

# E&U 2019 - 2 - Consultation Proposed Renewable Energy Auction Scheme

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## A. Introduction

1. The Utility Regulation and Competition Office (the ‘Office’) is the independent regulator for the electricity, information and communications technology, electricity, water, wastewater and fuels sectors in the Cayman Islands. The Office also regulates the use of electromagnetic spectrum and manages the .ky Internet domain.
2. Different decisions by the Office will affect persons and organisations throughout the country in different ways. It is therefore important that the Office makes regulatory decisions with the appropriate input from persons with sufficient interest or who are likely to be affected by the outcome of such decisions. Consultation is an essential aspect of regulatory accountability and transparency and provides the formal mechanism for these persons to express their views in this manner. The requirement for the Office to consult is mandated in its enabling legislation.
3. Under its enabling and foundational legislation, the Office has several principal functions. One of these principal functions is to protect the short and long term interests of consumers in relation to utility services. The Office may do so by making administrative determinations, decisions, orders and regulations.
4. The purpose of this consultation paper is to seek the views of licensees, the general public, and other interested parties, regarding the implementation of a Renewable Energy Auction Scheme (REAS) attached to this paper and identified as “Appendix 1” in relation to the Electricity Sector.
5. On receiving and evaluating the responses, the Office will make a General Determination on the form, elements and content that should be included in the Renewable Energy Auction Scheme.

## B. Legal Framework

6. The Office is guided by its statutory remit in developing the Renewable Energy Auction Scheme (REAS), notably the provisions which follow.
7. Pursuant to section **6(1)** of the Utility Regulation and Competition Law (2019 Revision) (the “*URC Law*”), the Utilities Regulation and Competition Office (the “Office/OfReg”) regulates prescribed utility services in the Cayman Islands.

8. **Section 6(2)(p)** of the URCL provides, inter alia, that the Office may “assign resources and implement initiatives designed to enable the introduction of new and innovative technologies and systems in the markets and sectors for which it has responsibility.”
9. **Section 6(3)** of the URC Law provides, inter alia, that “Without prejudice to subsection (1) or (2), the Office has power to carry on any activity which appears to it to be requisite, advantageous or convenient for or in connection with the performance of its functions or the exercise of its powers under this or any other Law.”
10. **Section 9(2)(f)** of the Electricity Sector Regulation Law, 2019 (the “ESR Law”) outlines that the principal functions the Office shall include, *“to solicit additional generation capacity and conduct the generation solicitation process;”*
11. **Section 9(5)(a)** of the ESR Law outlines that in carrying out the principal functions of the Office, in connection with regulating service providers, is *“the need to develop and promote sustainable competition for additional electricity generation in accordance with this Law;*
12. **Section 9(5)(f)** of the ESR Law provides that another principal function of the Office is that it shall have regard to *“whether licensees have promoted or will promote the development and use of renewable or alternative forms of energy by licensees and consumers.”*
13. **Section 9(5)(i)** of the ESR Law provides that the Office shall have regard to *“the need to permit and promote the use of renewable or alternative forms of energy by consumers so as to reduce the load on any T&D system.”*
14. **Section 3(2)(h)** of the ESR Law provides that the Office may make recommendations *“to the Minister charged with responsibility for electricity, the making of regulations under this law and the Electricity Laws.”*
15. **Section 23(1)** of the ESR Law states that:

*“Subject to section 9(2)(q), no person shall generate, transmit, distribute or deliver electricity for reward unless licensed under this Law.”*
16. **Section 23(2)** of the ESR Law states that:

*“Subject to this Law, the Office may grant a generation licence or a T&D licence to any person, upon such terms and conditions as it shall deem appropriate.”*

17. **Section 6(2)(d)** of the URC Law states that the Office, in performing its functions and exercising its powers under the URC Law or any other Law, may “*make administrative determinations, decisions, orders and regulations.*”
18. **Section 7(1)** of the URC Law requires the Office, before issuing an administrative determination which in the reasonable opinion of the Office is of public significance, “... *to allow persons with sufficient interest or who are likely to be affected a reasonable opportunity to comment on the draft administrative determination.*”
19. It is the position of the Office that it retains the right to propose amendments to the Regulations/Guidelines/Scheme when appropriate but not so frequent so as to render the electricity sector licensing framework arbitrary, but in any event only after consultation.

