



**BID BULLETIN NO. 006
SERIES OF 2020**

**COMPETITIVE SELECTION PROCESS (CSP) BY FIRST BAY POWER CORPORATION FOR THE
SUPPLY OF TEN MEGAWATTS (10MW) WITHIN ITS FRANCHISE AREA"**

This Bid Bulletin No.006 is being issued to answer additional queries and/or clarifications of the Prospective Bidders after the Pre-Bid Conference.

TERMS OF REFERENCE

Page no./Subject	Queries / Clarifications / Comments	TPBAC Response
Page 1 2. Bidding Summary First Bay Power Corporation (FBPC) is looking for a qualified supplier that will supply the 10-year full energy requirement for its captive customers under the provisions provided in this Terms of Reference (TOR).	Is the Bidder only allowed to bid for the full annual requirement and full 10-year supply period?	Yes.
3. Contact Capacity FBPC requires a supply of 10MW of power, escalating up to 15MW, for a period of ten (10) years commencing on January 26, 2021 or any such date, subject to the approval of the Energy Regulatory Commission of the resulting PSA which will be jointly applied by FBPC and the Winning Bidder of this PSA which will be jointly applied by FBPC and the Winning Bidder of this CSP.	Regardless of the date of commencement of supply (via approval by the ERC), end of supply period will remain at 25 January 2031?	Yes.
	Are there any existing 1,000kW - 500kW industrial customers within FBPC franchise area? If there are, how many customers and what are their peak demand?	Yes there are several industrial companies within FBPC franchise area but they are not costumers of FBPC.
Page 2 5. Bid Security All Prospective Bidders shall furnish, as part of its bid, a bid security amounting to PhP 65,000,000.00 in the form of cash or Standby Letter of Credit in favor of First Bay Power Corporation. Such bid security in the prescribed form will be returned to unsuccessful bidders without interest after the PSA is awarded to the Winning Bidder.	How was the bid security amounting to P65 M computed?	This is computed based on possible exposure should the winning bidder fail to sign the PSA with FBPC.
	Will it also be returned to the Winning Bidder?	Yes it will be returned to the Winning Bidder without interest after the signing of the PSA
	How was the 65,000,000 determined? What is the basis for the computation?	This is computed based on possible exposure should the winning bidder fail to sign the PSA with FBPC.

<p>6. Monthly Maximum Equivalent energy at 90% of the Contracted Capacity.</p>	<p>Why is the Maximum energy only up to 90% of the Contracted capacity?</p>	<p>This has been revised. The Maximum Energy will be within contract capacity.</p>
<p>7. Supply Description Can supply the full load (baseload and mid-merit) requirement of FBPC.</p>	<p>Does this mean a plant with capability to generate and supply both baseload and mid merit power requirements of FBPC?</p>	<p>Plant with capability to supply the full requirement.</p>
<p>8. Start of Supply Supply shall commence on January 26, 2021, subject to the issuance of the Provisional Authority (PA) by the ERC. In the event that FBPC will require the Winning Bidder to procure replacement power due to the failure of the Winning Bidder to deliver the supply on the Start of Supply Date, Winning Bidder shall shoulder the replacement cost in excess of the winning bid price or the ERC issued PA Rate.</p> <p>Furthermore, in the event that FBPC will experience outages due to the failure of Winning Bidder to supply energy, FBPC will be reimbursed by an amount equivalent to the shortage in kWh multiplied by 2.50 PhP/kWh.</p>	<p>In the event that FBPC will require the Winning Bidder to procure replacement power due to the failure of the Winning Bidder to deliver the supply on the Start of Supply Date, Winning Bidder shall shoulder the replacement cost in excess of the winning bid price or the ERC issued PA Rate. "</p> <p>Suggest to delete winning bid price since there is already an approved rate at the start of supply. Thus, it should be in excess of the ERC issued PA Rate.</p> <p>» What instance is the Buyer contemplating about?</p>	<p>If there is a PA, yes the PA will prevail. In the absence of PA however this shall be in accordance with the PSA.</p>
	<p>What is the basis and purpose of the amount of P2.50/kWh as reimbursement to FBPC?</p>	<p>This is to cover the expenses (penalty) should the DU conduct another CSP and there be exposed to the WESM because the winning Bidders fails to supply FBPC.</p>
<p>Page 3 11. Outage Allowance Supplier shall be entitled to a Maximum Annual Scheduled Outage Allowance equivalent to 720 hours, on a full load equivalent, and a Maximum Annual Unscheduled Outage Allowance equivalent to 360 hours, on a full load equivalent.</p>	<p>How will the Outage Allowance be considered in the determination of the Winning Bid?</p> <p>Bidders may only submit the tentative Scheduled Outage of the Plant (as submitted to NGCP) though actual approved Schedules may vary.</p>	<p>See the evaluation method in item 8 of the Bidding Summary Section of the ITB.</p> <p>Yes. The TPBAC acknowledges this but submission for 2021 and 2022 should be based on approved GOP.</p>
<p>Bidders shall also indicate in their respective bids the schedules/dates of their Scheduled Outages, as submitted and indicated in the Grid Operating and Maintenance Program (GOMP).</p>	<p>Suggested wording: "Replacement.....beyond allowances and excluding Force Majeure Events... shall be required by FBPC at the winning contract price.</p>	<p>FMs are understand to be treated on its own and are not part of the outage allowances.</p>

<p>Replacement power for outages beyond allowances shall be required by FBPC at the winning contract price</p>	<p>Based on the submitted Scheduled Outages in GOMP, the schedules/dates of the outages is only for three (3) years. And in reference to Annex D of the Instructions to Bidders, the bidders are required to submit scheduled plant outages for five (5) years. With that, will the 3-year scheduled outages submitted to GOMP suffice?</p>	<p>2021 and 2022 shall follow GOP, while 2023 to 2025 are understood to be proposed schedules.</p>
<p>12. Connection Scheme Bidder must submit a <u>diagram of its Connection Scheme with the Transmission Grid</u> and a certification from IEMOP of its Final Generator Ex-purposes.</p>	<p>Is this the same with the item (ii)"Single line diagram representing the Grid connection of the Bidder's nominated plant", in Envelope 2:Technical and Financial Bid Proposal in the Instruction to Bidders?</p>	<p>Yes.</p>
<p>Page 4 14. Tariff Structure Price for generation must be broken down into Fixed Capacity Fee, Fixed and Variable O & M, and Energy Fees, or their equivalent, including all applicable indices and taxes.</p>	<p>At what capacity utilization factor or load factor shall FBPC intends to determine the Winning Bid? How does FBPC intend to reasonably evaluate Bid Prices with different pricing structures and adjustment mechanisms?</p>	<p>Please refer carefully to evaluation method on item 8 of the Bidding Summary Section of the ITB. As mentioned in the Pre-bid conference the rate offered remains to be the key determining factor in the selection process but will also consider other factors during the detailed evaluation.</p>
<p>Bidder may also express their offer in a per kilo-watt hour basis with yearly adjustment of not more than 4% of 75% of the contract price. The Bidder shall specify the formula for the computation of the submitted contract price. The Bidder must also specify the base fee adjustment formula, if any, and all applicable adjustments in percent by which each component is affected by price factors such as CPI, Forex, and escalation due to fuel degradation. There shall be no indexation on Capital Recovery Fee. Evaluation of price offers shall consider delivered cost at FBPC receiving point/s.</p>	<p>FBPC should provide the Base Indices to be used by the Bidder in calculating their Base Fees. FBPC should provide the projected indices for a uniform evaluation of the Bid Prices of Bidders with similar types of source power plants Please clarify further what does FBPC mean by "delivered cost"? What are the other criteria to determine the winning bid Suggest to provide base indices, evaluation form, and projection of index.der other than the price?</p>	<p>Already provided. Please refer carefully to the evaluation methodology. Yes, This is provided This refers to the applicable price of the Bidder. As mentioned in the Pre-bid conference the rate offered remains to be the key determining factor in the selection process but will also consider other factors during the detailed evaluation.</p>
<p>15. Taxes Prospective Bidders shall indicate all applicable taxes including future taxes, fees, and imposts.</p>	<p>No Bidder might have any knowledge of "future taxes" over the supply duration period Please define " future tax". Suggest to omit.</p>	<p>The Bidders are required to identify what taxes/what possible taxes it intends to impose. Otherwise, it cannot be imposed upon FBPC on the future.</p>

