

Spring 2017 Procurement Events (DG RFP)
27 MAR 2017

Acceptable Modifications to the IPA Standard Letter of Credit

This document contains a preliminary list of modifications to the Illinois Power Agency ("IPA") Standard Letter of Credit that are **ACCEPTABLE** to the IPA on an optional basis.

Introductory Text - Original

IRREVOCABLE STANDBY LETTER OF CREDIT

_____ (“Date of Issuance”)

Letter of Credit No. _____

Beneficiary:

Illinois Power Agency (“IPA”)
Attn: Charles Kudia
160 North LaSalle Street, Suite C-504
Chicago, Illinois 60601
Phone: (312) 814-3273

Applicant:

[Name of Applicant]
[Address]

Paragraph 1 - Original

1. We, _____(the “Issuing Bank”), hereby establish this Irrevocable Standby Letter of Credit (this “Letter of Credit”) in your favor in the amount of USD \$_____, effective immediately and available to you at sight upon demand at our counters at _____[designate Issuing Bank’s location for presentments]. This Letter of Credit shall expire 364 days from date of issuance, unless terminated earlier in accordance with the provisions of Paragraph 9 hereof, or otherwise extended. It is a condition of this Letter of Credit that it shall be deemed automatically extended, without amendment, for additional period(s) of 364 days from the expiration date hereof, or any future expiration date, unless at least ninety (90) days before its current expiration date, we send notice to you in writing by registered mail or overnight courier at the address above, and we send notice to the Applicant, that we do not intend to extend this Letter of Credit.

Paragraph 2 – Original

2. This Letter of Credit is issued at the request and for the account of _____ (including its successors and assigns). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your drawing certificate stating that:
- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or
 - b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
 - c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
 - d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
 - e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
 - f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

Acceptable Modifications to Paragraph 2

- 2.1. This Letter of Credit is issued at the request and for the account of _____ (including its successors and assigns). This Letter of Credit may be drawn by presenting the documents required by ~~paragraph~~ [Paragraph](#) 3 hereof, including your drawing certificate stating that:
- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or
 - b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
 - c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
 - d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
 - e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
 - f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

2.2. This Letter of Credit is issued at the request and for the account of _____ (including its successors ~~and assigns~~). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your drawing certificate stating that:

- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or
- b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
- c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
- d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
- e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
- f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

2.3. This Letter of Credit is issued at the request and for the account of _____ (~~including its successors and assigns~~ the “Applicant”). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your drawing certificate stating that:

- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or
- b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
- c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
- d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
- e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
- f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

2.4. This Letter of Credit is issued at the request and for the account of _____ (~~including its successors and assigns~~). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your drawing certificate stating that:

- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or

- b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
- c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
- d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
- e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
- f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

2.5. This Letter of Credit is issued at the request and for the account of _____ (including its successors and assigns). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your drawing certificate [purportedly signed by your authorized representative](#) stating that:

- a) “after submission of the part 2 proposal, the Bidder has disclosed, publicly or to a party other than those involved in the preparation of the proposal, material information relating to the proposal”; or
- b) “the Bidder has made a material omission or misrepresentation in the part 1 proposal or the part 2 proposal submitted in connection with the Procurement Event”; or
- c) “the Bidder has failed to execute the applicable supplier contracts within three (3) business days of the Illinois Commerce Commission approving its winning bids”; or
- d) “the Bidder has failed to pay the supplier fees to the Illinois Power Agency within seven (7) business days of the Illinois Commerce Commission approving its winning bids; or
- e) “A maximum contract quantity under an applicable supplier contract executed by the Bidder has been reduced”; or
- f) “the Bidder has failed to submit a replacement letter of credit after the Issuing Bank has sent notice that the Issuing Bank does not intend to extend this Letter of Credit”.

Paragraph 3 – Original

3. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to expiry of this Letter of Credit by delivering or transmitting to the Issuing Bank at _____ [U.S. address], (a) a notice executed by you substantially in the form of Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA, and (b) your draft substantially in the form of Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA.

