



Bid Requirements for Contract Capacity of 1,800 MW (net)

Interested Bidders and Qualifying to Bid

In order to become an Interested Bidder and obtain a copy of the Bidding Documents, a party must submit the Expression of Interest and Confidentiality Undertaking, and pay the Participation Fee by the Expression of Interest Deadline, following the form, substance and process defined and provided in the Invitation to Bid.

In order to qualify to bid, a Bidder must timely submit to the TPBAC-Secretariat by uploading to the cloud-based online repository/folder assigned to the Interested Bidder, three (3) separate and password-protected zip folder (.zip file) containing the scanned copies (.pdf file) of its Document Submissions, following the form, substance and process defined and provided in the Invitation to Bid and the Instructions to Prospective Bidders ("**IPB**").

An Interested Bidder shall submit a Proposed Price indicating its (i) Offered Contract Capacity, and (ii) the corresponding Headline Rate and Levelized Cost of Electricity ("**LCOE**").

The Bidder's Headline Rate and the LCOE are subject to a pre-determined Reserve Price, which will only be revealed by the TPBAC to the Bidders during the Opening of Bid Prices.

In case the Bidder formed an unincorporated partnership or consortium for the purpose of this Bidding, each member must, **on or before the Bid Submission Deadline**, provide evidence that their rights and obligations/liabilities in this Bidding and the resulting Power Supply Agreement ("**PSA**") is solidary. In addition, each party to the partnership or consortium must separately submit Qualification Documents (Envelope 1) and Technical Proposal (Envelope 2) (e.g. especially if each partner/consortium member offers a different Nominated Power Plant), but shall submit (as one) only one Bid Price, including the Bid Security (Envelope 3). For this purpose, in relation to the Qualification Documents and Technical Proposal, each party to a Bidder partnership or consortium shall be construed as the Bidder.

The Bidder must identify the proposed power plant/s, which must be capable of supplying the Offered Contract Capacity to Meralco for the Required Contract Period beginning on the Scheduled Commercial Operations Date ("**Nominated Power Plant**"). To reiterate, the Nominated Power Plant/s shall be with one Delivery Point (for purposes of settlement and transfer of risk and loss) within the Luzon Grid, nearest to Meralco's load center, and subject to Meralco's approval.

Pay-as-Bid Mechanism and Bid Offer Evaluation

This Bidding will be “Pay-as-Bid” type of bidding. It will be open to all serious Bidders that meet the financial, technical, commercial, and legal requirements of this TOR. In evaluating the financial offers of the Bidders, the best interests of Meralco’s captive customers shall be paramount. As such, and to this end, the principle of least cost in the supply of power to captive customers, as provided in Section 23 of EPIRA, shall prevail and be applied to establish and determine the Best Bid/s.

In this “Pay-as-Bid” process, the Qualified Bidders’ Headline Rate should be **less than or equal to** the Reserve Price for the Headline Rate and the Qualified Bidders’ LCOE should be **less than or equal to** the Reserve Price for the LCOE. Thereafter, the TPBAC shall stack all Offered Contract Capacities of the Qualified Bidders that meet the Reserve Prices for both Headline Rate and LCOE. The basis of the stacking is the LCOE of the Qualified Bidders, from lowest to highest until the required Contract Capacity (i.e. 1,800 MW [net]) is filled up.

If the resulting stack of Offered Contract Capacities goes beyond the required Contract Capacity (i.e. more than 1,800 MW), the Qualified Bidder that fills up the stack to complete the required Contract Capacity (hereinafter referred to as the “**Marginal Bid Offer**”) shall have its Offered Contract Capacity reduced accordingly up to the extent of the required Contract Capacity at its Proposed Price. A Bidder with the Marginal Bid Offer and a candidate recipient of a Notification of Best Bid, which refuses to accept the reduction of its Offered Contract Capacity up to the extent of the required Contract Capacity at its Proposed Price, shall have its Bid Security forfeited.

For clarity, in relation to the Scheduled Commercial Operations Date (“COD”) under the Terms of Reference Table of the Invitation to Bid, the order of stacking of Bid Prices from lowest to highest using LCOE shall determine which Bidder/s with the Best Bid/s need(s) to attain Scheduled COD by December 2024.

For example, if the Bidder with the Best Bid that is stacked first as having the lowest LCOE had an Offered Contract Capacity of 1,400 MW (net), it is required to make available only 1,200 MW (net) starting December 2024. The Scheduled COD for the remaining 200 MW (net) of the said Bidder will be May 2025. In the same example, if the Bidder with the Best Bid that is stacked second had an Offered Contract Capacity of 400 MW (net), it cannot choose to make available that 400 MW (net) in December 2024; instead, said Bidder will be required to make available such capacity only starting May 2025.

Alternatively, if the Bidder with the Best Bid that is stacked first as having the lowest LCOE had an Offered Contract Capacity of only 600 MW (net), it is required to make available such capacity starting December 2024, and cannot opt to instead make available such capacity starting May 2025.

