



SUPPLEMENTAL TERMS OF REFERENCE GREEN ENERGY AUCTION - 5

The Department of Energy (DOE), through the Green Energy Auction Committee (GEAC), issues this Supplemental Terms of Reference (TOR) for the Fifth Round of the Green Energy Auction (GEA-5) pursuant to Section 9.3 of Department Circular No. DC2021-11-0036, titled "Providing the Revised Guidelines for the Green Energy Auction Program (GEAP) in the Philippines," as amended (GEAP Guidelines) with the revision of specific provisions therein as follows:

1. Section 1.4.3 of the TOR is hereby revised as:

The following rules on the entitlement of GET shall apply: Provided, That the payment of the GET shall commence upon effectivity of the COC or PAO consistent with Section 1.4.2 hereof, **except in Scenario 1 below, which shall be governed solely by the conditions provided therein.**

2. Section 2.1 of the TOR is hereby revised as:

The Registration Period shall be **ten (10) working** days starting from the issuance of Green Energy Auction Reserve (GEAR) Price by the ERC. Only those registration requirements that have been filed not later than 03:00 pm on the last day of the Registration Period shall be considered and accepted.

3. Section 2.2.2.3.2 of the TOR is hereby revised as:

The Qualified Supplier is fully aware of the availability of the connection point and necessary transmission line reinforcements **to accommodate the project's DCD**, as identified in its System Impact Study (SIS), **or, if not so identified, as may be established through the filing by the NGCP with the ERC for approval of the required interconnection and associated transmission facilities to accommodate the project's DCD, and the transcript of ERC proceedings thereon. In the absence of the foregoing, the Qualified Supplier is willing to advance the funds for and undertake the construction of Grid connection and electrical infrastructure to accommodate the OSW facility, subject to applicable regulatory recoveries. The Qualified Supplier is likewise fully aware of the availability of PPA-administered ports and/or privately-owned and operated ports essential for OSW project development.**

4. The following Registration Documents, namely, copy of the Pre-Development Environmental Compliance Certificate (ECC); duly certified by the Department of Environment and Natural Resources (DENR); Proof of filing of Development ECC application with, and stamped "Received" by, the DENR; Preliminary Geotechnical Report; and Preliminary Geophysical Report, previously numbered as Sections 2.2.2.5, 2.2.2.6, 2.2.2.8 and 2.2.2.9 of the GEA-5 TOR, are hereby deleted. The conduct of activities corresponding to and/or to procure the said documents shall

be incorporated into the OSW Infrastructure Plan (Annex D.9 and Annex D.9.1 of the GEA-5 TOR).

The revised "Annex D.9 - Offshore Wind Infrastructure Plan" and "Annex D.9.1 - Offshore Wind Infrastructure Plan 5-Year Work Program" are attached hereto as Annex "A" and "Annex "B".

5. Sections 2.2.2.7, 2.2.2.10 and 2.2.2.11 of the TOR are hereby renumbered as Sections 2.2.2.5, 2.2.2.6 and 2.2.2.7, respectively.
6. Section 2.2.2.7.5, previously Section 2.2.2.11.5, of the TOR is hereby deleted.
7. The evaluation period of the Registration Documents specified in Sections 2.2.2.1 to 2.2.2.6 of the TOR (previously Sections 2.2.2.1 to 2.2.2.10) stated in Section 3.2 of the TOR is hereby reduced from ten (10) to **seven (7)** working days from the last day of the Registration Period.
8. The period to file a Request for Reconsideration (RR) stated in Section 3.4 of the TOR is hereby reduced from fifteen (15) working days to **seven (7)** working days and the period to evaluate the same is hereby changed from ten (10) to **five (5)** working days.
9. The evaluation period of the OSW Infrastructure Plans and proposed DCDs of registrants stated in Section 3.5 of the TOR is hereby revised from thirty (30) to **twenty (20)** working days.
10. The period within which to submit a revised OSW Infrastructure Plan mentioned in Section 3.5.2.3 of the TOR is hereby revised from fifteen (15) to **five (5)** working days from receipt of the notice.
11. The period to submit the original copy of the Bid Bond mentioned in Section 5.1.1, paragraph 3 of the TOR is hereby revised from three (3) to **one (1)** working day.
12. The period to submit rectification on deficient Bid Bonds stated in Section 5.2.1.1, paragraph 3 of the TOR is hereby revised from five (5) to **two (2)** working days from receipt of the Notice of Bid Bond Deficiency.
13. Section 5.2.2.3 of the TOR is hereby deleted.
14. Section 5.2.2.4 paragraph 1 of the TOR is hereby deleted, and paragraph 2 thereof is hereby revised as:

