power barges, the Host LGU, Region and ICC/IP is that where the power barge is moored

Host LGU, Region and ICC/IP is that where the Generation Facility is physically located. In the case of power barges, the Host LGU, Region and ICC/IP is that where the power barge is moored

## **Beneficiaries with Respect to Energy Resources**

Host LGU or Region where the following producing energy resources is located:

1. Coal;
2. Geothermal;
3. Hydro; and
4. Petroleum/Natural Gas

Host LGU or Region where the following producing energy resources is located:

1. Integrated Geothermal;
2. Integrated Hydropower;
3. All other emerging energy facilities as approved by the DOE.

# ALLOCATION AND REMITTANCE OF THE FINANCIAL BENEFITS

## Rule 29(A) EPIRA-IRR (Previous)

## DC2018-08-0021 (Way Forward/Present)

### Allocation and Application of Financial Benefits Fund

#### Highly-Urbanized City (HUC)

**For Electrification (75%)** – Radiating Manner

##### For DLF/RWMHEEF (12.5%) each

Designated resettlement area	- 10%
Host barangay/s;	- 30%
Host city/s;	- 60%

#### Non-Highly-Urbanized City (Non HUC)

**For Electrification (50%)** – Radiating Manner

##### For DLF/RWMHEEF (25%) each

Designated resettlement area	- 5%
Host barangay/s;	-20%
Host municipality/ies;	-35%
Host province/s; and	-30%
Host region/s	-10%

**For Electrification (50%)** – Radiating Manner

##### For DLF/ RWMHEEF (25%) each

Community & People Affected	- 5%
Host Barangay	- 20%
Host City/Municipality	- 35%
Host Province	- 30%
Host ICC/IP	- 5%
Host Region	- 5%

(Similar allocation is applied both for Non-HUCs and HUCs)

# ALLOCATION AND REMITTANCE OF THE FINANCIAL BENEFITS

DC2018-08-0021  
(Way Forward/Present)

## Allocation and Application of Financial Benefits Fund

**For Electrification (50%)** – shall be applied in the following radiating order:

1. Community and People Affected;
2. Host Barangay/s;
3. Host Municipality/ies or City/ies;
4. Host Province/s;
5. Host Region/s; and
6. Other prioritized areas by the DUs, as may be approved by the DOE.

# ALLOCATION AND REMITTANCE OF THE FINANCIAL BENEFITS

**Rule 29(A) EPIRA-IRR  
(Previous)**

**DC2018-08-0021  
(Way Forward/Present)**

## **Remittance of Financial Benefits**

The DOE shall make necessary fund allocation and shall forthwith release the fund to Host LGUs or DU upon submission of complete supporting documents pursuant to the provision of the MOA, entered into by DOE and Host LGUs or DU.

**Direct Remittance** to the beneficiaries:

**1. The EF shall be remitted by the GenCos and/or Energy Resource Developers to the DUs, while**

2. DLF and RWMHEEF shall be remitted by the GenCos to the Host LGUs and ICCs/IPs and the identified LGUs for the Regional Share.

**Quarterly Remittance** of Financial Benefits shall be subject to compliance of the ff:

1. Submission of AWP; and
2. Liquidation of Completed Projects as cleared by the Auditor

# ESTABLISHMENT AND ADMINISTRATION OF FINANCIAL BENEFITS

Rule 29(A) EPIRA-IRR (Previous)	DC2018-08-0021 (Way Forward/Present)
<b>Establishment of Trust Accounts</b>	
<p>The DOE shall establish trust accounts specific for EF, DLF, RWMHEEF in the name of the DOE and the Generation Facilities or Generation Company and/or Energy Resource Developer.</p>	<ol style="list-style-type: none"><li data-bbox="720 451 1779 562">1.The Host LGU and ICC/IP shall establish trust accounts specific for DLF and RWMHEEF.</li><li data-bbox="720 636 1837 825"><b>2. The concerned DU of the Host communities shall establish a trust account specific for the EF.</b></li><li data-bbox="720 899 1881 1190">3.The GenCo and/or Energy Resource Developer shall establish a dedicated trust accounts in favor of DUs and Host LGUs and ICCs/IPs who fail to comply with the requirements in accordance with Section 7.3 of the DC.</li></ol>



