

CLARIFICATIONS ON TERMS OF REFERENCE

Bid Document	Section/Provision	Query	TPBAC Clarification/s
Item 4	Required Contracted Energy	May we request for a copy of the Load Profile (in excel file)? During the prebid, TPBAC mentioned that they will provide the 2019 Load Profile of LUECO.	Hourly Load Profile for Years 2019 and 2020 have been provided to Bidders sent via email on 09 Feb 2021. Please check your email. But as to the excel file, it is noted.
Item18	Performance Security	<p>In the pre-bid conference, TPBAC answered that they will not post security deposit and cited that bidders shall refer to Article 14.3.2 Liquidated Damages of the EPPA. It is stated in the said provision that in case of Buyer's Event of Default, Seller shall be entitled to four months worth of electricity payment as the sum of the previous four months worth of electricity payments made by the buyer to the seller.</p> <p>We would also like to raise that under Article 14.2.a excludes failure to pay as Buyer's Event of Default. How can it be ensured that the Supplier is also protected if in case the Buyer fails to pay on time?</p>	<p>There is no need for Security Deposit because the PPD that LUECO stands to lose in case of partial payment is a substantial amount.</p> <p>Our current Supplier can attest that LUECO has been availing the PPD for the last 10 years.</p>

CLARIFICATIONS ON INSTRUCTIONS TO PROSPECTIVE BIDDERS (IPB)

Bid Document	Section/Provision	Query	TPBAC Clarification/s
Section 2.2	Summary of Bidding "Reserve Prices"	<p>LUECO previously answered that the basis of the Reserve Price is what is most advantageous to the customer and such, LUECO can only declare the reserve price but it is not the basis.</p> <p>Under Section 2.10.4 Grounds for Disqualification, a bidder may be disqualified (a) the Bidder's Proposed Price (for the first Billing Year) and/or its LCOE exceeds its respective Reserve Price. To ensure the bidders compliance on the Reserve Price set by the TPBAC, may we request that TPBAC release the Reserve Price that will be used for this bid's evaluation (Reserve Price for the first billing year and Reserve Price for the LCOE).</p>	This was subject of our letter-query to DOE and we quote the reply of DOE "On the clarification on the declaration of the Reserved price during the Opening of Bid Submissions, we deem it appropriate that the reserve price be opened after opening of all the bidder's bid prices."
Section 3.3.2.f.	the Winning Bidder fails or refuses to accept the Notice of Award, fails or refuses to sign the Electric Power Purchase Agree template upon the issuance of the Notice of Award and not later than April 14, 2021;	The date April 14, 2021 is inconsistent with the scheduled Notice of Award schedule in the ITB (May 5, 2021)	Section 3.3.2 (f) of the IPB is amended per Bid Bulletin No. 4 Item 3 Section 3.3.2 Forfeiture of Bid Security (f) (f) the Winning Bidder fails or refuses to accept the Notice of Award, fails or refuses to sign the Electric Power Purchase Agreement template upon the issuance of the Notice of Award and not later than April 14, 2021 May 14, 2021;

3.3.3.b	Subject to Section 3.3.3 (d), on the next business day after the signing of the Electric Power Purchase Agreement, the Bid Securities of all Bidders (except for that of the Winning Bidder), whose Bid Securities have not been forfeited or previously cancelled, will be returned or cancelled in accordance with Section 3.3.3 (a)	In cases such winning bidder refuses to sign and bid security has already been forfeited, the bidding will proceed with the second next best bid. Since the bid securities have been already returned, does that mean that the second best bidder will have to post another bid security?	The validity of Bid Security is up to June 2021. The Bidder with the Next Best Bid may opt not to terminate its Bid Security, otherwise, LUECO will require that the next best bidder to post for a new Bid Security.
Section 3.4.		Can we confirm if there is no need to sign EACH page of the document submissions? Only the Financial Evaluation Workbook specified that it needs the signature for all pages of the document.	<p>Section 3.3 (c) Bid and Bid Security is further amended to read as follows:</p> <p>(c) <i>Proposed Price for each Billing Year throughout the Cooperation Period beginning on the Commencement Date, as reflected in the Financial Evaluation Workbook. A soft copy of the Financial Evaluation Workbook (this includes worksheets on LCOE Result and Annual Esc; Base Rates Table; in the forms shown below) shall be submitted in a USB/thumbnaill flash memory drive via email, together with a print out of the said duly accomplished worksheet/s, signed in all pages of the original set by the Bidder's authorized representative and submitted as part of Envelope 3; and</i></p> <p>Section 3.4.1 letter (e) is further amended as follows:</p> <p>(e) xxx</p> <p>This being the case, the contents on the soft copy (in PDF file) shall prevail over those contained in the hard copy in case of conflict. The hard copy will be used to</p>

