BID BULLETIN NO. 002

Competitive Selection Process, Series of 2026
Supply of 20 MW Baseload and 15 MW RE Baseload Power Supply Requirements
to Negros Electric and Power Corp.

Subject: TPBAC Responses to the Comments and Questions on the Terms of Reference and Instructions to Bidders

Negros Electric and Power Corp. Third-Party Bids and Awards Committee (TPBAC) hereby issues this Bid Bulletin to summarize its responses to the comments and questions submitted by prospect bidders in relation to the Terms of Reference and Instructions to Bidders. Kindly refer to the attached file.

Please be guided accordingly.

For further inquiries, kindly contact the BAC Secretariat at **cspsecretariat@negrospower.ph**.

Issued this 22nd day of June 2026 in Bacolod City, Philippines.

Approved by:

NIEL V. PARCON
Chairperson
Third-Party Bids and Awards Committee

Competitive Selection Process, Series of 2026

TPBAC Responses to the Comments and Questions on the Terms of Reference and Instructions to Bidders (GENERAL COMMENTS)

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	General Comment		Please confirm that the PSA provisions can still be negotiated between the winning bidder and Negros Power.	PSA will be subject to negotiation with the winning bidder.
PSA Comments	PSA Negotiations		Will the Winning Bidder and Negros Power still conduct a "contract negotiations" prior to actual execution of the PSA?	PSA will be subject to negotiation with the winning bidder.

Competitive Selection Process, Series of 2026

Supply of 15 MW Renewable Energy Baseload Power Supply Requirement to Negros Electric and Power Corp.

TPBAC Responses to the Comments and Questions on the Terms of Reference and Instructions to Bidders

