



## Bid Bulletin No. 007

**RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION**  
**Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)**

After further consideration, MORE Power Third-Party Bids and Awards Committee hereby decides to include, revise, amend, and/or adopt the following provisions in the:

Section	ITB Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	TPBAC Answer
1.1	The following shall comprise the Bidding Documents in this Competitive Selection Process through a Public Bidding for the Supply of Power to MORE Electric and Power Corporation (MORE Power): a. The Invitation to Bid (ITB) published in newspapers of national circulation; b. Long-form Terms of Reference (TOR); c. Draft Power Supply Agreement (PSA); d. Corporate Profile of MORE Power; e. Power Supply Procurement Plan (PSP); f. The Instruction to Bidders (ITB), as well as all annexes, schedules, attachments, and Supplemental Bulletins that may subsequently be released be released by the MORE Power TPBAC; and g. Bid Bulletins with copies of publication and affidavits.	There seems to be conflicting usage of the acronym "ITB". Please confirm that all references to "ITB" in the bid documents refer to the Instruction to Bidders and not the Invitation to Bid.	ITB refers to Instruction to Bidders unless otherwise obviously referring to the Invitation to Bid. Note> Moving forward, ITB shall refer to Instruction to Bidders	Ok but include in the Definition of terms. ITB is enough no need to put FITB considering that any amendment is supplemented by Bid Bulletin	We will still come up with an FITB.
2	Instruction to Bidders (FITB) refers to this document which contains the rules, procedures, requirements, criteria, information and data, methodology for the conduct of Competitive Selection Process (this Bidding);		Any and all revisions to the Bidding Documents shall be embodied in the Bid Bulletins and a summary of all the bid bulletins affecting the ITB shall be reflected in the Final Instruction to Bidders.	Ok but include in the Definition of terms. ITB is enough no need to put FITB considering that any amendment is supplemented by Bid Bulletin	We will define FITB in the definition of terms.  FITB refers to Final Instruction to Bidders using the provisions of the Instruction to Bidders incorporating all amendments contained in the Bid Bulletins.
	Prospective Bidder refers to the company or GenCo who submitted the Letter of Intent (LOI) and paid the Bidding Document fee;	Please confirm that the bidder may add entities that will become the bidders, so they can submit as a consortium or JV.	The bidder which submitted its Letter of Intent may submit a bid as a joint venture.	Please confirm if the other members of the JV (other than the bidder) is required to submit Legal, Technical and Financial Requirements also. Please confirm that our understanding is correct that the JV partners need not submit these documents as long as the bidder is already submitting the required documents.	Yes. In determining the eligibility of the joint venture, the principle of "collective compliance" will be applied to its members/principals in the sense that each of the entities of the joint venture must submit all of the documents that are required to establish eligibility, although the non-compliance of one member/principal may be compensated by the compliance of another member/principal.

				<p>If Bidder (a Genco) enters into a JVA with a Holding Company whose subsidiaries or affiliates own and operate generating plants, can a portion of the supply be sourced from the Holdco's portfolio of plants? Do we have to specify those plants during the bid if those plants will not be the primary source of supply? Please confirm our understanding that the other plants of the Holdco JV partner need not be named provided they are not the primary source of supply, and the Plant that is the main source of supply is nominated in the bid. Thank you.</p>	<p>1. Yes. 2. No. 3. Yes.</p>
	<p>Financial Documents refers to the documents to be submitted by Bidder in accordance with Section 14 for eligibility evaluation;</p>	<p>No financial documents for Bidders using existing power plants. Kindly confirm.</p>	<p>If by financial documents you mean the Audited FS, it can be found in Section 13.1 (Legal Requirement)</p> <p>Bidders with existing power plants need not comply with requirements under section 14.</p>	<p>please re-confirm that existing plants do not need the financial requirement.</p>	<p>Sections 13 and 14 refer to Audited Financial Statements (AFS). Latest AFS for an existing plant and 5 years historical for new plant. Financial Requirement is the bid offer itself. It is necessary both for existing and new plants.</p>
	<p>Definition of Terms</p>	<p>Why is "Scheduled Outage" only referring to annual scheduled maintenance activities of the</p>	<p>"Scheduled Outage" refers to annual scheduled maintenance activities of the</p>	<p>it should be scheduled maintenance of the power plant based on GOMP and to be consistent under</p>	<p>No, scheduled maintenance of the plant is not covered as the bidder is required to</p>
	<p>Unscheduled Outage refers to an outage of a power plant (or forced outage) that results from an emergency</p>	<p>Please confirm that "Unscheduled Outage" refers to any type of unscheduled outage of a</p>	<p>Unschedule Outage means an unscheduled interruption of a power</p>	<p>Unscheduled outage shall include generating unit incapability to operate and incapability of the</p>	<p>Scheduled and unscheduled outages of the plant are covered by the replacement</p>
<p>Definition of Terms</p>		<p>Why is "Scheduled Outage" only referring to annual scheduled maintenance activities of the Panay Grid/Sub-grid? What about power plants within and outside the Panay Grid/Sub-grid (e.g. Luzon grid-connected plants)?</p>	<p>"Scheduled Outage" refer to the annual scheduled maintenance activities of the NGCP Grid</p>	<p>Unavailability of the NGCP Grid, regardless of reason is beyond the control of both parties. Thus, for all intents and purposes, it is considered as an event of Force Majeure. This is clearly provided under Article 9 Force Majeure, item a (vii) of the PSA. Which read as follow:</p> <p><i>"Transmission failure and System Operator Curtailment, except line congestions on the existing facilities of the Buyer to the Grid or acts of any third party that may materially affect the capability of Buyer to draw power from the NGCP grid, which is unforeseen and could not reasonably be expected or is beyond the control of the affected party"</i></p>	<p>Agree.</p>
<p>ITB Section 5 Bidding Schedule</p>		<p>We suggest to include in the Bidding Schedule the date for the following:</p> <ol style="list-style-type: none"> <li>1. Acceptance of Notice of Award (NOA) - 4 days from receipt of NOA (ITB Section 28)</li> <li>2. Signing of Power Supply Agreement (PSA) - 7 days from Acceptance of NOA (ITB Section 29)</li> <li>3. PSA Filling with the ERC - 14 days from Signing of PSA (ITB Section 30)</li> </ol>	<p>Amended</p> <ol style="list-style-type: none"> <li>1. Signing of Power Supply Agreement (PSA) - <b>20 days from Acceptance of NOA</b> (ITB Section 29)</li> <li>2. PSA Filling with the ERC - <b>5 days from Signing of PSA</b> (ITB Section 30)</li> </ol>	<ol style="list-style-type: none"> <li>1.) Based on the revised Indicative Schedule, the period (August 24 to September 6) is <b>only 13 days</b> and not 20 days. Please clarify.</li> <li>2.) Based on the revised Indicative Schedule, the PSA Filling with the ERC is <b>5 working days</b> (from September 6 to September 13) from the Signing of PSA.</li> </ol>	<ol style="list-style-type: none"> <li>1. To amend accordingly the FITB to reflect 13 days and 5 working days.</li> </ol>

ITB: Section 6	Eligible Bidder			<p>We recognized that the Eligible Bidder should be a GenCo. For purpose of clarification, we would like a confirmation that the Eligible Bidder is a Genco who either (1) owns the Nominated Plant or (2) administers or has control over the capacity or energy resource of the Nominated Plant ("Administrator") provided that it has to present convincing evidence of right over the capacity or energy resource from the Nominated Power Plant.</p> <p>For purposes of clarity, an Administrator is an entity that administers or manages the capacity or output of a Power Plant or several power plants.</p> <p>Notably, the supply by the Administrator to the DUs is already an acceptable practice in the industry as decided by the Energy Regulatory Commission in some cases involving the administration of the contract capacity of power plants. A good example of this is ERC Case No. 2019-078, 03 March 2020, In the Matter of the Application for the Approval of the Power Supply Agreement (PSA) between Manila Electric Company (MERALCO) and - Philippines, Inc. (ACEPH) with Prayer for Provisional Authority and/or Interim Relief and Motion for Confidential Treatment of Information. In this particular ERC case.</p>	<p>Yes, Genco who either (1) owns the Nominated Plant or (2) has control over the capacity or energy resource of the Nominated Plant ("Administrator") provided that it has to present convincing evidence of right over the capacity or energy resource from the Nominated Power Plant.</p>
ITB Section 6.3		Is this document forms part of the bid envelope? If it is, under which type of requirement? Or will this be submitted separately from the Bid Envelopes? In such case, when will it be submitted to TPBAC?	Under Legal Requirement (First Bid Envelope)	Please clarify that this is the same with Item 1.2.4 (Annex E-3) under the Checklist for Bid Proposal Requirements.	Yes.
ITB Section 10.1 Due Diligence		<p>(1) In lieu of an actual Live Visit to MORE Power's office in Iloilo by any interested Bidder, can an online Due Diligence be conducted instead where all Bidders may participate? This will lessen the risks of actual travel and possible COVID infections for all concerned.</p> <p>It is also suggested that a detailed presentation on MORE Power's financial, technical and institutional aspects of operations be conducted and Bidders be allowed to raise their comments, queries, concerns, among others.</p> <p>(2) We request that the target date for the conduct of the online Due Diligence be included in the Bidding Schedule.</p>	<p>1. Physical visit to MORE is allowed as an option but not a requirement.</p> <p>Bidders may raise queries regarding technical and financial operations of MORE. The company reserves its right to provide the requested information.</p> <p>2. Online due diligence is not a requirement. When the bidder makes a proposal, it is presumed that they have done due diligence</p>	<p>(1) How does a Bidder schedule a Due Diligence?</p> <p>(2) Is there any target period within which a Bidder may conduct its Due Diligence of MORE Power's Financial and Technical background?</p>	<p>1. At any time before the Bid Opening.</p> <p>2. During the Second Pre-bid Conference, Bidders will be asked to specify the documents they want to conduct their Due Diligence.</p>

Section 12.2 and Section 12.3 Documents Comprising the Bid Proposal	Bidders shall submit two (2) copies of their bid proposal one (1) original and one (1) photocopy. Each bid proposal shall contain two (2) separate sealed envelopes identified as the First Bid Envelope and the Second Bid Envelope.  The First Bid Envelope shall contain Eligibility Requirements which will include the Legal and Technical Requirements. The Second Bid Envelope shall contain the Financial component of the bid.			Clarification: If the bidder will be submitting financial proposal for both Phase 1 and Phase 2, does this mean that the bidders should submit 2 sealed envelopes for Financial Proposal (1 for Phase 1 and 1 for Phase 2)?  In other words, does the financial proposal envelope to be submitted on a per phase basis?	No, can be combined or separate.
Section 12.6 Documents Comprising the Bid Proposal	12.6 Bidders are responsible to ensure that the physical copy of their Bids are manually submitted to and received by TPBAC Secretariat on the date, time and place specified, herein.			Clarification: Can the bidder submit its bid documents earlier than the specified time?	Yes, on or before the Bid Opening Deadline.
ITB Section 13 Legal Requirements		Does not include Certifications / Other Documents (Annex E1,E2,E3,E4,F, Authority to represent/sign PSA) These annexes are included in the checklist. Kindly confirm we'll follow the checklist	Kindly clarify.	1) Please note that Section 13 of the Instructions to Bidders ("ITB"), only covers Item 1.1 Legal Requirements under Annex B - Checklist for Bid Proposal Requirements. Item 1.2 Certifications/Other Documents are not enumerated under Section 13 of the ITB. With that, kindly confirm that the Bidders should submit/follow the documents in accordance with Annex B - Checklist for Bid Proposal Requirements.  2) Kindly update Annex B - Checklist for Bid Proposal Requirements to include requirements mentioned in the ITB, TOR and Supplemental Bid Bulletins that were not included in the Checklist.	Will include items found in Annex B not found in ITB Section 13.
ITB Section 13.1.4 Legal Requirements		We suggest that a Provisional Authority to Operate (PAO) issued by ERC be allowed to be submitted in lieu of the Certificate of Compliance (COC) since both have the same effect.	Accepted.	We note that PAO is considered a substitute of a COC. Please apply this rule to all documentary requirements pertaining to the submissions of COC.	Yes.
ITB Section 13.1.5 Legal Requirements				Kindly confirm that the application for renewal of the Tax Clearance Certificate is acceptable since there is a possible delay with the issuance due to pandemic.	Not acceptable.
Section 13.1	Submission of Legal and Technical Documents			For those already signed with CTC, do we still need to have these docs signed by our Authorized Representative?	If the document is certified as true copy by: (i) department owning the document; (ii) the representatives authorized by the Management to certify the documents in accordance to the Secretary's Certificate submitted by the bidder; or (iii) issuing agency of the original document, then there is no more need for additional signature of the authorized representative.

