

## AEC-CSP-2025-Lot 2: BID BULLETIN No. 01

<b>DATE:</b>	<b>21 March 2025</b>
<b>FROM:</b>	<b>AEC Bids &amp; Awards Committee</b>
<b>TO:</b>	<b>Prospective Bidders of AEC-CSP-2025-Lot 2</b>
<b>SUBJECT:</b>	<b>Bid Bulletin No. 01</b>

This is in response to the question of whether or not a Non-RE Facility with RECs and/or an RE Facility (but not RPS Eligible Plant) plus RECs, can participate in the competitive selection process (CSP) of an electric distribution utility (DU) for renewable energy supply in compliance with its Renewable Portfolio Standards (RPS).

The RPS is a market-based policy established under the Renewable Energy Act of 2008 (Republic Act No. 9513) and further detailed in Department Circular No. DC2017-12-0015 for on-grid areas and DC2018-08-0024 for off-grid areas. The RPS mandates that certain electric power industry participants, such as distribution utilities (DUs), source a specified portion of their electricity from eligible renewable energy (RE) resources to promote the growth of the RE industry.

A Non-RE facility and/or a Non-Eligible RE Facility are not allowed to participate in a bidding process specifically intended for RPS compliance by an electric distribution utility. Here's why:

1. **Definition of Eligible RE Facilities:** The RPS rules explicitly define "Eligible RE Facilities" as those utilizing renewable energy resources or technologies **that are registered**, such as biomass, wind, solar, run-of-river hydro, impounding hydro, ocean energy, geothermal, waste-to-energy, and hybrid systems (with respect to their RE component). Non-RE facilities, such as those powered by fossil fuels (e.g., coal, oil, or natural gas), do not qualify under these guidelines.

2. **Purpose of RPS Compliance:** The primary objective of the RPS is to increase the utilization of renewable energy in the national energy mix. Allowing non-RE facilities or unregistered RE facilities to participate in a bidding process for RPS compliance would contradict this goal, as it would not contribute to the **mandated** RE share.

3. **Compliance Mechanisms:** Distribution utilities comply with RPS requirements through mechanisms like purchasing Renewable Energy Certificates (RECs) from eligible RE facilities, entering into Power Supply Agreements (PSAs) with RE generators, or utilizing RE generation from net-metering arrangements. These mechanisms are tied exclusively to RE sources, and non-RE facilities cannot generate RECs or qualify under these provisions. Unregistered RE Facilities are also beyond the scope of the RPS Rules as they do not fall under the definition of **Eligible RE Facilities**.

4. **Bidding Design:** All CSPs for RPS compliance are structured to prioritize **direct RE generation** (i.e., power supply agreements with RE plants) rather than REC-only transactions from non-RE entities.

5. **Regulatory Scrutiny:** The Energy Regulatory Commission (ERC) and the Department of Energy (DOE) oversee CSPs and RPS compliance. A non-RE facility or unregistered RE Facility offering RECs it didn't generate will face questions about its role—why not just have the Eligible RE facility bid directly?

Section 15 and Section 17 of Rule 4 of DOE Department Circular No. DC2017-12-0015 provides that as far as RPS compliance embodied in PSAs is concerned, including RECs, it shall be obtained or sourced directly and solely from mandated eligible RE facilities.

Lastly, the Invitation to Bid as well as its Terms of Reference, clearly require a Physical Contract and not a Financial Contract. This automatically disqualifies bidders that are Non-RE facilities as required RECs must emanate from it and not sourced from other RE Facility/ies.