<p>16. Price Cap</p> <p>FBPC shall set a price ceiling which will be disclosed before the opening of bid proposals and after all bids are submitted by Prospective Bidders.</p>	<p>Suggest that the price cap be given before submission of bids to give the bidders the chance to bid a competitive rate within the Price cap.</p>	<p>The TPBAC maintains its evaluation procedure as agreed with the DU.</p>
<p>Page 6</p> <p>20. Bidding Schedule</p> <p>9:00 AM @ FBPC Building, Kapitan Ponso Ext., Poblacion 2, Bauan, Batangas</p>	<p>Given the existing QUARANTINE status in many areas, will this manual submission of Bids be strictly followed?</p>	<p>Yes. The TPBAC requires manual submission of Bid. This schedule has been revised accordingly.</p>

INSTRUCTION TO BIDDERS

Page no./Subject	Queries / Clarifications / Comments	TPBAC Response
<p>Page 2</p> <p>Bidding Communications</p> <p>5. Communications, written and electronic, from the Prospective Bidders shall be considered official and valid if and only if:</p> <p>a. duly signed by the authorized representative indicated in the Letter of Intent (LOI)</p> <p>6. The TPBAC will not honor any written communication not duly signed by the authorized representative indicated in the LOI submitted by the Bidder and not transmitted through the email address of the Principal Contact indicated in the LOI.</p>	<p>Does this mean that you will only acknowledge the one who signed the LOI as an authorized representative?</p> <p>Suggest that all names in the Secretary's Certificate be acknowledged as Authorized Representative to sign the bid.</p>	<p>Yes.</p> <p>No. Only the authorized representative who signed the LOI is allowed to sign all pages of the bid and the bid thereof.</p>
<p>Page 2</p> <p>Eligible Bidder</p>	<p>May Bidders, who are generation companies based in Luzon, offer blended source (or blended generation) from different identified plants from their affiliate companies, provided that only one rate will be effective, wherever the supply will be sourced? We believe this is in the best interest of FBPC and will not be partial to any bidder. Firstly, it was not mentioned in our pre-bid meeting that blended source (or blended generation) offers are disallowed. The wording mentioned in the slides was "preferred".</p>	<p>The TPBAC as agreed with the DU maintains its response on Bid Bulletin No.03 pertaining to this query.</p>

	<p>Secondly, in our ITB, there is no specific provision that prevents blended source offer, so technically it is bidders are not prevented to offer blended source (or blended generation) per our ITB.</p> <p>Thirdly, allowing blended sources will only be advantageous to the DU. It will be beneficial because the offers by any bidder can be optimized, resulting to more competitive offered rates and, given more plants reserved for FBPC, more reliable supply.</p> <p>Given that only one rate is offered for blended source (or blended generation), FBPC also benefit as if the supply comes from one plant only.</p> <p>Also it will not be unfair to other bidders by allowing all bidders to give their best offers through allowing blended source (or blended generation) offer.</p>	
<p>Page 5</p> <p><i>Bidding Summary</i></p> <p>(For Capacity Based Offers)</p> <p>8.2 'Bidder shall submit a summary in matrix form, of all its price offers for each billing month for the entire duration of the Contract (FBPC CSP Financial Bid Proposal Form).</p>	<p>The Form is basically templated for Energy-based Offers only and do not have appropriate cells where to input monthly levels of fees for the entire duration of the contract</p>	<p>Please see updated Instruction to Bidder.</p>
<p>In evaluation of bids for this CS, the number of days a Bidder wishes to avail for both Schedules Outage Allowance (SOA) and Forced Outage Allowance (FOA), will be replaced by a predetermined WESM Price (WP)</p>	<p>How did you arrive at the pre-determined WESM Price?</p>	<p>The TPBAC decided based on prevailing prices on the market and recently approved ERC prices.</p>
	<p>Please provide the predetermined WESM price</p>	<p>The TPBAC maintains the evaluation procedure specified in its ITB.</p>
<p>Page 9 Item 8.18</p> <p>For Energy-based offers</p> <p>8.18 Prospective Bidder may also express their offer in a per kilowatt hour basis. For offers under this category, Prospective Bidders shall limit yearly adjustments to 4% of 75% of the total contract price for each year starting 2021.</p>	<p>Clarification: Do we need to specify an index for the adjustment? Or do we only need to arbitrarily put a certain percentage for adjustment?</p>	<p>For energy based offers, please indicate the percentage only.</p> <p>Note that the offer made for this shall be binding the PSA and in its implementation.</p>
<p>Financial Bid Proposal 1.1</p> <p>Details of Technical Offer: Resource Type</p>	<p>What do you mean by this? (i.e. Thermal, CFB, GT, Combined Cycle)</p>	<p>Please check the drop down option.</p>

<p>Financial Bid Proposal 1.1</p> <p>Details of Technical Offer: Offer Type</p>	<p>What do you mean by this? (i.e. base-load, mid-merit, peaking)</p>	<p>Please check the drop down</p>
<p>Page 11 Bid Submission Item # 6</p> <p>In case of conflict between the electronic copies and the hard copies of Bids should the TPBAC decide to conduct the Opening of Bids using the electronic copies of the Bids and open the submitted hard copies at a later date or during the Postqualification, the hard copies of the Bids shall prevail.</p>	<p>This is not consistent with the Format of Submission since a Bidder will be disqualified if a document in the submitted electronic copies is not located in its proper sequence and will be considered missing.</p> <p>The following instructions shall apply to the electronic copies of Bids: 4. A document that is not located in its proper sequence in the order will be considered missing and marked FAILED resulting to the disqualification of the Prospective Bidder in case the TPBAC decides to conduct the Opening of Bids using the electronic copies of the Bids and open the submitted hard copies at a later date or during the Post-Qualification.</p>	<p>This only refers to conflict in content/figures of what is submitted in the hard copies and electronic copies.</p>
<p>Page 11 Bid Submission</p> <p>Envelope 1: Eligibility Documents</p> <p>The following documents shall comprise the legal, technical, and financial requirements under Envelope 1: Eligibility Documents.</p>	<p>For documents that are not applicable, should this just be disregarded or does the Bidder need to execute a document stating that this requirement is not applicable to it?</p>	<p>The TPBAC requires the Bidders to execute a document stating that the document is not applicable.</p>
<p>(Envelope I</p> <p>x) The computation of the Bidder's Net Financial Contracting Capacity (NFCC) following the provisions specified in Republic Act No. 9184 or the Government Procurement Reform Act and its Implementing Rules and Regulations (IRR)</p>	<p>What period shall be covered for the computation of NFCC?</p>	<p>Please see the updated responses for queries raised during the Pre-bid conference.</p>
<p>(Envelope I - Eligibility Documents)</p> <p>xii Notarized statement that each of the documents submitted in the Bid is an authentic and original or a true and faithful reproduction or copy of the original and that all statements and information provided therein are true and correct to the fullest of the knowledge of the Bidder and its Authorized Representative, attached as Annex C of this Instruction to Bidders.</p>	<p>Please clarify if the submission of unnotarized document will be allowed due to the physical impossibility of submission thereof brought about by the pandemic and that a commitment to submit a duly executed/notarized document thereof will be accepted by the TPBAC.</p>	<p>The TPBAC requires maintains its requirement that such documents are required to be notarized.</p>

