



## TERMS OF REFERENCE GREEN ENERGY AUCTION – 3

The Department of Energy (DOE), through the Green Energy Auction Committee (GEAC) and the Green Energy Auction – Bids Evaluation and Awards Committee (GEA-BEAC), issues this Terms of Reference (TOR) for the Green Energy Auction-3 (GEA-3) pursuant to Sections 9.3 and 9.5 of Department Circular (DC) No. DC2021-11-0036 titled, “Providing the Revised Guidelines for the Green Energy Auction Program (GEAP) in the Philippines” (the “GEAP Guidelines”) and Section 5.2 of DC No. DC2023-10-0029 titled, “Providing Specific Auction Policy and Guidelines for Non-FIT-Eligible Renewable Energy Technologies in the Green Energy Auction Program.”

The following Annexes are integral parts of this TOR:

Annex A: Auction Design

Annex B: Bonds

B1: Bid Bond

B2: Performance Bond

B2.1: Irrevocable Standby Letter of Credit

B2.2: Form of Drawing Certificate

Annex C: Instruction to Bidders

Annex D: Bidding Data, Forms, and Templates

Annex E: Available transmission capacity and location from 2025 – 2032

Annex F: List of Bid Supporting Documents for Non-FIT-Eligible RE Technologies

Annex G: Matrix for Legal and Technical Evaluation

### 1. GENERAL SUPPLY DESCRIPTION

- 1.1. The auction shall be conducted for FIT-Eligible RE Technology, namely Run-of-River (ROR) Hydro and Non-FIT-Eligible RE Technologies, particularly Geothermal, Impounding Hydro and Pumped-Storage Hydro (PSH).
- 1.2. For purposes of this Auction, “Installation Target” refers to the megawatt capacity per RE technology offered for subscription and “Delivery Commencement Period” (DCP) refers to the years during which delivery of the offered capacity shall commence. The Installation Target and DCP shall be as follows:<sup>1</sup>

RE Resource Type / Technology	Installation Target in MW	Delivery Commencement Period
Run-of-River Hydro	75	2027 - 2029
Impounding Hydro	300	2028 - 2030

<sup>1</sup> For existing RE Facilities or operating prior to the Auction, the capacity to be offered in the bid shall refer to the Pmax or the maximum stable load of the RE Facility (see footnote no.4 below for definition of Pmax/Maximum Stable Load).

<b>RE Resource Type / Technology</b>	<b>Installation Target in MW</b>	<b>Delivery Commencement Period</b>
Pumped-Storage Hydro	4,000	2028 - 2032
Geothermal	100	2025 - 2027

1.3. The Supply Delivery Period shall be as follows:

- 1.3.1. FIT-Eligible RE Technology. Subject to Section 1.4, paragraph 3<sup>2</sup> of Energy Regulatory Commission (ERC) Resolution No. 16, Series of 2010, and the Rules on Entitlement to GET under Section 1.5 hereof, the Supply Delivery Period for a FIT-Eligible RE Technology shall be twenty (20) years reckoned from the Delivery Commencement Date (DCD) or Commercial Operation Date (COD), applicable to a Winning Bidder.
- 1.3.2. Non-FIT-Eligible RE Technologies. The Supply Delivery Period for Non-FIT-Eligible RE Technologies shall be twenty (20) years reckoned from the DCD or COD, subject to the Rules on Entitlement to Non-FIT GET under Section 1.5 hereof, applicable to a Winning Bidder.

Notwithstanding the twenty (20)-year Supply Delivery Period, Winning Bidders shall be entitled to GET/Non-FIT GET only if their respective RE Facilities are covered by valid and effective RE Contracts. For this purpose, a Winning Bidder shall ensure compliance with applicable rules, regulations and other issuances of the DOE, the material terms and conditions under its RE Contract and the timely renewal of said Contract.

1.4. Delivery Commencement Date and Commercial Operation Date

- 1.4.1. The DCD refers to the committed delivery date in the bid offered by the Winning Bidder, following the format YYYY/MM/DD which may be after the start of the commercial operation date of the RE Project.
- 1.4.2. The COD refers to the date of the start of the actual commercial operation of the RE Project, following its successful testing and commissioning, and confirming its readiness to inject power into the grid to sell or supply its produced energy, as duly confirmed by the Energy Regulatory Commission (ERC).

1.5. The following rules shall be followed in cases where the COD does not coincide with the DCD:

<sup>2</sup> "RE Plants that have been in commercial operation before the FITs are established by the ERC pursuant to these Rules are not qualified for such FITs: Provided, however, that RE plants, which have started commercial operations after the effectivity of the R.A. No. 9513 and are not bound under any contract to supply the energy they generate to any DU or consumer, may avail of FITs from the time they are certified by ERC as eligible through an amendment of the COC issued to them and for a period of twenty (20) years less the number of years they have been in operation xxx."



