

E&U 2021 – 2 – Final Determination Proposed Renewable Energy Auction Scheme



**THE UTILITY REGULATION AND COMPETITION OFFICE
THE CAYMAN ISLANDS**

Publication Date: 23 October 2021



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A. Introduction

1. The Utility Regulation and Competition Office (the 'Office' or 'OfReg') is the independent regulator established by section 4(1) of the Utility Regulation and Competition Act (as revised) (the 'URC Act') for the electricity, information and communications technology, 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. The Office has several principal functions under the URC Act, including the promotion of objectives set out in any policy, innovation and facilitating economic and national development. The protection of the short- and long-term interests of consumers is also another principal function of the Office, in relation to the markets and sectors for which it has responsibility. Under the various sectoral Acts, the Office also has additional specific functions. The Office, in relation to sectoral providers, is responsible for ensuring that utility services are satisfactory and efficient. The Office achieves this function by supervising, monitoring and regulating any sectoral provider in accordance with the URC Act and sectoral legislation. As the Office is responsible for the electricity sector including the production, distribution, and supply of electricity, it was determined that it was necessary to prepare and consult on a proposed Renewable Energy Auction Scheme ("REAS").
3. On 21 February 2017, the Cayman Islands Government approved its National Energy Policy 2017 - 2037 ("NEP") which established renewable energy targets. These targets seek to ensure that 70% of the Islands' electricity generation comes from renewable sources by 2037. The Government has set these targets to create jobs, stimulate economic development and reduce greenhouse gas emissions.
4. To support achievement of these targets the Office is statutorily obligated per section 3.3.1.3 of the NEP to "ensure fair competition for procuring utility-scale sustainable generation." In addition, NEP section 3.3.1.7-B requires the Office to "determine the price to be paid for renewable energy."
5. The Office supports greater renewable energy generation growth in the Cayman Islands, while also keeping to our core principle of ensuring energy is provided at the least affordable costs whilst simultaneously promoting fair and sustainable growth with long term benefits to consumers. To this end, the Office has been making several regulatory initiatives to facilitate the addition of renewables into the electricity market of the jurisdiction.

6. Accordingly on 23 September 2019, the Office published its E&U 2019 – 2 – Consultation regarding the proposed REAS. The proposed REAS was appended to the consultation document. The REAS sets out the mechanism for how the office will implement the auction scheme over time. The purpose of the REAS is to competitively incentivise significant new renewable energy investment to drive industry development and job creation in the Cayman Islands.
7. The Office consulted on the REAS proposal for six (6) weeks, from 23 September 2019 to 01 November 2019. After the completion of the first consultation, the Office invited cross-submissions from the respondents for six (6) weeks from 10 December 2019 to 20 January 2020, which was extended by another ten (10) weeks to 01 March 2020 due to the global pandemic. The Office, from 27 January 2021 to 27 February 2021, issued its second round consultation E&U 2021 – 1 – Draft Determination Proposed Renewable Energy Auction Scheme after an analysis of the submissions to its first consultation.
8. The Office received six (6) responses from stakeholders to its first consultation, and two (2) cross-submissions. After careful consideration of the submissions and cross-submissions received, the Office issues this final determination in response. This paper outlines the Office’s final determinations in relation to the REAS.

B. Legal Framework

9. While drafting its final determination, the Office was guided by its statutory remit, in particular as set out in the URC Act and the Electricity Sector Regulation Act (2019 Revision) (the '**ESR Act**').
10. The following provisions are of particular relevance.

Section 6 of the URC Law sets out the principal functions and powers of the Office. Section 6(1) and (2) are outlined below in part:

6. (1) *The principal functions of the Office, in the markets and sectors for which it has responsibility, are -*

- (a) *to promote objectives set out in any Policy;*
- (b) *to promote appropriate effective and fair competition;*

- (c) *to protect the short and long-term interests of consumers in relation to utility services and in so doing -*
 - (i) *supervise, monitor, and regulate any sectoral provider, in accordance with this Law, the regulations and sectoral legislation and any general policies made by Cabinet in writing;*
 - (ii) *ensure that utility services are satisfactory and efficient and that charges imposed in respect of utility services are reasonable and reflect efficient costs of providing the services;*
- (d) *to promote innovation and facilitate economic and national development.*

(2) *In performing its functions and exercising its powers under this or any other Law, the Office may -*

[...]

- (d) *make administrative determinations, decisions, orders and regulations;*

[...]

