

COMMENTS AND QUESTIONS PERTAINING TO THE TERMS OF REFERENCE

Applicable Criteria	Particulars	Comments/Questions	TPBAC Response
Monthly Minimum contract Energy (MMCE)		Please confirm that despite having 50% of the contracted capacity as the minimum hourly nomination, Negros Power will be charged at MMCE which is as mentioned, at 100% load factor. Further, please confirm if the adjustment due to Negros Power system outage will be valid should there will be prior notification to the Seller. Will there be no limitation as to the coverage of “system outage at the substation level”?	The MMCE will be charged at 100%LF reckoned monthly will be the basis in charging the fixed component of the electricity fee (Capital Recovery Fee (CRF) and Fixed Operations and Maintenance (O&M)). Variable O&M and Fuel Fee based on the actual delivery. Sceduled Interruption - Prior Notification Unscheduled Interruption - Post Notification
Monthly Minimum contract Energy (MMCE)	Total monthly energy equivalent to 100% load factor of the Contract Capacity subject to adjustment due to force majeure and Negros Power system outage at the substation level. The MMCE reckoned monthly will be the basis in charging the fixed component of the electricity fee (Capital Recovery Fee (CRF) and Fixed Operations and Maintenance (O&M)).	Kindly explain how can Negros Power comply with the 100% MMCE if the Hourly Minimum Nomination is 50%.	The Supplier will be settled 100% MMCE for the CRF and Fixed OM, thus the 50% applies only to Variable and Fuel Fee
Monthly Minimum contract Energy (MMCE)	Total monthly energy equivalent to 100% load factor of the Contract Capacity subject to adjustment due to force majeure and Negros Power system outage at the substation level The MMCE reckoned monthly will be the basis in charging the fixed component of the electricity fee (Capital Recovery Fee (CRF) and Fixed Operations and Maintenance (O&M)).	Please confirm if fixed fees (CRF and FOM) will still be billed at 100% at the end of the billing month despite the hourly minimum nominations. And if the hourly minimum nominations are just for the variable fees (VOM and Fuel) on actual energy delivered.	The Supplier will be settled 100% MMCE for the CRF and Fixed OM, thus the 50% applies only to Variable and Fuel Fee
Hourly Minimum Nomination	50% of the Contracted Capacity	Kindly explain how can Negros Power comply with the 100% MMCE if the Hourly Minimum Nomination is 50%.	The Supplier will be settled 100% MMCE for the CRF and Fixed OM, thus the 50% applies only to Variable and Fuel Fee

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Type of Contract	Physical	If the intent is for a Physical Type of PSA, wherein it is acceptable under the ERC Rules/PSA template that the PSA should have an Outage Allowance and Seller is excused from its obligations to supply the Contract Capacity during outages within the Outage Allowance, can Negros Power allow the Bidders to opt to guarantee the supply (Zero Outage Allowance) or opt to have an Outage Allowance pursuant to ERC Resolution No. 10, Series of 2020 (see table below); provided that, said Outage Allowance should have an impact on the calculation of the Levelized Rate. For example an equivalent WESM Price as applied to the number of Outage Allowance in hours proposed by the Bidder shall be used to calculate the cost impact to the Levelized Rate. <table><caption>Table 1. Allowable Planned and Unplanned Outage Days</caption><tr><th></th><th>Pulverized Coal</th><th>Circulating Fluidized Bed</th><th>Combined Cycle</th><th>Gas Turbine</th><th>Diesel</th><th>Geo-thermal</th><th>Hydro-electric</th><th>Oil-Fired Thermal</th><th>Biomass</th></tr><tr><td>No. of Day Unavailable</td><td>44.7</td><td>32.3</td><td>20.2</td><td>29.2</td><td>19.0</td><td>19.7</td><td>29.9</td><td>58.6</td><td>39.7</td></tr><tr><td>No. of Days of Planned Outage</td><td>27.9</td><td>15.4</td><td>12.5</td><td>6.5</td><td>5.0</td><td>6.0</td><td>23.1</td><td>30.8</td><td>32.7</td></tr><tr><td>No. of Days on Unplanned Outages</td><td>16.8</td><td>16.9</td><td>7.7</td><td>22.7</td><td>14.0</td><td>13.7</td><td>6.8</td><td>27.8</td><td>7.0</td></tr></table>		Pulverized Coal	Circulating Fluidized Bed	Combined Cycle	Gas Turbine	Diesel	Geo-thermal	Hydro-electric	Oil-Fired Thermal	Biomass	No. of Day Unavailable	44.7	32.3	20.2	29.2	19.0	19.7	29.9	58.6	39.7	No. of Days of Planned Outage	27.9	15.4	12.5	6.5	5.0	6.0	23.1	30.8	32.7	No. of Days on Unplanned Outages	16.8	16.9	7.7	22.7	14.0	13.7	6.8	27.8	7.0	Denied, Bidders assumes the risk for the cost of replacement power
	Pulverized Coal	Circulating Fluidized Bed	Combined Cycle	Gas Turbine	Diesel	Geo-thermal	Hydro-electric	Oil-Fired Thermal	Biomass																																		
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No. of Days of Planned Outage	27.9	15.4	12.5	6.5	5.0	6.0	23.1	30.8	32.7																																		
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Contract Duration		Will the end date be adjusted depending on the issuance of regulatory approvals?"	Yes.																																								
Contract Duration	Five (5) years contract from the Delivery Date or upon issuance of ERC's approval, whichever is later	For BAC's confirmation if this provision means, in case the ERC's approval will be issued later than the target delivery date, that the PSA shall be implemented on the day of ERC's approval? Or will it be implemented on the 26th day of the succeeding month following the ERC's approval?	It will be on the earliest 26th day of the month with a 10 days prior notice.																																								
Technical Parameters - Delivery Point		Kindly confirm if there are any existing congestion issues in the transmission network in Negros Power’s area that could affect the delivery of baseload power from off-franchise plants?	None as far as the concerned of Negros Power.																																								
Technical Parameters - Delivery Point	The Receiving Point shall be at Negros Power Metering Nodes.	For BAC's confirmation of NEPC's Market Trading nodes to be considered for the line rental	Yes																																								

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Technical Parameters - Line Rental		We would like to suggest having the line rental cost be a passed-on cost to the Buyer. This will ensure that the Bidder's proposal is not unfairly impacted by uncertainties or inaccuracies in modeling the line rental fees, which is ever-changing, on a per billing period basis, depending on both grid and market conditions and regulation. By maintaining that the line rental charge as a pass-on cost, Negros Power could facilitate a more competitive bidding process and attract a wider range of qualified bidders who might otherwise be deterred by the challenge of estimating/projecting this non-generation cost. In the end, Negros Power will be able to evaluate bids based on the true cost of generated power supply, without being padded by premiums caused by estimations.	Denied. The Line Rental can be be incorporated in the rate structure of the bidder to mitigate the risk.
Technical Parameters - Line Rental	Line Rental For the account of the Winning Bidder, capped at P0.30/kWh In excess of the cap, for the account of the buyer (Negros Power)	1. We highly suggest that LR beyond the LR Cap of PhP0.3000/kWh be considered in the determination of the Levelized Rate as the same would form part of the cost of electricity the Buyer would charge its end-consumers. 2. The Buyer should require all Bidders to provide data on actual LR from its Nominated Plant to the Buyer receiving point/s for at least the most recent 12 months and should be under a Sworn Statement. 3. The LR beyond LR Cap should form part of the Bid Evaluation Form.	Line Rental beyond CAP is for the account of the buyer. There is no need to be part of the evaluation.
Technical Parameters - Line Rental	Line Rental for the account of the Winning Bidder, capped at P0.30kWh. In excess of the cap, for the account of the buyer	Please confirm if the LR Cap will be part of the evaluation	Line Rental within CAP is for the account of the Seller, it is the responsibility of the bidder to incorporate to its rate or not.
Technical Parameters - Line Rental	For the account of the Winning Bidder, capped at P0.30/kWhIn excess of the cap, for the account of the buyer (Negros Power)	To protect NEPC and the consumers on the Line Rental impact, we recommend capping the Line Rental on the account of the buyer (Negros Power). Any amount exceeding this cap will be the responsibility of the seller (Bidder).	We welcome this suggestion. But we retain the original provision that the Line Rental beyond CAP is for the account of the buyer
Technical Parameters - Line Rental	For the account of the Winning Bidder, capped at P0.30/kWh. In excess of the cap, for the account of the buyer (Negros Power)	For BAC's confirmation if the 0.30 P/kWh line renta cap is binding for the PSA implementation.	Yes
Electricity Fees		Regarding the tariff, would it be acceptable to submit an offer with a fixed tariff for the entire 5-year term? If so, how will this be evaluated relative to bids that use a structure with both fixed (CRF and Fixed O&M) and variable components (Variable O&M and Fuel)?	Yes, offering the fixed rate over the five year term will offer a competitive rate as the LCOE determine the Net Present Value

Applicable Criteria	Particulars	Comments/Questions	TPBAC Response
Electricity Fees		While we note that the Capital Recovery Fee (CRF) should be fixed in PhP/kWh, we would like to appeal to be allowed to incorporate foreign components to the CRF and FOM in view of new and big power projects require foreign-manufactured equipment paid in foreign funding/currency. Forcing the generator to fix the said foreign denominated costs in PHP diminishes its competitiveness as it has to add rate premiums to cover for any risk foreign exchange rate fluctuations during the term of 5 years.	Denied. You can incorporate in the CRF the risk for the movement in the FOREX
Electricity Fees		1. Please clarify the term "date of the Bid Opening" as reference date for the base fuel index as provided in Section 15.3, item "c" page 20 of the Final ITB. Does it refer to the month of the Bid Opening (for example, month of July 2025)? 2. Please also provide the base Consumer Price Index (CPI) for both local and foreign as well as the foreign exchange rate (FX) in USD/PhP to be used for the Variable Price components of the Operations and Maintenance fees. 3. Please align the Electricity Fees component of Variable Operations and Maintenance (VOM) Fee (expressed in PhP/kWh) as provided in the Minimum Requirements portion of the Invitation to Bid, page 3 vis-a-vis the "Variable Price Components" mentioned in Section 15.3, item "b" where there are price components in USD (with or without escalation).	1. The latest month available power bill to the consumers 2. We provided indices to compare the bidders offer 3. There is no conflict, one mention energy and the other mentions price
Outage Allowance Per Plant		Given that Negros Power's TOR already requires the Seller to guarantee 100% availability of supply, please confirm that it will provide flexibility to the Seller, during the PSA implementation, to source power from other sources, including the WESM, provided that it can guarantee the ERC-approved Contract Price and that such instance will not be counted as an outage of the Seller. We note that under Article V- Reliability performance Indices and Equivalent Days of ERC Resolution 10 Series of 2020, ERC sets the standard number of outages for the generating plants to strictly observe. Hence, even the ERC recognizes that these outages are necessary to ensure that generating plants will be properly maintained which will ensure security and reliability of the grid. In this regard, we respectfully request Negros Power to set the number of allowable planned and unplanned outages days in accordance to ERC Resolution 10 Series of 2020.	Denied.

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Outage Allowance Per Plant	Zero Outage Allowance, subject to the Replacement Power provision (same comment in Criteria: Type of Contract)	If the intent is for a Physical Type of PSA, wherein it is acceptable under the ERC Rules/PSA template that the PSA should have an Outage Allowance and Seller is excused from its obligations to supply the Contract Capacity during outages within the Outage Allowance, can Negros Power allow the Bidders to opt to guarantee the supply (Zero Outage Allowance) or opt to have an Outage Allowance pursuant to ERC Resolution No. 10, Series of 2020 (see table below); provided that, said Outage Allowance should have an impact on the calculation of the Levelized Rate. For example an equivalent WESM Price as applied to the number of Outage Allowance in hours proposed by the Bidder shall be used to calculate the cost impact to the Levelized Rate.	Denied.
Replacement Power		Considering that Negros Power requires 100% availability, we would like to appeal to have the settlement of replacement power be based on the ERC-approved Contract Price.	Denied. Based on the ERC CSP Guidelines (Section 15-A), replacement power should always be the lower between the ERC-approved contract price and the actual replacement power cost.
Replacement Power	Replacement power shall be the obligation of the Supplier. In the event of failure by the Supplier to provide the replacement power, the DU shall be allowed to source the replacement power at the expense of the Supplier.	In case the Supplier fail to provide Replacement Power ("RP") when require under the PSA, the Supplier should be made to shoulder the "positive difference" between the actual cost incurred (as supported by invoices from source/s of the RP) by the Buyer in procuring the RP viz-a-viz the ERC approved contract cost under the PSA and NOT the entire cost of RP. The rational for this is that only the incremental cost incurred would impact the pass-on charge of the Buyer to its end-consumers and the Buyer should not in any way benefit or gain from such instance.	Yes.
Replacement Power	Replacement Power	Replacement Power cost should not be "whichever is lower" but at the Contract Price.	Yes, subject to ERC approval.
Force Majeure	Force Majeure	Please confirm that this provision may be further negotiated/improved during PSA negotiation.	Yes.
Force Majeure	The DU shall not be required to make payments for any of the following: 1. Capacity that is unavailable; and 2. Capacity that it cannot accept.	For BAC's confirmation if NEPC will agree to include transmission line constraints as a force majeure event given that NEPC will not be required to make payments for the capacity that it cannot accept and that this contract has no outage allowance.	Yes. As long as it confirmed by NGCP.
Regulatory Approvals	Regulatory Approvals	Please confirm our understanding that this does not preclude the bidder from filing a Motion for Reconsideration before the ERC (with the buyer's participation and cooperation) in case of a downward rate adjustment. If there is a downward rate, is this still subject to an MR? If an MR is filed, will Negros Power support and be a signatory to the MR?	No, NEPC cannot support the MR for the downward adjustment because it is our obligation to provide the least cost of power for the protection of the interest of the consumers.

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Regulatory Approvals	The DU and the Winning Bidder shall file with the ERC the joint application for the approval of the PSA in accordance with ERC Rules in thirty (30) calendar days after confirmation of the Notice of Award. The Winning Bidder shall provide for the legal services of the joint application with full support from the DU.	For consistency with the Indicative Schedule as well as the ERC Resolution No. 16, Series of 2023 which provides that the filing of the Joint Application be made within thirty (30) Days from execution of the PSA, please confirm that the intention under this item is for the thirty (30) Days period to commence from the execution of the PSA and not after the confirmation of the Notice of Award.	Yes.
Regulatory Approvals	The Supplier to shall make the necessary adjustments in accordance with the directive of the ERC. Downward adjustment in the rates shall not be a ground for the termination of the contract and the DU should not be made to shoulder the incremental difference.	May we request that the Seller can delay supply delivery without penalty while a motion for reconsideration is pending if the ERC -approved rate is lower than the rate won? And also to agree on a sunset date in the PSA if no resolution has been made?	No.
Dispatch by Utility	The DU shall have the right to dispatch the power plant up to its dependable capacity following the dispatch protocol in accordance with the economic merit order.	Please clarify this further for better understanding of all Bidders.	Yes, we will delete "following the dispatch protocol in accordance with the economic merit order."
Grounds for Termination	1. Unexcused or failure of Supplier to comply with its material obligations under the contract, including but not limited to the failure of the Supplier to comply with its obligation to deliver the guaranteed capacity from its own plant at target delivery date;	Considering the guaranteed supply requirement by the Buyer (zero outage allowance), the Supplier has the option to source the capacity and energy from the Plant or any other sources including the WESM. Thus on Delivery Date, the Buyer should not strictly expect supply from the Nominated Plant as long as Supplier can comply with its obligations to supply the Contract Capacity and Contract Energy to the Buyer. This scenario should not give the Buyer the right to terminate the PSA.	Yes.
Grounds for Termination	2. Supplier ceases or discontinues the delivery of electricity for a period of six (6) months from its own plant, except in instances allowed under the Agreement;	Similarly, given that there is zero Outage Allowance, meaning a guaranteed supply commitment from the Supplier, regardless of where will the Supplier source the capacity and energy to be supplied to the Buyer, the same should not be considered a default in the obligation of the Supplier which should give the Buyer a right to Terminate the PSA.	Yes.
Grounds for Termination	4. In the event that Force Majeure occurs that prevents DU from receiving or Supplier from delivering electricity at the delivery points for a period in excess of six (6) consecutive months;	This provision deals with "prolonged event of Fore Majeure" at six (6) consecutive months which prevents the DU from fully receiving or the Supplier fo fully delivering electricity. We believe this period is too long and would create more harm than good for the both Parties. We highly suggest to shorten this period to only sixty (60) consecutive calendar days.	Denied. We will retain the original provision.
Grounds for Termination	5. If no satisfactory solution is reached by the parties when a Change of Law, Change of Circumstance results to (a) any additional charges, fees, taxes, duties, assessments, or other similar amounts become payable, (b) DU is no longer permitted to pass through to its customers any charges, fees, taxes, assessments, or other similar amounts, or (c) DU is no longer permitted to pass through to its customers any amount that it is permitted to pass through as of the date of the Agreement; and	This should be made reciprocal because a Change in Law may likewise affect the Supplier	No, the provisions do not apply to the Supplier.