No.	Scenarios	Rules on Entitlement to GET/Non-FIT GET
1	COD falls earlier than the DCP	<ul style="list-style-type: none"> <li>Prior to DCP, the Winning Bidder shall be paid for the actual energy and duly metered, in accordance with the WESM Rules.</li> <li>Upon DCP, the Winning Bidder may be paid based on its GET/Non-FIT GET upon written notice of GET/Non-FIT GET availment given by the Winning Bidder to the following:               <ol style="list-style-type: none"> <li>DOE; and</li> <li>National Transmission Corporation (TransCo)/FIT-All Fund Administrator and Market Operator for GET eligible Winning Bidders; or</li> <li>Market Operator for Non-FIT GET eligible Winning Bidders.</li> </ol> <p>The Supply Delivery Period shall be reckoned from the date specified in the above notice, which date should be any time after COD but within the DCP, subject to validation by the DOE that the Winning Bidder has no legal impediment to deliver the offered capacity from the date of GET/Non-FIT GET availment.</p> </li> </ul>
2	COD falls before the DCD but within the DCP	<ul style="list-style-type: none"> <li>The Winning Bidder may be paid based on its GET/Non-FIT GET upon written notice of GET/Non-FIT GET availment given by the Winning Bidder to the following:               <ol style="list-style-type: none"> <li>DOE; and</li> <li>National Transmission Corporation (TransCo)/FIT-All Fund Administrator and Market Operator for GET eligible Winning Bidders; or</li> <li>Market Operator for Non-FIT GET eligible Winning Bidders.</li> </ol> <p>The Supply Delivery Period shall be reckoned from the date specified in the</p> </li> </ul>

No.	Scenarios	Rules on Entitlement to GET/Non-FIT GET
		above notice, which date should be before DCD, subject to validation by the DOE that the Winning Bidder has no legal impediment to deliver the offered capacity from the date of GET/Non-FIT GET availment.
3a	COD is after the DCD and the delay is 1 year or less reckoned from the DCD, but not beyond DCP	<ul style="list-style-type: none"> <li>The Winning Bidder may be paid based on its GET/Non-FIT GET beginning on the COD onward. However, the Winning Bidder's Performance Bond (PB) shall be partially drawn in accordance with Section 9.6.3 hereof; the Supply Delivery Period shall be reckoned from the COD.</li> </ul>
3b	COD is after the DCD and the delay is more than 1 year reckoned from the DCD	<ul style="list-style-type: none"> <li>The Winning Bidder shall not be eligible to be paid based on its GET/Non-FIT GET and its PB shall be drawn in full; the Certificate of Award, COE- GET/ COE-Non-FIT GET, and other documents issued in favor of the Winning Bidder shall, after due notice, be deemed revoked pursuant to Section 9.6.4 hereof.</li> </ul>

If a Winning Bidder does not give written notice of GET/Non-FIT GET availment, such Winning Bidder agrees that it shall be paid for the actual energy generated and delivered in accordance with the WESM Rules.

#### 1.6. Type of Resource/Technology

The RE Facility must be qualified under Sections 6.1.1 and 6.1.2 of DC No. DC2021-11-0036 ("GEAP Guidelines"): *Provided*, That Geothermal, Impounding Hydro and PSH must be RPS-eligible in accordance with Section 4(a) of DC No. DC2023-10-0029 ("Non-FIT-Eligible RE Technologies in the GEAP").

#### 1.7. Cost and Tariff Structure

The amount payable to a Winning Bidder during the application of its GET/Non-FIT GET, as the case may be, shall be in accordance with DC Nos. DC2021-11-0036 and DC2023-10-0029, as amended.<sup>3</sup> For this reason, the participants shall refer to these Department Circulars and ensure that the cost and tariff structure provided thereunder are considered in their commitments under the GEAP.

<sup>3</sup> See Sections 2 and 3 of DC2024-09-0028.



## 2. REGISTRATION OF QUALIFIED SUPPLIER

### 2.1. Registration of Qualified Suppliers; Preparation of Registration Documents

The Registration Period for Qualified Suppliers shall be two (2) working days. It shall commence after three (3) working days from the date of posting in the DOE website of the Notice of Auction and TOR, and in the ERC website, the Price Determination Methodology (PDM). Only those registration requirements that had been filed until 3:00 PM on the last day of the Registration Period shall be considered and accepted.

### 2.2. Registration Documents and Procedures

2.2.1. The Qualified Supplier intending to register in the GEA-3, shall submit the following documents electronically through [gea.3@doe.gov.ph](mailto:gea.3@doe.gov.ph), copy furnished Records Management Division through [doermd.receiving@gmail.com](mailto:doermd.receiving@gmail.com):

2.2.1.1. The duly filled out Registration Form prescribed in Annex D1;

2.2.1.2. Letter of Intent to participate in the auction addressed to the Chairperson of the GEA-BEAC following the prescribed template provided in Annex D2;

2.2.1.3. A duly notarized Affidavit of Undertaking (No Legal Impediment) in accordance with the prescribed template in Annex D3; and

2.2.1.4. A duly notarized Secretary's Certificate or Board Resolution authorizing the signatory of the above documents to execute and file the same and participate in this auction for and on behalf of the RE Developer.

2.2.2. For the avoidance of doubt, Qualified Suppliers are those RE Developers/ Generators registered with the DOE pursuant to the Omnibus RE Guidelines, eligible to participate in the GEA as determined by the GEAC under Section 6.1 of DC No. DC2021-11-0036.

2.2.3. For RE Projects under RE Contracts which shall be completed in phases, the Qualified Suppliers may submit registration requirements on a per-phase basis: *Provided*, That each phase shall have a specific DCD, an appropriate metering facility and a corresponding revenue meter.

