



**RULES GOVERNING THE PROCUREMENT, EXECUTION, AND EVALUATION OF POWER SUPPLY AGREEMENTS ENTERED INTO BY DISTRIBUTION UTILITIES FOR THE SUPPLY OF ELECTRICITY TO THEIR CAPTIVE MARKET**

Document	Article / Section	Discussion of Comment/s and/or Questions for Clarification	Suggestions / Proposed Change(s)
PSA Rules	Sec. 5.1 The PSPP shall contain the following	<p>5.1 (g) Indicated Schedule should be changed to Committed.</p> <p>Indicated should be changed to committed.</p> <p>This is to give certainty to suppliers when and where to join the CSP. Without any definite schedule, Generators will be left in limbo when to join and build the power plants.</p> <p>Our humble position is to make certain the schedule.</p>	5.1 (g) Committed schedule for CSP taking into consideration the required construction period in the case of new generation plant and existing power plants whose contracts with DUs are expiring.
PSA Rules	Sec. 28 Requisites for Unsolicited Proposal.	In compliance to non-impairment clause of the Constitution and the mandated Competitive Selection Process in Power Procurement, existing approved power sales contract	<p>It is suggested that:</p> <p>Section 28. Requisites for Unsolicited Proposal. – A DU may accept unsolicited proposals for supply of electricity, provided the following conditions are present:</p>

	<p>that is about to expire with a specific Distribution Utility with provision of renewal or extension of term should be given the opportunity offer to continue the supply or improve its existing contractual term by making an offer, and such offer shall be subjected to Swiss Challenge.</p> <p>This is also to avoid uncertainty on the timing of the bid and when to commit the supply.</p> <p>Without giving existing suppliers the opportunity to make a first crack, and just have to wait for the expiration of the term, will be very detrimental to the business operation. Without certainty on the CSP, existing power plants might be having this stranded capacity because of the agony of waiting.</p> <p>This will not violate equal protection because existing power plant is different from a power plant yet to be built. Their situations are different. New Power plants can adjust its construction based the schedule of the CSP, but</p>	<p>(a) Expiring Power Sales Agreement. PSA's with provisions allowing the automatic renewal or extension of their term, whether or not such renewal or extension requires the intervention of the parties, may be subjected to unsolicited proposal by the existing supplier. The existing supplier may offer its existing PSA or new terms of reference and such offer shall be subjected to evaluation of the concerned DU. The DU, after evaluation of the offer, may accept the offer and invite third parties to match or improve the offer as herein provided or deny the offer and proceed to Competitive Public Bidding, as herein provided.</p> <p>(b) Unsolicited Proposal for Power Supply may only be accepted after the publication of its PSPP, except as herein provided in the preceeding paragraph.</p> <p>xxx</p>
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		existing plants whose contracts are expiring, might end up with stranded power if no definite schedule is available with the DUs.	
	Sec. 14 Publication Requirements	Invitations should be simultaneously published in ERC Website.	
	Sec. 16.1 Pre-Qualification Requirements	It is suggested that Constitutional Documents of the Prospective Suppliers should be included as part of the pre-qualification requirements, such as SEC Registration, ERC COC License, Business Permits, BIR Certifications and the like.	Sec. 16.1 a. Executive Summary. b. Organizational Structure and Constitutional Documents.
Annex A	Bid Security	It is suggested to fix the amount of bid security, rather than based on the equivalent contract cost.  Bid Security should likewise be different from existing power plant and power plant to be built.	Example;  Up to 10MW for 10 years, 5 Million  More than 10MW but not exceed 20MW for 10 years, 10 Million so on and so forth.
Annex A	Submission of Bids  Annex A 1-14	It should be clarified, based on the practice adopted in government procurement; the first and second envelopes should be submitted together and placed in one main envelope. It is not submitted separately.	First Par. last sentence,  xxx. The First and Second Bid Envelopes shall each be sealed and placed in one main envelope, sufficiently and clearly marked as follows:
	Sec. 17. Submission of Bids	Technical and Financial proposals shall be placed in two separate envelopes duly labeled, but should be submitted together in one seal envelope	

	Sec. 42 Exemptions	<p>We would like to be clarified on exemption no. 1, any generation project owned by the DU funded by grants or donations. The DU may be allowed to infuse internally generated funds; provided that the amount shared by the DU shall not exceed 30% of the total project costs.</p> <p>Q: What are the parameters of the exception?</p> <p>Q: Is this limited to new power plant project?</p> <p>Q: Can existing power plant may part its shares of stock (ownership) to the DU?</p>	<p>It is suggested that incase of generation project owned by DU to be funded by grants or donations, the same should be subjected to public bidding or through unsolicited proposal mechanism to give others opportunity to enter the same project with the DU.</p>
Miscellaneous Clarifications	Is splitting of Capacity allowed in these Rules?	<p>For instance, a DU bid out its baseload capacity of 100MW and there are 5 bidders, can the DU split the award base on the capacity and lowest calculated bid, 50MW to the lowest, 30MW to the Second, and 20MW to the third?</p> <p>Justification can be found in the old maxim, do not put all your resources in one basket. What if 100MW, sole winner, out to undergo preventive maintenance or Force Outage due to Fortuitous event, then the DU 100MW will be exposed to market.</p>	