Section 3.4.1.a.	Whenever possible, the Qualification Documents, Technical Proposal and Bid must be printed in A4-size paper and in its absence, in letter size (8 ½ x 11”) and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least of 14-font size, Times Roman font.	<p>Is Times Roman same as Times New Roman? The latter is more accessible in all word processors available.</p> <p>We would like to confirm if Times Roman, Font Size 14 is also applicable to all texts in the Annexes.</p> <p>Can we clarify that for documents with page numbers already included in the document (i.e. General Information Sheet, Audited Financial Statements) that there is no need to re-number and that a summary like below will suffice?</p>	<p>Section 3.4.1 (b) of the IPB is amended to read as follows:</p> <p>(b) Whenever possible, the Qualification Documents, Technical Proposal and Bid must be printed in A4-size paper and in its absence, in letter size (8 ½ x 11”) and bound together in ring binders or folders of appropriate size. Documents must be paginated and text must be at least of 14-font size, Times New Roman font.</p>
		<p>Example:</p> <p>General Information Sheet (5 pages) 1</p> <p>Audited Financial Statements (100 pages) 2</p> <p>Should our understanding be incorrect, we would appreciate a clearer example on the table of contents. Thank you.</p>	<p>This is well taken. We will be issuing Bid Bulletin on this.</p>

<p>Section 3.4.1.e</p>	<p>Electronic copies of ALL documents submitted in the Bid shall be in PDF format via email. There shall be one password per envelope. Hence, there shall be three different passwords for the three envelopes.</p>	<p>This is the pending revision as discussed in the Pre-bid conference. Will the Excel file format for the Financial Evaluation Workbook be not submitted anymore?</p>	<p>Section 3.4.1 letter (e) is further amended as follows: <i>(e) Electronic copies of ALL documents submitted in the Bid shall be in PDF format via email. There shall be one password per envelope. Hence, there shall be three different passwords for the three envelopes.</i></p> <p><i>There shall be only one email bid submission per envelope. Should there be more than one email submission in case of errors, only the latest submission shall be considered within the deadline set for the purpose. Envelopes 1 and 2 shall be sent via Google drive due to the volume of the documents and should be password-protected; while envelope 3 shall be sent via email and password-protected. In addition to the PDF format of the LCOE worksheet, its Excel format shall also be provided. In case of conflict in the LCOE worksheet, the PDF format shall prevail.</i></p> <p>Participating Bidders are required to submit the soft copy of their documents and must be password-protected on April 12, 2021, on or before 9 o'clock in the morning and its hard copies on or before 12 noon of the same date at the address to be posted through a Bid Bulletin on the DOE CSP Portal and LUECO website.</p> <p>This being the case, the contents of the soft copy (in PDF file) shall prevail over those contained in the hard copy in case of conflict. The hard copy will be used to facilitate easy evaluation and assessment. There shall be five (5) six (6) sets of hard copies, (one set of signed original copy and five photo copies of the signed original copy), of Document Submissions to be sent to the TPBAC Secretariat.</p>
------------------------	---	--	---

Section 3.4.1.e	<p>. . . This being the case, the contents on the soft copy (in PDF file) shall prevail over those contained in the hard copy in case of conflict. The hard copy will be used to facilitate easy evaluation and assessment. There shall be five (5) sets of hard copies of the Document Submissions to be sent to the TPBAC Secretariat.</p>	<p>This paragraph is discussed as a pending revision during the Pre-Bid</p> <p>It is indicated here that there should be 5 sets of hardcopies, but on the next parts it says 1 original and 5 photocopies (so technically there are 6 hardcopies).</p> <p>Can we suggest to revise the last sentence to "There shall be 1 original and 5 photocopies of the Document Submissions to be sent to the TPBAC Secretariat"</p>	<p>Please see comment above.</p>
Annexes		<p>Do we need to retain LUECO's watermark in the certifications?</p>	<p>Yes, except in ANNEX 9 Bid Security.</p>

CLARIFICATIONS ON EPPA

Bid	Section/Provision	Query	TPBAC Clarification/s
Article 2.3.3.2	It shall be on August 26, 2021 or upon approval by the ERC,(whether provisional or final), whichever is later but to conclude with NGCP Billing every 26th day of the month.	<p>May we suggest that it will be rephrased to:</p> <p>The “Commencement Date” shall occur on the later of: (i) August 26, 2021, and (ii) upon approval by the ERC,(whether provisional or final) to coincide with NGCP start of billing period on the 26th day of the month, and provided that the conditions set out in Section 2.3.2. have been satisfied.</p>	<p>Article 2.3.3 Commencement Date (2) as amended (BB No. 5) as sent to your email last 09 February 2021.</p> <p>2.3.3.2 It shall be on August 26, 2021 or upon approval by the ERC, (whether interim relief, provisional or final), whichever is later but to coincide with NGCP Billing every 26th day of the month.</p>
Article 2.5.3	BUYER is or remains a bona fide indirect trading member of the WESM via SELLER’s Direct WESM Membership, although BUYER may opt to be a direct trading member of the WESM anytime during the term of this Agreement.	We would like to suggest that LUECO register as Direct WESM Member before the start of the contract.	It remains as an option.
Article 3.2	Within sixty (60) Days from each anniversary of the Commencement Date, the Parties shall meet to review the list of Acceptable Banks and mutually agree on the list of Acceptable Banks from which any amended or replacement Performance Security shall be procured.	In the event that the parties fail to agree on a new list of Acceptable Banks, can the Buyer rely on the previously-accepted list?	Yes.