Acceptable Modifications to Paragraph 3

- 3.1. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to expiry of this Letter of Credit by delivering or transmitting to the Issuing Bank at _____ [U.S. address], (a) a notice executed by you substantially in the form of Annex 1 hereto, appropriately completed and purportedly duly signed by an Authorized Officer of the IPA, and (b) your draft substantially in the form of Annex 2 hereto, appropriately completed and purportedly duly signed by an Authorized Officer of the IPA.
- 3.2. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to expiry of this Letter of Credit by delivering or transmitting to the Issuing Bank at _____ [U.S. address], (a) a notice executed by you substantially in the form of Annex 1 hereto, appropriately completed and purporting to be duly signed by an Authorized Officer of the IPA, and (b) your draft substantially in the form of Annex 2 hereto, appropriately completed and purporting to be duly signed by an Authorized Officer of the IPA.
- 3.3. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to expiry of this Letter of Credit by delivering or ~~transmitting~~ faxing to the Issuing Bank at _____ [U.S. address], (a) a notice executed by you substantially in the form of Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA, and (b) your draft substantially in the form of Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA.

3.4. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to expiry of this Letter of Credit by delivering or transmitting to the Issuing Bank at _____ [U.S. address], (a) a notice executed by you ~~substantially~~ in the form of Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA, and (b) your draft ~~substantially~~ in the form of Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of the IPA.

Paragraph 4 - Original

4. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: _____, and confirmed by telephone to us at the following number(s): _____. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

Acceptable Modifications to Paragraph 4

- 4.1. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: _____, and confirmed by telephone to us at the following number(s): _____. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents. However, in the event of a full or final drawing, the original standby letter of credit must be sent to us by overnight delivery.
- 4.2. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: _____ or alternately to facsimile number _____, and confirmed by telephone to us at the following number(s): _____. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

Paragraph 5 – Original

5. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by 3 PM (Eastern Prevailing time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11 AM (Eastern Prevailing time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11 AM (Eastern Prevailing time) on any Business Day.

Acceptable Modifications to Paragraph 5

- 5.1. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by 3 PM (Eastern ~~Prevailing~~ time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11 AM (Eastern ~~Prevailing~~ time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11 AM (Eastern ~~Prevailing~~ time) on any Business Day.
- 5.2. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or ~~transmitted~~ faxed to us in connection with such drawing to ~~the~~ your account designated as provided below, by 3 PM (Eastern Prevailing time) on the date of such drawing, if delivery or ~~transmission~~ fax of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11 AM (Eastern Prevailing time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or ~~transmission~~ fax of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11 AM (Eastern Prevailing time) on any Business Day.
- 5.3. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by ~~3~~ 5:00 PM (Eastern Prevailing time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to ~~11~~ 10:00 AM (Eastern Prevailing time) on a Business Day, but at the opening of business on the first Business Day

next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after ~~11~~10:00 AM (Eastern Prevailing time) on any Business Day.

Paragraph 6 – Original

6. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice not later than the time provided in Paragraph 5 above for honor of a drawing presented to us, that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons why the demand for payment was not so effected, and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.

Acceptable Modifications to Paragraph 6

- 6.1. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice not later than the time provided in Paragraph 5 above for honor of a drawing presented to us, that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons why the demand for payment was not so effected, and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made [on or prior to the Expiration Date](#) in accordance with the terms of this Letter of Credit.

Paragraph 7 – Original

7. Payments made by us under this Letter of Credit shall be transmitted to the IPA according to instructions provided in writing to us by an Authorized Officer of the IPA.

Paragraph 8 – Original

8. Partial drawings are permitted hereunder and multiple presentations are permitted hereunder. The amount available for drawing by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit. Presentation of demands for drawings in amounts that exceed the amount available to be drawn hereunder shall not be deemed a failure to comply with the requirements of Paragraph 3 hereof, provided that the amounts payable on any such demand shall thus be limited to the amount then available to be drawn under this Letter of Credit.