2.2.4. For a commercially operating RPS-eligible Facility that is already registered in the WESM as a generating unit/s which is/are without legal impediment (e.g., not covered by any supply agreements, including contracts for ancillary services), a Qualified Supplier may

submit registration requirements for the entire capacity of the generating unit/s: *Provided*, That where only a generating unit/s is to be offered, such capacity shall have a dedicated metering facility and corresponding revenue meter.

- 2.2.5. For legacy projects (*i.e.*, commercially operating prior to the effectivity of the RE Act) under RE Contracts that have expanded or upgraded their capacity, a Qualified Supplier may submit registration requirements for the incremental RE capacity from such expansion or upgrade: *Provided*, That it shall be covered by a separate generating unit and wholly offered, and shall have a dedicated metering facility and corresponding revenue meter.
- 2.2.6. The complete registration requirements in “.zip” format with file name indicated below shall be attached to the email with a subject title (see examples below).

File Name and Subject Title: (Example for ROR)

REG\_GEA3\_ROR\_DOE\_ABCDE HPP (for Whole Facility)

REG\_GEA3\_ROR\_DOE\_ABCDE HPP\_PH1 (for Phasing)

REG\_GEA3\_ROR\_DOE\_ABCDE HPP\_PH1\_UnitNo.1 (Specific Unit)

Note:

- Run-of-River (ROR), Pumped-Storage Hydro (PSH), Impounding Hydro (IMP) and Geothermal (GEO);
- The Company Name should be abbreviated;
- Indicate in the File Name and Subject Title and the Phase No. and/or Unit No., if applicable; and
- The File Name and Subject Title should be less than 200 characters.



- 2.2.7. The “Received” email timestamp shall be the basis for determining the timeliness of the filing. An auto-generated email acknowledgment to the Qualified Supplier shall serve as notice of DOE’s receipt of the submission.



- 2.2.8. Should there be multiple submissions with the same subject title, only the documents submitted through the last email and received within the registration period shall be considered for evaluation.

### **3. PRE-BID EVALUATION**

#### **3.1. Evaluation of Registration Documents**

The GEA-Technical Working Group (TWG) shall conduct an Evaluation of Registration Documents within three (3) working days from the last day of the Registration Period.

Failure to submit any required documents, or submission of unacceptable documents (e.g., unnotarized when notarization is required) shall be a ground for disqualification.

#### **3.2. Notification to Qualified Bidders and Qualified Suppliers with Deficiencies**

Within two (2) working days after the Evaluation of Registration Documents, the GEA-BEAC shall notify in writing the Qualified Bidders on their qualifications and the potential Suppliers who failed to comply with the registration requirements, stating therein the grounds for disqualification.

#### **3.3. Filing of Motion/ Request for Reconsideration**

The disqualified Supplier may file a Motion/ Request for Reconsideration with the GEA-BEAC within three (3) working days from receipt of the written notification mentioned in Section 3.2. All relevant supporting documents must be submitted along with the Motion/ Request for Reconsideration. Upon receipt of the Motion/ Request, no additional supporting documents shall be accepted. The GEA-BEAC shall resolve the Motion/ Request for Reconsideration within three (3) working days from receipt thereof.

#### **3.4. Posting of List of Qualified Bidders**

After the period for evaluation of Motion/ Request for Reconsideration, the GEA-BEAC shall post the list of Qualified Bidders on the DOE website and send emails to such Qualified Bidders within one (1) working day.

### **4. PRE-BID CONFERENCE**

- 4.1. The GEA-BEAC shall conduct a virtual Pre-Bid Conference, the schedule of which shall be posted on the DOE website.
- 4.2. Qualified Suppliers that submitted the complete Registration Documents are entitled to participate in the Pre-Bid Conference. Within the Registration Period, other stakeholders may join the Pre-Bid Conference upon submission of a request therefor, subject to approval of the GEA-BEAC. Immediately after the said period, the meeting link for the Pre-Bid Conference shall be provided through electronic mail.

#### 4.3. Submission of Comments/Clarifications on the TOR of Qualified Bidders

Qualified Suppliers shall have three (3) working days within which to submit their comments, inputs or queries on the TOR, its Annexes and other relevant details of the Auction. Such period to submit shall begin after the Registration Period. Comments, inputs or queries shall be submitted through the GEA email. Thereafter, GEA-BEAC shall consider the comments/clarifications on the TOR, its Annexes and other relevant details of the Auction as consolidated by GEA-TWG within five (5) working days.

#### 4.4. The Pre-Bid Conference shall address those comments, inputs or queries that were timely received. Pre-Bid Conference participants may raise questions, comments or clarifications on the TOR, its Annexes and other relevant details of the Auction which may be addressed directly therein. Additional queries/clarifications from the participants shall be accepted until 05:00 pm on the date of the Pre-Bid Conference.

#### 4.5. GEA-BEAC Issuance of Bid Bulletin to be Posted on DOE Website

The GEA-BEAC shall issue a Bid Bulletin to be posted on the DOE website not later than ten (10) working days from the date of the Pre-Bid Conference containing the results of the Pre-Bid Conference, including any modification or amendment of the TOR and related documents as may be necessary.