<p>Page 12</p> <p>Envelope 2: Technical and Financial Bid Proposal</p> <p>The following documents shall comprise the legal, technical, and financial requirements under Envelope 2: Technical and Financial Bid Proposal.</p>	<p>For documents that are not applicable, should this just be disregarded or does the Bidder need to execute a document stating that this requirement is not applicable to it?</p>	<p>Answered and provided.</p>
<p>i) Bid Security in the amount and form specified in the TOR, issued by a bank in the Philippines in favor of First Bay Power Corporation valid at least thirty (30) days after the Submission deadline.</p>	<p>Will Managers check be acceptable as a form of bid security?</p>	<p>Yes.</p>
<p>Envelope 2: Technical and Financial Bid Proposal ii, iii, v, vi,</p> <p>The following documents shall comprise the legal, technical, and financial</p>	<p>If TPBAC allows for offers using blended source (or blended generation) and if Bidder is planning to offer blended source (or blended generation), will the Bidder need to provide for all the power plants included in the blend: single-line diagram, COC, Final Generator Ex-Ante Nodal Prices, Notarized Statement of Technical Proposal and Nominated Plant? Or can bidder identify only one main Nominated Plant and submit only the information and documents above for the main Nominated Plant?</p>	<p>The TPBAC requires only one plant.</p>
<p>iii) Certified True Copy of the valid Certificate of Compliance of the nominated power plant issued by the ERC.</p>	<p>Due to the current situation, ERC might not be able to provide the renewed Certificate of Compliance by the time of bid submission; will the application for renewal suffice?</p>	<p>Please refer to the updated responses to queries raised during the Pred-bid conference.</p>
<p>iv) Valid and latest Market Participation Agreement of Bidder as certified by IEMOP</p>	<p>Due to the current situation, IEMOP may not be able to provide the document on time will the letter of request suffice? Once the document is received from IEMOP a copy will be sent to First Bay</p>	<p>Requirements required to be certified by the IEMOP shall be submitted as certified by the IEMOP.</p>
	<p>Considering the TPBAC's acceptance of the proposal of one Bidder to submit an evidence of compliance in lieu of a valid Certificate of Compliance, will the TPBAC also consider the same for the Tax Clearance Certificate from the BIR?</p>	<p>Upon checking with the BIR, issuance of subject document is not hindered by the community quarantine, hence the TPBAC maintains this requirements.</p>
	<p>Are there specific instructions in the submission of item ix in Envelope 2?</p>	<p>Yes, please see updated/revised ITB.</p>

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Format of Submission of Bids

1. For the avoidance of doubt, all documents required to be a certified true copy of the original shall be certified by either the Authorized Representative indicated in the LOI or the duly authorized custodian of the required document ONLY, unless otherwise stated. Such certification must appear in the upper right hand corner of the first page or cover page of the document indicating (1) the name in print of the custodian who certifies the document or the Authorized representative; (2) the date the document was certified; and (3) the signature of the person who certifies the document. These instructions shall apply for documents required to be certified by persons or entities already identified in the requirement.

Please clarify if the submission of document that is Electronically signed/certified by the Document custodian or Authorized Representative will be allowed due to physical impossibility of securing the signature of the Authorized Representative or custodian in person as we are on a work from home status as well as due to the community quarantine

The TPBAC maintains the instructions specified in this ITB.

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1. All documents in the original Set of the Bids shall be scanned and compiled in a main folder using the following format:

File name: FBPC IOMW
CSP_Bidder_05AUGUST2020_
Electronic

Please clarify if the date in this format should be the date of the Bid opening.

Yes it should be the date of the Bid Opening. New format of the file name should be:

FBPC10MW
CSP_Bidder_04SEPTEMBER2020
_Electronic

18. After all the Bid Proposal marked PASSED have been received and evaluated by the TWG, the TPBAC will receive the sealed envelope containing the Price Cap from the GM of FBPC.

The Price Cap will be revealed and announced before the remaining Bidders and observers in the video conference.

What is the basis of the pre-determined Price Cap? How did you arrive at the Price Cap?

For the interested Bidders reference, can the Price Cap be revealed prior the opening of the bids?

The TPBAC and the TWG decided the computation of its price cap based on prevailing market price and recently approved ERC rates.

The price cap will be revealed after all the Bid proposals marked PASSED have been received and evaluated by the TWG.

	<p>Our understanding from the ITB and the PSA is that the Line Rental ("LR") charges will be for the account of FBPC. Is our understanding correct?</p> <p>If the LR charges is for the account of FBPC, will LR charges be included in the computation of LCOE? Or will the LR charges be considered in the Post Qualification stage of the our CSP?</p>	<p>Yes.</p> <p>No,this will not be part of the computation of the LCOE. LR charges will be considered during post-qualification.</p>
	<p>Considering some conflicting responses made in the pre-bid conference, we would like to clarify whether the TPBAC shall open the submission of bids with more than one (1) nominated power plant.</p>	<p>Bidders are required to nominate only one plant for this CSP.</p>
	<p>Considering the implementation of Modified Enhanced COmmunity Quarantine (MECQ) in Metro Manila and nearby provinces, mobility of Bidders and our customers are limited. As such, securing a Certificate of Good Performance may be quite a challenge. As such, will the TPBAC consider submitting a printed scanned copy of said certificates which shall also bear on the side the signature of our Authorized Representative? Please also consider the presentation/submission of ANNEX C which in substance is a notarized statement from the Bidder's Authorized Representative that the submissions herein are true and faithful reproductions of the original document.</p>	<p>Yes we will accept provided it is certified by the Authorized Representative.</p>
	<p>What are the possible considerations that may convince the TPBAC to adjust the submission of bids in order to allow Bidders more time to complete the documents for submission to this CSP?</p>	<p>The submission of Bids was extended. Please check the FBPC Bulletin No. 004, series of 2020 at the DOE CSP Portal.</p>
	<p>Another conflicting response that we noticed during the pre-bid conerence is on the opening and evaluation of bids, may we know if the TPBAC shall stick to the provision of item 21, page 17 of the ITB in the Opening and EValuation of Bids section of the ITB?</p>	<p>Please see the updated ITB.</p>
	<p>During the closing of the pre-bid conference, an additional instruction on putting password on the submission was mentioned by the Secretariat/TWG. Can we have specific instructions on how this will apply?</p>	<p>Please see the updated ITB.</p>
	<p>Please clarify that for the Annexes, only the substance and language is not allowed to be changed, but the format and manner by which the documents will be notarized can be. Also, when will FBPC provide Bidders with the soft copy of these?</p>	<p>Please see the updated ITB.</p>