# PROJECT IMPLEMENTATION AND APPROVAL

Rule 29(A) EPIRA-IRR (Previous)	DC2018-08-0021 (Way Forward/Present)
<b>Administration of Financial Benefits</b>	
The Administration of EF, DLF, RWMHEEF shall be undertaken by the DOE	<p>The administration of the Financial Benefits undertaken by the following:</p> <ol style="list-style-type: none"><li data-bbox="658 762 1789 1015"><b>1. For EF, it shall be undertaken by the Concern DU in accordance with the radiating order as provided in Sec. 6.1 of the DC;</b></li><li data-bbox="658 1096 1875 1262">2. For DLF and RWMHEEF, it shall be undertaken by the concerned Host LGU and ICC/IP as provided in Sec. 6.2 of the DC.</li></ol>

# PROJECT IMPLEMENTATION AND APPROVAL

## Rule 29(A) EPIRA-IRR (Previous)

### **Project Implementation and Approval**

The AWP shall be prepared by the Host LGUs and Host Region and shall be reviewed by the GenCos. The GenCos shall make necessary endorsement to DOE not later than March 15 of every year.

The **review and approval of the AWP** shall be completed by DOE upon receipt of complete documentation.

Project Implementation shall proceed pursuant to the MOA entered by and among the DOE, GenCos and the concerned LGU or DUs

## DC2018-08-0021 (Way Forward/Present)

**The AWP shall be prepared by the DU**, as provided in 3.1 and shall be submitted the GenCos not later than March 15 of every year.

The AWP will be in accordance or consistent with DDP and Masterplan of the DU

**Eligible Projects are provided in 10.3.1 and 10.3.2 of the DC**

The validation of the AWP by the GenCo and/or Energy Resource Developer shall be limited to the availability of the Financial Benefits in accordance with the specific target timelines

# PROJECT IMPLEMENTATION AND APPROVAL

DC2018-08-0021  
(Way Forward/Present)

## **Project Implementation and Approval**

The following electrification projects provided in Section 10.3.1 that are qualified for funding:

1. Provision of electric service connection to qualified unserved households through house wiring and/or subsidy;
2. Extension of distribution line facilities on unenergized areas/households;
3. Alternative electrification solution to unenergized areas where extension of distribution line is not technically or financially feasible, as determined by the DU;
4. Improvement/ Rehabilitation/ Restoration of the Distribution System, including the adoption of emerging technologies; and
5. Distribution System and facilities in unserved, underserved and unviable areas.

# AUDIT AND PROJECT MONITORING

Rule 29(A) EPIRA-IRR  
(Previous)

DC2018-08-0021  
(Way Forward/Present)

## Audit of Financial Benefits and Project Monitoring and Audit of AWP

The DOE shall review and audit the source of fund, particularly on the total electricity sales of the Generation Facility to determine the financial benefits due to the host LGUs and host regions

The DOE, through its Power Compliance Division (PCD) – Financial Services (FS), shall conduct **periodic audit and review** of reported electricity sales, fund allocation and remittances of Financial Benefits of the GenCos and/or Energy Resource Developers to the DUs, Host LGU, Region and ICC/IP.

# AUDIT AND PROJECT MONITORING

Rule 29(A) EPIRA-IRR  
(Previous)

DC2018-08-0021  
(Way Forward/Present)

## Audit of Financial Benefits and Project Monitoring and Audit of AWP

The DOE, through Power Compliance Division (PCD) – conducts audit of fund utilization of the Host Beneficiaries