Acceptable Modifications to Paragraph 8

- 8.1. Partial drawings are permitted hereunder and multiple presentations are permitted hereunder. The amount available for drawing by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid ~~by~~through us ~~to you referencing under~~ this Letter of Credit. Presentation of demands for drawings in amounts that exceed the amount available to be drawn hereunder shall not be deemed a failure to comply with the requirements of Paragraph 3 hereof, provided that the amounts payable on any such demand shall thus be limited to the amount then available to be drawn under this Letter of Credit.

Paragraph 9 – Original

9. This Letter of Credit shall terminate on the earliest of: (a) the date you have made drawings which exhaust the amount available to be drawn under this Letter of Credit; or (b) the date we receive from you a Certificate of Cancellation in the form of Annex 3 hereto together with the original of this Letter of Credit (and subsequent amendments, if any) returned for cancellation.

Acceptable Modifications to Paragraph 9

- 9.1. This Letter of Credit shall terminate on the earliest of: (a) the date you have made drawings which exhaust the amount available to be drawn under this Letter of Credit; or (b) the date we receive from you a Certificate of Cancellation in the form of Annex 3 hereto together with the original of this Letter of Credit ~~(and subsequent amendments, if any)~~ (and all amendments, if any) returned for cancellation.

Paragraph 10 – Original

10. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits – 2007 revision, International Chamber of Commerce Publication No. 600, (the “UCP”). All banking charges are for the account of the Applicant. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.

Acceptable Modifications to Paragraph 10

10.1. ~~This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits – 2007 revision, International Chamber of Commerce Publication No. 600, (the “UCP”). All banking charges are for the account of the Applicant. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.~~ This Letter of Credit is not transferable and except as otherwise expressly stated herein, is subject to the International Standby Practices 1998, known as International Chamber of Commerce Publication No. 590 (“ISP 98”), and, to the extent relevant, the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication Number 600 (“UCP600”), and, to the extent not inconsistent with said ISP98 or UCP600, shall be governed by and construed in accordance with, the laws of the State of New York, without regard to principles of conflicts of law.

10.2. *Please note that change ① to Paragraph 10 is only acceptable if made together with Acceptable Modification 11.1 to Paragraph 11 provided as change ② below.*

① ~~This Letter of Credit is not transferable, and except as otherwise expressly stated herein,~~ This Letter of Credit is subject to and shall be governed by the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590), or any successor publication thereto (the “ISP”), except to the extent that the terms hereof are inconsistent with the provisions of the ISP, in which case the terms of this Letter of Credit shall govern. ~~the Uniform Customs and Practice for Documentary Credits – 2007 revision, International Chamber of Commerce Publication No. 600, (the “UCP”).~~ All banking charges are for the account of the Applicant. This Letter of Credit shall, as to matters not governed by the ~~UCP~~ ISP or matters inconsistent with the ISP, be governed and construed in accordance with the laws of the State of New York ~~law~~, without regard to principles of conflicts of law.

② Acceptable Modification 11.1.

~~Article 36 of the UCP~~ Rule 3.14(a) of the ISP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

~~Article 36 of the UCP as it applies to this Letter of Credit~~ [Rule 3.14\(b\) of the ISP](#) is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

Paragraph 11 – Original

11. Article 36 of the UCP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Article 36 of the UCP as it applies to this Letter of Credit is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

Acceptable Modifications to Paragraph 11

11.1 *Please note that change ② to Paragraph 11 is only acceptable if made together with Acceptable Modification 10.3 to Paragraph 10 provided as change ① below.*

① Acceptable Modification 10.3

This Letter of Credit is not transferable, ~~and except as otherwise expressly stated herein, This Letter of Credit~~ is subject to and shall be governed by the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590), or any successor publication thereto (the "ISP"), except to the extent that the terms hereof are inconsistent with the provisions of the ISP, in which case the terms of this Letter of Credit shall govern. the Uniform Customs and Practice for Documentary Credits – 2007 revision, International Chamber of Commerce Publication No. 600, (the "UCP"). All banking charges are for the account of the Applicant. This Letter of Credit shall, as to matters not governed by the ~~UCP~~ISP or matters inconsistent with the ISP, be governed and construed in accordance with the laws of the State of New York ~~law~~, without regard to principles of conflicts of law.