- (t) *establish technical standards for the provision of covered services;*
- (u) *review and, as appropriate, approve, reject or modify tariffs filed by a sectoral provider governing the provision of covered services;*
- (v) *establish and enforce quality of service standards applicable to covered services;*

[...]

- (hh) *take any other action, not expressly prohibited by Law, that is necessary and proper to perform its duties under this Law and sectoral legislation.*

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.*”

Section 9(2)(f) of the ESR Law states, among other things, that:

[...] the principal functions of the Office are -

[...]

- (e) to grant, modify or renew licences for generation –*
 - (i) for additional electricity generation in the context of the generation solicitation process;*
 - (ii) where the Office is satisfied that it is economic to extend the life of the generating unit or units of a Generator held under an existing generation licence;*
 - (iii) from alternative or renewable sources of energy; or*
 - (iv) under section 26(4);*

- (f) to solicit additional generation capacity and conduct the generation solicitation process;*

[...]

- (l) to review and approve any PPA;*

[...]

Section 9(5) of ESR Law states, in part, that the Office in carrying out the functions and duties imposed and exercising the powers conferred by the *URC Law*, *the Office shall have regard to the following:*

“(a) The need to develop and promote sustainable competition for additional electricity generation in accordance with this Law;

[...]

(f) Whether licensees have promoted or will promote the development and use of renewable or alternative forms of energy by licensees and consumers;

[...]

(i) 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.”

Section 23(1) and (2) of the ESR Law states that:

“(1) Subject to section 9(2)(q), no person shall generate, transmit, distribute or deliver electricity for reward unless licensed under this Law.

(2) 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.”

Section 6(2)(d) 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.*”

Section 6(3) of the URC Law states that the Office “*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.*”

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.*”

11. It is the position of the Office that it retains the right to propose amendments to the REAS Structure and Requirements when appropriate but not so frequent as to render the auction scheme arbitrary or capricious, but in any event only after consultation.

C. Summary of the Key Objectives of the Renewable Energy Auction Scheme

12. The Government’s national overall target, under the NEP, is to have renewable and alternative energy generate 70 percent of the jurisdiction’s electricity by 2037. Portfolio 5 of the 2017 Integrated Resource Plan (IRP) serves as a roadmap for the implementation of electricity generation energy mix to the electricity grid in Grand Cayman. Strategy 3.3.1.3., of the NEP specifically states that the Office shall “ensure fair competition for procuring utility-scale sustainable generation.” Significant new investment in renewable technologies is still required in order to reach the 2037 target. Consequently, the Office has determined to implement a REAS as a means of promoting a viable long-term RE market that is of a sufficient scale to interest market participants, and can be easily integrated into a competitive electricity generation market. The Office plans to issue a regulatory impact analysis (RIA) consultation as an accompanying document to the REAS.
13. The REAS will be structured to allow lessons to be learnt at the initial stages. For transparency purposes, the timeline for each competition will be

published prior to its start and will be binding on OfReg. Strict pre-qualification requirements will be established, that will include limits on the total size of each competition, project scope(s), processes for dispute resolution, and bidder selection, as well as well-specified rules that cover different outcomes such as tied bids or bids exceeding the quantity limit. The Office will specify how milestones will be monitored between the award of the project and its commissioning, to ensure that successful bidders deliver the project. The Office will also collaborate with the respective Government agencies and other stakeholders to establish a streamlined and transparent process for bidders to obtain licences, land and environmental permits as well as grid connection plans.

14. Using the REAS (which it plans to review annually), the Office will hold a series of auctions which will call on industry to submit bids requesting support to build new renewable energy capacity in Grand Cayman. Successful bidders will enter into long-term power purchase agreements (PPAs) with the off taker for projects demonstrating the greatest value for money for consumers.
15. It is expected that the Office will continue to auction off capacity in this manner over the life of the scheme in order to draw a level of investment that will result in the jurisdiction meeting its renewable energy generation targets for 2037. Based on current generation and demand forecasts, this would involve the Office auctioning up to 176 megawatts (MW) of additional capacity over the scheme's lifetime.
16. The elements of the scheme that were consulted upon are:
 - a) Using auctions for competitive bidding for all renewable energy capacity
 - b) Auction schedule
 - c) Notice period
 - d) Capacity tranches
 - e) Project sizes
 - f) Allocation to Solar Photovoltaic (PV)
 - g) Pre-qualification criteria
 - h) Information requirements