**For EF :**

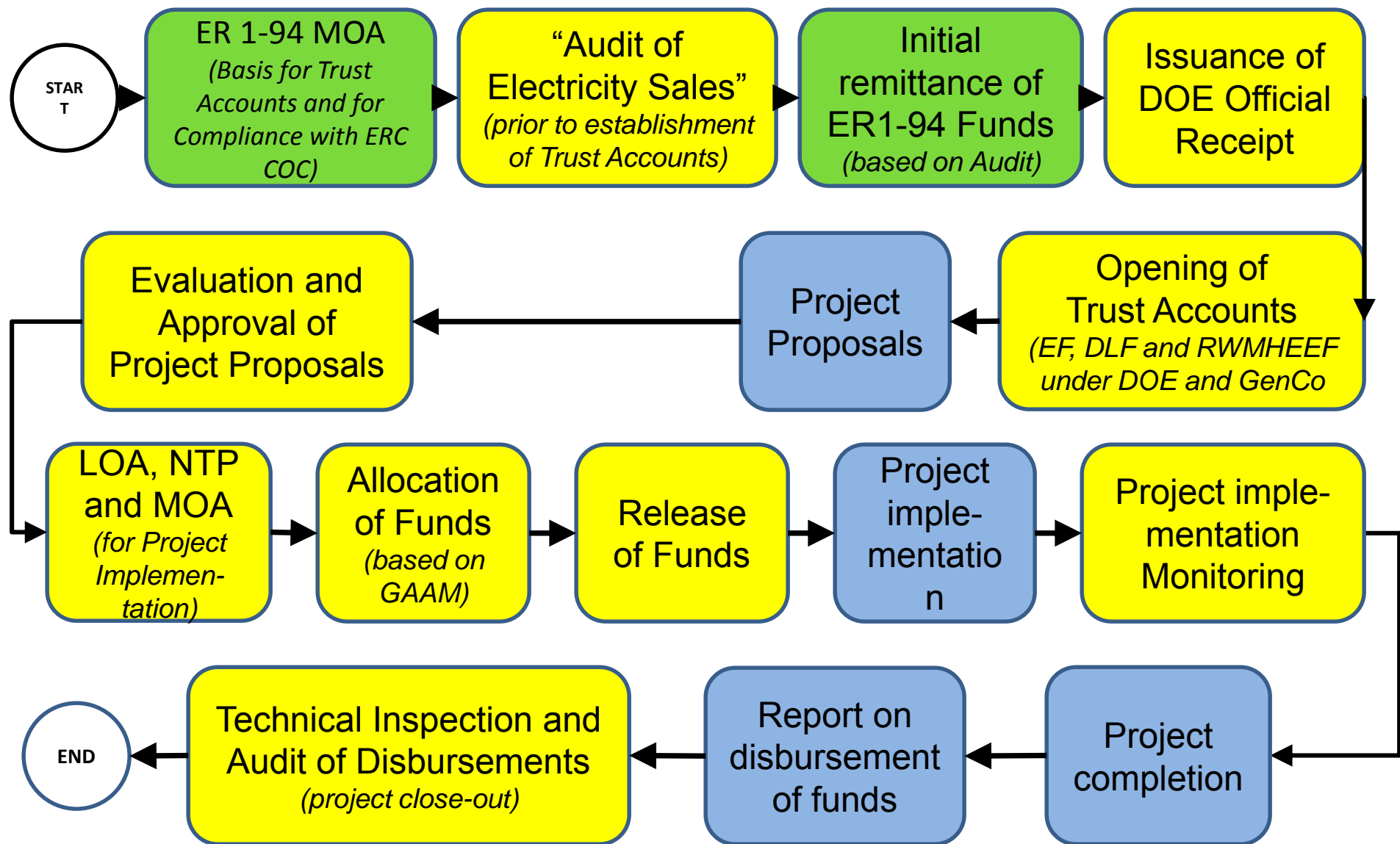
**The audit of the EF utilized by the ECs shall be conducted by the NEA.**

**In the case of private DUs, the audit shall be conducted by the entity determined in accordance with the MOA between the GenCo and/or Energy Resource Developer and the private DU, subject to the approval of DOE.**