Description	Questions/Clarifications/Comments	TPBAC Response																				
<p>Bidding Summary</p> <p>Bidder: "Further, we would like to clarify the rationale behind limiting the levelized horizon for the bid price computation to only 5 years. To be consistent with the PSA cooperation period, we suggest to set the levelized price horizon to 10 years to ensure that FBPC will be able to evaluate the full extent of how escalating rate components will affect the bid price offers. This evaluation process is consistent to other CSPs conducted by DUs in the past"</p> <p>On the latter part of the pre-bid conference, TPBAC chairman took note and will consider the explanation raised by MPPCL to consider the evaluation to be based on the 10-year contract duration to capture the effects of the escalation especially on the 6th to 10th CY that will have an increase of contract level up to 15MW</p>	<p>We would like to confirm that the TPBAC will include this update in the Supplemental Bid Bulletin(s) to be issued and the following items in the ITB will be revised/supplemented accordingly:</p> <ul style="list-style-type: none"> a) Table 8.5.1; b) Table 8.5.2; and c) Table 8.12 	<p>Please see updated ITB.</p>																				
<p>Bidding Summary</p> <p>Bidder: For Table 8.12, please provide clarification how the monthly resulting %CUF were computed? How are the values under the monthly Contracted Energy column relate to the computed %CUF?</p> <p>FBPC: The monthly CUF's only for the purposes of evaluation and were selected randomly to represent and CUF values</p> <p>8.21 For the Prospective Bidder's Annual Contract Price (ACP), Bidders shall indicate the annual adjustment factor (AAF) which should not be more than 4% of 75% (i.e. 3%) of the annual Contract Price. The MCP of the Prospective Bidder in PHP/kWh shall be computed using the formula below. For the avoidance of doubt, the MCP of the Bidder for the first contract year shall be the Base Price offered if power was delivered on September 2019 adjusted using the Annual Inflation Factor for year 1. All other months shall follow the same formula below and the Prospective Bidder's proposed AAF for the applicable year.</p> $ACP_{plant}^{year} = (ACP_{plant}^{year-1})(1 + AAF^{year})$	<p>We respectfully suggest to align the Contracted Energy with the given %CUF values per Billing Month so that the bidders will have the same Contracted Energy to be used whether for a Capacity or Energy-Based Offer.</p> <p>For your consideration, we provided a counterproposal for the Contracted Energy which is computed based on Contracted Capacity multiplied by the Total Number of Hours in a Billing Month and the given %CUF.</p> <table border="1" data-bbox="611 1456 1106 1998"> <thead> <tr> <th>Billing Month</th> <th>%CUF</th> <th>Contracted Energy</th> <th>Proposed Revision based on the given CUF</th> </tr> </thead> <tbody> <tr> <td>Feb-21</td> <td>83%</td> <td>5,577,600</td> <td>6,175,200</td> </tr> <tr> <td>Mar-21</td> <td>67%</td> <td>4,984,800</td> <td>4,502,400</td> </tr> <tr> <td>Apr-21</td> <td>70%</td> <td>5,040,000</td> <td>5,208,000</td> </tr> <tr> <td>May-21</td> <td>76%</td> <td>5,654,400</td> <td>5,472,000</td> </tr> </tbody> </table>	Billing Month	%CUF	Contracted Energy	Proposed Revision based on the given CUF	Feb-21	83%	5,577,600	6,175,200	Mar-21	67%	4,984,800	4,502,400	Apr-21	70%	5,040,000	5,208,000	May-21	76%	5,654,400	5,472,000	<p>Please see updated ITB.</p>
Billing Month	%CUF	Contracted Energy	Proposed Revision based on the given CUF																			
Feb-21	83%	5,577,600	6,175,200																			
Mar-21	67%	4,984,800	4,502,400																			
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May-21	76%	5,654,400	5,472,000																			

Description	Questions/Clarifications/Comments	TPBAC Response
<p>Bidder: (8.21) To FBPC, please confirm that the computation for Annual Contract Price ACP is similar to the formula stated under Capacity-based offer 8.13 and will use the same monthly contracted energy under Table 8.12.</p> <p>FBPC: Yes</p>		
<p>Envelope 1: Eligibility Documents</p> <p>Bidder: Kindly note that this provision may/should also apply to existing plants who could also encounter outages prior and during the Start of Supply date.</p> <p>For bidders joining with new plants, can FBPC also consider allowing them to source replacement from 3rd party suppliers, including the WESM, as long as they commit to the Contract Price or PA rate, whichever is applicable?</p> <p>FBPC: The TPBAC believes that Annex D and Bid Proposal Form 1 and 2 should address this commitment,</p> <p>It is the TPBAC's opinion that there is a higher possibility of delay on deliver for a new plant rather than an existing plan hence the requirement.</p> <p>Envelope 2: Technical and Financial Bid Proposal</p> <p>vii) Certificate of Good Performance from one (1) past and two (2) existing customers (one should be a DU customer whose demand is equal to or greater than the demand requirement of this CSP), which shows that Bidder has a good standing with the customer and has no pending payment or unsettled penalty with the customer.</p> <p>Bidder: Given that we intend to join the bid using a prospective plant, may we know an alternative document that FBPC can consider in view of the indicated requirement?</p> <p>FBPC: A notarized Letter of Commitment that in case plant is not operational by the time of delivery, the Bidder will supply and alternative source at the same price as submitted in the bid</p>	<p>Please confirm that Notarized Letter of Commitment mentioned by FBPC is the same notarized statement required under Envelope 1: Eligibility Documents item (xiii) and that the same will be used in compliance to item (vii) under Envelope 2: Technical and Financial Bid Proposal</p>	<p>Yes.</p> <p>No, for this requirement please see response in bid bulletin 03.</p>

Description	Questions/Clarifications/Comments	TPBAC Response															
<p>Article 5 Billing and Payment</p> <p>Bidder: Clarify that the Minimum Energy Charge is on top of the computed contract price based on the Winning Supplier's tariff structure to be included in Article 6 of the Draft PSA?</p> <p>FBPC: The minimum energy charge is the difference between the actual consumption and the price at 65% CUF, which is the minimum energy offtake for this PSA.</p> <p>-----</p> <p>Bidder: Computation of LWAP will be based on the Winning Supplier's tariff structure to be included in Article 6 of the Draft PSA?</p> <p>Bidder: Clarify that the Minimum Energy Charge is in addition to the computed contract price based on the Winning Supplier's tariff structure to be included in Article 6 of the Draft PSA?</p> <p>FBPC: Yes</p>	<p>Please refer and confirm to sample computation below in relation to Section 5.5 under Billing and Payment:</p> <p>January Billing Month: No. of hours: 744 Contracted capacity: 10,000kW Minimum CUF: 65% Minimum Contracted Energy: 4,836,000kWh =744*10,000*65%</p> <p>FBPC Actual Consumption for the month: 4,500,000kWh Contract Price = PhP30,000,000</p> <p>LWAP = PhP30,000,000/4,500,000kWh LWAP = PHP6.67/kWh</p> <p>Minimum Energy Charge = LWAP*(MCE – Actual) Minimum Energy charge = 6.67* (4,836,000 - 4,500,000) Minimum Energy charge =6.67*336,000 Minimum Energy charge = 2,241,120 Total Contract Price = 30,000,000 + 2,241,120 Total Contract Price = 32,241,120 (PHP)</p>	<p>The TPBAC request the Bidder to clarify its query.</p> <p>Sample: (using same date) if applicable Contract Price for the month 5.00 PhP/kWh then.</p>															
<p>Envelope 2: Technical and Financial Bid</p> <p>Bidder: Given that we intend to join the bid using a prospective plant, we would like to confirm FBPC's openness to accept data coming from an existing adjacent power plant instead as reference for your evaluation.</p> <p>FBPC: Yes, we will accept provided that the plant is of the same technology</p> <table border="1" data-bbox="92 1877 611 1944"> <thead> <tr> <th colspan="5">Details of Technical Offer</th> </tr> <tr> <th>Power Plant Name</th> <th>Resource Type</th> <th>Fuel</th> <th>Trading Node</th> <th>Offer Type</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Details of Technical Offer					Power Plant Name	Resource Type	Fuel	Trading Node	Offer Type						<p>Please confirm that for purposes of compliance to the Financial Bid Forms and other information required under the Bid Documents, the Bidder can indicate the information of its existing plant (same technology) for any information currently not available for the prospective plant. For instance, the trading node required in the Financial Bid Form.</p>	<p>Yes this is possible, but the TPBAC highlights that this relief shall only apply if and when such.</p>
Details of Technical Offer																	
Power Plant Name	Resource Type	Fuel	Trading Node	Offer Type													