ITB: Section 14 / Page 16 - 18	Technical Proposal  xxx			<p>We recognized the response of the TPBAC that newly commissioned power plants are already Existing Plant. Further to this, SBB No. 5 indicated that to comply with the requirement of Section 14.1 of the ITB, the submission of <b><u>COC and latest MOR submitted to DOE</u></b> is already sufficient.</p> <p>To be consistent with other section of Section of the SBB No. 5, we suggest that the submission should be revised to allow the submission of Provisional Authority to Operate; hence it should read: <b><u>COC or PAO and latest MOR submitted to DOE.</u></b></p>	Acceptable. COC or PAO and latest MOR submitted to DOE.
14.2	c. Maximum allowable Scheduled Outage hours and Unscheduled Outage hours for each year;	May we know the rationale behind this requirement? Can this be waived considering that MORE Power already requires a 100% availability?	This is important for MORE for us to look for replacement power in case the bidder fails to secure its own replacement power.	May we know from MORE Power when or how an outage scenario will occur/realized given a 100% supply commitment from the winning bidder?	This is just a commitment. Not all commitments are executed 100%. MORE would like to know the schedule in order to be prepared, IN INSTANCES, that the commitment cannot be fulfilled
Section 15	Financial Proposal			May we propose for MORE to conduct a separate conference for the "Financial Proposal Rate Computation" or conduct a thorough discussion during the 2nd prebid conference. Please also provide us the detailed computation in determining the Levelized Rate.	We will be presenting the detailed computation in determining the Levelized Rate during the Second Pre-bid Conference.
Financial Capacity	No Specific Provision			To guarantee that MORE is financially capable, will it provide at least a debt equity ratio of 15:85 based on the bidder's audited financial statement?	This will be discussed with the Winning Bidder/s.
Fuel Supply Plan	No Specific Provision			What document is required to prove Long-term Availability of Fuel? - suggests a categorical statement that Fuel Contracts submitted for evaluation should be more or less Co-terminous to the Cooperation Period.	Not required, as long as this can be used as basis to provide long-term security of fuel supply.
15.2	Base Fuel Price. The base fuel, as well as the transportation, import duties, fees and taxes shall be set using the actual price on December 2020.			Section 15.2 states that Base Fuel Cost shall be <b><u>"actual price on December 2020"</u></b> . Please require the bidders to submit proof of compliance with this requirement during post-qualification. This is to prevent bidders from submitting bids based on overly optimistic fuel cost projections.	Yes, we will.

Section 16 Bid Security	The Bid Securing Declaration Form is deemed to have been breached: i. If the Bidder withdraws its Proposal or one of its Proposal (for multiple proposals) after Opening during the period of Proposal validity; or ii. In the case of the Winning Bidder/s, if the Bidder/s fails within the specified time limit to sign PSA, unless the parties are continuing negotiations in good faith; iii. In the event that the TPBAC finds the Bidder to have committed Fraudulent and Corrupt Practices as specified in Section 36; or iv. In case the Bidder is disqualified at any stage of the Bidding process as provided in this ITB.			Suggestion: Item No. iv should be reworded as:  iv. In case the Bidder is disqualified after the schedule of Opening of Bids.	ITB will be amended.
Section 16.1 Bid Security	All bid proposals shall be accompanied by a Bid Securing Declaration in the form prescribed herein attached as Annex F: Bid Securing Declaration Form as guarantee that the successful bidder shall, within fourteen (14) calendar days from receipt of Notice			Clarification: Would there be a separate Bid Securing Declaration Form per block if the bidder opt to bid for 2 or more blocks? Moreover, if the bidder opt to bid for both Phase 1 and Phase 2 would the bidder submit Bid Securing Declaration Form per block and/or per phase?  In other words, if the bidder will bid for 2 blocks for Phase 1 and 3 blocks for Phase 2, would the bidder submit 6 (2 for Phase 1 and 3 for Phase 2)?	None, we only need one Bid Securing Declaration Form regardless of the number of blocks because the penalty is based on capacity.
	All bid proposals shall be accompanied by a Bid Securing Declaration in the form prescribed herein attached as Annex F: Bid Securing Declaration Form as guarantee that the successful bidder shall, within fourteen (14) calendar days from receipt of Notice of Award (NOA), enter into contract with MORE Power.	Other bidder:  For clarification:  Is the Bid Securing Declaration Form per bid or per phase or per block?	Per bid.	Should a bidder join in both Phases in multiple blocks and nominate the same plant for both Phases, does it mean it is considered one bid? Therefore, only one (1) Bid Securing Declaration Form is required to be submitted?	Yes, only one Bid Securing Declaration Form is required.
ITB Section 16.3 vis-à-vis Annex F Bid Security		1. The ITB provides that disqualification is considered a breach of the Bid Securing Declaration Form; while under Annex F, it is an instance when the Bid Securing Declaration ceases to be valid. Believe that it should be aligned and provision in Annex F regarding the same should be followed: ceases to be valid, instead of being considered a breach of the Bid Securing Declaration Form.  2. There is a qualification under the ITB that negotiation beyond the bid validity period is allowed so long as it is done in good faith. Can we align Annex F with ITB and provide for such qualification?	1. Will reconcile instances of disqualification to constitute breach of Bid Securing Declaration Form  2. The 180 days provided under the ITB is not fixed as long as the delay is not deliberate but done in good faith.	We suggest that provision 2(b) of Annex F be read as follows,  <i>Fail or refuse to accept the award and enter into contract or perform any and all acts necessary to the execution of the Contract, in accordance with the Bidding Documents after having been notified of your acceptance of my/our Bid during the period of bid validity, <b><u>unless the parties are continuing negotiations in good faith.</u></b></i>	<i><u>unless the parties are continuing negotiations in good faith, provided that the same does not exceed the five (5) month requirement by the DOE.</u></i>

	<p>The Bid Securing Declaration Form is deemed to have been breached:</p> <p>i. If the Bidder withdraws its Proposal or one of its proposal (for multiple proposals) after Opening during the period of Proposal validity; or</p> <p>ii. In the case of the Winning Bidder/s, if the Bidder/s fails within the specified time limit to sign the PSA, unless the parties are continuing negotiations in good faith;</p> <p>iii. In the event that the TPBAC finds the Bidder to have committed Fraudulent and Corrupt Practices as specified in Section 36; or</p> <p>iv. In case the Bidder is disqualified at any stage of the Bidding process as provided for in this ITB.</p>	<p>In relation to item (iv), one of the grounds for disqualification in the ITB is Section 31.1(a) which states “failure to submit all the requirements in accordance with and as provided for in Section 13, Section 14, and Section 15”. Does this mean that if a bidder decides not to proceed with the submission of its bid, its bid security will already be forfeited?</p> <p>If so, we note that this is not in line with the purpose of the Bid Securing Declaration Form, which is being executed by the bidders as guarantee that the successful bidder shall sign a PPSA with MORE power.</p> <p>We have the same observation as well for Section 31.1(b).</p> <p>Accordingly, we propose to revise item (iv) as follows:</p> <p>“In case the Bidder is disqualified at any stage of the Bidding process as provided for in this ITB, except if the disqualification is due to the instances provided in Sections 31.1 (a) and (b).”</p>	<p>We will identify the grounds for disqualification, ineligibility, and breach of the Bid Securing Declaration Form.</p>	<p>To clarify, does the answer mean MORE Power will send revised grounds for disqualification, ineligibility, and breach of the Bid Securing Declaration Form?</p> <p>If not, please reconsider our proposed revision on item (iv):</p> <p>“In case the Bidder is disqualified at any stage of the Bidding process as provided for in this ITB, except if the disqualification is due to the instances provided in Sections 31.1 (a) and (b).”</p>	<p>ITB will be amended.</p>
<p>Section 19.3 Format and Signing of Proposals</p>	<p>The Financial Proposal shall be encoded in the Financial Proposal Form prescribed in Annex D-1: Financial Proposal Forms- Phase 1 and Annex D-2: Financial Proposal Forms- Phase 2 and in a template Excel file named “[Name of Bidder]Financial Proposal to MORE Power.xls” saved in USB flash drive. The data entries in the Excel file shall be password-protected by the Bidder to avoid inadvertent modification of the Proposal. The USB flash drive shall be placed in a sealed envelope as provided for in Section 20.</p>			<p>Clarification:</p> <p>Does the USB contains only the Financial Proposal or including the Legal and Technical Requirements/Documents?</p> <p>Would the USB be on a per block or per phase? Or 1 USB per bidder?</p> <p>If the bidder will bid for 2 blocks for Phase 1 and 3 blocks for Phase 2, would the bidder submit 6 USBs (2 for Phase 1 and 3 for Phase 2)? Or 1 USB with all the 6 Financial Proposal(2 for Phase 1 and 3 for Phase 2) will suffice?</p>	<p>USB to contain only the excel file of the Financial Proposal Form. One (1) USB per bidder.</p>
<p>ITB Section 19.5 Format and Signing of Proposals</p>		<p>We would like to confirm if there will be two (2) USB to be included in the Second Bid Envelope?          USB 1: containing the Excel file for the Financial Proposal          USB 2: containing all the bid proposal documents (Legal Documents, Technical Proposal, and Financial Proposal in Microsoft Word or PDF format)</p>	<p>Bidders are only required to submit electronic copy of their Financial Proposal</p>	<p>Does this mean that we do not need to submit electronic copy/scanned copy of the Legal Requirements and Technical Proposal? So the flash drive under Item 1.1.2 of the Checklist for Financial Requirements only contains the excel file of the Financial Proposal Forms?</p>	<p>Yes, for Financial Requirements only.</p>