Applicable Criteria	Particulars	Comments/Questions	TPBAC Response
Penalties	The DU shall have the right to impose penalties whenever Supplier fails to comply with its obligations within the cure period stated in the PSA under the following circumstances: 1. Payment of damages upon contract termination based on valid grounds; 2. Payment of penalties when Supplier has prolonged outages of more than six (6) months; 3. Failure to provide replacement power; 4. Delay in Commercial Operation Date (COD); 5. Failure of power delivery; and 6. Other grounds detailed in the Power Supply Agreement. The following are the consequences of Event of Default: 1. Either DU or Supplier may initiate termination if the other party is unable to	General Comment: the imposition of penalties to the Supplier should only apply if the failure to comply with its obligations is proven to be the Supplier's fault and not beyond its control. Further, not all these instances require a "cure period" but has a certain form of penalty and may not be considered a basis for termination of the PSA. On Item 1. It should be clarified that the payment of damages is owing to Supplier's default resulting to "pre-termination" of the PSA (and not expiration the Contract Term or other reasons not due to the fault of the Supplier) On Item 2. Buyer requires a guaranteed supply of capacity and energy but nothing in the Bidding Documents specifically states that such supply of capacity and energy must be always sourced from the Nominated Plant. Thus, regardless if the Nominated Plant is on outage for six (6) months, as long as the Supplier is supplying the Contract Capacity under the PSA, there should be no applicable penalty to the Supplier nor should the Buyer have the right to terminate the PSA. It should be the ERC that should penalize the Supplier for incurring actual plant outage beyond that maximum allowed outage pursuant to ERC Resolutoin No. 10, series of 2020. On Item 3. Supplier's failure to provide Replacement Power ("RP") can be remedied thru the Buyer's right to procure its own RP subject to reimbursement by the Supplier of the "positive difference between the "actual cost of RP" and the "ERC-approved contract cost" for the PSA. On Item 4. Please clarify the term "Commercial Operatoins Date ("COD") as the terms seemed to be "not used" even in the draft PSA. On Item 5. Please clarify further this item as the PSA allows supply of RP if the Nominated Plant is on outage or in case of failure of Supplier to provide RP, the Buyer has the right to procure its own RP subject to the reimbursement by the Supplier of the incremental cost incurred by the Buyer in procuring the RP. On item 2 on Events of Default: This provision should be made reciprocal considering that either Party (the Supplier or the Buyer) may be held in default.	Yes.
Penalties	remedy its default within the cure period; and 2. Parties shall arrange Replacement Contracts. Party in default shall pay the price difference of the PSA and the Replacement contract until such time that the DU is able to enter into another contract with a power supplier. The non-defaulting Party may terminate the PSA subject to prior notice which shall not be less than thirty (30) calendar days.		
Bid Security	Bid Security	Please confirm that SBLC will be accepted as a form of bid security and that PBCom and AUB are acceptable banks for the SBLC.	Yes.
Reduction in Contract Capacity		In the event of a capacity reduction due to a loss in captive customers, will the reduction be applied proportionally across all suppliers with similar contracts?	Yes, this will be detailed in the PSA.

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Indicative Schedule	The following forms of Bid Security shall be acceptable to Negros Power: Table 2. Forms of Bid Security <table><tr><th>FORM OF BID SECURITY</th><th>AMOUNT OF BID SECURITY</th></tr><tr><td>1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr><tr><td>2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr></table>	FORM OF BID SECURITY	AMOUNT OF BID SECURITY	1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	1. Will there be no schedule for issuance of responses to the Pre-bid Conference comments and Supplemental Bid Bulletins ("SBB") prior to the issuance of the Final Instruction to Bidder? 2. Will the Bidders no longer given an opportunity to submit additional queries or further clarifications on the responses and SBB?	We are moving the bid opening date tentatively set at September 16, 2025. We will issue a bid bulletin to this effect.
FORM OF BID SECURITY	AMOUNT OF BID SECURITY								
1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder								
2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder								
Indicative Schedule	Indicative Schedule	Due to conflict of schedule of all signatories and Authorized Representatives, can the bidding schedule on August 29 be moved on a later date, such as Sept 5?	We are moving the bid opening date tentatively set at September 16, 2025. We will issue a bid bulletin to this effect.						
Indicative Schedule	Pre-Bid Conference: August 11, 2025 Deadline for Submission of Bid: August 29, 2025 (11:00 AM)	In the ERC Resolution 16 of 2023 (Competitive Selection Process), section 6, Pre-Bid Conference, it states that "A Pre-Bid Conference shall be conducted by the concerned DU at least thirty (30) calendar days before the deadline for the submission of bids to clarify any provisions, requirements, and/or terms and conditions of the bidding documents and/or any other matter that the prospective Bidders may raise. The Pre-Bid Conference may be held sooner should justifiable reasons warrant it."We kindly request that the TPBAC move the bid submission date to September 11, 2025, to provide bidders with ample time to prepare their proposals and requirements.	We are moving the bid opening date tentatively set at September 16, 2025. We will issue a bid bulletin to this effect.						
Indicative Schedule	Indicative Schedule	We respectfully request that we will still be allowed to raise questions after the pre-bid conference.	Bidders will have until August 31 to raise questions.						
General Comment	General Comment	We are currently reviewing the Final Instructions to Bidders. The document mentions TOR 1 and TOR 2. However, we only received 1 TOR which is the one included in the invitation. If there are indeed two TORs, may we kindly request that you send us separate copies of TOR 1 and TOR 2 for clarity?	TOR 2 is a typographical error.						
General Comment	General Comment	The document mentions TOR 1 and TOR 2 in various sections. However, we only received one TOR which is the one included in the Invitation to Bid (“ITB”). Please confirm that the Official TOR of this Competitive Selection Process refers to the table stated in the ITB.	TOR 2 is a typographical error.						

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General Comment	On Prompt Payment Discount ("PPD")	1. Please confirm that the DOE-approved Terms of Reference ("TOR") do not have a provision relative to Prompt Payment Discount. 2. Can Negros Power allow a Bidder to propose (optional and not compulsory), a Prompt Payment Discount ("PPD") preferably based on a certain percentage of the total sum of the Capital Recovery Fee ("CRF"), Fixed Operation and Maintenance Fee ("FOM") and Variable Operation and Maintenance Fee ("VOM"). 3. Should Negros Power be amenable to the suggestion, we further suggest that the offered PPD be considered in the calculation of the Levelized Rate which is the basis for determining the winning Bidder.	1. Yes. 2. Yes, but it will not be considered in the determination of the LCOE. 3. No.

COMMENTS AND QUESTIONS PERTAINING TO THE INSTRUCTIONS TO BIDDERS

Section	Provision	Comments/Questions	TPBAC Response
Section 2 Definition of Terms	Nominated Plant - an existing physical plant or a plant to be built or under construction which is the source of the capacity offered by the Bidder;	If the Nominated Plant is a Greenfield Plant, we suggest that its commercial operations be subject to a grace period of six (6) months from Target Delivery Date (26 November 2025) considering that the supply period is only five (5) years and urgency in the availability of power supply should be given priority.	Denied. This will be covered by the Replacement Power provision.
Section 2 Definition of Terms	Unscheduled Outage - unforeseen or unplanned interruption of a power plant unit's generating capability outside the scheduled outages;	We suggest as minor revision of this definition to be incorporated in the final PSA as follows: Unscheduled Outage - unforeseen or unplanned interruption of a power plant unit's generating capability outside the Scheduled Outages and events of Force Majeure .	Denied.
Section 2 Definition of Terms	Bid Security - the deposit of cash, manager's check, certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents. The bid security shall be denominated in Philippine Pesos and posted in favor of Negros Power. For the purpose of this CSP, Negros Power shall accept the use of a Bid Securing Declaration in the form prescribed in Section 16 as alternative to the aforementioned forms of Bid Security;	We suggest the following revisions for consistency with Section 16.2: "Bid Security - the deposit of cash, manager's check, certified check, cashier's check, bank draft, money order, or bid bond bank draft/guarantee, or standby/irrevocable letter of credit issued by a Universal or Commercial Bank submitted with a bid and serving to guarantee ****"	Section 16 provisions shall prevail.
Section 2 Definition of Terms	Certificate of Compliance (COC) - the certificate of license issued by the ERC in the generation of electricity to operate Generation Facilities and ensures that the Generation Company comply with all the applicable legal, regulatory requirements or any proof of authority as provided by the appropriate government agency;	We suggest including Provisional Authority to Operate as an equivalent of the Certificate of Compliance, in the absence of the latter: Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) - the certificate of license issued by the ERC in the generation of electricity to operate Generation Facilities and ensures that the Generation Company comply with all the applicable legal, regulatory requirements or any proof of authority as provided by the appropriate government agency .	Yes.
Section 2 Definition of Terms	Generation Company - a person or an entity authorized by the ERC to operate a facility used in the generation of the electricity or a company that owns and operates a power generating plant that <u>produces electricity</u> ;	We suggest aligning the definition of a Generation Company with the definition under the ERC's 2023 Revised COC Rules: Generation Company - any person or entity authorized by the ERC to operate facilities used in the Generation of Electricity ;	Yes.
Section 2 Definition of Terms	Reserve Price - the predetermined price equivalent to the ceiling of the Total Price for TOR 1 component of the bidding (20MW with Fuel- Cost Pass Through) which will only be revealed by the TPBAC during the Opening of Bids;	How will the Reserve Price be calculated by NEPC?	The reserve price is a function of rate. It's the competitive price on what we feel should be able to encourage the bidders to join, it also involves the the WESM price and power plant technology.

Section	Provision	Comments/Questions	TPBAC Response						
Section 2 Composite Score	Composite Score - the aggregation of the scores received for each criterion multiplied by their relative weights;	May we know what are the criteria and the weights to be used in determining the Composite Score?	This is a typographical error.						
Section 2 Levelized Rate (and whole of Annex C)	Levelized Rate - the discounted price over the duration of a five-year period from the date of delivery of electricity using the prevailing discount rate. This only pertains to TOR 1 (Fuel Cost Pass-through);	Based on Section 2, the Levelized Rate is based on fuel pass through. However, but in the Annex C (Financial Proposal), it is based on all costs (Cap Fee, VOM, FOM, and Fuel).	The Section 2 definition of the Levelized Rate is is a typographical error. The Levelized Rate is really based on all costs.						
Section 3 Bidding Design	3.7 Three (3) days after sending out of the Supplemental/Bid Bulletin and posting in the Negros Power website, Bidders are presumed to have received the Bid Bulletins;	Please clarify when exactly is the target date for the issuance of Supplemental Bid Bulletins ("SBB") and the posting of said SBBs in the website considering the limitation of number of days from the Pre-bid Conference to the target Issuance of Final ITB (i.e., August 11 to August 15, 2025).	The last day of the issuance of the SBBs is August 31, 2025.						
Section 3 Bidding Design	3.10 If determined that the concerned bidder complies with and is responsive to all the requirements and conditions specified in either TOR1 and TOR2 and other pertinent bidding documents, the TPBAC shall declare Acceptance of the Bid(s) and the Notice(s) of Award shall be issued to the Winning Bidder;	Please confirm that this transaction pertains to only one (1) TOR for the 20MW Baseload Power Supply Requirement.	Yes.						
Section 3 Bidding Design	3.11 Negros Power and the Winning Bidder shall finalize the template Power Supply Agreement based on the outcome of the CSP and the Terms of Reference including any amendments thereto during the pre-bid conference, if any; Section 5 Bidding Schedule: <table><tr><td>Deadline for Submission of Comments and Questions</td><td>August 9, 2025</td></tr><tr><td>Pre-bid Conference</td><td>August 11, 2025</td></tr><tr><td>Issuance of Final Instruction to Bidders</td><td>August 15, 2025</td></tr></table>	Deadline for Submission of Comments and Questions	August 9, 2025	Pre-bid Conference	August 11, 2025	Issuance of Final Instruction to Bidders	August 15, 2025	Will a negotiations for any further amendment(s) of the PSA be conducted between the period 05 September (Issuance of Notice of Award) to 25 September (Signing of PSA) be conducted?	We are moving the bid opening date set at September 16, 2025. We will issue a bid bulletin to this effect. All the other activities subsequent to the change in the bid opening date will correspondingly be adjusted.
Deadline for Submission of Comments and Questions	August 9, 2025								
Pre-bid Conference	August 11, 2025								
Issuance of Final Instruction to Bidders	August 15, 2025								
Section 3.11	Negros Power and the Winning Bidder shall finalize the template Power Supply Agreement based on the outcome of the CSP and the Terms of Reference including any amendments thereto during the pre-bid conference, if any;	Please confirm whether the winning bidder is allowed to negotiate the terms of the power supply agreement.	Yes, as long as it will conform to the TOR.						
Section 4 Scope of Bidding	4.3 The quantity to be contracted is 20 MW baseload capacity. The initial delivery date shall be on November 26, 2025, 00:00H or upon ERC Approval date, whichever comes later. The contract shall remain effective for a fixed period of five (5) years in accordance with the decision of the ERC.	Please confirm that the 5-year period is anchored from the Delivery Date and not from the Effective Date.	Yes.						
Section 5 Bidding Schedule	Pre-Bid Conference - August 11, 2025	Please confirm that Bidders may submit additional clarifications after the Pre-Bid Conference.	Yes, Bidders will have until August 31 to submit clarifications.						
Section 5 Bidding Schedule	Issuance of Final Instruction to Bidders - August 15, 2025	Will the deadline of bid submission move if the issuance of the Final ITB is delayed?	We are moving the bid opening date set at September 16, 2025. We will issue a bid bulletin to this effect.						

Section	Provision	Comments/Questions	TPBAC Response
Section 6 Eligible Bidders	6.1 To be eligible to participate in this Bidding, an interested bidder must own or exhibit control over the capacity or energy resource of the Nominated Plant for the entire duration of the contract provided that it has to present convincing evidence of right over the capacity or energy resource from the Nominated Plant. This ownership or control of the Nominated Plant shall be proven by the Certificate of Compliance (COC) or the IPPA Certification.	Please confirm that the Bidders are allowed to submit Provisional Authority to Operate (PAO) issued by the ERC in lieu of a Certificate of Compliance (COC).	Yes.
Section 6 Eligible Bidders	6.5 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder will be considered to have conflicting interests if a Bidder's Officer or any authorized representative is related by consanguinity or affinity up to the fourth civil degree to any member of the Negros Power TWG, TPBAC and Secretariat. This Section Shall apply to the following persons: 1. If the Bidder is an individual or a sole proprietorship, to the Bidder himself; 2. If the Bidder is a partnership, to all its partners, officers and members; 3. If the Bidder is a corporation, to all its corporate officers, directors, and controlling stockholders. Relationship of the nature described above or failure to comply with the provisions of this Section will result in the rejection of the Proposal.	Please confirm that the limitations enumerated are exclusive and to be strictly complied with, and failure to do so, will result in the disqualification of the Bidder.	The conflict of interest provision only applies to a Bidder's Officer or any authorized representative related by consanguinity or affinity up to the fourth civil degree to any member of the Negros Power TPBAC. We will remove the inclusion of the TWG and Secetariat.
Section 6.1	To be eligible to participate in this Bidding, an interested bidder must own or exhibit control over the capacity or energy resource of the Nominated Plant for the entire duration of the contract provided that it has to present convincing evidence of right over the capacity or energy resource from the Nominated Plant. This ownership or control of the Nominated Plant shall be proven by the Certificate of Compliance (COC) or the IPPA Certification	To expand the bidding to more qualified suppliers, may we suggest that private administrators be allowed to participate, for as long as it exercises control over the output or capacity of another nominated power plant or portfolio of plants, or is the offtaker of the capacity of another supplier. <u>Proposed Revision:</u> To be eligible to participate in this Bidding, an interested bidder must own or exhibit control over the capacity or energy resource of the Nominated Plant for the entire duration of the contract provided that it has to present convincing evidence of right over the capacity or energy resource from the Nominated Plant. This ownership or control of the Nominated Plant shall be proven by the Certificate of Compliance (COC), or the IPPA Certification, or any document that shows sufficient authority of the Bidder to use the Nominated Plant to supply the requirement of Negros Power.	Yes, as long as the Bidder can provide any documentary proof to show control over the capacity for the entire duration of the contract.

Section	Provision	Comments/Questions	TPBAC Response
Section 6.4 Eligibility Requirements	A Bidder is allowed to nominate a portfolio of plants to supply the Contracted Capacity provided that all the documents for all the plants under the portfolio shall be submitted to Negros Power. However, this does not prevent the Bidder from nominating a single plant and sourcing the supply requirements from other plants under the same portfolio.	If a Bidder nominates a single plant but intends to source some or all of the contract capacity from other plants in the future, is disclosure of these sources required during Bid Submission? If the Bidder sourced power from other plants, will it be considered as a normal supply or replacement power?	No.
Section 6.4 Eligibility Requirements	..However, this does not prevent the Bidder from nominating a single plant and sourcing the supply requirements from other plants under the same portfolio.	For the NEPC BAC's clarification: does this mean the bidder can submit only one plant in its offer, but can still supply from other plants during PSA implementation?	Yes.
Section 6.4 Eligibility Requirements	Bidder is allowed to nominate a portfolio of plants to supply the Contracted Capacity provided that all the documents for all the plants under the portfolio shall be submitted to Negros Power. However, this does not prevent the Bidder from nominating a single plant and sourcing the supply requirements from other plants under the same portfolio.	(1) Please confirm that if a Bidder nominates a renewable (“ RE ”) plant, the Renewable Energy Certificates (“ RECs ”) received by Negros Power from the RE supply shall be returned to the Bidder. If not, please confirm that this will be treated as a REC sale to Negros Power and shall be settled by the parties, details of which shall be incorporated in the PSA and through a bid bulletin. (2) Please confirm that the Winning Bidder will have a right, from time to time, to add nominated power plants within its portfolio to provide the supply to Negros Power	Yes.
Section 6.5 Conflict of Interest	A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder will be considered to have conflicting interests if a Bidder’s Officer or any authorized representative is related by consanguinity or affinity up to the fourth civil degree to any member of the Negros Power TWG, TPBAC and Secretariat. This Section Shall apply to the following persons: 1. If the Bidder is an individual or a sole proprietorship, to the Bidder himself; 2. If the Bidder is a partnership, to all its partners, officers and members; 3. If the Bidder is a corporation, to all its corporate officers, directors, and controlling stockholders. Relationship of the nature described above or failure to comply with the provisions of this Section will result in the rejection of the Proposal.	We would like to confirm that the provision only applies if a Bidder’s Officer or any authorized representative is related by consanguinity or affinity up to the fourth civil degree to any member of the Negros Power TWG, TPBAC and Secretariat.	We will remove inclusion of the TWG and the Secretariat.
Section 7.3 Expression of Interest Documents	Hard copies of the Expression of Interest documents shall be submitted together with the Eligibility Requirements as specified in Section 13.	In the event that two (2) copies of the Expression of Interest Documents have already been mailed to and received by Negros Power, does the Bidder still need to submit these documents along with the Eligibility requirements? Will the TPBAC allow the bidder to attach copies of the way bill to comply with Section 13.7 of the FITB?	Yes, the EOI must be submitted as part of the Eligibility Requirements. No, the Bidder will not be allowed.