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Terms of Reference/ Invitation to Bid	Line Rental	TOR 2: For the account of Buyer, capped at P0.30/kWh In excess of the cap, for the account of the Winning Bidder	Please confirm that the Line Rental will be computed based on the effective Line Rental in Php/kWh every Billing Period.	Line Rental is computed based on the hourly effective line rental in Php/kWh every billing period based on the WESM Final Settlement Data
Terms of Reference/ Invitation to Bid	REC Credits	The Supplier shall provide the equivalent REC credits to Negros Power beginning at the supply delivery date.	Please clarify on the process of verifying that Bidders are capable of supplying the required Baseload RECs, for instance, will the TPBAC impose a minimum plant capacity factor requirement to ensure that the Seller can reliably meet at least the 50% of the minimum hourly nomination? Further, for non-Baseload RPS-eligible plants, we request clarification on the verification mechanism that will be used to ensure that the Seller has sufficient RECs to comply with the supply obligations under the Agreement.	The bidders is required to deliver the guaranteed energy baseload capacity requirement and its RECs equivalent; if NEPC opt to nominate at 50%, the RECs equivalent is also at 50%.
Terms of Reference/ Invitation to Bid	REC Credits	The Supplier shall provide the equivalent REC credits to Negros Power beginning at the supply delivery date.	Considering that RPS compliance is material to this agreement, please advise on the required documentation and agreement provisions to evidence bidders' capability to provide RECs and confirm that failure to comply shall be grounds for disqualification.	The Bidder shall identify and nominate the specific renewable energy power plant(s) that will generate and deliver the Renewable Energy Certificates (RECs) associated with the contracted energy supply. As part of its bid submission, the Bidder shall provide the following: 1. The name, location, technology type, and installed capacity of the renewable energy power plant(s) from which the RECs shall be sourced. 2. Documentary proof that the nominated power plant(s) are eligible under the Renewable Portfolio Standards (RPS) program, including but not limited to: a. Certificate of Registration or Accreditation issued by the Department of Energy (DOE); b. Relevant DOE certifications confirming the facility's renewable energy status and RPS eligibility; c. ERC approvals, certifications, or other regulatory documents, where applicable; and d. Any other supporting documents demonstrating compliance with existing DOE, ERC, and Renewable Energy Market (REM) requirements.
Terms of Reference/ Invitation to Bid	REC Credits	The Supplier shall provide the equivalent REC credits to Negros Power beginning at the supply delivery date.	Please confirm whether a bidder is permitted to source energy from a renewable energy (RE) facility and satisfy the associated REC requirement using REC credits generated by a different plant within the bidder's portfolio.	Confirmed.
Terms of Reference/ Invitation to Bid	REC Credits	The Supplier shall provide the equivalent REC credits to Negros Power beginning at the supply delivery date.	During the PSA implementation, please clarify the applicable penalties, if any, for failure to deliver the required RECs.	The PSA will be finalized with the winning bidder.
Instructions to Bidders	Annex A - Checklist for Bid Proposal Requirements	For Existing Power Plants 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 GCMR (Generation Company Management Report) is acceptable for this requirement and that bidders are allowed to redact financial information while retaining all technical and operational data. Also, reconcile FITB with Annex A and confirm that the requirement pertains to the bidder's most recent available MOR, which would be the December 2025 MOR to be submitted.	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.
Instructions to Bidders	Annex A - Checklist for Bid Proposal Requirements	For New Power Plants: Annex A - Checklist for Bid Proposal Requirements (15 MW RE) - 2.2.1 to 2.2.12	Please clarify on the definition of "**New Power Plants**" as referred to in the bidding documents and confirm whether the term refers exclusively to power plants that are not yet existing, operational, or commercially commissioned as of the bid submission date. Further, please confirm that bidders proposing existing and operational power plants are not required to submit the documentary requirements applicable to New Power Plants under Items 2.2.1 to 2.2.12 of Annex A – Checklist for Bid Proposal Requirements (15 MW RE), therefore an N/A Document shall suffice in lieu of these requirements.	A New Power Plant refers to a power generation facility that is not yet operational and is currently under planning, construction, or pre-commissioning stages. For bidders proposing existing and operational power plants we confirmed that under items 2.2.1 to 2.2.12 is not applicabl and an "N/A' will suffice in lieu of these requirements.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Instructions to Bidders	Bid Security	Section 16.2 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;	Suggest to allow the Bidders to use its own template for posting Bid Security through standby / irrevocable letter of credit	The bidders are allowed to use its own template for SBLC
Instructions to Bidders	Scope of Bidding	Section 4.2 The bid shall cover the power supply obligation for the franchise area of Negros Power in accordance with the TOR of this Bid Documents. The winning Bidder will enter into a PSA with Negros Power.	Please confirm that the power supply agreement is still negotiable with the Winning Bidder	PSA will be subject to negotiation with the winning bidder.
Instructions to Bidders	Technical Proposal Requirements	Section 14.1.2 For TOR1, the Bid Offer capacity shall be 20 MW dependable capacity. For TOR2, the bidder shall offer a minimum of 5MW (AC, net). In the event that the Winning Bidder is unable to fully meet the required capacity of 15 MW, in whole or in part, the remaining uncontracted capacity shall be awarded to the next Lowest Levelized Rate, and so on, until the required capacity is satisfied. Bidders are allowed to submit Bid Offers to either or both TORs.	For TOR 2, may we seek clarification on the award process in the event that multiple bidders are required to satisfy the 15 MW requirement? For example, if the lowest bidder offers 5 MW and the next lowest bidder offers 15 MW, how will the TPBAC allocate the remaining 10 MW requirement? Specifically, will the next lowest bidder be required to accept a reduced contract capacity of 10 MW, or will such bidder be allowed to decline the award since a reduced contract capacity is not contemplated in their offer?	The TPBAC shall rank bidders based on merit orders of their levelized cost offer (Php/kWh), subject to the minimum capacity requirement of 5 MW per bid. Awards shall be made starting from the lowest evaluated bid until the required total capacity is fully satisfied. To Illustrate: Bidder 1: levelized rate at Php 5.00 /kWh with offered capacity of 5MW Bidder 2: levelized rate at Php 6.00/kWh with offered capacity of 15MW Allocation (merit order): Bidder 1 is fully accepted first (lowest cost): 5 MW awarded Remaining requirement: 10 MW Bidder 2 is then awarded the remaining 10 MW out of 15 MW offered.
Instructions to Bidders	Technical Proposal Requirements	Section 14. 1. Certified true copies of submissions of the following: a. Latest Monthly Operations Report (MOR) received by the DOE (December 2025 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.	In lieu of the MOR requirement, please confirm that the Bidder can submit GCMR duly acknowledged by the ERC. The GCMR also shows details on relevant information such as the rated and dependable capacity of the plant, electricity generated and sold, ramp up and ramp down capabilities, scheduled and unscheduled outages, and required data to determine plant availability.	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.
Instructions to Bidders	Technical Proposal Requirements	15.2 If the power plant offered is a new power plant, the Technical Proposal shall detail the plan on how the Bidder will carry out the development, financing, construction, connection to grid, operation, and maintenance of the power plant(s) to supply the baseload power requirement of Negros Power and the committed project milestones.	May we respectfully request a clarification on what specific criteria qualify a facility as a "new power plant" under this provision? Specifically, does this refer exclusively to greenfield projects that have not yet commenced construction	A New Power Plant refers to a power generation facility that is not yet operational and is currently under planning, construction, or pre-commissioning stages.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Compensation, Payment, Billing	Compensation, Payment, Billing	We propose adoption of this suggested provision to ensure clarity and transparency of the Billing and Payment process. "Billing and Payment Procedure (Other Charges) The Monthly Fee shall be subject to other charges, for the account of Buyer which shall include, among others: a. line rental charges; b. Value Added Tax (if applicable), including any future taxes that might be levied upon the supply of energy; c. Any and all power delivery charges, transmission fees, load imbalance charges and site-specific loss adjustments, ancillary services fees, and other similar charges and expenses; and d. Other similar charges, fees and expenses, owing to or as billed by the Market Operator. Payments to be made under this Agreement shall be made through bank deposit or electronic bank transfer to the bank accounts specified by the Seller in the invoice. Any and all bank charges in connection with Buyer's payment hereunder shall be borne solely by Buyer. The Buyer shall not withhold or set-off any amount (disputed or otherwise) or counterclaim due from Seller arising out of or in connection with this Agreement. Within ten (10) calendar days from the close of every Billing Period, the Seller shall deliver to the Buyer an invoice showing the Monthly Fee due for such Billing Period. The invoice shall be issued in electronic form. An invoice shall be regarded as delivered to and received by Buyer upon the sending of an electronic copy thereof to the Buyer, at the date and time indicated in the electronic copy on which the transmission was made. Without necessity of demand, the Buyer shall pay the Seller the Monthly Fee as stated in such invoice, not later than the twenty-fifth (25th) of the calendar month following the close of a Billing Period ("Due Date"). If the Due Date falls on a	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Compensation, Payment, Billing	5.1 Payment of Fees 5.4 Liquidated Damages Termination Early Termination Fee Change in circumstance	We propose that, during the PSA negotiations, the Parties be allowed to introduce additional provisions under change in Law clause that are mutually agreed upon and deemed fair, reasonable, and commercially acceptable to both Parties.