

Virtual Meeting re: Orientation/Briefing on Energy Regulations No. 1-94 Program -its status, updates and possible follow through actions

POLICY ISSUANCES

1992	Republic Act No. 7638 Section 5(i) "Devise ways and means of giving benefits"	
1994	Energy Regulations No. 1-94	
2001	Republic Act No. 9136 Section 66 "Benefits to Host Communities"	
2002	Rule 29 Part (A) of EPIRA IRR "Benefits to Host Communities"	
2018	Department Circular No. DC2018-03-005 "Prescribing Guidelines Recognizing the Rights of Indigenous Cultural Communities (ICCs)/Indigenous Peoples (IPs)" <u>Promulgated in April 2018.</u>	ıl
	Department Circular No. DC2018-08-0021 "Providing Amendments to Rule 29 Part (A) of the Implementing Rule Regulations of Republic Act No. 9136" Promulgated in August 2018 and Approved / Ratified by JCPC in 02 May 2019.	ıles and
2019	Department Order No. DO2019-01-0001 "Providing Internal Guidelines and Procedures for the Transfer of Exist in Relation to the Financial Benefits under ER1-94" <u>Promulgated on January 2019.</u>	ing Funds:
	1st Advisory on the Implementation of DC2018-08-0021 - Issued 02 May 2019	
	Department Circular No. DC2019-06-0010 "Prescribing Administrative Operating Guidelines for the Availment Utilization of Financial Benefits by the ICCs/IPs" – <u>Promulgated in 27 July 2019</u>	tand
	Department Order No. DO2019-12-0021 "Creation of a Reconciliation Team for the implementation of Department. DO2019-01-001" <u>Promulgated on December 2019.</u>	nent Order
2020	Department Circular No. DC2020-04-0008 "Rationalizing the Utilization of ER 1-94 Funds by Host Local Govern Units in Response to Covid-19 Public Health Emergency – <u>Promulgated in 07 April 2020</u>	nment
	Advisory on the Implementation of DC2020-04-0008 - Issued 14 July 2020	
2021	2 nd Advisory on the Implementation of DC2018-08-0021 – Issued 19 July 2021	

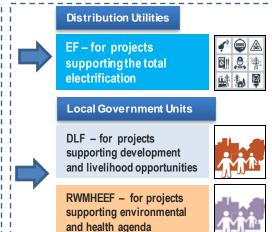
BRIEF BACKGROUND

BENEFITS TO HOST COMMUNITIES

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







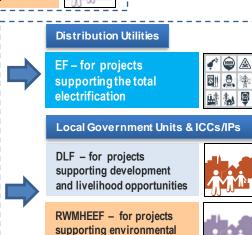




New Process

- DC2018-03-005
- DC2018-08-0021
 - DO2019-01-001
- DC2019-06-0010





and health agenda



DC2018-08-0021:

Guidelines for the Transfer of Existing Funds
Administered by DOE



Purpose of Issuance

The Department Circular is issued to provide the rules and guidelines for the effective administration, management, utilization and implementation of the Financial Benefits to the Host communities

Sec. 1 of DC2018-08-0021

Scope of Application

The Department Circular shall apply to Generation Facilities and/or energy resource development projects located in all barangays, cities or municipalities, provinces, regions, and ancestral lands/domains of the ICCs/IPs.

Sec. 2 of DC2018-08-0021

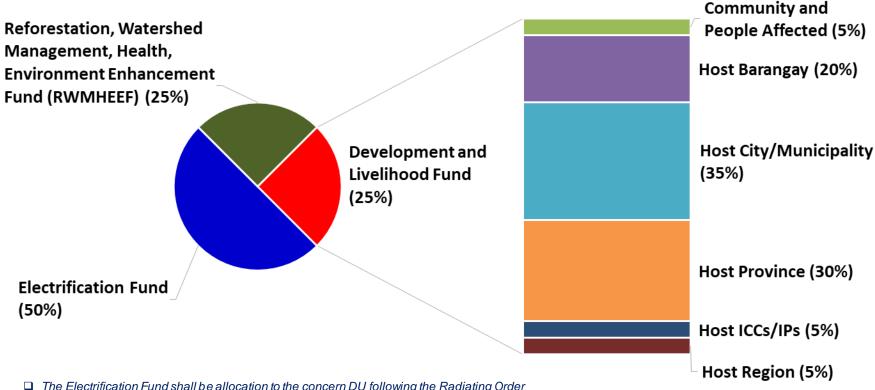
Beneficiaries

Financial Benefits shall be provided to the Host LGU, especially the community and people affected, while equitable preferential benefits shall be provided to the Host Region and ICC/IP, as determined by the NCIP. Host LGU, Region and ICC/IP shall be understood as follows:

- A. With respect to Generation Facilities; and
- B. With respect to Energy Resources:

