

Bid Document	Section/Provision	Query	LUECO TPBAC Clarification/s
Instruction to Prospective Bidders (IPB)	Sec 2.10.2 Conflict of Interest	<p>For more than ten years, there are plants owned and operated by a separate and independent owner, but capacities are managed and dispatched by another company known as the administrator. This is the concept of the IPPA, which is allowed under the eligibility requirements specified in your Terms of Reference.</p> <p>There are also plants whose ownership is shared by two or more entities, but managing and selling the capacity is done independently and competing in the same market.</p> <p>Given the existence of the above arrangements, conflict of interest does not exist.</p> <p>Having this particular provision will limit bidders' ability to manage or mitigate their risks inherent to the nature of the supply arrangement with LUECO. This condition will likewise reduce the number of eligible and qualified bidders that can provide competitive pricing to LUECO.</p> <p>By stating the above, we hope that the TPBAC will consider removing such conditions in the IPB.</p>	<p>Your observation is well taken. Section 2.10.2 (iii) is amended to read as follows:</p> <p>(iii) A Bidder's Nominated Power Plant or listed portfolio of plants is also a Nominated Power Plant or listed portfolio of plants of another Bidder in this Bidding, in which case, both will be considered in Conflict of Interest, unless the Bidder can show proof that the offered capacity is solely dedicated to the requirements of LUECO as set forth in the EPPA; or</p>
Instruction to Prospective Bidders (IPB)	2.2.6 Bid Submission Deadline	Can the bid submission deadline be adjusted to a later date or make the last of day issuance of notices/responses/bid bulletins earlier than March 30, 2021 to allow more time for bidders/suppliers to finalize their bids?	<p>Noted. Section 2.2.5 Bid Submission Deadline is amended to read as follows:</p> <p>2.2.5. Bidders will then have until Thu, 11 Feb 2021 within which to submit written queries, or requests for clarifications or revisions to the Bidding Documents. Thereafter, the TPBAC shall respond or issue the necessary notices and bid bulletins to address said queries or comments, which shall be no later than Tue, 30 Mar 2021 Mon, 22 Mar 2021.</p>

		<p>What's the procedure for the submission of bids? Is there an exact address or location for the submission of bids? Will there also be box or area where the envelopes will just be dropped or placed? How will LUECO acknowledge receipt of bid envelopes?</p> <p>Will online submissions be accepted considering the pandemic?</p> <p>What will happen in case of an implementation of an unexpected lockdown within La Union or in areas that bidders will be passing through going to the location of the bid submission/opening?</p>	<p>These are all embodied in the CSP Guidelines on Virtual Bidding Process which will be posted in the DOE CSP Portal in the coming weeks after approval by DOE.</p>
Instruction to Prospective Bidders (IPB)	<p>2.2.7</p> <p>..... Should there be a tie in the LCOE of the resulting Best Bid, the TPBAC shall give these Bidders a period of time, on the same day, to improve their Proposed Price until the tie is broken.</p>	<p>What will be the manner of re-submission of improved offer? How much time will be provided for each bidder to come up with their improved offer?</p>	<p>The submission of improved offer shall not be later than 4:00 PM via email which should be password-protected. The improved offer shall be opened at 4:30PM within the view of the two competing Bidders.</p>
Instruction to Prospective Bidders (IPB)	<p>2.2.7</p> <p>.... Apart from ranking the LCOE of the Proposed Price of the Qualified Bidder, the TPBAC shall also examine if both the LCOE and the Proposed Price (for the first Billing Year) are equal to or lower than the respective Reserve Price.</p>	<p>Will TPBAC declare the basis for the Reserve Prices? And if so, can this be done through a bid bulletin prior to Bid Submission Deadline?</p>	<p>The only basis for the Reserved Price is what is most advantageous to the consumers. We can only declare the Reserve Price but not its basis.</p> <p>Please refer to Section 2.2 of the IPB as amended. The Winning Bidder shall be determined as one with the lowest resulting LCOE. There will only be one Winning Bidder and such must be able to supply for the entire requirement of LUECO for the duration of the Cooperation Period. Moreover, To be declared as Winning Bidder, the Bidder's Proposed Price (for the first Billing Year) and its LCOE should be equal to or lower than the are both subject to pre-determined reserve price, which will only be revealed by the TPBAC to Qualified Bidders during only after the opening of all the Bids.</p>