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Contract Capacity and/or Contract Energy	Contract capacity 20,000kW Hourly Minimum Nomination (kWh)	We note that Schedule 2 continues to reflect a Contract Capacity of 20 MW and Hourly Minimum of 10,000kWh. Please reconcile all Contract Capacity, Contract Energy, MMCE and related values to align with the TOR and PSA for the 15MW RPS Baseload Lot.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Contract Capacity and/or Contract Energy	Schedule 2	Please confirm if this is also the MEOT? If not, we would like to request to define the MEOT for the 15MW Baseload RE PSA.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Default and Termination	A Party breaches any of its material representations, warranties, covenants or obligations under this Agreement; and	Please confirm that shortfall in RECs allocation constitute as breach in material representations and hence is a ground for Default or shall be subject for corresponding penalties.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Default and Termination	In case an Event of Default is not cured within the applicable Cure Period or if the Event of Default is not capable of being remedied the Non- Defaulting Party may terminate this Agreement in accordance with Section 7.4, subject to the approval of the ERC, and may pursue any remedy available to it under this Agreement or at law.	There seems to be no provision under Section 7.4. We request NEPC to provide.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	efault and Terminati	Change in Circumstance/Law	We propose that, during the PSA negotiations, the Parties be allowed to introduce additional provisions under Change in Law clause that are mutually agreed upon and deemed fair, reasonable, and commercially acceptable to both Parties.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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 January 26, 2027 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.	We propose to add this provision in case there is a significant change in the applied vs the approved PSA applicaton,in which case the commencement of supply by the Seller may not be economically feasible. "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, which is the latest of: (a) January 26, 2027 or (b) The next immediate 26th day of the month following the ERC's issuance of a Provisional Authority or Interim Relief to implement the Agreement, as applicable, or Final Authority to implement the Agreement, if neither Provisional Authority nor Interim Relief was issued or (c) resolution of all pending incidents including appeals and the confirmation of Parties that all Conditions Precedent for Supply have been complied with."	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Dispatch by Utilitiy	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.	Please confirm that the term "**Dependable Capacity**" as used under Section 7 of the draft PSA for both TOR 1 and 2 refers to the Contracted Capacity. Further, please confirm that the Buyer shall be dispatched up to its Contracted Capacity, subject to the terms of the Agreement. Finally, considering the baseload nature of the supply arrangement, we request confirmation that billing shall be based on the applicable Monthly Minimum Contract Energy (MMCE), regardless of the Buyer's actual energy off-take.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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. In the event such officers are unable to resolve such Dispute through the above arbitration clause, the ERC has the jurisdiction to hear and decide the Dispute between parties arising from this Agreement, in the exercise of its powers and functions under the EPIRA.	We propose to revise this clause to streamline the flow of ERC-bound matters, and explicitly designating PDRCI rules for any other non-regulatory disputes. "If the Dispute remains unresolved upon the end of the Consultation Period, and such Dispute involves a matter that is within the exclusive jurisdiction of the Energy Regulatory Commission ("ERC"), any Party may submit the Dispute exclusively to the ERC for resolution, in accordance with its rules on practice and procedure. In case of any other Dispute that is outside the exclusive jurisdiction of the ERC, any Party may submit the Dispute exclusively to arbitration conducted by the Philippine Dispute Resolution Center, Inc. ("PDRCI") in accordance with its rules then in effect at the time the application for arbitration is made, which rules are deemed incorporated by reference into this Section. The venue of arbitration shall be Metro Manila, Philippines. The language of the arbitration proceedings and written decisions or correspondence shall be English. The arbitration tribunal shall consist of three (3) arbitrators: each Party shall appoint one (1) arbitrator and the two (2) arbitrators thus appointed shall appoint the third arbitrator who shall be the presiding arbitrator. If within thirty (30) days of a request from the other Party, a Party fails to appoint an arbitrator, or if the two (2) arbitrators fail to agree on the third arbitrator within thirty (30) days after the appointment of the second arbitrator, the appointment shall be made, upon request of a Party, by the Chairman of the PDRCI. Any award by the arbitration tribunal shall be final and binding upon the Parties and shall be the exclusive remedy between the Parties regarding any Dispute and may be enforced by judgment of a competent court having jurisdiction over the premises."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Effective Date	The Parties' rights and obligations under this Agreement shall commence on Effective Date, which shall be the date upon which all of the following conditions are satisfied:	We propose revision and addition of the following conditions: "The Parties' rights and obligations under this Agreement shall commence on Effective Date, which shall be the date upon which all of the following **Conditions Precedent** are satisfied: c. copies of the Original Charter, Certificate of Franchise or Certificate of Registration, Articles of Incorporation or Corporation and By-Laws of the Buyer, each certified by the corporate secretary of the Buyer; d. Delivery by the Seller to the Buyer of all documents required for pre-filing purposes and all other documents necessary for the filing of a joint application for the approval of this Agreement with the ERC. e. receipt by the Parties of the ERC Approval or resolution of all pending incidents including appeals and the Parties shall have confirmed that all the Conditions Precedent for Supply have been complied with. The term "ERC Approval" shall refer to either an interim relief, provisional approval or final authority issued by the ERC approving the joint application under the terms of this Agreement."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Grounds for Termination Other than Event of Default	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	We note that the current draft PSA provides termination rights solely in favor of the Buyer. To promote reciprocity, we propose the inclusion of provisions granting the Seller the right to terminate the Agreement under certain defined circumstances, including situations that do not constitute an Event of Default.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Payment of Fees		We note that the PSA template does not contain explicit provisions addressing non-payment. To ensure fairness and mutual protection of both Parties, we propose to include a provision covering non-payment. "Overdue/Non-Payment and Interest Charges "If any amount payable by Buyer under Section X.X is not paid on Due Date: (i) the amount unpaid shall bear a daily interest, at a rate of twelve percent (12%) per annum, computed on a 360-Day basis; (ii) Seller has the right to immediately suspend the delivery of electricity (iii) declare electricity supplied but not invoiced immediately due and payable, whereupon Buyer shall pay such Monthly Fee immediately upon delivery by Seller of the corresponding invoice to Buyer; and (iv) Seller has a right to draw from Security Deposit or collateral acceptable to Seller, and the posting of such security deposit by Buyer to Seller to replenish the amount drawn, shall be a condition precedent for the continued supply of electricity by Seller to Buyer."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Payment of Fees	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.	