Description	Questions/Clarifications/Comments	TPBAC Response												
<p>Bidder: Are the FOA and SOA indicated in the Bid Proposal Form, considered binding upon implementation of the PSA?</p> <p>FBPC: Yes</p> <table border="1" data-bbox="92 533 609 593"> <thead> <tr> <th></th> <th>2021</th> <th>2022</th> <th>2023</th> <th>2024</th> <th>2025</th> </tr> </thead> <tbody> <tr> <td>Month of Outage</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		2021	2022	2023	2024	2025	Month of Outage						<p>Please confirm and clarify that in so far as the outages are concerned, the term “proposed and binding” is only so far as the number of hours is concerned.</p> <p>With respect to the schedule, we wish to emphasize that even if all generators planned its maintenance outage, the schedule is still subject to change by the System Operator and other factors affecting plan operation. In addition, with respect to the Forced Outage, given that the nature of forced outage as unforeseen events, please note that the values to be considered in the evaluation may vary in the actual implementation of the PSA</p>	<p>Yes. The DU acknowledges that the schedule in itself is subject to change.</p> <p>Acknowledged.</p>
	2021	2022	2023	2024	2025									
Month of Outage														
<p>Bid Security</p> <p>FBPC: The TPBAC maintains the value of the Bid Security. In terms of the basis for computation, this is based on possible exposure would the winning bidder fail to sign a PSA with FBPC</p>	<p>Please confirm if the Bid Security shall be returned upon signing of the PSA by FBPC and the Winning Bidder.</p>	<p>Yes it will be returned to the Winning Bidder without interest after the signing of the PSA</p>												
	<p>Consistent with our question above, please confirm that for prospective and newly commissioned plant, the readily available information, even if limited shall be sufficient. Otherwise, please confirm any additional documents to satisfy the requirement.</p>	<p>The TPBAC requests bidder to clarify the query.</p>												

POWER SUPPLY AGREEMENT

Page no./Subject	Queries / Clarifications / Comments	TPBAC Response
<p>Page 1</p> <p align="center">Recitals</p> <p>WHEREAS, the Power Supply Agreement of FBPC with its supplier expired on January 25, 2021, hence FBPC conducted a competitive selection process (CSP) consistent with the requirements of the Department of Energy (DOE) Circular DC2018-02-0003 "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market";</p>	<p>Suggested revision to replace below:</p> <p>WHEREAS, the Power Supply Agreement of FBPC with its supplier will expire on January 25, 2021, hence FBPC conducted a competitive selection process (CSP) consistent with the requirements of the Department of Energy (DOE) Circular DC2018-02- 0003 "Adopting and Prescribing the Policy for the Competitive Selection Process in the Procurement by the Distribution Utilities of Power Supply Agreement for the Captive Market";</p>	<p>The TPBAC will revise the draft PSA to include this proposed revision.</p>
<p>Page 2</p> <p align="center">Definition of Terms</p> <p>CONTRACTED ENERGY refers to the energy equivalent to 65% to 90% of the Contracted Capacity that the customer intends to take or buy from SUPPLIER in accordance with this PSA.</p>	<p>Suggested revision to replace below:</p> <p>CONTRACTED ENERGY refers to the energy equivalent to 65% to 90% of the Contracted Capacity that FBPC intends to take or buy from SUPPLIER in accordance with this PSA.</p>	<p>The TPBAC will revise the draft PSA to include this proposed revision.</p>
<p>CONTRACT ENERGY refers to the energy equivalent to 65% to 90% of the Contracted Capacity that the customer intends to take or buy from the SUPPLIER in accordance with this PSA.</p>	<p>Contract Energy indicated is from a low of 65% (Minimum ContractEnergy) to a high of 90% (Maximum Contract Energy) Capacity Utilization Factor (CUF) of the Contract Capacity. On the other hand, the monthly projected energy requirement (February 2021 to December 2025) in the ITB, Bidding Summary page 7 shows various Billing Months where the level of energy requirement is beyond the maximum of 90% to wit: Aug2021-92%, Sep2021-100%, Feb2022-93%, Jul2022-99%, Dec2022-95%, Jun2023-91%, Jan2024-100%, Sep2024-97%, Oct2024-100%, Nov2024-99%, Sep202598% and Oct2025-100%</p>	<p>Please see revised ITB and PSA.</p>
<p>Page 3</p> <p align="center">Definition of Terms</p> <p>LINE RENTAL refers to the charge applied per interval for the difference between the Ex-Ante Nodal Prices of Energy at the Delivery Node and the Ex-Ante Nodal Prices of Energy at the Delivery Point.</p>	<p>Please provide definition of Delivery Node</p>	<p>Please see revised ITB and PSA.</p>

<p>Page 4</p> <p>Definition of Terms</p> <p>NOTICE has the meaning given to it in Article 14.1.</p>	<p>Suggested revision to replace below:</p> <p>NOTICE has the meaning given to it in Article 13.1.</p>	<p>The TPBAC will revise the draft PSA to include this proposed revision.</p>
<p>Page 5</p> <p>TRADING INTERVAL refers to a period of one hour, or any trading period specified in the WESM Rules.</p>	<p>Definition overlaps with "Interval". Should we retain only one term?</p>	<p>Please see revised PSA.</p>
<p>Page 5</p> <p>Article 2 Contract Term</p> <p>2.2 Notwithstanding the occurrence of the Effective Date, the obligation of the SUPPLIER to Deliver the Contract Capacity and the Associated Energy and the Start of Supply Date shall only commence upon satisfaction of the following conditions precedent:</p> <p>a. Issuance of a Provisional Authority (PA) of the ERC and the approval thereof all the terms and conditions of this PSA</p> <p>b. Receipt of the SUPPLIER of the Security Deposit in the amount and form required under the provisions of this PSA; and</p> <p>c. Execution of a Board Resolution by the Board of FBPC which approves the execution of this PSA and the authority of the signatory to execute this PSA for and in behalf of FBPC.</p>	<p>Suggest to revise that the start of supply shall commence upon the issuance of ERC approval which is particular to PA, IR & FA.</p>	<p>Please see revised PSA.</p>
<p>2.2 a. issuance of Provisional Authority (PA) of the ERC and the approval thereof of all the terms and conditions of this PSA;</p>	<p>Please confirm if the Start of the Supply Date shall also commence upon the issuance of an Interim Relief. Hence for this purpose, suggest to include/add Interim Relief after "(PA)" found in the subject portion of the PSA.</p>	<p>Please refer to the revised PSA.</p>
<p>ARTICLE 2 CONTRACT TERM</p> <p>2.5 If the Parties fail to mutually agree on a mutually satisfactory resolution within thirty (30) days from the issuance of the ERC approval, this PSA may be terminated, and SUPPLIER will pay FBPC an amount equivalent to three (3) months projected consumption of FBPC at a rate of 2.50 PhP/kWh.</p>	<p>Suggested revision to add below:</p> <p>2.5 If the Parties fail to mutually agree on a mutually satisfactory resolution within thirty (30) days from the issuance of the ERC approval mentioned in Article 2.4, this PSA may be terminated , and SUPPLIER will pay FBPC an amount equivalent to three (3) months projected consumption of FBPC at a rate of 2.50 PhP/kWh.</p>	<p>Please see revised PSA.</p>