② ~~Article 36 of the UCP~~ Rule 3.14(a) of the ISP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

~~Article 36 of the UCP as it applies to this Letter of Credit~~ Rule 3.14(b) of the ISP is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

Paragraph 12 - Original

12. As used herein:

“Authorized Officer” shall mean Director, Chief Legal Counsel, Chief Operating Officer, or Chief Fiscal Officer.

“Bidder” is _____, the party that will sign the applicable supplier contracts should the bids in the proposal submitted to the Procurement Event be approved.

“Business Day” shall mean any day on which Federal Reserve Banks and Branches are open for business, such that payments can be effected on the Fedwire system.

“Procurement Event” shall mean the request for proposals, the evaluation of proposals and bids for renewable energy credits from distributed renewable energy generation devices, and the execution of the supplier contracts with Ameren Illinois Company and/or Commonwealth Edison Company and/or MidAmerican Energy Corporation as a counterparty pursuant to the Procurement Plan as proposed by the Illinois Power Agency and approved by the Illinois Commerce Commission in Docket No. 16-0453.

Paragraph 13 - Original

13. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above. Except as otherwise expressly stated herein, this Letter of Credit may not be amended or modified by us without the consent of an Authorized Officer of the IPA.

Acceptable Modifications to Paragraph 13

13.1. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above. Except as otherwise expressly stated herein, this Letter of Credit may not be amended or modified by us without the written consent of an Authorized Officer of the IPA.

Paragraph 14 – Original

14. We, the Issuing Bank, certify that we are a chartered bank in _____ [name of state], that we are an FDIC insured bank, and that we currently exceed all regulatory capital ratios.

Acceptable Modifications to Paragraph 14

- 14.1. ~~We, the Issuing Bank, certify that we are a chartered bank in _____ [name of state], that we are an FDIC insured bank, and that we currently exceed all regulatory capital ratios.~~ We, the Issuing Bank, certify that as of the Date of Issuance our senior unsecured debt is rated by at least one of Standard & Poor's (S&P), Moody's Investors Service (Moody's), and Fitch Ratings (Fitch). We hereby certify that our senior unsecured debt is rated "A-" or better by S&P, or is rated "A3" or better by Moody's, or is rated "A-" or better by Fitch. If affiliated with a foreign bank, we further certify we are a U.S. branch office of such foreign bank and that as of the Date of Issuance of this Letter of Credit, our senior unsecured debt meets the ratings requirement of this paragraph.
- 14.2. *Please note this change to Paragraph 14 is only acceptable if the bank issuing the Pre-Bid Letter of Credit is not a foreign bank.*
~~We, the Issuing Bank, certify that we are a chartered bank in _____ [name of state], that we are an FDIC insured bank, and that we currently exceed all regulatory capital ratios.~~ We, the Issuing Bank, certify that as of the Date of Issuance our senior unsecured debt is rated by at least one of Standard & Poor's (S&P), Moody's Investors Service (Moody's), and Fitch Ratings (Fitch). We hereby certify that our senior unsecured debt is rated "A-" or better by S&P, or is rated "A3" or better by Moody's, or is rated "A-" or better by Fitch.
- 14.3. *Please note this change to Paragraph 14 is only acceptable if the bank issuing the Pre-Bid Letter of Credit is a foreign bank.*
~~We, the Issuing Bank, certify that we are a chartered bank in _____ [name of state], that we are an FDIC insured bank, and that we currently exceed all regulatory capital ratios.~~ We certify we are a U.S. branch office of a foreign bank and as of the Date of Issuance of this Letter of Credit, our senior unsecured debt is rated "A" or better by Standard & Poor's (S&P) if rated by S&P, "A2" or better by Moody's Investors Service (Moody's) if rated by Moody's, and, "A" or better by Fitch Ratings (Fitch) if rated by Fitch. We hereby certify that our senior unsecured debt is rated by at least two of S&P, Moody's, and Fitch.