Sec. 5 of DC2018-08-0021

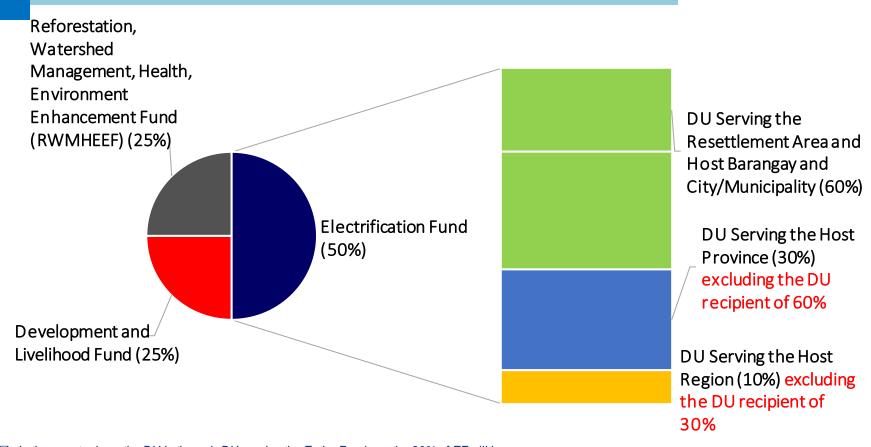
Allocation of Financial Benefits



- The Electrification Fund shall be allocation to the concern DU following the Radiating Order
- □ In the absence of Community and People Affected, funds allocated for the same shall form part of the fund for the Host Barangay/s
- □ In the absence of ICCs/IPs, the funds allocated for the same shall form part of the fund for the Host Region/s wherein the RDC shall identify its beneficiaries.

Sec. 6.1 & 6.2 of DC2018-08-0021

Allocation of Financial Benefits

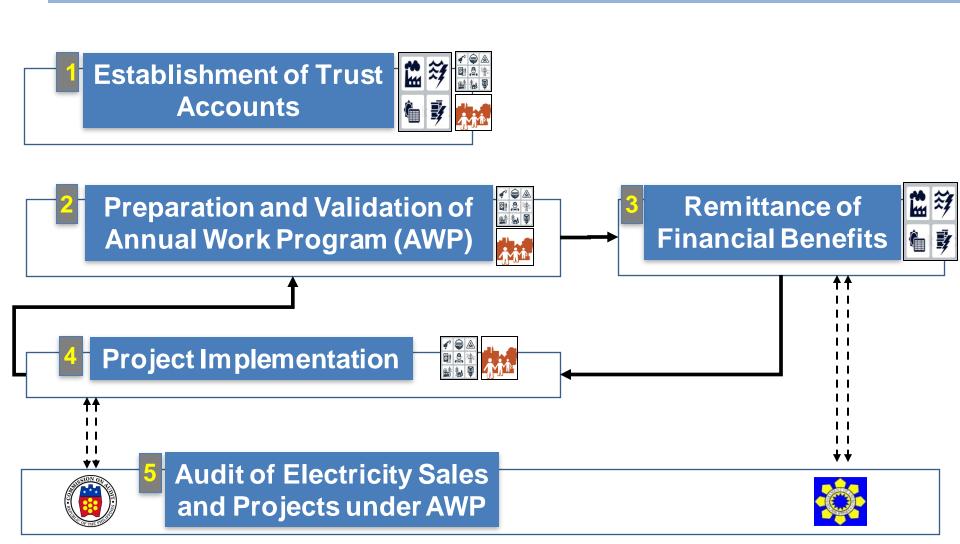


- ☐ In the event where the DU is the only DU serving the Entire Province, the 30% of EF will be distributed to the other DUs serving the Host Region excluding said DU
- □ Should there be more than one (1) DU beneficiary, the allocation shall be pro-rated based from the Household population (70%) based on 2015 Census and Land Area (30%) covered by concerned DUs.

*Proposed Allocation of EF – part of supplemental issuance of DOE

Allocation of Financial Benefits Fund

- 1. In the event that the Generation Company (GenCo) and/or Energy Resource Developer (ERD) overlaps more than one host LGU:
 - Equally allocated among host LGU
- Provided that in cases where political boundaries of GenCo and/or ERD are clearly delineated by land surveys duly approved by the DENR-Land Management Bureau, allocation shall be:
 - 70% population (latest census)
 - 30% land area occupied by GenCo and/or ERD



Establishment of Trust
Account

Preparation and Validation of Annual Work Program

Remittance of Financial Benefits Project Implementation Audit of Electricity Sales and Projects under AWP

- ☐ A **Memorandum of Agreement (MOA)** on the Establishment of Trust Accounts shall be executed by and between the concerned GenCos and/or ERDs and Concerned DUs/Host LGUs/ICCs/IPs. The MOA must contain the following minimum provisions:
 - Parties;
 - Coverage, Purpose and Scope of Agreement;
 - Responsibilities of the Parties including the administration of the established accounts;
 - Miscellaneous provisions, and
 - Effectivity and Separability Clauses.
 - ➤ Parties may include additional provisions as maybe deemed necessary provided it is consistent with the EPIRA, DC2018-08-0021 and other related issuances.