## C. Background to the proposed Renewable Energy Auction Scheme

20. On 21 February, 2017, the Cayman Islands Government announced the establishment of ambitious renewable energy targets with the adoption of a National Energy Policy (NEP). These targets seek to ensure that 70% of the Islands’ total electricity generation comes from renewable sources by 2037 and also to reduce greenhouse gas (GHG) emissions. The NEP focuses on exploiting renewable energy, promotes energy efficiency and conservation measures and supports energy security by reducing the reliance on imported fossil-based fuels. The Government plans to leverage these catalysts to further develop a sustainable environment where the people of the Cayman Islands can live, work and do business.
21. Renewable energy (RE) electricity sources form an important part of the Cayman Islands current energy mix in recent years, accounting for 2.4% of gross electricity generation in 2018 up from 0.6% in 2016. The majority of this growth has come from the implementation of a 5MW utility-scale solar plant that contributed 1.4% and increased customer-owned renewable energy (CORE) generation accounting for 1% of all RE generation. The increase in RE capacity in the Cayman Islands and other countries has resulted from large reductions in the cost of technologies (for example, in

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- solar PV as well as wind) and the attractive regulatory frameworks and support measures established.
22. While considerable progress has been made in RE development in the Cayman Islands, further expansion will be required to meet Government's National Energy Policy (NEP) high level target of 70% share of total electricity generation to come from RE by 2037. The NEP also establishes achievement of the aspirational goal of the 2015 Paris Climate Change Agreement of 4.8 tCO<sub>2</sub>e of GHG emissions per capita by 2030.
  23. The significant reductions in the cost of deploying renewable technologies seen in the past decade has meant that renewables are now cost-competitive with fossil fuels in many parts of the world. Market competition via auction schemes has not only delivered lowest-cost electricity, but also spurred technical innovation e.g. larger wind turbines, better operational management, more efficient solar panels, etc. The promise of a fixed, competitive price, determined transparently and objectively, has also reduced the cost of capital.
  24. RE auction schemes are also referred to as *demand auctions* or *reverse auctions* or *procurement auctions* (as opposed to supply auctions). They are different from other tariff-based support schemes (FIT or FIP) in that only selected RE-based electricity generators benefit from the support tariff, and the tariff level is based on the prices indicated by the project developers in their bids during the auction process. The main features of auction schemes are:
    - The government/regulator opens an auction process or issues a call for tenders to install a certain capacity of RE electricity from a given technology (technology-specific auction) or from a group of eligible technologies (alternative energy auction or technology-neutral auction).
    - The government/regulator evaluates the projects on the basis of the price and other criteria, such as the share in local manufacturing, technological specifications and environmental requirements.
    - A Power Purchase Agreement (PPA) is signed with the preferred bidder (with the lowest price if the evaluation is based on the price only or on the highest score in the case where the evaluation is based on multiple criteria with assigned weights). This contract provides the renewable generators with a fixed price for a certain number of years and a guaranteed purchase for all generation, which

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can be used as the basis for financing the project. (Source: IRENA – Renewable energy auctions in developing countries.)

25. Under a tender or reverse auction programme, a government or utility designs a process to select bids and procure electricity to meet specified capacity goals. Effectively designed auction approaches can lower costs through encouraging competition among developers and electricity suppliers (Couture et al. 2015) and are often most effective for utility-scale projects given the costs of administering such programmes (Bird et al. 2012, UNFCCC 2015). Many countries have adopted reverse auction approaches for electricity procurement, with project developers submitting bids to develop a project during a specific period (Miller et al. 2013; UNFCCC 2015).
26. Tenders and reverse auctions allow prices to be set through a competitive bidding process, providing an approach to establish long-term fixed price contracts for electricity procurement (Couture et al. 2015). In some cases, auctions include specific project requirements in terms of size, technology, application and may also include other considerations for project selection (e.g., electricity use, GHG emissions, job impacts, etc.).

## D. Renewable Energy Auction Scheme Objectives

27. The Office considers that it is in the interests of the electricity sector to implement a Renewable Energy Auction Scheme (REAS), also referred to as *demand auctions* or *reverse auctions* or *procurement auctions* (as opposed to supply auctions). The REAS is a competitive tender process that is designed to facilitate Renewable Energy *independent power procurement* for utility-scale renewable energy generation in the Cayman Islands. This will ensure clarity in relation to the types of renewable energy procurement that will qualify bidders, and the accompanying application and regulation fees that would have to be paid accordingly. The REAS is designed to integrate renewables in the electricity market and also to ensure that power procurement be conducted in an open, transparent, competitive, non-discriminatory and cost-effective manner.
28. The draft REAS is attached to this consultation document, and is summarised in the paragraphs below. The Office strongly encourages respondents to read the draft REAS prior to submitting comments, or to answering the consultation questions in the next section, as this summary is not intended to be exhaustive.
29. The attached draft REAS is divided into three (3) main sections, excluding the Preliminary section, which address:

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- General Requirements;
  - The Qualification criteria; and
  - Evaluation Criteria
30. The main objective of the draft REAS is to design the framework, as prescribed by the Office, in relation to the procurement of independent renewable energy power supplies for the electricity sector in the Cayman Islands to achieve the NEP targets of 2037 (emission reduction and RE share in total energy generation). The draft REAS will apply to Generators as defined in the ESR Law.
31. A Generator as defined in **section 2** of the ESR Law “*means a person possessing a valid licence to generate and deliver electricity to a T&D licensee.*” Under the same law, a Consumer “*means a person who is a customer of, and is supplied with electricity by, a T&D licensee*”.
32. The Office is also mindful of the overarching objective to ensure secure and sustainable supplies of competitively priced energy to all consumers. The sustainable development of the Cayman Islands renewable energy resources is critical for the achievement of this objective.
33. The Office, in framing this REAS is guided by the European Bank for Reconstruction and Development paper “Competitive Selection and Support for Renewable Energy” Policy Guidelines, March 2018.
34. Using the REAS, the Office will hold a series of auctions which will call on industry to submit bids to build new renewable energy capacity in the Cayman Islands. Industry will be expected to bring to market technology options that can deliver, at scale, solutions that will minimise and control costs for households and businesses alike.
35. It is expected that the Office will continue to auction off capacity in this way over the life of the scheme in order to draw a level of investment that will result in the Government meeting its renewable energy generation targets for 2037. Based on current generation and demand forecasts, this would involve the Office auctioning up to 100 megawatts (MW) of additional capacity over the life of the scheme.
36. To ensure the scheme meets its objectives it is important that it is appropriately designed to:
- Attract sufficient market interest to participate in the auctions and allow Government to meet its NEP targets;
  - Minimise scheme costs;



- Be highly flexible and can respond to market driven outcomes and take advantage of maturing technologies;
- Drive industry development and jobs in the Cayman Islands; and
- Ensure ease of administration.

37. Consequently, the Office is seeking stakeholder views on the following elements of the scheme's design:

- *Scheme structure* – how auction rounds will be designed;
- *Contracting elements* – proposed terms and conditions for long-term contracts executed under the scheme; and
- *Auction evaluation principles* – How auction bids should be assessed, and successful projects determined.

38. Submissions are invited on the key issues set out in this document and any other matters that stakeholders consider relevant. Feedback received in response to this paper, will be drawn upon in finalising the ultimate scheme design.

39. Under the REAS, Independent power producers (IPPs) will be invited to simultaneously submit sealed bids for technology neutral and/or technology specific renewable energy projects with an undisclosed offer of the price at which the electricity would be sold under a power purchase agreement (PPA), by a predetermined date. Submitted bids must first qualify for evaluation by meeting minimum compliance requirements, (experience, financial and technical capacity), after which they are evaluated based on price (bid tariff) and economic development criteria.

40. Conducive to the design of auctions are stringent bidding requirements (financial, environmental, grid connection, *etc.*) and robust compliance rules (penalties, bid bonds, project completion guarantees, *etc.*) that reduce the risk of underbidding, project delays and project failure.

41. The adoption of the RE competitive tender model has increased worldwide from 6 countries in 2005 to over 67 today (IRENA, 2017), suggesting that it is increasingly officially recognised as 'best practice' procurement method for contracting renewable energy capacity globally. The volume of auctioned renewable energy capacity, completed and announced in 2017, reached a record 50.6 GW globally – up from 33.6 GW in 2016.

42. The strength of auctions lies in some of their key characteristics:

- I. Potential for real price discovery. An auction's power to discover real prices is of particular significance given recent market developments, notably the rapid decline of technology costs. The effect of price

discovery is clearly indicated in the global trends of auction prices for both solar and wind projects, and it is especially important for the development of local supply chains and the maturity of the market. The potential to achieve low prices has been acclaimed as one of the most important strengths of auctions and has been a major factor in their rapid global dissemination. This strength can largely be attributed to their ability to promote competition among potential developers and lead to accurate price discovery in a robust and transparent manner.

- II. Certainty regarding quantities of renewable electricity supported. The implementation authority can control the quantity of renewable electricity produced and supported by auctioning specific volumes of capacity in each auction round.
  - III. Flexibility of design. Authorities can customise different elements of auctions to meet deployment and development objectives e.g. in Cayman’s case, multiple auctions can be held if required, to support broader policy objectives. Auction participation rules such as viability gap analysis, and community equity offer pre-requisites can be tied into the design.
  - IV. Degree of commitment and transparency. Stating clear penalties for underbidding and delays can also ensure that auctioned projects deliver as per the bid.
43. From Cayman’s perspective, dividing the total amount of additional renewable electricity required (MWh) across multiple auctions, distributed over the lifetime of the scheme, e.g., biennially, will allow for greater budgetary control and deliver to the customer the benefits of declining technology costs (as technologies mature and supply chains emerge). Additionally, the competitive nature of the auctions themselves will help to drive future support costs down.
44. The proposed REAS design meets Cayman’s NEP four goals of Knowledge and education, Destination of excellence, Energy security, and Socioeconomic and environmental sustainability.

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## E. Consultation Questions

45. Based on the above, the Office invites all interested parties to submit their comments, with supporting evidence, on the following questions:

**Question 1:** The REAS proposes that a measure whereby all renewable energy capacity available be allocated through a competitive bidding process via auctions. Do the respondents agree with the competitive auction based approach? If not, what alternative model would you propose and why?