Article 4.1	<p>Supply of Electricity. Subject to the terms and conditions of this Agreement, from the Commencement Date until the expiration of the Cooperation Period or earlier termination of this Agreement, SELLER shall ensure that its daily declarations of BCQs reported to the Market Operator (as required by the WESM Rules) <u>accurately reflects the metered quantities in each of LUECO's Delivery Points</u> net of any reduction by reason of enforcement of RCOA and/or Renewable Energy Law.</p>	<p>On events of meter error, will LUECO provide estimates?</p>	<p>Currently, NGCP is LUECO's MSP and we want it to remain as is. All Meter corrections shall be provided by NGCP.</p>
-------------	---	--	--

Article 5.2.2	BUYER shall be entitled to a Prompt Payment Discount equivalent to 3% of the Electricity Fee upon full payment of amount reflected in Final Invoice within ten (10) Business Days from receipt of each billing, provided that such amount is not manifestly error, apparently invalid, or not in the form or substance contemplated in this Agreement.	<p>May we suggest that it shall be rephrased to:</p> <p>BUYER shall be entitled to a Prompt Payment Discount equivalent to 3% of the Electricity Fee upon full payment of amount reflected in Final Invoice within ten (10) Business Days from receipt of each billing, provided that:</p> <ul style="list-style-type: none"> (i) such amount is not manifestly error, apparently invalid, or not in the form or substance contemplated in this Agreement, (iii) BUYER pays the Electricity Fees for such Billing Month in full within [●] days from CUSTOMER's receipt of a billing statement; (iii) CUSTOMER has no disputed amounts or billing statements, other outstanding amounts due or unpaid, or debit memos for any charge, penalty, or interest; 	<p>Article 5.2.2 Payment Procedure is further amended to read as follows:</p> <p><i>"5.2.2 BUYER shall be entitled to a Prompt Payment Discount equivalent to [●]% of the Electricity Fee upon full payment of amount reflected in Final Invoice within fifteen (15) ten (10) Business Days from receipt of each billing, provided that such amount is not manifestly error erroneous, apparently invalid, or not in the form or substance contemplated in this Agreement.</i></p> <p><i>In case of any error on the face of the invoice, BUYER is still entitled to the PPD for as long as the error is not due to the fault of the BUYER within ten (10) business days from receipt of the corrected Billing."</i></p> <p>This is no longer needed since LUECO would want to avail of the PPD as much as possible.</p>
Article 5.2.3	BUYER shall be entitled to Power Act Reduction discount of Php 0.30/kWh, applicable to BUYER's energy supplied to residential customers only.	If the Winning Bidder did not provide PAR, this provision should be removed on the final EPPA.	Yes. In case the Winning Bidder did not provide PAR.
Article 6.1.1.a	WESM Market Related Charge, including but is not limited to Market Fees, Line Rental Charges, etc.;	<p>May we suggest to expound this to:</p> <p><i>WESM Market Related Charge, including but not limited to Market Fees, Line Rental Charges, etc. This shall be limited to charges related to the supply of energy of the SELLER.</i></p>	We cannot predict or limit other charges that will be imposed by the WESM.

		Since LUECO is an indirect WESM Member, this shall not include WESM Charges attributable to the energy traded by LUECO to the Market. In such cases, energy consumption of LUECO above the contracted capacity.	This provision is in anticipation should LUECO opt to become a Direct WESM member anytime during the Cooperation period.
Article 6.1.1.b	Energy Imbalance Fees	We would like to clarify if this is limited to the generator energy imbalances.	Yes.
Article 8.6.1	... (a) by SELLER to BUYER immediately and in any event within twenty-four (24) hours after SELLER becomes aware of such Event of Force Majeure and (b) by BUYER to SELLER as soon as reasonably possible and in any event within twenty- four (24) hours after BUYER becomes aware of such Event of Force Majeure	<p>Can we mirror item "b" with item "a"?</p> <p>"as soon as reasonably possible and in any event within twenty-four (24) hours".</p> <p>FM might happen on a holiday/weekend. Seller needs to secure signatures for the written notice.</p> <p>Suggest to consider any form of notice (SMS, email, or call) within the twenty-four (24) hours but consider adding "as soon as reasonably practicable" for written notice.</p>	<p>Article 8.6.1 is further amended to read as follows:</p> <p><i>8.6.1 As soon as possible following the occurrence of any Event of Force Majeure (or, if known in advance of the Event of Force Majeure, promptly upon such knowledge), if either Party desires to invoke such Event of Force Majeure as a cause to excuse or delay performance of any obligation (other than the payment of money) hereunder, it shall advise the other Party in writing via email and SMS of the date, nature and expected duration of such Event of Force Majeure; provided that such notice must be sent by the party who becomes aware of such event to the other party (a) by SELLER to BUYER immediately and in any event within twenty-four (24) hours after SELLER becomes aware of such Event of Force Majeure and (b) by BUYER to SELLER as soon as reasonably possible and in any event within twenty-four (24) hours thereof. after BUYER becomes aware of such Event of Force Majeure.</i></p>