We propose to revise this language: "Payments Free and Clear All payments made by Buyer hereunder shall be made free and clear of and without any deductions for or on account of any set-off, counterclaim, tax or otherwise. In the event Buyer is prohibited by law from making payments hereunder free from deduction or withholding, then Buyer shall pay such additional amounts to Seller as may be necessary in order that the actual amount received by Seller after deduction or withholding (and after the payment of any additional taxes or other charges due as a consequence of the payment of such additional amounts) shall equal the amount that would have been received by Seller if such deduction or withholding had not been required. Payments by Buyer to Seller supported by Certificate of Taxes Withheld in the name of the Seller with the correct amount of tax withheld shall be considered payment free and clear, and the Buyer must promptly remit any amounts withheld for such tax to the relevant taxing authorities."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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. The following are the consequences of Event of Default: 1. Either Buyer or Seller may initiate termination if the other party is unable to 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 Buyer 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.**	We propose to mutualize this provision and agree on a sound liquidated damages computation.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Prompt Payment Discount	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 [ ] Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement.	Please confirm that PPD or any form of discount is not part of evaluation. Further, Seller shall have no obligation to give PPD or any form of discount during the PSA negotiation.	Yes. PPD is not part of the financial evaluation.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Reduction of Contract Capacity	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. The Contract Capacity and Contract Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of Negros Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Act of 2008, or other relevant laws and legal requirements.	We propose the revised provision to account for potential reductions in the Buyer's contracted capacity arising from customer migration and changes in demand attributable to the implementation of RCOA, GEOP, and net metering. "Should there be a reduction in the capacity required by the Buyer due to any of the following: a. Switching of Buyer's customers as a result of the implementation of the Retail Competition and Open Access (RCOA) Rules, b. Switching of Buyer's customers to the Green Energy Option Program (GEOP) The Seller agrees that the Contract Capacity may be adjusted in proportion to the total contracted capacity of all suppliers of the Buyer provided that a written request is given by the Buyer within sixty (60) Days prior to such request. Further, the Buyer shall not be in default or be made to pay electricity fees for the capacity that it can no longer accept due to any of the circumstances mentioned above or any change in applicable requirements; The Buyer shall deliver to the Seller a written notice specifying the reduction in Contract Capacity under this Agreement resulting from the lowering down of the threshold, provided that: a. The reduction of the Contract Capacity shall be made only upon actual switch of any customer of the Buyer that qualifies as a Contestable Customer to a Retail Electricity Supplier (RES) as a result of the implementation of the RCOA (the "Buyer's Switched Customer"). The reduction may be exercised by the Buyer by giving prior written notice to the Seller not later than sixty (60) Days before the actual switch. b. If the Buyer's Switched Customer procures electricity from the Seller, the Buyer shall be entitled to a reduction in the Contract Capacity corresponding to the average monthly load demand (in kW) of such Buyer's Switched Customer with the Seller for the last twelve (12) months prior to such disconnection; and c. If the Buyer's Switched Customer procures electricity from a supplier which by itself or thru any of its affiliates is not currently supplying electricity to the Buyer, in which case the Buyer shall be entitled to a reduction in the Contract Capacity equivalent to the average monthly load demand (in kW) of such Buyer's Switched Customer for the last twelve (12) months prior to such switch multiplied by the proportion of the Contract Capacity to the aggregate capacity contracted by the Buyer with all of its suppliers of electric power (including the Seller). For the avoidance of doubt, the Buyer shall not be entitled to any reduction in the Contract Capacity if a Buyer's Switched Customer procures electricity from any of or Buyer's affiliates or the Buyer's existing suppliers or their affiliates, excluding the Seller. In the case referred to in Paragraph 4.3, the reduction in the Contract Capacity shall take effect at the receipt of the Seller of the following: a. List of the Buyer's Switched Customer's new supplier; b. The Buyer's Switched Customer's average electricity consumption for the last twelve (12) months; c. Computation on the carve-out of Buyer's concurrent suppliers as a consequence of migration of the Buyer's Switched Customer; and d. Written notice from the Buyer of the switching of its Contestable Customer and the Buyer's availment of a reduction in the Contract Capacity, or upon the effectivity of such disconnection or switching, as evidenced by a confirmation of switch issued by the Market Operator but in no case earlier than one hundred eighty (180) Days from the Seller's receipt of said written notice whichever is later."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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.	"Section 2. If, in connection with the ERC application, the ERC should order or decide that any provision relating to the Contract Price under this Agreement be disapproved or be approved subject to modifications ("Conditional Approval"): a) In case of both Parties' acceptance of the Conditional Approval: The Parties shall agree to negotiate in good faith with a view to amending the Agreement in order to comply with the terms of such order or decision of the ERC. Until the Parties have agreed on the necessary amendments and such amendments have been approved by the ERC, the Parties agree that if such rate approved by the ERC is lower than the base Contract Price but higher than the Contract Price reduced by PPD , the percentage discount will be adjusted accordingly such that the resulting Contract Price as discounted shall not be lower than the Contract Price originally applied for. Should ERC disallow adjustment on the PPD, provisions under b (i) below shall apply. b) In case of a Party's non-acceptance of Conditional Approval: (i) Such non-accepting Party may file a motion for reconsideration, provided the adjustments sought in a motion for reconsideration must not be higher or lower than the Contract Price agreed in this Agreement; and (ii) Pending the resolution thereof by the ERC, Seller shall not be obligated to supply and/or cause the supply of the Contract Capacity to Buyer and Buyer shall not be obligated to accept delivery of the Contract Capacity if the reduction from the Contract Price under the Conditional Approval is more than [PPD Amount] Php/kWh. The Parties shall commence the delivery of the Contract Capacity upon their mutual agreement to proceed following receipt of the ERC's resolution on the motion for reconsideration and shall continue to implement this Agreement in accordance with the terms herein. If the ERC in resolving the motion for reconsideration approves a rate lower than the base Contract Price but higher than the Contract Price reduced by PPD, the percentage discount will be adjusted accordingly to ensure that the resulting Contract Price as discounted shall not be lower than the Contract Price originally applied for."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Replacement Power	4.5.1 The Seller shall provide replacement power in following cases, except during Force Majeure Events: *2. When its power plant is on scheduled or unscheduled outage to ensure continuity of supply in compliance with the cooperation period.* 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.	Considering that the Seller will be responsible for procuring and providing Replacement Power and will effectively shield the Buyer from exposure to potentially higher Replacement Power costs, we propose that any Replacement Power supplied under the Agreement be charged at the applicable Contract Price.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Security Deposit		We propose to add this language in the event of payment failure. "Upon Buyer's failure to perform or comply with any of its obligations or warranties under this Agreement (including failure to pay any amount due or outstanding in a billing statement or under this Agreement) Seller may, at any time in its absolute discretion, require Buyer to post a Security Deposit equal to one hundred percent (100%) of the value of the MMCE multiplied by Contract Price and other taxes, fees, and charges calculated by Seller. ("SD Amount")."	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	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...	We propose to add this language for proper tax documentation. "For this purpose, Buyer shall promptly forward to the Seller a Certificate of Tax Withheld at source (BIR Form 2307) on or before (the "Certificate of the Withholding Submission Date") which is the last Business Day of the calendar month following the close of the Billing Period, showing that the full amount of any such deduction or withholding has been paid over, or will otherwise be remitted to the relevant taxing authority. In case of failure by the Buyer to forward to Seller the BIR Form 2307, the amount withheld by the Buyer shall be construed as deficiency in payment of the Monthly Fees, which deficiency amount shall be immediately payable and subject to interest as an overdue account (reckoned as of the Day after the original payment Due Date), without prejudice to other remedies available under this Agreement."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Technical Proposal Requirements	Plant Capacity and Dependable Capacity	Please reconcile and align with the TOR provisions with Schedules under PSA draft.	PSA will be subject to negotiation with the winning bidder.