- i) Impact on existing Electricity Providers
 - j) Auction evaluation criteria and principles
 - k) Bid proposal development costs
17. The Office received submissions from BMR Energy, Cayman Renewable Energy Association (CREA), Caribbean Utilities Company Ltd., (CUC), Gemstar, Ironwood Renewables, and Roger Southam in response to its first consultation.
18. The majority of the respondents indicated a preference for an auction as the mechanism to ensure competitive supply of renewable energy. The majority of the respondents also felt that there should be strict project eligibility criteria for participating in the scheme. There were varied views on the minimum size of projects ranging from 4 MW to 25MW, and types of projects that should be eligible to participate in the scheme. The Office has indicated that it is likely to communicate the proposed schedule in advance of the first round of auctions. Most stakeholders were of the view that a published schedule of auctions would be preferable for bidding purposes and that a 2-year schedule would be acceptable. A few stakeholders expressed their concern about the costs of obtaining planning approval, grid connection and an estimate of costs from the T&D Licensee.
19. The REAS is market-oriented and independent power producers (IPPs) will compete on price and other criteria in auctions for RE projects. Solar PV and wind projects will be subject to auctions on pricing and other criteria. The Office considers that auctions conducted in over 120 countries have resulted in considerable discounts for consumers through an acceptable level of competition. Renewable technologies such as biogas, biomass, and geothermal are proposed to be excluded from the auctions because there are insufficient numbers of projects to hold successful competitive auctions and to achieve economies of scale in most areas in the Cayman Islands.
20. The Office now proposes to implement the final REAS commencing in Q1 2022 to transparently procure cost competitive renewable energy to meet the NEP's 2037 targets.
21. The background of the proposed REAS is outlined in Part C of the E&U 2019 – 2 – Consultation paper, which can be accessed at the below link: - <https://www.ofreg.ky/eu-2019-2-consultation-proposed-renewable-energy-auction-scheme>

22. In the first consultation, the Office posed fifteen (15) specific questions regarding the proposed REAS. The submissions to the questions as well as the Office's responses can be accessed at the below link: - <https://www.ofreg.ky/eu-2020-1-draft-determination-proposed-renewable-energy-auction-scheme>

D. Cross Submissions

23. The Office did not receive any cross submissions as of the deadline on 10 January 2020. The Office then extended the deadline from 10 January 2020 to 31 January 2020, and eventually received 2 cross submission(s) from BMR Energy and CUC.
24. The cross submissions and the Office's responses can be accessed at the below link: - <https://www.ofreg.ky/eu-2020-1-draft-determination-proposed-renewable-energy-auction-scheme>

E. E&U 2020 – 1 – Draft Determination on Proposed REAS

25. The Office launched a second-round consultation on 27 January 2021 for thirty (30) days on its proposed REAS, which was amended after an analysis and consideration of the submissions received in response to the E&U 2019 – 2 – Consultation.
26. The Office did not receive any responses as of the deadline of the consultation.

F. Determinations

27. The Office has carefully considered all comments and suggestions in response to the proposed REAS. The Office added sections 26, 30 and 31 to the Environmental Consent Criteria and Evaluation to address concerns from respondents in relation to obtaining EIAs and other permits prior to bidding.

28. Pursuant to Sections 9. 2. (f), 9. 5. (a), (f) and (i) of the ESR Act, the Office determines that the final REAS which will rely on competitive forces to achieve the NEP's renewable energy ambitions of 70% by 2037 at the lowest feasible cost to electricity customers while delivering technology diversity, be adopted and implemented.

Appendix 1

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Final Renewable Energy Auction Scheme Structure and Requirements

1. The Renewable Energy Auction Scheme ('the REAS') will involve a series of tranching auctions for renewable energy capacity. Important considerations, for these auction tranches, will be a) how they are staged; b) what renewable energy technology will be auctioned; and c) 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 three (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 nine (9) – twelve (12) months and Commercial Operation Dates ('CODs') within twenty-four (24) – thirty-six (36) months of signing the Power Purchase Agreement ('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 may be 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 of: an annual capacity of 25MWs generated from utility-scale solar be added to the grid from 2021-2023; 20MWs in 2024, 20MW in 2029 and 2030; a capacity of 20MWs generated from energy storage be added to the grid in 2022, and another 40MWs by 2030. A phased capacity generated from utility-scale wind power to be added to the grid of 3MWs in 2023, 8MWs in 2024, 14MWs in 2025, 3MWs in 2026, 2MWs in 2028, 6MWs in 2035, 5MWs in 2042 and 3MWs in 2045. The Office will consider combining the tranches of utility-scale solar power and wind power where appropriate to achieve economies of scale.
5. The Office understands that it is important that certainty, in relation to the auction scheme requirements, is provided to industry to ensure that an adequate slate 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 in 2022. Consequently, a minimum of 25MWs 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 sixty (60) 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 (60%), non-price (30%) and a basket of Economic Development criteria (10%).

