

SUPPLEMENTAL/BID BULLETIN NO. 2
COMPETITIVE SELECTION PROCESS
DAVAO LIGHT AND POWER COMPANY
2ND ROUND

MATTERS ARISING FROM THE PRE-BID CONFERENCE

This Supplemental/Bid Bulletin is being issued to address the matters arising from the Pre-Bid Conference last October 26, 2021. The following will be made an integral part of the Bid Documents.

Item	Bid Document & Section	Amendment/Instruction
AMENDMENT		
1	Bid Security	<p>Bid Security validity is revised to:</p> <p><i>PhP150,000,000.00, in cash or Standby-Letter of Credit* and valid until (or to be returned upon) the submission of a Performance Security which complies with the provisions of the Power Supply Agreement or December 25, 2021.</i></p>
2	Bid Procedures	<p>Winning Bidder shall forfeit the Bid Security instead of the Performance Security due to non-performance of the conditions in items "o" and "p". The items will as:</p> <p><i>o. In the event that the Winning Bidder fails to submit the hard copies on the set deadline, the Bid Security shall be forfeited in favor of Davao Light and Power Company and shall result in the disqualification of the Bidder. Furthermore, the TPBAC in the presence of the bidders and observers shall move to verify the accuracy, authenticity and completeness of all documents submitted by the non-winning Bidder/s that were able to faithfully comply with the requirements of procedures "j", "k" and "l" and have submitted the accurate, authentic and complete hard copy submission as the Winning Bidder. The TPBAC shall declare the second lowest priced non-winning Bidder that faithfully complied with the requirements of procedures "j", "k" and "l" as the Winning Bidder.</i></p> <p><i>p. For any deficiency or defects in hard copy submission, Davao Light will give the Winning Bidder as referred to in procedure "o" fifteen (15) days to cure the deficiency or defects otherwise, the Bid Security shall be forfeited in favor of Davao Light and Power Company and shall result in the disqualification of the Bidder.</i></p>
3	PSA	

	Article 5.2.2 Commencement date	<p>Davao Light's option in Article 5.2.2 is moved to May 25, 2022.</p> <p><i>5.2.2 In the event that any condition required under Article 5.2.1 is not satisfied by May 25, 2022, the Customer may, at its sole option, elect to take any of the following remedies:</i></p>
4	PSA Article 5.2.3 Commencement date	<p>Clarified the Scheduled Commencement Date.</p> <p><i>5.2.3 In the event that the condition required under Article 5.2.1(b) is not satisfied by February 26, 2022 (the "Scheduled Commencement Date"), the Customer may, at its sole option, set the Commencement Date and the Supplier shall be deemed bound thereby. Any supply of the Contract Capacity and the Associated Energy shall be paid to the Supplier at the prevailing NPC-TOU rates or the price set out in Schedule 7.1 of this Agreement, whichever is lower, for the period from the Commencement Date until the receipt of both parties of the ERC Final or Provisional Approval.</i></p>
5	PSA Article 5.3 Performance Security	<p>Period to replenish or replace the Performance Security is extended to five days instead of three.</p> <p><i>5.3.3 The Performance Security shall stand as security for the faithful and proper compliance by the Supplier of its obligations under this Agreement and shall be procured and maintained by the Supplier at the Security Amount during the Contract Period. If any amounts are drawn from the Performance Security by the Customer in accordance with this Agreement, the Supplier shall, on or before the date that is five (5) Days after such drawing, either (i) deliver an additional irrevocable stand-by letter of credit in an amount equivalent to the amount drawn by the Customer, to replenish the amount of the Performance Security to the Security Amount; or (ii) submit an amended Performance Security covering the required Security Amount.</i></p>
6	PSA Article 7 Supply of Capacity and Energy	<p>Deleted the reference to the section as Contract Price is added in the Definition.</p> <p><i>The Supplier shall make Contract Capacity available and Deliver Associated Energy to the Customer from the Commencement Date until the end of the Contract Period, at the Delivery Point specified in item 3 of Schedule 3 (Conditions), and at the Contract Price specified in Schedule 7.1 (Rates Schedule); provided, that the Supplier may (subject to Customer's right to procure Replacement Power pursuant to Articles 7.9 and 7.10 of this Agreement) Deliver Replacement Power to the Customer from other sources (including the WESM) at the Contract Price, and any such Replacement Power shall be deemed Delivered from the Plant. Under no circumstance shall this provision be construed as preventing or inhibiting the Customer from procuring power directly from the WESM.</i></p>
7	PSA	Article 9.1.1 now includes a provision for communicating