Qualification Documents (Envelope 1)

1. Legal Qualification Requirements

(a) The Bidder must have the authority, in form and substance prescribed and made available by Meralco, to participate in this Bidding and execute the PSA;

(b) The Bidder must be a duly incorporated, validly existing domestic partnership or corporation duly registered with the Securities and Exchange Commission ("**SEC**"). If Bidder formed a partnership or consortium for the purpose of participating in this Bidding, it must be evidenced by an agreement showing that their rights and obligations, including liabilities in this Bidding and the resulting PSA are solidary;

(c) The Bidder and any of its Affiliates engaged in power generation must have no record of Unsatisfactory Performance. For this purpose, "**Unsatisfactory Performance**" means any of the following:

- (i) In relation to any project or contract that was commenced or in the process of implementation within the last five (5) years prior to the Bid Submission Deadline (as defined below) by the Bidder –
 - (1) a record of failure by the Bidder or any of its Affiliates engaged in power generation to satisfactorily perform any of its material obligations for any such project or contract, (such as, but not limited to, Power Supply Agreements, financing documents, etc.) within the last three years, including failure to timely pay or comply with its material obligations in any of its finance documents with creditors entered into in connection with the development and implementation of the said project or contract. The Bidder shall submit notarized certifications issued by the Counterpart(ies) (defined below) of the Bidder and any of its Affiliates engaged in power generation attesting that within the last three years the Bidder or any of its Affiliates engaged in power generation has no previous record of failure to perform any of its material obligations for such project or contract. For this purpose only, Counterpart(ies) may include Meralco;
 - (2) the expulsion of the Bidder or any of its Affiliates engaged in power generation from any such project or contract;
 - (3) the termination or suspension of any such project or contract due to the willful breach of its obligations by the Bidder or any of its Affiliates engaged in power generation;
 - (4) the material violation of laws and/or regulations by the Bidder or any of its Affiliates engaged in power generation

applicable to any such projects or contracts, including but not limited to environmental, health, safety, labor and social welfare laws and regulations, as evidenced by findings of the relevant competent authority; or

- (ii) Inclusion in a blacklist issued by any governmental agency of the Philippines or in the Debarred and Cross-Debarred Firms & Individuals list posted in the World Bank website (www.worldbank.org/debarr), whether as an individual contractor, partnership or corporation or as a member of a joint venture or consortium;

(d) The Bidder and any of its Affiliates engaged in power generation must not have an Outstanding Dispute **or** any due and demandable financial obligation/s with Meralco and/or Counterpart(ies) in relation to any project or contract in power generation, including due and demandable energy settlement amounts with the Philippine Electricity Market Corporation ("**PEMC**") and/or Independent Electricity Market Operator of the Philippines ("**IEMOP**").

For this purpose, "**Outstanding Dispute**" refers to any pending judicial, administrative, contractual or alternative dispute resolution proceeding between the Bidder or any of its Affiliates engaged in power generation, on one hand, and Meralco and/or Counterpart(ies) in relation to any project or contract in power generation, on the other, provided, that the following instances with respect to pending disputes with Counterpart(ies) are excluded from this definition:

- (i) disputes where the Bidder/its Affiliates engaged in power generation itself filed a case/suit against its Counterpart(ies) to protect its lawful interests and the Counterpart(ies) did not file a countersuit or counterclaim against the Bidder/its Affiliates engaged in power generation, subject to item (ii) below; and
- (ii) when a suit or countersuit involves Four Hundred Thousand Pesos (PhP400,000.00) or less, **and** there is no allegation of fraud or intentional non-payment on the part of the Bidder/its Affiliates engaged in power generation;

and provided further, that the following pending judicial or administrative cases involving the Bidder or any of its Affiliates engaged in power generation and Meralco are excluded from the definition of Outstanding Dispute:

Case Title and Docket Nos.	Subject Matter
<i>Bayan Muna, et. al. v. Energy Regulatory Commission (ERC), et. al.</i>	Supreme Court T.R.O. on MERALCO's December 2013 billing rate increase in relation

(G.R. Nos. 210245, 210255 & 210502)	to the generation cost price spike in November 2013 and December 2013
<i>SN Aboitiz-Magat, et. al. v. ERC, et. al.</i> (G.R. No. 246641-50, 246729, 246739-48, 246685-94, 246873-82, 246661-70, 246631-40)	Supreme Court – Legality of ERC Order voiding the Luzon WESM prices during the November and December 2013 supply months
<i>ERC I.U. v. Meralco and TMO</i> (ERC Case No. 2015-025 MC)	ERC Investigating Unit complaint in relation to the generation cost price spike in November 2013 and December 2013
<i>Meralco v. SPPC, et. al.</i> (ERC Case No. 2013-077 MC)	Petition for Dispute Resolution with the ERC in relation to the refund of the 2.98% transmission line losses
<i>In Re: Petition for Dispute Resolution Meralco vs. NPC et. al.</i> (ERC Case No. 2010-002 MC)	Petition for Dispute Resolution with the ERC in relation to the implementation of the Mandated Rate Reduction

For clarity, “**Counterpart(ies)**” refers to a counterparty, other than Meralco, who has an existing project(s) or contract(s) with the Bidder or any of its Affiliates engaged in power generation, that was commenced or in the process of implementation within the last five (5) years prior to the Bid Submission Deadline. It can also refer interchangeably to the financial lender/s of the Bidder or any of its Affiliates engaged in power generation for the said project(s) or contract(s).