	<p>FBPC to please consider that the impairment of the terms and conditions of the PSA in such case is not due to Supplier's fault. Supplier is concerned that a mutually satisfactory resolution can effectively be withheld by FBPC by simply not agreeing to any proposed terms, and the Supplier will be left to pay the penalty.</p>	<p>Please see revised PSA.</p>
	<p>We wish to reiterate request to revise Article 2.5 of the PSA to reflect the proposed provision:</p> <p>If the Parties fail to mutually agree on a mutually satisfactory resolution within thirty (30) days from the issuance of the ERC approval, SUPPLIER may terminate this PSA and SUPPLIER will pay FBPC an amount equivalent to three (3) months projected consumption of FBPC at a rate of 2.50 PhP/kWh.</p>	<p>Please see revised PSA.</p>
	<p>Even if ERC approval is only Provisional in nature, Parties may result to termination of the PSA?</p>	<p>The TPBAC requests for clarification of this query.</p>
	<p>Why is the Supplier the only Party to be penalized as a result of a failed mutual agreement of the Parties to maintain their commercial viability as contemplated in the execution of the PSA? Why should there be a penalty if the intent of the negotiations is supposedly mutual in nature? What if the Buyer is the Party who would not mutually agree to any negotiation?</p>	<p>Please see revised PSA.</p>
	<p>What is the basis of the three (3) month projected consumption and rate of PhP2.50/kWh as penalty to the Supplier?</p>	<p>Three months would be based on the possible conduct of another CSP. While 2.50 is the computed penalty of the DU.</p>
	<p>Why is there an obligation by Supplier to pay FBPC when there is failure to mutually agree?</p>	<p>Only if the Supplier decides to terminate this PSA. See revised PSA.</p>
	<p>May we suggest that the payment be deleted.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>Page 6</p> <p>2.6 This PSA may be renewed or extended for an additional period of up to one (1) year under the same terms and conditions, at the option of FBPC, by giving prior written notice to SUPPLIER at least one hundred eighty (180) days before 25 January 2031.</p>	<p>(1) Extension of PSA should be at the option of both Parties and subject to written agreement of both Parties. Finally, any extension should be in accordance with existing regulatory rules, policies on CSP prevailing by the end of the supply period</p>	<p>The TPBAC note this comment and will discuss this with the DU.</p>

<p>Page 7</p> <p>Article 3. ERC Application and Approval</p> <p>3.4 At the option of FBPC, the application to the ERC shall include a prayer that the application costs and the cost associated with securing the Security Deposit to SUPPLIER shall form part of the pass-through costs of FBPC.</p>	<p>Non approval of Buyer's prayer for pass-through of publication costs and costs associated with Security Deposit should not in any way, affect the implementation of the PSA.</p>	<p>Yes, it does not.</p>
<p>Page 8</p> <p>ARTICLE 4 SCOPE OF THE PSA</p> <p>4.1 Beginning on Start of Supply Date and at all times thereafter, SUPPLIER shall make available and deliver at the FBPC Delivery Point the Contract Capacity and/or Contract Energy until 25 January 2031 at the Rates specified in Article 5 Contract Price and Other Charges</p>	<p>Suggest to include "Beginning on Start of Supply Date, except during Force Majeure Events and during outages within scheduled and unscheduled allowances, SUPPLIER shall make available and Deliver at the FBPC Delivery Point the Contract Capacity and/or Contract Energy until 25 January 2031 at the Rates specified in Article 5 Contract Price and Other Charges</p> <p>Comment: Replacement Power provided shall be paid by FBPC at cost (including the WESM Market fee, if applicable) since the outage is within the outage allowance.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>4.2 SUPPLIER may source the Contract Energy from power plants it owns and/or operates or any of those that is owned/ operated by its affiliates, the WESM, or any other third party supplier, provided that the corresponding BCQ shall be declared from the [SUPPLIER TRADING NODE] market trading node.</p>	<p>Is the Buyer contemplating that the Supplier may be the Winning Bidder who does not have a plant capable of generating and supplying the FULL energy requirement of the Buyer's captive customers? As long as it supplies the BCQ of 10MW-15MW over the 10-year period regardless of generation source and declared from the Supplier's Trading Node</p>	<p>The TPBAC still maintains and requires Bidders to declare a single plant for this CSP. During the implementation of the PSA, however, the DU is indifferent to the source of the energy delivered as long as it is declared from the Supplier's Trading Node for the purposes of line rental computation.</p>
<p>4.3 FBPC shall furnish SUPPLIER its monthly energy requirement for the succeeding Contract Year in the form specified under "Annex A: Delivery Schedule", setting out the minimum and maximum energy requirement of FBPC, every twenty-sixth (26th) day of November of the current Contract Year. SUPPLIER shall have thirty (30) days to confirm said submission of FBPC in writing. Failure of SUPPLIER to provide a written response relative to said submission shall constitute its approval of the said Delivery Schedule.</p>	<p>Under 4.3, Buyer commits to submit to Seller its year-ahead Delivery Schedule every 26th day of November with a 65% to 90% minimum to maximum CUF. Whereas under 4.7, any increase/decrease in Associated Energy should be made in writing at least 30 days prior to intended effectivity. So without Seller's express approval, Buyer may not revise its month-ahead nominations contained in the year-ahead Delivery Schedule</p>	<p>Supplier is obligated by 4.7 to respond within 10 days otherwise such increase or decrease is resolved in favor of FBPC.</p>

<p>4.7 Any request for increase or decrease of Contract Capacity and/or Contract Energy shall be made in writing by FBPC at least thirty (30) days prior to the start of Delivery of the requested increase or decrease, and SUPPLIER shall deliver its response in writing within ten (10) working days upon receipt of said request. Failure of SUPPLIER to provide a written response relative to said submission shall constitute its approval of the request.</p>		
<p>4.4 FBPC shall pay the Contracted Capacity and its Associated Energy from 65% to 90% capacity utilization factor (CUF), subject to the Delivery Schedule submitted by FBPC in Article 4.3.</p>	<p>Are the CUF levels a monthly or an annual commitment of the Buyer?</p>	<p>65% is a monthly MEOT.</p>
	<p>Please provide sample computation for the CUF Level</p>	
<p>Article 4.5</p> <p>Subject to applicable laws, FBPC may apply in writing for an increase in the Contract Capacity and/or Contract Energy due to addition of loads or expansion within FBPC's franchise area. SUPPLIER may approve such request for increase in writing subject to the availability of supply, which approval shall not be unreasonably withheld. xxx</p>	<p>Suggestion: Subject to applicable laws, FBPC may apply in writing for an increase in the Contract Capacity and/or Contract Energy due to addition of loads or expansion within FBPC's franchise area. SUPPLIER may approve such request for increase in writing subject to the availability of supply <u>and /or any other justifiable reason of the SUPPLIER</u>, which approval shall not be unreasonably withheld. xxx</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>4.8 FBPC shall be responsible on securing necessary government approvals for such increase/decrease of Contract Capacity and/or its Associated Energy, when applicable.</p>	<p>Will the increase in Contract Capacity not necessitate a conduct of a CSP.</p>	<p>The DU will comply to applicable Laws.</p>
	<p>Any increase/decrease in associated energy should be left in the parties' agreement.</p>	

<p>Section 4.9 and 4.10 (with related concern to Section 10.2 Default of Supplier)</p> <p>4.9 SUPPLIER shall be entitled to a Maximum Annual Scheduled Outage Allowance equivalent to 720 hours, on a full load equivalent, and a Maximum Annual Unscheduled Outage Allowance equivalent to 360 hours, on a full load equivalent.</p>	<p>Normally, an allowed Outage Allowance in favor of the Seller in a supply agreement means the Seller is not obligated to supply power and energy during Scheduled and Unscheduled outages within the Outage Allowance. Thus, we recommend that Section 4.10 be revised to reflect the same and to read as follows: 4.10 During outages within the Scheduled and Unscheduled Outage Allowances, the Seller shall not be obligated to supply the Contract Capacity and Associated Energy. The Seller may, however, exert best efforts to procure Replacement Power from other sources and offer the same to the Buyer at cost. The Buyer has the right to accept or refuse offered Replacement Power. If accepted, the Buyer shall pay the Seller the actual cost of Replacement Power. If not accepted, the Buyer assumes the responsibility to procure Replacement Power at its own cost.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>4.10 During Scheduled Outages, SUPPLIER shall offer FBPC with Replacement Power at a rate that is not higher than the prevailing average NPC TOU Rates for Main Grid . SUPPLIER shall ensure that Scheduled Outages are conducted at times of least impact to pass-on charges to FBPC .</p>	<p>Please provide definition of Main Grid</p>	<p>The NPC TOU Rates for Main Grid is available online and an industry-wide known standard.</p>
<p>During Unscheduled Outages, SUPPLIER shall exert its best effort to offer FBPC with Replacement Power at a rate that is not higher than the prevailing average NPC TOU Rates for Main Grid. Otherwise, SUPPLIER shall source the Replacement Power from the WESM to which FBPC shall be charged at the Ex-Ante WESM Price along with other applicable charges.</p>	<p>Please clarify as to who will bear the difference in the event that the ExAnte WESM Price is higher than the NPC-TOU Rates for the Main Grid.</p>	<p>The TPBAC believes that the provision clearly states this.</p>
<p>Page 9</p> <p>ARTICLE 5 BILLING AND PAYMENT</p> <p>5.1 SUPPLIER shall deliver to FBPC a Billing Statement on or before the seventh (7th) day of the month immediately succeeding each billing month. The Billing Statement shall reflect all charges applicable for the subject billing month based on the Delivery Schedule submitted by FBPC in accordance with Article 4.3.</p>	<p>When will the count of seventh day shall start?</p>	<p>The 7th day of the month is a fixed reference.</p>

