DEPARTMENT CIRCULAR NO. 009

RE : GUIDELINES FOR DEPARTMENTAL VETTING AND EVALUATION OF PROPOSALS FOR ICT SERVICES, PRODUCTS, AND APPLICATIONS FOR GOVERNMENT USE IN ADDRESSING THE COVID-19 SITUATION.

WHEREAS, Proclamation No. 922, s. 2020, declared a State of Public Health Emergency throughout the country due to Coronavirus Disease 2019 (COVID-19), and enjoined all government agencies and local government units (LGUs) to render full assistance and cooperation, and mobilize the necessary resources to undertake critical, urgent, and appropriate responses and measures in a timely manner to curtail and eliminate the COVID-19 threat;

WHEREAS, Republic Act (RA) No. 11469, otherwise known as the “Bayanihan to Heal as One Act,” declared a State of National Emergency over the entire country in view of the continuing rise of confirmed cases of COVID-19, the serious threat of the pandemic to the health, safety, security, and lives of our countrymen, and the severe disruption of economic activities;

WHEREAS, Executive Order No. 168, s. 2014, which created the Inter-Agency Task Force for the Management of Emerging Infectious Diseases Management (IATF-MEID), recognizes the need for inter-sectoral collaboration to ensure efficient government response to assess, monitor, contain, control, and prevent the spread of epidemic in the Philippines;

WHEREAS, RA 10844, known as the “Department of Information and Communications Technology Act of 2015,” declared the policy of the State to promote the use of ICT for the enhancement of key public services such as public health and safety, among others;

WHEREAS, health and public safety organizations, both here and abroad, recognize the potential of ICT services, products, and applications as effective force-multipliers and tools that can be leveraged to aid in the assessment, monitoring, containment, control, and prevention of further spread of COVID-19;

WHEREAS, a number of developers and providers of ICT services, products, and applications in the country’s private sector, in the spirit of solidarity in the fight against the COVID-19, have signified their intention to assist in addressing the pandemic by offering their ICT solutions for government use through donations or other potential arrangements;

WHEREAS, as part of its duties and functions to ensure and protect the rights and welfare of consumers and business users to privacy, security, and confidentiality in matters relating to ICT, to assist and provide technical expertise to government agencies, and to harmonize and coordinate all national ICT initiatives to ensure knowledge, information and resource-sharing, database-building and agency networking linkages among government agencies, the DICT has been evaluating ICT services, products, and applications in accordance with the declared state

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1 §6(IV)(n), Republic Act (RA) No. 10844.
2 §6(III)(b), RA 10844.
3 §6(III)(f), RA 10844.
policy of ensuring consumer protection and welfare, data privacy and security, and fostering the growth of the ICT sector;⁴

WHEREAS, there is a need to formalize and streamline existing departmental vetting and evaluation processes being undertaken during the declared state of public health emergency due to the COVID-19 pandemic, in relation to ICT services, products, and applications to ensure that they meet relevant non-functional/technical requirements and specifications, as well as the functional requirements and unique needs of the end-user government agency or instrumentality, and the government as a whole, while addressing potential concerns on data privacy, cybersecurity, inter-operability, among others;

NOW, THEREFORE, in the exigencies of the service, and pursuant to the provisions of existing laws, rules, and regulations, this Circular is hereby issued:

Section 1. Purpose and Objective.—The purpose of this Circular is to standardize and streamline the requirements for the Department’s vetting/evaluation of proposed ICT services, products, and applications for possible government use in addressing the COVID-19 situation.

This Circular aims to expedite the Department’s existing processes for vetting ICT services, products, and applications in relation to the non-functional/technical requirements and specifications for government use, and the Department’s evaluation of the aforesaid ICT services, products, and applications vis-à-vis the functional requirements and unique needs of their end-user government agencies or instrumentalities in the fight against COVID-19, while at the same time ensuring compliance with relevant laws on cybersecurity, data privacy, telecommunications, and other relevant ICT laws, policies, rules, and regulations.

Section 2. How to Initiate the Vetting/Evaluation Process.—In order to initiate the departmental process for vetting/evaluation of ICT service, product or application for government use, the proponent developer/provider shall send a formal letter addressed to the Secretary, through the Office of the Assistant Secretary for Digital Philippines (OASDP), signifying the proponent’s interest to donate or otherwise make the proposed ICT service, product or application available for government use to address the COVID-19 situation. The proponent’s letter shall be duly supported by the favorable indorsement from the end-user government agency or instrumentality, if any.

The IATF-MEID, the National Task Force for COVID-19, or the end-user government agency’s favorable endorsement of the ICT service, product or application duly received by the DICT shall likewise be sufficient to initiate the departmental process of evaluation/vetting the same.

Upon initiation of the departmental vetting/evaluation process, the proponent developer/provider and the end-user government agency or instrumentality, if any, shall submit all the requirements needed for the Department to complete the vetting/evaluation process.

Section 3. Framework for Vetting and Evaluation of ICT Services, Products, and Applications.—All ICT services, products, and applications for government use in addressing the COVID-19 situation shall undergo departmental vetting and evaluation along the following framework of ICT best practices and standards:

⁴ §2(6), RA 10844.
a. ICT Service Management
b. Project Management
c. Enterprise Architecture
d. Cybersecurity
e. Data Privacy

The OASDP may impose such additional requirements and submissions as may be necessary based on the complexity of the ICT service, product, and application being vetted or evaluated.

The checklist on the vetting/evaluation requirements shall generally follow the sequence of the project lifecycle, and shall be made available via the following weblink: https://drive.google.com/file/d/1Mwcu2pV0HgYTa1.RUkgX1ST31-15JgU/view. The contents of the checklist, and the weblink access thereto, may from time to time be updated by OASDP, as may be necessary.