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"Trust Accounts" shall mean the interest-bearing current accounts intended exclusively for ER 1-94 funds held in trust by the GenCos and/or ERDs, concerned DUs, Designated Beneficiaries and ICCs/IPs pursuant to Section 8 of DC2018-08-0021

For All concerned DUs: - with AGDB

Distribution Utility - GenCo and/or ERD

- EF (ER 1-94)

For All host LGUs and ICCs/IPs: - with AGDB
Host Beneficiary - GenCo and/or ERD DLF (ER 1-94)
Host Beneficiary - GenCo and/or ERD RWMHEEF (ER 1-94)

For All GenCos and/or ERDs:

- GenCo and/or ERD EF (ER 1-94)
- GenCo and/or ERD DLF (ER 1-94)
- GenCo and/or ERD RWMHEEF (ER 1-94)

1st Letter Advisory on the Implementation of DC

Establishment of Trust
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The **AWP** refers to the tangible projects to be implemented within the reference year.

- For **DLF** and **RWMHEEF**, AWP shall be prepared by the Host LGUs and ICCs/IPs the AWP shall be supported by a Resolution from their respective Sanggunian for the LGUs, or Council for the Region and ICCs/Ips, certifying that the said list of tangible projects is in accordance with their respective CDP, CLUP, RDP, RDFP, ADSDPP and IPDP, whichever is applicable.
- For the EF, the AWP refers to the document prepared by the DU/s in accordance with the DDP

All **AWPs** shall be submitted in print and electronic copy to the GenCo and ERD not later than March 15 of every year for validation and consolidation in reference to the available and/or projected funds.

Sec. 3.1 of DC2018-08-0021

Establishment of Trust
Account

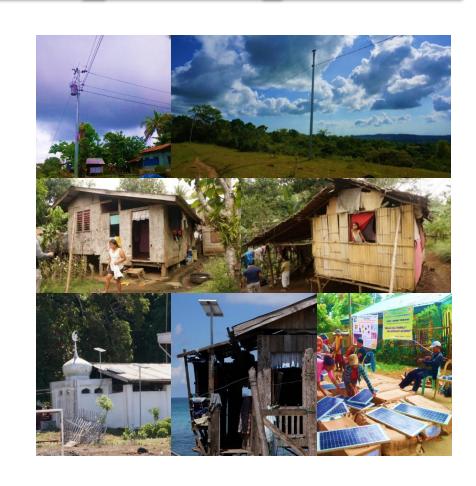
Preparation and Validation of Annual Work Program

Remittance of Financial Benefits

Project Implementation Audit of Electricity
Sales and Projects
under AWP

For EF, the following tangible project includes:

- Provision of electric service connection to unserved households;
- Extension of Distribution
 Lines facilities on
 unenergized
 areas/households;
- □ Alternative electrification solutions; and
- □ Improvement/rehabilitation/re storation of the distribution system, including adoption of emerging technologies; and
- □ Distribution System Facilities



Establishment of Trust
Account

Preparation and Validation of Annual Work Program

Remittance of Financial Benefits

Project Implementation Audit of Electricity
Sales and Projects
under AWP

For DLF and RWMHEEF, the following infrastructures, tools and equipment acquisition, and livestock and seedlings dispersal shall be qualified as tangible projects for funding:

- ☐ Livelihood and Community Development;
- □ Reforestation, Watershed Management and Climate Change Resiliency;
- ☐ Health Service Enhancement; and
- □ Public Service Facility/ies.

wer Plant: First Gas Power - Sta. Rita

Sec. 10.3.1 & 2 of DC2018-08-0021

Establishment of Trust
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Preparation and Validation of Annual Work Program

Remittance of Financial Benefits Project Implementation Audit of Electricity Sales and Projects under AWP

- The validation of the AWP by the GenCo and/or ERD shall be limited to the availability of the Financial Benefits in accordance with the specific target timelines, which shall be completed within thirty (30) days upon receipt of the complete documentation from the Beneficiary.
- The GenCo and/or ERD shall post the validated AWP in their respective websites. In the absence of such websites, it shall be posted in the DOE website.
- The Beneficiary shall likewise post the validated AWP in their websites and in the absence thereof, in two (2) conspicuous places within their respective areas.

Sec. 10.4-6 of DC2018-08-0021

Establishment of Trust
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Preparation and Validation of Annual Work Program

Remittance of Financial Benefits

Project mplementation Audit of Electricity Sales and Projects under AWP

Quarterly Remittance of Financial Benefits, EF to Concerned DU and DLF and RWMHEEF to Designated Beneficiaries shall be subject to compliance of the following:

- 1. Submission of AWP; and
- 2. Copy of the duly signed Liquidation Report with any proof that the same has been received by the concerned COA

The Host LGUs and ICCs/IPs shall accept all remittances made by the GenCos and/or ERDs, subject to post-audit by the DOE. The non-remittance of the financial benefits shall not be a ground to withhold or delay the issuance of the necessary permits required for the operations of the energy resource and/or the energy-generating facility.