			(hereinafter collectively referred to as the "Reserve Prices.") . Moreover, the Winning Bidder should have the lowest Final LCOE.
Instruction to Prospective Bidders (IPB)	2.2.10 If the Winning Bidder refuses or fails, without justifiable cause, to accept the Notice of Award or sign the Electric Power Purchase Agreement template within the period prescribed in this IPB.....	What's the penalty for the refusal or non-acceptance of Notice of Award and failure to execute an EPPA? Will it result to forfeiture of Bid Security?	The penalty is forfeiture of the Bid Security. Please refer to Section 3.3.2 (f) of the IPB, Forfeiture of Bid Security.
Instruction to Prospective Bidders (IPB)	2.2.11 Within five (5) days from the signing and execution of the Electric Power Purchase Agreement, the Winning Bidder and LUECO shall file relevant application for approval thereof with the Energy Regulatory Commission ("ERC"). For this purpose, the Winning Bidder shall bear the costs of pre-filing publication and docket/filing fee, while LUECO shall bear the costs of publishing and posting the notice of public hearing issued by the ERC for the said joint application.	Who will bear the cost of the legal counsel during the ERC proceedings?	Each will bear the cost of securing its respective Legal Counsel.
Instruction to Prospective Bidders (IPB)	2.6 Confidentiality No individual shall be allowed to take photos, videos and/or audio recording of the proceedings in this Bidding. Upon a valid and reasonable written request made by a Bidder, the TPBAC may grant access/viewing of the official recording but only inside a data room to be provided to the requesting Bidder.	Will there be a designated data room for viewing of this recording or will this be a website/link which shall be provided upon request?	Time and Place for viewing and accessing the recording will be announced thru Bid Bulletin.

Instruction to Prospective Bidders (IPB)	<p>3.2 Technical Proposal</p> <p>a) Evidence of compliance to the requirements stated in the Invitation to Bid's Terms of Reference Table ("TOR Table")</p> <p><i>*With reference to item 1 of Annex 7 item</i></p>	Can a certification issued by Corporate Secretary suffice as enough evidence?	For purposes of the IPB, the Certification issued by the Corporate Secretary will suffice, subject to Post Qualification Evaluation, if applicable.
Instruction to Prospective Bidders (IPB)	<p>3.3 Bid and Bid Security</p> <p>(c) Proposed Price for each Billing Year throughout the Cooperation Period beginning on the Commencement Date, as reflected in the Financial Evaluation Workbook.....</p>	Is the Financial Evaluation Workbook the same as the LCOE Calculation Worksheet provided?	Yes, they are the same.
Instruction to Prospective Bidders (IPB)	<p>3.3.3 Return/Cancellation of Bid Security</p> <p>(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).</p>	Once the EPPA has been signed and bid security for all other bidders who did not win has already been returned/cancelled, what will happen if the winning bidder, even after signing, suddenly backs out or withdraws from the contract?	The Bid Security of the Winning Bidder shall be forfeited considering that the effectivity of the Bid Security of the Winning Bidder is until the Commencement of the Cooperation Period.
Instruction to Prospective Bidders (IPB)	<p>7. Failed Bidding</p> <p>(c) less than two Bidders "passed" the evaluation of Qualification Documents or Technical Proposal</p>	In case only two bidders submitted timely, but 1 bidder is disqualified, will TPBAC declare a failed bidding?	Yes. Please refer to Section 7 (c) of the IPB.
Instruction to Prospective Bidders (IPB)	Annex 2 Authority to Participate in the Bidding and Designation of Authorized Representative	The Bidder does not necessarily own the nominated plant as long as the bidder has control of the output.	For purposes of the IPB, the Certification issued by the Corporate Secretary will suffice, subject to Post Qualification Evaluation, if applicable.