<p>Article 11.2.7</p>	<p>BUYER is or remains a bona fide indirect trading member of the WESM via SELLER's Direct WESM Membership, although BUYER may opt to be a direct trading member of the WESM anytime during the term of this Agreement.</p>	<p>May we request for LUECO to consider registering as a direct WESM Member before the start of supply?</p> <p>The provision on the liquidated damages under 14.3.2 which states Buyer Event of Default, Seller shall be entitled to Liquidated Damages in lieu of all other damages [...] equivalent to four (4) months worth of electricity payment as the sum of the previous four (4) months worth of electricity payments.</p>	<p>This CSP is our priority and being a Direct WESM Member remains an option.</p>
		<p>In such cases of default, even upon termination of contract, unless the Buyer finds another direct wesm member counterparty, the Seller is still exposed to other wesm transactions done by the Buyer outside the contract given that the Buyer is the Seller's direct wesm counterparty. Hence, we are proposing that Buyer should register as direct WESM Member before the start of supply.</p>	<p>See comments above. In addition, continuity and reliability of Supply is a mandate of the DOE to protect the consumers.</p>
<p>Article 14.2.a</p>	<p>BUYER fails to perform any material obligation under this Agreement, excluding the making of any payment which is due, which failure has not been remedied within sixty (60) Days after receipt from SELLER of a written notice of BUYER Event Default.</p>	<p>Can we suggest to align this with 14.1.a? This should be a mutually-applicable provision between the parties.</p> <p>As currently worded, it appears that the seller can be called on default for specified grounds but the buyer will not be called for default if it fails to pay on time. Payment on time is an essential consideration for this contract. Generators supply electricity to derive revenue.</p>	<p>In case of default on the part of the BUYER, the latter stands to lose the PPD and yet still subject to Penalties in case of late payments. Please refer to Article 5.2.7</p> <p>5.2.7 If any Party fails to make payment to another Party of any amount due under this Agreement, where such amount is not the subject of a Dispute, including but not limited to the award or settlement amount due under Section 5.2.6 interest thereon from the date when payment was originally due until payment thereof is received shall be calculated at a rate per annum equal to the T- Bill Rate as of the due date, plus two percent (2%) from the Day in which the sum was due and payable accruing from the date the disputed invoice amount was paid by BUYER until the time the award is paid.</p>

Article 14.2.e	It shall be illegal for BUYER to accept the BCQ due to BUYER's fault, and such illegality is not removed, withdrawn or corrected within sixty (60) Days.	What does this mean? If in cases wherein BCQ is faulty and the buyer takes it, what happens? Shouldn't buyer pay for it already?	The BUYER shall pay for it despite it being illegal because we all know electricity cannot be returned.
Article 14.3.2	Upon the occurrence of a BUYER Event of Default that affects the ability of BUYER to receive and pay for the electricity in accordance with this Agreement and results in the early termination of this Agreement (and without prejudice to any other provisions of this Agreement prior to such termination), SELLER shall be entitled to Liquidated Damages in lieu of all other damages to which it may be entitled in respect of such Event of Default, equivalent to four (4) months' worth of electricity payment calculated as the sum of the previous four (4) months' worth of electricity payments made by BUYER to SELLER, net of any deductions that the Law may require.	Since the Supplier will remain as the direct WESM Counterparty of LUECO, even with the suspension of supply or early termination of this agreement, 4 months may not be enough to cover the WESM Transactions done by the Buyer after such suspension or termination has been imposed.	If you want more than four(4) months worth of electricity supply, your Performance Security will be correspondingly increase. Since your Performance Security is equivalent to four (4) months electricity supply of LUECO.

Article 20	Miscellaneous	<p>May we propose that a provision on ERC Approval be added.</p> <p>We propose the following additional provision under Article 20 for TPBAC's consideration:</p> <p>20.10 <u>ERC Approval.</u> Any amendments to this Agreement agreed to by the Parties shall be effective upon the approval of such amendments by the ERC or such other relevant government instrumentality, as the case may be. Until such amendments have been agreed to by the Parties and approved by the ERC, each Party shall continue to strictly perform their respective obligations under the terms and conditions of this Agreement, except that the Contracted Capacity shall be charged based on the following conditions: (a) if such rate approved by the ERC is lower than the GENRATE but higher than the GENRATE as reduced by the PPD specified in Section 5.2.2, the PPD specified in Section 5.5.2 shall be reduced to the positive difference between such rate approved by the ERC and the GENRATE as reduced by the PPD specified in Section 5.5.2, and furthermore, or (b) if such rate approved by the ERC is less than the GENRATE as reduced by the PPD specified in Section 5.5.2, no PPD shall be extended to Buyer.</p>	<p>The whole EPPA is subject to approval by the ERC. Whatever amendments introduced by ERC including the applicability of the PPD to the GENRATE, the BUYER will abide provided that it gets its corresponding share in the PPD as prescribed by the ERC itself.</p>
------------	---------------	--	--

Article 20.1.2	... In case of inconsistency between the text of the Articles of this Agreement and the Terms of Reference (TOR), the latter shall prevail.	<p>Does LUECO mean "former" instead of latter?</p> <p>Please note that the TOR was not negotiated between LUECO and the prospective bidders. TOR was imposed in compliance with the CSP requirement of LUECO. The EPPA is the true and actual representation of the agreement between the buyer and seller and should prevail over the TOR.</p>	<p>This is well taken.</p> <p>Article 20.1.2 is amended to read as follows:</p> <p>... In case of inconsistency between the text of the Articles of this Agreement and the Terms of Reference (TOR), the latter former shall prevail.</p>
Schedule 1	Schedule of Annual Demand and Energy Requirements	We would like to confirm that the demand and energy schedule of LUECO is the maximum requirement of LUECO.	Schedule 1 reflects forecasted maximum demand/energy values and not actual.