	In addition to the Excel file for the Financial Proposal required under Section 15, the electronic copy of documents comprising the Legal Documents, Technical Proposal, and Financial Proposal shall be in Microsoft Word or PDF format with filenames descriptive of the content. The files shall be organized and sequenced in the same order prescribed in Annex B: Checklist of Bid Proposal Requirements.	We would like to confirm if there will be two (2) USB to be included in the Second Bid Envelope? USB 1: containing the Excel file for the Financial Proposal USB 2: containing all the bid proposal documents (Legal Documents, Technical Proposal, and Financial Proposal in Microsoft Word or PDF format)	Bidders are only required to submit electronic copy of their Financial Proposal	Noted on the instruction that only the Financial Proposal is required to be in USB. However, in your instruction in Section 19.5, it states that "the electronic copy of documents comprising the Legal Documents, Technical Proposal, and Financial Proposal shall be in Microsoft Word or PDF format with filenames descriptive of the content."  Please confirm if we will disregard that instruction and rather submit only (1) USB containing only Excel file for the Financial Proposal	To amend Section 19.5 of the ITB removing the requirement for electronic copy of Legal and Technical Requirements.
Section 21/Invitation to Bid 4. Instruction to Bidders	The Bid Proposal must be received by the TPBAC on or before 1:00 PM (Philippine Standard Time) of July 12, 2021 in GST Corporate Center, Quezon St., Brgy. Sampaguita, 5000 Iloilo City. The Proposal is considered received by the TPBAC the moment it is dropped in the submission drop box.			Due to the travel restrictions, we would like to clarify if an electronic copy/submission with proof of mailing of the hard copies via courier will suffice as an official submission during the opening of bids?	No, only hard copies will be accepted.
21.1	The Bid Proposal must be received by the TPBAC on or before 1:00 PM (Philippine Standard Time) of July 12, 2021 in GST Corporate Center, Quezon St., Brgy. Sampaguita, 5000 Iloilo City. The Proposal is considered received by the TPBAC the moment it is dropped in the submission drop box.	We suggest that soft copies sent before the deadline, together with proof of delivery of the hard copies of the Bid be considered. This is to give consideration to the possible delivery issues of the courier that are beyond the control of the Bidder.	Physical copy of the bid is required to be received on the day of the bid opening. We are moving the bid opening tentatively to Aug. 13, 2021 to give ample time to bidders to prepare the bid documents and to send physical copy of their bids.	We respectfully request TPBAC to reconsider this position. Because of the pandemic, courier documents do not arrive in 24 hours anymore. They take a few days to arrive in Iloilo. There is a way to submit electronically. The time stamp on the electronic transmissio can be proof that we submitted on time. And then the to prevent premature opening of documents, we can password protect the documents and the Bidders simply send the password shortly before bid submission deadline (on the hour). There is a way to do this electronically. We respectfully request TPBA to reconsider. Thank you.	No.  1. We are not ready to entertain questions on authenticity. 2. You need an app to run the evaluation. 3. We need to amend the ITB and go through the whole process of sending the same for comments and approval to all bidders which may exceed the time limitation of the CSP Process.
ITB Section 24.4 Opening of Bids		Please clarify further what do you mean by "not properly sealed and marked" documents?	Integrity of submitted documents are maintained = sealed; addressed to the MORE TPBAC and contract being bid.	What do you mean by "contract being bid"? Will the inclusion of "Supply of Power with Contract Capacity of 20 MW (Phase 1) and 25 MW (Phase 2)", in the marking of bid documents suffice this?	Kindly refer to Section 20 for marking. "contract being bid" means whether it is for Phase 1 or Phase 2.
24.13	Should the lowest Levelized Rate result in a tie, the TPBAC shall use a nondiscretionary and non-discriminatory measure based on sheer luck or chance by DRAWING OF LOTS to determine the Winning Bidder/s. The procedure shall be as follows:	Can MORE consider adopting an alternative way of breaking the tie? Suggestion is for Bidder to submit another form (e.g. grant of discount) which will only be opened in case of a tie-breaking. Or ask the two bidders to do a second round of bidding the next day and have a chance to improve their offers.	N). (this tie-breaker was approved by the TPBAC after 8 hours of deliberation, so we need more than that time to entertain any other alternative.)	We respectfully request TPBAC to reconsider this position. We appreciate the fact that it took TPBAC 8 hours to deliberate on this - but if we allow the tied bidders to improve on their bids, then ultimately the consumers will benefit because they get a much lower energy cost. Please reconsider. Thank you.	Denied. To preserve the integrity of the bidding process and to dispel any iota of doubt.

ITB Section 27 Declaration of Winning Bidders	An affirmative determination (i.e., compliance to all legal, technical, and financial requirements, conditions for technical proposal) after the evaluation under Section 26 by the TPBAC shall mean that Bidder/s with the lowest Levelized Rates filling the capacity requirements in Phase 1 and Phase 2 will be declared as the Winning Bidder/s.	There are two Levelized Rates computed in the Bid Form - Levelized Rates VAT Exclusive and VAT Inclusive. Need to confirm that basis of selecting winning bidder/s is Levelized Rate VAT Inclusive and that Levelized Rate VAT Exclusive is for information only.	Only Levelized Rate VAT inclusive.	Can MORE reconsider so that it will be indeed technology-neutral and not discriminating non-RE technology.	Such is an inherent advantage of an RE but there are also inherent advantages for other technologies. Otherwise, using this argument, all CSP to be conducted shall be won by Res, which is not happening.
	Invitation to Bid (2. Minimum Requirement of Supply), Delivery Point is at MORE metering nodes, LR shall be for the account of Bidder	No LR in the computation of LCOE	Cannot be ascertained, thus, will be neutral factor. What does the proponent suggest?	We respectfully suggest that LR be included in the computation of LCOE. This is the case in other CSPs (e.g., 1Bohol CSP, Meralco CSPs, etc.). Inclusion of LR in the LCOE computation enables TPBAC to accurately compute LCOE and compare bids uniformly. It also ensures that LR is incorporated as part of and not forgotten in the bid price in view of the fact that LR is for the account of the Supplier. We kindly request TPBAC to reconsider. Thank you.	Denied. Bidder must ensure that the Line Rental is already included in the computation of their bid offer.
	VAT Rate for Mix	Will the bidders be allowed to provide an annual input on the VAT mix portion?	Yes, as long as he can make good on that rate and not be subject to actual percentage upon implementation every year as this will affect the LCOE.	We respectfully request TPBAC to amend the Financial Bid form to enable annual inputting of VAT. Currently, the form only allows one input of VAT at the start, which VAT rate is applied uniformly throughout the 10-year term of the PSA. Thank you.	Acceptable as long as the bidder will make good on its rate as offered and upon contract execution regardless of the actual VAT rate for that particular year.
				For a plant that is undergoing commissioning, will it submit the documentary requirements of an existing plant or a new plant? We respectfully note that the plant is already constructed and practically about to achieve commercial operations. Please confirm our understanding that it will be required to submit the requirements for an existing plant. Thank you.	A bidder whose plant has a Provisional Authority (PA) shall submit requirements for an existing plant. Otherwise, shall submit requirements for a new plant.
				For the Financial Bid Form, please do not delete the "mix" option in the pull down menu. This applies to a JV bidder that intends to submit a hybrid/blended supply. If we remove the "mix" option, a hybrid JV will have no way to put in its bid in the Form. Example, a ROR Hydro + diesel supply, it cannot be in the "RE" option, or the "conventional" option. It has to be in the "mix" option. Please also allow the bidder to manually input the VAT for this "mix" option (i.e., its not fully 0% because it's not fully RE, so the bidder should be allowed to apply weighted average on the VAT to account for the RE component of the hybrid supply.) Please reconsider. Thank you.	Yes, we will allow the bidder to manually input the VAT for "mix" option.

<p>Section 31 Ground for Disqualification</p>	<p>In addition to the grounds specified in Section 6.2 which also result in the breach of Bid Securing Form, the following are also grounds for the rejection of the proposals and/or disqualification of the Bidders;</p> <ul style="list-style-type: none"> <li>a) Failure to submit all the requirements in accordance with and as provided for in Section 13,14 and 15;</li> <li>b) Failure to submit a bid securing form as provided for in Section 16;</li> <li>c) Levelized Rate indicated in the proposal is denominated in a foreign currency as provided in Section 17;</li> <li>d) In the event of collusion as provided for in Section 36; and</li> <li>e) Commission of any of the corrupt practices listed in Section 36</li> </ul>			<p>Clarification: Does this mean, if a bid was rejected due to lack of required documents, does the bidder be blacklisted and at the same time pay the fine of Php 1M/MW?</p>	<p>No.</p>
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## MORE ELECTRIC AND POWER CORPORATION

RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION

Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)

Section	Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	TPBAC Answer
Annex B_Checklist 1.1.5	Updated Mayor's Permit... <b>latest Tax Clearance..</b>			With the postponement on the submission of bid documents, our Tax Clearance will already expire a week before August 13. Can we still use this while we await for a new one as we are also anticipating delays.	In lieu of a Tax Clearance Certification, the submission of a document specifying the bidder has no outstanding tax obligation ("Certificate of No Outstanding Tax Liability" from a BIR Regional Office) or is not in the master list of delinquent taxpayers, issued by the local district revenue office of Bureau of Internal Revenue shall be sufficient provided that bidder submits the new Tax Clearance during Post-Qualification.
Annex B Checklist for Bid 1.2.1 Certifications/ Other Documents		For clarification: Does MORE have a specified format for this requirement?  Should the authorization be in the Secretary's Certificate?	No specified format but should be in a Sec Cert.	Can we submit a document, which is not necessarily in the form of a Secretary's Certificate, containing the required details of the Authorized Representatives, together with a copy of the Secretary's Certificate designating the Authorized Representatives for this CSP?	Must be embodied in a Secretary Certificate.
Annex B_Checklist 2.1.	Technical Proposal for Existing Plants			Can we consolidate submissions for items 2.1.1 to 2.1.4 (ie submit only one (1) set of COC/PAO and latest MOR for the 4 items?)	One (1) set of COC/PAO and latest MOR for the technical requirements.
Annex D	Financial Proposal			Would there be a special bid conference for the financial proposal template? If none, we would like to suggest to have one.	Will include during the Second Pre-bid Conference.



## MORE ELECTRIC AND POWER CORPORATION

RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION

Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)

Section	Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	MORE Power Answer
Outage Allowance	Zero outage power supply	Since the bidding is open to all technologies even if the requirement is baseload supply, we would like to confirm that this will also allow supply type from solar plant. Such that, in times of non-generation of the plant, Power Supplier shall be allowed to supply from its portfolio of generationsources including the WESM at agreed contract price. This will alsoensure that the 100% availability requirement of More Power is addressed. This is to confirm of our understanding also of the provision indicated in Section 4.1 of the draft PSA.	Confirm.	Solar or VRE should not be allowed as the primary bidder and the primary source of supply. It will not afford power security to MORE. Also, this will not be consistent with Section 4.1 of the PSA which requires that the power should primarily come from the nominated plant. It also goes against the CSP requirement that the plant should be dispatchable. Solar maybe allowed but not as the primary source of power because this CSP is for baseload supply.	Section 4.1 of the PSA will be deleted. Thus, the requirement that the power should primarily come from the nominated plant is no longer applicable because of the provision on replacement power.
		it is not clear in the ITB in which price component shall the bidder incorporate the line rental fee. Can you also clarify which charges are accounted for the buyer, and for the seller?	Line Rental is not part of any price component and shall not be part of the financial bid evaluation.	We respectfully suggest that LR be included in the computation of LCOE. This is the case in other CSPs (e.g., 1Bohol CSP, Meralco CSPs, etc.). Inclusion of LR in the LCOE computation enables TPBAC to accurately compute LCOE and compare bids uniformly. It also ensures that LR is incorporated as part of and not forgotten in the bid price in view of the fact that LR is for the account of the Supplier. We kindly request TPBAC to reconsider. Thank you.	Denied. Bidder must ensure that the Line Rental is already included in the computation of their bid offer.
	Zero outage power supply	Other bidder:  Since the bidding is open to all technologies even if the requirement is baseload supply, we would like to confirm that this will also allow supply type from solar plant. Such that, in times of non-generation of the plant, Power Supplier shall be allowed to supply from its portfolio of generation sources including the WESM at agreed contract price. This will also ensure that the 100% availability requirement of More Power is addressed.	Confirmed	If the facility is on outage but Supplier still declares the, is that considered replacement power?  Is the supplier's sourcing of power from the WESM categorized as "normal supply condition?"	If you mean "still declares the BCQ", then yes, it will still be considered replacement power.  Yes, supplier's sourcing of power from the WESM is categorized as normal supply condition.
Minimum Hourly Submission	50% of Contracted Capacity (MW)		I be allowed minimum hourly nomination equivalent to 50% of the contracted capacity in consideration to any forced outage of its substations, distribution lines and any unforeseen failure of its distribution system	Buyer shall be allowed minimum hourly nomination equivalent to 50% of the contracted capacity <b>or pro-rated demand whichever is higher</b> in consideration to any forced outage of its substations, distribution lines and any unforeseen failure of its distribution system.	Denied. Pro-ration of demand can only happen if rates between suppliers are the same
Reduction in Contract Capacity	The Contract Capacity and Associated Energy shall be reduced equivalent to the reduction in the	How will the reduction be allocated to the different Suppliers? Will MORE Power provide its Suppliers the list of switched CCs?	Reduction by proportionate allocation to the contract capacity of each supplier.	can MORE provide the information of CCs (existing) and upcoming contestable customers?	Information is available at the ERC website for existing CCs.