**Question 2:** Do you have any comments on the way in which we propose to establish the renewable energy auction scheme?

**Question 3:** Do respondents agree with the proposal to hold periodic auctions e.g. every two years, over the course of the lifetime of the scheme, to take advantage to falling costs and reduce the impact on the electricity consumer? What changes if any would you make to this proposal?

**Question 4:** How much notice should be provided to industry of upcoming auctions?

**Question 5:** Should capacity be auctioned in consistent capacity tranches (e.g. 5MW, 10MW, etc.)?

**Question 6:** What would be appropriate minimum project sizes (both in general and for large-scale solar)?

**Question 7:** Should the proportion of solar be different post 2021 to allow technology costs to come down?

**Question 9:** Do you agree that planning approval, grid connection, and bid bonds/penalties criteria should be met before projects can proceed? What other pre-qualification criteria (if any), would you like to see introduced?

**Question 10:** Do you have any comments on the information which must be submitted by potential/existing bidders?

**Question 11:** Please express any concerns about the impact of the new reverse auction scheme on electricity service providers?

**Question 12:** What do stakeholders think of the proposed evaluation criteria set out in the scheme?

**Question 13:** Do stakeholders have views on how evaluation criteria might be weighted?

**Question 14:** Are there other evaluation criteria/principles that the Office should consider to ensure the scheme meets its objectives?

**Question 15:** Are the costs associated with developing a proposal to bid into the scheme based on addressing the above criteria effectively likely to be prohibitive?

## F. How to Respond to This Consultation

46. This consultation is conducted in accordance with the Consultation Procedure Guidelines determined by the Office and found on the Offices website.<sup>1</sup>
47. The Office considers that because the renewable energy auction scheme is published as part of this consultation, this consultation will be conducted as a single-phase consultation over a period of **thirty (30) days**. Where, upon review of the responses to the consultation, it becomes clear that a second phase of consultation is required, a further notice will be issued accordingly. As noted above, **section 7(1)** of the URC Law states that prior to issuing an administrative determination of public significance, the Office shall “*issue the proposed determination in the form of a draft administrative determination.*” The Office considers the attached renewable energy auction scheme to be a “*draft administrative determination*” for the purposes of **section 7(1)**.
48. All submissions on this consultation should be made in writing, and must be received by the Office by **5 p.m. on [21] October 2019** at the latest.
49. The Office will post any comments received within the stated deadline on its website by **5 p.m. on [18] November 2019** .
50. Submissions may be filed as follows:

By e-mail to:  
[consultations@ofreg.ky](mailto:consultations@ofreg.ky)

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<http://www.ofreg.ky/upimages/commonfiles/1507893545OF20171DeterminationandConsultationProcedureGuidelines.pdf>

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Or by post to:  
Utility Regulation and Competition Office  
P.O. Box 10189  
Grand Cayman KY1- 1002  
CAYMAN ISLANDS

Or by courier to:  
Utility Regulation and Competition Office  
3<sup>rd</sup> Floor, Alissta Towers  
85 North Sound Rd.  
Grand Cayman  
CAYMAN ISLANDS

51. If a respondent chooses to file any information in confidence with OfReg, it should, *at the time of making its filing*, also file redacted versions for the public record along with the reasons for each confidentiality claim and the other requirements for confidentiality claims as specified in **section 107** of the URC Law.
52. If a respondent chooses to apply to the Office for an extension of the time to file comments or reply comment, it **must** do so no less than **four (4) days** before the day of the existing deadline, include a complete and detailed justification for the request, and copy all other respondents (if known) *at the same time* as it applies to the Office. The other respondents (if applicable) may comment on the application for an extension within **two (2) days** of submission of the application, copying all other respondents *at the same time*. The Office reserves the right not to accept applications for extensions that do not satisfy these requirements. However, at no time will the Office accept an application for an extension submitted after the deadline in question has passed.
53. The Office expects to issue a Determination regarding the draft renewable energy auction scheme by the end of fourth (4th) quarter, 2019.
54. Upon issuing a Determination, the Office will make a recommendation to the Cabinet that the proposed renewable energy auction scheme, 2019 become legislation, in accordance with section 20 of the Law.