<p>Schedule 4</p>	<p>Electricity Fees</p> <p>E is defined as the metered quantities at BUYER's Delivery Points for the Billing Month that is net of energy carved out by reason of enforcement of RCOA, Renewable Energy Law, and Event of Force Majeure affecting SELLER, expressed in kWh.</p>	<p>May we request LUECO to kindly clarify the buyer's delivery point? Delivery Point was defined in Article 1.1 as the physical points at which the National Grid Corporation of the Philippines connects with the BUYER's electric system. For clarification, are declarations based on metered quantity at Metering Point (MQ) or Resource Node (MQ+SSLA)?</p> <p>Should the buyer choose Metering Point (MQ) as basis for the declaration, the SSLA portion purchased in WESM should be paid by the Buyer, hence it will not form part of responsibilities of the Seller.</p> <p>May we suggest to revisit the formula and reflect also on how the PPD will apply?</p> <p>We also noted observations on the Electricity Fee formula as follows:</p> <p>3. The formula does not consider RE sources wherein VAT input is 0%</p> <p>4. May we suggest that in order to consider the item 1, the formula shall be adapted: $\{[(E \times \text{GENERATE}) - \text{PAR Discount}] \times (1 + \text{VAT}\%) \times (1 - \text{PPD}\%)\} + \{(\text{EFM} \times \text{EFM RATE}) \times (1 + \text{Effective VAT}\%)\}$</p> <p>Will PAR be applied first then PPD will follow in case the buyer is able to meet the preconditions in availing the PPD?</p>	<p style="text-align: center;">SCHEDULE 1</p> <p style="text-align: center;"><u>DELIVERY POINTS</u></p> <p>The Delivery Point is located at NGCP's existing 69kV Bauang Substation and 115kV PPMC Substation.</p> <p>Declarations are based on MQ and nothing more. BUYER shall pay only what is metered.</p> <p>The PPD is part and parcel of the Payment Procedure as the same is being deducted if the billed amount is paid within the prescribed period.</p> <p>The Electricity Fee Formula in SCHEDULE 4 is amended to read as follows:</p> <p>ELECTRICITY FEES</p> <p>Electricity Fee = $\{[(E \times \text{GENERATE}) - \text{PAR Discount}] \times (1 + \text{VAT}\%)\} + \{(\text{EFM} \times \text{EFM RATE}) \times (1 + \text{Effective VAT}\%)\}$</p> <p>Where:</p> <p>E The metered quantities at BUYER's Delivery Points for the Billing Month that is net of energy carved out by reason of enforcement of RCOA, Renewable Energy Law, and Event of Force Majeure affecting SELLER, expressed in kWh.</p>
-------------------	---	--	--

			<p>EFM The metered quantities at BUYER's Delivery Points for the Billing Month measured for hours during which Event of Force Majeure is affecting SELLER, expressed in kWh.</p> <p>GENRATE The generation fee rate applicable for the Billing Month, expressed in PHP/ kWh.</p> <p>EFM Rate GENRATE or Ex-Ante WESM Price at BUYER's relevant Delivery Point, whichever is lower, expressed in Php/kWh</p> <p>Where: GENRATE = BER x ADJESC</p> <p style="padding-left: 40px;">Where: BER = PHP [] / kWh ADJESC = [Percent Subject to Escalation x (1 + Escalation) ^ (Contract Year – 1)] + [1 – Percent Subject to Escalation]</p> <p style="padding-left: 40px;">Percent Subject to Escalation = [] %</p> <p style="padding-left: 40px;">Escalation = [] %</p> <p style="padding-left: 40px;">PAR DISCOUNT = Residential Energy Consumption x 0.30 Residential Energy Consumption Actual energy supplied to LUECO's Residential Customers for the Month</p> <p>VAT = Maximum VAT</p> <p>Effective VAT = Blended Maximum VAT and VAT from WESM Purchases</p>
Schedule 5, 1.1	Provisional Invoice	May we suggest removing the provisional invoice and provide only 1 final invoice within 13 days from the end of Billing Period?	Provisional Invoice is necessary in the preparation/computation of rates for LUECO's next billing cycle which starts on the 8 th day of each month. Hence, deletion/removal not possible.