Competitive Selection Process, Series of 2026

Supply of 20 MW Baseload Power Supply Requirement to Negros Electric and Power Corp.

TPBAC Responses to the Comments and Questions on the Terms of Reference and Instructions to Bidders

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Terms of Reference/ Invitation to Bid	Type of Contract Outage Allowance	Physical	Considering that the intent for this Competitive Selection Process (CSP) is to enter into a Physical type of Power Supply Agreement (PSA) with the Winning Bidder. Pursuant to the ERC Resolution No. 16, series of 2023 and Resolution No. 07, series of 2026, the Winning Bidder is allowed an outage allowance for Scheduled and Unscheduled Outage provided that the same shall not exceed the allowable outages for similar plant technology under ERC Resolution No. 10, Series of 2020 entitled "A Resolution Adopting the Interim Reliability Performance Indices and Equivalent Outage Days Per Year of Generating Units." May we suggest to consider a revision in the Terms of Reference (TOR) to allow the Bidder include in its Bid Proposal Scheduled and Unscheduled Outages compliant with ERC Resolution No. 10 series of 2020 or at its option, proposed any other number of outage days lower than the maximum number of days or even guarantee the supply of the Contracted Capacity which proposal shall form part of the Bid Evaluation in considering the Winning Bidder	Denied. TOR is zero outage allowance.
Terms of Reference/ Invitation to Bid	Bid Security	Equivalent to three (3) months of the contract cost	1. Does "contract cost" in this provision pertains to the total of CRF, FOM, VOM and Fuel Fee ONLY (excluding any other allowable pass-on charges including Value Added Tax or VAT? 2. We suggest that the amount of Bid Security should already be calculated and indicated in the Annex-1 Financial Proposal Form.	1. The Bid Security is equivalent to the three (3) months of the contract cost based on the base rate (Vat Inc.) at year zero (0). To illustrate: Bid Security = Base Rate (Vat Inc.) at Year zero * (20,000 kW * 24 hrs * 30 days) * 3 months 2. Denied
Terms of Reference/ Invitation to Bid	Certification of Submisssion of original or CTC..	3. Each of the documents submitted by [Bidder's Name] in satisfaction of the bidding requirements is an original or authentic copy of the original, complete, and all statements and information provided therein are true and correct;	Please confirm if proposed additional language as qualifier on representations under Annex D2 is acceptable. "3. Each of the documents submitted by [Bidder's Name] in satisfaction of the bidding requirements is an original or authentic copy of the original, is complete, and all statements and information provided therein are true and correct **<u>to the best of my knowledge and based on available records</u>**."	Denied.
Terms of Reference/ Invitation to Bid	Dispatch by Utilitiy	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.	May we seek further clarification on the purpose and intended procedures/ implementation of this provision	The supplier cannot prevent NEPC from nominating based on the contracted capacity for TOR1 20MW and TOR2 15MW, with a hourly nomination of 50% of the contracted capacity.
Terms of Reference/ Invitation to Bid	Electricity Fees	Capital Recovery Fee (CRF) in PhP/kWh - shall be fixed for the entire duration of the contract period and shall be computed based on contracted energy Fixed O&M in PhP/kWh - shall be fixed for the entire duration of the contract period and shall be computed based on contracted energy Variable O&M - no take-or-pay (based on actual energu delivered) Fuel in P/kWh (as may be applicable) - no take-or-pay (based on actual energy delivered) inclusive of Fuel Handling & Freight Costs	1. With the commitment to an Hourly Minimum Nomination at 50% of the Contracted Capacity,VOM Fee and Fuel Fee are to be subjected to a "Take-or-Pay" basis at the same equivalent volume of energy, subject to adjustment should there occuran event of Force Majeure during the relevant Billing Period 2. Can the VOM Fee be adjusted based on applicable financial indices such as the Consumer Price Index (Philippine CPI and/or the US CPI) and/or foreign exchange rate particularly the Philippine Peso to US Dollar 3. Can a Bidder propose a fixed Fuel Fee not subject to any escalation/adjustment nor any fuel documentation requirement?	1. The Monthly Minimum Contract Energy (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. 2. Yes. Escalation will be based on actual indices upon the implementation of the PSA. 3. Yes. For Fixed Fuel Fee, the fuel fee offered should be the committed fuel fee all througout the duration of the contract upon implementation.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Terms of Reference/ Invitation to Bid	For Existing Power Plants	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 GCMR (Generation Company Management Report) is acceptable for this requirement and that bidders are allowed to redact financial information while retaining all technical and operational data. Also, reconcile FITB with Annex A and confirm that the requirement pertains to the bidder's most recent available MOR, which would be the December 2025 MOR.	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.
Terms of Reference/ Invitation to Bid	Line Rental	TOR 1: For the account of Winning Bidder, capped at P0.30/kWh In excess of the cap, for the account of the Buyer	Please confirm that the Line Rental will be computed based on the effective Line Rental in Php/kWh every Billing Period.	Line Rental is computed based on the hourly effective line rental in Php/kWh every billing period based on the WESM Final Settlement Data
Terms of Reference/ Invitation to Bid	Monthly Minimum Contract Energy (MMCE)	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 electricyt fee (Capital Recovery Fee (CRF) and Fixed Operations and Maintenance (O&M). Hourly Nomination: 50% of the Contracted Capacity	Please confirm the following: 1. The MMCE at 100% Load Factor (LF) of the Contracted Capacity, in kWh, shall be the monthly billing determinant for the Capital Recovery Fee (CRF) and Fixed Operations and Maintenance Fee (FOMF) 2. There would be a committed monthly Minimum Energy Off-Take (MEOT) applicable for Variable Operations and Maintenance Fee (VOMF) and Fuel Fee at 50% LF by virtue of the Hourly Minimum Nomination at 50% of the Contracted Capacity. In short, the BUYER cannot have a monthly energy consumption lower than 50% LF.	1. The Monthly Minimum Contract Energy (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)). 2. Variable O&M and Fuel Fee based on the actual delivery. Yes the Buyer cannot have a monthly energy consumptiom lower than 50% LF.
Terms of Reference/ Invitation to Bid	Replacement Power	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.	We suggest that any replacement power be priced at the contract rate, regardless of the actual cost of procuring the replacement power, given that this is a no-outage-allowance PSA	This will be subject to negotiation with the winning bidder.
Terms of Reference/ Invitation to Bid	Replacement Power	**Replacement Power** "The replacement power rate shall be the actual price of the 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."	For TPBAC's consideration to remove WESM rate in this provision, and just the replacement power rate or the ERC-approved tariff, whichever is lower.	This will be subject to negotiation with the winning bidder.
Terms of Reference/ Invitation to Bid	Technical Proposal For New Power Plants	For New Power Plants: Annex A - Checklist for Bid Proposal Requirements (20 MW) - 2.2.1 to 2.2.11	Please clarify on the definition of "**New Power Plants**" as referred to in the bidding documents and confirm whether the term refers exclusively to power plants that are not yet existing, operational, or commercially commissioned as of the bid submission date. Further, please confirm that bidders proposing existing and operational power plants are not required to submit the documentary requirements applicable to New Power Plants under Items 2.2.1 to 2.2.11 of Annex A – Checklist for Bid Proposal Requirements (20 MW), therefore an N/A Document shall suffice in lieu of these requirements.	A New Power Plant refers to a power generation facility that is not yet operational and is currently under planning, construction, or pre-commissioning stages. For bidders proposing existing and operational power plants we confirmed that under items 2.2.1 to 2.2.12 is not applicabl and an "N/A' will suffice in lieu of these requirements.
Instructions to Bidders	Bid Proposal Documents	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 that for documents that are not applicable to the Bidder, a single consolidated document listing all non-applicable requirements is acceptable.	Submit the checklist and indicate N/A on the requirements which are not applicable.
Instructions to Bidders	Bid Proposal Documents	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.	May we 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.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Instructions to Bidders	Bid Security	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?	The bidders are allowed to use its own template for SBLC
Instructions to Bidders	Bid Security	Section 16.2 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;	Suggest to allow the Bidders to use its own template for posting Bid Security through standby / irrevocable letter of credit	The bidders are allowed to use its own template for SBLC
Instructions to Bidders	Financial Bid Form	Escalation Rates: Fuel Escalation 3%	Global fuel markets have historically exhibited extreme volatility. Recent advisories from the Department of Energy have underscored risks to grid reliability and electricity rates, particularly following Indonesia's decision to centralize commodity exports under Danantara Sumberdaya, which has tightened seaborne coal supplies. Given the Philippines' continued reliance on Indonesian thermal coal, this structural dependency creates significant price exposure for end-consumers. Considering that the PSA permits a fuel pass-through, we respectfully request that the TPBAC incorporate this high volatility into the evaluation framework to ensure that end-consumers are safeguarded against excessive price fluctuations. We also seek clarification on how the TPBAC will value bids that offer price stability .	Fuel Fee. Bidders shall input a committed Fuel Fee in the Financial Proposal Form. 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 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.