<p>5.2 FBPC shall pay all monthly Electricity Fees, including all applicable taxes and charges identified in the Billing Statement on or before the Payment Date, provided that if such day falls on Saturday, Sunday, a regular of special holiday in Batangas, then the Payment Date shall be the first business day immediately succeeding the original Payment Date.</p>	<p>Suggest that the Holidays to be considered are Holidays affecting Bauan Batangas only.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>5.4 In case FBPC consumes Additional Energy subject to Articles 4.4, SUPPLIER shall bill FBPC at the Ex-ante WESM Price and all applicable charges.</p>	<p>If the Buyer is a Direct WESM Member, any consumption beyond Contract Capacity should be considered as WESM purchase and billed accordingly. If the Additional Energy is within Contract Capacity and within the 65% to 90% CUF levels, then the same should be considered part of Associated Energy and billed at Contract Charges and not at Ex-Ante WESM price.</p> <p>In which node is the Ex-ante price, generators side or load side? Does the supplier have the right to supply or not to supply the additional energy?</p>	<p>Please refer to the revised PSA.</p>
<p>Article 5.5</p> <p>xxx SUPPLIER shall reduce the Minimum Contract Energy of FBPC for the billing month proportionate to the reduction of its consumption due to the event that caused its inability to meet the Minimum Contract energy. xxx</p>	<p>Comment: FBPC shall provide proof of events that caused the reduction in its energy consumption and shall provide a computation on how the proportionate energy was determined.</p>	<p>Please refer to the revised PSA.</p>
<p>5.6 If FBPC fails to pay its monthly Electricity Fees, the relevant and applicable taxes, or any other amount payable by it under this PSA in full on the Payment Due Date, SUPPLIER may draw against the Security Deposit posted by Customer or pay a penalty equivalent to one percent (1%) of the amount due per month (a fraction of a month prorated based on the number of days for the month) until the date that such amount is received in full by SUPPLIER.</p>	<p>Question: Is the penalty payable only if Supplier does not draw on the Security Deposit? Suggested revision below:</p> <p>5.6 If FBPC fails to pay its monthly Electricity Fees, the relevant and applicable taxes, or any other amount payable by it under this PSA in full on the Payment Due Date, SUPPLIER may draw against the Security Deposit posted by FBPC or FBPC pays a penalty equivalent to one percent (1%) of the amount due per month (a fraction of a month prorated based on the number of days for the month) until the date that such amount is received in full by SUPPLIER.</p> <p>May we use our own standard penalty rates?</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p> <p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>

<p>5.8 If FBPC decides to dispute a Billing Statement with SUPPLIER, FBPC shall notify SUPPLIER through a written notice which may be issued within sixty (60) days after issuance of the disputed Billing Statement. For the avoidance of doubt, the 60-day grace period provided by this PSA for FBPC to dispute a Billing Statement is reckoned either based on (1) the date FBPC received the electronic copy of the Billing Statement or (2) the date FBPC received the hard copy of the Billing Statement via courier, whichever comes later, SUPPLIER shall have ten (10) days to respond to such dispute raised by FBPC, otherwise, the dispute shall be resolved in favor of FBPC.</p>	<p>Suggest to also include this provision — "Disputed bills shall be paid by the BUYER without deductions or setoffs and the Supplier shall evaluate the claim and adjust the billings, where appropriate, in accordance with its findings. Disputed billing shall not be an excuse or ground for the BUYER to delay payment of the disputed bill or any succeeding billings or to unilaterally deduct any amount therefrom."</p> <p>In case of unresolvable dispute within the 60 day period the Provisions in Article 15 shall apply.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>Page 10</p> <p style="text-align: center;">Article 6 CONTRACT PRICE AND APPLICABLE CHARGES</p> <p>[Reserved for the Price Structure of the Winning Supplier,</p>	<p>This Article is left blank purposely to indicate Winning Bidder pricing structure. Given that each Bidder is allowed to propose its own pricing structure and adjustment mechanism, how does the Buyer intend to evaluate Bid Proposal with various pricing and adjustment mechanisms to determine the Levelized Cost of Electricity (LCOE) and the Lowest Calculated Bid (LCB) as basis for declaring the Winning Bidder?</p> <p>How will the Price Cap be designed, on a per price component (CRF, FOM, VOM, FF) for Capacity-based or single rate for Energy-based offer?</p>	<p>The TPBAC believes that the evaluation methodology sufficiently provides an apples-to-apples evaluation.</p> <p>As mentioned in the ITB, there is a price cap for the base price after VAT at 100% CUF and another one for the LCOE.</p>
<p style="text-align: center;">Article 7 Security Deposit</p> <p>7.1 FBPC shall post a Security Deposit equivalent to its one (1) month projected consumption at least thirty (30) calendar days before the Start of Supply Date, valid until 26 December 2020. The face value of the Security Deposit for the first Contract Year shall be computed as follows:</p>	<p>Security Deposit to be posted by Buyer is to be computed based on Maximum Contract Energy at 90% of the Contract Energy. If Buyer intends to possibly utilize the Contract Capacity beyond 90% and even up to 100% CUF, we suggest the Security Deposit should reasonably cover the entire 100% CUF and not just 90%.</p>	<p>Please see revised PSA.</p>
<p>Security Deposit for Maximum Contract x Projected LWAP + VAT (if applicable)</p> <p>First Contract Year = Energy (90% of CC) for Contract Year 1</p>	<p>The security deposit should adjust accordingly as the Contract capacity and maximum contract energy increases throughout the supply period.</p>	

<p>Page 11</p> <p style="text-align: center;">ARTICLE 8 FORCE MAJEURE</p> <p>Article 8.1.7 Change in Governmental Requirements in force from time to time after the date hereof, including (for the avoidance of doubt) any change in the policies (or the interpretation or application of policies) of the Department of Energy, the ERC, NGCP or any Governmental Authority that regulates or exercises jurisdiction over the electric power industry (including WESM) or any sector thereof or participant therein;</p>	<p>Suggestion: Kindly make this a separate provision (maybe rename as Changes in Law) where in such events, Parties will discuss and mutually agree on remedies; or PSA maybe be terminated.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>Page 12</p> <p>8.3 A Force Majeure event shall suspend the obligation of either or both Party affected by it if such event is properly reported, documented, and verified by the other Party, provided that the Party claiming relief has exhausted all remedies available for it to mitigate the effect of such verified Force Majeure event.</p>	<p>Suggested revision to replace below:</p> <p>8.3 A Force Majeure event shall suspend the obligation of either or both Party affected by it if such event is properly reported, documented, and verified by the other Party, provided that the Party claiming relief has exhausted all reasonable efforts for it to mitigate the effect of such verified Force Majeure event.</p> <p>Suggestion: Kindly include provisions for remedies for prolonged effects of Force Majeure Events. Remedies may include:</p> <ul style="list-style-type: none"> a. reduction of the Contracted Capacity and Contracted Energy b. Termination of the PSA 	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p> <p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>8.6 The relief given to a Party seeing to rely on the event of Force Majeure for the temporary suspension of its obligation under this PSA shall take effect two (2) intervals after the other Party has been notified of such occurrence.</p>	<p>Comment: Effect of events of Force Majeure must be immediate.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>Page 13</p> <p style="text-align: center;">ARTICLE 9 INDEMNIFICATION AND LIABILITY</p>	<p>Please revise. Parties should be liable for consequential losses and loss of profits only for gross negligence or willful misconduct. Suggested revision to replace below:</p>	