Section	Provision	Comments/Questions	TPBAC Response
Section 8 Bid Processing Fee	8.3 The Bidding Documents are available to all interested bidders from July 15 until August 8, 2025.	Please confirm that section 3.4 is subject to the period provided in Section 8.3, therefore, after August 8, 2025, a potential bidder who has submitted the EOI documents will not be entitled to receive the Bidding Documents and participate in the bidding.	The receipt of the EOI and sending of the bid documents are still open until September 16, 2025 (tentative schedule of bid opening).
Section 8.3	The Bidding Documents are available to all interested bidders from July 15 until August 8, 2025.	May we confirm to the BAC if a bidder can still pay the bid processing fee and join the NEPC CSP beyond August 8, 2025. Please confirm if there is a deadline of the payment of the bid processing fee.	Yes. We will issue Bid Bulletin to this effect. The receipt of the EOI and sending of the bid documents are still open until September 16, 2025 (tentative schedule of bid opening).
Section 9 Penalties	The Buyer shall have the right to impose penalties whenever Seller fails to comply with its obligations within the cure period stated in the PSA under the following circumstances: 1. Payment of damages upon contract termination based on valid grounds; 2. Payment of penalties when Seller has prolonged outages of more than six (6) months; 3. Failure to provide replacement power; 4. Delay in Commercial Operation Date (COD); 5. Failure of power delivery; and 6. Other grounds detailed in this Power Supply Agreement.	May we suggest to have the penalties be mutualized by the Buyer and the Seller	This is subject to negotiation with the winning bidder.
Section 9 Conference and Amendment of Bidding Documents	9.9 Failure of the bidder's authorized representatives to physically attend the conduct of any CSP Processes, including the Opening of Bids, shall not result in rejection of the proposal and/or the disqualification of the Bidder.	Are these procedures still applicable? If not, please issue an updated procedure for the submission of Bid Proposals.	This is still applicable.
Section 9.1	The TPBAC shall conduct at least one (1) Pre-bid Conference with the interested bidders to discuss and clarify provisions of the Instruction to Bidders (ITB). The Pre-bid Conference shall be open to interested bidders, CSP Observers, and to the public.	This provision provides that the pre-bid conference shall be open to the public. Kindly confirm what platform will be used for this purpose. If online, how/where will the public be able to access the link to the pre-bid conference?	The live coverage is broadcast via NEPC official facebook page and through MS Teams.
Section 9.7	Failure of the interested bidders to secure any Supplemental Bulletin shall constitute a waiver of its/their right to be informed of the contents thereof if the TPBAC can prove that prior notice via email was duly sent.	We suggest clarifying the email addresses where the notice will be sent: Failure of the interested bidders to secure any Supplemental Bulletin shall constitute a waiver of its/their right to be informed of the contents thereof if the TPBAC can prove that prior notice via email to the email address of the Bidder's authorized representative was duly sent.	We will send the notices to the email addresses of the Bidder's authorized representatives.

Section	Provision	Comments/Questions	TPBAC Response
Section 10 Submission of Bid Proposals	10.3 TPBAC allows airport to airport submission of Bids provided that proper notice is given to the Secretariat so that document collection from the airport can be arranged. From the airport, the Secretariat shall immediately proceed to Negros Power Corporate Office, The Row, Lacson St. Brgy. Bata, Bacolod City and drop the Bids to the designated Bid Box. The reckoning of the official receipt of Bids by the TPBAC shall be the date and time that the Secretariat drops the Bids to the Submission Drop Box. Airport to airport submission of Bids shall be accommodated by the Secretariat except during the last day for submission of Bids.	Are these procedures still applicable? If not, please issue an updated procedure for the submissoin of Bid Proposals.	Yes. It is still applicable
Section 11 Due Diligence		What are the documents readily available for due diligence? (i.e. 2 Years AFS)	Negros Power AFS and Company Profile
Section 12 Bid Proposal Documents	12.1 The interested bidders must submit their Bid Proposal for each TOR which shall consist of: xxx	Please confirm that this transaction pertains to only one (1) TOR for the 20MW Baseload Power Supply Requirement.	Yes.
Section 12.1	The Bidder shall indicate “N/A” for requirements that are not applicable to them. There is no need for an accompanying explanation as to why requirements are not applicable.	Could you please confirm if a letter of non-applicability will be sufficient?	Submit the checklist and indicate N/A on the requirements which are not applicable.
Section 12.7	The Bidder shall indicate “N/A” for requirements that are not applicable to them. There is no need for an accompanying explanation as to why requirements are not applicable.	Please confirm if our understanding is correct: When a particular requirement does not apply to the Bidder, they may still include a placeholder page in their bid submission at the appropriate section, clearly marked with “N/A” to indicate non- applicability. This ensures the bid remains properly sequenced and complete.	There is no need.
Section 13 Legal Requirements	1. Certified true copy of the Securities and Exchange Commission (SEC) Certificate of Registration of the Bidder or any certification issued by competent authority, if applicable. In the case of Corporations with amended corporate names, they shall still submit the Certificate of Registration under the original corporate name; 2. Bidder must submit certified true copy of latest Articles of Incorporation and By-Laws or Articles of Partnership, whichever is applicable. Said documents must indicate therein that the primary purpose of the entity is power generation; 3. Certified true copy of the latest General Information Sheet (GIS) of the Bidder stamped received by the SEC not more than twelve (12) months old at the time of submission, if applicable.	Kindly confirm that the Bidders can redact the personal information due to data privacy. Also, if the SEC-certified AOI and By-laws are not yet available on the bid submission date, will copies of the same certified as true copies by the corporate secretary be acceptable?	Yes.

Section	Provision	Comments/Questions	TPBAC Response
Section 13 Legal Requirements	3. Certified true copy of the latest General Information Sheet (GIS) of the Bidder stamped received by the SEC not more than twelve (12) months old at the time of submission, if applicable;	Kindly confirm that the Bidders can redact the personal information in the GIS due to data privacy.	Yes.
Section 13 Legal Requirements	5. Certified true copy of the updated Mayor’s Permit, BIR registration, latest Tax Clearance, latest Audited Financial Statement (AFS) which shall be stamped received by the BIR and for the year 2022 or later;	1. Please confirm that Bidders may submit the latest available AFS which is for the year 2024. 2. Will copies certified as by the Finance Manager be acceptable?	1. Yes. 2. Yes, As long as the Finance Manager is duly authorized to certify the AFS
Section 13 Legal Requirements	7. Expression of Interest (EOI) Documents: a. Duly notarized Expression of Interest form b. Duly notarized Non-Disclosure Undertaking; and, c. <u>Duly notarized Written Acceptance of the TOR.</u>	Please confirm that for this requirement, the Bidders should only resubmit the EOI Documents previously submitted to acquire the Bidding Documents.	Yes
Section 13 Legal Requirements	8. Certification and other documents: a. A Secretary’s Certificate showing authority to participate in this bidding, the name, address, and contact details, including telephone number(s), fax number(s), email address(es) of the authorized representative(s) of the bidder who has/have authority to sign the documents required in this proposal.	Please confirm that submission of the document under item 1.2.1 of the Checklist for Eligibility of Requirements is already sufficient compliance with the requirement under this provision.	Yes
Section 13 Legal Requirements	14.2 For the original submission, original or Certified True Copy (CTC) are acceptable. The duplicate or second copy of the proposal may contain photocopies of the original. For Certified True Copy (CTC), EACH page must be certified as true copy by either of the following: 1. Internal department owning the document; 2. Representatives authorized by the management to certify the documents in accordance with the Secretary’s Certificate submitted by the bidder; or <u>3. Issuing government agency.</u>	Please confirm that Bidder may submit the initially submitted Secretary's Certificate that was part of the Expression of Interest Documents and include a separate document as an annex indicating the name(s), address(es), and contact detail(s), including telephone number(s), fax number(s), email address(es) of the authorized representative(s).	Yes.
Section 13 Legal Requirements	5.Certified true copy of the updated Mayor’s Permit, BIR registration, latest Tax Clearance, latest Audited Financial Statement (AFS) which shall be stamped received by the BIR and for the year 2022 or later;	If the Bidder's latest Audited Financial Statement (AFS) is for 2024 and includes financial results for both 2024 and 2023, please confirm if this submission will satisfy the requirement.	Yes.
Section 13 Legal Requirements		We respectfully suggest reviewing and correcting the labels of the sub-sections under Section 13: Legal Requirements to ensure clarity and avoid confusion when referencing specific provisions throughout the document.	This is noted.
Section 13.1 (labelled as 14.1 in the document)	In lieu of a Tax Clearance Certification, the submission of a document specifying that the Bidder has no outstanding tax obligation (“Certificate of No Outstanding Tax Liability” from a BIR Regional Office) or is not in the Master List of Delinquent Taxpayers issued by the Local District Revenue Office of Bureau of Internal Revenue shall be sufficient provided that the Bidder submits the new Tax Clearance during Post- Qualification.	Please confirm that the “document specifying that the Bidder has no outstanding tax obligation ... or is not in the Master List of Delinquent Taxpayers...” refers to a document that can be executed by the corresponding authorized representative, officer, or signatory of the Bidder itself.	No, this should be certified by the BIR.

Section	Provision	Comments/Questions	TPBAC Response
Section 13.1 (labelled as 14.1 in the document)	Bidders may provide only one (1) Board Resolution or Secretary’s Certificate for all the annexes, provided the authority given to the representative/s covers the required authorities set forth in the annexes.	Please confirm our understanding that this provision refers to the Board Resolution or Secretary’s Certificate designating the authorized representative to sign any and all documents required for the bidding, including the annexes (excluding the authority of the internal department owning the document or document custodian certifying the documents).	Yes.
Section 13.1 (labelled as 14.1 in the document)	For submissions done online, screenshot of the electronic system generated email response of the issuing agencies is acceptable in lieu of the stamped “received” requirement (e.g., BIR system generated email with the Transaction Code).	(1) For instances where there is no email response from the issuing agency, please confirm that the screenshot or printout of the Bidder’s email to the issuing agency submitting the document/application will suffice. (2) Please also confirm that this applies to all the requirements that require submission of a stamped “received” document.	yes
Section 13.2 (labelled as 14.2 in the document)	14.2 For the original submission, original or Certified True Copy (CTC) are acceptable. The duplicate or second copy of the proposal may contain photocopies of the original. For Certified True Copy (CTC), EACH page must be certified as true copy by either of the following: 1. Internal department owning the document; 2. Representatives authorized by the management to certify the documents in accordance with the Secretary’s Certificate submitted by the bidder; or 3. Issuing government agency. Authority of the internal department owning the document or the document custodian certifying the documents need not be specified in a Secretary’s Certificate	We respectfully suggest allowing the use of a “Certified True Copy” stamp on the first page of each document, signed by the appropriate certifying authority enumerated in the provision, as sufficient for compliance. This approach would maintain document authenticity while streamlining the process, especially considering the volume of documents required for submission.	Each and every page of each document should be certified as true copy.
Section 13.3 (labelled as 14.3)	All pages of the documents submitted must be signed. For Certified True Copy (CTC) of original documents, electronic signature is acceptable except for the Financial Proposal Forms which must bear wet signatures.	Please confirm our understanding that the sentence “[a]ll pages of the documents submitted be signed” refers to the requirement to sign each page as certified true copy, as necessary. <i>See also comment above on requirement for certified true copy.</i>	Each and every page of each document should be certified as true copy.
Section 14 Technical Proposal Requirements	14.1 If the power plant offered is an existing power plant, the Technical Proposal shall include the following documents: 1.Certified true copies of submissions of the following: a. Latest Monthly Operations Report (MOR) received by the DOE (December 2022 MOR or later); and For submissions done online, electronic system generated email response of the issuing agencies or acknowledgment email response are acceptable in lieu of the stamped “received” requirement.	Please confirm that Bidders may submit the latest available MOR which is for the year 2024.	Yes.

Section	Provision	Comments/Questions	TPBAC Response
Section 14 Technical Proposal Requirements	a. Latest Monthly Operations Report (MOR) received by the DOE (December 2022 MOR or later); and xxx	Please allow the submission of the GCMR, in lieu of an MOR, redacted for non-relevant details (aside from contact details and other sensitive information) but would show details on relevant information such as the rated and dependable capacity of the plant, the volume of electricity generated and sold, ramp up and ramp down capabilities, scheduled and unscheduled outages, required data to determine plant availability, among others.	Yes, with proof of submission stamped "received" by ERC. For submissions done online, electronic system generated email response of the issuing agencies or acknowledgment email response are acceptable in lieu of the stamped "received" requirement.
Section 14 Technical Proposal Requirements	2. The Bid Offer capacity shall be 20 MW dependable capacity.	Please confirm that Annex B: Technical Proposal Form shall comply this requirement	Yes.
Section 14.1 (1) (b)	Certificate of Compliance issued to the Bidder or the owner of the Nominated Power Plant by the ERC. Alternatively, the Bidder may submit a certified true copy of the Certificate of Compliance Application stamped "received" by the ERC or a Provisional Authority to Operate (PAO). A bidder may submit certified true copy of its PAO Application provided that Bidder must submit the PAO during post qualification.	We note that the requirement to submit the Certificate of Compliance is present in both the Legal and Technical Requirements. To avoid redundancy, we suggest removing the COC in the Legal Requirement and retaining in the Technical Requirement.	Denied.
Section 14.1 (1) (b)	For IPPAs, Bidder must submit a Certification containing the following information issued by the appropriate authorities: (1) Award as IPP Administrator, (2) Capacity Awarded, and (3) Duration and period of the contract.	In view of our comment on regarding private administrators, we suggest including the following: For private administrators, the Bidder must submit a Certification showing sufficient authority of the Bidder to use the Nominated Plant to supply the requirement of Negros Power.	Yes, as long at it covers the entire duration of the contract based on the TOR
Section 14.1 (1) (b)	The submission of Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) shall constitute sufficient compliance for the DENR environmental requirements in the TOR	The provision refers to DENR environmental requirements. We note, however, that there are no documents required to be submitted from the DENR. Please confirm our understanding that the Bidder is not required to submit documents from the DENR, whether or not the Bidder has a COC or PAO.	This applies to new plants only.
Section 14.1 (2)	The Bid Offer capacity shall be 20 MW dependable capacity.	Please confirm that this refers to Annex B: Technical Proposal Form and is the same requirement as Section 14.4.	Yes.
Section 14.1.2	Bidder must submit certified true copy of latest Articles of Incorporation and By-Laws or Articles of Partnership, whichever is applicable. Said documents must indicate therein that the primary purpose of the entity is power generation;	Please confirm that a bidder is no longer required to submit the original Articles of Incorporation if they have already submitted their latest or amended Articles of Incorporation. For example, if the name of the bidder has changed in the amended Articles of Incorporation, there is no need to submit the original Articles of Incorporation.	Yes.
Section 14.1.3	Certified true copy of the latest General Information Sheet (GIS) of the Bidder stamped received by the SEC not more than twelve (12) months old at the time of submission, if applicable;	We would like to confirm that bidders with a partnership business structure be allowed to submit its Latest Information Sheet (IS) as equivalent submission to the General Information Sheet (GIS)	Confirmed.
Section 14.1.5	Certified true copy of the updated Mayor's Permit, BIR registration, latest Tax Clearance, latest Audited Financial Statement (AFS) which shall be stamped received by the BIR and for the year 2022 or later;	What year is the required Audited Financial Statement? is there a specific period ex. (2023-2024)	2024

Section	Provision	Comments/Questions	TPBAC Response
Section 15 Financial Proposal Requirement	15.1 The Bidder must submit Second Bid Envelope and shall contain the Financial Proposal to supply the demand requirements of Negros Power. The bidder shall submit a separate envelope for each TOR that it intends to participate.	15.1 The Bidder must submit Second Bid Envelope and shall contain the Financial Proposal to supply the demand requirements of Negros Power. The bidder shall submit a separate envelope for each TOR that it intends to participate.	We confirmed only one (1) TOR. TOR 2 is a typographical error.
Section 15 Financial Proposal Requirement		Please confirm that this transaction pertains to only one (1) TOR for the 20MW Baseload Power Supply Requirement.	We confirmed only one (1) TOR. TOR 2 is a typographical error.
Section 15 Financial Proposal Requirement		If the Bidder choose to offer higher cap for the Line Rental, will it form part of the evaluation?	No.
Section 15 and whole of Annex C	Whole section and annex	Please confirm that the escalation rates in the Financial Proposal Form will be used for the assessment of the bid of ALL bidders which means that no bidder can go lower than the rates indicated in the Annex C).	Escalation Rates in this Financial Form are assumed for the purpose of bid evaluation. Escalation will be based on the actual indices upon the implementation of PSAs
Section 15.2, page 17 (under Sec. 14)		Please confirm that this is Section 14.2 instead of 15.2. Further, please confirm that requirements stated after this Section only required from new power plants, and not applicable to Bidders who has existing power plants.	Yes we confirmed that it is section 14.2 instead of 15.2. Yes we confirmed.
Section 15.3 Fuel Fee	c. Fuel Fee. Bidders shall input a committed Fuel Fee in the Financial Proposal Form. Input value shall be in four (4) decimal places. This will be escalated to a fixed escalation rate set by the TPBAC and will be used for the bid evaluation.	Kindly confirm that the Fuel Fee will be subject to indexation and/or escalation based on the Fuel Fee Formula during the implementation period.	The Fuel Fee offered in year zero is equal to the fuel fee rate found in the actual billing to customers for the billing period June 26 to July 25, 2025 and will be used for evaluation purposes. This should be supported by actual billing invoices to other existing customers for the same billing period. The Fuel fee will be subject to indexation following the fuel fee formula and the indexation found in the actual billing to existing customers attached as the supporting documents during the bid evaluation. That such fuel fee formula found in the billing of the existing customers will be used as the fuel fee formula during the implementation period.