Paragraph 15 – Original

15. This original Letter of Credit is being sent to Chief Operating Officer, Illinois Power Agency, 160 N. LaSalle Street, Suite C-504, Chicago, IL 60601. The aggregate amount paid to the IPA during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit as may be amended from time to time. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of the IPA. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an Authorized Officer of the IPA.

Acceptable Modifications to Paragraph 15

- 15.1. This original Letter of Credit is being sent to Chief Operating Officer, Illinois Power Agency, 160 N. LaSalle Street, Suite C-504, Chicago, IL 60601. The aggregate amount paid to ~~the~~ IPA during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit as may be amended from time to time. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of the IPA. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an Authorized Officer of the IPA.
- 15.2. This original Letter of Credit is being sent to Chief Operating Officer, Illinois Power Agency, 160 N. LaSalle Street, Suite C-504, Chicago, IL 60601. The aggregate amount paid to the IPA during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit as may be amended from time to time. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be purportedly signed by an Authorized Officer of the IPA. Acceptance or rejection of any amendments to this Letter of Credit must be purportedly signed by an Authorized Officer of the IPA.

Acceptable Additional Paragraph (1)

We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.

Acceptable Additional Paragraph (2)

All parties to this Letter of Credit are advised that the U.S. Government has in place certain sanctions against certain countries, individuals, entities, and vessels. [Bank] entities, including branches and, in certain circumstances, subsidiaries, are/will be prohibited from engaging in transactions or other activities within the scope of applicable sanctions.

Annex 1 to Letter of Credit – Original

DRAWING CERTIFICATE UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: [Issuing Bank]
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under your Letter of Credit No. _____ (the “Letter of Credit”) in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. The undersigned is making a drawing under the Letter of Credit. The amount to be received by the IPA is (USD) \$_____.
3. Pursuant to Paragraph 2 of the Letter of Credit No. _____, dated _____, the undersigned is entitled to make a drawing under the Letter of Credit inasmuch as the Bidder has _____ [state a reason from conditions (a) – (f) of Paragraph 2 of the Letter of Credit].
4. The undersigned acknowledges that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by the amount of this drawing honored by you.

Very truly yours,

Illinois Power Agency

By _____

Name:

Title:

Date:

cc: _____ [Applicant]
_____ [Bidder]

Acceptable Modifications to Annex 1

A1.1 DRAWING CERTIFICATE UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: [Issuing Bank]
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under your Letter of Credit No. _____ (the "Letter of Credit") in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. The undersigned is making a drawing under the Letter of Credit. The amount to be received by ~~the~~ IPA is (USD) \$_____.
3. Pursuant to Paragraph 2 of the Letter of Credit No. _____, dated _____, the undersigned is entitled to make a drawing under the Letter of Credit inasmuch as ~~the Bidder has~~ _____ [state a reason from conditions (a) - (f) of Paragraph 2 of the Letter of Credit].
4. The undersigned acknowledges that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by the amount of this drawing honored by you.

Very truly yours,

Illinois Power Agency

By _____

Name:

Title:

Date:

cc: _____ [Applicant]

_____ [Bidder]

Annex 2 to Letter of Credit – Original

SIGHT DRAFT

Amount: \$ _____

Date: _____, 20__

At sight, pay to the order of Illinois Power Agency the sum of _____ U.S. Dollars.

Drawn under Irrevocable Standby Letter of Credit No. _____ of _____ [identify Issuing Bank] dated _____, 20__.

To: _____ [Issuing Bank]
_____ [Address]

Illinois Power Agency

By _____
Name:
Title:
Date:

Annex 3 to Letter of Credit – Original

CERTIFICATE OF CANCELLATION

_____, 20__

To: [Issuing Bank]
[Address]

Attention: Standby Letter of Credit Unit/Your Letter of Credit No. _____

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above-referenced Letter of Credit may be cancelled without further payment. Attached hereto is the original Letter of Credit (and subsequent amendments, if any), marked cancelled.

Illinois Power Agency

By _____

Name:

Title:

Date:

cc: _____ [Applicant]
_____ [Bidder]

Acceptable Modifications to Annex 3