	<p>“2. I am the duly elected (corporate secretary) of (name of owner of the <u>Nominated Power Plant</u>) (the “Company”), a (partnership/corporation) organized and existing under and by virtue of the laws of the Republic of the Philippines.”</p>	<p>Will a secretary certificate from the nominated power plant be sufficient proof of bidder's control over the output of the nominated plant?</p>	
Instruction to Prospective Bidders (IPB)	Annex 7 Technical Proposal (Nominated Plant)	<p>Can we introduce new nominated plants, whether conventional or renewable, at any time within the duration of the EPPA? If so, what will be required?</p> <p>Due to the length of the contract, it is possible the supplier may put up or acquire new capacities/plants.</p>	Yes, subject to approval of concerned Government Agencies and with written consent from LUECO.
Instruction to Prospective Bidders (IPB)	<p>Page 44</p> <p>Certification regarding Technical Proposal Contract Capacity</p>	Does this mean the current contract level of the power supplier?	Yes.
Terms of Reference (TOR)	8. Power Act Reduction (PAR)	Is the PAR fixed at Php 0.30/kWh? How will the % (whether 44% or 50% or any other percentage) be applied in the billing? Who will determine the % of the residential customers among the total energy requirement of LUECO?	<p>PAR is fixed at Php 0.30/kWh since residential consumers are enjoying this benefit for 20 years now. This is reflected as a separate line item in our billing to residential customers.</p> <p>LUECO shall provide SELLER the necessary information/data required to compute for the Estimated PAR discount for the current billing month and corresponding PAR adjustment for the previous month. Hence, the PAR and PARA provisions in the ERC required URR.</p> <p>Why the adjustment? The PAR discount is supposed to be applied in the same billing month of LUECO and the Supplier. But due to the reason that Supplier and LUECO have different billing periods (LUECO's PAR Data for the current billing month still not available during the processing of the Supplier's Current Bill) , the previous month's PAR data is being used by the Supplier to compute for the estimated PAR discount and the corresponding adjustment will be reflected in the succeeding month.</p>
Terms of Reference (TOR)	<p>9. Force Majeure</p> <p>“In the case of Force Majeure Event affecting Power Supplier, Power Supplier shall</p>	<p>Will there be no exceptions?</p> <p>What is the rationale behind the “whichever is lower” condition under the FM obligation to</p>	None, if you mean exception to the rate applicable in case of Force Majeure.

	continue to supply LUECO at BER or WESM Price at LUECO's Market Trading Node, whichever is lower"	supply? BER pertains to the rate without escalations (or year 1 rate as described/noted in the LCOE worksheet). In an event of an FM during year 5 where the BER should have been escalated already, what rate will apply? The BER (Year 1 rate) or the escalated BER for Year 5?	ERC cases are replete with decisions on the applicable rate in cases of Planned and Unplanned outages where it shall be the rate from the alternative source or the existing rate, "whichever is lower". What more of Force Majeure (FM) cases? Are they not "Unplanned" too? Besides, in FM events, with more reason that the consumers should not be burdened with higher rate than the current electricity fee. Likewise, should there be instances of lower rate from alternative source during FM events, it is one good reason for consumers to benefit from it in order to somehow alleviate their condition. The BER at Year 5 will apply in the event of Force Majeure in year 5.
Terms of Reference (TOR)	7. Tariff Structure Base Energy Rate (BER) in PhP/kWh subject to the following: 50% max of BER can be escalated at an annual rate not greater than 3.5% beginning on the second contract year	Just for clarity, does this mean that a maximum of 3.5% escalation will be applied year on year (current vs previous year increase up to 3.5%)? Or is it a maximum of 3.5% increase always coming from year 1.	The % escalation is applied year on year.
EPPA	Definition of Terms "Energy Imbalance Fees" means the settlement fees, charges or other similar amounts assessed by the Market Operator on SELLER in relation to ex-ante and ex- post trading imbalances, in accordance with the WESM Rules.	What is the purpose of this definition when tariff requirement of LUECO is all-in?	This is for clarification of the responsibility of the SELLER under Article 6.1 of the EPPA.
EPPA	3.1 SELLER shall, within fifteen (15) Days from receipt of ERC Approval, deliver to BUYER security ("Performance Security") in an amount	What's the basis of the Php 350M? Is this based on the duration of the contract and the corresponding demand of LUECO? For as long as the contract is in effect and the supplier is continually supplying to	Please refer to Article 14.3.2 Liquidated Damages regarding the basis of the PhP 350,000,000.00

	equivalent to THREE HUNDRED FIFTY MILLION PESOS (PHP 350,000,000.00).....	LUECO, the contract period/duration is decreasing accordingly, therefore, shouldn't the amount of performance security being put up likewise decrease? Will the full amount of Performance Security be called upon at all applicable instances?	Once the Performance Security is forfeited, it will be the full amount.
EPPA	4.2 Failure of Power Plant to Generate Electricity In case SELLER is unable to source electricity from Power Plant for whatever reason, SELLER shall undertake alternative sourcing arrangements to compensate for the failure or shortfall.....	Can TPBAC expound on the scenario when this will most likely happen? Will this scenario trigger calling on both performance security and the penalty?	This is subject to our query to DOE and we quote the reply of DOE <i>"The DOE concurred that such provision is necessary to ensure efficiency in the operation of the Winning Bidder which consequently results in continuous electric power supply to LUECO's captive customers.</i> <i>Deletion of such provision for penalty is not recommended as it is for the protection of the LUECO's captive customers of having reliable and available supply of electricity."</i> We can only reduce the penalty from 20% to 5% and this shall be subject to amendment thru a Bid Bulletin. No. Only the penalty.
EPPA	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) Business Days from receipt of each billing.....	TPBAC might want to consider a shorter period similar to the practice of prompt payment which usually within ten calendar days. Will a discount other than 3% be accepted? Currently the LCOE sheet does not accept a rate lower than 3% and the remarks state a minimum of 3%	This is noted. Article 5.2.2 is amended to read as follows: <i>5.2.2 BUYER shall be entitled to a Prompt Payment Discount equivalent to [2]% 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, apparently invalid, or not in the form or substance contemplated in this Agreement.</i> Yes. Any rate higher than three (3%) is acceptable for the benefit of the consumers.

