

## Client Alert

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## Competitive Bidding for the Development of Large Scale Solar Photovoltaic Plants in Malaysia Under the Malaysia Electricity Industry to Attract RE Investment Programme (LSS@MEntARI Programme)

On 28 May 2020, the Minister of Energy and Natural Resources of Malaysia announced that the Energy Commission of Malaysia will offer a quota of 1,000MW<sub>ac</sub> via a competitive bidding process to select developers (companies or consortiums) for the development of large scale solar photovoltaic plants ("**LSS**") under the Malaysia Electricity Industry to Attract RE Investment Programme ("**LSS@MEntARI Programme**").

The LSS@MEntARI Programme is part of the Malaysian Government's strategy to stimulate the national economy that has been affected by the COVID-19 pandemic. It aims to generate investments amounting to RM4 billion and create 12,000 job opportunities. The quota for the LSS@MEntARI Programme is also the largest quota offered for LSS projects in Malaysia, doubling the quota offered for the last LSS Programme (LSS3 Programme).

We have set out below a brief comparison of the key features between the LSS3 Programme and the LSS@MEntARI Programme.

	LSS3	LSS@MEntARI
<b>Total Quota</b>	500MW <sub>ac</sub>	1,000MW <sub>ac</sub> divided into 2 packages as follows: <ul style="list-style-type: none"><li>• Package 1 - 500MW<sub>ac</sub></li><li>• Package 2 - 500MW<sub>ac</sub></li></ul>
<b>Maximum Quota per Project</b>	Between 1MW <sub>ac</sub> up to 100MW <sub>ac</sub>	<ul style="list-style-type: none"><li>• Package 1 - Between 10MW<sub>ac</sub> up to 30MW<sub>ac</sub></li><li>• Package 2 - Between 30MW<sub>ac</sub> up to 50MW<sub>ac</sub></li></ul>
<b>Foreign Investor Participation</b>	Maximum of 49%	100% locally owned incorporated or registered companies or a company listed on Bursa Malaysia which has at least 75% local shareholding can submit a bid
<b>Bid Period</b>	6 months	3 months
<b>Expected COD</b>	Approximately 24 months from bid award	No later than 31 December 2023





Given that the bid prices for LSS programmes have gone down significantly over the years (with the lowest offered bid price for the LSS3 Programme being RM0.17777/kWh for a 100MW<sub>ac</sub> project), it will be interesting to see potential bidders coming up with even more competitive proposals to secure the quota provided under the LSS@MEntARI Programme.

The LSS@MEntARI Programme also appears to provide opportunities for more bidders to be successful in obtaining quota as compared with the LSS3 Programme<sup>1</sup> with the division of quota award packages. This approach adopted for LSS@MEntARI Programme is a closer resemblance to the approaches adopted for LSS1 and LSS2. However, a similarity between the LSS@MEntARI Programme and the LSS3 Programme is that a bidder may submit up to 3 projects for consideration, with a presumably maximum capacity of 50MW<sub>ac</sub> per project for the the LSS@MEntARI Programme.

In the previous rounds of LSS tenders, various structures were put in place not just to attract investment, but more importantly to promote transfer of technology, knowledge and skills. For example, in the LSS1 and LSS2 Programmes, there were no foreign ownership restrictions to the engineering, procurement and construction (EPC) contractors. In the LSS3 Programme, foreign shareholding of no more than 49% was permitted in the project company and there were also restrictions on foreign shareholding for the EPC contractors and other contractors.

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Although it has been announced that, apart from Bursa Malaysia listed companies fulfilling the equity conditions, LSS@MEntARI Programme is only open to "100% locally owned companies incorporated or registered in Malaysia", it remains to be seen if the official request for proposal will allow foreign participation through quasi debt equity capital contributions by foreign investors. It also remains to be seen if there will be similar (or further) restrictions on foreign shareholding for the contractors, main contractors and EPC contractors, as with the LSS3 Programme. Such restrictions would not be a surprise especially if the government is of the view that the transfer of technology, skills and knowledge from previous LSS programmes have been successful enough to see that the Malaysian market has matured and that local players are fully capable of developing and constructing large scale solar projects.

The above information is based on the announcement of the Minister and may be subject to further changes in the official request for proposal, which is due to be issued in June 2020.

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<sup>1</sup> The LSS3 Programme was awarded to 5 shortlisted bidders which offered a capacity of between 90-100MW<sub>ac</sub>.