### 5. AUCTION PROPER

#### 5.1. Posting of Bid Bond

##### 5.1.1. Submission of Proof of Posting of Bid Bond

After the Posting of List of Qualified Bidders, those included in the List shall have a period of five (5) working days within which to submit their Proof of Posting of Bid Bond, in pdf file, through email at [gea.3@doe.gov.ph](mailto:gea.3@doe.gov.ph). Submissions shall be accepted until 12:00 Noon of the fifth working day. After the Auction Proper, Qualified Bidders shall personally submit the original copy of the Bid Bond within three (3) working days, addressed to:

**Undersecretary Felix William B. Fuentebella**

Chairperson

Green Energy Auction – Bids Evaluation & Awards Committee

Department of Energy

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Telephone: (632) 8479-2900

##### 5.1.2. A Qualified Bidder shall post a Bid Bond, in the form of Cash, Manager's Checks or Irrevocable Letters of Credit with drawing certificate or bank guarantees as detailed in Annex B. The Bid Bond shall take effect on the date of the Auction Proper and should be valid



for one hundred twenty (120) calendar days and one hundred eighty (180) calendar days, for FIT-Eligible and Non-FIT-Eligible RE Technologies, respectively. Upon Submission of Post Auction Requirements and due validation thereof, the Bid Bond shall be released as provided in Section 9.6.

5.1.2.1. A parent company, partner, affiliate, subsidiary, or any other third party may be allowed to secure the Bid Bond "For the Account" of the Qualified Bidder. Bonds issued by foreign banks shall not be accepted, unless accompanied by the express confirmation of a local bank.

#### 5.1.3. Submission of Physical Copy of Bid Bond

Upon the lapse of the period to submit mentioned in Section 5.1.2, the GEA-TWG shall have two (2) working days to evaluate the original copy of the Bid Bond.

#### 5.1.4. GEA-TWG Evaluation of Physical Copy of Bid Bond

Within three (3) working days from the lapse of the period for Submission of Proof of Posting of Bid Bond, the GEA-TWG shall issue user-specific IDs to the respective authorized representatives of Qualified Bidders whose proof of posting of Bid Bond were duly validated, through email. For this purpose, each Qualified Bidder shall create individual email accounts for each participating RE Project or phase thereof.

5.1.4.1. Unique IDs shall be issued to a bidder for each of its participating RE facility or phases of the RE Project. The GEA email shall also contain the log-in credentials to the Electronic Bidding Platform for bid submission.

5.1.5. It shall be the duty of the Qualified Bidder to: (a) acknowledge receipt of the GEA email; and (b) immediately change the default password of user-specific IDs. The Qualified Bidder agrees that the Auction Proper shall not be delayed or postponed if it is unable to participate therein by reason of its failure to comply with this Section.

### 5.2. Schedule of Activities

5.2.1. The Auction Proper shall be held on the day following the end of the period for the issuance of User-specific IDs.

5.2.2. The auction has two (2) stages corresponding to the FIT-Eligible (i.e., ROR Hydro) and Non-FIT-Eligible RE Technologies (i.e., Geothermal, Impounding Hydro and Pumped-Storage Hydro).

Qualified Bidders for FIT-Eligible RE Technologies shall place and enter on the Electronic Bidding Platform their bids, with the corresponding DCD and Offered Capacity.

Qualified Bidders for Non-FIT-Eligible RE Technologies shall place and enter their Price Offers, with the corresponding DCD, Offered Capacity, and upload the Bid Supporting Documents on the Electronic Bidding Platform.

<b>Opening of the Auction Platform</b>	9:00 AM
<b>Non-FIT-Eligible RE Technologies</b>	
Auction Start	1:15 PM
Auction End	1:45 PM
<b>FIT-Eligible RE Technology</b>	
Auction Start	2:00 PM
Auction End	2:30 PM
<b>Closing of the Auction Platform</b>	2:45 PM

- 5.2.3. Upon Issuance of User-specific IDs, Qualified Bidders may log-in before the start of the Auction Proper but may view only the landing page which contains the installation targets and/or other relevant information regarding the Auction. Bidders may use this time to test the accessibility of the Electronic Bidding Platform. Any issue encountered shall be reported to the GEA Secretariat through [gea.3@doe.gov.ph](mailto:gea.3@doe.gov.ph) for immediate resolution.
- 5.2.4. Auction Platform shall be opened at 9:00 AM to allow the uploading of the Bid Supporting Documents of Qualified Bidders for Non-FIT-Eligible RE technologies until 12:00 Noon. From 1:15 PM until 2:30 PM, the Summary Page of Submitted and Accepted Bids will be accessible to the bidders and the observers.
- 5.2.5. Observers of Participating Qualified Bidders
  - 5.2.5.1. The GEA-BEAC shall allow one (1) observer designated by the participating Qualified Bidders to be virtually present during the Auction Proper and observe the bidding process. A link shall be provided to the bidders' authorized representatives.
  - 5.2.5.2. Access of the observers to the meeting platform shall be limited to relevant information only.
- 5.2.6. Qualified Bidders' submission of observations during the Auction Proper



The Qualified Bidders' authorized representatives may submit their observations to the GEA-BEAC not later than three (3) working days after the Auction Proper.