EPPA	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.	What if a bidder submits a bid that does not include a PAR discount but is actually net of PAR already and happened to be the lowest bid, will this be considered as the winning bid? If yes, will this provision still apply?	Yes, provided that for the purpose of billing, the PAR shall be added back to reflect the actual rate. In this case, yes.
EPPA	<p>8.3 Effect of Force Majeure</p> <p>8.3.1 Except as provided in Section 8.5, the affected Party shall be excused from performance to the extent affected and shall not be considered to be in default in respect of any obligation under this Agreement.....</p>	<p>The EPPA acknowledges that affected Party shall be excused during events of FM while item 9 of the TOR (Force Majeure) where affected Power Supplier shall continue to supply to LUECO at BER or WESM Price at LUECO's Market Trading Node, whichever is lower.</p> <p>With what is stated in the EPPA, we assume that the condition where supplier shall be excused will prevail.</p>	<p>Article 8.2 of the EPPA is amended to read as follows: xxx</p> <p><i>For the avoidance of doubt, xxx . . .</i></p> <p><i>In the case of Force Majeure Event affecting Power Supplier, and there is available Supply from other sources, Power Supplier shall continue to supply LUECO at BER or WESM Price at LUECO's Market Trading Node, whichever is lower.</i></p> <p><i>For reference, "System Emergency" refers xxx . . .</i></p> <p><i>For the avoidance of doubt, the Power Supplier shall not be entitled to claim any of its act or omission as Force Majeure.</i></p> <p>And Article 8.3.1 is amended to read as follows:</p> <p><i>8.3.1 Except as provided in Section 8.2 and 8.5, the affected Party shall be excused from performance to the extent affected and shall not be considered to be in default in respect of any obligation under this Agreement (including any obligation of BUYER to pay the Electricity Fees) for so long as failure to perform such obligation shall be due to an Event of Force Majeure.</i></p>
EPPA	8.3.2 If any Event of Force Majeure prevents BUYER from taking capacity and/or energy from SELLER, SELLER may sell such capacity and energy to third parties, on terms which permit SELLER to recommence sales to BUYER following the discontinuance of such Event of Force Majeure affecting BUYER upon twenty-four (24) hours' prior written notice	What will be the mechanism/procedure in case Buyer can resume offtake of the capacity from Seller?	Please refer to Article 8.6 Procedure of the EPPA

EPPA	11.2.7 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	Will the buyer take the full responsibility of all obligations of the seller in relation to the WESM related matters as a direct WESM member (i.e. Setting up prudential Guarantees, Nominations/Declarations, WESM Settlements & Payments, etc.)?	It is only an option of the BUYER. Should it opt to be a direct member of the WESM, the obligations and responsibilities shall be discussed with the SELLER.
EPPA	13.1.2.3 ...In the event of any disallowance in the Electricity Fee, the same shall be for the account of SELLER. For clarity, any modification made by the ERC to the rates, terms and conditions of this Agreement shall not be grounds for SELLER's right to terminate this Agreement	Is this provision applicable only to the ERC's disallowance/reduction/modification of the EPPA rate? Prior to the implementation of the EPPA, LUECO had already underwent CSP where several suppliers have competed to give LUECO the best price. And for them to come up with the best price, they have to consider their cost of generation and market conditions. In such event that ERC disallows or reduces EPPA rate, supplier should be allowed to terminate without penalty.	Yes, unless other Government Agencies will be authorized to alter the EPPA rates. It is very clear under Article 13.1.2.3 of the EPPA that it is not a ground for SELLER's right to terminate with or without penalty considering that ERC is the regulating body that oversees all rates. The SELLER is not without any legal recourse.