Section	Provision	Comments/Questions	TPBAC Response
Section 15.3 Fuel Fee	c. Fuel Fee. Bidders shall input a committed Fuel Fee in the Financial Proposal Form. Input value shall be in four (4) decimal places. This will be escalated to a fixed escalation rate set by the TPBAC and will be used for the bid evaluation.	Kindly confirm that the Fuel Fee will be subject to indexation and/or escalation based on the Fuel Fee Formula during the implementation period.	For Index Based Fuel Fee: a. Using the same index as the existing customers: we require the submission of the actual fuel billing for the month of July covering the supply period June 26 to July 25 for your other customers to ensure the index used is consistent what is being billed to other customers. b. For a different index than the one being used for the existing customers: the committed index should be used for our evaluation purposes to determine the lowest levelized cost but such different index should be consistently applied through out the entire duration of the contract upon implementation
Section 15.3 Fuel Fee	cThe bidder shall also submit a fuel indexation formula with an explanation on how to derive the actual fuel fee during the implementation of the PSA. The fuel indexation formula shall have the applicable index used, the base fuel, base fuel index (referenced at the date of the Bid Opening). The Fuel Fee can be referenced to an independently verifiable indices such as but not limited to NewCastle, HBA, ICI, Forex, etc. The bidder shall include in the explanation how the indices were reckoned (e.g. date of reckoning, month average, 25th of the month, moving average, etc.)	May we submit the Fuel Fee Formula and the corresponding written explanation as a separate document attached to Annex "C-1"?	Yes. Attached as separate document as necessary.
Section 15.3 B	x x x Escalation rates in this Financial Form are fixed by the TPBAC for the purpose of bid evaluation. Escalation will be based on actual indices upon the implementation of the PSA	For BAC's confirmation on what month and/or year will be the basis of the bases for escalation during the PSA implementation. Will it be the month covering the execution date of the PSA or the month covering the initial delivery of power under the PSA?	The escalation is based on the difference between the index used during the bid evaluation and the month covering the initial delivery of power under the PSA
Section 15.3.c	The bidder shall also submit a fuel indexation formula with an explanation on how to derive the actual fuel fee during the implementation of the PSA. The fuel indexation formula shall have the applicable index used, the base fuel, base fuel index (referenced at the date of the Bid Opening). The Fuel Fee can be referenced to an independently verifiable indices such as but not limited to NewCastle, HBA, ICI, Forex, etc. The bidder shall include in the explanation how the indices were reckoned (e.g. date of reckoning, month average, 25th of the month, moving average, etc.)	We request that all bidders be given the same values for the base fuel and the base fuel index, using the bid opening date as the reference date. This will ensure that all bidders are working with consistent values. Alternatively, can we confirm whether bidders are allowed to propose their values, provided they are based on the reference from the bid opening date?	The Fuel Fee offered in year zero is equal to the fuel fee rate found in the actual billing to customers for the billing period June 26 to July 25, 2025 and will be used for evaluation purposes. This should be supported by actual billing invoices to other existing customers for the same billing period. The Fuel fee will be subject to indexation following the fuel fee formula and the indexation found in the actual billing to existing customers attached as the supporting documents during the bid evaluation. That such fuel fee formula found in the billing of the existing customers will be used as the fuel fee formula during the implementation period.

Section	Provision	Comments/Questions	TPBAC Response
Section 15.3.c.	Fuel Fee. Bidders shall input a committed Fuel Fee in the Financial Proposal Form. Input value shall be in four (4) decimal places. This will be escalated to a fixed escalation rate set by the TPBAC and will be used for the bid evaluation. The bidder shall also submit a fuel indexation formula with an explanation on how to derive the actual fuel fee during the implementation of the PSA. The fuel indexation formula shall have the applicable index used, the base fuel, base fuel index (referenced at the date of the Bid Opening). The Fuel Fee can be referenced to an independently verifiable indices such as but not limited to NewCastle, HBA, ICI, Forex, etc. The bidder shall include in the explanation how the indices were reckoned (e.g. date of reckoning, month average, 25th of the month, moving average, etc.) The bidder must make good of the fuel index formula during the actual implementation of the PSA.	Please define “committed fuel fee.” We understand that the Escalation rates are FIXED in Annex C. Kindly confirm that it cannot be changed in the actual PSA.	For Index Based Fuel Fee: a. Using the same index as the existing customers: we require the submission of the actual fuel billing for the month of July covering the supply period June 26 to July 25 for your other customers to ensure the index used is consistent what is being billed to other customers. b. For a different index than the one being used for the existing customers: the committed index should be used for our evaluation purposes to determine the lowest levelized cost but such different index should be consistently applied through out the entire duration of the contract upon implementation. For Fixed Fuel Fee: (Non-Escalating) There is no need of the submission of the actual billing invoice of existing customers; however the fuel fee offered should be the committed fuel fee all throughout the duration of the contract upon implementation.
ITB - Section 15.3.c	x x x The bidder shall also submit a fuel indexation formula with an explanation on how to derive the actual fuel fee during the implementation of the PSA. The fuel indexation formula shall have the applicable index used, the base fuel, base fuel index (referenced at the date of the Bid Opening). The Fuel Fee can be referenced to an independently verifiable indices such as but not limited to NewCastle, HBA, ICI, Forex, etc. The bidder shall include in the explanation how the indices were reckoned (e.g. date of reckoning, month average, 25th of the month, moving average, etc.) The bidder must make good of the fuel index formula during the actual implementation of the PSA	As provided in the Minutes of the Pre-Bid Conference (2025-025), the evaluation of the fuel fee will be based on actual bill to customers for June 26 to July 25. Further, Section 15.3.c provides that the bidder shall submit a fuel indexation formula. For BAC's confirmation if the fuel fee nominated shall be derived using the nominated fuel indexation formula with relevant indices as of July 2025 and supported by a sample bill to customers? Will the BAC allow other supporting documents in lieu of a bill to customer?	Denied. We require on the actual billing to the customer.
Section 15.6 Multicriteria Decision Analysis	15.6 In the Financial Proposal Form, the bids shall be evaluated using Multicriteria Decision Analysis (MCDA) using the capacity factor and levelized price criteria. A normalized utility score shall be derived from the input capacity factor and levelized rate. The composite score is then determined using the weighting factor determined by the TPBAC. The bids will be ranked according to the composite score and bids with the highest rated composite score will be subjected to post-qualification first.	May we request for a sample calculation of the Composite Score that demonstrates how the Multicriteria Decision Analysis shall be applied in the evaluation of Financial Proposals?	Composite score is a typographical error, we will remove it in the ITB.
Section 15.6 Multicriteria Decision Analysis	15.6 In the Financial Proposal Form, the bids shall be evaluated using Multicriteria Decision Analysis (MCDA) using the capacity factor and levelized price criteria. A normalized utility score shall be derived from the input capacity factor and levelized rate. The composite score is then determined using the weighting factor determined by the TPBAC. The bids will be ranked according to the composite score and bids with the highest rated composite score will be	Will MCDA be still applicable to use since financial form only includes levelized rate and not the MCDA? If yes, will you be providing another financial form? May we request to know the following: 1. What is the weighting factor determined by TPBAC to be used in MCDA? 2. What is the capacity factor that will be used in MCDA?	Composite score is a typographical error, we will remove it in the ITB.

Section	Provision	Comments/Questions	TPBAC Response														
Section 15.6 Multicriteria Decision Analysis	In the Financial Proposal Form, the bids shall be evaluated using Multicriteria Decision Analysis (MCDA) using the capacity factor and levelized price criteria. A normalized utility score shall be derived from the input capacity factor and levelized rate. The composite score is then determined using the weighting factor determined by the TPBAC. The bids will be ranked according to the composite score and bids with the highest rated composite score will be subjected to post-qualification first.	Please provide a sample calculation of the normalized utility score and the composite score . What is the weighting factor to be used in determining the composite score? Please also provide a sample evaluation of the normalize utility score and composite score.	Composite score is a typographical error, we will remove it in the ITB.														
Section 16 Bid Security	16.2 The following forms of Bid Security shall be acceptable to Negros Power: Table 2. Forms of Bid Security <table><tr><th>FORM OF BID SECURITY</th><th>AMOUNT OF BID SECURITY</th></tr><tr><td>1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr><tr><td>2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr></table>	FORM OF BID SECURITY	AMOUNT OF BID SECURITY	1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	Please confirm that a Bid Securing Declaration Form as defined in Section 2 of the FITB is acceptable for the purpose of complying the submission of a Bid Security. If acceptable, we would like to suggest to add another row under Table 2. Forms of Bid Security of Section 16.2 to include Bid Securing Declaration as another form of Bid Security, thus, <table><tr><th>FORM OF BID SECURITY</th><th>AMOUNT OF BID SECURITY</th></tr><tr><td>1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr><tr><td>2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr><tr><td>3. Bid Securing Declaration Form</td><td></td></tr></table> Likewise, we would like to request for the editable file of the Bid Securing	FORM OF BID SECURITY	AMOUNT OF BID SECURITY	1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	3. Bid Securing Declaration Form		Bid Securing Declaration is not anymore acceptable as a form of Bid Security.
FORM OF BID SECURITY	AMOUNT OF BID SECURITY																
1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder																
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3. Bid Securing Declaration Form																	
Section 16 Bid Security	16.4 The Bid Security is deemed to have been breached: i. If the Bidder withdraws its bid during the period of bid validity required in the Bidding Documents; or ii. Bidder fails or refuses to accept the award and enter into contract or perform any and all acts necessary to the execution of the Contract, in accordance with the Bidding Documents after having notified of its acceptance of its bid during the period of the bid validity.	Please confirm that the bid security shall be forfeited only when bidder does any of the following instances "without justifiable cause."	Denied.														

Section	Provision	Comments/Questions	TPBAC Response
Section 16 Bid Security	16.5 The Bid Security ceases to be valid: i. Upon expiration of the bid validity period of ninety (90) calendar days from the date of Bid Opening or any extension thereof, which validity shall not exceed a total of one hundred twenty (120) calendar days. ii. Upon receipt by bidder of notice of ineligibility or post-disqualification; or iii. Bidder is declared as winning bidder and have signed the PSA.	Please note that the Bid security is valid for 90 calendar days (16.5), while the proposal validity is 120 calendar days. There will be no bid security after 90 days, allowing the bidder to withdraw its bid without forfeiting the bid security. We propose that bid security and bid proposal be valid for equal periods, either 90 days or 120 days,	We will revised both be valid for a period of 120 days.
Section 16 Bid Security		In Section 2 - Definition of Terms, Bid Security is defined as "xxx For the purpose of this CSP, Negros Power shall accept the use of a Bid Securing Declaration in the form prescribed in Section 16 as alternative to the aforementioned forms of Bid Security". However in Section 16.2, only Cash or cashier's/manager's check or Bank draft/ guarantee or standby / irrevocable letter of credit are the accepted forms of Bid Security. We suggest that for the purpose of the CSP, Bid Securing Declaration shall be accepted. Should that be confirmed, please provide template.	Denied. The provisions in Section 16 shall be followed.
Section 16 Bid Security		We kindly request that bidders be permitted to submit a Bid Security with a face value exceeding the three-month contract cost for the proposed power supply agreement.	Yes.
Section 16 Bid Security		May we request for an Stand-by Letter of Credit (SBLC) Template for the Bid Security?	The bidders are allowed to use its own template
Section 16 Bid Security	16. 2 The following forms of Bid Security shall be acceptable to Negros Power: 2. Bank draft / guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Is there a prescribed/required template from NEPC for the bidders to follow for an SBLC? Or are the bidders allowed to use its own template?	The bidders are allowed to use its own template
Section 16 Bid Security	Bid Securing Declaration	In Section 2 Definition of Terms for Bid Security, Negros Power shall accept the use of a Bid Securing Declaration as an alternative form of Bid security, however there it is not stated in Section 16 Bid Security. Please confirm if NEPC will do corrections in Section 16 Bid Security and include the Bid Securing Declaration as one of the forms of acceptable bid security.	The bidders are allowed to use its own template

Section	Provision	Comments/Questions	TPBAC Response								
Section 16 Bid Security	The following forms of Bid Security shall be acceptable to Negros Power:	(1) Please confirm if a template and/or formats (i.e. font, paper size, etc.) will be provided for the Bid Security, particularly for SBLC. Please confirm that a Bidder is allowed to post a Bid Security amount that is higher than the computed three-month contract cost based on the bid price. We note that the Bid Security can be used to calculate the bid price of the Bidder. To avoid leaks in the bid price when processing the Bid Security with banks, we suggest that the Bidders be given discretion to increase its Bid Security beyond the required amount. In addition, under	1.The bidders are allowed to use its own template for SBLC 2. The bidders are allowed to post the Bid Security is equivalent to/higher than the three (3) months of the contract cost based on the base rate (Vat Inc.) at year zero (0).								
Section 16 Bid Security	<table><tr><th colspan="2">Table 2. Forms of Bid Security</th></tr><tr><th>FORM OF BID SECURITY</th><th>AMOUNT OF BID SECURITY</th></tr><tr><td>1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr><tr><td>2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;</td><td>Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder</td></tr></table>	Table 2. Forms of Bid Security		FORM OF BID SECURITY	AMOUNT OF BID SECURITY	1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	Resolution No. 16, Series of 2023, Appendix B, Section 10, only Bids submitted with a Bid Security in an amount less than the required amount will be rejected outright and returned to the Bidder. This means that the Bidder should not be disqualified if it opts to post a Bid Security higher than the requirement. (2) Please provide formula on the calculation of the bid security	The bidders are allowed to post the Bid Security is equivalent to/higher than the three (3) months of the contract cost based on the base rate (Vat Inc.) at year zero (0). Bid Security = Base Rate (Vat Inc.) at Year zero * (20,000 kW * 24 hrs * 30 days) * 3 months
Table 2. Forms of Bid Security											
FORM OF BID SECURITY	AMOUNT OF BID SECURITY										
1. Cash or cashier's/manager's check issued by a Universal or Commercial Bank	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder										
2. Bank draft/ guarantee or standby / irrevocable letter of credit issued by a Universal or Commercial Bank: Provided, however, that it shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank;	Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder										
Section 16 Bid Security	16.2 Equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder.	What Bid Price will be used in the computation? Is it the Base Rate (vat inc/exc) at year 0 or the Levelized Rate (vat inc/exc)?	The bidders are allowed to post the Bid Security is equivalent to/higher than the three (3) months of the contract cost based on the base rate (Vat Inc.) at year zero (0). Bid Security = Base Rate (Vat Inc.) at Year zero * (20,000 kW * 24 hrs * 30 days) * 3 months								
Section 16.5 Bid Validity		For uniformity, kindly provide exact date for Bid Validity.	It is the same for bid security, which is 120 calendar days.								
Section 18 Proposal Validity	18.1 Proposals shall remain valid for a period of one hundred twenty (120) calendar days from the date of Bid Opening.		Bid validity is 120 calendar days.								
Section 19 Format and Signing of Proposals	19.3 The Financial Requirement shall be encoded in the Financial Proposal Form prescribed in Annex C: Financial Proposal Form and in a template Excel file named “[Name of Bidder] Financial Proposal to Negros Power.xls” saved in USB flash drive. The data entries in the Excel file shall be password-protected by the Bidder to avoid inadvertent modification of the Proposal. The USB flash drive shall be placed in a sealed envelope as provided for in Section 20. Only one (1) USB flash drive is required to be submitted as part of the Financial Requirements. However, the Bidders may opt to provide additional flash drives as back-up.	Should the password be limited to the intended cell(s) or to the entire excel file?	The entire excel file containing the data entries shall be password-protected to avoid inadvertent modification of the proposal.								