### 5.3. Auction Platform and Procedures

- 5.3.1. This auction will be done through an Electronic Bidding Platform where Qualified Bidders shall gain access to their bid submission interface using the user-specific IDs provided for each of their RE facilities.
- 5.3.2. The Electronic Bidding Platform shall feature a user interface with user-editable cells to enter the bids. The interactive Bid Form on the platform must be completed in the manner indicated therein with all the required information filled out correctly and accurately. Upon clicking the "Submit" button in the interface, the Qualified Bidder will be prompted to confirm its bid submission. Once the bidder has confirmed, its bid will be submitted, timestamped, and stored in the Electronic Bidding Platform's database.
- 5.3.3. Revisions to the submitted bids/price offers shall be allowed through the submission of new bids/price offers on the platform. Only the bid with the latest timestamp shall be considered in the ranking and stacking of offer. In either case, no revision shall be allowed beyond the bid submission period.
- 5.3.4. For ROR Hydro, bids with a Price Offer higher than the GEAR Price shall be discarded automatically for being non-responsive.

For Non-FIT-Eligible RE technologies, there shall be no GEAR Prices. The Bidders shall upload the supporting documents containing the set of parameters and criteria together with their respective Price Offers and Offered Capacity through the Electronic Bidding Platform (refer to Annex "F"). The supporting documents mentioned herein shall be in "OCR" or searchable ".pdf" format and shall refer to those that are required for Evaluation of Price Offers in accordance with the PDM issued by the ERC.

- 5.4. Offer. Qualified Bidders may offer the capacity of an RE Facility in accordance with the rules set forth below.
  - 5.4.1. Qualified Bidders may offer the capacity of RE facilities that are compliant with Sections 6.1.1 and 6.1.2 of the GEAP Guidelines.
  - 5.4.2. Qualified Bidders shall offer the entire or a portion of the capacity of its RE Facility. Where only a portion of the capacity of the RE Facility will be offered, such portion shall be covered by a separate generating unit and wholly offered: That the said unit/s have a dedicated metering facility and corresponding revenue meter.

- 5.4.3. For an RE Facility that was issued with COC by the ERC, the capacity offer shall be the committed maximum stable load ( $P_{max}^4$ ) of the said Facility: *Provided*, That such RE Facility must have a dedicated metering facility and corresponding revenue meter.
  - 5.4.4. For an RE Project with Phased-In Delivery Commitment, for which specific user-IDs have been issued, a Qualified Bidder may submit its Capacity Offer and Price Offer per phase provided that each phase has a dedicated metering facility and corresponding revenue meter.
  - 5.4.5. When a Qualified Bidder wishes to offer the energy or capacity of an RE Facility, such Qualified Bidder shall place a bid therefor in the following format: capacity (in MW with three decimal places), price (in PHP/kWh for ROR Hydro, Impounding Hydro, and Geothermal, while PHP/kW/h for PSH, with four decimal places), supply DCD.
- 5.5. Receipt of Bids
- 5.5.1. Every successful bid submission shall generate a unique Bid ID in the Electronic Bidding Platform which shall likewise be provided within the platform to the bidder.
  - 5.5.2. An automatically generated email shall be sent to the registered email address of the bidder to serve as confirmation of receipt of its bid submission.

## 6. ELECTRONIC BIDDING PLATFORM CONTINGENT EVENTS

- 6.1. If the Electronic Bidding Platform is not available at the date and time set for the Auction Proper:
  - 6.1.1. The GEA-BEAC will re-schedule the online auction which will be announced within two (2) working days after the original auction schedule.
  - 6.1.2. If no schedule can be set for an online auction, the GEA-BEAC may proceed with the physical submission of bids. Within five (5) working days from the original auction date, the GEA-BEAC shall announce the date and venue for the physical or electronic submission of bids.
  - 6.1.3. Submission of Bids Outside the Electronic Bidding Platform
    - 6.1.3.1. The Qualified Bidders shall submit their bids on the specified date and time following the Bid Form provided in Annex D4 hereof to the GEA-BEAC either physically or electronically, as the case may be.

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<sup>4</sup> Maximum Stable Load" or "Pmax" refers to the maximum demand in MW that a generating unit or generating block or module in the case of a combined cycle power plant can reliably sustain for an indefinite period of time, based on the generator capability tests which shall be conducted every five (5) years thereafter for the renewal of ERC Certificate of Compliance.



- 6.1.3.2. If the GEA-BEAC requires the submission of bids through any other online submission or electronic means, the Qualified Bidder shall submit an electronic copy of its bid in a pdf file. An electronic copy that cannot be opened or is corrupted shall be considered non-responsive and, thus, automatically disqualified.
  - 6.1.3.3. The GEA-BEAC shall open the Bids in public at the time, date, and place specified in a separate announcement to be made by the GEA-BEAC not later than thirty (30) minutes after the close of submission of bids. The Qualified Bidders' representatives who are virtually present shall sign a register manifesting their attendance. In case videoconferencing, webcasting, or other similar technologies will be used, the attendance of Qualified Bidders shall likewise be recorded by the GEA Secretariat.
  - 6.1.3.4. In case the Bids cannot be opened as scheduled due to reasons beyond the control of the GEA-BEAC, the rescheduling will be announced through a Bid Bulletin to be posted on the DOE website.
- 6.2. If the Electronic Bidding Platform becomes unavailable at the time set for accessing the Summary of Submitted/Accepted Bids:
- 6.2.1. The GEA-BEAC shall set a new time and date for such access and renew the Qualified Bidders' login credentials for this new schedule.
  - 6.2.2. If such online access is still unavailable, the GEA-BEAC will schedule a presentation of the initial results in public.