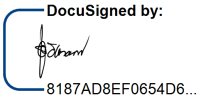
	Article 9.1.1 Billing and Payment of Fees	<p>Billing Statement through email.</p> <p><i>9.1.1 The Supplier shall deliver to the Customer an itemized Billing Statement setting out the Contract Price due on account of the Contract Capacity made available and the Associated Energy (or Replacement Power, as the case may be) Delivered during each Billing Period on or before the fifth (5th) Day of the Payment Month. The hourly energy levels that will be used for purposes of the Billing Statement will be based on the levels of Associated Energy (or Replacement Power, as the case may be) Delivered by the Supplier in accordance with Schedule 7.3 (Nomination Procedure). As may be agreed upon by the Parties, the Supplier may send the Billing Statement electronically through the Customer's designated e-mail addresses, provided, that, the Billing Statement shall be deemed received only upon the email acknowledgment thereof by the Customer or its authorized representative.</i></p>
8	PSA Schedule 1.1 Definitions	<p>Definitions in Schedule 1.1 were either added or supplemented.</p> <p><i>"Contract Price" refers to the price to be paid by the Customer to the Supplier for the purchase of Contract Capacity and Associated Energy during a Billing Period as specified in Schedule 7.1 (Rates Schedule), or the Time of Use Rates upon the exercise of Customer of its options under Article 5.2.2 and 5.2.3, subject to any modification resulting from the implementation of the ERC Provisional Approval and ERC Final Approval.</i></p> <p><i>"ERC Final Approval" means the final approval of the ERC of all the terms and conditions of this Agreement, including the pricing structure as set out herein (or as otherwise acceptable to the Customer), and the orders approving this Agreement and such pricing structure shall have become final and not subject to reconsideration or appeal.</i></p> <p><i>"ERC Provisional Approval" means the approval by the ERC of the terms and conditions of this Agreement, including the pricing structure as set out herein, which shall apply provisionally or in the interim, until the ERC Final Approval has become effective.</i></p> <p><i>"Monthly Interconnection Recovery Fee" has the meaning given to that term in Schedule 7.1 (Rates Schedule), if applicable.</i></p>
9	PSA Schedule 3 Conditions Item 1 Contract Period (Article 4.1)	<p>Inclusion of a notice period in relation to the option to terminate in the fifth year.</p> <p><i>From the date of this Agreement until ten (10) years after the Commencement Date, unless otherwise terminated by the Customer under conditions described herein, or unless otherwise earlier terminated in accordance with the provisions of this Agreement. The Customer may terminate effective at the end of the fifth (5th) Contract Year, without</i></p>

		<p>any liability to the Supplier, including with respect to the termination penalty, by sending the Supplier a notice to terminate this Agreement at least three (3) months prior to the end of the fifth (5th) Contract Year.</p>
INSTRUCTION		
1	Bid Documents Minimum Supply Requirements and Annex "8"	<p>In lieu of the clarifications raised on the Annual Energy and Renewable Certificate requirements, the Bidders are instructed to submit the historical annual energy output of each nominated plant as part of the Second E-Bid Submission. In consideration of the foregoing, "item v" is added under Annex "8", 2. Second E-Bid Submission, d. Technical Specification.</p> <p>v. Historical net output of each nominated plant in MWh for 2019 and 2020.</p>
2	Bid Document Annex "3" - Bid Security	<p>List of preferred banks for the Irrevocable Standby Letter of Credit :</p> <p>FOREIGN ISSUING BANKS</p> <p>AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED, MANILA BRANCH (ANZ) CTBC BANK (PHILIPPINES) CORP. (FORMERLY CHINATRUST) DEUTSCHE BANK AG, MANILA BRANCH ING BANK N.V. MANILA BRANCH (ING) MIZUHO BANK, LTD. MANILA BRANCH MUFG BANK LTD (FORMERLY BANK OF TOKYO MITSUBISHI – MITSUBISHI UFJ, LTD. MANILA (BTMU) STANDARD CHARTERED BANK (SCB) THE HONGKONG AND SHANGHAI BANKING CORPORATION (HSBC)</p> <p>LOCAL ISSUING BANKS</p> <p>BDO UNIBANK INC (BDO) BANK OF THE PHILIPPINE ISLANDS (BPI) CHINA BANKING CORPORATION (CBC) DEVELOPMENT BANK OF THE PHILIPPINES (DBP) LANDBANK OF THE PHILIPPINES (LBP) METROPOLITAN BANK AND TRUST COMPANY (MBTC) PHILIPPINE NATIONAL BANK (PNB) RIZAL COMMERCIAL BANKING CORPORATION (RCBC) SECURITY BANK CORPORATION (SBC) UNION BANK OF THE PHILIPPINES (UBP)</p> <p>For Manager's Check, Bidders may deposit the amount in the amount in the account below:</p> <p>Bank: Union Bank of the Philippines (UBP) Account Name: Davao Light and Power Co., Inc. Account number.: 00-016-001622-8 Branch of account: Davao Rizal Bank Address: Rizal St G/F Quibod Commercial Complex, Davao City, 8000 Swift Code UBPHPHMM</p> <p>Davao Light and Power Company will only accept cash, SBLC and Managers check for the Bid Security and Performance Security.</p> <p>Effectivity of the SBLC should not be later than the date of Bid Submission of November 17, 2021.</p>