Section	Provision	Comments/Questions	TPBAC Response
Section 20 Sealing and Marking of Bid Documents	The Bid Proposal must be received by the TPBAC on or before 11:00 AM (Philippine Standard Time) of August 29, 2025, in The Row, Lacson St., Brgy. Bata, Bacolod City. The Proposal is considered received by the TPBAC the moment it is dropped in the submission drop box.	Please confirm that the submission of the bid documents need not be done by the authorized representative themselves.	Yes. The submission may not be done by the aithorized representative, only the signature found in the sealed envelope and in the bid proposal documents should be signed by the bidder's duly authorized representative.
Section 21	The TPBAC shall open Bid Proposals in the presence of the Bidders' Authorized Representatives and observers on August 29, 2025 at 1:30 PM in a designated venue in Bacolod City. The exact venue of the Opening of Proposals shall be announced through a Supplemental/Bid Bulletin.	(1) Please confirm if there will be a live broadcast of the opening of the bids. (2) Please also confirm that the Bidder can send other representatives, in addition to the Authorized Representatives or, if the Authorized Representatives themselves cannot attend, they can send alternates.	1. Yes. 2. Yes
Section 23 Modification and Withdrawal of Bid Proposal	23.1 The Bidder may modify its Bid after it has been submitted; provided that the modification is received by the TPBAC prior to the deadline prescribed for submission and receipt of Bids, i.e. before 11:00 AM of October 11, 2024 . The Bidder shall not be allowed to retrieve its Original Bid but shall be allowed to submit another Bid equally sealed, properly identified, linked to its original Proposal and marked accordingly as "TECHNICAL PROPOSAL MODIFICATION" and/or "FINANCIAL PROPOSAL MODIFICATION" and to be stamped "RECEIVED" by the TPBAC. Proposal modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.	Please confirm if the Deadline for Submission of Bids is on August 29, 2025 (11:00AM), to be consistent with the Bidding Schedule under Section 5 of the ITB.	We are moving the bid opening date is set at September 16, 2025. We will issue a bid bulletin to this effect. Section 23 should be consisitent with Section 5 of the ITB.
Section 23 Modification and Withdrawal of Bid Proposal	The Bidder may modify its Bid after it has been submitted; provided that the modification is received by the TPBAC prior to the deadline prescribed for submission and receipt of Bids, i.e. before 11:00 AM of October 11, 2024	Please confirm that the date should be: before 11:00AM of August 29, 2025	We are moving the bid opening date is set at September 16, 2025. We will issue a bid bulletin to this effect. Section 23 should be consisitent with Section 5 of the ITB.
Section 24 Opening of Bids	24.12 Only bids that are determined to contain all the bid requirements for both components shall be evaluated and ranked for post-qualification. Reserve Price shall be evaluated against the Price as bid on Year 0, and not on the Levelized Rate. Bids that are above the Reserve Price shall be declared ineligible for award.	What is the composition of the reserve price? Does it cover CRF, FOM, VOM, Fuel, RP, LR and VAT, among others?	The reserve price is a function of rate. It's the competitive price on what we feel should be able to encourage the bidders to join, it also involves the the WESM price and power plant technology.
Section 24 Opening of Bids	24.12 ..."Reserve Price shall be evaluated against the Price as bid on Year 0, and not on the Levelized Rate. Bids that are above the Reserve Price shall be declared ineligible for award."	Can we confirm with the TPBAC if the following procedures are correct? 1. First, evaluate the reserve price against the <u>bid price from Year 0</u> , and not on the levelized rate. 2. After determining if the bid is below the reserve price, the qualified bids will then be ranked from lowest to highest based on the <u>levelized rate</u> .	1. The Reserve price shall be evaluated based on the Levelized Rate and not on the bid price at Year Zero 2. Yes. The levelized rate will be the basis.

Section	Provision	Comments/Questions	TPBAC Response
Section 24.7 The Reserve Price		How is the reserve price computed or referenced by NEPC?	The reserve price is a function of rate. It's the competitive price on what we feel should be able to encourage the bidders to join, it also involves the the WESM price and power plant technology.
Section 25 Post-Qualification Evaluation	25.3 The proposal of the bidder with the Highest Rated Bid should make good its proposal for the capacity factor. The capacity factor offered should be supported by certifications such as Certificate of Commerciality from the DOE, Feasibility Studies from independent sources, or standards or values set forth by the DOE or monthly operations report for existing plants. Should the actual capacity factor fall below the capacity factor offered by the Bidder, the Bidder shall bear provide the equivalent REC credits equivalent to the difference between the offered and the actual capacity factor.	Please clarify this further for better understanding of all Bidders.	This is a typographical error. Not applicable to this CSP
Section 25	In case the Bids cannot be opened as scheduled due to justifiable reasons, the TPBAC shall take custody of the Bids submitted and reschedule the opening of bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement. The Bidders or their duly authorized representatives may attend the opening of bids. The TPBAC shall ensure the integrity, security, and confidentiality of all submitted Bids.	Please elaborate how the TPBAC will ensure the integrity, security, and confidentiality of all submitted Bids.	The TPBAC shall ensure that the submitted bid remains properly sealed and that the bidder's signature is intact prior to the bid opening.
Section 25 Post-Qualification Evaluation		Please confirm that that the Bidder is not required to submit any additional documents during post-qualification evaluation.	The TPBAC may require additional documents during the post qualification evaluation as necessary.
Section 25.3	Should the actual capacity factor fall below the capacity factor offered by the Bidder, the Bidder shall bear provide the equivalent REC credits equivalent to the difference between the offered and the actual capacity factor.	Please confirm our understanding of Section 25.3 of the Final Instructions to Bidders. We note that there is no stated minimum capacity factor requirement, except that there is a provision that there is no outage allowance and the load factor is at 100%. Further, there is no mention of Renewable Energy Certificates (RECs) in the bidding documents. As such, our understanding is that this provision may not be applicable to this CSP.	This provision is not applicable to this CSP
Section 25.3 Proposal for Capacity Factor	25.3 The proposal of the bidder with the Highest Rated Bid should make good its proposal for the capacity factor. The capacity factor offered should be supported by certifications such as Certificate of Commerciality from the DOE, Feasibility Studies from independent sources, or standards or values set forth by the DOE or monthly operations report for existing plants. Should the actual capacity factor fall below the capacity factor offered by the Bidder, the Bidder shall bear provide the equivalent REC credits equivalent to the difference between the offered and the actual capacity factor.	May we ask if the Bidders shall be required to submit a capacity factor offer?	No.

Section	Provision	Comments/Questions	TPBAC Response								
Section 26 Technical Evaluation of Proposal PROPOSAL	26.1 The technical proposal shall be evaluated based on the completeness, accuracy, and veracity of all documents and certifications required for technical proposal for an existing plant as stipulated in Section 14. The technical proposal should show that the bidder will be able to supply the power required from the existing power plant offered.	Does the phrase from the "existing power plant" mean from the "Nominated power plant", which could be existing or Greenfield.	Yes.								
Section 29 Finalization and Signing of the Contract CONTRACT	29.1 Within four (4) calendar days upon receipt of the Notice of Award, the Winning Bidder shall submit to the TPBAC: a. Its written confirmation to the award; and b. All other documentary requirements for the PSA (i.e., legal documents such as Secretary’s Certificate for authority to file the PSA, Affidavit of Non-Forum Shopping, and the like).	Please confirm that this refer to the documents enumerated in Section 3.2 of the Physical Power Supply Agreement to be executed by the Parties.	We cannot confirmed since we will negotiate the details of the PSA to the winning bidders.								
Section 29 Finalization and Signing of the Contract	29.3 Within ten (10) calendar days from issuance of Notice of Award to the Winning Bidder, the Winning Bidder and Negros Power shall finalize and sign the PSA, which period shall be subject to extension upon mutual agreement of the Winning Bidder and Negros Power.	Should there be an extension of the 10-day period within which to finalize and sign the PSA, then the target ERC Filing date should likewise be extended by the same number of day/s extension. This however will result to a delay in the Target Delivery Date of November 26, 2025. Under the Indicative Schedule, the period from Invitation to Bid (July 15, 2025) to ERC Filing (October 25, 2025) is only 102 days, thus the 180 days under this CSP is not optimized. The 180 days from July 15, 2025 is supposed to be up to January 11, 2026, which would clearly exceed the (target) Initial Delivery Date of November 26, 2025. Kindly clarify this seemingly disconnection with the periods mentioned.	It should be within 20 calendar days from receipt by the Winning Bidder of the Notice of Award, Winning Biider and DU shall execute and sign the PSA. Not 10 calendar days.								
	29.4 The extension period should be within one hundred eighty (180) calendar days from Invitation to Bid to the Filing of PSA with the ERC, provided it should not exceed the Initial Delivery Date. Otherwise, Negros Power can call on the Bid Securing Declaration for unreasonable delays in the completion of the PSA. Section 5 Bidding Schedule: <table><tr><td>Recommendation to the Board for Awarding of Contract</td><td>September 3, 2025</td></tr><tr><td>Issuance of Notice of Award</td><td>September 5, 2025</td></tr><tr><td>Signing of PSA</td><td>September 25, 2025</td></tr><tr><td>ERC Pre-filing of PSA</td><td>October 10, 2025</td></tr><tr><td>ERC Filing for Approval of PSA</td><td>October 25, 2025</td></tr></table>		Recommendation to the Board for Awarding of Contract	September 3, 2025	Issuance of Notice of Award	September 5, 2025	Signing of PSA	September 25, 2025	ERC Pre-filing of PSA	October 10, 2025	ERC Filing for Approval of PSA
Recommendation to the Board for Awarding of Contract	September 3, 2025										
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ERC Filing for Approval of PSA	October 25, 2025										

Section	Provision	Comments/Questions	TPBAC Response
Section 30 Section 2	Within fifteen (15) calendar days from the signing of the PSA, Negros Power and the Winning Bidder shall jointly file with the ERC, copy furnished DOE, for the approval of the PSA in accordance with ERC rules. The Buyer and the Seller shall file with the ERC the joint application for the approval of the PSA in accordance with ERC Rules in thirty (30) calendar days after confirmation of the Notice of Award.	We suggest aligning the period to file the application for the approval of the PSA with the ERC.	(1) Execution/Approval of Contract - Within twenty (20) calendar days from receipt by the Winning Bidder of the Notice of Award from the DU, the Winning Bidder and the DU shall execute and sign the PSA, as approved by the DU-BOD (2) Pre-filing Timeline - The pre-filing requirements must be submitted to the ERC within fifteen (15) calendar days from execution of the PSA. (3) Filing of the Application - Within thirty (30) calendar days from execution of the PSA, the parties shall file with the ERC a joint application for the approval of said PSA.
Section 31 Grounds for Disqualification	31.5 Disqualification during the Post-Qualification stage is covered by Section 25, where the TPBAC verifies, validates and ascertains all statements made and the documents submitted by the bidder. The verification under the post-qualification stage is not limited to the examination of documents submitted by the bidder, but also includes inspection of the subject equipment vis-à-vis the technical specifications specified in the bidding documents	Subject to available schedule of the Authorized Representative(s) of the Winning Bidder and all cost relative to the conduct of inspection of the Nominated Plant shall be for the account of Negros Power.	Yes.
Section 32 Failure of Bidding	32.1 There shall be a failure bidding upon the occurrence of any of the following: a. No bid offers were received by Negros Power; b. Only one (1) bidder submitted a proposal/s; and c. All bid offers of Prospective Bidders failed to meet or comply with the requirements prescribed by the TPBAC. d. All bid offers exceeded the Reserve Price.	There should also be another instance that should be considered in this provision: e. Two (2) or more Bidders submitted a Bid Proposal but only one (1) met or complied with the requirements prescribed by the TPBAC.	Only the grounds for failure of bidding indicated in the ITB will be considered by the TPBAC.
	32.2 If in the second bidding process, the TPBAC still fails to receive one (1) proposal that conform to the Minimum Requirements of this TOR, Negros Power may then conduct direct negotiations with a party for the execution of a power supply agreement.	We highly suggest that a direct negotiations for the execution of a power supply agreement be conducted with the remaining GenCo who complied with the Minimum Requirements of the TOR and not to any other GenCo who where disqualified and specially to GenCos who never showed interest in supplying power to Negros Power. In the worst case that all interested Bidder were disqualified, then the direct negotiations should be conducted with any of the interested Bidders only.	Acceptable. Refer to Section 32.3 of the FITB.
Section 36 Fraudulent and Corrupt Practices	"Collusive Practices" means a scheme or arrangement between two or more bidders, whether without the knowledge of the DUs, designed to establish proposal prices at artificial, non-competitive levels;	May we request NEPC to cite examples regarding a "scheme or arrangement" and be more clearer that will define on an instance for bidders to be tagged with collusive practices.	This is defined under ERC CSP Rules.

COMMENTS AND QUESTIONS PERTAINING TO THE ANNEXES

Section	Provision	Comments/Questions	TPBAC Response
Annex A Checklist for Bid Proposal Requirements	1.2.1 A Board Resolution or Secretary’s Certificate showing authority of representative(s) to participate in this bidding and who has/have authority to sign documents required in this proposal. The name(s), address(es), and contact detail(s), including telephone number(s), fax number(s), email address(es) of the authorized representative(s) may be annexed to the Board Resolution or Secretary’s Certificate or set forth in a separate document.	Please confirm that Bidder may submit the initially submitted Secretary's Certificate that was part of the Expression of Interest Documents and include a separate document as an annex indicating the name(s), address(es), and contact detail(s), including telephone number(s), fax number(s), email address(es) of the authorized representative(s).	Yes
Annex A Checklist for Bid Proposal Requirements	1.2.7 Proof of payment of Bid Processing Fee	Please confirm that Bidder may submit the photocopy of its proof of payment.	Yes
Annex A - Checklist for Eligibility Requirements	1.2.6 Bid security equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder	Please confirm that the Bid Security should be placed under the Second Bid Envelope under Financial Requirements and not as part of the Legal Requirements.	Confirmed, the bid security is part of the Financial Requirements and should be placed in the second bid envelope.
Annex A - Checklist for Eligibility Requirements		In Annex A: Checklist of Eligibility Requirement, Expression of Interest Documents (item 1.2.8) is on the latter part of the list, while in Section 13 Legal Requirements, EOI Docs (item 7) is placed before the Annexes D-1 to D4. Please confirm, which order will prevail.	The Instruction to Bidders will prevail.

Section	Provision	Comments/Questions	TPBAC Response
Annex C	Financial Proposal Form	1) In the calculation of the Fuel Fee, SPI recommends that a firm index value and/or a clearly defined reference month for the index be specified to ensure a level playing field in establishing the base fuel fee. As currently drafted, the index is based on the "date of bid opening"; however, fuel indices are typically published on a monthly basis. Further, the actual index value on the "bid opening date on August 29, 2025" (which is supposed to be the month of "August 2025") is not yet available at the time of bid submission. 2) Is the Bidder required to submit its own fuel fee adjustment formula? In such case, please confirm that the submitted formula will be used during the implementation of the PSA. 3) Under the Financial Proposal Form excel, the Fuel Fee is calculated as either 100% adjusting or 100% fixed and non-adjusting. Kindly confirm whether bidders may submit a fuel fee structure wherein the fuel commodity portion is adjusted based on an index, while the non-commodity portion is treated as a pass-through cost. 4) Please provide formula on how the Bid Security amount is calculated. i.e. Base Price or LCOE x volume. 5) Kindly revisit Levelized Rate calculation, the total energy should be calculated on its present value.	1. Actual Customer billing for the period June 26 to July 25, 2025. 2. Yes. But the formula should include industry indexes 3. Yes. As long as its supported by actual customer billing for the period June 26 to July 25, 2025 4. Bid Security = Base Rate (Vat Inc.) at Year zero * (20,000 kW * 24 hrs * 30 days) * 3 months 5. We stick to our computation based on the levelized rate calculation
Annex C	Financial Proposal Form	Will Negros Power conduct a briefing on the Annex C - Financial Proposal Form for all the Bidders?	Yes. This was presented during the pre-bid conference.
Annex C	Financial Proposal Form	Please confirm that the provided form is for evaluation purposes only as it is a straight forward computation of the generation rate which does not capture the indicated fixed fee for the MMCE and variable fee that varies depending on consumption (as low as 50% LF)	Yes. Only for evaluation purposes.
Annex C	Whole File	We suggest that the Annual Contracted Energy should be provided by NEPC and be fixed in Annex C. To maintain the integrity of the process, we respectfully request that NEPC provide a finalized version of Annex C with all non- editable cells locked. Only the fields intended for bidder input should remain editable.	Yes
Annexes D-1 to D-4	Annex D-1 - Acceptance of Bidding Documents Annex D-2 - Certification of Original Submission or CTC Annex D-3 - Certification on Conflict of Interest Annex D-4 - Certification Against Corrupt Practices	We would like to request for the editable word file of the Annexes D-1, D-2, D-3 and D-4.	Yes