## **7. EVALUATION OF BIDS/ PRICE OFFERS**

- 7.1. The Electronic Bidding Platform shall not accept bids/price offers submitted beyond the closure of the submission of bids/price offers.
- 7.2. Immediately after the closure of the submission of bids/price offers, the GEA-BEAC shall open the bids/price offers submitted and stored in the Electronic Bidding Platform.
- 7.3. Ranking of Offers
  - 7.3.1. For FIT-Eligible RE Technology Bids
    - 7.3.1.1. The offers received will be ranked automatically by the Electronic Bidding Platform from the lowest to the highest bid price, and stacked until the corresponding Installation Target is met. For clarity, the lowest bid prices are the first ones to be considered to meet the Installation Target. In

case of a tie in bids, such bids will be ranked in accordance with the tie-breaker rules under Section 7.3.1.2.

7.3.1.2. The following rules for breaking a tie and for a marginal offer shall apply:

7.3.1.2.1. Tie – Breaker. If there is a tie in bids, the bids will be ranked according to the target supply DCD, with the earlier date ranked first in the sorted list. Should a tie still exist, the ranking of bids shall be based on the bid timestamp where the bid with the earlier timestamp shall be ranked first.

7.3.1.2.2. Marginal Offer.<sup>5</sup> In case the capacity offered by a bidder becomes the marginal offer but the offered capacity breaches the Installation Target after ranking and stacking of offers, the bidder's full offered capacity will be included as a winning bid.

7.3.1.2.3. If there are several Marginal Offers caused by equal bids at auction volume margin, the tie-breaker rule shall be applied according to the preceding section.

7.3.1.2.4. If a tie involving marginal offers exists as to price, target supply DCD, and timestamp, the marginal volume shall be distributed proportionately according to offered capacity, provided that the bidder may opt to:

7.3.1.2.4.1. Agree to a reduced capacity without modifying its bid price; or

7.3.1.2.4.2. Withdraw from the auction without forfeiting its Bid Bond. In case the bidder opted to withdraw, the remaining bidder shall be considered, subject to the same conditions in this section.

7.3.1.3. The GEA-TWG shall validate the bids in the ranked and shall endorse to the GEA-BEAC the aggregate Winning Bids and their corresponding capacities that make up the Installation Target.

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<sup>5</sup> Marginal Offer refers to the quantity offered by the bidders to meet the remaining MW of the Auction Capacity Requirements.



### 7.3.2. For Non-FIT-Eligible RE Technology Price Offers

7.3.2.1. The offers received will be ranked automatically by the Electronic Bidding Platform from the lowest to the highest Price Offers.

7.3.2.2. DOE to endorse Price Offers and supporting documents to ERC

The DOE shall have five (5) working days to conduct an evaluation of the Price Offers and Offered Capacity and endorse the results thereof to the ERC, which period shall commence after the GEA-TWG Evaluation of Physical Copy of Bid Bond mentioned in Section 5.1.3.

The GEA-BEAC, through the GEA-TWG, shall have four (4) working days within which to conduct an evaluation of the Price Offers and Offered Capacity of the Bidders, and their supporting documents. Such evaluation shall determine which of the bids are legally and technically compliant, based on the matrix set forth in Annex "G". For this purpose, bidders shall submit the items listed in Annex "G" as part of the supporting documents.

7.3.2.3. One (1) working day thereafter, the GEA-BEAC shall endorse the respective Price Offers and Offered Capacity of the legally and technically compliant bids together with the submitted supporting documents for their set of parameters and criteria to the ERC. For this purpose, the GEA-BEAC shall provide ERC with the log-in credentials to access and download the supporting documents from the Auction Platform.

7.3.2.4. ERC's Evaluation of Price Offers for Non-FIT-Eligible Technologies; Endorsement of Evaluation Results to GEA-BEAC

The ERC shall evaluate the Bidders' Price Offers and their supporting documents using the PDM and endorse the results thereof to the GEA-BEAC within sixty (60) calendar days from receipt thereof.

## 8. NOTICE OF AWARD

### 8.1. Issuance of Notice of Award for FIT-Eligible RE Technology

8.1.1. The GEA-BEAC shall endorse the results of the evaluation of bids for FIT-Eligible RE Technology to the GEAC within three (3) working days from submission of aggregate Winning Bids pursuant to Section 7.3.1.3.

- 8.1.2. Within seven (7) working days from receipt, the GEAC shall endorse to the Secretary the list of Winning Bidders for issuance of NOA. Within five (5) working days from receipt of endorsement, the Secretary shall issue the NOA.
- 8.1.3. The DOE shall then issue the NOA through its website not later than two (2) working days from the Secretary's approval thereof.
- 8.2. Issuance of Notice of Award for Non-FIT-Eligible RE Technology
  - 8.2.1. The GEA-BEAC shall endorse the results of the evaluation of bids for Non-FIT-Eligible RE Technology to the GEAC within three (3) working days from receipt of ERC's endorsement of the result of evaluation of Price Offers.
  - 8.2.2. Within seven (7) working days from receipt, the GEAC shall endorse to the Secretary the list of Winning Bidders for issuance of NOA.
  - 8.2.3. Within five (5) working days from receipt of endorsement, the Secretary shall issue the NOA.
  - 8.2.4. The DOE shall then issue the NOA through its website not later than two (2) working days from the Secretary's approval thereof.