3	Bid Documents Annex "8" - Bids	Each page needs a signature or initial by the authorized representative.
4	Bid Documents Annex "8" - Bids	Bidders are required to submit a Secretary Certificate designating or authorizing a representative to certify documents needing certification in Annex "8"
5	Bid Documents Annex "8" Bid	Bidders are required to submit the Secretary Certificate from the holder of the COC authorizing the Bidder to sell its capacity or energy.
6	Bid Documents Annex "8" Bid	Bidders with a portfolio of plants or that has authority to include a non-affiliate plant in its Bid, are required to submit the Corporate Profile of the Bidder and Technical Specifications under Annex "8" of the Bid Documents for each of the plants that will be nominated in the Bid.

Please be guided accordingly.

**THIRD PARTY BIDS AND AWARDS COMMITTEE
DAVAO LIGHT AND POWER COMPANY**

By: 
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ORVILLE LAZARO
Chairman, TPBAC

October 29, 2021

ANNEX "a"

Economic Indices for LCOE Computation

	March 2020	2021	2022	2023	2024	2025
Philippine CPI	122.3	130.74	134.17	137.45	140.50	141.48
US CPI	258.12	264.17	269.87	276.42	283.21	298.49
Peso to Dollar Forex	50.9	50.6	51.5	52.7	53.4	53.37
Coal \$/MT	66.66	144.80	124.68	95.80	95.31	95.28
Interest Rate	3%	3%	3%	3%	3%	3%

	2026	2027	2028	2029	2030	2031
Philippine CPI	148.34	148.52	151.95	155.46	159.05	162.72
US CPI	297.54	304.71	311.56	318.57	325.73	333.06
Peso to Dollar Forex	53.40	53.43	53.46	53.50	53.53	53.56
Coal \$/MT	86.05	85.00	85.00	85.00	85.00	85.00
Interest Rate	3%	3%	3%	3%	3%	3%

DAVAO LIGHT AND POWER COMPANY
COMPETITIVE SELECTION PROCESS
BID DOCUMENTS

TERMS OF REFERENCE
(For the Second Round of Competitive Selection Process)

		Description	
1	Bid Subject	<p>This Terms of Reference (“TOR”) shall cover the bidding for the Power Supply Agreement (“PSA”) on the supply of up to 55MW within the franchise area (the “Franchise Area”) of Davao Light and Power Company (“davao light”) for its compliance to the Renewable Portfolio Standard requirement.</p> <p>The template PSA is attached as Annex “1” hereof.</p>	
2	Bidding Summary	<p>The bid shall cover the power supply obligation for and within the franchise area of davao light in accordance with the terms of the Invitation to Submit Proposal, as provided under Section 5 and attached as Annex “2” hereof (the “Bid”).</p> <p>The winning bidder will enter into a PSA with davao light. The quantity to be contracted is 55MW of power or a maximum energy of 300,000 MWh per annum and minimum energy of 200,000 MWh per annum to be supplied for a period of ten (10) years from the Commencement Date.</p>	
3	Bid Processing Fee Bid Security	<p>Php100,000.00 (Non-refundable)</p> <p>Php150,000,000.00, in cash or Standby-Letter of Credit* and valid until (or to be returned upon) the submission of a Performance Security which complies with the provisions of the Power Supply Agreement or December 25, 2021.</p> <p><i>*In form and substance as prescribed in Annex “3” hereof.</i></p>	
4	Minimum Requirements of Supply	Required Capacity	55 MW
		Annual Maximum Energy	equivalent energy of 300,000 MWh per annum net of forced and unforced outages
		Annual Minimum Energy	equivalent energy of 200,000 MWh per annum net of forced and unforced outages
		Supply Description	<p>75% of the supply must come from an Eligible RE Facility or Facilities as defined by the Renewable Energy Act of 2008. Hence, at least 75% of the Energy from the PSA shall have Renewable Energy Certificates.</p> <p>Has the capability to provide power during peak and off-peak</p> <p>May come from a single or portfolio of plants</p>