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 in megawatts 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, and 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 CI \$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 non-refundable 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 Office 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.

Contractual Agreements

12. A requirement of the REAS competitive tenders is that IPPs must negotiate 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 Act.

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 CI \$5,000.00 per MW of contracted capacity for the proposed project. Once provisionally informed of its Qualified Bidder status, each IPP has fifteen (15) days to lodge a new guarantee (the 'Qualified Bidder Guarantee') with the Office for an even greater CI \$10,000.00 per MW of contracted capacity. Only thereafter will it officially be appointed as a Qualified Bidder.

18. The purpose of bid guarantees is to disincentivise 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 one hundred and eighty (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 ten (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.

Legal Criteria and Evaluation

24. Bidders must provide proof that they will 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. The criteria 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 (Form RL1.), and bidders assuming the risk of ensuring it will be obtained without delaying FC.
26. The proof of land acquisition may not be required if the land on which the project is to be developed has been pre-selected by Government for renewable energy development.

Environmental Consent Criteria and Evaluation

27. Bidders must pass both general and technology-specific sub-criteria under the Qualification criterion, and provide evidence that all requisite environmental consents listed in the RFP have been obtained by bid submission.
28. 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.
29. 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 the criterion where the relevant appeal or review period has not expired by bid submission.

30. The environmental consent criteria and evaluation may not be required if the land on which the project is to be developed has been pre-selected by Government for renewable energy development.
31. When pre-selected sites are available, they will be used in alternation through different auction windows where developers are free to select their own sites. This alternation between pre-selected and self-selected sites intends to ensure a more level playing field between different types of developers.
32. 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

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

Price

34. 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

35. 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 three (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 three (3) financial years must be provided for each ultimate provider.

36. 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 three (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 five (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.

Robustness and deliverability of funding proposal

37. 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.

38. 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.

39. Where a project will use external debt the bidder must demonstrate that any of its members have a proven track record, in the last five (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.

40. 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

41. 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.

42. 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.

Technical Criteria and Evaluation

43. 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.
44. 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.
45. 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

46. 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, 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)

47. 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 (60%), non-price (30%), and ED criteria (10%).

Price Scoring

48. 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

49. The bidder's price score out of sixty (60) points and its non-price criteria score out of 30 points together with its score out of 10 points in respect of ED Criteria, 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

50. 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 thirty-six (36) months. For solar PV installations a period of 24 months applies, and for onshore wind installations a period of thirty-six (36) months applies. The proposed penalty for total non-compliance is US\$12,750 per MW contracted installation capacity.

51. 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 three (3) years will result in a financial penalty at the rate of 50% of the awarded price times the total undelivered electricity.

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.

“IPP” means an independent power producer (IPP) or non-utility generator (NUG) an entity, which is not a public utility, but which owns facilities to generate electric power for sale to utilities and end users.

“Licence” means a licence granted to a person by the Cabinet or by the Office under the Electricity Sector Regulation Act and includes any renewal thereof or modification thereto.

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.

“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”: means Renewable Energy Auction Scheme.

“Renewable or alternative forms of energy” means non-fossil energy used in the generation of electricity which does not deplete the amount of that energy available in the future or for which the supply can be readily regenerated, including energy derived from wind, hydro, biomass, waste (including waste heat), bio-fuel, geothermal, fuel cells, tidal, temperature inversion or convection, solar or wave or any combination of such forms of energy.

“T&D” means transmission and distribution.

“T&D Code” means a set of rules adopted, prepared or adapted by a T&D licensee and approved by the Office under this Act to be observed in respect of all technical aspects including safety, relating to interconnection and connection to and operation of the transmission and distribution system operated by the T&D licensee, including the dispatch of generating units to serve the load and reserve requirements of that T&D licensee.

“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.

“T&D System” means the T&D network of a T&D licensee for the transport of electricity from the generating station of a Generator to consumer meters and consists of structures, lines, underground conduit, conductors, transformers, relays, switchgear and associated equipment.

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.

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.

[END]