

ANNEX B: BONDS

B.1 Bid Bond

The Bid Bond is a guarantee to prevent the Bidders from withdrawing their bids prior to the end of their bid validity period or refusing to sign the GEA Affidavit of Undertaking.

B.1.1. The Qualified Bidders participating in the GEA shall post a Bid Bond in the form of Cash, Manager's Checks or Irrevocable Letters of Credit with drawing certificate or bank guarantees (as attached herein) as follows:

- a) Manager's Checks should be made payable to the Department of Energy;
- b) For bank draft/guarantee, the Bidder may use the standard format of the issuing Bank, provided that the "Green Energy Auction" and Project Name are indicated therein;
- c) Irrevocable Letter of Credit may be secured through a local or international commercial bank with branches in the Philippines;
- d) For the avoidance of doubt, the Qualified Bidder shall post a Bid Bond on a per RE Facility/project/phase/unit basis.

B.1.2. The Bid Bond shall be drawn in any of the following circumstances:

- a) If the Bidder withdraws its Bid during the period of bid validity specified by the Bidder in the Bid Form; or
- b) If the Bidder, having been notified of the acceptance of its Bid by the GEAC during the period of bid validity:
 - i. Fails or refuses to sign and submit the Affidavit of Undertaking as specified in Section 9.8 of the GEAP Guidelines and Annex D of the TOR;
 - ii. Fails or refuses to submit the Performance Bond within the prescribed timeline; or

B.1.3. The additional period granted to the Winning Bidder to comply with the Post Auction Requirements in cases of Force Majeure or Fortuitous Events provided under Section 11.4 of the GEA-3 TOR shall be covered by a Bid Bond, unless the Winning Bidder posts a Performance Bond.

- B.1.4. In exceptional circumstances, the GEAC may request that the Qualified Bidders extend the period of Bid Bond validity for an additional period which shall be specified in the request. Such request and the Qualified Bidders' responses shall be made in writing or by email.
- B.1.5. A Qualified Bidder may refuse the request without forfeiting its Bid Bond. The bid securities of a Qualified Bidders that does not extend the validity of its bid bonds will have its securities returned to it. However, it is deemed to have waived its right to (a) further participate in the auction, and/or (b) to have its bid/price offer considered.
- B.1.6. A Qualified Bidder acceding to the request will not be required or permitted to modify its bid/price offer.
- B.1.7. Except as provided under B.1.3 and B.1.4 herein, the Bid Bonds of a Winning Bidder, in Cash or Manager's Check, shall be returned upon the expiration of validity of the Bid Bond as extended under Section 5.1.2 of the TOR: Provided, That if a Winning Bidder furnishes the Performance Bond whose validity commences prior to the last day of the two (2) month-period mentioned in Sections 5.1.2 and 9.1 of the TOR, the Bid Bond shall be returned on the date of effectivity of the Performance Bond so posted.
- B.1.8. Upon request of a losing bidder, the Bid Bond, in Cash or Manager's Check, may be returned immediately after the declaration of the Winning Bidders. However, such losing bidder is deemed to have waived its right to be considered, should it be next in line in the ranking of bids after a Winning Bidder is disqualified in accordance with Section 9.3 of the TOR.
- B.1.9. Any bid/price offer shall be automatically disqualified if the Bidder thereof does not submit an acceptable physical copy of the Bid Bond within the period prescribed in Section 5.1.1 of the TOR.
- B.1.10. Bid Bond Calculation
- a) FIT-Eligible RE Technology. The Bid Bond shall be at the rate of PhP1,000,000.00 per MW. If the offered capacity is one (1) MW and below, the Bid Bond shall be fixed at PhP1,000,000.00.

- b) Non-FIT-Eligible RE Technologies. The Bid Bond shall be at the rate of PhP300,000.00 per MW. If the offered capacity is one (1) MW and below, the Bid Bond shall be fixed at PhP300,000.00.

B.2 Performance bonds

The Performance Bond shall guarantee the Winning Bidder's faithful performance of its obligations under the GEAP Guidelines and related agreements.

B.2.1. The Winning Bidder shall post a Performance Bond within two (2) months from the issuance/posting of the Notice of Award in any of the forms enumerated below:

- a) Cash or Manager's Checks issued by a local or international commercial bank with branches in the Philippines;
- b) Irrevocable Letter of Credit issued by a local or international commercial bank with branches in the Philippines; or

B.2.2. The Performance Bond shall be valid for one (1) year and must be renewed annually and submitted to the GEAC at least sixty (60) calendar days prior to its expiry consistent with Section 9.4.1.2 of the TOR, until such time that the Winning Bidder has achieved commercial operation consistent with Section 9.4.3 hereof.

B.2.3. Existing RE Facilities/Plants that are already under commercial operations or has achieved Commercial Operation Date (COD) shall still be required to post a Performance Bond to ensure that on the Committed Delivery Date, the Winning Bidder shall comply with its obligations under the GEAP.

B.2.4. The RE Facility of the Winning Bidder shall be covered by a Performance Bond until at least sixty (60) calendar days after the committed supply Delivery Commencement Date.

B.2.5. The Performance Bond shall be returned to the Winning Bidder upon issuance of COE-GET / COE-Non-FIT GET, which shall be issued after the DOE's validation of actual supply Delivery Commencement Date.

B.2.6. Performance Bond Calculation

- a) For Cash or Manager's Check, the total amount of the Performance Bond shall cover five percent (5%) of the project cost per MW multiplied by the offered capacity in MW, but in no case shall the Performance Bond be less than PhP5,000,000.00 for a bid of less than 1MW.
- b) For Irrevocable Letter of Credit, the total amount of the Performance Bond shall cover five percent (5%) of the project cost per MW multiplied by the offered capacity in MW, but in no case shall the Performance Bond be less than PhP5,000,000.00 for a bid of less than 1MW.
- d) The Project Cost to be used in the computation of the Performance Bond shall be issued through a Bid Bulletin.