Failure to submit a correct and acceptable original Bid Bond, **including failure to correct incomplete pages or any discrepancy thereof with the electronic copy or rectified electronic copy**, shall result in the endorsement of the concerned Qualified Bidder to the GEAC for disqualification from the auction, forfeiture of their Bid Bond, and removal from the list of Potential Winning Bidders within **one (1) working day from the last day of GEA BEAC deliberation as set out in Section 5.2.2.2.**

15. The period of GEAC approval stated in Section 8.2.7 of the TOR is hereby revised from five (5) to **three (3)** working days.
16. The period to post the approved NOA mentioned in Section 9.1.2 of the TOR is hereby revised from three (3) to **two (2)** working days from the date of approval thereof.
17. Section 9.1.3.1 of the TOR is hereby completely revised as:

The order of priority for access to PPA-administered ports shall be based primarily on the committed DCDs of the Potential Winning Bidders, arranged from earliest to latest.

Where two (2) or more Potential Winning Bidders have identical or overlapping DCDs, the DOE shall determine the order of priority by applying the Tie-Breaker rules under Section 8.2.3.1 of this TOR.

18. The timeline to submit proof of port arrangements stated in Section 9.1.4 and post-Auction Documents stated in Sections 9.1.4 and 10.1 of the TOR is hereby revised from one hundred twenty (120) to **ninety (90)** calendar days.
19. The period within which to transmit the post-Auction Documents from DOE-RMD to GEAC-TWG, as stated in Section 10.2 of the TOR, is hereby revised from five (5) to **three (3)** working days.
20. The period of evaluation of Post-Auction Documents stated in Section 10.3 of the TOR is hereby revised from thirty (30) to **twenty (20)** working days.
21. The period given to the next-ranked Winning Bidder/s stated in Section 10.5.1 of the TOR is hereby revised from one hundred twenty (120) to **ninety (90)** calendar days.
22. The period for the next-ranked Winning Bidder/s to submit proof of arrangements with non-PPA-administered port/s, along with other Post-Auction Documents as stated in Section 10.5.2 of the TOR, is hereby revised from one hundred twenty (120) to **ninety (90)** calendar days.
23. Section 10.6.1 of the TOR is hereby amended to read as follows:

10.6.1. To guarantee the faithful performance of its obligations under the GEAP Guidelines, this TOR, undertakings, and related agreements, including the timely completion of Milestone Activities strictly in accordance with the timelines specified in the OSW Infrastructure Plan, the Potential Winning Bidder shall deliver a PB that complies with the following conditions:

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24. A new section is hereby inserted into the TOR, numbered as Section 10.6.7.4, which reads as follows:

10.6.7.4. If the Winning Bidder fails to deliver any of the Milestone Activities specified below on the respective dates set forth in its Approved OSW Infrastructure Plan (Annex D9.1), and such delay is partly or wholly due to its fault, and is neither excused under Sections 13.1 and 13.2 of this TOR, nor excused as OSW Infrastructure delays under Section 13.6 in relation to Sections 16.4 and 16.5 thereof, the DOE shall draw one-twentieth (1/20) of one percent (1%) of the PB for every day of delay as penalty regardless of the number of delayed Milestone Activities until the Winning Bidder is fully compliant with the said Milestone Activities:

10.6.7.4.1. Submission of proof of Final Investment Decision by the Winning Bidder and other requirements for Declaration of Commerciality (DOC), which shall include:

- 10.6.7.4.1.1. ECC for Pre-Development Stage;**
- 10.6.7.4.1.2. Preliminary Geotechnical Study;**
- 10.6.7.4.1.3. Preliminary Geophysical Study;**
- 10.6.7.4.1.4. Conceptual Design; and**
- 10.6.7.4.1.5. Project Financial Model.**