Section 4. Suspension or Pre-termination of the Vetting/Evaluation Process.—Failure on the part of the proponent to submit any of the vetting/evaluation requirements within a reasonable period of time shall constitute sufficient grounds for the Department to forthwith suspend or otherwise terminate its vetting/evaluation process. In case of suspension or termination, the end-user government agency or instrumentality, if any, shall forthwith cease from further negotiating, transacting or otherwise availing of the proposed ICT service, product or application.

Section 5. Applicable Presumptions.—To aid in the effective, expedited, and unhampered administration of the Department’s functions in light of the declared state of public health emergency, all concerned DICT units shall prima facie presume that the proponent developer/provider acted in good faith and with due diligence in following the regular practices of the industry relative to their submissions, representations, and other compliance requirements for the departmental vetting/evaluation of the ICT service, product or application.

Supporting documents and information from the Office of the President (OP), the IATF-MEID, other government agencies or instrumentalities, such as the National Privacy Commission (NPC), National Telecommunications Commission (NTC), Securities and Exchange Commission (SEC), Department of National Defense (DND), Department of Health (DOH), National Security Council (NSC), among others, when issued in the performance of their respective mandates, expertise, and administrative duties, shall likewise be respected pursuant to the prima facie presumption of regularity in the performance of their official functions.

Section 6. Representation and Warranty.—By filing and submitting the documents to the DICT pursuant to the provisions of this Circular, the proponent developer/provider duly warrants and represents that the documents so filed and submitted are genuine, complete, unaltered, and exact copies of the original, and that the contents thereof, and all other information so communicated in relation to the vetting/evaluation process, are true and correct.

Any violation of this section shall constitute sufficient grounds for the Department to nullify the results of the vetting/evaluation process, without prejudice to the possible filing of appropriate administrative, civil, or criminal cases, or a combination thereof, as may be warranted under applicable laws, rules, and regulations.
Section 7. **Results and Assessment; Departmental Recommendations.**—Upon terminating or otherwise concluding its vetting/evaluation process, the DICT shall notify the proponent developer/provider, and the end-user government agency or instrumentality, if any, of the departmental assessment with recommendations for ensuring that the proposed ICT service, product or application is stable and ready for deployment; that the data and information are secure; that there is inter-operability with the government’s ICT ecosystem; and that the solution can be supported after it has gone live for utilization.

Section 8. **Costs for the tests of evaluation/vetting.**—In instances where the ICT service, product or applications is shown to be critical to the end-user agency in its COVID-19 Action Plan, said end-user agency may explore the utilization of its own funds to cover the costs of performance and field tests, among others, under the provisions of RA 11469, and other relevant laws, rules and regulations, and issuances.

Section 9. **Initiating the process for Donation or Other Arrangements for the Government use of ICT services, products or applications.**—To initiate the process for the donation or other arrangements for the government’s use of an ICT service, product or application in addressing the COVID-19 situation, the proponent developer/provider shall send a formal letter addressed to the Secretary, through the OASDP, signifying the proponent’s intent to donate or otherwise enter into other arrangements for the government’s use of its ICT service, product or application, and indicating the details, terms, and conditions thereof. The letter of intent shall be duly supported by the favorable indorsement of the end-user government agency or instrumentality.

Section 10. **Appropriate Agreements to Embody and Operationalize the Donation or other Arrangements for making ICT Services, Products, and Applications available for Government Use; Counterpart Signing.**—In order to operationalize the donation or other arrangement for the government’s use of an ICT service, product, or application, the transaction shall be embodied in the appropriate deed, memorandum of agreement, service level agreement, grant letter, or similar documentation duly executed by and between the proponent developer/provider and the concerned end-user government agency/ies or instrumentality/ies.

Any agreement signed during the declared state of public health emergency due to the COVID-19 situation may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall form one single document.

The donation or other arrangement for the government’s use of an ICT service, product or application shall at all times be subject to compliance with the provisions of relevant laws, policies, rules, and regulations applicable thereto.

Section 11. **Transitory Provision.**—The provisions of this Circular shall be applicable to all pending and future proposals to donate or otherwise make ICT services, products, and applications available for government use to address the COVID-19 situation. This Circular shall likewise be applicable to all ICT services, products, and applications that have yet to undergo departmental vetting/evaluation, but are already being utilized by the end-user government agency or instrumentality to address the COVID-19 situation.

Section 12. **Construction and Interpretation.**—This Circular shall be liberally construed in order to attain and implement the statutory objectives and mandates of the Department, and the provisions of other existing laws, rules and regulations, and issuances.
Section 13. Reservation Clause.—The Secretary shall have the power to modify, vary, revoke, or impose further conditions as may be necessary in the public interest. Nothing in this Circular shall be construed to limit, decrease or restrain the Department’s authority and mandate under RA 10844, the Revised Administrative Code, and other existing laws, rules and regulations, and issuances.

Section 14. Separability Clause.—In case any provision in this Circular shall be declared unconstitutional, invalid, illegal or unenforceable by the courts, the constitutionality, validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and shall remain valid and subsisting.

Section 15. Effectivity Clause.—In view of the declared state of public health emergency and the imposition of Community Quarantine affecting Luzon and other areas in the Philippines, this Circular shall be effective immediately upon its filing/publication in accordance with §4, Chapter 2, Book VII of the 1987 Revised Administrative Code.

Let copies of this Circular be likewise posted and published in the official DICT website and bulletin boards, as well as in a newspaper of general circulation, if available in light of the public health emergency.

GREGORIO B. HONASAN II
Secretary

Copy furnished:
All Concerned.