Section	Provision	Comments/Questions	TPBAC Response
Annex D-2, D-3 and D-4	Annex D-2 - Certification of Original Submission or CTC Annex D-3 - Certification on Conflict of Interest Annex D-4 - Certification Against Corrupt Practices	Please confirm that that Bidders may cite, in lieu of the Board Resolution, the Secretary's Certificate indicating the same.	Acceptable, provided the Secretary's Certificate clearly indicate the resolutions approved by the Board.
Annex D-2, D-3 and D-4 (Item 1)	I am the authorized representative of [Bidder's Name] as per Board Resolution No. __, dated _____, submitted in accordance with this bidding;	We note that some board resolutions may not have a specific resolution number but only a specific date. In this regard, we suggest the following revision for flexibility: I am the authorized representative of [Bidder's Name] as per [Board Resolution No. __, dated _____/Secretary's Certificate dated _____] , submitted in accordance with this bidding;	Acceptable.
Annexes D-1 to D-4		May we request for word files of all the Annexes.	Yes.
Annexes D -1, D-2, D-3, D-4	Draft Templates	We would like to confirm if the bidders may have light modification on the said templates as long as fundamental essence and underlying content must remain consistent with the original	Acceptable.
Annex D-2 Annex D-3 Annex D-4	1. I am the authorized representative of [Bidder's Name] as per Board Resolution No. __, dated _____, submitted in accordance with this bidding;	Please confirm that Bidders may revise the Annex from "as per Board Resolution No. __, dated ____" to "as per Secretary's Certificate dated ____"	Acceptable.
Annex D.2 to Annex D.3 Certifications		Given that the Certificate of Compliance (COC) issued by the ERC is a legal requirement and also a component of the Technical Proposal (both contained in the First Bid Envelope), we request that Bidders be permitted to submit a certified true copy of the COC to fulfill the legal requirement, and a photocopy of the same certified true copy as part of the Technical Proposal.	Acceptable.
Annex D-2 (Item 4)	[Bidder's Name] hereby authorizes the Third-Party Bids and Awards Committee or its duly authorized representative/s to verify all the documents submitted by [Bidder's Name].	Please clarify/elaborate how the "verification" will be conducted.	The TPBAC, if necessary, will verify the existence and due execution of the submitted documents.
General Comment		1) Please confirm that Annex A (Checklist for Eligibility Requirements and Financial Requirements) is the final list to be followed to be able to comply with ALL the requirements of this bidding. 2) Please align Annex A with Sections 13, 14 and 15 of the ITB.	We will incorporate the changes in the Final Instruction to Bidders.
General Comment		Please confirm that the checklist of requirements provided in Annex A shall be the basis of the documents to be submitted by the Bidders.	The basis should be both the checklist and ITB. In case of conflict, the ITB will prevail.
General Comment		If there is a significant variance/conflict between the ITB and Annexes, which will prevail?	ITB will prevail.
General Comment		For documents required to be submitted as Certified True Copies, such as AOI and GIS. Please confirm if the copies certified as true copies by the authorized representatives (Corp. Sec.) is enough.	Yes
General Comment		May we ask for copies of the publication of the Invitation to Bid?	TPBAC will provide digital copy