- ☐ The allocated fund from the Regional Share of all Non-Host LGUs shall be remitted in the General Fund Account of the identified LGU by the RDC
- □ Upon Receipt of Remittance, all beneficiaries are required to issue an Official Receipt (OR) to the GenCos and/or ERDs.
- ☐ In the event of non-compliance of the requirements for the remittance of Financial Benefit, the corresponding fund shall be set-aside to the dedicated trust account established by the GenCos and/or ERDs.

1st Letter Advisory on the Implementation of DC2018-08-0021

Establishment of Trust
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Preparation and Validation of Annual Work Program

Remittance of Financial
Benefits

Project Implementation

Audit of Electricity Sales` and Projects under AWP

- Within 30 days after the end of every year, the GenCos and/or ERDs shall submit to DOE the implementation status of the tangible projects contained in the validated AWP vis-a-vis the utilization of the Financial Benefits as reported and submitted by the concerned DU, Host LGU, Region and ICC/IP.
- □ Upon completion of a project, copy of the duly **signed**Liquidation Report by the Accountant of the Designated Beneficiaries with any proof that the same has been received by the concerned COA office is required to be submitted by the Designated Beneficiaries to GenCos and/or ERDs.

Sec. 11.2 of DC2018-08-0021

2nd Letter Advisory on the Implementation of DC2018-08-0021



Establishment of Trust Account

Preparation and Validation of Annual Work Program

Remittance of Financial Benefits

Project Implementation

Audit of Electricity Sales and Projects under AWP

- ☐ For **DLF** and **RWMHEEF**, the utilization and liquidation of the Financial Benefits shall be audited by the **Local COA** of the Host LGU.
- ☐ For EC Implementers and Other DUs including PIOUS, the utilization of EF shall be audited by the COA*.
- 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.
- □ Any adjustments based on the postaudit shall be reflected and applied in the immediate succeeding remittance. Thereafter, the GenCos and/or ERDs shall furnish the DOE with proof of remittance.

*to be included in the Supplemental Policy for Implementation of DC2018-08-0021 to be issued by DOE

DO2019-01-0001:

Guidelines for the Transfer of Existing Funds
Administered by DOE



PROCESS FLOW OF TRANSFER OF EXISTING FUND

Establishment of Trust Account

Reconciliation and Allocation of ER 1-94

Existing Fund

Remittance of ER 1-94 Existing Fund

The DOE shall reconcile the respective records as to the validated, collected, utilized and outstanding/existing funds for each power plant facility per trust fund account, as follows:

Cash	
Trust Accounts with regular transactions	The available cash deposited at the ER1-94 DBP and LBP accounts maintained and Administered by DOE
Trust Accounts of GenCos and/or ERDs that did not operate commercially	For the GenCos and/or ERDs with trust accounts, such amount shall be returned to said GenCos and/or ERDs.
Trust Accounts of Closed or Decommissioned GenCos and/or ERDs	The available funds shall be transferred to the trust accounts of the DUs and designated beneficiaries
ER 1-94 Interest Account	Accumulated interest earned from EF, DLF and RWMHEEF
Accounts Receivables	