## APPENDIX 1

### Proposed Renewable Energy Auction Scheme Structure and Requirements

1. The REAS will involve a series of tranching auctions for renewable energy capacity. Important considerations for these auction tranches will be how they are staged, what renewable energy technology will be auctioned and how auctioned capacity meets the Government's National Energy Policy (NEP) objectives.
2. The scheme will be designed as a series of single step, closed-bid auctions in the years to 2037 that are initiated by the issue of a combined Request for Qualification and Proposal (RFP). Each tender or auction makes available a total amount of megawatts (MWs) in specific technology categories. Bids are due within 3 months of the RFP and are screened initially for compliance with general requirements and qualification criteria. Compliant bids are then evaluated on a comparative basis and Preferred Bidder status is awarded to the highest ranked projects within the total MW allocation. Financial Close (FC) and signing of contracts is expected within 9 – 12 months and Commercial Operation Dates (CODs) within 24-36 months of signing the PPA.
3. The Integrated Resource Plan (IRP) prepared by Caribbean Utilities Company, Ltd., in 2017 and accepted by the Office in 2018 provides a roadmap of what new generation capacity is needed, and from which sources. The Office, in issuing new generation licences is guided by this IRP.
4. The IRP suggests/recommends a technology split that comprises: an annual capacity of 25MW generated from utility-scale solar be added to the grid from 2021-2023, 20MW in 2024, and 20MW in 2029 and 2030; a capacity of 20MW generated from energy storage be added to the grid in 2022, and another 40MW in 2030; and a phased capacity generated from utility-scale wind power be added to the grid of 3MW in 2023, 8MW in 2024, 14MW in 2025, 3MW in 2026, 2MW in 2028, 6MW in 2035, 5MW in 2042 and 3MW in 2045.
5. The Office understands that it is important that sufficient certainty is provided to industry to ensure that an adequate pipeline of projects is available to meet the targets. It also recognises that the requirement to provide industry with sufficient notice of upcoming auctions will need to be balanced against the need to maintain some flexibility for the Office to adjust the scheme where the market changes significantly.
6. The Office intends to address these issues by regularly committing to a pipeline of auctions with defined capacity amounts, with the first commitment to be the auction

schedule to 2021. Consequently, 25MW of utility-scale solar renewable energy is available for allocation for RE projects in 2021, with the remainder of RE projects available for future bid rounds. The firm auction date together with the respective amounts to be auctioned will be announced at least 30 days before an auction is undertaken.

7. There will be two distinct sets of criteria in the bid evaluation process. These are the compliance requirements, outlined in the General Requirements and Qualification Criteria; and the scoring criteria, outlined in the Evaluation Criteria. In the first stage, bid submissions are assessed to determine whether they are “Compliant Bids”. A Compliant Bid is one that meets both general requirements (Part A of the RFP) and meets or exceeds numerous prescribed thresholds (Part B of the RFP) to qualify for the second stage. The latter stage involves the comparative evaluation (Part C of the RFP) of all Compliant Bids based on price (70%) and a basket of Economic Development criteria (30%).

#### General Requirements (Part A of the RFP)

8. Part A provides an overview of the REAS, its key players and governing laws. It also provides information for the relevant bid submission phase, such as the maximum capacity (MW) available for tender per technology, price caps per technology to ensure bid tariffs are within acceptable limits and a timetable with deadlines for each stage of the bid window (BW). Lastly it lists general requirements for participation, in many cases introducing criteria which are then detailed in Part B.

#### Eligible Bidders, Documentation Fee and Registration

9. The RFP will be available internationally, provided that each entity wishing to obtain a copy of the RFP pays a nonrefundable documentation fee of KYD\$250.00. In order to be eligible for participation in a particular bid submission phase, a prospective bidder must first be deemed a “Qualified Bidder” by the Office based on the Statement of Qualifications (SOQ) submitted to the Office, and pay the above documentation fee on or before the prescribed Bid Registration Date.
10. The SOQ should contain information with respect to the prospective bidder’s expertise and experience, which must be relevant to establishing an electrical energy generating facility on Grand Cayman. In addition, the SOQ shall provide evidence of the prospective bidder’s financial status in sufficient detail to enable the Authority to be assured that the bidder would be capable of financing these projects and remain financially viable for the term of the PPA.
11. The SOQ will also serve as an expression of interest in submitting a bid and assurance that the prospective bidder’s intended generation project would satisfy the technical criteria in the renewable energy project.



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## Contractual Agreements

12. A requirement of the REAS competitive tenders is that IPPs must negotiate Power Purchase Agreements (PPAs), Inter-connection Agreements (IAs) and/or Transmission Agreements with the respective Transmission & Distribution (T&D) Licensee. The T&D Licensee has to buy all generated electricity for the auctioned price. Bidders are not permitted to mark up the draft PPA, IA, or Connection Agreements provided with the RFP.
13. Qualified Bidders will be provided a period in which to negotiate and finalise other contracts and project documents (such as those with contractors, equipment suppliers and lenders). In addition, bidders are required to obtain a budget quotation from the respective T&D licensees in respect of connection works in the same period. These are all prerequisites for concluding the IA and other aforementioned Agreements.

## T&D licensees' Requirements and Interface

14. Qualified Bidders are expected to approach the relevant T&D Licensee to obtain information on grid capacity and potential constraints when selecting project sites. The Office then confirms grid capacity with the T&D Licensee during its evaluation of the bidders' bid responses.
15. The RFP will outline different ways in which "interconnection works" – i.e. those required for the dedicated IPP connection to the grid - may be undertaken. Bidders are required to provide statements clarifying the parts of the connection works that they will undertake, own and operate and must clearly define the interface with the T&D Licensee.