Instructions to Bidders	Reserve Price	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.	Please confirm that the Year 0 rate, as reflected in Annexes C-1 and C-2 (Financial Proposal Form) and used for evaluation purposes, shall be deemed the Base Rate and shall be inclusive of VAT.	The Reserve price shall be evaluated based on the Levelized Rate and not on the bid price at Year Zero
Instructions to Bidders	Reserve Price	Reserve Price - the predetermined price equivalent to the ceiling of the Total Price which will only be revealed by the TPBAC during the Opening of Bids	May we know the basis of the computation of the Reserve Price.	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.
Instructions to Bidders	Scope of Bidding	Section 4.2 The bid shall cover the power supply obligation for the franchise area of Negros Power in accordance with the TOR of this Bid Documents. The winning Bidder will enter into a PSA with Negros Power.	Please confirm that the power supply agreement is still negotiable with the Winning Bidder	PSA will be subject to negotiation with the winning bidder.
Instructions to Bidders	Technical Propopsal Requirements	Section 14. 1. Certified true copies of submissions of the following: a. Latest Monthly Operations Report (MOR) received by the DOE (December 2025 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.	Suggest to allow submission of 2025 Generation Company Management Report received by the Energy Regulatory Commission. The DOE no longer requires physical submission of MORs.	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.
Instructions to Bidders	Technical Proposal Requirements	Section 14.1.2 For TOR1, the Bid Offer capacity shall be 20 MW dependable capacity. For TOR2, the bidder shall offer a minimum of 5MW (AC, net). In the event that the Winning Bidder is unable to fully meet the required capacity of 15 MW, in whole or in part, the remaining uncontracted capacity shall be awarded to the next Lowest Levelized Rate, and so on, until the required capacity is satisfied. Bidders are allowed to submit Bid Offers to either or both TORs.	For TOR 1, please confirm whether the 20 MW requirement shall be awarded to a single bidder only, or whether Negros Power reserves the right to split the award among multiple bidders if deemed advantageous.	For TOR 1, we confirmed that the 20 MW requirement shall be awarded to a single bidder with the Lowest Levelized Rate.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Assignment	Section 11. Assignment	Please include the following, which will allow the Seller to assign its revenues for purposes of project financing:	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Compensation, Payment, Billing	Compensation, Payment, Billing	We propose adoption of this suggested provision to ensure clarity and transparency of the Billing and Payment process. "Billing and Payment Procedure (Other Charges) The Monthly Fee shall be subject to other charges, for the account of Buyer which shall include, among others: a. line rental charges; b. Value Added Tax (if applicable), including any future taxes that might be levied upon the supply of energy; c. Any and all power delivery charges, transmission fees, load imbalance charges and site-specific loss adjustments, ancillary services fees, and other similar charges and expenses; and d. Other similar charges, fees and expenses, owing to or as billed by the Market Operator. Payments to be made under this Agreement shall be made through bank deposit or electronic bank transfer to the bank accounts specified by the Seller in the invoice. Any and all bank charges in connection with Buyer's payment hereunder shall be borne solely by Buyer. The Buyer shall not withhold or set-off any amount (disputed or otherwise) or counterclaim due from Seller arising out of or in connection with this Agreement." Within ten (10) calendar days from the close of every Billing Period, the Seller shall deliver to the Buyer an invoice showing the Monthly Fee due for such Billing Period. The invoice shall be issued in electronic form.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Compensation, Payment, Billing	Compensation, Payment, Billing	We propose to consider adiditonal clause to cover Billing disputes. "Billing Disputes (Protest Cut-off) Any dispute that Buyer may have on any invoice from Seller shall be made in writing and submitted to Seller within ten (10) Days from the date of the receipt by Buyer of such invoice Buyer shall specify the basis for disputing, protesting or questioning the invoice. The fact that the amount in an invoice is lower or higher than the amount in any previous billing statement does not by itself give rise to a dispute. Failure by Buyer to raise any dispute on any billing statement, which, with the exercise of proper or reasonable diligence on its part, could have been timely raised or brought to the attention of Seller in writing within the period stated above, shall constitute a waiver by Buyer of any claim on such billing statement."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Compensation, Payment, Billing	Sec. 5 Compensation, Payment and Billing	We suggest to include the following provision regarding Billing: Seller Invoice for the energy supplied during a Billing Period and/or into ices 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. Seller Invoice shall be sent 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 Seller Invoice. Payments shall be made to the authorized banks/collectors of the Seller.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Contract Capacity and/or Contract Energy	Schedule 2	Please confirm if this is also the MEOT? If not, we would like to request to define the MEOT for the 20MW Baseload PSA.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Contract Capacity and/or Contract Energy	Schedule 2: Monthly Minimum Contract Energy (MMCE) refers to the 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.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Contract 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 amend as follows: 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.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Default and Termination	Change in Circumstance/Law	We propose that, during the PSA negotiations, the Parties be allowed to introduce additional provisions under Change in Law clause that are mutually agreed upon and deemed fair, reasonable, and commercially acceptable to both Parties.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Default and Termination	Section (8.5) (labeled 9.5 under the file)	Suggest to delete this section as events are technically already covered by other provisions of the PSA: 9.5.1-9.5.3 are already covered by definition under Section 8.1 9..5.4 is covered already by provisions of FM 9.5.5 can be covered by a different article/section	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Default and Termination	Section 9	Delete - Section 5.4 already provides for the amount of Liquidated Damages that Seller is liable for failure to supply. This is the only obligation under the PSA so Section 9 is already redundant.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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 January 26, 2027 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.	We propose to add this provision in case there is a significant change in the applied vs the approved PSA applicaton,in which case the commencement of supply by the Seller may not be economically feasible. "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, which is the latest of: (a) January 26, 2027 or (b) The next immediate 26th day of the month following the ERC's issuance of a Provisional Authority or Interim Relief to implement the Agreement, as applicable, or Final Authority to implement the Agreement, if neither Provisional Authority nor Interim Relief was issued or (c) resolution of all pending incidents including appeals and the confirmation of Parties that all Conditions Precedent for Supply have been complied with."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Delivery Date	Section 3.3 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 January 26, 2027 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.	Edited for clarity: The Delivery Date shall be a date, after Effective Date, reckoned from January 26, 2027 or the 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.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Delivery Point/s	Schedule 3 - Delivery Point/s "Location - Negros Power Metering Nodes"	May TPBAC provide the metering nodes of NEPC?	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Dispatch by Utilitiy	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.	Please confirm that the term "**<u>Dependable</u> <u>Capacity</u>**" as used under Section 7 of the draft PSA for both TOR 1 and 2 refers to the Contracted Capacity. Further, please confirm that the Buyer shall be dispatched up to its Contracted Capacity, subject to the terms of the Agreement. Finally, considering the baseload nature of the supply arrangement, we request confirmation that billing shall be based on the applicable Monthly Minimum Contract Energy (MMCE), regardless of the Buyer's actual energy off-take.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	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. In the event such officers are unable to resolve such Dispute through the above arbitration clause, the ERC has the jurisdiction to hear and decide the Dispute between parties arising from this Agreement, in the exercise of its powers and functions under the EPIRA.	