	The Contract Capacity and Associated Energy shall be reduced equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements.	Proposed revision:  The Contract Capacity and Associated Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements. Provided further that any reduction shall require approval of the ERC and must comply with all applicable rules of competition set by the Government.	Consider adapting with revision:  The Contract Capacity and Associated Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements.	Proposed revision:  "The Contract Capacity and Associated Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements; provided further that any reduction shall require approval of the ERC and must comply with all applicable rules of competition set by the Government."  The additional wordings take into consideration that ERC is the final approver of any such reductions.	Denied.
		Proposed revision:  The Contract Capacity and Associated Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements. Provided further that any reduction shall require approval of the ERC and must comply with all applicable rules of competition set by the Government.	Consider adapting with revision: The Contract Capacity and Associated Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of MORE Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or other relevant Laws and Legal Requirements.	We respectfully suggest it to be average (to capture the load profile).E15	Denied.
		May we propose that by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Law, or	Consider adapting with revision: The Contract Capacity and Associated Energy shall be reduced proportionately	We suggest to use average demand.	Denied.
Replacement Power	The supplier is responsible to supply replacement power. In the event of failure of supplier to provide the replacement power, MORE Power shall be allowed to find replacement power but shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWhr.	The Supplier is responsible to supply replacement power. In the event of failure of the Supplier to provide the replacement power, MORE Power shall be allowed to find replacement power but shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWh.		We suggest the following revision:  In the event the Supplier fails to provide replacement power, MORE Power shall be allowed to find replacement power, <b>but the difference in the price</b> shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWhr.  Is WESM an eligible source for replacement power?	In the event the Supplier fails to provide replacement power, MORE Power shall be allowed to find replacement power, but the difference in the price shall be for the account of the Supplier including payment of administrative fee of Php 0.35/kWhr.  Yes.
	The Supplier is responsible to supply replacement power.  In the event of failure of the Supplier to provide the replacement power, MORE Power shall be allowed to find replacement power but shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWh.	Proposed revision:  xxx  In the event of failure of the Supplier to provide the replacement power, in coordination with the Seller, MORE Power shall be allowed to find replacement power but shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWh.  For the avoidance of doubt, administrative fee of Php 0.35/kWh shall only be applied if MORE Power finds its own Replacement Power.	Accepted.  In the event of failure of the Supplier to provide the replacement power, in coordination with the Seller, MORE Power shall be allowed to find replacement power but shall be for the account of the Supplier, subject to the payment of administrative fee of Php 0.35/kWh.  For the avoidance of doubt, administrative fee of Php 0.35/kWh shall only be applied if MORE Power finds its own Replacement Power.	If the facility is on outage but Supplier still declares the, is that considered replacement power?  Is Supply sourced by MORE Power from WESM considered a replacement power?	If you mean "still declares the BCQ", then yes, it will still be considered replacement power.  Yes, supplier's sourcing of power from the WESM is categorized as normal supply condition.

<p>Contracted Capacity</p>	<p>A bidder may submit a Bid for more than one (1) block; provided, that each block shall have an offered contract capacity of a minimum of 10MW to a maximum of 20MW.</p> <p>1. Can we be clarified on the rationale for limiting a bid proposal to a minimum of 10 MW and maximum of 20 MW when most, if not, all Bidders can possibly offer and supply the full 20MW and 25MW for Phases 1 and 2 respectively?</p> <p>2. For Phase 2, can a Bidder bid 30MW and if he is declared the Winning Bidder, said Bidder will only supply 25MW?</p>		<p>1. This is to create more competition in the bid offers and to increase the diversity in the number of suppliers.</p> <p>2. No, the maximum a bidder can bid for Phase 2 is 3 blocks of 10 MW for a total of 30 MW. The remainder of 5 MW will be awarded to the next lowest offered levelized rate block.</p>	<p>For Phase 2, please clarify why is the Bidder who can bid for 30 MW (3 blocks of 10 MW) can be declared a winning Bidder only for a maximum of 20 MW even when its bid for the entire 30MW is the lowest? Shouldn't said Bidder be declared the winning bidder for the entire 25 MW in order for MORE Power's consumers to enjoy the lowest bid/least cost? Why should the 5 MW be awarded to another Bidder whose bid is higher than the Bid Price of the Winning Bidder for the 20MW?</p>	<p>The maximum a bidder can bid for Phase 2 is 3 blocks of 10 MW for a total of 30 MW. The maximum capacity that can be awarded is only 25MW.</p>
	<p>A bidder may submit a Bid for more than one (1) block; provided, that each block shall have an offered contract capacity of a minimum of 10MW to a maximum of 20MW.</p>	<p>May we be clarified on the definition of "block" and include such in the ITB?</p> <p>Suggest to align the MW minimum and maximum capacity per block indicated in the drop-down selection in Annex D-1 and D-2 for the offered capacity</p> <p>Proposed revision:</p> <p>A bidder may submit a Bid for more than one (1) block; provided, that each block shall have an offered contract capacity of a minimum of 10MW to a (i) maximum of 20MW for Phase 1; and (ii) maximum of 25MW for Phase 2.</p>	<p>A unit block is equivalent to 10 MW.</p> <p>For Phase 1, a bidder can offer up to two (2) blocks of 10 MW for a total of 20 MW.</p> <p>For phase 2, you can only offer a maximum of 3 blocks with 10MW each. The next lowest bidder offering for the unmet capacity requirement should honor the bid offer rate despite being awarded lower than its offered capacity.</p>	<p>Please confirm that bidder with an offer of three (3) 10MW for Phase 2 can be awarded of the entire 25MW.</p> <p>Please confirm that the "bid offer rate" means the bid price of the next lowest bidder.</p> <p>On submitting more than 1 block offer, we understand that the bidder will do this so as it will have different pricing. Will it be deemed as different bids? If it will be deemed as different bids, will it be considered different bids with separate compliances and payments (bid securing declaration form)?</p>	<p>Yes.</p> <p>No. The Bid offer rate refers to the bid price/bid proposal per block of the Bidder.</p> <p>Bidder may offer any rate for any block. Bidder shall submit maximum of two (2) Bid Prices for Phase 1 and three (3) Bid Prices for Phase 2. Any excess shall be considered as multiple bids which is a ground for disqualification.</p>

<p>Supply Type</p>	<p>(1) Can the supply of the Contract Capacity and Associated Energy or any portion thereof, at the target supply date of January 26, 2022 (Phase 1) and July 26, 2022 (Phase 2) come from the Nominated Power Plant of the Winning Bidder and not from any other source including the WESM?</p> <p>(2) It is suggested that the Nominated Power Plant should be capable of generating the Minimum Hourly Nomination of 50% of the Contract Capacity and not simply sourcing any portion of it from other power plants including the WESM.</p>		<p>1. Supply can come from other sources. Under normal operation, supply should come from nominated power plant. However, for force majeure conditions wherein the nominated power plant cannot deliver its supply, replacement power provision will take effect.</p> <p>2. Yes. Requirement is 100% of contracted capacity in hourly nomination.</p>	<p>We would like to point out that sourcing of replacement power from other sources including the WESM is only allowed and required in the instances provided in the PSA Article 4.8 Scheduled and Unscheduled Outages and not during normal operation. Further, based on Article 9 Force Majeure of the PSA, the affected party shall be excused from the performance of its obligations and shall not be considered to be in default in respect of its obligations. Therefore, we respectfully believe that the "replacement power" provision is not applicable.</p>	<p>The PSA provisions are subject to amendments. Replacement power from the WESM shall be allowed and supplier's sourcing of power from the WESM shall be categorized as normal supply condition.</p>
	<p>The power plant shall be compliant with the prevailing DENR's emission and environmental standards.</p>	<p>What are the specific documents to be submitted as proof of Bidder's compliance with DENR's emission and environmental standards?</p> <p>Provided that MORE Power recognizes new plants and that the PSA shall take effect on January 26, 2022 and July 26, 2021, we respectfully request that the compliance with the prevailing DENR's emission and environmental standards requirement shall only be required for the existing power plants as new plants, at the time of bid submission, may still be in the process of securing test results in view of on-going commissioning works.</p> <p>For the new power plants, we would like to emphasize that the compliance to the prevailing DENR's emission and environmental standards is already embodied/ pre-requisite in the COC issued by the ERC. Thus, please refer to the proposed revision:</p> <p>The existing power plant shall be compliant with the prevailing DENR's emission and environmental standards. While for the new plants, the Bidder shall be allowed to submit alternative documents in compliance with the Republic Act (RA) No. 8749 Philippine Clean</p>	<p>COC is sufficient in lieu of DENR's emission and environmental standards</p>	<p>To further clarify, the COC or the Certification from the ERC regarding the Application of COC is sufficient for new plants?</p>	<p>No.</p>

		<p>Other Bidder:</p> <p>1. Can the supply of the Contract Capacity and Associated Energy or any portion thereof, at the target supply date of January 26, 2022 (Phase 1) and July 26, 2022 (Phase 2) come from the Nominated Power Plant of the Winning Bidder and not from any other source including the WESM?</p>	<p>Supply can come from other sources.</p> <p>Under normal operation, supply should come from nominated power plant. However, for force majeure conditions wherein the nominated power plant cannot deliver its supply, replacement power provision will take effect.</p>	<p>We would like to respectfully inquire if this term is subject for negotiation upon finalization of the PSA (events, considerations, and FM on Buyer's and Seller's side). Please note that under usual FM regime, Parties' obligations are deemed suspended.</p> <p>We would like to request for MORE's consideration on this provision given that FM events are more often than not already an adverse event for the affected Party. Hence, in the case of the Seller, we would like to respectfully suggest that it may provide power supply to MORE at the cost of the replacement power whether sourced from other facilities or the WESM.</p> <p>For purposes of discussion, we would like to confirm if MORE also commits to guarantee capacity payments if it is unable to receive power from its end due to FM events.</p>	<p>Amend:</p> <p>Supply can come from other sources.</p> <p>Under normal operation, supply should come from nominated power plant. However, for scheduled and unscheduled outages wherein the nominated power plant cannot deliver its supply, replacement power provision will take effect.</p>
<p>Technical Parameters (Performance &amp; Eligibility Requirements)</p>	<p>(1) If a Bidder nominates more than one (1) power plant as source for the supply of the Contract Capacity &amp; Associated Energy, will these requirements (Certificate of Compliance, among others) be submitted for all the plant sources?</p> <p>(2) Can the Bidder's Company Profile be limited to the submission of a Table of Organization of its organic officials/employees not including "consultants and/or management team", if any?</p>		<p>1. <b>Yes</b></p> <p>2. Organic management team is required whereas consultant is optional.</p>	<p>Please clarify the answers provided to the query "ITB Section 26.1" on page 25 of Bid Bulletin 005, which mention that "Only for the nominated plant as the other plants in the portfolio can only be considered as a source of replacement power" vs. the answer in this query as there seems to be an inconsistency.</p>	<p>Original question mentions more than one plant while ITB Section 26.1 mentions only for the nominated plant.</p>
<p>Contract Period</p>	<p>Phase 1: 20MW The PSA shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years.</p> <p>Proposed revision: The PSA shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years subject to the receipt of ERC 's approval.</p> <p>Accordingly, shall the end date be adjusted depending on the issuance of regulatory approvals?</p>		<p>The PSA provision on delivery of power shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years <b>not subject to the ERC 's approval.</b></p>	<p>Please clarify the answers provided to the query "ITB Section 4" on page 4 of Bid Bulletin 005 which mention that <b>the commencement of supply is after an ERC Approval</b> vs. the answer in this query as there seems to be an inconsistency.</p>	<p>Ideally, ERC Approval shall be secured but it is not a condition precedent as Regulatory Approval is needed before billing the customers. Thus, Supplier is still required to make delivery on the delivery date January 26, 2022 even without ERC approval.</p>