## Generation Licence

16. Upon being selected as the winning bidder, the project company, after having signed a PPA with the T&D Licensee, must apply for a generation licence from the Office as required by the Electricity Sector Regulation Law.

## Bid Guarantee and Qualified Bidder Guarantee

17. Upon bid submission, bidders are required to provide the Office with an unconditional, irrevocable Qualified Bidder Guarantee of KYD\$5,000.00 per MW of contracted capacity for the proposed project. Once provisionally informed of its Qualified Bidder status, each IPP has 15 days to lodge a new guarantee (the "Qualified Bidder Guarantee") with the Office for an even greater KYD\$10,000.00 per MW of contracted capacity. Only thereafter will it officially be appointed as a Qualified Bidder.



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18. The purpose of bid guarantees is to dis-incentivise bidders from submitting unrealistic proposals by inexperienced bidders who subsequently struggle to finance and deliver on their project as it was proposed. For example, the Qualified Bidder Guarantee may be forfeited to the Office if the qualified bidder fails to: comply with any conditions contained in the letter of appointment as qualified bidder; sign any of the required contracts within the time period specified under the RFP; or pay the development fee when prescribed (although this is not an exhaustive list). The inclusion of high penalty costs helps to ensure that bids are as fail-safe as possible (Papapetrou, 2014).

#### Bid Validity Period

19. The RFP requires that bid submissions constitute valid and irrevocably binding offers for 180 calendar days from the submission date.

#### Bid Currency

20. All monetary amounts in the bid response must be presented in US dollars.

#### Briefing Notes

21. Briefing Notes will be issued by the Office on an ad hoc basis, either to supplement or amend information in the RFP or in response to a bidder-requested clarification. They are thereafter deemed to be part of the RFP and require equal compliance upon bid submission. The Office will strive to release the last Briefing Note no later than 10 days before the relevant bid submission date.

#### Qualification Criteria (Part B of the RFP)

22. Part B of the RFP elaborates on several requirements introduced in Part A (General Requirements) and introduces new criteria with which the bidder must comply to qualify for the final evaluation. These Qualification Criteria are divided into eight categories, detailed below. In broad terms projects that “qualify” for comparative evaluation are those that are technically, financially and legally qualified, as well as having sufficient experience, commitment and resources, to execute the project as submitted. Each submission must therefore meet or exceed all prescribed thresholds (per criterion) to be considered a Compliant Bid.

#### Structure of the Project

23. Bidders must provide a blueprint of the project’s structure as well as identify and explain the Project Company (even if it was not yet established at the bid submission date), equity participants, funders, contractors and the shareholders of the entity respectively.

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## Legal Criteria and Evaluation

24. Bidders must provide proof that they comply with all applicable Cayman Islands laws relating to their eligibility to vie to provide renewable energy generation systems.

## Land Acquisition and Land Use Criteria and Evaluation

25. This criterion requires bidders to submit documents that provide sufficient proof of land acquisition. Acceptable instruments or agreements include copies of the extract from the Cayman Islands Land Register showing the “Property, Proprietorship and Incumbrances” sections for the project site or a copy of a lease attested to by an Attorney-at-Law, together with an extract evidencing that it has been registered or is capable of registration by the IA effective date in the Land Register for the site (with a copy of the extract) for the duration of the PPA. Alternatively, bidders may submit (together with the relevant site extract) an unconditional land option (to purchase or lease), lease or sale of land agreement exercisable at the bidder’s choice and which allows them to secure the same real rights obtained via the aforementioned land registration or lease agreement and so certified by an Attorney-at-Law. Lastly, in a situation where the project site Land Registration documents are unavailable at the date of bid submission (for example the Registrar is in the process of registering the transfer of ownership to the bidder), the RFP permits the Certificate of an Attorney-at-Law in their place. This is conditional upon the Attorney-at-Law providing a full explanation for the lack of documentation, and must include copies of the Transfer of Land Form RL1.), and bidders assuming the risk of ensuring it will be obtained without delaying Financial Close (FC.)

## Environmental Consent Criteria and Evaluation

26. Bidders must pass both general and technology-specific sub-criteria under this Qualification criterion, and provide evidence that all requisite environmental consents listed in the RFP have been obtained by bid submission.
27. The primary requirement across all technologies is an Environmental Authorisation permit per project, in the name of the Project Company, as required by the Department of Environment (DOE). To achieve this, the Project Company must conduct an Environmental Impact Assessment (EIA). The EIA is required when a project’s capacity exceeds 5MW or it covers an area greater than 1 hectare.
28. Bidders must submit hard copies of the Environmental Statement (ES), and include details of any objections to the facility’s development raised during any public participation process as well as appeals to any Environmental Consent required by the project. The Office may deem the bid insufficient to pass this criterion where the relevant appeal or review period has not expired by bid submission.