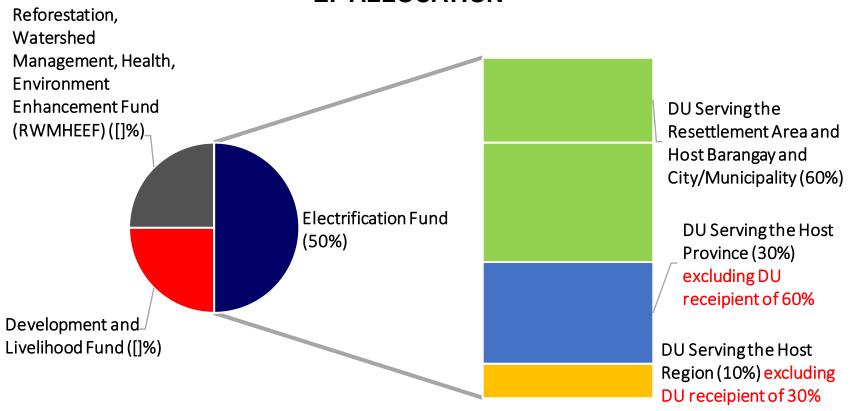
PROCESS FLOW OF TRANSFER OF EXISTING FUND

Establishment of Trust Account

Reconciliation and Allocation of ER 1-94
Existing Fund

Remittance of ER 1-94 Existing Fund

EF ALLOCATION





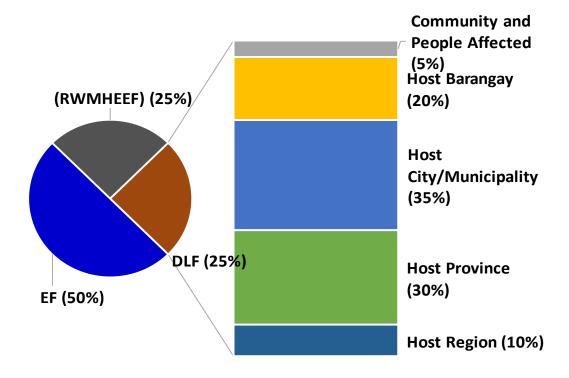
PROCESS FLOW OF TRANSFER OF EXISTING FUND

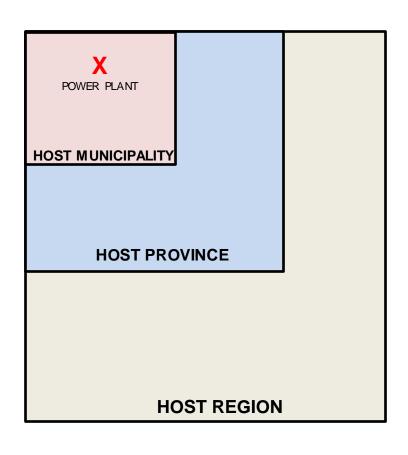
Establishment of Trust Account

Reconciliation and Allocation of ER 1-94
Existing Fund

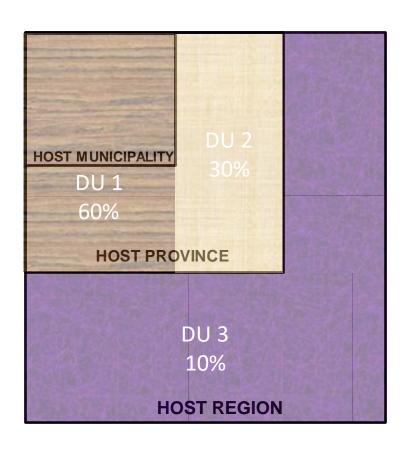
Remittance of ER 1-94 Existing Fund

DLF & RWMHEEF ALLOCATION





HYPOTHETICAL REGION HOSTING ONE POWER PLANT



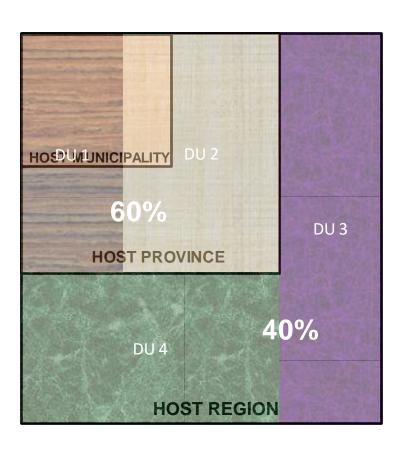
CASE 1:

Different DUs serving host municipality, host province, and host region

DU 1 will receive entire 60% of the fund

DU 2 will receive entire 30% of the fund

DU 3 will receive entire 10% of the fund



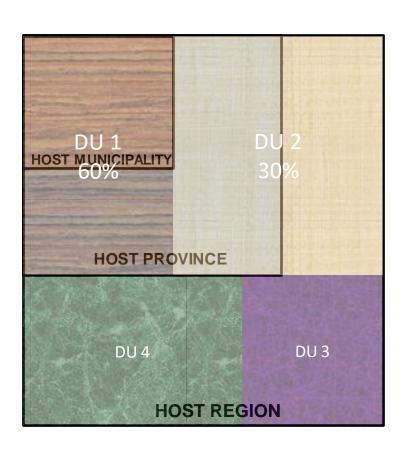
CASE 2:

Exact same set of DUs serve the host municipality and host province.

DU 1 and DU 2 will share the 60% of the fund

DU 3 and **DU 4** will share the (30% + 10%) of the fund

Allocation still pro-rated on the basis of household population and area



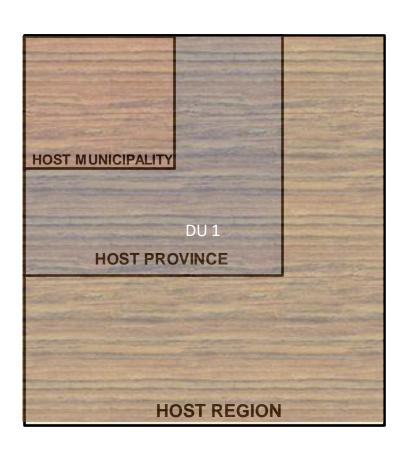
CASE 3:

DU 1 will receive entire 60%

DU 2 will receive entire 30%

DU 3 and DU 4 will share the remaining 10%

For DU 3 and DU 4, allocation still pro-rated on the basis of household population and area



EXTREME CASE 1:

Only one DU serving the entire host region

Sole DU will receive 100% of the fund

What is the effect of the "70% household population" and "30% land area"?



For this case, **DU 1** and **DU 2** will share the 60% of the fund.