	Phase 1: 20MW The PSA shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years.	Proposed revision: The PSA shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years subject to the receipt of ERC 's approval.  Accordingly, shall the end date be adjusted depending on the issuance of regulatory approvals?	The PSA provision on delivery of power shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years not subject to the ERC 's approval.	Proposed revision: "Subject to the receipt of ERC 's approval, the PSA shall take effect on January 26, 2022, 00:00H and shall remain effective for a period of ten (10) years."  The bidder is referring to the regulatory approvals before the PPSA may take effect. The additional wordings take into consideration that ERC is the final approver in this regard.	Ideally, ERC Approval shall be secured but it is not a condition precedent as Regulatory Approval is needed before billing the customers. Thus, Supplier is still required to make delivery on the delivery date January 26, 2022 even without ERC approval.
Annual Contract Energy and Minimum Hourly Demand	Annual Contract Energy is at 100% of the Contracted Capacity, Minimum Hourly Nomination is at 50% of Contracted Capacity (MW).			Notwithstanding FM, can the 50% be revisited to a more baseload like utilization rate?	Buyer shall be allowed minimum hourly nomination equivalent to 50% of the contracted capacity in consideration to any forced outage of its substations, distribution lines and any unforeseen failure of its distribution system.  However, the Seller is guaranteed 100% energy equivalent of the Contracted Capacity for payment of Fixed Costs (CRF & FOM), subject to adjustment due to Force Majeure, if applicable.  The PSPP of MORE shows the load duration curve for 45MW at 95%. With this, Bidder should not worry on the actual energy utilization of MORE.
Penalty in case of Delay in Construction of new power plants	In the case of new generating capacities, the power plant shall be in Commercial Operation and supplying stable power thirty (30) days prior to January 26, 2022, 00:00H for Phase 1 and thirty (30) days prior to July 26, 2022, 00:00H for Phase 2. Should there be delay in construction and commercial operation of new generating capacities, the defaulting supplier shall be penalized with administrative fee of P0.35/kWh on top of the replacement power cost.	Other bidder: In case of delay in construction and/or commercial operation of new generating capacities of the Supplier or failure to deliver the associated energy to the Buyer from the Supplier's own power plant, will MORE Power consider waiving the penalty in the event that the supplier is able to provide a replacement power at the agreed tariff commencing from the contract period start date until such time that the Supplier's own power plant is able to deliver the associated energy to the customer/buyer.	No. Administrative fee will be implemented.  Amended provision: A) In the case of new generating capacities that will be supplying the Contracted Capacity on January 26, 2022 for Phase 1 or July 26, 2022 for Phase 2, as the case may be, the power plant shall be in Commercial Operation and supplying stable power thirty days prior to January 26, 2022 00:00H for Phase 1 and thirty (30) days prior to July 26, 2022 00:00H for Phase 2. Should there be delay in construction and commercial operation of new generating capacities, the defaulting supplier shall be penalized with administrative fee of P0.35/kWh on top of the replacement power. B) But if the bidder can prove that it has an existing plant that has the uncontracted capacity to supply all of the Contracted Capacity on January 26, 2022 00:00H for Phase 1 or July 26, 2022 00:00H for Phase 2, then this penalty shall not apply, even if it plans to build a new generating capacity to augment the supply.	On the amended provision, is the existing plant under item B required to be declared as a nominated plant? If no, does it have to be part of the Winning Bidder's generation portfolio?	The existing plant and the nominated plant shall be part of the Winning Bidder's generation portfolio.

<p>Tariff Structure</p>	<p>4. Fuel in P/kWh (As may be applicable)  No Take-or-Pay (Based on actual energy delivered)  Inclusive of Fuel Handling &amp; Freight Costs</p> <p>The Bidder must specify the source of the base fee adjustment factor used such as CPI and Forex.</p>	<p>Other bidder:</p> <p>If it is allowed, and a Bidder plans to source the Contract Capacity and Associated Energy, or any portion thereof, from a portfolio of power plants including the WESM, how will a specific adjustment formula for any of the tariff component relate to such sourcing?</p>	<p>There will be no formula for adjustment by means of changing source of supply. Approved contract price and power replacement provisions will be applied.</p>	<p>Is the supplier's sourcing of power from the WESM categorized as "normal supply condition?"</p>	
<p>Grounds for Termination</p>	<p>1. Failure of seller to comply;</p> <p>2. All units cease or discontinue to generate electricity for a period of six (6) consecutive months;</p> <p>3. Prolonged Force Majeure for a period in excess of six (6) consecutive months.</p> <p>"Force Majeure" shall mean any event not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that (i) such event, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by the Party affected, (ii) the Party affected has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Party's ability to perform its obligation, and to mitigate the consequences thereof, and (iii) such event is not the direct or indirect result of a Party's negligence or the failure of such Party to perform any of its obligations. An event of Force</p>	<p>Proposed revision:</p> <p>Both parties shall exert their best efforts and exhaust all remedies available for this agreement to survive. The parties may agree to arrange for a Replacement Power at contract price or ERC- approved rate during prolonged Force Majeure.</p> <p>Suggest to delete items 1 to 3.</p> <p>Clarifications:</p> <p>For item 2, please reconcile the ground for termination with Section 4.1 of the draft PSA wherein the Supplier is allowed to provide the Contracted Capacity by sourcing from other facilities, including the WESM, at Contract Price.</p> <p>For item (h), can MORE elaborate on the following statement:</p> <p>(h) ... "except line congestions on the existing facilities of the Buyer to the Grid or acts of any third party that may materially affect the capability of Buyer to draw power from the NGCP grid,"...</p> <p>Can MORE provide an example for this</p>	<p>1.) We will remove it as ground for termination.</p> <p>(h) As is.</p> <p>* We reserve the discussion on the provisions of the PSA with the winning bidder.</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes.</p>



## MORE ELECTRIC AND POWER CORPORATION

RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION  
Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)

Section	Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	TPBAC Answer
Annex G Draft PSA Schedule 5 Electricity Fees	<p>Electricity Fees = Fixed Fee + Variable Fee</p> <p>Fixed Fee = ( CRF + F O&amp;M ) x Contracted Energy</p> <p>Variable Fee = ( V O&amp;M + Fuel Fee ) x Actual Delivered Energy</p>			<p><b>Suggestion:</b> Include the "Actual Energy Delivered" in the Definition of Terms in Schedule 1</p> <p>"Actual Energy Delivered" shall be the total energy received by MORE regardless of the source of power.</p> <p>This is to include the replacement power that the Supplier would be sourcing</p>	Definition to be added in the PSA
3.2	<p>3.2 Responsibilities of SELLER. In addition to its other responsibilities herein:</p> <p>3.2.1 SELLER shall supply and/or cause the supply of the Contracted Capacity and its Associated Energy to BUYER during the Cooperation Period in accordance with the terms and conditions of this Agreement.</p> <p>3.2.2 SELLER shall comply with all Applicable Requirements in force from time to time during the term hereof required for the performance of its obligations hereunder.</p> <p>3.2.3 SELLER shall provide all necessary and reasonable assistance to BUYER in its application for the approval of this Agreement before the ERC</p>	<p>Proposed revision:</p> <p>xxx</p> <p>3.2.1 SELLER shall supply and/or cause the supply of the Contracted Capacity and its Associated Energy to BUYER from its Power Plant, WESM and other sources during the Cooperation Period in accordance with the terms and conditions of this Agreement.</p> <p>xxx</p>	We reserve the discussion on the provisions of the PSA with the winning bidder	Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.	Yes

4.1	<p>ARTICLE 4 SUPPLY OF ELECTRICITY</p> <p>4.1 Supply of Electricity.</p> <p>SELLER shall make available to the BUYER during the Cooperation Period the Contracted Capacity and its Associated Energy in accordance with the terms of this Agreement. The Parties agree that SELLER shall have no obligation to supply more than the Contracted Capacity and the Associated Energy, except as otherwise provided in this Agreement.</p> <p>The SELLER shall make available the Contracted Capacity and its Associated Energy primarily from the Plant but shall have the sole exclusive right, without regard to the availability of the Contracted Capacity at the Delivery Point, to source energy the Contracted Capacity from the WESM, or its successor wholesale market, or any other sources. If the Contracted Capacity is sourced, in whole or in part by the SELLER from the WESM or any other sources pursuant to this paragraph, it shall have the same effect as though energy is made available from the Plant to the Delivery Point.</p>	<p>Proposed revision:</p> <p>xxx. If the Contracted Capacity is sourced, in whole or in part by the SELLER from the WESM or any other sources pursuant to this paragraph, it shall have the same effect as though energy is made available from the Plant to the Delivery Point. The ERC-approved rate, regardless of the source, shall be applied.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
4.2	<p>4.2 Additional Contracted Capacity.</p> <p>In the event that SELLER has available capacity from the Plants which BUYER may require in addition to the Contracted Capacity, SELLER shall have the right (but not the obligation) to supply BUYER the additional capacity (the "Additional Contracted Capacity"). The Additional Contracted Capacity and its Associated Energy shall be subject to the same Electricity Fees as provided in Schedule 5 and, unless otherwise modified in writing by the Parties, the supply thereof shall be subject to the terms and conditions of this Agreement.</p>	<p>Proposed additional provision:</p> <p>"Upon written notice to the Seller, the Buyer may, upon approval of the Seller, increase its Contracted Capacity, which increase shall be subject to the same terms and conditions contained herein. In considering whether or not to approve a request for increase in Contracted Capacity, the Seller may take into consideration the capacity available for such increase from the Seller's Facility in the Seller's sole opinion, and/or the willingness of any other Buyer to assign its Contracted Capacity. Such increase in Contracted Capacity shall be effective on the date the Seller gives its written approval."</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes

4.3	<p>4.3.1 BUYER shall submit to SELLER the month-ahead and day-ahead nomination schedule as set out in Schedule 6. The month-ahead and day-ahead nomination shall contain the hourly bilateral contract quantities. The month-ahead nomination shall be submitted by the BUYER to the SELLER every 22nd of the month preceding the target trading month. The BUYER shall submit the day-ahead nomination not later than 4:00PM, the day before the target trading date. In the absence of the day-ahead nomination, SELLER shall use the hourly nomination quantities of the applicable trading date based on the month-ahead nomination of the BUYER.</p> <p>4.3.2 If BUYER, at any given trading interval, draws less than its confirmed nomination, the difference between the actual energy drawn by the BUYER and the confirmed nomination shall be deemed sold to the WESM by the BUYER. The WESM proceeds or the WESM payables (in case of negative market clearing price), as the case may be, shall be for the account of the BUYER.</p> <p>4.3.3 If BUYER, at any given trading interval, draws more than its confirmed nomination, the difference between the actual energy drawn by the BUYER and the confirmed nomination shall be deemed purchased from the WESM by the BUYER. The WESM payables or the WESM proceeds (in case of negative market clearing price), as the case may be, shall be for the account of the BUYER.</p>	<p>Can the winning bidder negotiate the timeline stipulated therein afterwards provided that the Parties both agreed? Moreover, can the Winning Bidder propose a nomination protocol in line with the guidelines being currently implemented with its existing DU customers? This is to align processes with its current customer pool and plant dispatch strategies.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
4.7	<p>4.7 Delivery Points. Electric power will be directly delivered to the Receiving Points and shall be at BUYER's metering nodes. Any line rental shall be for the account of the SELLER.</p>	<p>Kindly note that the line rental fee is independently being charged by the IEMOP and is not part of the supplier's cost of generating power. It is ever changing due to several market and grid conditions. Hence, we would like to respectfully suggest for the LR or other fees outside the cost of generation to remain as passed on. Requiring these costs to be part of the generation cost may in turn compel the Supplier to add rate premiums that will make the Contract Price not reflected of the true cost of power.</p>	<p>We reserve the discussion on the provisions of the PSA with</p>	<p><b>We would like to reiterate our position that the line rental fee is independently being charged by the IEMOP and is not part of the supplier's cost of generating power. It is ever changing due to several market and grid conditions. Hence, we would like to respectfully suggest for the LR or other fees outside the cost of generation to remain as passed on. Requiring these costs to be part of the generation cost may in turn compel the Supplier to add rate premiums that will make the Contract Price not reflected of the true cost of power.</b></p> <p><b>As with other CSPs, please note that other DUs considered LR as part of their evaluation yet remained to be a passed-on market charge.</b></p>	Denied.