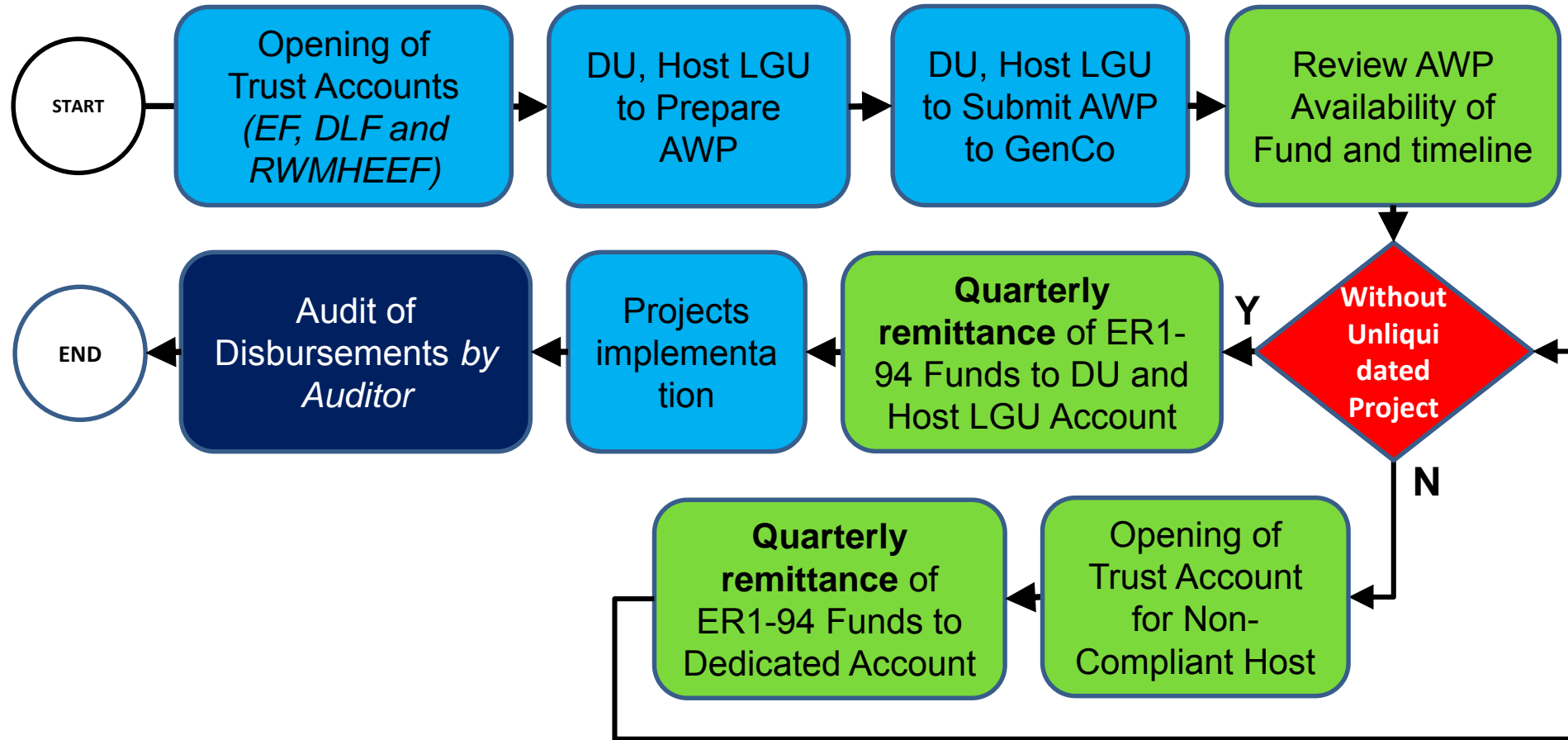
**In the case of LGU-owned utilities, the audit shall be conducted by the Local COA.**

For DLF and RWMHEEF it will be Local COA and/or Entity determined by MOA developed and assisted by NCIP for Host ICC/IP AWP

# PROCESS FLOW OF ER 1-94 PROGRAM



# PROCESS FLOW OF AS PER DC



**Periodic Audit and Review** of reported electricity sales, fund allocation and remittances of Financial Benefits of the GenCos to the DUs, Host LGU, Region and ICC/IP



***THANK YOU !!!***