	Household population	Land area
DU 1	1,000	60
DU 2	500	100
TOTAL	1,500	160

DU 1(%) =
$$70\% \frac{1,000}{1,500} + 30\% \frac{60}{160} = 57.92\%$$

DU 2(%) =
$$70\% \frac{500}{1.500} + 30\% \frac{100}{160} = 42.08\%$$

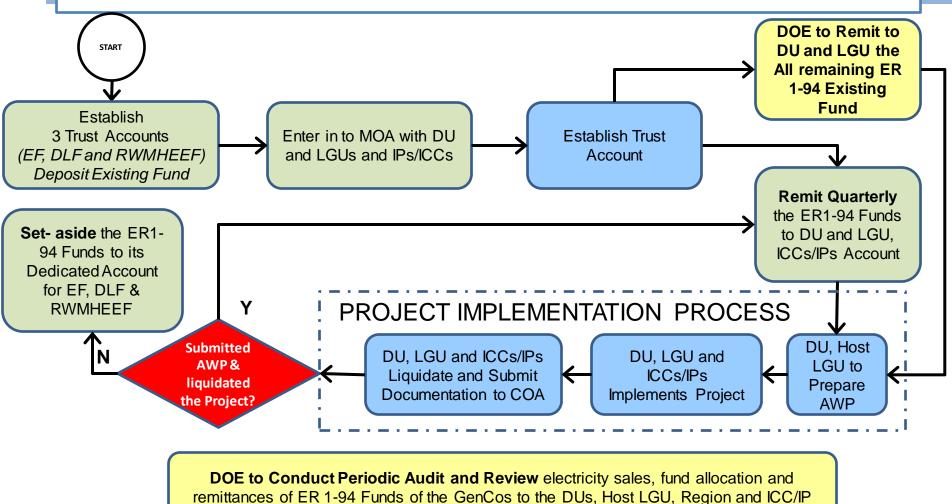
DU 1 will get 57.92% of 60% which is

34.75%

DU 2 will get 42.08% of 60% which is

25.25%

CURRENT SCENARIO: PROCESS FLOW OF ER 1-94 PROGRAM



Legend

Department of Energy Generation Company DU / LGUs / ICCs/IPs

DO2019-12-0021:

Creation of ER 1-94 Reconciliation Team for the Implementation of DO2019-01-0001

Key Point of DO2019-12-0021

Purpose of Issuance

The Department Order is creating a Reconciliation Team in order to expedite the reconciliation of the accrued financial benefits under the ER 1-94 Program

Composition of ER 1-94 Reconciliation Team (ER1-94 RT)

Chairman: Director, Financial Service (FS)

Co-Chair: Director, Electric Power Industry Management Bureau (EPIMB)

Members: Division Chief, Power Compliance Division (PCD)

Division Chief, Treasury Division (TD)

Division Chief, Accounting Division (AD)

Division Chief, REAMD

Secretariat: REAMD

Key Point of DO2019-12-0021

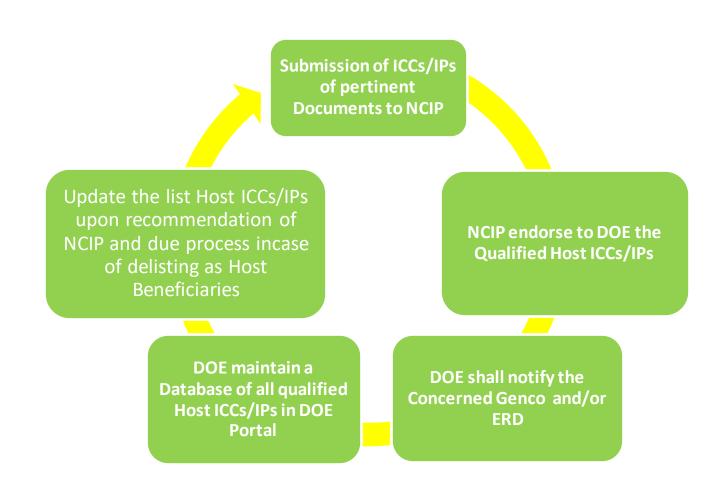
Functions and Responsibilities of the ER 1-94 RT

Review all records pertaining to the collection and utilization of the ER 1-94 funds to ascertain the actual cash balances due for transfer to the accounts of the DUs and the Designated Beneficiaries;
Ensure that the amounts pertaining to distribution of the financial benefits under EF, DLF, and RWMHEEF are reconciled.
Notify the concerned DU and designated beneficiaries of the reconciled available fund. Except for the Regional shares, DU and designated beneficiaries will be given a non-extendible period of thirty (30) days from receipt of the notice to submit their Authorized Government Depository Bank Certificate. Failure to comply with this directive will be the basis for the DOE to remit the said unclaimed fund to the National Treasury not later than 30 June 2020 ;
Recommend to the Secretary or his authorized representative/s any solutions on issues or dispute arising from the conduct or as a result of the reconciliation;
Coordinate with the Land Bank of the Philippines and Development Bank of the Philippines from where the funds will be drawn for appropriate closure of the bank accounts established by the DOE for the concerned GenCos;
Submit to the Secretary on a monthly basis a status report on the progress of the transfer of ER 1-94 funds; and
Perform such other functions and duties that are necessary for the accomplishment of this task.