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29. Other technology-specific consents required. Wind projects must also include proof of consent from the Cayman Islands Civil Aviation Authority to erect potential obstacles to aviation. If any of the requisite authorisation or documentation submitted is subject to conditions, the Office reserves the right to consider these conditions and determine whether the bidder is in a position to comply. If not, the bidder will not pass this criterion. Upon being selected as Qualified Bidders they are required to demonstrate that all applications have been made and are progressing adequately so as not to delay FC.

### Financial Criteria and Evaluation

30. The financial qualification criteria broadly relate to the bid price and related financial proposal. Four key criteria are assessed under this category.

### Price

31. Price only bid: Bidders will be required to submit fully indexed prices (based on CPI inflation and partially indexed USPPPI. Pay-as-bid pricing rule is proposed as this is a common feature in auctions used globally e.g. in France, Germany, California and many other countries.

### Financial Standing

32. This sub-category requires disclosures in respect of the funding that a bidder proposes to use for its project. Where projects will be wholly or partially funded by corporate/ equity finance, bidders must provide the identity of all providers/ members, respectively, as well as the value of the contribution from each and the source of finance (for example, reserves, parent company, external sources, development banks or similar institution). Where corporate financing will be used, the bidder is required to provide the audited financial statements for the latest 3 financial years of the entity that is the ultimate provider of finance and providing the guarantee on which the corporate finance is based. In the case of equity finance, the audited financial statements for the latest 3 financial years must be provided for each ultimate provider.
33. Additionally, the bidder must demonstrate in the bid response that the net assets of each ultimate corporate and/or equity finance provider(s) over the past 3 years have been at least 100% of the finance it is proposing to put towards the bid project (“net asset test”), or that the provider has a proven track record in the past 5 years of raising corporate/ equity finance (as applicable), to the equivalent of at least 100% of its proposed finance (“track record test”). A corporate finance guarantor must provide evidence of having raised corporate finance for its own account or for one of its subsidiaries in order to pass the above track record test. No reliance may be placed on the track record or third party entities or advisors to the guarantor.

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## Robustness and deliverability of funding proposal

34. Bidders must provide a clear breakdown of the sources of funds (equity, corporate finance and external debt) and their uses (capital expenditure, grid connection costs, contingency elements etc.). The bid response must also provide a plan, including a financial due diligence plan, setting out key activities and proposed dates for the achievement of FC within prescribed timeframes.
35. Another requirement common to all sources of finance is that letters of support must be provided by the ultimate finance providers. The letters of support require each financier to make a firm commitment and pledge that it has conducted a due diligence on the proposed project and can confirm accuracy of the bidder's documentation. Funders also have to acknowledge that they accept risk allocation as embedded in the PPA, IA and other agreements. Term sheets must be provided as well.
36. Where a project will use external debt the bidder must demonstrate that any of its members have a proven track record, in the last 5 years, of raising external debt of a similar nature to that proposed by the bidder. In the case of multiple lenders, the bidder should clearly distinguish between Tier 1 and Tier 2 lender(s), where the former is responsible for the due diligence and the latter relies on this.
37. In addition to the above requirements, bidders only pass this threshold if they demonstrate a “robust mitigation strategy” i.e. a clear alternative plan to obtain funds in the event that their proposed finance provider becomes unable to do so on the terms stated. This demonstration also requires the provision of a letter of indicative support from the alternative funders, which states that they have held discussions with the bidder on this matter. Ultimately these financial qualification criteria aim to ensure that project bid are as fail-safe as possible.

## Robustness of the financial models

38. Bidders must submit two financial models, namely the “Sponsor Case” (reviewed and agreed upon by equity/corporate finance providers, as applicable) and the “Banking Case” (reviewed and agreed upon by external debt providers). Alternatively one model capable of running both scenarios is permitted. Although the project bid price is the same under both, the RFP requires that the “Sponsor Case” model be adopted for the purposes of the Implementation Agreement.
39. Lastly, bidders must submit a Declaration in respect of Success Payments, which are broadly defined as the reimbursements of costs incurred in the development of the bid project which will be payable only on achievement of FC. Possible examples include payments to site developers, free carry for equity members and success payments for equity and non-equity members. The quantum, rationale and timing of all success payments must also be disclosed and all such payments must be clearly identifiable in the submitted financial model.

