

**DENR Memorandum Circular
No. 04
March 04, 1993**

**SUBJECT : Guidelines and Procedures for Turn-Over of
Contract Reforestation (CREF) Projects**

Pursuant to the policy of insuring sustainability and institutionalization of people's participation in DENR programs and projects and to Department Administrative Order No. 31, Series of 1991 as amended by DAO No. 32, Series of 1992 and Memorandum Circular No. 11, Series of 1988, the following guidelines and procedures are issued to govern the turn-over of Contract Reforestation (CREF) projects.

Section 1. Basic Policy

The Department, considers Contract Reforestation (CREF) as the beginning of a long-term process to rehabilitate denuded forest lands and as an appropriate vehicle to generate rural employment and development. Wherever feasible, CREF projects shall be turned over to DENR and then to qualified beneficiaries who have organized themselves so that they may eventually protect, maintain and benefit from the investments made in contract reforestation. The benefits that will be derived from the project shall be shared with other sectors of society because of the environmental improvement accruing from restoration of forest cover. DENR shall henceforth, establish mechanisms to implement the turn-over.

Section 2. Objectives of the Turn-Over of CREF Projects

The turn-over of CREF projects shall adopt the following objectives:

- 2.1 To facilitate community participation in the management and sustainability of CREF projects;
- 2.2 To harness and utilize the community's capabilities in natural resource management; and
- 2.3 To implement smooth and effective mechanism for the transfer of CREF projects from the contractor to the DENR and eventually be awarded to qualified Forest Land Management Agreement participants.

Section 3. Definition of Terms

The terms, words and phrases in this circular are defined hereunder as follows:

- A. **Project Turn-over** - refers to the formal transfer of rights, privileges and responsibilities over CREF projects, from the Contractor to the DENR after the termination of the contract due to acceptance by DENR of all work accomplished or cancelled due to valid reasons, as the case may be.
- B. **Completed Project** - refers to CREF projects where all targets specified in the contract have been accomplished, consistent with standards and specifications set by DENR
- C. **Forest Land Management Agreement (FLMA)** - refers to an agreement between the DENR and a family or an association that is duly organized by bonafide residents of the community where the FLMA area is located. Among others, the FLMA grants qualified beneficiaries the sole and exclusive privilege to develop and manage said area, harvest and utilize its products for 25 years, with the obligation to pay production share to the government equivalent to the cost invested in reforesting such area, pursuant to DENR Administrative Order No. 71, Series of 1990, as amended.
- D. **Equipment** - refers to all fixed assets, costs of which will not be less than P1,500.00 with a serviceable life of more than one year and which is included in the Work and Financial Plan.

Section 4. Criteria for Turn-Over

CREF projects shall be considered qualified for turn-over after all pertinent criteria have been met:

- a) the area covered by the contract has attained the status of a "completed project" defined in Section 3 hereof;
- b) on the area scheduled for turn-over, trees planted, maintained and protected under the contract or through Assisted Natural Regeneration (ANR) are not less than two (2) years old, reckoning from the time of outplanting;
- c) the number of surviving trees on the area scheduled for turn-over should be at least 80% of the planting density and the surviving trees should have attained an average height of at least one (1) meter;

- d) for rattan, bamboo and other non-timber products, a survival rate of 80% is attained regardless of height; and
- e) all the structural improvements specified in the contract have been completed.

Section 5. Procedures for Turn-Over

5.1 Qualified for Turn-over

- a. Prior to the turn-over of the projects, the concerned PENRO/CENRO shall plan out its direction whether the project could be considered for FLMA, non-FLMA (critical watersheds, national parks, etc.) or devolved to other government units (OGAs) or to local government units (LGUs), if any. In cases where an FLMA will not be issued, the concerned CENRO shall submit to the RED, through the PENRO, an indicative Forest Protection Plan (FPP) for the area. (See Annex A for format)
- b. The concerned CENRO shall identify CREF projects for turn-over and inform the RED to schedule Monitoring and Evaluation (M&E) using Inspection Chart Mapping (ICM) to determine if it will qualify with the criteria stated herein. M&E shall be conducted three (3) months prior to the scheduled turn-over of the projects to give ample time for the preparation of necessary documents needed for the purpose. The DENR shall formally inform the contractor regarding the results of the ICM report. Further, the DENR shall also notify the bonding agencies in cases where projects have not met/satisfied the criteria stated herein.

A 5% systematic sampling using ICM results shall also be conducted as final inspection by the composite team composed of representatives from the DENR, non-government organization (NGO) who conducted the ICM (preferably), the contractor and COA. DENR office shall coordinate in writing with COA in this regard.