DC2019-06-0010:

Prescribing Administrative Operating Guidelines for the Availment and Utilization of Financial Benefits by the ICCs/IPs

Declaration of Legitimate and Bonafide ICCs/IPs



DC2020-04-0008:

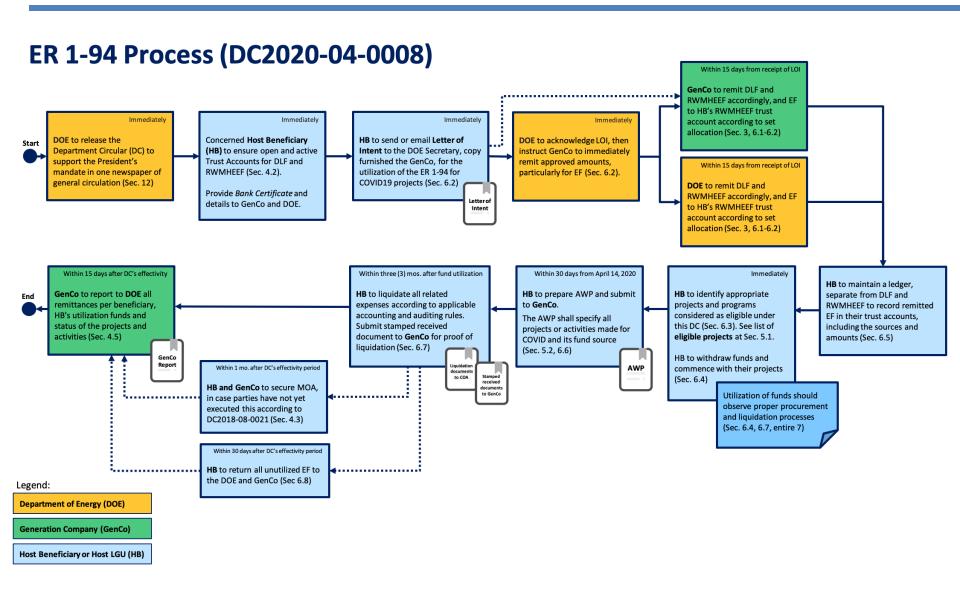
Rationalizing the Utilization of ER 1-94 Funds by Host Local Government Units in Response to Covid 19- Public Health Emergency

Salient Features of DC2020-04-0008

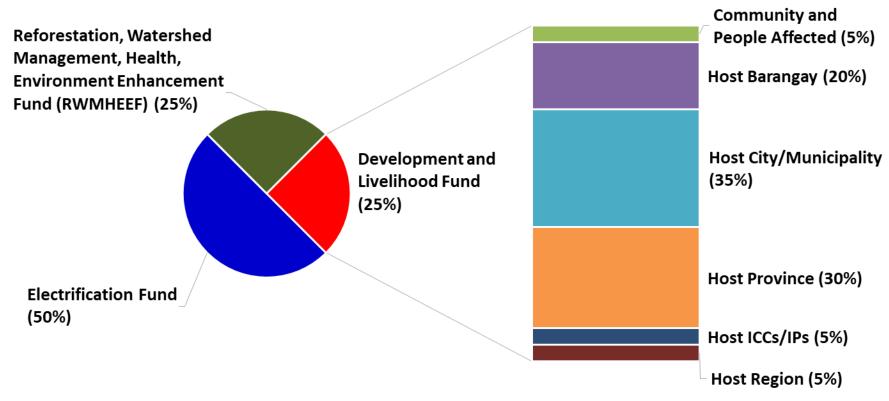
Key Terminologies

- 1. Available ER 1-94 Funds shall refer to funds that have already been remitted to the Host LGUs and those funds that are still with the DOE and the concerned GenCos as of the last quarterly billing period of 2019.
- 2. Letter of Intent (LOI) document prepared by the Host LGU & RDC addressed to the DOE Secretary, copy furnished the concerned GenCos by the Local Chief Executive for the utilization of their administered ER 1-94 Fund to combat the spread of COVID-19 pandemic and to mitigate the socio-economic impact of this crisis;

For the DOE, said LOI of the Host LGUs may be submitted to DOE via email at doe.er194forCOVID19@gmail.com. The DOE shall then instruct the relevant GenCo to immediately remit the approved amount to the Host LGUs.



Allocation of EF shall follow Sec. 6.2 of DC2018-08-0021



- ☐ In the absence of Community and People Affected, funds allocated for the same shall form part of the fund for the Host Barangay/s
- ☐ In the absence of ICCs/IPs, the funds allocated for the same shall form part of the fund for the Host Region/s wherein the RDC shall identify its beneficiaries.