4.8	<p>4.8 Scheduled and Unscheduled Outage.</p> <p>At least thirty (30) days before the end of a calendar year, but no later than sixty (60) days before any Scheduled Outage, SELLER shall inform the BUYER the number of days of Scheduled Outage for the ensuing calendar year.</p> <p>The Parties understand that the Scheduled Outages of the Plants is subject to the approval of the System Operator.</p> <p>The SELLER shall provide the BUYER the Plant's Outage schedule for the current year.</p> <p>If the power plant encountered unscheduled outage which causes prolonged inability of the plant to supply power to the grid, the SELLER shall have the obligation to inform the BUYER within 24 hours immediately after the plant outage was encountered. The SELLER shall provide information to the BUYER the date and time the plant was cut-off from the grid and the reason of the unscheduled outage. The SELLER shall inform the BUYER of its replacement power plan.</p>	<p>Suggest to delete the 4th paragraph as we deem this is unnecessary and already covered in Section 4.9.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
4.9	<p>4.9 Obligation During Outage.</p> <p>During Outage, SELLER shall supply or cause the supply of replacement power to the BUYER (the "Replacement Power") during the period of the relevant plant's outage. SELLER's supply of Replacement Power shall only be to the extent of the Contracted Capacity. In the event of failure of the SELLER to provide the replacement power, BUYER shall be allowed to find replacement power but shall be for the account of the SELLER, subject to the payment of administrative fee of Php 0.35/kWh.</p>	<p>Please see similar comment in the TOR</p> <p>Proposed revision:</p> <p>During Outage, SELLER shall supply or cause the supply of replacement power to the BUYER (the "Replacement Power") during the period of the relevant plant's outage, whether sourced from the Facility or other third-party supplier including the WESM, at the ERC-approved rate. Xxx</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

5.1	<p>ARTICLE 5 REDUCTION IN CONTRACT CAPACITY</p> <p>5.1 Reduction in Contract Capacity. The Contract Capacity and Associated Energy shall be reduced proportionately with all the power suppliers equivalent to the reduction in the demand of the BUYER by reason of the following:</p> <p>a. the lowering of the threshold of contestability in relation to the implementation of Retail Competition and Open Access (RCOA), or</p> <p>b. the Green Energy Option Program or relevant Renewable Energy Law, or</p> <p>c. the Net Metering Program, or</p> <p>d. other relevant Laws issued by the Philippine Government.</p>	<p>Proposed revision and additional provision:</p> <p>5.1 Reduction in Contract Capacity. Subject to the Parties' mutual agreement, the Contract Capacity and Associated Energy shall be reduced proportionately with all the power suppliers equivalent to the reduction in the demand of the BUYER by reason of the following:</p> <p>a. the lowering of the threshold of contestability in relation to the implementation of Retail Competition and Open Access (RCOA), or</p> <p>b. the Green Energy Option Program or relevant Renewable Energy Law, or</p> <p>c. the Net Metering Program, or</p> <p>d. other relevant Laws issued by the Philippine Government.</p> <p>5.2 The reduction in 5.1 shall be in writing and signed by the Parties, must comply with the Philippine Competition Act and other related laws, and shall take effect upon approval by the ERC.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
6.1	<p>ARTICLE 6 ELECTRICITY FEES</p> <p>6.1 Electricity Fees. In respect of each Billing Month within the Cooperation Period, BUYER shall pay Electricity Fees to SELLER in accordance with Schedule 5. The BUYER shall not be made to pay for electricity fees pertaining to capacity that it can no longer accept due to circumstances mentioned under Article 5 of this Agreement or to capacity that SELLER for some reason is unable to deliver.</p>	<p>Proposed revision:</p> <p>"6.1 Electricity Fees. In respect of each Billing Month within the Cooperation Period, BUYER shall pay Electricity Fees to SELLER in accordance with Schedule 5. The BUYER shall not be made to pay for electricity fees pertaining (i) to capacity that it can no longer accept due to circumstances mentioned under Article 5 of this Agreement, provided that the reduction in Contract Capacity was mutually agreed in writing by the Parties, or (ii) to capacity that SELLER for some reason is unable to deliver."</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
6.4	<p>6.4. Non-Payment. SELLER may bill the BUYER interest charge for non-payment of any undisputed amount billed under this Agreement. SELLER shall compute the interest charge using the rate per annum of the Treasury Bills at due date, multiplied by the number of days from the date when such payment is due until the date such amount is received in full by SELLER.</p>	<p>Proposed Revision</p> <p>xxx. SELLER shall compute the interest charge using the rate per annum of the Treasury Bills based on the (please indicate the website, source, etc.) at due date, xxx</p> <p>We also suggest to include a definition for Treasury Bills in the PPSA as it is currently undefined.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

7.1.1	<p>7.1.1. SELLER shall be responsible for and shall directly make payment to third parties of its obligations for following amounts:</p> <ul style="list-style-type: none"> <li>a. Connection Charges;</li> <li>b. Energy Imbalance Fees in connection with its participation in the WESM;</li> <li>c. WESM line rental charges for the transmission of Associated Energy from the SELLER's WESM Node to the Delivery Point;</li> <li>d. Benefits to Host Communities Charges;</li> <li>e. Value-added tax on any of the foregoing amounts; and</li> <li>f. All other taxes, fees, charges and costs (including penalties) arising from this Agreement that are not expressly permitted to be passed through to BUYER by the terms of this Agreement.</li> </ul>	<p>7.1.1.a. For clarification, which connection charge are you referring to (the point-to-point connection in case of a Generator or the connection charges for the embedded generators?)</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
7.1.2	<p>7.1.2. BUYER shall be responsible for and shall directly make payment to third parties of its obligations for the following amounts:</p> <ul style="list-style-type: none"> <li>a. WESM Market Fees;</li> <li>b. Any charges by NGCP for the supply of electricity at its Point(s) of Delivery; and</li> <li>c. All other taxes, fee, charges and costs arising from this Agreement that are not expressly for the account of the SELLER according to the terms of this Agreement.</li> </ul>	<p>7.1.2 c- should also include taxes and charges associated in the fuel component of electricity fees including all any upward or downward adjustment and imposition of new governmental charges.</p> <p>Proposed revision:</p> <p>c. All other taxes, fee, charges and costs arising from this Agreement with respect to the Electricity Fees including taxes to the fuel purchased by the Seller to generate electricity and including those that are not expressly for the account of the SELLER according to the terms of this Agreement. Any changes to these taxes, fees and charges, upward or downward, or the imposition of additional taxes, fees and charges that will affect the Electricity Fees invoiced to the Buyer.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

8.1	<p>ARTICLE 8 LIABILITY</p> <p>8.1. Liability. Each Party shall indemnify and hold harmless the other Party, its officers, directors, employees or agents from and against any liability, damages, claims or suits of all kind arising from the fulfillment by such Party of its obligations under this Agreement, except if such is due to gross, willful and inexcusable negligence or intentional breach by the other Party, its officers, directors, employees or agents of this Agreement.</p>	<p>Proposed provision:</p> <p>"Limitation of Remedies, Liabilities, and Damages. Except as set forth herein, there is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. The Parties confirm that the express remedies and measures of damages provided in this Agreement satisfy the essential purposes hereof. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly provided herein, the obligor's liability shall be limited to direct actual damages only, such direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. Unless expressly herein provided, neither Party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, quasi-delict or contract, under any indemnity provision or otherwise. It is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any party, whether such negligence be sole, joint or</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
8.3	<p>8.3. Non-Recovery for Consequential Damages. Neither Party shall be liable to the other in any event for loss of profits, nor for any indirect, special or consequential losses or damages, whether arising under tort, contract, or otherwise, in respect of or in connection with this Agreement without prejudice to the payment of any such losses or damages which have been or may be deemed included in the calculation of any amount comprised within the Electricity Fees and the payment of any other amount agreed by a Party to be payable by it to the other Party in accordance with the terms and conditions hereof.</p>	<p>Please see our proposed provision above on "Limitation of Remedies, Liabilities, and Damages", which also deals with consequential damages.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
8.4	<p>8.4. Limit of Liability. Notwithstanding anything to the contrary under this Agreement, SELLER expressly agrees that under no circumstances shall the liability of BUYER to SELLER for breach of contract, negligent or intentional act or omission or otherwise under any theory of recovery, whether based in contract, in tort (including negligence and strict liability), under warranty, indemnity or otherwise, exceed the sum of Five Million Pesos (P5,000,000.00) during the term of this Agreement, provided that the limitation on the liability of the BUYER under this Section shall not apply to Electricity Fees, NGCP charges and any other amount agreed by a Party to be payable by it to the other Party in accordance with the terms and conditions hereof, including interest thereon, which may be due and payable by either Party hereunder, shall not be covered by the Cap or be included in calculating whether the Cap has been reached.</p>	<p>Please see our proposed provision above on "Limitation of Remedies, Liabilities, and Damages".</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

9.1	<p>9.1 Force Majeure</p> <p>As used herein:</p> <p>a. "Force Majeure" shall mean any event not within the reasonable control, directly or indirectly, of the Party affected, but only if and to the extent that (i) such event, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by the Party affected, (ii) the Party affected has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Party's ability to perform its obligation, and to mitigate the consequences thereof, and (iii) such event is not the direct or indirect result of a Party's negligence or the failure of such Party to perform any of its obligations. An event of Force Majeure shall include, but not be limited to, any of the following:</p> <p>i. acts of nature, war or acts of the public enemy, whether war be declared or not;</p> <p>ii. public disorders, civil disturbance, insurrection, rebellion, sabotage, acts of terrorism, riots, violent demonstrations, blockade, revolution, expropriation, requisition, confiscation, nationalization, export or import restriction or other restrictions, rationing or allocations imposed by any Governmental Authority;</p> <p>iii. any effect of unusual elements, including fire, volcanic eruption, landslide, earthquakes, floods, lightning, typhoons, tsunami, <del>perils of sea, or other unusual natural calamities.</del></p>	<p>We would like to respectfully inquire if this term is subject for negotiation upon finalization of the PSA (events, considerations, and FM on Buyer's and Seller's side).</p> <p>Proposed revision:</p> <p>"vii. Transmission failure and System Operator Curtailment, except line congestions on the existing facilities of the Buyer or the Seller to the Grid or acts of any third party that may materially affect the capability of Buyer to draw power from the NGCP grid, or the inability of the Seller do deliver due to the same event, which is unforeseen and could not reasonably be expected or is beyond the control of the affected party; or"</p> <p>We would also like MORE Power to consider our proposed FM provisions:</p> <p>"Force Majeure" means an event or circumstance which prevents one Party from performing its obligations hereunder, which event or circumstance was not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Without limiting the generality of the foregoing, "Force Majeure" shall include:</p> <p>(a) acts of God;</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
9.3	<p>9.3. Procedure to Invoke Force Majeure. The Party seeking to rely on an event of Force Majeure to excuse failure or delay in the performance of its obligations pursuant to Section 9.2 shall notify the other Party as soon as reasonably possible of the nature of Force Majeure claimed and the extent to which the Force Majeure claimed affects the Party's obligation under this Agreement, and such Party shall resume the performance of its obligations as soon as reasonably possible after the event of Force Majeure no longer exists.</p>	<p>We would like MORE Power to consider our proposed FM provisions above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
9.4	<p>9.4. Extension of Cooperation Period. If any event of Force Majeure occurs during the Cooperation Period, the Cooperation Period shall be extended by a period of time equal to the period of time for which performance is excused as a result of the event of Force Majeure. If the extension is not possible due to overlapping of power supply contracts which may result to excess of power supply, there shall be no extension of Cooperation Period but the BUYER shall pay the SELLER the Capacity Fee for the equivalent period.</p>	<p>We would like MORE Power to consider our proposed FM provisions above.</p>	<p>We will remove the phrase ".but the BUYER shall pay the SELLER the Capacity Fee for the equivalent period."</p>	<p><b>Please cite instances wherein MORE shall be exposed to a scenario of having overlapping PSAs. We note that proper supply planning should be exercised in order for the said scenario not to occur and for the winning PSA be consummated in terms of delivering deferred quantities due to FM and payment for the same.</b></p>	<p>Remove Provision 9.4 of the PSA.</p>
9.5	<p>9.5. Consultation. The Parties will consult with each other and take all reasonable steps to minimize the losses of either Party resulting from Force Majeure.</p>	<p>We would like MORE Power to consider our proposed FM provisions above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