We propose to revise this clause to streamline the flow of ERC-bound matters, and explicitly designating PDRCI rules for any other non-regulatory disputes. "If the Dispute remains unresolved upon the end of the Consultation Period, and such Dispute involves a matter that is within the exclusive jurisdiction of the Energy Regulatory Commission ("ERC"), any Party may submit the Dispute exclusively to the ERC for resolution, in accordance with its rules on practice and procedure. In case of any other Dispute that is outside the exclusive jurisdiction of the ERC, any Party may submit the Dispute exclusively to arbitration conducted by the Philippine Dispute Resolution Center, Inc. ("PDRCI") in accordance with its rules then in effect at the time the application for arbitration is made, which rules are deemed incorporated by reference into this Section. The venue of arbitration shall be Metro Manila, Philippines. The language of the arbitration proceedings and written decisions or correspondence shall be English. The arbitration tribunal shall consist of three (3) arbitrators: each Party shall appoint one (1) arbitrator and the two (2) arbitrators thus appointed shall appoint the third arbitrator who shall be the presiding arbitrator. If within thirty (30) days of a request from the other Party, a Party fails to appoint an arbitrator, or if the two (2) arbitrators fail to agree on the third arbitrator within thirty (30) days after the appointment of the second arbitrator, the appointment shall be made, upon request of a Party, by the Chairman of the PDRCI. Any award by the arbitration tribunal shall be final and binding upon the Parties and shall be the exclusive remedy between the Parties regarding any Dispute and may be enforced by judgment of a competent court having jurisdiction over the premises."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Effective Date	The Parties' rights and obligations under this Agreement shall commence on Effective Date, which shall be the date upon which all of the following conditions are satisfied:	We propose revision and addition of the following conditions: "The Parties' rights and obligations under this Agreement shall commence on Effective Date, which shall be the date upon which all of the following **Conditions Precedent** are satisfied: c. copies of the Original Charter, Certificate of Franchise or Certificate of Registration, Articles of Incorporation or Corporation and By-Laws of the Buyer, each certified by the corporate secretary of the Buyer; d. Delivery by the Seller to the Buyer of all documents required for pre-filing purposes and all other documents necessary for the filing of a joint application for the approval of this Agreement with the ERC. e. receipt by the Parties of the ERC Approval or resolution of all pending incidents including appeals and the Parties shall have confirmed that all the Conditions Precedent for Supply have been complied with. The term "ERC Approval" shall refer to either an interim relief, provisional approval or final authority issued by the ERC approving the joint application under the terms of this Agreement."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Force Majeure	Section 6.3 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.		PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Force Majeure	Section 6.1 In this Agreement, "Force Majeure" refers to any 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. It shall include, but shall not be limited to:	Conditions for FM are defined by law. Can't be limited to specific circumstances	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Force Majeure	6.1 Meaning of Force Majeure xxx 6.1.3 Other Events of Force Majeure (Force Majeure-Acts of Man) Force Majeure events occurring in or directly affecting the Philippines include: (a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism, or sabotage; (b) nationwide strikes, works to rule or go-slows that extend beyond the Facility or are widespread or nationwide, or that are of a political nature; (c) radioactive contamination or ionizing radiation originating from a source outside or inside the Philippines.	For TPBAC's consideration to include Transmission Line constraints as a Force Majeure event.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Grounds for Termination Other than Event of Default	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	We note that the current draft PSA provides termination rights solely in favor of the Buyer. To promote reciprocity, we propose the inclusion of provisions granting the Seller the right to terminate the Agreement under certain defined circumstances, including situations that do not constitute an Event of Default.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Line Rental	Schedule 3: For the account of the Seller, capped at P0.30/kWh In excess of the cap, for the account of the Buyer	Please confirm if the LR Cap will be part of the evaluation. Will this be implemented based on monthly average LR?	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Monthly Payment, Indexation and Adjustment	Schedule 4. Monthly Payment, Indexation and Adjustment	Please provide sample billing calculations illustrating the computation of CRF, Fixed O&M Charges, and Energy Charges under the following scenarios: (i) actual nominations equal to 100% of Contract Capacity, (ii) actual nominations between 50% and 100% of Contract Capacity, and (iii) actual nominations below 50% of Contract Capacity.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Monthly Payment, Indexation and Adjustment	Schedule 4 - Monthly Payment, Indexation and Adjustment "VOM = Variable Operation and Maintenance Fee as defined in the Bid documents at ______"	For TPBAC's consideration to include the indexation formula of VOM in Schedule 4 of the PSA.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Notice of Default and Termination or Upon Event of Default	In case an Event of Default is not cured within the applicable Cure Period or if the Event of Default is not capable of being remedied the Non- Defaulting Party may terminate this Agreement in accordance with Section 7.4, subject to the approval of the ERC, and may pursue any remedy available to it under this Agreement or at law.	There seems to be no provision under Section 7.4. We request NEPC to provide.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Payment of Fees		We note that the PSA template does not contain explicit provisions addressing non-payment. To ensure fairness and mutual protection of both Parties, we propose to include a provision covering non-payment. "Overdue/Non-Payment and Interest Charges "If any amount payable by Buyer under Section X.X is not paid on Due Date: (i) the amount unpaid shall bear a daily interest, at a rate of twelve percent (12%) per annum, computed on a 360-Day basis; (ii) Seller has the right to immediately suspend the delivery of electricity (iii) declare electricity supplied but not invoiced immediately due and payable, whereupon Buyer shall pay such Monthly Fee immediately upon delivery by Seller of the corresponding invoice to Buyer; and (iv) Seller has a right to draw from Security Deposit or collateral acceptable to Seller, and the posting of such security deposit by Buyer to Seller to replenish the amount drawn, shall be a condition precedent for the continued supply of electricity by Seller to Buyer."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Payment of Fees	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.	We propose to revise this language: "Payments Free and Clear All payments made by Buyer hereunder shall be made free and clear of and without any deductions for or on account of any set-off, counterclaim, tax or otherwise. In the event Buyer is prohibited by law from making payments hereunder free from deduction or withholding, then Buyer shall pay such additional amounts to Seller as may be necessary in order that the actual amount received by Seller after deduction or withholding (and after the payment of any additional taxes or other charges due as a consequence of the payment of such additional amounts) shall equal the amount that would have been received by Seller if such deduction or withholding had not been required. Payments by Buyer to Seller supported by Certificate of Taxes Withheld in the name of the Seller with the correct amount of tax withheld shall be considered payment free and clear, and the Buyer must promptly remit any amounts withheld for such tax to the relevant taxing authorities."	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	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. The following are the consequences of Event of Default: 1. Either Buyer or Seller may initiate termination if the other party is unable to 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 Buyer 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.**	We propose to mutualize this provision and agree on a sound liquidated damages computation.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Prompt Payment Discount	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 [ ] Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement.	Please confirm that PPD or any form of discount is not part of evaluation. Further, Seller shall have no obligation to give PPD or any form of discount during the PSA negotiation.	Yes. PPD is not part of the financial evaluation.