COMMENTS AND QUESTIONS PERTAINING TO THE DRAFT POWER SUPPLY AGREEMENT

Section	Provision	Comments/Questions	TPBAC Response
1.1	In this Agreement, capitalized terms shall have the meaning prescribed in Schedule 1 hereof. Capitalized terms not therein defined shall have the meanings as provided for in the TOR-CSP or by the applicable laws	We suggest defining TOR-CSP to clearly refer to the bidding documents in this bidding.	This will be subject to negotiation with the winning bidder.
2. Regulatory Approvals	The Seller to shall make the necessary adjustments in accordance with the directive of the ERC. Downward adjustment in the rates shall not be a ground for the termination of the contract and the Buyer should not be made to shoulder the incremental difference.	In lieu of this provision, we suggest the following: Once ERC approval is received, the Buyer shall promptly provide a copy to the Supplier. The Supplier shall have ten (10) calendar days from receipt, whether directly from ERC or via the Buyer, whichever is earlier, to notify the Buyer in writing of either: (a) acceptance of the ERC approval, or (b) non-acceptance, with reasons. If the ERC approval contains no changes or conditions, it shall be deemed automatically accepted and implemented immediately. If the Supplier does not accept the ERC approval, it may file a motion for reconsideration with the ERC. While awaiting ERC's decision, the parties shall implement the ERC approval as issued, subject to any future adjustments ordered by ERC. If the motion for reconsideration is unresolved within 120 days, or the ERC's decision includes unacceptable terms, either Party may terminate the agreement. If ERC requires any payment adjustments, the Supplier shall comply with the directive. If the adjustment results in a downward revision, the Supplier shall refund the excess amount, subject to any other remedies it may have in the contract, at law, or in equity. If the adjustment results in an upward revision, the Buyer shall pay the Supplier the additional amount as directed by ERC. The ERC approval shall be considered accepted: (a) On the date of written acceptance by the Supplier, (b) On the 10th day after receipt, if no response is given, (c) Immediately upon receipt, if the approval contains no changes. Provided that, as to (a) and (b), Buyer has not filed any motion for reconsideration or appeal subsequent to the Acceptance Date.	This will be subject to negotiation with the winning bidder.
2. Regulatory Approvals	The Buyer and the Seller shall file with the ERC the joint application for the approval of the PSA xxx in thirty (30) calendar days after confirmation of the Notice of Award. Xxx	We suggest that this phrase be amended to " xxx approval of the PSA xxx in thirty (30) calendar days from the execution of the PSA " to be consistent with the CSP timelines and the ERC Rules.	This will be subject to negotiation with the winning bidder.
2. Regulatory Approvals		Same comment on item "Regulatory Approvals" under the ITB as follows: Please re-validate the grace period contained in the prevailing ERC Rules on the filing of the Joint Application. We believe its within thirty (30) calendar days from the "execution of the PSA" and not from the "confirmation of the Notice of Award". This would effectively shorten the allowed period by 20 calendar days (at the worst if confirmation is made on the same date of Issuance of Notice of Award) owing to the period September 05 to September 25, as shown below:	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
2. Regulatory Approvals	The Buyer and the Seller shall file with the ERC the joint application for the approval of the PSA in accordance with ERC Rules in thirty (30) calendar days after confirmation of the Notice of Award. The Winning Bidder shall provide for the legal services of the joint application with full support from the Buyer. The Seller to shall make the necessary adjustments in accordance with the directive of the ERC. Downward adjustment in the rates shall not be a ground for the termination of the contract and the Buyer should not be made to shoulder the incremental difference.	We suggest to revise the provision for ERC/Regulatory Approval as follows: 2. ERC Approval a) The Parties shall jointly file the application for the approval of the Agreement ("ERC Application") with the ERC within thirty (30) Days from Execution Date. Parties shall exert its best efforts to secure the ERC Approval of the Agreement within a reasonable time. The Buyer shall, within five (5) calendar Days from receipt of the written approval of the Agreement from the ERC, provide a copy of such approval to the Seller. b) In the event that ERC issues any decision on the ERC Application which effectively modifies or amends any of the terms of the Agreement including provisions on amounts payable under the Agreement, and which requires an amendment thereof, the Seller shall file a motion for reconsideration of such decision within fifteen (15) Days from receipt thereof, and before the decision attains finality. c) In the meantime, upon receipt of the ERC decision requiring amendments to the Agreement, the Parties shall cooperate in good faith to address the ERC modification of the Agreement and/or to negotiate amendments to the Agreement. In the event that the Parties agree to an amended Agreement, the Parties shall file the amended Agreement for approval by the ERC within thirty (30) Days from the execution of such amended Agreement. d) In the event that a) the Parties cannot agree to amend the Agreement within three (3) months from filing of the Motion for Reconsideration, or b) the ERC issues an order or resolution denying the motion for	This will be subject to negotiation with the winning bidder.
2. Regulatory Approvals	“Downward adjustment in the rates shall not be a ground for the termination of the contract and the Buyer should not be made to shoulder the incremental difference.”	May we request that the Seller can delay supply delivery without penalty while a motion for reconsideration is pending if the ERC -approved rate is lower than the rate won? And also to agree on a sunset date in the PSA if no resolution has been made?	This will be subject to negotiation with the winning bidder.
3. Sale and Purchase of Energy/Capacity	Subject to and in accordance with the terms of this Agreement, Seller shall make available and sell to Buyer, and Buyer shall purchase from the Seller for the consideration described in Section 5, the energy and/or capacity from and after the Delivery Date until the expiry of the Term	We suggest to revise as follows: 3. SALE AND PURCHASE OF CONTRACT CAPACITY AND CONTRACT ENERGY Subject to and in accordance with the terms of this Agreement, Seller shall make available and sell to Buyer, and Buyer shall purchase from the Seller for the consideration described in Section 5, the energy and/or capacity from and after the Delivery Date until the expiry of the Term, unless sooner terminated in accordance with this Agreement.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
4. Term	3.1 Contract Term This Agreement shall take effect immediately from Effective Date, and from such date, shall remain in force and effect for five (5) years from the Delivery Date or upon issuance of ERC’s approval, whichever is later.	We suggest to revise as follows: 43.1 Contract Term This Agreement shall take effect immediately from Effective Date, from such date and shall remain in force and effect for five (5) years from the Delivery Date Novembre 26, 2025 or the next immediate 26th days of the month following the receipt by the Parties of the ERC Approval, whichever comes later". We suggest to include a defintion of the term "ERC Approval" which would mean: ERC APPROVAL - refers to the written approved on the Joint Application	This will be subject to negotiation with the winning bidder.
4. Term	3.3 Delivery Date The Seller shall commence delivery of Contract Capacity to Buyer on Delivery Date. The Delivery Date shall be a date, after Effective Date, reckoned from November 26, 2025 or date of issuance by the ERC of a Provisional Authority or Interim Relief, as applicable, or Final Authority, if neither Provisional Authority or Interim Relief was issued, whichever comes later.	43:3 Delivery Date The Seller shall commence delivery of Contract Capacity and Contract Energy to Buyer and Buyer shall commence to purchase from the Seller the Contract Capacity and Contract Energy on Delivery Date. The Delivery Date shall be a date, after Effective Date, reckoned from November 26, 2025 or on the next immediate 26th Day of the calendar month following the date of issuance of the ERC Approval date of issuance by the ERC of a Provisional Authority or Interim Relief, as applicable, or Final Authority, if neither Provisional Authority or Interim Relief was issued, whichever comes later. In any event that the ERC Approval shall not have been obtained by the Parties within six (6) months from the filing of the Joint Application, the Parties shall meet and discuss within seven (7) Days regarding the supply of power to the Buyer.	This will be subject to negotiation with the winning bidder.
4. Term	This Agreement shall take effect immediately from Effective Date, and from such date, shall remain in force and effect for five (5) years from the Delivery Date or upon issuance of ERC’s approval, whichever is later.	Please confirm our understanding that the five (5) year term is a moving timeline especially if the ERC approval is received later than the Delivery Date. This means that the 5 years will only commence upon ERC approval.	This will be subject to negotiation with the winning bidder.
4.5	The Seller shall provide replacement power in following cases, except during Force Majeure Events: 1. During any delay of the Start of Delivery of Supply; and 2. When its power plant is on scheduled or unscheduled outage to ensure continuity of supply in compliance with the cooperation period.	Some unscheduled outages may be due to Force Majeure. In such cases, please confirm that the unscheduled outage may be considered a Force Majeure, and the Seller shall not be required to provide replacement power.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
Section 4.5.2 Replacement Power	4.5.2 The replacement power rate shall be the actual price of replacement power or the prevailing Wholesale Electricity Spot Market (WESM) rate, whichever is lower, but shall not exceed the Energy Regulatory Commission (ERC)-approved tariff	Please confirm that during provision of Replacement Power, the Power Supplier shall be paid the following: 1.Capacity Recovery Fee; 2.Fixed O&M Fee; and 3.Lower of the Actual Price of Replacement Power or WESM price, but shall not exceed the ERC- approved tariff	This will be subject to negotiation with the winning bidder.
Section 4.5.2 and 4.5.3 Replacement Power		In the event that the Buyer incurred Replacement Power as described in Section 4.5.2 and 4.5.3, may we confirm that Buyer shall still pay the Seller the Capacity Recovery Fee and Fixed O&M?	This will be subject to negotiation with the winning bidder.
4.5.3 Replacement Power	4.5.3 Replacement power shall be the obligation of the Seller. In the event of failure by the Seller to provide the replacement power, the DU shall be allowed to source the replacement power at the expense of the Seller.	May we confirm that in the case described in Section 4.5.3, the Seller shall only reimburse the Buyer equivalent to the difference between (i) the cost of replacement power; and (ii) the sum of the Variable O&M fee and Fuel Fee?	This will be subject to negotiation with the winning bidder.
4.5.3 Replacement Power	Replacement power shall be the obligation of the Seller.	We suggest to amend this to "Replacement power up to the Contract Capacity shall be the obligation of the SELLER."	This will be subject to negotiation with the winning bidder.
4.5.3 Replacement Power	Replacement power shall be the obligation of the Seller. In the event of failure by the Seller to provide the replacement power, the DU shall be allowed to source the replacement power at the expense of the Seller.	For clarity, we suggest the following revision: Replacement power shall be the obligation of the Seller. In the event of failure by the Seller to provide the replacement power, the DU shall be allowed to source the replacement power at the expense of the Seller at the same rate as Section 4.5.2.	This will be subject to negotiation with the winning bidder.
5. Supply of Energy	4.1 Seller's and Buyer's Obligations Beginning on the Delivery Date, until the termination or expiration of this Agreement, Seller shall supply and deliver Twenty Megawatt (20 MW) Baseload Capacity and/or Contract Energy as detailed in Schedule] to Buyer at the Delivery Point, and the Buyer shall purchase and pay Seller the Twenty Megawatt (20 MW) Baseload Capacity and/or Contract Energy] at the rate of [], resulting from the CSP and subject to the approval of the ERC.	We suggest to revise as follows: 54.1 Seller's and Buyer's Obligations Beginning on the Delivery Date, until the termination or expiration of this Agreement, Seller shall supply and deliver Twenty Megawatt (20 MW) a Baseload Contract Capacity of twenty thousand kilo-Watts (20,000 kW) and/or the Contract Energy as detailed in Schedule 2 to Buyer at the Delivery Point;. and tThe Buyer shall purchase and pay the Seller the Twenty Megawatt (20 MW) Baseload Capacity and/or Contract Energy] at the rate of []; for the Contract Capacity and Contract Energy pursuant to Schedule 4 (Monthly Payment, Indexation and Adjustment), resulting from the CSP and subject to the approval of the ERC.	This will be subject to negotiation with the winning bidder.
5. Supply of Energy	4.2.1 For administrative and planning purposes only, Buyer shall furnish Seller with non-binding year-ahead, month-ahead and week-ahead nominations of Contract Capacity in accordance with the WESM Rules and the Operating Procedures.	54.2.1 For administrative and planning purposes only, Buyer shall furnish Seller with non-binding year-ahead , month-ahead and week-ahead nominations of Contract Capacity in accordance with the WESM Rules and the Operating Procedures. Buyer shall furnish the Seller with binding day-ahead nominations with reference to the agreed Nomination Protocol.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
5. Supply of Energy	4.2.2 Such nominations shall reflect Buyer’s good faith estimate of its projected capacity requirements for such period. Buyer shall furnish Seller with the year-ahead nominations, the month-ahead nominations, and the week-ahead nominations.	We suggest to reword as follows: 54.2.2 Such nominations shall reflect BUYER’s good faith estimate of its projected capacity requirements for such period. Buyer shall furnish Seller with the year-ahead nominations, the month-ahead nominations, week-ahead nominations, and the binding day-ahead nominations.	This will be subject to negotiation with the winning bidder.
5. Supply of Energy	From time to time upon and after the implementation of Retail Competition and Open Access (RCOA), Green Energy Option Program (GEOP), Renewable Portfolio Standards (RPS), Net Metering programs, and other similar government programs, Buyer shall deliver to Seller written notice specifying the reduction in Contract Capacity and/or Contract Energy resulting from the implementation of RCOA, GEOP, RPS, Net Metering programs, and other similar government programs, indicating when such reductions shall take place.	We suggest to reword as follows: From time to time upon and after the implementation of Retail Competition and Open Access (RCOA), Green Energy Option Program (GEOP), Renewable Portfolio Standards (RPS), Net Metering programs, and other similar government programs, Buyer shall deliver to Seller written notice specifying the reduction in Contract Capacity and/or Contract Energy resulting from the implementation of RCOA, GEOP, RPS, Net Metering programs, and other similar government programs, indicating the name of the affected customer, capacity and when such reductions shall take place.	This will be subject to negotiation with the winning bidder.
5. Supply of Energy	4.5 Replacement Power xxx 4.5.2 The replacement power rate shall be the actual price of replacement power or the prevailing Wholesale Electricity Spot Market (WESM) rate, whichever is lower, but shall not exceed the Energy Regulatory Commission (ERC)-approved tariff. 4.5.3 Replacement power shall be the obligation of the Seller. In the event of failure by the Seller to provide the replacement power, the DU shall be allowed to source the replacement power at the expense of the Seller.	We suggest to revised this Section as follows: xxx 4.5.2 The rReplacement pPower rate shall be the actual price of rReplacement pPower or the prevailing Wholesale Electricity Spot Market (WESM) rate, whichever is lower, but shall not exceed the Energy Regulatory Commission (ERC)-approved tariff under the PSA, whichever is lower. NOTE: (This is to be consistent with the Replacement Power provision under the ERC Template for Physical PSA) 4.5.3 Replacement power shall be the obligation of the Seller. In the event of failure by the Seller to provide the rReplacement pPower, the DU shall be allowed to source the rReplacement pPower and the Seller shall reimburse the positive difference between the actual cost of Replacement Power and the ERC approved rate under the PSA, at the	This will be subject to negotiation with the winning bidder.
5. Supply of Energy	4.6 Transmission and Interconnection 4.6.1 If applicable, Seller [shall enter/ has entered/ is in the process of entering] into a Connection Agreement and Transmission Service Agreement with the NGCP to connect the Facility to the Grid.	54.6 Transmission and Interconnection 54.6.1 If applicable , The Seller [shall enter/ has entered/ is in the process of entering] into a Connection Agreement and Transmission Service Agreement with the NGCP to connect the Facility to the Grid.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
5. Compensation, Payment and Billing	Replacement power shall be the obligation of the Seller.	We suggest to reword as follows: Further, Buyer shall bear all costs of such transmission service, from the Delivery Point up to the Receiving Point including, but not limited to, the cost of any electric losses, incurred in such transmission, WESM charges including the actual Line Rental beyond the line rental cap of PhP0.3000/kWh. Line Rental charges up to a maximum of <u>PhP0.3000/kWh shall be for the account of the Seller.</u>	This will be subject to negotiation with the winning bidder.
5. Compensation, Payment and Billing	5.1 Payment of Fees "xxx Provided further that 1) there should be no offsetting of payment between the Buyer and Seller; 2) withholding of disputed amounts, except for the inadvertent mistake in the amount xxx"	We suggest that this be amended to "Provided further that 1) there should be no offsetting of payment between the Buyer and Seller; 2) withholding of disputed amounts, except for inadvertent and manifest error in the amount"	This will be subject to negotiation with the winning bidder.
5. Compensation, Payment and Billing	5.1 Payment of Fees Buyer shall pay to the Seller each Month, on the [] Business Day of each Month, an amount equal to the Monthly Payment in accordance with Schedule 4.	We suggest to revise this to Section 6: 6. COMPENSATION, PAYMENT AND BILLING 6.1 Power Bill Invoices for the energy supplied during a Billing Period and/or invoices for other charges covered by this Agreement payable by the BUYER to the SELLER, if any, shall be served upon the BUYER within the first twelve (12) Days of the succeeding Billing Period. The SELLER shall send the power bill invoice electronically through the Online Bills Payment Portal ("OBPP") or through the designated e-mails. The OBPP shall send an email notification to the BUYER which shall be considered as receipt of the said power bill invoice. Payments shall be made to the authorized banks/collectors of the SELLER. Buyer shall pay the Seller each Billing Period, without the necessity of demand, not later than twelve noon (12:00NN) on the twenty-fifth (25th) Day of each Month (Due Date), in cleared funds equal to the Total Generation Charge and Other Applicable Charges under this Section. Payments shall be made by cash, check or bank transfer to the Seller's designated bank. Payments by check shall be deemed received upon receipt of the proof of payment to the Seller, unless the check is later not honored by the bank of account.	This will be subject to negotiation with the winning bidder.
5. Compensation, Payment and Billing	Provided further that, 1) there should be no offsetting of payment between the Buyer and Seller; 2) withholding of disputed amounts, except for the inadvertent mistake in the amount; 3) If an invoice is not disputed within [] Days after payment, it is deemed to be accepted, final, and binding to the Buyer and Seller	Suggest to revise as follows: Provided further that, 1) there should be no offsetting of payment between Buyer and Seller; 2) nor withholding of disputed amounts, except for the inadvertent mistake in the amount.; 3) 2) If an invoice is not disputed within sixty (60) days after payment, it is deemed to be accepted, final, and binding to Buyer and Seller.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
5.1 Payment of Fees		We highly suggest to include under Section 6 Compensation, Payment and Billing as item 6.2 an additional provision regarding Line Rental and other WESM Charges as follows: 6.2 Line Rental charges up to PhP0.3000/kWh ("LR Cap") shall be for the account of the Seller. Actual Line Rental charges beyond the LR Cap as well as WESM charges other than Line Rental shall be for the account of the Buyer.	This will be subject to negotiation with the winning bidder.
5.1 Payment of Fees	"No offsetting... withholding of disputed amounts, except for inadvertent mistake in the amount..."	Requesting to allow withholding only the payment for disputed portion; undisputed amounts should be paid on time.	This will be subject to negotiation with the winning bidder.
5.2 Taxes	All present and future national, local or other lawful taxes, duties, levies, or other impositions applicable to the Seller, the Facility and the Seller's other assets shall be paid by the Seller in a timely manner. All present and future national, local or other lawful taxes, duties, levies, or other impositions applicable to Buyer arising from or in connection with its rights and obligations under this Agreement shall be paid by Buyer in a timely manner.	We suggest to revise as follows: 6.3 Taxes All present and future national, local or other lawful taxes, duties, levies, or other impositions applicable to the Seller, the Facility and the Seller's other assets shall be paid by the Seller in a timely manner. All present and future national, local or other lawful taxes, duties, levies, or other impositions applicable to Buyer arising from or in connection with its rights and obligations under this Agreement shall be paid by Buyer in a timely manner, including any adjustments thereon.	This will be subject to negotiation with the winning bidder.
5.3 Prompt Payment Discount	The Seller shall extend [] percent (%) discount based on the nonfuel fee (sum of Capital Recovery Fee, Fixed O&M Fee and Variable O&M Fee, if applicable) to Buyer as prompt payment if 1) payment is made within [] Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement.	We suggest to revise as follows: 65.3 The Seller shall extend [] percent (%) discount based on the non-fuel fee (sum of Capital Recovery Fee, Fixed O&M Fee and Variable O&M Fee, if applicable) to Buyer as prompt payment if 1) payment is made within ten (10) Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement; and 3) Buyer has submitted all necessary BIR Tax Certificates for all taxes withheld. The Buyer shall not automatically deduct the Prompt Payment Discount from the payment of the Power Bill Invoice, and any unilateral deduction shall constitute a breach of this Agreement. The Prompt Payment Discount for the current Power Bill Invoice shall be made available to the Buyer in the succeeding Power Bill Invoice through the issuance of a credit memorandum. The Buyer with an expiring Agreement who is qualified to avail of the Prompt Payment Discount under the Power Bill Invoice shall receive its discount upon final settlement and clearance of its Agreement with the Seller. <i>NOTE: If the offering of a Prompt Payment Discount ("PPD") is optional and the Winning Bidder does not offer a PPD, this Section should be "Not Used"</i>	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
5.3 Prompt Payment Discount	Seller must extend discount if Buyer pays early.	Can we make the prompt payment discount optional since this is additional cost to the Seller?	This will be subject to negotiation with the winning bidder.
5.4	Liquidated damages in case of default shall be in the amount of [] per MW per day that the defaulting Party continues with the default and any fraction thereof, to be paid within [] Days after written demand for payment.	Kindly confirm when the Liquidated Damages will be paid. We note that it is not mentioned anywhere else in the PSA.	This will be subject to negotiation with the winning bidder.
5. Compensation, Payment and Billing		We suggest to add this provision under Section 5: Compensation, Payment and Billing as follows: "5.5 Security Deposit 5.5.1 The BUYER shall not be required by the SELLER to post a Security Deposit upon the execution of this Agreement. In any case that the BUYER should fail to pay in full its current power bill invoice on or before its Due Date, it shall be required to post a Security Deposit at the immediately succeeding Billing Period after the Due Date equivalent to one hundred percent (100%) of the average monthly power bill invoice for the Billing Periods from Delivery Date up to the current Billing Period. 5.5.2. Form. The Security Deposit shall be in the form of cash, cash bond, manager's or cashier's check, bank certified check, irrevocable stand-by letter of credit, performance bond or bank guarantee "callable on demand" issued by a financial institution, or any other forms of security, such as but not limited to escrow account to be administered by a bank acceptable to the SELLER, in such form and substance acceptable to the SELLER. 5.5.3. Depletion of Security Deposit. In case the Security Deposit is fully or partially depleted, the BUYER shall replenish the Security Deposit to meet the original amount not later than thirty (30) Days from receipt of SELLER's Notice of Collection. 5.5.4. Failure to Post Security Deposit. If the BUYER fails to post or maintain a full amount of the required Security Deposit for a period of more than thirty (30) Days, the SELLER reserves the right to (i) discontinue supply of electric energy; (ii) terminate this Agreement; and/or (iii) exercise all applicable legal remedies under the law and rules and regulations. 5.5.5 Time of Posting. The Security Deposit, when required under this Agreement, shall be posted by the BUYER within five (5) Days from receipt of SELLER's Notice of Collection. Failure of the BUYER to post the required Security Deposit within such period shall be deemed a BUYER's event of default pursuant to Section __ and may result to the suspension of supply, disconnection or termination of this Agreement. 5.5.6. Release of Security Deposit. Within seven (7) Business Days from the BUYER's full payment of the SELLER's power bill invoice for the last Billing Period following the termination or expiration of this Agreement, the SELLER shall return or release the Security Deposit posted by the BUYER, including actual interest earned, less any deductions allowed under the ERC Rules or this Agreement that the SELLER may apply thereto for any amount owed by the BUYER to the SELLER	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
6. Force Majeure	6.1 Meaning of Force Majeure In this Agreement, “Force Majeure” refers to any of the following that is beyond the reasonable control of the Party/Parties claiming force majeure which, through the exercise of due foresight and good industry practice, the Party/Parties could not have avoided, did not contribute to or participate in, and which, even by exercise of due diligence, the Party/Parties is unable to overcome, thus preventing the party from carrying out its obligations or from enjoying its rights under this Agreement due to the impossibility of delivering the goods and services, or the imminent harm that such events, in the absence of safeguards and protocols, may bring upon its employees, agents or the general public in the performance of its obligations under this Agreement	We suggest to reword as follows: 76.1 Meaning of Force Majeure In this Agreement, “Force Majeure” refers to any event (Force Majeure Event) of the following that is beyond the reasonable control of the Party/Parties claiming force majeure which, through the exercise of due foresight and good industry practice, the Party/Parties could not have avoided, did not contribute to or participate in, and which, even by exercise of due diligence, the Party/Parties is unable to overcome, thus preventing the party from carrying out its obligations or from enjoying its rights under this Agreement due to the impossibility of delivering the goods and services, or the imminent harm that such events, in the absence of safeguards and protocols, may bring upon its employees, agents or the general public in the performance of its obligations under this Agreement.	This will be subject to negotiation with the winning bidder.
6. Force Majeure	6.1.1 Acts of God – xxx (a) The event or calamity is of the degree or intensity that the continued operation of the parties would lead to death or injury of the parties’ employees or agents; (b) The event or calamity is of the degree or intensity that the continued operation of the parties would be of great hazard to the security and safety of the public.	We suggest to revise as follows: Force Majeure Events shall include, but not be limited to: 76.1.1 Acts of God – xxx (a) The event or calamity is of the degree or intensity that the continued operation of the parties affected Party would lead to death or injury of the affected Party's parties’ employees or agents; (b) The event or calamity is of the degree or intensity that the continued operation of the Party parties would be of great hazard to the security and safety of the public.	This will be subject to negotiation with the winning bidder.
6. Force Majeure	6.1.2 Epidemic – xxx (a) Impossibility to deliver the contracted goods or services; or	We suggest to reword as follows: (a) Impossibility to deliver the contracted goods or services Contract Capacity and Contract Energy under this Agreement; or	This will be subject to negotiation with the winning bidder.
6. Force Majeure	6.1.3 Other Events of Force Majeure (Force Majeure-Acts of Man) Force Majeure events occurring in or directly affecting the Philippines include:	Suggest to include the following under Other Events of Force Majeure (Force Majeure-Acts of Man): 76.1.3 Other Events of Force Majeure (Force Majeure-Acts of Man) (d) An act or omission of the System Operator that prevents the transmission of electricity from the Plant; (e) any other event of similar nature which prevents Seller from delivering the Contract Capacity to the Buyer, or prevents Buyer from receiving the Contract Capacity from Seller.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
6. Force Majeure	6.2 Notification and Obligation to Remedy In the event of the occurrence of a Force Majeure that prevents a Party from performing its obligations hereunder (other than an obligation to pay money), such Party shall: (a) notify within five (5) Days the other Party in writing of such Force Majeure; xxx	We suggest to reword as follows: 76.2 Notification and Obligation to Remedy In the event of the occurrence of a Force Majeure that prevents a Party from performing its obligations hereunder (other than an obligation to pay money), such Party shall: (a) notify within five (5) Days the other Party in writing (through Short Message Services (SMS), email, messaging applications or other convenient means) of such Force Majeure xxx The other Party shall have thirty (30) Days from receipt of such notice to contest the claim. If the other Party contests the happening of such Event of Force Majeure, that Party shall inform the affected Party of the same within the period specified above. In case of a disagreement on whether the affected Party should be excused from performing its obligations under this Agreement due to an Event of Force Majeure, the matter shall be resolved under Article __ (Dispute Resolution).	This will be subject to negotiation with the winning bidder.
6. Force Majeure	6.3 Consequences of Force Majeure Neither Party shall be responsible or liable for, or deemed in breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Agreement which it cannot perform due solely to one or more Force Majeure or its or their effects or by any combination thereof, and the periods allowed for the performance by the Parties of such obligation(s) shall be extended on a day-by-day basis for so long as one or more Force Majeure continues to affect materially and adversely the performance of such Party of such obligation(s) under or pursuant to this Agreement; provided, however, that no relief shall be granted to the Party claiming Force Majeure pursuant to this Section to the extent that such failure or delay would have nevertheless been experienced by that Party had such Force Majeure not occurred; and provided further, that the Parties may file the proper motion for termination, when the Force Majeure delays a Party's performance for a period greater than (a) [] consecutive months prior to the Effective Date or (b) [] consecutive months after the Effective Date.	We suggest to revise as follows: 76.3 Consequences of Force Majeure Neither Party shall be responsible or liable for, or deemed in breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Agreement which it cannot perform due solely to one or more Force Majeure or its or their effects or by any combination thereof, and the periods allowed for the performance by the Parties of such obligation(s) shall be extended on a day-by-day basis for so long as one or more Force Majeure continues to affect materially and adversely the performance of such Party of such obligation(s) under or pursuant to this Agreement; provided, however, that no relief shall be granted to the Party claiming Force Majeure pursuant to this Section to the extent that such failure or delay would have nevertheless been experienced by that Party had such Force Majeure not occurred; and provided further, that the Parties may file the proper motion for termination, when the Force Majeure delays a Party's performance of its obligation under the PSA for a period greater than sixty (60) consecutive Days. (a) [] consecutive months prior to the Effective Date or (b) [] consecutive months after the Effective Date.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
6. Force Majeure		We suggest to add this provision: 7.4 During an event of Force Majeure preventing Buyer from taking or receiving the Contract Capacity, Seller may freely sell the Contract Capacity or a portion thereof to third parties, including the WESM. On the other hand, in the event that the Seller is prevented from supplying the Contract Capacity, the Buyer shall be entitled to purchase such Replacement Power from the WESM to the extent affected by such event of Force Majeure, at its own cost.	This will be subject to negotiation with the winning bidder.
6. Force Majeure	Force Majeure	(1) Please confirm that in instances where the DU has claimed Force Majeure or any other instance when the DU cannot accept the capacity, the Seller is free to sell to the WESM/third parties and any revenue from such sale belongs to the Seller. (2) We also suggest including the following as Force Majeure: (a) expropriation, requisition, confiscation, nationalization, or other compulsory acquisition, export or import restriction by any Governmental Authority, closing of harbors, docks, canals, or other assistance to or adjuncts of the shipping or navigation of or within any place, and rationing or allocation, whether imposed by law, decree, or regulation by, or by compliance of industry at the insistence of, any government authority; (b) denial, delay, conditioning, variation, termination, or voiding of, or failure or delay in granting or renewing, any license or governmental authorization required for such Party's performance of its material obligations hereunder, notwithstanding such Party's due application therefore and diligent efforts to obtain the same; or (c) order of any Governmental Authority [to be defined] that disrupts, impedes, stops, or prevents a Party from performing its obligations under this Agreement; (d) an event resulting in any grid, transmission, or sub-transmission failure, which prevents the Seller from supplying electricity; or (e) force majeure events under the WESM Rules. (3) We also suggest adding the following: The occurrence of any Force Majeure event shall not excuse the obligation of the Buyer to pay any not required to pay pursuant to this Agreement	This will be subject to negotiation with the winning bidder.
7. Dispatch by Utility	The Buyer shall have the right to dispatch the power plant up to its dependable capacity following the dispatch protocol in accordance with the economic merit order	We suggest to delete this, since dispatch instructions are issued by the Market Operator (IEMOP) or in case of system emergencies, by the System Operator (NGCP).	This will be subject to negotiation with the winning bidder.
8. Defaults and Termination	8.1. Events of Default xxx 9.1.1 A Party fails to make any payment required pursuant to this Agreement when due and payable and such payment is not made within [number of days] Days after the due date;	8.1 Events of Default xxx 89.1.1 A Party fails to make full any payment required pursuant to this Agreement when due and payable and such payment is not made within [number of Days] after the due date;	This will be subject to negotiation with the winning bidder.
8. Defaults and Termination	9.1.2 A Party breaches any of its material representations, warranties, covenants or obligations under this Agreement; and	We suggest to revise as follows: 89.1.2 A Party breaches any of its material representations, warranties, covenants or obligations under this Agreement; and unless such non-compliance or failure to perform is excused by an Event of Force Majeure. For avoidance of doubt, the failure of the Buyer to post a Security Deposit when required under Section ____ is a breach of a material obligation	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
8. Defaults and Termination	9.1.3 xxx xxx (a) [number of days] Days, for Events of Default under Section 7.1.1, (b) [number of days] Days, for Events of Default under Section 7.1.2, and (c) [number of days] Days, for Events of Default under Section 7.1.3.	We suggest the following number of days Cure Period for the Events of Default as follows: xxx (a) Five (5) Days, for Events of Default under Section ____, (b) Thirty (30) Days, for Events of Default under Section ____, and (c) Sixty (60) Days, for Events of Default under Section ____.	This will be subject to negotiation with the winning bidder.
8. Defaults and Termination	9.3 Suspension upon Event of Default In case an Event of Default is awaiting to be cured during the Cure Period under Section ____, the Non-Defaulting Party may suspend this Agreement, subject to the approval of the ERC, until such time the Event of Default is cured, or the applicable Cure Period lapsed.	We suggest to revise as follows: 97.3 Suspension upon Event of Default In case an Event of Default is awaiting to be cured during the Cure Period under Section ____, the Non-Defaulting Party may suspend this Agreement, subject to the approval of the ERC, until such time the Event of Default is cured, or the applicable Cure Period lapsed. For the avoidance of doubt, pending ERC approval, the Non-Defaulting Party, if it is the Seller, shall be excused from its obligation to supply the Contract Capacity under the Agreement; if it is the Buyer, it shall be excused from its obligation to purchase the Contract Energy.	This will be subject to negotiation with the winning bidder.
8. Defaults and Termination	9.4 Termination upon Event of Default	We suggest to delete Sections 9.4.3 and 9.4.4 as termination is always subject to approval by the ERC.	This will be subject to negotiation with the winning bidder.
Section 8, 12, 13	Whole section	Please correct the labels of the sub sections of Section 8, 12, and 13 to avoid confusion when referencing provisions in the document.	This will be subject to negotiation with the winning bidder.
Section 8.5.5 (mistakenly labelled as 9.5.5. in the draft)	If no satisfactory solution is reached by the parties when a Change of Law, Change of Circumstance results to (a) any additional charges, fees, taxes, duties, assessments, or other similar amounts become payable, (b) DU is no longer permitted to pass through to its customers any charges, fees, taxes, assessments, or other similar amounts, or (c) DU is no longer permitted to pass through to its customers any amount that it is permitted to pass through as of the date of the Agreement.	Please define Change of Law and Change of Circumstance.	This will be subject to negotiation with the winning bidder.
9. Penalties	The Buyer shall have the right to impose penalties whenever Seller fails to comply with its obligations within the cure period stated in the PSA under the following circumstances:3. Payment of penalties when Seller has prolonged outages of more than six (6) months5. Failure of power delivery;	1. Can the winning bidder negotiate the penalty provisions in Section 9, and request that penalties apply to both the Buyer and the Seller?2. In Section 9, what specific penalties will the Buyer impose?3. What types of outages will be subject to penalties?	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
9. Penalties	The Buyer shall have the right to impose penalties whenever Seller fails to comply with its obligations within the cure period stated in the PSA under the following circumstances: 1. Payment of damages upon contract termination based on valid grounds; 2. Payment of penalties when Seller has prolonged outages of more than six (6) months; 3. Failure to provide replacement power; 4. Delay in Commercial Operation Date (COD); 5. Failure of power delivery; and 6. Other grounds detailed in this Power Supply Agreement.	To make this provision fairer to the Buyer and Seller, we suggest the following revision: Either Party shall have the right to impose penalties whenever the other Party fails to comply with its obligations within the cure period stated in the PSA. [deleted] The following are the consequences of Event of Default: 1. Either Party may initiate termination if the other party is unable to remedy its default within the cure period; and 2. The defaulting party shall pay the [Liquidated Damages in Section 5.4 or Termination Fee to be negotiated by the Negros Power and Winning Bidder before executing the PSA]. The non-defaulting Party may terminate the PSA subject to prior notice which shall not be less than thirty (30) calendar days	This will be subject to negotiation with the winning bidder.
9.1.1 Events of Default	A Party fails to make any payment required pursuant to this Agreement when due and payable and such payment is not made within [number of days] Days after the due date;	We suggest to amend this to "A Party fails to make any payment required pursuant to this Agreement when due and payable and such payment is not made within [number of days] after the due date, and there is no security deposit;	This will be subject to negotiation with the winning bidder.
9.5.2 Grounds for Termination Other than an Event of Default	Seller ceases or discontinues the delivery of electricity for a period of six (6) months from its own plant, except in instances allowed under this Agreement.	Suggest to reword this to "Seller ceases or discontinues the delivery of electricity for a period of six (6) months due to prolonged scheduled or unscheduled outage of its own plant and the Seller fails to provide Replacement Power, except in instances allowed under this Agreement.	This will be subject to negotiation with the winning bidder.
9.5 Penalties	5. Failure of power delivery; and	We suggest to delete as this involves transmission services which is outside the Seller's obligation to supply the contract capacity. We suggest to revise as follows:	This will be subject to negotiation with the winning bidder.
10. Dispute Resolution	If any dispute or disagreement ("Dispute") shall arise between the Parties in connection with this Agreement, either Party may request in writing that the respective chief executive officers of Seller and Buyer meet within [number of days] Days and attempt to resolve the Dispute. The Parties shall exert every effort to first resolve the Dispute amicably by mutual consultation. Should parties fail to reach an amicable settlement after mutual consultation, any Dispute arising from this Agreement shall then be settled through arbitration, at a venue within the Philippines, with the rules of Republic Act No. 876 and Republic Act No. 9285 deemed incorporated by reference in this clause. xxx	If any dispute or disagreement ("Dispute") shall arise between the Parties in connection with this Agreement, either Party may request in writing that the respective chief executive officers, or authorized representatives, of Seller and Buyer to meet within [number of days] Days and attempt to resolve the Dispute. The Parties shall exert every effort to first resolve the Dispute amicably by mutual consultation. Should p Parties fail to reach an amicable settlement after mutual consultation, other than those that would require any adjustment in any of the components of the monthly payment under the Agreement, any Dispute arising from this Agreement shall then be settled through arbitration, at a the venue being either Pasig or Mandaluyong City within the Philippines, with the rules of Republic Act No. 876 and Republic Act No. 9285 deemed incorporated by reference in this clause.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
11. Assignment of Rights	The Seller may only assign or transfer its rights or obligations to its Affiliates or its consortium’s special purpose vehicle under, pursuant to or associated with (a) this Agreement, (b) the Facility, (c) the movable property and intellectual property of the Seller, or (d) the revenues or any of the rights or assets of the Seller, in each of subsections (a) through (c) without the prior written consent of the Buyer, provided, however, that any such assignee of Seller shall have the ability to perform all of Seller’s obligations and duties under this Agreement. Such transfer of rights and obligations under this provision shall require prior notification and approval of the ERC. Nonetheless, both assignor and assignee are solidarily liable under this Agreement.	We suggest to add an additional paragraph as follows: xxx Further, Seller may pledge, transfer, sell, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any project financing of financial arrangements. Such assignment shall be valid unless disapproved by the ERC.	This will be subject to negotiation with the winning bidder.
12. Notices	10. 1 Address for Notices xxx and shall be (a) delivered personally, or (b) transmitted by electronic mail and either (i) recipient acknowledges receipt to sender or (ii) sender delivers to recipient a transmission confirmation; to the following addresses:	We suggest to revise as follows: 120.1 Address for Notices xxx and shall be (a) delivered personally, (b) transmitted by electronic mail and either (i) recipient acknowledges receipt to sender or (ii) sender delivers to the recipient a transmission confirmation, (c) pre-paid post or overnight courier; to the following addresses:	This will be subject to negotiation with the winning bidder.
12. Notices	10.1 xxx “Recipient” shall mean the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel, or signatory to this Agreement of the Party, or in their absence or unavailability, on their secretaries.	We suggests to revise as follows: "Recipient" shall mean the president, managing partner, general manager, corporate secretary, treasurer, in house counsel, signatory to this Agreement of the Party or any representative of Seller's Sales & Marketing - DU Department, or in their absence or unavailability, on their secretaries.	This will be subject to negotiation with the winning bidder.
12. Notices	10.2 Effectiveness of Service Notices shall be effective: (a) in the case of personal delivery, when received by the recipient; or (b) in the case of transmission by electronic mail, if receipt of the transmission occurs before [time] recipient’s time and recipient receives a transmission confirmation or otherwise acknowledges transmission, upon receipt of transmission, or if receipt of the electronic mail occurs after [time] recipient’s time and recipient receives a transmission confirmation or otherwise acknowledges transmission, the next succeeding Business Day.	120.2 Effectiveness of Service Notice is deemed effective on the day of service in the case of personal delivery, registered mail or private courier delivery, when received by the recipient on or before 5:00 PM on a Business Day, otherwise, it shall be considered to be received on the next Business Day. For notice sent through electronic mail, notice is deemed effective on the day of service in case sender receives a transmission confirmation (delivery receipt notification) before 5:00 PM or is acknowledged by the recipient, otherwise it shall be considered to be received on the next Business Day.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
13. Miscellaneous Provisions	11.1 Variations in Writing All additions, amendments or variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of both Parties, and with prior approval of the ERC.	We suggest to exclude minor amendments such as changes in contract details which have no effect on the obligations of the Parties and the ERC-approved price. Thus, the provision should be amended to read: " Except for minor changes such as changes in contact details which have no impact on the rights and obligations of the Parties , all additions, amendments or variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of both Parties, and <u>with prior approval of the ERC.</u> "	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions	11.3 Severability In the event that any one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or of the same provisions in any other jurisdiction shall not in any way be affected or impaired thereby.	We suggest to include an additional sentence to Section 11.3 as follows: "xxx affected or impaired thereby. The Parties agree that any provision declared invalid, illegal, or unenforceable by any competent government agency or court shall be replaced with valid or enforceable provisions as closely aligned with the original intention of the Parties. "	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions		We suggest to include this provision under Section 13 "This Agreement may be entered into in counterparts and by the Parties in separate counterparts, and each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, and taken together, they shall constitute one and the same instrument."	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions	11.1 Variations in Writing All additions, amendments or variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of both Parties, and with prior approval of the ERC.	We suggest to add an additional paragraph as follows: xxx However, amendments relating to a change in a Party's address, contact details, or contact persons shall not require prior approval of the ERC.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
13. Miscellaneous Provisions	11.2 Entire Agreement This Agreement and all Schedules thereto together represent the entire understanding between the Parties in relation to the subject matter thereof and supersede any or all previous agreements or arrangements between the Parties in respect of the Facility (whether oral or written).	We suggest to revise as follows: This Agreement and all Schedules thereto together represent the entire understanding between the Parties in relation to the subject matter thereof and supersede any or all previous agreements, or arrangements and understandings between the Parties in respect to the procurement of the power supply requirements of the Buyer of the Facility (whether oral or written). This Agreement may be entered into in counterparts and by the Parties in separate counterparts, and each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, and taken together, they shall constitute one and the same instrument; provided, that the last date of execution by the Parties in counterparts shall be deemed the execution of this Agreement (“Execution Date”).	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions	11.3 Severability In the event that any one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or of the same provisions in any other jurisdiction shall not in any way be affected or impaired thereby.	We suggest to revise as follows: In the event that any one or more of the provisions of this Agreement shall be declared invalid, illegal or unenforceable in any respect, by any competent government agency or court, the validity, legality and enforceability of the remaining provisions contained herein or of the same provisions in any other jurisdiction shall not in any way be affected or impaired thereby.	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions	11.4 Waivers xxx 11.4.3 The Parties shall not, through mutual agreement, or consent or acquiescence of the other, waive any rights or obligations under this contract that may prejudice the rights of consumers.	We suggest to delete this provision.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
13. Miscellaneous Provisions	11.7 Consequential Damages Neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory for indirect, consequential, punitive or exemplary damages resulting from the performance of obligations or the exercise of rights under or pursuant to this Agreement.	We suggest to revise this provision as follows: 11.7 Liabilities on Damages Except as expressly provided herein, the Seller shall not be liable for any actual, liquidated, nominal and other damages suffered by the Buyer due to the failure of the Seller to supply electric energy to the Buyer by reason of Force Majeure. Seller, however, will be liable when such failure is caused by the Seller's bad faith, gross negligence or malicious intent. In the latter case, the Seller shall be liable to the Buyer only for actual, reasonable and documented damages directly and solely arising from the Seller's bad faith, gross negligence or malicious intent. Neither Party shall be liable to the other Party in contract, tort, warranty, strict liability or any other legal theory for indirect, consequential, punitive or exemplary damages resulting from the performance of obligations or the exercise of rights under or pursuant to this Agreement.	This will be subject to negotiation with the winning bidder.
13. Miscellaneous Provisions		Suggest to add this provision on Confidentiality as follows: Confidentiality. The Parties shall keep under strict confidence all information communicated by the other Party as "Confidential Information" or which by its nature should be considered as confidential information. The Parties shall ensure that no Confidential Information is disclosed to third parties and shall employ its utmost effort and diligence to prevent unauthorized disclosure of such Confidential Information. Confidential Information includes but is not limited to information related to the operations, business, investments, technology, trade practices, products and product information, business methods, marketing, sales, technical and financial information, plans, projections and calculations, documents and Agreements, including legal affairs of the Parties and its affiliates. A Party's breach of confidentiality shall entitle the non-breaching Party to a) terminate this Agreement, b) file civil action against the breaching Party for damages and c) file criminal action against persons responsible for said breach. Each Party agrees that prior to providing the other Party any personal information of individuals related to it, it has obtained all necessary authorizations and consents as may be required by applicable confidentiality and data privacy laws. Each Party agrees to comply with the requirements of Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012, and its implementing rules, with respect to the collection, protection, use, sharing and storage of personal information.	This will be subject to negotiation with the winning bidder.