10.6.7.4.2. Submission of executed Engineering, Procurement, and Construction (EPC) Contract, which shall include:

- 10.6.7.4.2.1 Selection and award of EPC Contract.**

10.6.7.4.3. Delivery of components of OSW Facilities to the identified port, which shall include:

- 10.6.7.4.3.1. Start of delivery of foundations;**
- 10.6.7.4.3.2. Start of delivery of wind turbine components; and**
- 10.6.7.4.3.3. Start of delivery of Balance of Plant.**

10.6.7.4.4. Conduct by the Winning Bidder of construction activities utilizing the identified port, which shall include:

- 10.6.7.4.4.1. Start of installation of foundations;**
- 10.6.7.4.4.2. Start of installation of wind turbine generators; and**
- 10.6.7.4.4.3. Start of installation of electrical system.**

10.6.7.4.5. Submission of requirements for testing and commissioning of the OSW Project to the NGCP until issuance of Final Certificate of Authority to Connect (FCATC) and Provisional Authority to Operate (PAO) or

Certificate of Compliance (COC) by the ERC, which shall include:

- 10.6.7.4.5.1. Proof of filing for Provisional Certificate of Approval to Connect (PCATC);**
- 10.6.7.4.5.2. FCATC; and**
- 10.6.7.4.5.3. PAO or COC.**

Provided, That the penalty provided in this Section 10.6.7.4 shall apply only until the date designated by the Winning Bidder as its DCD: *Provided, further, That the penalty provisions prescribed under Section 10.6.7.7 of this TOR, as herein renumbered, shall apply in cases of delay in delivery on the DCD.*

25. A new section is hereby inserted into the TOR, numbered as Section 10.6.7.5, which reads as follows:

10.6.7.5. Each Winning Bidder shall submit to the GEAC a Milestone Accomplishment Report on its compliance or non-compliance with the Milestone Activities against the timelines provided under the OSW Infrastructure Plan within five (5) working days from the last day of the Milestone Period indicated in the Winning Bidder's OSW Infrastructure Plan. If a Winning Bidder fails to submit the Milestone Accomplishment Report within the prescribed period, the penalty provided in Section 10.6.7.4 of this TOR shall automatically apply.

26. A new section is hereby inserted into the TOR, numbered as Section 10.6.7.6, which reads as follows:

10.6.7.6. Each Winning Bidder shall submit to the GEAC a report on its delivery or non-delivery of the Offered Capacity upon DCD within five (5) calendar days from the said DCD.

27. Section 10.6.7.4 of the TOR is hereby renumbered as Section 10.6.7.7.

28. Section 10.6.7.4.4 is hereby renumbered as 10.6.7.8.

29. A new section, numbered as Section 10.6.8, is hereby inserted into the TOR, which reads as follows:

10.6.8. Calling of PB

If the DOE finds that a Winning Bidder's failure to observe or perform its obligations under the OSW Infrastructure Plan, including the completion of Milestone Activities by the timeline set out in the approved OSW Infrastructure Plan, or to deliver the Offered Capacity on DCD, as the case may be, and such failure does not fall under Section 13.3 of this TOR, the DOE shall proceed against the PB of such Winning Bidder.

The calling of the PB, which may be full or partial, shall be made by the Secretary upon the recommendation of the GEAC. Such recommendation shall be based on the validation by the GEAC-TWG on the compliance or non-compliance of the Winning Bidder with its OSW Infrastructure Plan or DCD.

10.6.8.1. The GEAC-TWG shall conduct validation of the accomplishment of Milestone Activities under the OSW Infrastructure Plan within ten (10) working days from the last day of the period for the submission of Milestone Accomplishment Report under Section 10.6.7.5, covering the Milestone Period indicated in the Winning Bidder's OSW Infrastructure Plan.

10.6.8.1.1. A Winning Bidder shall include in its Milestone Accomplishment Report any extension granted to it in accordance with Section 13.5 of this TOR:

10.6.8.2. The GEAC-TWG shall conduct validation of the delivery of the Offered Capacity upon DCD, or upon COD if the COD occurs before the DCD, as applicable, in all cases within five (5) working days from the DCD or COD of a Winning Bidder.