Start of Supply	February 26, 2022 subject to the approval of the Energy Regulatory Commission
Term of Power Supply Agreement	Ten (10) years with option of davao light to terminate on the 5th year without termination penalty
Receiving Point	Davao light Metering Point/s
Connection Scheme	Bidders must submit a diagram of its connection to the Transmission Grid or Distribution System which will form part of the overall evaluation.
Payment Currency	Philippine Peso
Tariff Structure	<p>Supply offers must have an attached Renewable Energy Certificate of at least 75% of the total contracted energy.</p> <p>Supplier to indicate all applicable indexes as of March 2020, when applicable.</p> <p>Tariffs will be evaluated at the receiving point/s of davao light or at delivered cost.</p> <p>An offer with Prompt Payment Discount is an advantage.</p>
Taxes	Bidder to indicate applicable taxes
Price Cap	Davao light shall set a price ceiling which will be disclosed before opening the Second Bid E-Submission. Price Cap will be on the Tariff before deducting the Prompt Payment Discount.
Penalty for Delay in Start of Supply	Winning Bidder shall shoulder the replacement cost in excess of the winning bid price in the event that the winning Bidder fails to supply power on the date of the Start of Supply. Further, in the event that davao light will experience outages due to the failure of winning Bidder to supply energy, davao light will be reimbursed by an amount equivalent to the shortage in kWh multiplied by 1.50 P/kWh.
Other terms and conditions	As set out in the PSA

The Third Party Bids and Awards Committee (“TPBAC”) of Davao Light shall publish the attached Invitation to Submit Proposal for the Supply of Power to Davao Light and Power Company (“ITSP”), attached as Annex “2” hereof, in a newspaper of general circulation. The publication of the ITSP shall be once weekly for two (2) consecutive weeks.

To acquire the Bid Documents and qualify to bid, an interested bidder (the “**Prospective Bidder**”) must comply and submit the following requirements:

- (i) duly notarized Secretary’s Certificate authorizing participation in the Bid ;
- (ii) duly notarized expression of interest to participate in the Bid in accordance with the terms set out in the ITSP;
- (iii) duly notarized Non-Disclosure Undertaking in the form prescribed by the TPBAC signed on every page by the duly authorized representative; and
- (iv) pay the non-refundable Bid Processing Fee (collectively, the “**Eligibility Requirements**”) on or before October 19, 2021.

Only Prospective Bidders that are declared by the TPBAC as compliant with the Eligibility Requirements (“**Qualified Bidders**”) shall be qualified to participate in the Bid, including to receive the Bid Documents, and submit comments or questions on the Bid.

**In form and substance as prescribed in Annex “6” hereof.*

***In form and substance as prescribed in Annex “7” hereof.*

				Venue/ Submission/ Notification Method	Date
6	Bidding Schedule	1a	First Publication of ITSP Posting in Davao Light and DOE websites of ITSP Dissemination of ITSP to generators Invitation to Competitive Selection Process Observers (“ CSP Observers ”)		October 6, 2021
		1b	Second Publication of ITSP		October 13, 2021
		2	Deadline for Compliance with Eligibility Requirements (“Pre-Qualification Deadline”)	Email	12:00 p.m. of October 21, 2021
		3	Availability of Bid Documents	Email/ PDF Copy	October 6 to 21, 2021

		4	Deadline for Submission of Comments and Questions on the Bid	Email/ Prescribed Form	12:00 p.m. of October 22, 2021
		5	Pre-bid Conference	Virtual	October 26, 2021 from 9:00 a.m. to 5:00 p.m.
		6	Issuance of Bid Bulletin/s, if required	Email	October 26 to 29, 2021
		7	Deadline for Submission of Bids (“Bid Submission Deadline”) Opening of Bids	Email/PDF Copy with password unless otherwise specified in Annex “8”	9:00 a.m. of November 17, 2021
		8	Opening of Bids Evaluation of Bids Provisional Declaration of Winning Bidder (subject to Post Qualification)	Virtual	9:00 a.m. of November 17, 2021
		9	Deadline for Submission of original documents from the Winning Bidder for both Pre-Eligibility Document and Bid Submission	Hard Copy	12:00 p.m of November 24, 2021
		10	Post Qualification (validation of hard copies submitted by the Winning Bidder) *a curing period of 15days shall be provided for deficiency or defects in the submission of hard copies	Virtual with authorized Representative from the Bidder to be Physically present in the venue	1.30 p.m of November 24, 2021
		11	Issuance of Notice of Award	Email	November 24, 2021
		12	Signing of PSA		December 1, 2021
		13	Filing with ERC		December 8, 2021
		14	Start of Supply		February 26, 2022
7	Venue /Time	Unless otherwise expressly specified in writing, all requests and submissions of CSP documents shall be addressed to the TPBAC Chairman and communicated through the CSP Secretariat at dlpc.csp.secretariat@aboitiz.com . Only the			