- c. The contractor shall request for project validation/inspection to the concerned CENR Office and the following documents shall be submitted before the last billing is released.
 - c.1 Project Completion Report (see Annex B for outline);

- c.2 Sworn statement to the effect that all bills for labor, other current wages and all bills for materials have been paid and all activities have been completed by the contractor; and,
 - c.3 Final liquidation report in case of LGUs/OGAs.
- d. Based from validation/inspection results, the concerned CENRO shall prepare the following documents:
 - d.1 Certification of Completion and Acceptance signed by the contractor and the contracting DENR unit (see Annex C);
 - d.2 Copy of Final Inspection accomplished by the joint Inspection Team that validated project accomplishments; and,
 - d.3 Maps of sections and blocks, with a scale of 1:10,000.
- e. The DENR shall accept the project one (1) week earlier or on the exact date of the termination of the contract.
- f. Equipment shall be turned-over to the contracting DENR unit. In case of OSEC funded projects, same shall be turned-over to the Region or PENRO where funds have been transferred. After turn-over, the accounting unit concerned shall take-up the adjustments and book the corresponding entries to effect the turn-over.

5.2 Unqualified for Turn-over

Projects which are already scheduled for turn-over but have not satisfied the criteria provided herein due to force majeure, shall be taken over by DENR. For projects scheduled for turn-over which have not satisfied the criteria stated herein other than force majeure, the contracting DENR unit shall have the option to give the contractor an extension of one planting season but not more than twelve (12) months to complete the reported shortfalls. A supplemental Contract or Addendum shall be made to effect the extension.

- a. For extended projects without retention fees, a performance bond callable on demand which is equivalent to 10% of the remaining cost of the activities to be accomplished shall be required.

- b. For projects with retention fees, a performance bond callable on demand which is equivalent to the full amount of the retention fee or the remaining cost of the activities to be accomplished, whichever is higher shall be required.

Section 6. Retention Fee

The CENRO concerned, after the acceptance of the project, shall immediately prepare the necessary documents for the release of the retention fees for contractors who were deducted such on their previous billings. It shall be disbursed fifteen (15) days after the acceptance subject to the standard procedures of the office.

The RED/PENRO Planning officer shall coordinate with the RED/PENRO Accountant regarding the obligation of the third year cost including the retention fee of all active contracts.

Section 7. Performance Bond

The field office concerned shall furnish a copy of the Certificate of Completion and Acceptance to the bonding agency that issued the performance bond of the contractor. This will enable the bonding agency to cancel the performance bond posted by the contractor.

Section 8. Maintenance and Protection

In consonance with the Indicative Plan, the concerned CENRO shall assume responsibility for the maintenance and protection of the turned-over CREF projects until FLMA shall have been granted, if applicable.

Section 9. Special Cases

- 9.1 Plantations less than two (2) years old which met/passed the criteria stated in Section 4 hereof, except Section 4.b of this circular, may be considered for turn-over subject to the same procedures for the turn-over of completed projects. In this case, the DENR shall release the retention fee to the contractor, equivalent to 15 per cent of the total amount disbursed to them. Amendments to the Contract shall be reflected therein.
- 9.2 In extreme cases where this guidelines does not apply, the concerned Regional Office shall forward same to the Secretary copy furnished the Chairman, NFP Steering Committee for resolutions.

Section 10. Penalties

Delays in the conduct of the final inspection and the release of the retention fees shall be a ground for disciplinary action against DENR employees. This falls under the category of incompetence or inefficiency to perform official duties and failure to comply with the provisions of this guideline.

Pursuant to Section 36 (c) of PD 807, the disciplining DENR official may, after due notice and hearing, impose the penalty of removal from the service, transfer, demotion in rank, suspension for not more than one year without pay, fine in amount not exceeding six(6) months salary, or reprimand, upon any DENR employees who has committed any grounds for disciplinary action.

This administrative action is without prejudice to the institution of appropriate criminal case against DENR employees for acts and omissions which may constitute corrupt practices under Section 3 of Republic Act No. 3019, as amended, otherwise known as the "Anti-Graft and Corrupt Practices Act."

Section 11. Repealing Clause

Section 1, Article 7.09.d of the General Conditions of MC # 11, Series of 1988 states: "Guarantee Bond equivalent to 30% of the Contract Price covering a period of one year after the Final Acceptance to the work which guarantee the quality of the contract work and materials installed. The Guarantee Bond shall be in the form of securities as approved by the Employer. The Guarantee Bond will be required if the Employer upon acceptance of the plantation, releases to the Contractor the Performance Bond and Payment bond" is hereby repealed.

All other circulars and guidelines which are inconsistent herewith are likewise repealed.

Section 12. Supplemental Guidelines

The Regional Offices may promulgate supplementary guidelines in their respective regions regarding height requirement and other specific concern to effect smooth and orderly turn-over.

However, in all cases, minimum height requirement is set to act least one (1) meter. These additional guidelines shall be formulated subject to the climatic types of the regions and same shall be subject to the approval of the Secretary.

Section 13. Effectivity

This Order takes effect immediately.

ANGEL C. ALCALA
Secretary

Recommending Approval:

RICARDO M. UMALI
Senior Undersecretary
For Field Operations, Policy
Planning and Resources Management