## **9. SUBMISSION OF POST-AUCTION DOCUMENTS**

- 9.1. Within fifteen (15) days from the issuance/posting of the NOA, the Winning Bidders shall submit to DOE the following:
  - 9.1.1. Original copy of the GEA Affidavit of Undertaking to deliver the committed capacities in accordance with Annex D5 of this TOR;
  - 9.1.2. Original copy of the PB, the amount of which shall be determined in accordance with the requirements in Annex B of this TOR; and
- 9.2. If a Winning Bidder fails to submit and/or comply with any of the foregoing post-auction documents within the prescribed period, such Winning Bidder shall be disqualified and its Bid Bond shall be called. The Winning Bidder agrees that the Bid Bond may be called notwithstanding non-submission of physical copy of Bid Bond.
- 9.3. In the event that a Winning Bidder for FIT-Eligible RE Technology is disqualified, the offered capacity corresponding to the disqualified Winning Bidder shall be awarded to the next-ranked Bidder/s until the Installation Target is met in accordance with Section 7.3.1.1 hereof and subject to compliance with the same post-auction requirements in accordance with Section 9.1.



#### 9.4. Posting of Performance Bond

##### 9.4.1. The PB shall:

9.4.1.1. Have a minimum term of one (1) year, except that the term of the first PB shall cover any remaining period of the current year until 31 December of the next succeeding year;

9.4.1.2. Be renewed annually until sixty (60) days following COD or the commencement of supply, as the case may be, consistent with Section 9.4.3 hereof. Not later than sixty (60) calendar days prior to the expiration of the PB, the proof of the renewal of the PB shall be submitted to the GEAC.

9.4.2. Existing RE Facilities/Plants that are already under commercial operations or have achieved COD shall still be required to post a PB covering the offered capacity under GEAP to ensure that on the committed DCD, the Winning Bidder shall comply with its obligations under the GEAP.

9.4.3. In every case, the RE Facility of the Winning Bidder shall be covered by a PB which shall remain effective and in place until sixty (60) days after commencement of the committed supply or COD, as the case may be. During the sixty (60)-day period, the DOE shall validate compliance by the Winning Bidder of its supply obligations under the GEAP.

9.4.4. The PB shall be returned to the Winning Bidder upon compliance with Section 9.4.1.2.

If, after verification by the DOE, the actual capacity delivered exceeds fifty percent (50%) of the Offered Capacity, the Winning Bidder shall be notified that it shall receive a COE-GET or COE-Non-FIT GET corresponding to not more than one hundred fifty percent (150%) of its Offered Capacity for its RE Facility from the DOE.

9.4.5. The amount of the PB, or any renewal thereof, may be reduced based on the actual completion of the RE Facility, including actual expenditures incurred therefor, subject to DOE's validation in both cases.

9.5. The Bid Bond shall be released to the Winning Bidder upon posting of the PB, duly submitted to and received by the DOE through the GEA-BEAC.

9.6. The PB, or any portion thereof, shall be drawn in any of the following circumstances:

- 9.6.1. If a Winning Bidder fails to submit the renewed PB within the period prescribed in Section 9.4.1.2, the DOE, without need of notice to the Winning Bidder, shall call the PB for the current year and hold the same as a cash bond, until the Winning Bidder shall have submitted a renewed or replacement PB compliant with the requirements therefor;
- 9.6.2. If the capacity of the RE Facility indicated in the COE-GET or COE-Non-FIT GET issued in relation to GEA-3 is less than 90% of the Offered Capacity submitted by the Winning Bidder, the PB shall be partially drawn in proportion to the difference between 90% of the Offered Capacity and the capacity indicated in the COE-GET or COE-Non-FIT GET;
- 9.6.3. Failure to deliver on the DCD and which is due to the fault of the Winning Bidder, one-tenth (1/10) of one (1) percent of the PB shall be drawn for every day of delay as penalty: *Provided*, That the maximum period of delay shall be three hundred sixty-five (365) days from the DCD; or
- 9.6.4. If the delay exceeds 365 days, the PB shall be drawn in full, the Certificate of Award, COE-GET or COE-Non-FIT-GET, and other documents issued in favor of the Winning Bidder shall, upon due notice, be deemed revoked, and the Winning Bidder shall not be entitled to the GET/Non-FIT GET for the Offered Capacity: *Provided*, That the vacated capacity shall be included in the installation target for the succeeding auction round, if any, and shall not be filled up with the capacity offer of the next-in-line Bidder/s in the ranking of bids.

## 10. CERTIFICATE OF AWARD

The DOE shall issue a Certificate of Award to each Winning Bidder for FIT-Eligible and Non-FIT-Eligible RE Technologies that timely submits the post-auction documents mentioned in Section 9 hereof within twenty (20) working days from the date the GEA-BEAC affirms that the post-auction documents are in order. For this purpose, the GEA-BEAC shall act on the post-auction documents at ten (10)-working-day intervals.