		<p>authorized representative/s of the Prospective Bidder are allowed to ask queries or submit documents through electronic mail.</p> <p>Unless otherwise expressly specified in writing, all references to times and dates shall refer to Philippine Standard Time.</p>
8	Submissions	<p><u>A. Eligibility Requirements</u></p> <p>1. Prospective Bidders shall submit the following:</p> <ol style="list-style-type: none"> a. Duly notarized Secretary’s Certificate authorizing participation in the Bid b. Duly notarized expression of interest to participate in the Bid c. Duly notarized non-disclosure undertaking in the form prescribed by the TPBAC signed on every page by the duly authorized representative; <p>2. Payment of non-refundable bid processing fee of PhP100,000.00</p> <p><u>B. Submission of Bids by Qualified Bidders</u></p> <p>Procedure and Requirement are detailed in Annex “8”</p>
9	Bid Procedures	<ol style="list-style-type: none"> a. Prospective Bidders shall submit the Eligibility Requirements through the CSP Secretariat through email at dlpc.csp.secretariat@aboitiz.com on or before the Pre-Qualification Deadline. b. Invitation to witness the Pre-Qualification, Pre-bid Conference, Opening of Bids, Evaluation of Bids and Post Qualification shall be extended to the Prospective Bidders and Bid Observers. <p>The TPBAC Guidelines for the Conduct of Virtual CSP will be provided to the Prospective Bidders.</p> <ol style="list-style-type: none"> c. The Secretariat shall evaluate the timeliness, completeness and conformity of the submitted Eligibility Requirements as they are received from the Prospective Bidders. A Complete and Incomplete criterion will be used on whether the Prospective Bidders meets the Eligibility Requirements. Prospective Bidders with Eligibility Requirements submissions that are marked as Incomplete shall be given the opportunity to rectify their submission but not later than the Pre-Qualification Deadline. Eligibility Requirements received after the Pre-Qualification Deadline shall not be evaluated and the Prospective Bidder deemed disqualified to participate in the Bid. Only Prospective Bidders that have complied with the Eligibility Requirements shall be allowed to participate in the Bid. d. The Secretariat shall inform the TPBAC of the number of Prospective Bidders that have complied with the Eligibility Requirements and were given a copy of the Bid Documents.

- e. The TPBAC shall provide the Bid Documents to the Qualified Bidders which may submit comments or questions regarding the Bid or the Bid Documents. Qualified Bidders will be provided with a format which they will use in submitting comments or questions.
- f. The TPBAC shall hold the Pre-Bid Conference and shall be open to Qualified Bidders and CSP Observers. Where reasonably necessary as determined by the TPBAC, it shall issue clarifications or amendments to the Bid Documents by way of bid bulletins which shall be provided to the Qualified Bidders.
- g. On or before the Bid Submission Deadline, the Qualified Bidders may submit their bids by way of the Bid Submissions set out in item 8 of this TOR.
- h. On the date for the Opening of the Bids, the TPBAC shall first identify the Bids that were submitted on time before the Bid Submissions are opened. Bids submitted after the 9:00 a.m of November 17, 2021 shall not be opened. The TPBAC shall proceed to open each Bid Submission, one at a time, in the order of first to last received
- i. In opening each Bid Submission, the TPBAC shall conduct a brief inventory of the contents of the same. The Bid Submissions shall be opened upon the instruction of the TPBAC. Opening of the E-Bid Submissions will be shown in the virtual meeting and the results shown on the screen.
- j. Submission with email subject First Bid E-Submission shall be opened first. A PASS and FAIL criterion will be used on whether the Bid meets the Eligibility Requirements for completeness and conformity. A FAIL mark will disqualify a Bidder and its Second Bid E-Submission shall not be opened.
- k. The TPBAC shall then proceed with the opening and evaluation of the Second Bid E-Submissions. Items (d) "Technical Specifications" & (e) "Terms of the proposed supply" of the Second Bid E-Submissions shall be evaluated on a PASS or FAIL criterion. Only Bid Submissions marked "PASS" on items (d) and (e) of the Second Bid E-Submission the Minimum Requirements for Supply shall be evaluated.
- l. The TPBAC shall then proceed with the evaluation of items (f) - "Proposed Tariff and Basis of Proposed Tariff" and (g) - "Discount/s offer and scheme of