Section	Provision	Comments/Questions	TPBAC Response
Schedule 1	“Replacement Power” - The energy from an alternative source responsible to be delivered by the Seller to Buyer at a price lower than the price set forth in the Agreement. 4.5 Replacement Power 4.5.1 The Seller shall provide replacement power in following cases, except during Force Majeure Events: 1. During any delay of the Start of Delivery of Supply; and	We suggest to revise this Section as follows: "Replacement Power" - The energy from an alternative source responsible other than the Facility to be delivered by the Seller when required under the PSA to be paid by the Buyer at the lower between the actual cost of Replacement Power and the ERC approved contract charges for the PSA. than the price set forth in the Agreement.	This will be subject to negotiation with the winning bidder.
Recital	WHEREAS, Seller owns and operates, or plans to design, finance, construct, own, operate and maintain, whichever is applicable, a [gross capacity of the Facility] megawatts (MW) [Description of the Facility] located at [Location of the Facility] (the “Plant”);	For flexibility depending on the Winning Bidder, we suggest the following refinements: WHEREAS, Seller [owns and operates, or plans to design, finance, construct, own, operate and maintain, whichever is applicable], a [gross capacity of the Facility] megawatts (MW) [Description of the Facility] located at [Location of the Facility] (the “Plant”);	This will be subject to negotiation with the winning bidder.
General Comment	On the term "20 MW"	We suggest to use 20,000 kW consistently throughout the PSA to be consistent with Schedule 2 Contract Capacity and/or Contract Energy.	This will be subject to negotiation with the winning bidder.
General Comment		Will there be time to negotiate the terms in the draft PSA with the winning bidder?	This will be subject to negotiation with the winning bidder.
General Comment		Please confirm that the Winning Bidder can still negotiate the terms in the PSA, except the technical and commercial terms. We note that the PSA template also has several placeholders on dates, amounts, etc. that appear to be open for negotiation between the Negros Power and the Winning Bidder.	This will be subject to negotiation with the winning bidder.
Section 9 Penalties	The following are the consequences of Event of Default: 1. Either DU or Supplier may initiate termination if the other party is unable to remedy its default within the cure period; and xxx	May we be clarified on what the cure period is?	This will be subject to negotiation with the winning bidder.

GENERAL COMMENTS AND QUESTIONS

Comments/Questions	TPBAC Response
May we use our company, ACEN Corporation, as the Bidder and nominate a plant with which we have an Administration and Management Agreement (AMA)?	Yes
Alternatively, is it possible to bid under ACEN and subsequently re-assign the contract to our nominated plant (with whom we have an AMA)?	Yes
Please confirm that the Secretary Certificate shall be executed by Negros Power given that the Bidder has submitted its own Secretary Certificate.	A separate and more specific Secretary's Certificate will be issued by Negros Power once we award the contract to the winning bidder. For purposes of conducting the CSP, we confirm that the TPBAC is duly authorized to undertake this.
Kindly confirm that the Bidders can redact personal informations on the Eligibility Requirements to be submitted to Negros Power due to data privacy.	Confirmed.
We would like to request Negros Power to update the numbering of the subsections in the FITB to avoid confusions.	Confirmed. We will update the numbering in the FITB.
May we confirm that Bidders shall still be allowed to submit clarifications and queries regarding the Final ITB after the Pre-Bid Conference?	Yes
May we also request for an extension to submit comments on the Bid Documents?	This is only until Aug. 31
For NEPC BAC's consideration to allow the bidders submit additional queries or responses to the answers of the NONECO BAC in writing	Yes, until Aug. 31
Please confirm the format/s to be followed for the Bid Documents (i.e. paper size, font size, font style, etc.)	No format required.
Please confirm that the Bidder can use its own format/template of the Secretary's Certificate.	Confirmed, provided the salient authorities required are captured in the Secretary's Certificate.