Schedule 5, 1.2	Final Invoice	<p>To align with our suggestion, may we revised this to:</p> <p>Thirteen (13) days after the end of the Billing Period, SELLER shall provide BUYER with a Final Invoice for such Billing Period.</p>	Please see comment above.
Schedule 5, 1.3	Payment Date	<p>May we propose that the counting of days shall start upon the receipt of the electronic copy of invoice.</p> <p>Provided that BUYER receives the Final Invoice within the time set forth in Section 2 of this SCHEDULE 5, each Final Invoice shall be due and payable thirty (30) Days from receipt of <u>Electronic Copy of Invoice</u>, provided that if the 30th Day is not a Business Day then the payment shall be due and payable on the immediately next Business Day ("Payment Date").</p>	<p>This is well taken.</p> <p>Schedule 5, 1.3 Payment Date is amended to read as follows:</p> <p>Provided that BUYER receives the Final Invoice within the time set forth in Section 2 of this SCHEDULE 5, each Final Invoice shall be due and payable thirty (30) Days from receipt of the approved Electronic Copy of Invoice, provided that if the 30th Day is not a Business Day then the payment shall be due and payable on the immediately next Business Day ("Payment Date").</p>
	General Question	Want to reconfirm if this is MQ base or nomination base.	MQ
	General Question	<p>Being an indirect WESM Member, if LUECO have WESM Purchases, how will LUECO account for the WESM Purchases?</p> <p>Do we need to revisit the Monthly charges formula to include LUECO's WESM purchases?</p>	Prevailing Electricity Fee or Ex-Ante WESM Price at BUYER's relevant Delivery Point, whichever is lower, expressed in Php/kWh
	General Question	<p>May we request for the following documents for due diligence purposes:</p> <ul style="list-style-type: none"> ● Last 3 years Audited Financial Statement containing the following: <ul style="list-style-type: none"> ○ Balance Sheet ○ Income Statement ○ Statement in Changes in 	

		<ul style="list-style-type: none"> Equity <ul style="list-style-type: none"> ○ Statement of Cash Flows ○ Notes to Financial Statements ● Aging of Receivables as of December 31, 2020 ● Certificate of Non-Deliquency from existing power suppliers ● Certificate of Non-Deliquency from existing creditors <p>TPBAC agreed at the pre-bid conference that these documents will be provided. May we know the exact date that these documents will be sent to the bidders?</p>	<p>Note: Ageing of Receivables as of December 31, 2020 does not reflect actual data under normal operating conditions due to pandemic. Disconnection activities still suspended as of this date.</p> <p>On or before March 22, 2021.</p>
--	--	--	---

Additional Comments for Clarification

Bid Document	Section/Provision	QUERY	TPBAC Clarification/s
TERMS OF REFERENCE	Item 14 Eligibility Requirements of Power Supplier: Must have: . . . experience in supplying to a Distribution Utility to be evidenced by an ERC approval or on-going ERC application.	Since our nominated plant is fully contracted with PSALM and NAPOCOR, can we provide instead a certification from one of them for this requirement?	Please refer to Bid Bulletin No.6 issued on March 17, 2021. If it is fully contracted with NPC, from where do you intend to get supply for LUECO? In fact, we need to have information of your uncontracted supply to assure our customers of 100% availability of power supply.
	Item 14 Eligibility Requirements of Power Supplier: Must have: . . . Proof of direct WESM Membership	The nominated plant is currently registered under PSALM hence does not have a proof of direct WESM membership at this time. May we suggest submitting proof of direct WESM membership from the Bidder for this requirement?	Yes, you may submit it but our first and foremost requirement is that you should have a Nominated Plant. Please refer to Item No. 14 bullet No. 3 of the TOR as amended. “sufficient available capacity to supply LUECO’s requirements from Commencement date, to be evidenced by a notarized certification in the form and substance provided in IPB ANNEX 7”
INSTRUCTIONS TO PROSPECTIVE BIDDERS (IPB)	General	For documents that are not applicable to the bidder, can they submit a <u>consolidated summary</u> for the explanation of not applicable documents?	Yes, subject to TPBAC evaluation.

	<p>Section 3 Document Submissions- Certified True Copies</p>	<p>Can we confirm if one original certification enumerating the documents would suffice for the documents that have the same person who would certify? (i.e. one notarized certification for documents certified by the Corporate Secretary: SEC Certificate of Incorporation, Articles of Incorporation and By-Laws, Amended Articles of Incorporation and By-Laws, General Information Sheet. . . ; another one certification for documents certified by CFO: AFS of 3 years, QFS).</p> <p>Furthermore, a photocopy of the certification would be attached for each section needing certification, for easier reference of the TPBAC.</p>	<p>That will suffice.</p>
<p>General</p>	<p>It is stated during the pre-bid conference that “All pages must be signed on each page, including the photocopies.” as answer to Bidder 2.</p>	<p>Can we confirm if the wet signature of the authorized representative on each page of the <u>original copy</u> would suffice? And that the signatures in Copies 1-5 only need to be the photocopied original copy?</p> <p>We believe this would suffice for purposes of security.</p>	<p>Section 3.4.1 letter (e) is further amended as follows: <i>(e) Electronic copies of ALL documents submitted in the Bid shall be in PDF format via email. There shall be one password per envelope. Hence, there shall be three different passwords for the three envelopes.</i></p> <p><i>There shall be only one email bid submission per envelope. Should there be more than one email submission in case of errors, only the latest submission shall be considered within the deadline set for the purpose. Envelopes 1 and 2 shall be sent via Google drive due to the volume of the documents and should be password-protected; while envelope 3 shall be sent via email and password-protected. In addition to the PDF format of the LCOE worksheet, its Excel format shall also be provided. In case of conflict in the LCOE worksheet, the PDF format shall prevail.</i></p> <p>Participating Bidders are required to submit the soft copy of their documents and must be password-protected on April 12, 2021, on or before 9 o'clock in the morning and its hard copies on or before 12 noon of the same date at the address to be posted through a Bid Bulletin on the DOE CSP Portal and LUECO website.</p>