		<p>availment.” The TPBAC shall follow the procedure outlined in Annex “10” hereof to evaluate items (f) and (g) of the Second Bid E-Submission.</p> <p>m. Based on the evaluation, the winning bidder (the “Winning Bidder”) shall be declared provisionally by the TPBAC subject to Post-Qualification.</p> <p>n. The TPBAC shall convene for the verification of the accuracy, authenticity and completeness of all documents submitted in the bid. To facilitate the TPBAC verification, the Winning Bidder and non-winning Bidder/s that were able to faithfully comply with the requirements of procedures “j”, “k” and “l” shall submit the original copies of all Electronic Submissions on or before 12:00 p.m. (noon) of the Post-Qualification date. The winning Bidder shall confirm the attendance of an authorized representative during the Post-Qualification Evaluation. The TPBAC shall serve, personally, by registered mail or electronically, a written notice (“Notice of Award”) to the bidder of its selection as the Winning Bidder within two (2) days after the Post-Qualification date.</p> <p>o. In the event that the Winning Bidder fails to submit the hard copies on the set deadline, the Bid Security shall be forfeited in favor of Davao Light and Power Company and shall result in the disqualification of the Bidder. Furthermore, the TPBAC in the presence of the bidders and observers shall move to verify the accuracy, authenticity and completeness of all documents submitted by the non-winning Bidder/s that were able to faithfully comply with the requirements of procedures “j”, “k” and “l” and have submitted the accurate, authentic and complete hard copy submission as the Winning Bidder. The TPBAC shall declare the second lowest priced non-winning Bidder that faithfully complied with the requirements of procedures “j”, “k” and “l” as the Winning Bidder.</p> <p>p. For any deficiency or defects in hard copy submission, Davao Light will give the Winning Bidder as referred to in procedure “o” fifteen (15) days to cure the deficiency or defects otherwise, the Bid Security shall be forfeited in favor of Davao Light and Power Company and shall result in the disqualification of the Bidder.</p>
10	Power Supply Agreement	<p>Davao light and the Winning Bidder shall then proceed to sign the PSA within five (5) days from issuance of the Notice of Award. The PSA shall be in the form attached hereto as Annex “1.” Notwithstanding the issuance of the Notice of Award, the effectivity of the same shall be subject to the following conditions:</p> <p>a. signing of the PSA; and</p>

		<p>b. approval of the ERC.</p> <p>c. the issuance of the relevant permits, licenses and government authorities, as may be applicable.</p>
11	Failed Bid and Direct Negotiations	<p>For a bidding to be successful, the TPBAC must receive at least two (2) proposals that conform to the Eligibility Requirements, Minimum Requirements of Supply under this TOR and are from entities with whom davao light is not prohibited from entering into the PSA. If (1) no proposal was received by the DU; (2) Only one GenCo submitted an offer; or (3) competitive offers of prospective GenCos failed to meet the requirements prescribed in the bid documents,, the bidding is declared a failed bidding.</p> <p>In the event of a failed bidding, considering that this is already the second round, davao light may then conduct direct negotiations with a party for the execution of a power supply agreement pursuant to Section 9.1 of DOE's Department Circular No. DC2018-02-0003.</p>
12	Effectivity of the PSA	The effectivity of the PSA shall be in accordance with the terms of the same, subject to the approval of the ERC
13	General Conditions	<ol style="list-style-type: none"> 1. Neither the TPBAC, the TPBAC Technical Working Group (TWG), the TPBAC Secretariat, nor its advisors or consultants assumes any responsibility for interpretations or conclusions drawn by any party from data furnished by the TPBAC, or any of its advisors or consultants, of davao light's investors, or for the accuracy or completeness of data furnished by the TPBAC or any of its advisors or consultants. 2. Before making any Bid Submission, Prospective Bidders shall be deemed to have become familiar with and must at all times comply with Philippine Law. 3. All risks, taxes, costs, fees and expenses incurred, directly or indirectly, by a party in the preparation of its bid, including fees and disbursements of its own advisors, if any, shall be borne and paid by such party whether its bid is accepted or rejected for any reason. 4. The TPBAC or any of its advisors or consultants shall not be held liable for such risks, taxes, costs, fees, expenses and liabilities. Neither the TPBAC nor any of its advisors or consultants shall be held liable in the event that a court of competent jurisdiction or other governmental authority declares the bidding, selection and/or award invalid or sets it aside, for any reason whatsoever at any future date. 5. The TPBAC or any of its advisors or consultants, at their own discretion, reserves the right to: (i) accept or reject any or all bids or any part thereof; (ii) withdraw from the proposed transaction or any part of the bidding process or to vary any of its or their terms at any time without giving any

		<p>reason therefore; (iii) waive any defect contained therein; (iv) conduct verification or request clarifications thereon; or (v) exercise any other remedy granted by Philippine Law or the bidding procedures.</p> <p>6. In the event that the TPBAC exercises its right to withdraw from the proposed transaction or the Bid after the announcement of the Winning Bidder, the Bid Processing Fee of PhP100,000.00 shall be returned to the respective Bidders. The Winning Bidder acknowledges that, if the TPBAC or davao light withdraws from the proposed transaction or the Bid, the sole remedy of the Winning Bidder against the TPBAC or davao light shall be the refund of the Bid Processing Fee.</p> <p>7. The TPBAC reserves the right to add to, modify, supplement or change the bidding, including the Bidding Schedule, at any time, for any reason whatsoever, without prior notice. The changes in bidding or schedule shall be done through issuance of Supplemental Bid Bulletin.</p>
	Language	The official language to be used in the bidding, bidding procedures and the Final Transaction Document, reports, communications, and correspondence between the parties, as well as all orders, procedures, work instructions, and safety notices shall be English.
15	Governing Law	The bid, bidding procedures, TOR and the PSA shall be governed by and construed in accordance with Philippine Law.
16	Venue	In the event of litigation arising out of or in connection with the bidding, the bidding procedures and the PSA, the venue of the action shall exclusively be in the proper courts of Davao City, to the exclusion of all other courts elsewhere situated, unless the action falls within the jurisdiction of the ERC.
17	Confidentiality	<p>Each bidder agrees that it shall, at all times, keep in strict confidence and shall not disclose to any party any and all Confidential Information (as hereinafter defined) which the bidder may acquire by reason of the bidding, the bidding procedures and the PSA, except information (i) to the extent that at the time of disclosure is already in the public domain, or (ii) to the extent that such information subsequently comes into the public domain other than by reason of breach of this provision, or (iii) is required to be disclosed by law, regulation, legal process or other statutory or regulatory requirements in any relevant jurisdiction.</p> <p>The bidder shall indemnify davao light or its customers, subsidiaries, affiliates, directors, officers, employees or any third person for any damage resulting from the disclosure or consequent unauthorized use of any Confidential Information.</p> <p>“Confidential Information” means any and all information relating to the bid, businesses, operations, financial transactions, procedures or other practices of davao light and those of its customers, subsidiaries, affiliates, directors, officers or employees, which includes, but is not limited to, discoveries, ideas, concepts,</p>