Draft PSA	Prompt Payment Discount	5.3 Prompt Payment Discount 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 [ ] Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement.	1. Suggest to delete this provision as the approved terms of reference (TOR) does not include a requirement for the bidder to offer a prompt payment discount (PPD) 2. A PPD or any form of discount shall be optional or voluntary to the Bidder to offer, 3. Should a PPD or any other forms of discount be offered by the bidder, Negros Electric may opt to consider the same in the evaluation of the Bid Price.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Prompt Payment Discount	**Section 5.3 - Prompt Payment Discount** "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 [__] Days from receipt of Seller's billing, and 2) buyer is up to date with all its payment obligations under this Agreement.	For TPBAC's confirmation that PPD is not mandatory, and not part of the evaluation.	Yes. PPD is not part of the financial evaluation.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Reduction of contract Capacity	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. The Contract Capacity and Contract Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of Negros Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Act of 2008, or other relevant laws and legal requirements.	attributable to the implementation of RCOA, GEOP, and net metering. "Should there be a reduction in the capacity required by the Buyer due to any of the following: a. Switching of Buyer's customers as a result of the implementation of the Retail Competition and Open Access (RCOA) Rules, b. Switching of Buyer's customers to the Green Energy Option Program (GEOP) The Seller agrees that the Contract Capacity may be adjusted in proportion to the total contracted capacity of all suppliers of the Buyer provided that a written request is given by the Buyer within sixty (60) Days prior to such request. Further, the Buyer shall not be in default or be made to pay electricity fees for the capacity that it can no longer accept due to any of the circumstances mentioned above or any change in applicable requirements; The Buyer shall deliver to the Seller a written notice specifying the reduction in Contract Capacity under this Agreement resulting from the lowering down of the threshold, provided that: a. The reduction of the Contract Capacity shall be made only upon actual switch of any customer of the Buyer that qualifies as a Contestable Customer to a Retail Electricity Supplier (RES) as a result of the implementation of the RCOA (the "Buyer's Switched Customer"). The reduction may be exercised by the Buyer by giving prior written notice to the Seller not later than sixty (60) Days before the actual switch. b. If the Buyer's Switched Customer procures electricity from the Seller, the Buyer shall be entitled to a reduction in the Contract Capacity corresponding to the average monthly load demand (in kW) of such Buyer's Switched Customer with the Seller for the last twelve (12) months prior to such disconnection; and c. If the Buyer's Switched Customer procures electricity from a supplier which by itself or thru any of its affiliates is not currently supplying electricity to the Buyer, in which case the Buyer shall be entitled to a reduction in the Contract Capacity equivalent to the average monthly load demand (in kW) of such Buyer's Switched Customer for the last twelve (12) months prior to such switch multiplied by the proportion of the Contract Capacity to the aggregate capacity contracted by the Buyer with all of its suppliers of electric power (including the Seller). For the avoidance of doubt, the Buyer shall not be entitled to any reduction in the Contract Capacity if a Buyer's Switched Customer procures electricity from any of or Buyer's affiliates or the Buyer's existing suppliers or their affiliates, excluding the Seller. In the case referred to in Paragraph 4.3, the reduction in the Contract Capacity shall take effect at the receipt of the Seller of the following: a. List of the Buyer's Switched Customer's new supplier; b. The Buyer's Switched Customer's average electricity consumption for the last twelve (12) months; c. Computation on the carve-out of Buyer's concurrent suppliers as a consequence of migration of the Buyer's Switched Customer; and d. Written notice from the Buyer of the switching of its Contestable Customer and the Buyer's availment of a reduction in the Contract Capacity, or upon the effectivity of such disconnection or switching, as evidenced by a confirmation of switch issued by the Market Operator but in no case earlier than one hundred eighty (180) Days from the Seller's receipt of said written notice whichever is later."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	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.	We propose to insert appeal procedure for both Parties in cases where ERC shall disapprove or modify provisions relating to Contract Price: "Section 2 If, in connection with the ERC application, the ERC should order or decide that any provision relating to the Contract Price under this Agreement be disapproved or be approved subject to modifications ("Conditional Approval"): a) In case of both Parties' acceptance of the Conditional Approval: The Parties shall agree to negotiate in good faith with a view to amending the Agreement in order to comply with the terms of such order or decision of the ERC. Until the Parties have agreed on the necessary amendments and such amendments have been approved by the ERC, the Parties agree that if such rate approved by the ERC is lower than the base Contract Price but higher than the Contract Price reduced by PPD , the percentage discount will be adjusted accordingly such that the resulting Contract Price as discounted shall not be lower than the Contract Price originally applied for. Should ERC disallow adjustment on the PPD, provisions under b (i) below shall apply. b) In case of a Party's non-acceptance of Conditional Approval: (i) Such non-accepting Party may file a motion for reconsideration, provided the adjustments sought in a motion for reconsideration must not be higher or lower than the Contract Price agreed in this Agreement; and (ii) Pending the resolution thereof by the ERC, Seller shall not be obligated to supply and/or cause the supply of the Contract Capacity to Buyer and Buyer shall not be obligated to accept delivery of the Contract Capacity if the reduction from the Contract Price under the Conditional Approval is more than [PPD Amount] Php/kWh. The Parties shall commence the delivery of the Contract Capacity upon their mutual agreement to proceed following receipt of the ERC's resolution on the motion for reconsideration and shall continue to implement this Agreement in accordance with the terms herein. If the ERC in resolving the motion for reconsideration approves a rate lower than the base Contract Price but higher than the Contract Price reduced by PPD, the percentage discount will be adjusted accordingly to ensure that the resulting Contract Price as discounted shall not be lower than the Contract Price originally applied for."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Regulatory Approvals	Section2 The Winning Bidder Seller shall provide for the legal services of the joint application with full support from the Buyer.	Winning Bidder is a term that seems to have been misplaced.	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Replacement Power	4.5.1 The Seller shall provide replacement power in following cases, except during Force Majeure Events: *2. When its power plant is on scheduled or unscheduled* *outage to ensure continuity of supply in compliance with* *the cooperation period.* 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	Considering that the Seller will be responsible for procuring and providing Replacement Power and will effectively shield the Buyer from exposure to potentially higher Replacement Power costs, we propose that any Replacement Power supplied under the Agreement be charged at the applicable Contract Price.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	Sale and Purchase of Energy/Capacity	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, which date shall not be earlier than thirty (30) days from receipt by Seller of such notice.	Please give seller time to adjust to reduction	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Section 3	Section 3 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 expirationy of the Term.	Minor edis	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Security Deposit		We propose to add this language in the event of payment failure. "Upon Buyer's failure to perform or comply with any of its obligations or warranties under this Agreement (including failure to pay any amount due or outstanding in a billing statement or under this Agreement) Seller may, at any time in its absolute discretion, require Buyer to post a Security Deposit equal to one hundred percent (100%) of the value of the MMCE multiplied by Contract Price and other taxes, fees, and charges calculated by Seller. ("SD Amount")."	PSA will be subject to negotiation with the winning bidder.
Draft PSA	Supply of Energy	4.3 Reduction of Contract Capacity From time to time upon and after the implementation of RetailCompetition 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. **The Contract Capacity and Contract Energy shall be reduced proportionately among all power suppliers, equivalent to the reduction in the demand of Negros Power by reason of the implementation of Retail Competition and Open Access, the Renewable Energy Act of 2008, or other relevant laws and legal requirements.**	For TPBAC's consideration to expound the provision for the reduction of contract capacity under the PSA. If the contestable customer migrates to the Supplier or its afiliated RES, the capacity shall be reduced from the Contract Capacity. If the contestable customer migrates to other power supplier of the Buyer or its affiliated RES, there shall be no capacity reduction from the Contract Capacity. In case the contestable customer migrates to any supplier other than the Buyer's power suppliers or their affiliated RES, the capacity shall be reduced proportionately among all its power suppliers.	PSA will be subject to negotiation with the winning bidder.

Source	Provision	Provision Description	Questions / Clarifications / Comments/ Suggested Amendment	TPBAC Response
Draft PSA	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…	We propose to add this language for proper tax documentation. "For this purpose, Buyer shall promptly forward to the Seller a Certificate of Tax Withheld at source (BIR Form 2307) on or before (the "Certificate of the Withholding Submission Date") which is the last Business Day of the calendar month following the close of the Billing Period, showing that the full amount of any such deduction or withholding has been paid over, or will otherwise be remitted to the relevant taxing authority. In case of failure by the Buyer to forward to Seller the BIR Form 2307, the amount withheld by the Buyer shall be construed as deficiency in payment of the Monthly Fees, which deficiency amount shall be immediately payable and subject to interest as an overdue account (reckoned as of the Day after the original payment Due Date), without prejudice to other remedies available under this Agreement."	PSA will be subject to negotiation with the winning bidder.