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## Technical Criteria and Evaluation

40. Bidders must complete a standardised technical evaluation matrix as part of their bid response. This section also contains numerous requirements around grid connection. Firstly, all bidders must provide a signed letter stating that the project is able to comply with the applicable Transmission and Distribution Codes. The bid response must also clearly identify which parts of the interconnection works will be implemented by the bidder (dependent on whether they choose an own- or self-build basis), and the interface with works to be performed by the T&D licensee. Similar clarifications must be provided for which part of these works will later be owned and operated by the bidder versus the T&D Licensee.
41. Lastly, bidders are required to include an estimate of costs letter (ECL), which provides an indicative timeline and cost of the required connection works from the relevant T&D Licensee. The onus is on bidders to apply in sufficient time to receive this ECL by submission date, and they assume all risk in relation to achieving grid connection by the Scheduled Commercial Operation Date (COD) as per the PPA. Where the bidder intends to perform interconnection works on an own- or self-build basis, they must also supply an itemised cost estimate for their part. Upon being appointed Preferred Bidders, bidders must replace this ECL by obtaining a more up-to-date and accurate budget quote from the T&D Licensee (in relation to connection works) before signature date.
42. Technical specifications also include, but are not limited to:
- Eligible capacity per bid project.
  - Eligible technology requirements (e.g. American and International Standards with which they must comply; certificates of proof that certain component models adhere to prescribed certification programme designs; components meet the “proven technology” requirements and demonstrate a minimum prescribed Technical Availability).
  - Forecast Energy Sales Report (this must have been conducted by a suitable energy resource assessor, and been independently reviewed by another assessor; both of whom are subject to minimum requirements and disclosures in terms of experience).
  - Contracting Company capability requirements.
  - Project schedule disclosures required and a deadline by which COD must be achieved.

## Economic Development Criteria and Evaluation

43. The ability of projects to contribute to Cayman’s economic development will also be viewed favourably. In particular, the contribution of projects to Caymanian jobs,

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maximising local content, promotion of local industry competitiveness, regional development and broader economic benefits, will factor into the auction evaluation.

#### Evaluation Criteria (Part C of the RFP)

44. All Compliant Bids proceed to the second stage in which they are subject to a comparative evaluation. The scoring of bid submissions is split between price (70%) and ED criteria (30%).

#### Price Scoring

45. For each Compliant Bid received, the office requires that Qualified Bidders submit firm basis pricing for each technology they plan to bid on.

#### Overall Scoring

46. The bidder's score out of 30 points in respect of ED Criteria, together with its price score out of 70 points, are added together for a final combined score. All bids for a particular technology are then ranked and Preferred Bidders are appointed, giving consideration both to those highest ranked and to the maximum MW available per technology in the relevant bid round.

#### Penalties

47. There will be a penalty for total non-compliance, i.e. failing to realise the project within the contracted time period. A new installation will be required to start generation within 36 months. For solar PV installations a period of 24 months applies, and for onshore wind installations a period of 36 months applies. The proposed penalty for total non-compliance is US\$12,750 per MW contracted installation capacity.
48. There is also a proposed penalty for production deficit, i.e. failing to deliver the full contracted electricity volume. Delivering less than 85% of the offered volume in a settlement period of 3 years will result in a financial penalty at the rate of 50% of the awarded price times the total undelivered electricity.

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## Glossary of Terms

**“Generation licence”** means a licence which permits a Generator, among other things (a) to generate electricity for sale to a T&D licensee for further transmission and distribution to consumers; and (b) to construct, reconstruct, replace or modify a generating station or any generating unit therein for the purpose of generating electricity for sale to a T&D licensee;

**“Generator”** means a person possessing a valid licence to generate and deliver electricity to a T&D licensee.

**“Interconnection”** means the electrical connection of a generating station of a Generator, or of a generating unit used for self supply to the T&D system of a T&D licensee.

**“Licensee”** means a person to whom a licence is granted.

**“Person”** includes any individual, body corporate (either aggregate or sole), partnership, entity or association, undertaking, club, society or other body of one or more persons.

**“PPA”** or **“power purchase agreement”** means an agreement made or terms and conditions agreed between a Generator and a T&D licensee approved by the Office whereby the T&D licensee contracts to purchase or acquire electricity generated by a Generator as specified in the agreement or terms and conditions.

**REAS:** Renewable Energy Auction Scheme

**LCOE:** Levelised Cost of Electricity. Expressed in US\$/MWh, the average price of electricity that each type of RE technology would have to earn in its lifetime, at a given load factor, in order to cover its capital and operating costs.

**“T&D”** means transmission and distribution.

**“T&D licence”** means a licence which permits the licensee, inter alia, to purchase, transmit and distribute electricity for delivery to consumers for reward, and includes a licence to construct, reconstruct, replace or modify transmission and distribution facilities for those purposes.

**Technology Neutral Auctions:** a scheme comprising of auctions where projects from different technologies (with close or overlapping viability gaps) compete against each other, bidding for support. Technology neutral schemes are typically technology agnostic.

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**Technology Specific Auctions:** a scheme or auction where a category is set up for a specific technology. Projects utilising this technology then compete against each other, bidding for support.

**Viability Gap:** the shortfall between market revenues and a generator's LCOE, expressed in US\$/MWh.