Remittance Requirements

Host LGUs /Concern DUs

☐ Memorandum of Agreement (MOA) on the ☐ The allocated fund from the Regional Establishment of Trust Accounts shall be executed by and between the concerned GenCos and/or ERDs and Concerned DUs/Host LGUs/ICCs/Ips

For All host I GUs:

Host Beneficiary - GenCo and/or ERD -**DLF (ER 1-94)** Host Beneficiary - GenCo and/or ERD -RWMHEEF (ER 1-94)

Non-Host LGUs

Share shall be remitted in the General Fund Account of the identified LGU by the RDC

Only Host LGUs with submitted **RWMHEEF Trust Account to the** DOE and GenCos and have complied with the pertinent document required under Section 6.2 of this Circular shall be processed for the remittance of the EF.

- □ To facilitate mass testing, by providing and constructing facilities and/or acquiring of proper medical testing kits to detect COVID-19, including payment of medical testing and analysis fees;
- ☐ Provide an emergency subsidy in the form of non-food items, referring to non-cash assistance that can be extended to the affected communities, * when there is delay or insufficiency and to augment existing subsidy programs of the National Government to low income households while the State of Public Health Emergency is still in effect;
- * Clarified in DOE's Advisory for the Implementation of DC2020-04-0008





- □ Provide ways to ensure the uninterrupted availability and access of essential commodities, particularly food and medicines, via a "mobile market" and adopt measures to minimize disruption in the supply chain;
- □ Support feeding programs of National Government agencies and initiate own feeding programs including the **provision of relief goods** for lowincome constituents during the State of Public Health Emergency;



- □ Acquisition of Personal Protective Equipment (PPEs) for frontline medical workers, medical and other decontamination/disinfecting supplies and equipment, including but not limited to alcohol disinfectants, sanitizers, common medicines, thermo-scanners, and contactless thermometers, respirators and/or ventilators;
- □ Provide, by constructing or leasing, additional provincial, city, municipal, or barangay medical facilities, tents, safe holding areas, including quarantine centers and distribution centers to accommodate the increasing number of patients and medical reliefs;





- ☐ Electricity costs subsidies to newly constructed facilities of provincial, city, municipal, or barangay hospitals and health clinics,
- □ Provision of cremation or burial services to families affected by COVID-19; and
- ☐ Other reasonable tangible means and measures





Procurement Process

- 1. Accordingly, the Host LGUs shall observe the following Government Procurement Policy Board issuances:
 - Resolution No. 03-2020, dated 9 March 2020, approving the Adoption of Efficient, Effective and Expedient Procurement Procedures During the State of Public Health Emergency; and

https://gppb.gov.ph/issuances/Resolutions/GPPB%20Resolution%20No. %2003-2020.pdf and

1. NPM No. 003-2020 dated 23 March 2020 regarding Negotiated Procurement under Emergency Cases:

https://gppb.gov.ph/assets/pdfs/NPM%203-2020 Negotiated%20Procurement%20(Emergency%20Cases).pdf

Preparation of Annual Work Plan (AWP)

The Host LGU must incorporate activities and projects stated above as part of their AWP. As such, the deadline for the submission of their respective AWPs shall be extended for a period of thirty (30) days from 14 April to provide the Host LGUs ample time to prepare.

Sec. 5.2 of DC2020-04-0008

The Host LGUs shall include in its AWP, pursuant to Section 5.2 hereof, the projects as well as the specific amounts sourced from DLF, RWMHEEF and EF, as may be combined in the optimized utilization of the ER1-94 Funds;

Sec. 6.6 of DC2020-04-0008

Documentation and Liquidation of Utilization of ER 1-94 Funds

The proper documentation on the utilization of the ER1-94 Funds for COVID-19 management shall be strictly observed by the Host LGUs. Liquidation shall be completed within three (3) months after the utilization of ER1-94 Funds in accordance with Government accounting and auditing rules, regulations, and other related issuances. The Host LGUs shall submit the same to DOE and the concerned GenCos from whom the ER 1-94 Funds were sourced.

Host LGUs shall revert within thirty (30) days after the termination of effectivity of this Circular, all unutilized EF to the DOE and/or GenCos for the latter to facilitate transfer of the same to the DU pursuant to DC2018-008-0021.

Sec. 6.7 & 6.8 of DC2020-04-0008

Sunset Clause

This Circular having been issued under a declared State of Emergency, shall be in force and in effect only for the entire duration of the State of Public Health Emergency, as provided in Proclamation No. 922, and may be extended subject to the DOE's determination of the aftermath of this COVID-19 crisis.

After the lifting of the State of Public Health Emergency and/or extension period provided by DOE, the utilization and application of the ER 1-94 Funds shall be that as provided under DC2018-08-0021.

However, pending and on-going projects and programs after the lifting of the State of Public Health Emergency shall be implemented and will be applied for residual measures, unless it is patently unnecessary to be determined by the DOE.



Thank You!



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