## 11. EFFECTS OF FORCE MAJEURE OR FORTUITOUS EVENTS AFTER THE ISSUANCE OF CERTIFICATE OF AWARD

- 11.1. Force Majeure (FM) refers to an extraordinary event not foreseeable or avoidable, or to an event that could not be foreseen, or which, though foreseen, is inevitable to happen, and is beyond the will, control, participation, and influence of the Winning Bidder.
- 11.2. This further refers to an event or circumstance generally caused: (a) by nature, such as but not limited to, fires, floods, typhoons, or other catastrophes, or natural calamities; and/or (b) by the acts of man, such as but not limited to, war, national emergencies, revolution, riot, insurrection, civil unrest, or any other similar violent or threatening actions. It may likewise pertain to any



analogous event that may relate to a power system emergency or transmission system issue that shall affect the delivery of power, or continuity thereof, by the Winning Bidder.

- 11.3. FM shall be invoked not later than five (5) working days from the Winning Bidder's knowledge that FM exists. The claim of FM shall be addressed to the GEAC and supported by proof that:
  - 11.3.1. The Force Majeure exists;
  - 11.3.2. The event/s occurred independent of the will of the RE Developer;
  - 11.3.3. The event/s rendered it impossible for the RE Developer to fulfill its obligations in a normal manner; and
  - 11.3.4. The RE Developer is free of participation in, or aggravation of, the injury to the DOE.
- 11.4. The Winning Bidder shall be given an additional period to comply with the Post Auction Requirements if such Winning Bidder proves that FM prevented compliance with the said requirements within the period prescribed in Section 9.1.
- 11.5. The Winning Bidder affected by FM shall be excused from performance of its obligation to deliver the capacity offered on DCD to the extent caused by FM. The Winning Bidder shall not be liable for any delay or damages arising from such failure to perform: *Provided*, That the Winning Bidder has complied with the Post Auction Requirements.

The Winning Bidder affected by FM shall be granted an extension to commence delivery of supply. Such an extension period shall be equivalent to the duration of FM. Failure to deliver after the period of extension shall cause the calling of the PB in full or in part in accordance with Section 9.6 hereof.

If the Winning Bidder establishes that the delay due to FM will materially and adversely affect the feasibility of the Bids/Price Offers, such Winning Bidder may nominate another of its RE Facilities, as replacement. Such replacement RE Facility shall develop the same type of RE resource, be located within the same grid, and have the same capacity as the Winning Bidder's RE Facility, except that the DCD of the former may be one (1) year later than the committed DCD. Should a Winning Bidder choose this option, it must post the PB and renew the same annually in accordance with Section 9.4.1.2 until delivery and validation of the replacement RE Facility.

## **12. ISSUANCE OF CERTIFICATE OF ENDORSEMENT (COE) FOR GREEN ENERGY TARIFF (GET)**

- 12.1. The Winning Bidder with an existing RE Facility may be issued with COE-GET or COE-Non-FIT-GET by the DOE upon submission and validation of the following:
  - a) Proof of WESM registration;
  - b) Copy of the GEA Certificate of Award; and

c) Copy of ERC Certificate of Compliance (COC):

*Provided, That entitlement to the COE-GET or COE-Non-FIT-GET shall commence on the DCD of the RE Facility.*

12.2. The Winning Bidder with a new RE Facility may be issued with COE-GET or COE-Non-FIT-GET by the DOE upon submission and validation of the following:

- a) Proof of WESM registration;
- b) Copy of the GEA Certificate of Award; and
- c) Written declaration of attainment of Successful Commissioning and submission of NGCP Final Certificate of Approval to Connect (FCATC) and Generating Unit Capability Test Certificate (GUCT) for grid-connected facilities, or any equivalent documents showing proof of Successful Commissioning for embedded facilities.

12.2.1. The COE-GET shall be processed according to Section 6 of Department Circular No. DC2013-05-0009. The same procedure shall be applied by analogy in processing COE-Non-FIT-GET.

12.2.2. After securing the COE-GET or COE-Non-FIT-GET, the Winning Bidder shall secure COC by complying with the procedures outlined in ERC Resolution No. 17, Series of 2023.

12.3. The COE-GET or COE-Non-FIT-GET shall reflect the capacity of the RE project as stated in COC issued by ERC or in FCATC and GUCT issued by the NGCP.

12.4. For purposes of securing a COC from the ERC and the execution of RE Payment Agreement (REPA) with the FIT-All Fund Administrator the COE-GET shall be considered, interpreted, and accepted as the same Certificate of Endorsement for FIT Eligibility.

**13. ASSIGNMENT OF CERTIFICATE OF AWARD AND/OR COE-GET or COE-NON-FIT-GET**

13.1. Any assignment by the Winning Bidder of its Certificate of Award (COA) and/or COE-GET or COE-Non-FIT-GET, whether made prior to or after the DCD, shall be allowed only upon prior approval by the DOE of the assignment of the RE Contract covering the RE Facility with the Winning Bid.

13.2. After approval of the RE Contract assignment, the Winning Bidder shall nominate the Assignee to the GEAC. Depending on the time when the nomination from the Winning Bidder is received, the GEAC shall endorse to the Secretary either of the following:

13.2.1. Issue the COA in the name of the Assignee;

13.2.2. Amend the COA to substitute the Assignee as the Winning Bidder;

13.2.3. Issue the COE-GET or COE-Non-FIT-GET in the name of the



- Assignee; or
- 13.2.4. Amend the COE-GET or COE-Non-FIT-GET to substitute the Assignee as the Winning Bidders.