<p>9.1 Each party shall indemnify, defend, and hold harmless the other party, from and against all claims, liability, damages, or suits of all kinds made against or suffered by the other Party for any loss of profits or consequential losses or damages that arise out of or is in any manner connected with the performance of its obligation under this PSA except to the extent such loss or damage is attributable to the gross negligence or willful misconduct of, or material breach of this PSA by the other Party or any of its subcontractors, employees, directors, agents or shareholders, or the failure of the other party or any of its subcontractors, employees, directors, agents or shareholders to take reasonable steps in mitigation thereof.</p>	<p>9.1 Each party shall indemnify, defend, and hold harmless the other party, from and against all claims, liability, damages, or suits of all kinds made against or suffered by the other Party for any loss of profits or consequential losses or damages— that arise out of or is in any manner connected with the— performance of its obligation under this PSA— except to the— extent— such loss or damage is attributable to the gross— negligence or willful misconduct of, or material breach of this PSA by the other Party or any of its subcontractors, employees, directors, agents or shareholders, or the failure of the other party or any of its subcontractors, employees, directors, agents or shareholders to take reasonable steps in mitigation thereof.</p> <p><u>For avoidance of doubt, neither Party shall be liable to the other for any loss of revenue, loss of use, loss of production, loss of contracts, loss of saving or for any other special, indirect or consequential loss or damage or financial or economic loss that may be suffered by the other, except if such is attributable to gross negligence or willful misconduct.</u></p>	<p>The TPBAC notes this comment and will discuss this with the DU.</p>
<p>Page 13</p> <p>ARTICLE 10 EVENTS OF DEFAULT AND TERMINATION</p> <p>10.1.1. Material breach or violation by a Party of any of its representations, warranties, covenants or obligations under this PSA, unless such breach is cured within the cure period after the date of notice to the other Party;</p>	<p>∞ What is the cure period?</p> <p>∞ What is the cure period? How long is the cure period?</p> <p>∞ In Article 10.2.2 (11.1.1 currently), we would like to clarify the cure period referred to in the said provision.</p>	<p>The cure described under this provision is the period provided for the Parties to resolve any such in 5.8 and 5.9 for Billing Disputes.</p>
<p>10.1.2 A receiver of liquidator of trustee is appointed for a Party and such appointment is not discharged within sixty (60) calendar days; or a Party is adjudicated bankrupt or insolvent, or any substantial part of the property of a Party is sequestered, and such decree continuous undischarged for some period after the entry thereof; or a petition to declare bankruptcy laws or any other similar statute is filed and not dismissed within six (6) months after such filing;</p>	<p>Please confirm that the period referred to in the provisions which reads "xxx xxx some period after the entry thereof" must refer to the period after the entry of such decision in the books of final judgment by the appropriate court of competent jurisdiction.</p>	<p>Yes confirming.</p>

<p>10.3.1. Failure to pay any amount due and payable by it under this PSA within a period of one hundred twenty (120) days from the due date and to remedy the default within the said period;</p>	<p>Suggest to change 120 days into 60 days.</p>	<p>Please see revised PSA.</p>
<p>10.1.6. A financial obligation of a Party under any other agreement is not paid when due or within any applicable grace period, or is validly declared to be or otherwise becomes due and payable prior to its stated maturity as a result of any actual or potential default, howsoever described;</p>	<p>Suggest to change the broad statement "under any other agreement" to specify only agreements that have "relation to the other Party or the subject matter of this PSA"</p>	<p>Please see revised PSA.</p>
<p>10.6 Assignability. Neither Party shall assign any of its rights or obligations under this PSA, unless the express, written consent of FBPC is obtained at least ninety (90) calendar days prior to the proposed date of assignment.</p>	<p>Suggest to revise this to: "Neither Party may sell, assign, novate or otherwise transfer its rights or obligations under or pursuant to this Contract without the prior written consent of the other Party. "</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>Page 15</p> <p style="text-align: center;">ARTICLE 11</p> <p style="text-align: center;">REPRESENTATIONS, WARRANTIES, AND COVENANTS</p> <p>11.8.6. It has not failed to disclose any Material Fact to the other Party that may affect the performance of its obligations under this PSA ;</p>	<p>Suggested revision to add below:</p> <p>11.8.6. <u>To the best of its knowledge and information</u>, it has not failed to disclose any Material Fact to the other Party that may affect the performance of its obligations under this PSA ;</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>11.8.8. It has no outstanding notices of or any violations of any Applicable Law or other requirement of any Government Authority having jurisdiction over or affecting any part of this PSA and its performance of obligations herein;</p>	<p>Suggested revision to add below:</p> <p>11.8.8. It has no outstanding notices of or any violations of any Applicable Law or other requirement of any Government Authority having jurisdiction over or materially and adversely affecting any part of this PSA and its performance of obligations herein;</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
<p>11.8.10. It operates its Facility in accordance with Good Industry Practice and Applicable Laws as necessary to deliver/receive power under this PSA;</p>	<p>Please provide definition of Facility</p>	<p>Please see revised PSA.</p>

<p>Page 18 Article 15</p> <p>Jurisdiction and Court Litigation</p> <p>Any Dispute that is not resolved by the respective representatives of the Parties within thirty (30) calendar days after such dispute was raised in accordance with the provisions of Article 14 shall, unless the Dispute falls within the original and exclusive jurisdiction of the appropriate courts of Bauan, Batangas, Batangas City, and/or Makati City, to the exclusion of all other courts elsewhere situated.</p>	<p>Suggest to change Makati City to "Principal Office of the Supplier"</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
	<p>We wish to clarify the response made by FBPC on the proposal to remove the provision pertaining to the withholding of payment in Article 10.6. Considering that issuance of a valid credit memo can always be an option for the Supplier to return any such value pertaining to a dispute resolved in favor of FBPC, we propose to revise the provision and maintain that payments be paid in full whenever due and payable.</p>	<p>The TPBAC maintains the provision of the PSA as agreed with the DU.</p>
	<p>In Article 4.11, page 8, since any positive difference in the line rental shall be for the account of Supplier, does the Supplier also get to absorb any negative difference in the line rental?</p>	<p>Yes, the SUPPLIER takes any positive or negative difference in the LR. FBPC will pay whatever amount in due for line rental if power was delivered from the SUPPLIER trading node.</p>
	<p>Considering the approved changes for the definition of Maximum Contract Energy, will FBPC consider revising the definition and formula for the computation of the Security Deposit?</p>	<p>Yes.</p>

This Bid Bulletin No. 006, series of 2020 shall form part of the Bidding Documents. Any terms, conditions and provisions in the Bidding Documents inconsistent with this Bid Bulletin are hereby amended, modified and superseded accordingly.

Issued this 28th day of August 2020 at Bauan, Batangas.

(sgd.)

ATTY. VICTOR TANTOCO

Chairman

FBPC Third-Party Bids and Awards Committee