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AUTHOR



Edwin Vanderbruggen
Senior Partner

Edwin is one of Myanmar's most prominent foreign legal advisers and is widely recognized for his experience in power projects. He advises sponsors and lenders on the large majority of IPP projects in Myanmar, including LNG to Power, gas, solar, wind and HPP. He assists the Government, DFIs and IFI's on power projects, policy and reform, and helped draft a new Model PPA in 2018. He is known for actually getting things done and for his extensive regulatory knowledge.

WHAT HAVE WE LEARNED FROM EPGE'S 1,060 MW SOLAR TENDER?

Proposals have been evaluated, preliminary winners have been selected. The focus on Myanmar's largest ever competitive tender for renewable energy, launched in June 2020, is now shifting to whether the winning bidders can indeed get their projects implemented, and do so within the strict time limits set out in the tender. Much has been written about the nationality of the winners, the largest ones reportedly being the Chinese-based Sungrow Power Supply and the China Machinery Engineering Corporation. In this contribution, now the competition is largely behind us, I wanted to re-examine the process and the result of the tender. As someone who has managed tenders for the Myanmar Government (not this one), as well as assisted successful and other bidders (including on this one), was this tender a success? What have we learned?

Was the time to prepare a bid indeed too short?

The original RFP came out on 18 May 2020 and called for bids to be submitted by 17 June 2020. This was then extended to 17 July 2020. By then, 155 bids were received. EPGE then took until 4 September 2020 (and not as was originally planned until 2 August) to announce who passed the technical evaluation, a total of 108 bids. That's roughly 2/3rd of the submitted bids.

You can't argue that there were not enough bids. Our of 30 sites, essentially

Highlights of this note

- ▶ Was the time to prepare a bid indeed too short?
- ▶ Are Chinese companies getting an unfair advantage by the Government?
- ▶ What about the tariff?
- ▶ And now? Winning a tender is one thing. But will the projects be built? And on schedule?
- ▶ Can we expect more tenders like this? Will there still be directly awarded projects?

30 projects, 27 received more than 1 bid. Only 1 site received no bids, and two sites received a single bid. EPGE has achieved a competitive situation for 27 out of its 30 projects, I would call that a success.

One month, or even two to prepare a bid for a 30 or 40 MW solar project is under any circumstance too short to be preferable. I think EPGE has lost some credibility with certain sponsors, especially by putting out the RFP with just one month to submit the bid. Some sponsors will have assumed the effort is not serious, or at least not sufficiently professional. Some aspects

seemed at a glance unreasonable, such as acquiring the land yourself or submitting originals during a travel ban. I think these things have (in my view in the final analysis unnecessarily) hurt the reputation of EPGE in the eyes of some but not all sponsors. But the target group of EPGE was never “all the sponsors”. The target group for this effort was “sponsors who already have prepared many aspects of the project for months, if not years”. For years now, EPGE has been under siege by candidate sponsors offering to do solar projects in Magway, Mandalay, Bago, Sagaing, etc, the same regions as were included in the tender. Investors have broken down the door for many years at building no. 27 in Nay Pyi Daw with drawings, reports and plans. It is not surprising that EPGE has assumed, in my view correctly, that there is a large body of candidate investors who are “ready to go” and who have the necessary assets, partnerships and resources to amend an existing proposal to meet the RFP’s conditions rather quickly. I still believe that, to safeguard its reputation among all sponsors internationally, EPGE would have done better to put out the RFP with a three months submission time. One month extra is a small price to pay for avoiding the criticism and scepticism they had to endure. And to avoid taking the risk that they did. But, EPGE was not wrong in its assessment. The benefit of hindsight, with 155 bids submitted, some sites having five, seven or even nine bids, they ended up being right on that front.

Are Chinese companies getting an unfair advantage by the Government?

Much has been written about the nationality of the winners. Nearly all of the projects went to Chinese companies or to consortia with a Chinese company in it. Is that by choice or did it just come out this way? I do not believe this is a political choice at all. I have been on the inside of numerous Government tenders, and I saw nothing of the sort. In my experience, it is the normal commercial result of a difference in risk profile, competition between Chinese companies seeking an outlet for their manufacturing basis among



increasingly rare overseas business, proximity to China and longstanding existing relationships (which “the West” does not have due to past sanctions), and a forward leaning policy in Beijing to support outward projects with local money.