			This being the case, the contents of the soft copy (in PDF file) shall prevail over those contained in the hard copy in case of conflict. The hard copy will be used to facilitate easy evaluation and assessment. There shall be five (5) six (6) sets of hard copies, (one set of signed original copy and five photo copies of the signed original copy) , of Document Submissions to be sent to the TPBAC Secretariat.
IPB Annex 1, Item 1.	“. . . In accordance with the IPB to offer Contract Capacity and supply associated energy for the Cooperation Period beginning on the Commencement Date to LA UNION ELECTRIC COMPANY, INC (“LUECO”) under the terms and conditions set out in the draft Electric Power Purchase Agreement <u>(as may be amended)</u> (the “Project”). . .”	(as may be amended)- suggest to add to consider that the draft Power Purchase Agreement may be amended in the course of the negotiations.	Rest assured that after all comments and clarification have been made pertaining to EPPA, the same shall be updated. No need for negotiations. The PSA template is unique for every DU. LUECO’s old PSA/EPPA Template is also approved by ERC. Considering the ongoing CSP whereby some comments/clarifications have been considered from all Bidders (in fact posted at the DOE CSP Portal), the EPPA Template is thus updated.
IPB Annex 1, Item 3	(Bidder) authorizes LUECO to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Document Submissions, and, <u>with prior notice to (Bidder)</u> , to seek clarification	with prior notice to (Bidder)- suggest to add	Signing ANNEX 1 of the IPB tantamount to having received due notice from LUECO.

<p>IPB Annex 1, Item 6 and Annex 8, Item 8</p>	<p>(Bidder) waives any right to and shall not seek or obtain any restraining order, writ of injunction or prohibition or any other form of coercive judicial, quasi-judicial or administrative writ, process or issuance against LUECO to restrain, prevent, suspend, or in any manner forestall, hinder or render inconvenient the Bidding, the award of the Project to the Winning Bidder/s, and the implementation of the Electric Power Purchase Agreement/s.</p>	<p>What will be bidders' remedies in case of patent irregularities made during the conduct of the bidding?</p>	<p>Please refer to ANNEX 10 last sentence which states that “without prejudice to the right of the undersigned to question the lawfulness of any disqualification or the rejection of their BID by appropriate administrative or judicial processes <u>not involving the issuance of a writ of injunction or prohibition or restraining order;</u>”</p>
<p>IPB Annex 2, Item 1 and Annex 5</p>	<p>I am a Filipino, of legal age and a resident of (place). I, (representative), Filipino, of legal age, with address at . . .</p>	<p>Suggest to replace residential address to office address because the individual is representing the company and not their personal capacity.</p>	<p>Noted.</p>
<p>IPB Annex 3, Item d</p>	<p>diagram of corporate structure with an indication of which entity has Controlling interest over, or is the Affiliate or Ultimate Parent of, Bidder, and copy of the shareholders’ agreement, pooling agreement, voting trust agreement or equivalent document if a partnership or consortium, which shall be certified as a true copy by the corporate secretary or its equivalent in case of partnership and must be under oath and notarized;</p>	<p>How do we identify the ultimate parent? Can this be limited according to the disclosure in the General Information Sheet?</p>	<p>Yes, per disclosure in the GIS and in the AFS.</p>

<p>IPB Annex 3, Item d</p>	<p>. . . diagram of corporate structure with an indication of which entity has Controlling interest over, or is the Affiliate or Ultimate Parent of, Bidder, and copy of the shareholders' agreement, pooling agreement, voting trust agreement or equivalent document if a partnership or consortium . . .</p>	<p>Please confirm our understanding that this requirement is applicable for Bidders in a partnership or consortium only. Is a bidder required to submit the shareholder's agreement or equivalent document if they're not in a partnership or consortium?</p> <p>If it's for all Bidders (not just those under a partnership or consortium), may we ask for the objective of including shareholder's agreement in the requirements? If the bidding entity will be participating on its own, will we be allowed to not submit a shareholder's agreement or equivalent document?</p>	<p>Yes.</p>
<p>IPB Annex 6, Item a</p>	<p>copy of the audited (parent and consolidated, if applicable) financial statements of the Bidder <u>or</u> any of its direct shareholders representing Controlling interests, Affiliates or Ultimate Parent for the last three (3) years. . .</p>	<p>For "parent and consolidated, <u>if applicable</u>", can we clarify when this is applicable?</p> <p>Would submitting the Bidder's financial statement suffice, if the bidder is the parent company? Clarifying this since item (a) states "or"</p>	<p>For bidders who have a Parent Company, the Audited Financial Statements are supposed to be the Consolidated AFS as required under the PFRS (Philippine Financial Reporting Standards).</p> <p>You may submit them too as long as you can prove that your Company has the controlling interest.</p>
<p>IPB Annex 7, Item 3</p>	<p>3. If located in Luzon or Visayas, Market Participation Agreement for the Nominated Power Plant and/or portfolio of plants. . .</p>	<p>We cannot submit the Market Participation agreement of Unified Leyte Geothermal Power Plant as it is with PSALM.</p> <p>Unified Leyte's capacity is being traded by the Power Sector Assets and Liabilities and Management Corporation ("PSALM") in the market.</p>	<p>Please refer to Bid Bulletin No.6 issued on March 17, 2021.</p> <p>If your supply is being traded by PSALM, then PSALM owns the capacity. From where will the Bidder get its capacity to supply LUECO then, considering that it is fully contracted by PSALM?</p>