10.6.8.3. If warranted by the circumstances, the GEAC-TWG shall recommend to the GEAC the calling of the PB of a Winning Bidder.

30. The period of issuance of COA stated in Section 11.1 of the TOR is hereby revised from thirty (30) to **fifteen (15)** working days.

31. Section 13.3 of the TOR is hereby amended to read as follows:

13.3. Written notice of FM shall be submitted not later than fifteen (15) calendar days from the earlier of: (a) the occurrence of the FM; or (b) the Winning Bidder's knowledge that FM exists. The notice of FM shall be addressed to the GEAC and supported by proof that:

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Failure to timely notify the GEAC shall bar the Winning Bidder from invoking such FM for purposes of claiming extension of time in respect of the affected Milestone Activity or for the non-delivery on DCD, as applicable. For clarity, the notice of FM under this Section shall serve only as notification of the occurrence of FM and shall not, by itself, constitute an invocation thereof to claim extension of time.

32. A new section, numbered as Section 13.5, is hereby inserted into the TOR, which reads as follows:

- 13.5. The Winning Bidder affected by FM may be excused from the performance of its obligation to accomplish the Milestone Activities in accordance with the timelines under the OSW Infrastructure Plan to the extent caused by FM.

The Winning Bidder affected by FM may be granted an extension within which to accomplish the Milestone Activities under the OSW Infrastructure Plan. If extension is warranted, the extension period shall be equivalent to the duration of FM as duly invoked and validated and the Winning Bidder shall not be liable for any delay or damages arising from such failure to perform: *Provided, That the Winning Bidder has given a written notice of FM as set forth in Section 13.3 hereof.*

Failure to timely accomplish the Milestone Activities after the lapse of the approved extension period may cause the calling of the PB, in whole or in part, in accordance with Sections 10.6.7.4 and 10.6.7.7 of this TOR.

33. Section 13.5 is hereby renumbered as Section 13.6, and the first paragraph thereof is revised to read as follows:

- 13.6. The Winning Bidder affected by FM may be excused from the performance of its obligation to deliver the Offered Capacity on DCD to the extent caused by FM. **If extension is warranted**, the Winning Bidder shall not be liable for any delay or damages arising from such failure to perform: *Provided, That the Winning Bidder has complied with the Post-Auction Documents: **Provided, further, That the Winning Bidder has given a written notice of FM as set forth in Section 13.3 hereof.***

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34. Section 13.6 of the TOR is hereby renumbered as Section 13.7.

35. A new section is hereby inserted into the TOR, numbered as Section 13.8, which shall read as follows:

- 13.8. In addition to the requirements under Sections 10.6.7.5, 10.6.7.6, and 13 of this TOR, as herein supplemented, a Winning Bidder that invokes FM shall submit the following to the GEAC:

- 13.8.1. A Gantt Chart showing the duration of each FM event and the corresponding activity or activities affected: *Provided, That where multiple FM events occur within the same or overlapping period, the Winning Bidder shall prove that such events resulted in distinct periods of delay;*

13.8.2. A computation of the period of extension claimed, based on Sections 13.7.1, 13.7.3, and 16.5 of this TOR;

13.8.3. A request to extend the timeline to accomplish the Milestone Activity or Activities, or the DCD, as the case may be; and

13.8.4. A revised OSW Infrastructure Plan reflecting a catch-up plan to deliver the Offered Capacity on DCD.

36. The row in "Annex D8.1 - Wind Resource Assessment Report" on "Period of Measurement" is hereby amended as:

Period of measurement	<i>(Indicate number of months. At least twelve [12] months)</i>
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The revised "Annex D8.1 - Wind Resource Assessment Report" is attached hereto as Annex "C."

37. "Annex E – Available Transmission Capacity and Location from 2024 – 2030" is hereby amended as "Annex E – Available Transmission Capacity and Location from 2025 – 2030" and attached hereto as Annex "D."

38. The revised GEA-5 TOR incorporating the above revisions is attached hereto as Annex "E".