In direct negotiations we have seen the Government award substantial projects to “western” and Japanese companies without a tender. I believe that when all else is equal, the Government prefers to have a balanced spread of investors from different parts of the world. The dominance of the Chinese companies in the solar tender is, having been involved in preparing a dozen bids many of which were awarded as the preliminary winner, a result of proposing very competitive conditions made possible by assuming a different risk posture than other, more conventional bidders.

What about the tariff?

According to newspaper reports, the average tariff of the winning bids in this tender is around 4 US\$ cents. That is remarkably close to a recent international tender for a 60 MW solar project our firm is involved in, in Cambodia (again, according to published reports). Nevertheless, I

would say that EPGE got an even better deal than their Cambodian colleagues from Electricité du Cambodge, or “EDC”. I say this because on the Cambodian project, the sponsors need not arrange for or pay for the land, which is a big difference with the Myanmar projects, and EDC pays for the better part in US\$ rather than local currency. Plus, I would consider the Cambodian PPA perhaps more robust in many respects than the Myanmar PPA of the RFP. That being said, the Myanmar PPA is certainly not bad, but the current negotiations with EPGE to finalize the PPA are ongoing. EPGE is certainly going to pay less than their Vietnamese colleagues of EVN, who have set the solar tariff for 2020 at just over 7 US\$ cents.

And now? Winning a tender is one thing. But will the projects be built? And on schedule?

One of the many criticisms levelled at the RFP was the break-neck construction schedule, requiring COD within just six months after awarding the project. In this 6 month period, the sponsor needs to finalize negotiations on the PPA, obtain an MIC permit, probably convert the land type, sign a lease contract, obtain import licenses and, of course, build the facility. Converting the land type has long

been a major obstacle to rapid project development, especially if it's farmland. I would say that one simply cannot convert the land within a reasonable timeframe, for all practical purposes. You will need exceptional measures and shortcuts because the land laws, or at least the way they are presently applied, are just not compatible with project development requirements.

Even in normal circumstances doing all the above in six months is only possible if there are shortcuts you can take. And in the COVID era, with Myanmar in the throws of a second surge, Government departments only working on skeleton capacity and no way to travel within Myanmar, let alone internationally, I predict there will be plenty of force majeure moments. Each one of those will push the COD out a little further according to most PPAs.

The point I am making is this: it is very likely that the COD's of most if not all of these projects will be delayed in any event, at least for a few months, even without sponsors dropping the ball. Some of us have been counting on that right from the start.

Can we expect more tenders like this? Will there still be directly awarded projects?

The trend under this Government is clearly towards more competitive tenders and less directly awarded projects. This trend is underscored by regulation and draft legislation pushing in that direction. But it is also clear that several important projects remain in the directly negotiated sphere. It appears there will be a role, likely a shrinking role, for unsolicited

and directly awarded infrastructure projects.

This tender had some flaws, that is obvious, and some of them are unnecessary and highly visible. But since I live and work in Myanmar from 2012, particularly in the energy space, both the number and the quality of tenders managed solely by the Government has increased very significantly. A detailed RFP with a full text draft PPA, clear comparable parameters and an fairly good apparatus of rules and documents to support the process, several rounds of written clarification and a sharply outlined objective by the policy maker, these are important improvements.

Finally, the results speak for themselves. Plenty of bids and a highly competitive tariff. The proof of the pudding is indeed in the eating. You can validly feel that injecting a higher level of risk into Myanmar's solar projects up for tender is necessary nor sustainable. But you can't argue with the market. You either make sure you can outcompete the competitor, including on risk appetite, or start looking elsewhere. Just as back in 2012 and ever since, to succeed in Myanmar you go big or you go home.

Edwin Vanderbruggen is the senior partner of VDB Loi, a law firm highly involved with energy projects in Cambodia, Laos, Myanmar and Vietnam. Edwin is assisting independent power producers and Government departments alike on power projects ranging from hydropower to LNG to renewables.

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CONTACT

YANGON

Level 10, Unit 01-05, Junction City Office Tower,
Corner of Bogyoke Aung San Road and 27th Street,
Pabedan Township
T +951 9253752~756
F: +951 9253758

NAY PYI TAW

Nilar #2, Business Center, Park Royal Hotel Nay Pyi Taw,
Jade Villa no. 13/14 Hotel Zone,
Dekhina Thiri Township
T: +95 678 106089
F: +95 678 108 092