9.7	<p>9.7. Termination Due to Prolonged Force Majeure. Either Party may terminate this Agreement upon delivery of a Termination Notice at least thirty (30) days to the effectivity of the termination, if an event of Force Majeure occurs during the Cooperation Period that prevents BUYER from receiving or SELLER from delivering electricity at the Delivery Points for a period in excess of six (6) consecutive months provided that BUYER shall not be liable to pay the SELLER all unpaid fees payable up to and including the Termination Date, together with all other amounts then payable under this Agreement.</p>	<p>Proposed revision:</p> <p>"9.7. Termination Due to Prolonged Force Majeure. After the Parties have exhausted all remedies including but not limited to Sections 9.4 and 9.5 of this Agreement to mitigate the Force Majeure event, either Party may terminate this Agreement upon delivery of a Termination Notice at least thirty (30) days to the effectivity of the termination, if an event of Force Majeure occurs during the Cooperation Period that prevents BUYER from receiving or SELLER from delivering electricity at the Delivery Points for a period in excess of six (6) consecutive months provided that BUYER shall not be liable to pay the SELLER all unpaid fees payable up to and including the Termination Date, together with all other amounts then payable under this Agreement."</p> <p>We would also like MORE Power to consider our proposed FM provisions:</p> <p>"3.4 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations herein (other than the</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
9.8	<p>9.8. Common Responsibilities of the Parties During Force Majeure. In the event of Force Majeure contemplated herein, it is incumbent upon the parties to inform the other party of such fact at the soonest possible time and for the concerned party to make the necessary adjustment in the hourly nomination in accordance with WESM rules.</p>	<p>We would like MORE Power to consider our proposed FM provisions above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
10	<p>ARTICLE 10 CHANGE IN CIRCUMSTANCES</p> <p>If as a result of a Change in Law, (i) any charges, fees, taxes, duties, assessments or other similar amounts become payable with respect to this Agreement, (ii) BUYER is not permitted to pass through to its customers any charges, fees, taxes, assessments or other similar amounts that may become payable, or (iii) BUYER is no longer permitted to pass through to its customers any amounts that is permitted to pass through as of the date of this Agreement, the BUYER shall give notice thereof to the SELLER. Thereafter, the Parties shall enter into good faith negotiations to agree on a satisfactory solution regarding the amendment of this Agreement to restore the affected Party's commercial position prior to such Change in Law, including an adjustment of the Price. Pending negotiations, the BUYER is not obliged to receive power supply from the SELLER and pay for the related fees thereof. If the Parties fail to reach a mutually satisfactory resolution within ninety (90) Days from the commencement of negotiations, BUYER shall have the right but not the obligation, to terminate this Agreement at least thirty (30) days' prior Termination Notice to BUYER and the provision of Section 14.2 shall apply.</p>	<p>We propose to make this provision mutual as changes in law may have an impact on the Seller's price as well.</p> <p>Suggested revision to make the provision mutual:</p> <p>"...Pending negotiations, the BUYER is not obliged to receive power supply from the SELLER and pay for the related fees thereof, and the SELLER is likewise not obliged to deliver power supply to the BUYER. If the Parties fail to reach a mutually satisfactory resolution within ninety (90) Days from the commencement of negotiations, each of the Parties shall have the right but not the obligation, to terminate this Agreement at least thirty (30) days' prior Termination Notice to the other Party and the provisions of Sections 14.2 and 14.3 shall apply.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes

11	<p>ARTICLE 11 BENEFIT OF AGREEMENT</p> <p>11.1. Except for cases allowed under this Agreement, either Party shall not be permitted to sell, assign, novate or otherwise transfer its rights and obligation under this Agreement to another party without the prior written consent of the other Party.</p> <p>11.2. Any actual, attempted or purported sale, assignment, novation or other transfer by a Party of any of its rights or obligations or interests in, under or pursuant to this Agreement that does not comply with the terms of Section 11.1 hereof shall be null, void and of no force and effect.</p>		We reserve the discussion on the provisions of the PSA with the winning bidder.	Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.	Yes
12	<p>ARTICLE 12 REPRESENTATION AMN WARRANTIES</p> <p>12.1. SELLER. SELLER hereby represents and warrants the following:</p> <p>a. SELLER represents that it is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, and that it possesses the corporate power and authority to execute, deliver and perform obligations under the terms and conditions provided under this Agreement.</p> <p>b. SELLER represents and warrants that it has taken, or by Effective Date shall have taken, all necessary corporate action, and has secured or caused to be secured all necessary Governmental Permits to permit it to enter into this Agreement, possess the technical and financial capacity to supply electricity to BUYER and make payments therefore in the currency referred to herein.</p> <p>c. SELLER shall, at all times, conform to all laws, rules, regulations, and ordinances applicable to it.</p> <p>d. SELLER represents and warrants that it is free and authorized to enter into this Agreement. SELLER warrants that there are no actions, proceedings pending, or to its knowledge, threatened against or affecting it before any court, arbitral tribunal or governmental instrumentality that may have adverse effect on its ability to observe the provisions of, or to perform its obligations</p>	<p>Suggest to have the flexibility to revise the language for new power plants like the bidder. We note that the COC of the bidder is still in process with the ERC. Thus, we propose the following edits:</p> <p>"b. SELLER represents and warrants that it has taken, or by Effective Date shall have taken, all necessary corporate action, and has secured or caused to be secured all necessary Governmental Permits to permit it to enter into this Agreement, possess the technical and financial capacity to supply electricity to BUYER and make payments therefore in the currency referred to herein."</p> <p>We would like MORE Power to consider adding the provision here as well:</p> <p>"12.3 Regulatory Approvals. The obligations of the Seller to sell and deliver the Product, or cause the Product to be delivered, to the Buyer hereunder are subject to the Seller and the Buyer having obtained all required governmental approvals and permits including, without limitation, any required approvals from the ERC or the WESM. The Seller and Buyer agree that the filing of this Agreement with the ERC will be a joint filing of both Parties. The Parties acknowledge that, given the ongoing evolution of the WESM and regulations governing the electricity market, there may be circumstances that require the</p>	We reserve the discussion on the provisions of the PSA with the winning bidder.	Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.	Yes

12.2	<p>12.2.BUYER. BUYER hereby represents and warrants the following:</p> <p>a. BUYER represents that it is a private distribution utility duly organized and existing under the laws of the Republic of the Philippines and is authorized to exclusively own, operate and maintain a system for the distribution of electricity in the city of Iloilo and that it possesses the corporate power and authority to execute, deliver and carry out the terms of this Agreement.</p> <p>b. BUYER represents and warrants that it has taken, or by Effective Date shall have taken, all necessary corporate action, and has secured or caused to be secured all necessary Governmental Permits as well as compliance to any and all laws and rules and regulations to permit it to enter into this Agreement, purchase electricity from SELLER and make payments therefore in the currency referred to herein.</p> <p>c. BUYER shall, at all times, conform to all laws, rules, regulations, and ordinances applicable to it.</p> <p>d. BUYER represents and warrants that it is free to enter into this Agreement.</p>	<p>Suggest to also request the customer to warrant its WESM Membership of good standing.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
13.1	<p>ARTICLE 13 CONFIDENTIALITY</p> <p>13.1. Each of BUYER and SELLER agrees that all information and documents (whether financial, technical or otherwise) obtained by its agents from BUYER or SELLER or from its agents' inspection, which have been classified in writing by either BUYER or SELLER as confidential, shall be kept confidential and shall not be disclosed to any other person or entity without the prior written approval of BUYER or SELLER as the case may be.</p>	<p>Proposed provision:</p> <p>"Confidentiality. Neither Party shall disclose the terms or conditions of this Agreement to a third party (other than the Party's employees, lenders, investors (including potential investors), counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation."</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

13.2	<p>13.2. This Section 13.1 shall not apply to:</p> <p>i. Disclosures as may be required by law or by a judicial decree or order, or as required by the laws and regulations of any agency including disclosures required by any laws and regulations of the Philippines or otherwise, relating to the sale and/or exchange of securities.</p> <p>ii. Disclosures made by SELLER to its affiliates or related companies, lenders, professionals, advisors, employees, agents or authorized representatives;</p> <p>iii. Disclosures made by BUYER to its lenders, professional advisors, employees, agents or authorized representatives; and</p> <p>iv. Disclosures made to persons, firms, organizations or institutions that are already participating in or with whom either Party is discussing a potential participation in the Transaction, including any existing or proposed contractors, export credit agencies, lender or prospective lenders and their professional advisors.</p> <p>v. The provision contained in this Article 13 shall survive the termination or expiration of this Agreement.</p>	<p>We would like MORE Power to consider our proposed provision on confidentiality above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
14.3	<p>14.3 SELLER'S Right to Terminate.</p> <p>14.3.1. The following events shall give SELLER; the right to terminate this Agreement (each a "BUYER Default")</p> <p>a. Any of the following occurs before or after the initial delivery date: (i) BUYER admits in writing its inability to pay any indebtedness when due; (ii) any bankruptcy, insolvency, suspension of payment, reorganization or similar proceedings are commenced by or against BUYER; (iii) as part of a scheme of arrangement or composition with its creditors, BUYER makes any assignment for the benefit of its creditors without the consent of SELLER; or (iv) an effective order is made (and not set aside or stayed within 60 days), or an effective corporate resolution is passed for the liquidation, winding-up or dissolution of BUYER;</p> <p>b. BUYER defaults in payment due to any undisputed amount payable under this Agreement and such failure continue for a period of not less than thirty (45) days.</p> <p>c. Unless due to valid or justified circumstances, BUYER unreasonably ceases or discontinues operations for a period of ninety (90) consecutive days;</p> <p>14.3.2. Procedure for SELLER to Terminate. SELLER shall send BUYER a Notice of Default after the lapse of the respective periods indicated above. BUYER shall then have three</p>	<p>Proposed revisions:</p> <p>"b. BUYER defaults in payment due to any undisputed amount payable under this Agreement if such failure is not remedied within five (5) Business Days after Buyer's receipt of written notice for such payment"</p> <p>Suggest to make 14.3.2 mutually aligned with 14.2.2: "14.3.2. Procedure for SELLER to Terminate. SELLER shall send BUYER a Notice of Default after the occurrence of the BUYER's Events of Default in Section 14.3.1. BUYER shall then have thirty (30) days from its receipt of the Notice of Default to cure the BUYER's Default. If BUYER fails to cure the BUYER's Default within the 30-day curing period, SELLER may send BUYER a Termination Notice thereafter, and this Agreement shall be effectively terminated thirty (30) days from BUYER's receipt of the Termination Notice.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
14.4	<p>14.4. No Prejudice to Other Remedies. The remedy under Sections 14.2 and 14.3 is without prejudice to the right of the non-defaulting party to claim damages or exercise other remedies under or pursuant to Philippine law as a result of any default or breach of the provisions hereunder or to suspend payment of electricity bills by BUYER for non-delivery of contracted capacity or energy by the SELLER, if SELLER is the defaulting party.</p>	<p>We would like MORE Power to consider our proposed provisions on events of default above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes

14.5	<p>14.5. Other Termination Events. In the event that a law, court order or decision by a court of competent jurisdiction makes it unlawful for SELLER to supply and deliver electricity to BUYER or perform any or all of its obligations under this Agreement, or BUYER to accept delivery of electricity from SELLER or perform any or all of its obligations under this Agreement, this Agreement may be terminated by delivery of a Termination Notice by the affected Party to the other Party.</p>	<p>We would like MORE Power to consider our proposed provisions on events of default above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
14.6	<p>14.6. Payments on Termination.</p> <p>14.6.1. Upon termination of this Agreement due to the default or breach of the SELLER of any provisions herein stipulated, the BUYER shall have the right to impose the following:</p> <p>a. The SELLER shall pay the BUYER liquidated damages in the form of a termination penalty amounting to the capital recovery fees, as specified in Schedule 5 for the remainder of the Cooperation Period but not to exceed 5 months from date of termination.</p> <p>b. The SELLER shall have the obligation to provide replacement contract which shall ensure the continuous supply of power until the BUYER has entered into a new contract but not to exceed 5 months from date of termination.</p> <p>c. All costs arising from the termination of this Agreement.</p>	<p>We would like MORE Power to consider our proposed provisions on events of default above. We would like MORE Power to consider our proposed provisions on events of default above.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
15	<p>ARTICLE 15 NOTICES</p> <p>15.1 Writing. Each communication to be made hereunder shall be made in writing and, unless otherwise stated, may be sent through personal delivery, mail or email.</p> <p>15.2 Address. Any communication, letter or document to be made or delivered by one Party to another pursuant to this Agreement shall be made or delivered to the other Party at the following office or email addresses:</p> <p>For SELLER:</p> <p>Name:</p> <p>Designation:</p> <p>Address</p> <p>Telephone:</p> <p>Email address:</p>	<p>Please consider our suggested additional provision on the effectivity of the notices:</p> <p>"15.3 Notices. Notice by personal delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next succeeding Business Day. Notice by overnight mail or courier shall be effective on the next Business Day after it was sent. Notices by electronic communication permitted to be made hereunder will be effective only when actually received in readable form and if addressed in such a manner as the Parties shall specify for this purpose."</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>

17.1	<p>ARTICLE 17 DISPUTE RESOLUTION</p> <p>17.1. Regular Meetings. Throughout the term of this Agreement, authorized representatives of BUYER and SELLER may meet regularly at not less than yearly intervals during the rest of Cooperation Period to discuss any concern arising from the implementation of this Agreement to ensure that arrangements between parties proceed on a mutually satisfactory basis.</p>	<p>Please consider our additional proposed provisions on Commercial Arbitration:</p> <p>“Commercial Arbitration. In the event that the Parties fail to resolve a dispute pursuant to this Article 17, the Party initiating arbitration proceedings may request commercial arbitration. Within ten (10) days after receipt of such a request, each Party’s authorized representative shall confer with the other and attempt to agree upon appointment of a single arbitrator. If such agreement is not accomplished, either Party may request the International Chamber of Commerce to appoint an arbitrator familiar with the industry standards for international private power facilities in accordance with its Rules of Conciliation and Arbitration, which rules shall govern the conduct of the arbitration in the absence of contrary agreements by the Parties. The arbitrator shall conduct hearing(s) in Singapore which is the default venue of arbitration or, in the Philippines by agreement of the Parties, the language to be used shall be English, and within thirty (30) days thereafter, shall notify the Parties in writing of its decision stating separately findings of fact and determinations of law. The arbitrator shall not have the power to add to or amend this Agreement. The Parties exclude any right of application or appeal to any courts in connection with any question of law arising in the course of arbitration or with respect to any award made. Subject to such limitation, the decision of the arbitrator</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that “discussion” also means “negotiation”. Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes
19.1	<p>ARTICLE 19 MISCELLANEOUS</p> <p>19.1. Entire Agreement. This Agreement and its Schedule supersede any previous agreements, arrangements or representation between the Parties with respect to the Transaction, whether oral or written, in respect of the subject matter hereof and shall constitute the entire Agreement between the Parties in relation thereto.</p>	<p>Please consider our suggested language:</p> <p>"General. This Agreement (including the schedules and any written supplements hereto) constitutes the entire agreement between the Parties relating to the subject matter. Neither Party makes any representations or warranties hereunder except as expressly set forth herein. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by the Parties. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. A Regulatory Event will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to modify this Agreement in order to give effect to the original intention of the Parties. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that “discussion” also means “negotiation”. Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	Yes

Schedule 1	<p>"Affiliate" means any person or entity, which alone or together with any other person or entity, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with another person or entity. Affiliates shall include a subsidiary company and parent company and subsidiaries, directly or indirectly, of a common parent.</p>	<p>We suggest the following definitions for affiliate and control:</p> <p>"Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
	<p>"Associated Energy" means, in relation to a billing month, electric energy measured in kWh based on bilateral contract quantity, metered quantity, Minimum Contracted Energy or DGS, whichever is higher.</p>	<p>Please state the difference between DGS, nominations and bilateral contract quantities. We note that these all fall under Associated Energy, hence, "nominations" and "bilateral contract quantity" should be clearly defined to avoid confusion on what quantity should be billed and is deemed to be supplied.</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
	<p>"Effective Date" means the date on which this Agreement shall take effect and upon which the obligations of the Parties shall take effect.</p>	<p>How will the parties determine the Effective Date?</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>
Schedule 3	<p>CONTRACTED CAPACITY AND CONTRACTED ENERGY</p>	<p>Kindly confirm that this is just an example and the MW and MWh stipulated therein is subject to change.</p> <p>Further, in relation to the Section 4.4. of the draft PSA, the definition of Minimum Contracted Energy links in this Schedule 3 and notable this table is set at 100%, does this mean that MORE Power's offtake is also guaranteed at 100%?</p>	<p>We reserve the discussion on the provisions of the PSA with the winning bidder</p>	<p>Please clarify that "discussion" also means "negotiation". Hence, suggested edits on provision/language/identified terms are open for consideration with MORE Power.</p>	<p>Yes</p>



## MORE ELECTRIC AND POWER CORPORATION

RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION

Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)

Section	Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	TPBAC Answer
Bid Bulletin No. 005	<p>If the power plant offered is an existing power plant, the Technical Proposal shall include the following information:</p> <ol style="list-style-type: none"> <li>1. Certified true copies of submissions stamped received by the ERC or the Department of Energy showing the following:               <ol style="list-style-type: none"> <li>a. dependable capacity of the Bidder's nominated plant/s</li> <li>b. plant availability and reliability factor of the Bidder's nominated plant/s</li> <li>c. load factor of the Bidder's nominated plant/s</li> <li>d. start up and shutdown capability of the Bidder's nominated plant/s</li> </ol> </li> </ol>			<p>Clarification: In Bid Bulletin No. 005, MORE Power confirmed that Bidder's COC and latest MOR of the nominated plant will suffice these requirements.</p> <p>Currently, MOR is being submitted thru the DOE Electric Power Database Management System (DEPDMS). MOR is being upload to the DEPDMMS as submission. Will a proof of submission to the DEPDMMS suffice the requirement (screenshot of successful submission) or do the bidder need to request for an email confirmation from the DOE?</p>	Proof of submission to the DEPDMMS is enough.
Bid Bulletin No. 006	<ol style="list-style-type: none"> <li>1. For the CTCs, the documents may be certified as a true copy by (i) department owning the document; (ii) the representatives authorized by the Management to certify the documents in accordance to the Secretary's Certificate submitted by the bidder; or (iii) issuing agency.</li> </ol>			Just a clarification that for legal and technical documents if already with CTC, these documents need not be signed anymore by Bidder's Authorized Representative.	If the document is certified as true copy by: (i) department owning the document; (ii) the representatives authorized by the Management to certify the documents in accordance to the Secretary's Certificate submitted by the bidder; or (iii) issuing agency of the original document, then there is no more need for additional signature of the authorized representative.
Bid Bulletin No. 007	ITB Sec 2			Please confirm that MORE TPBAC will issue a FITB incorporating all the revisions (i.e. revised documentary requirements) stated in the Bid Bulletins.	Confirmed.
Bid Bulletin No. 008	ITB Sec 13			Please confirm whether the checklist or the list of requirements in the body will prevail if there are documentary requirements that are not aligned.	Checklist will prevail as provided in Annex B. Will align ITB accordingly.
Bid Bulletin No. 009	TOR Tariff Structure			We like to clarify that since this is a baseload contract, the VOM and FF should also have a take or pay equivalent to baseload.	For Baseload contract, only the CRF are guaranteed, VOM and FF are energy based. This is the reason my a 50% nomination is allowed

Bid Bulletin No	TOR Tariff Structure			If TPBAC will not allow a take or pay on the VOM and FF, We would like to clarify if this contract will be nomination based or MQ Based. IF nomination based, what is the minimum hourly minimum nomination? IF MQ based who will be the first priority, second priority and so given there is a potential for multiple suppliers?	<ol style="list-style-type: none"> <li>1. It is nomination based.</li> <li>2. The minimum hourly nomination shall be 50% of the contracted capacity.</li> <li>3. Not applicable</li> </ol>
Bid Bulletin No	PSA Provision			If the Winning Bidder has 14 days to negotiate in good faith from award. What happens if the parties fail to reach agreement? MORE Power to please consider that there are numerous items all the bidders are seeking clarification on which will remain unclear until the award.	We can actually start clarification on the PSA provisions with the presumptive winning bidder/s prior to post qualification or from August 14, 2021 to September 6, 2021 which is 22 days within which to clarify and negotiate.
SBB 5 Page 23-	<p>For clarification: xxx if a portion of the 25MW requirement in Phase 2 is already filled, the Winning Bidder/s agrees to supply the remaining unmet capacity at the same offered rate</p> <p>Question: Can MORE illustrate how this will be operationalized in terms of bid evaluation? How will the Winning Bidder supply the remaining unmet capacity supposing Contract Capacity is limited?</p> <p>TPBAC Response: You can offer a maximum of 2 blocks with 10MW each for phase 1. For phase 2, you can only offer a maximum of 3 blocks with 10MW each. The next lowest bidder offering for the unmet capacity requirement should honor the bid offer rate despite being awarded lower than its offered capacity.</p> <p>Yes but the remaining for only 10MW, not 15MW as the maximum per bidder is only 20MW.</p>			For Phase 2, suppose that a bidder offered 3 blocks of 10MW each and those three blocks are the lowest of all bids. Will the said bidder win all of the 25MW?	Yes.



**MORE ELECTRIC AND POWER CORPORATION**

**RE: SUPPLY OF POWER TO MORE ELECTRIC AND POWER CORPORATION  
Contract Capacity 20 MW (Phase 1) and 25 MW (Phase 2)**

Section	Provision	Questions (Round 1)	TPBAC Answer	Follow Up Questions	TPBAC Answer
General Query				May we request the TPBAC to send a copy to the Bidders the Minutes of Meeting from the 1st Pre-Bid Conference last June 28, 2021?	Yes.
General Query				Are the bidders still allowed to submit comments/clarifications on the Final Instructions to Bidder and Supplemental Bid Bulletins which will be released after the 2nd Pre-bid Conference?	No.
General Comments		In case of conflict between Instructions to Bidders, PSA and TOR, which one shall prevail?	FITB should reconcile all issuances.	The following query was unanswered. Please confirm: "In case of conflict between Instructions to Bidders, PSA and TOR, which one shall prevail?"	Will be reconciled.

All terms, conditions and instructions to bidders specified in the Bidding Documents inconsistent with this Bid Bulletin are hereby superseded and modified accordingly.

For the information and guidance of all concerned.

Issued this 13th day of July 2021 in Iloilo City, Philippines.

**NIEL V. PARCON**

Chairperson  
Third-Party Bids and Awards Committee