

COMMISSION RESOLUTION NO. 13-2020

APPROVING AND ADOPTING THE PCC MEMORANDUM CIRCULAR ON THE PROCESS FOR EXEMPTION FROM COMPULSORY NOTIFICATION OF JOINT VENTURE (JV) AGREEMENTS ENTERED INTO PURSUANT TO THE “GUIDELINES AND PROCEDURES FOR ENTERING INTO JOINT VENTURE (JV) AGREEMENTS BETWEEN GOVERNMENT AND PRIVATE ENTITIES” ISSUED BY THE NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY, OTHERWISE KNOWN AS PCC MEMORANDUM CIRCULAR NO. 20-001

WHEREAS, Republic Act No. (“R.A.”) 10667 or the Philippine Competition Act (the “PCA” or the “Act”) and its Implementing Rules and Regulations (“PCA-IRR”) mandate that the State, through the Philippine Competition Commission (“PCC”), shall enhance economic efficiency and promote free and fair competition in trade, industry and all commercial economic activities, as well as establish a national competition policy to be implemented by the government and all of its political agencies as a whole;

WHEREAS, the Guidelines and Procedures for Entering Into Joint Venture Agreements between Government and Private Entities, including its subsequent amendments or revisions (the “NEDA JV Guidelines”), provide the framework within which joint venture arrangements between government and private entities are executed, in a transparent and competitive process, to encourage pooling of resources and expertise between Government and Private Entities through joint ventures;

WHEREAS, the PCA is enforceable against any person or entity engaged in any trade, industry and commerce in the Republic of the Philippines;

WHEREAS, joint ventures (“JV”) as defined under Rule 2 (i) of the PCA-IRR, between public or private entities, are subject to the compulsory notification requirement under Section 17 of the Act if the relevant thresholds under the PCA-IRR, as amended, are met;

WHEREAS, should a JV agreement be executed between the winning private sector participant and the government entity under the NEDA JV Guidelines, a notification to the PCC is mandatory once notification thresholds are met under Rule 4, Section 3 of the PCA-IRR, as amended by Memorandum Circular No. 18-001;

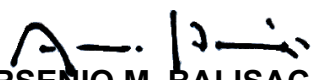
WHEREAS, given that the delivery of JV projects should be transparent, competitive, and timely, the PCC recognizes the necessity of a coordinated approach in reviewing JV projects falling under the PCA’s mandatory notification and review requirements;

WHEREAS, the PCC is mandated to advocate pro-competitive policies of the Government, monitor and analyze the practice of competition in markets that affect

the Philippine economy, implement and oversee measures to promote transparency and accountability, and ensure that prohibitions and requirements of competition laws are adhered to;

NOW, THEREFORE, the Commission has **RESOLVED**, as it hereby **RESOLVES**, to approve and adopt the Process for Exemption from Compulsory Notification of Joint Venture (JV) Agreements Entered into Pursuant To the “Guidelines and Procedures for Entering into Joint Venture (JV) Agreements Between Government and Private Entities” issued by The National Economic and Development Authority, otherwise known as the PCC Memorandum Circular No. 20-001, as presented to the Commission during its regular meeting on 16 June 2020. The PCC Memorandum Circular No. 20-001 shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

DONE this 16th day of June 2020 in the City of Quezon, Philippines.


ARSENIO M. BALISACAN
Chairman


JOHANNES BENJAMIN R. BERNABE
Commissioner


AMABELLE C. ASUNCION
Commissioner


MACARIO R. DE CLARO, JR.
Commissioner


EMERSON B. AQUENDE
Commissioner