		<p>software in various stages of development, designs, drawings, specifications, techniques, models, data, source code, object code, documentation, diagrams, flow charts, research, development, processes, procedures, “know-how”, strategic, tactical and negotiating information, proposed projects, any proprietary information, proposed contracts, their respective terms and conditions and any negotiations, arrangements or matters relating thereto, information supporting litigation or administrative proceedings, computational methodologies and decisional analysis, client lists and databases, any and all business, technical, marketing, operational, organizational, financial or other information, including information which davao light obtains from another party and which it treats as proprietary or confidential, whether in electronic, oral or written form, and all notes, analyses, compilations, studies or other documents which contain or reflect such information.</p>
19	Procedure for Protest	<p>Any decision of the TPBAC at any stage of the bid may be questioned by the filing of a written request for reconsideration and sent to the Secretariat Email address within three (3) days upon receipt of written notice or verbal notification. The TPBAC shall decide on the request for reconsideration within seven (7) days from receipt thereof.</p> <p>If the request for reconsideration is not resolved within the said period, such request for reconsideration shall be deemed denied. In the event that the request for reconsideration is denied, the decision of the TPBAC may be protested in writing to Mr. Rodger S. Velasco, Chief Operating Officer and officer duly authorized by the Board of Directors of Davao Light, pursuant to Section 13.1 of DOE’s Department Circular No. DC2018-02-0003. The protest shall be filed within seven (7) days from receipt of the resolution of the TPBAC denying the request for reconsideration. It shall be made by filing a verified position paper, accompanied by the payment of a non-refundable protest fee of Five Hundred Thousand Pesos (PhP 500,000.00). The verified position paper shall contain the following information: (a) name of bidder, (b) address, (c) name of project, (d) brief statement of facts, (e) issue to be resolved, (f) arguments and supporting evidence, if any, and (g) such other matters and information pertinent to the proper resolution of the protest.</p> <p>The protest shall be resolved within seven (7) days from receipt thereof. The decision of the COO shall be final.</p>

Annex "1"
Power Supply Agreement

Annex “2”
Invitation to Submit Proposal
for the Supply of Power to Davao Light and Power Company
2nd Round

1. Bid Information

Davao Light and Power Company (“**davao light**”) is a duly franchised distribution utility engaged in the distribution of electricity within its franchise area covering Davao City, areas of Panabo City, and the municipalities of Carmen, Dujali, and Santo Tomas in Davao del Norte. Davao light is in need of the supply of electricity for its power requirements to meet the demand of its captive customers.

Davao light is in need of a qualified supplier that can supply 55MW of power to commence on February 26, 2022, which date for the start of supply shall be subject to the approval of the Energy Regulatory Commission.

1. Minimum Requirement of Supply

Davao light, through its Third Party Bids and Awards Committee (“**TPBAC**”), is inviting proposals with the following Minimum Requirements of Supply (“**Bid**”):

1	<p>Required Capacity</p> <p>Annual Maximum Energy</p> <p>Annual Minimum Energy</p>	<p>55 MW</p> <p>equivalent energy of 300,000 MWh per annum net of forced and unforced outages</p> <p>equivalent energy of 200,000 MWh per annum net of forced and unforced outages</p>
2	Supply Description	<p>75% of the supply must come from an Eligible RE Facility or Facilities as defined by the Renewable Energy Act of 2008. Hence, at least 75% of the Energy from the PSA shall have Renewable Energy Certificates.</p> <p>Has the capability to provide power during peak and off-peak</p> <p>May come from a single or portfolio of plants</p>
3	Start of Supply	February 26, 2022 subject to the approval of the Energy Regulatory Commission
4	Term of Power Supply Agreement	Ten (10) years with option to terminate on the 5th year by davao light without termination penalty