<p>IPB Annex 8, Item 1</p>	<p>under the terms and conditions set out in the draft Electric Power Purchase Agreement <u>(as may be revised in the course of the bidding procedures)</u>(the “Project”)</p>	<p>(as may be revised in the course of the bidding procedures)- suggest to add to consider that the draft Power Purchase Agreement maybe amended in the course of the negotiations.</p>	<p>Rest assured that after all comments and clarification have been made pertaining to EPPA, the same shall be updated. No need for negotiations.</p> <p>The PSA template is unique for every DU. LUECO’s old PSA/EPPA Template is also approved by ERC. Considering the ongoing CSP whereby some comments/clarifications have been considered from all Bidders (in fact posted at the DOE CSP Portal), the EPPA Template is thus updated.</p>
<p>Annex 9</p>	<p>Bid Security</p>	<p>May we follow up on the bid bulletin for the acceptance of the SBLC revisions based on the comments of the certified bank, as enumerated below? (Discussed through email at February 19-23, 2021)</p> <ul style="list-style-type: none"> ● SBLC item 2: suggest to add "notarized demand of payment" and original SBLC doc as requirement in withdrawing ● SBLC item 7: remove electronic means transactions <p>Apart from these, the bank is also suggesting to add LUECO’s address on the letter heading (between “LA UNION ELECTRIC COMPANY, INC” and “Philippines”)</p>	<p>Please see Annex 9 item #2 as amended. It does not have to be notarized because it is only a letter in the form to be provided by the Bank. More so, this demand of payment is to be supported by a notarized Board Resolution from LUECO.</p> <p>We cannot remove this because this mode of transaction is acceptable by the Bank considering the prevailing situation.</p> <p>Please refer to Annex 9, item No. 2 as amended.</p>
<p>Annex 9, Item 6</p>	<p>This Letter of Credit shall expire, unless otherwise extended in accordance with the provisions hereof, on the earliest of (i) June 11, 2021, 5 p.m. at the place of presentation, or (ii) the</p>	<p>In the body, the basis of SLBC expiry are the as listed on item 6 but on the first part, the basis is ERC’s approval and 60 days after bid submission date. Kindly align which we would follow.</p>	<p>ANNEX 9 is amended to read as follows:</p> <p>xxx</p> <p>We, [●], a corporation organized and existing under the laws of the (insert place of incorporation/registration) and licensed</p>

	<p>date on which we have honored a drawing in an amount equal to the Stated Amount, or (iii) the</p> <p>date when we receive a written notice from LUECO that a replacement letter of credit, which is in full force and effect, has been substituted for this Letter of Credit, or (iv) the date when we receive a written notice from LUECO that it is cancelling this Letter of Credit (the "Expiration Date").</p>		<p>by the Bangko Sentral ng Pilipinas as a bank, (the "Issuer"), hereby establish our Irrevocable Standby Letter of Credit No. [●] (the "Letter of Credit") in your favor relating to the obligations of [insert name of Bidder] (the "Bidder") under the IPB for the supply of the Contract Capacity and associated energy for the Cooperation Period beginning on the Commencement Date to LA UNION ELECTRIC COMPANY, INC ("LUECO") (the "Project"), which shall be valid and effective until ERC approval of the Electricity Power Purchase Agreement. [date that is sixty (60) days after Bid Submission Date]. Capitalized terms used in this Letter of Credit shall have the meanings given to them in the IPB except as otherwise expressly defined herein. In the case of the Winning Bidder, this Bid Security shall be kept valid until Commencement Date as defined in the Electric Power Purchase Agreement template.</p> <p>xxx</p> <p>2. Subject to the other provisions of this Letter of Credit, LUECO is hereby irrevocably authorized to make one drawing for the entire Stated Amount under this Letter of Credit by presenting to the Issuer, at its address set forth above, a demand for payment to LUECO in substantially the form to be provided by the Bank, attached as ANNEX 9, duly completed, and is in the form of a letter on LUECO's letterhead signed by any of its authorized signatories.</p> <p>Xxx</p>
--	--	--	--

<p>IPB Annex 10, Item 1</p>	<p>Bidder has received the Electric Power Purchase Agreement (EPPA) template together with the Bidding Documents, and <u>no changes will be made on the EPPA template except only as necessary to reflect the terms and conditions of the Technical Proposal and Bid of the Winning Bidder;</u></p>	<p>Suggest to remove “no changes in EPPA template . . .” since as of this writing, there are still expected revisions based on the clarification of bidders.</p>	<p>Rest assured that after all comments and clarification have been made pertaining to EPPA, the same shall be updated prior to submission of bids. No need for negotiations.</p>
<p>IPB Annex 10, Item 5</p>	<p>(Bidder) unconditionally and irrevocably waives any defect, deviation, fault, or infirmity in the Bidding Documents and the whole Bidding process conducted by LUECO</p>	<p>Suggest to remove</p>	<p>We stick to item 5 of ANNEX 10 of the IPB, considering that even during the bidding process, DOE representatives will be present. Besides, we have already amended several provisions in the IPB to reflect the sentiments of the bidders.</p>