5	Receiving Point	Davao light Metering Point/s
6	Connection Scheme	Bidders must submit a diagram of its connection to the Transmission Grid or Distribution System which will form part of the overall evaluation.
7	Form of Payment	Philippine Peso
8	Tariff Structure	Supply offers must have an attached Renewable Energy Certificate of at least 75% of the total contracted energy. Supplier to indicate all applicable indexes as of March 2020, when applicable. Tariffs will be evaluated at the receiving point/s of davao light or at delivered cost. An offer with Prompt Payment Discount is an advantage.
9	Taxes	Bidders to indicate applicable taxes
10	Price Cap	Davao light shall set a price ceiling which will be disclosed before opening the Second Bid E-Submission. Price Cap will be on the Tariff before deducting the Prompt Payment Discount.
11	Penalty for failure to Supply	Winning Bidder shall shoulder the replacement cost in excess of the winning bid price in the event that the winning Bidder fails to supply power on the date of the Start of Supply. Further, in the event that davao light will experience outages due to the failure of winning Bidder to supply energy, davao light will be reimbursed by an amount equivalent to the shortage in kWh multiplied by 1.50 P/kWh.
12	Other Terms and Conditions	As set out in the power supply agreement

2. Eligibility Requirements

Parties intending to bid (“**Prospective Bidders**”) shall be required to comply with the following eligibility requirements (“**Eligibility Requirements**”):

A. Prospective Bidders shall submit the following:

(i) duly notarized Secretary’s Certificate authorizing participation in the Bid;

(ii) duly notarized expression of interest to participate in the Bid in accordance with the terms set out in the ITSP;

(iii) duly notarized Non-Disclosure Undertaking in the form prescribed by the TPBAC signed on every page by the duly authorized representative; and

B. Payment of non-refundable bid processing fee of PhP100,000.00

3. Instruction to Bidders

All requests and submissions of CSP documents shall be addressed to the TPBAC Chairman and communicated through the CSP Secretariat at dlpc.csp.secretariat@aboitiz.com. Only the authorized representative/s of the Prospective Bidder are allowed to ask queries or submit documents through electronic mail.

Prospective Bidders may request and obtain a copy of the Eligibility Documents through a letter request. Deadline for the submission of the eligibility requirements and payment of bid processing fee is at 12:00 p.m. of October 21, 2021 (the **“Pre-Qualification Deadline”**).

The Secretariat shall evaluate the timeliness, completeness and conformity of the submitted Eligibility Requirements as they are received from the Prospective Bidders. A Complete and Incomplete criterion will be used on whether the Prospective Bidders meets the Eligibility Requirements. Prospective Bidders with Eligibility Requirements submissions that are marked as Incomplete shall be given the opportunity to rectify their submission but not later than the Pre-Qualification Deadline. Eligibility Requirements received after the Pre-Qualification Deadline shall not be evaluated and the Prospective Bidder deemed disqualified to participate in the Bid. Only Prospective Bidders that have complied with the Eligibility Requirements shall be allowed to participate in the Bid.

The duly accomplished Eligibility Requirement including payment of the non-refundable bid processing fee shall be submitted on or before 12:00 p.m of October 21, 2021 (the **“Pre-Qualification Deadline”**). Only Prospective Bidders that have complied with the Eligibility Requirements on time may be allowed to participate in the Bid and to obtain all bidding documents, including the detailed terms of reference and bid procedures.

Indicative Schedule

Pre-Qualification Deadline	12:00 p.m. of October 21, 2021
Availability of Bid Documents	October 6 to 21, 2021
Deadline for Submission of Comments and Questions on the Bid	12:00 p.m. of October 22, 2021
Pre-bid Conference	October 26, 2021 from 9:00 a.m. to 5:00 p.m.

Issuance of Bid Bulletin/s, if required	October 26 to 29, 2021
Deadline for Submission of Bids (“Bid Submission Deadline”)	9:00 a.m. of November 17, 2021
Opening of Bids Evaluation of Bids Provisional Declaration of Winning Bidder (subject to Post Qualification)	9:00 a.m. of November 17, 2021
Post Qualification (validation of hard copies submitted by the Winning Bidder)	1:30 p.m of November 24, 2021
Issuance of Notice of Award	November 24, 2021

Any amendment to the Schedule will be announced through Bid Bulletins and communicated to the Prospective Bidders through email.

Unless otherwise expressly specified in writing, all references to times and dates shall refer to Philippine Time.

For further information, prospective Bidders shall communicate to the CSP Secretariat at dlpc.csp.secretariat@aboitiz.com.

**THIRD PARTY BIDS AND AWARDS COMMITTEE
DAVAO LIGHT AND POWER COMPANY**

By:

**Orville Lazaro
Chairman, TPBAC**

October 4, 2021