(e) The Bidder must be authorized under its articles of incorporation, constitutive or charter documents, or its equivalent, to engage in the business of power generation and supply of electricity as contemplated under the PSA; and

(f) The Bidder must issue a notarized certification that the Offered Contract Capacity from the Nominated Power Plant, for the entire Required Contract Period, is not covered by any offtake agreement (e.g., a power supply agreement or ancillary services procurement agreement, including a financial-type arrangement of power supply agreement) that will conflict with the Bidder’s obligation should it be declared the Winning Power Supplier.

2. Technical Qualification Requirements

(a) The Bidder, whether directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent, must have a Reference Plant, whether in the Philippines or elsewhere. For this purpose, a “**Reference Plant**” means a single power plant of at least 150 MW installed capacity (baseload, firm, dispatchable, and having attained a simple monthly average of at least 85% plant capacity factor (“PCF”) over a 3-month consecutive period of operations) and which, in the reasonable opinion of the TPBAC, has been satisfactorily developed, constructed, and/or operated or

maintained by the Bidder, its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent.

Should the Bidder be composed of entities under an unincorporated joint venture or a partnership, each entity or party must provide a separate Reference Plant, as described above.

An “**Affiliate**” means with respect to a specified entity, an entity that directly or indirectly, through one or more intermediaries, Controls (e.g. parent or grandparent company), is Controlled by (e.g. subsidiary) or is under common control (e.g. sister company) with the specified entity.

“**Control**” means: (a) the ownership (whether directly or indirectly) of more than fifty percent (>50%) of the total issued voting share capital or other voting interest of that company or corporation; or (b) the ability to unilaterally appoint a majority of the board directors or equivalent body of that company or corporation through the ownership of securities with voting power or otherwise, without the need of the vote or approval of another; or (c) the ability to otherwise unilaterally direct the business affairs and/or operations of that company or corporation, without the need of the vote or approval of another.

The terms Controls, Controlled and Controlling shall have correlative meanings. For the avoidance of doubt, if a corporation is owned by two (2) shareholders at exactly fifty percent (50%) each, that corporation shall not be considered under the control of each shareholder;

(b) The Bidder must provide evidence that the Reference Plant is capable of generation of electricity of at least 150 MW, which (i) in case of a Reference Plant located in the Philippines, must be supported by the latest twelve (12) months official document [GMR] of the Bidder's Reference Power Plant as submitted by the Bidder to the ERC, showing that it attained a simple monthly average of at least 85% PCF over a 3-month consecutive period of operations, certified as a true copy by the corporate secretary, in which case it must be under oath and notarized; or (ii) in case of a Reference Plant located outside the Philippines, any equivalent or similar document;

(c) The Bidder must provide the Reference Plant's general information and its key components (e.g., boiler, turbine and generator), such as the design (e.g., type, including specific fuel, number of units, and capacity), plant site/s, and interconnection site/s;

(d) The Reference Plant, if located in the Philippines, must be covered by a Certificate of Compliance (COC) from the ERC, as submitted by the Bidder as a certified true copy by (i) the ERC; or (ii) the corporate secretary, in which case it must be under oath and notarized. If the COC is not available as of Bid Submission Deadline, the Bidder must submit an application for a COC pending

before the ERC or any other official document coming from the ERC confirming the Reference Plant's authority to operate at least 150 MW;

(e) If the Reference Plant is located in Luzon or Visayas, it must be registered as a direct member of the WESM and a copy of its Market Participation Agreement for the Reference Power Plant, which shall be certified as a true copy by (i) the PEMC and/or IEMOP; or (ii) the corporate secretary, in which case it must be under oath and notarized, must be submitted. If the Reference Plant is located outside of the Philippines, it must have the license or permit equivalent to the ERC's COC, or the alternative documents; and

(f) The Reference Plant, if located in the Philippines, must be covered by a valid Transmission Service Agreement duly certified by the National Grid Corporation of the Philippines (NGCP), and Fuel Supply Plan or Agreement, or the equivalent of these documents if in a foreign country.

3. Financial Qualification Requirements

(a) The Bidder must show satisfactory evidence that it has the financial capacity to fulfill its obligations with Meralco. This requirement may be complied with by the Bidder directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent. As evidence thereof, the Bidder or any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent, or in case of an unincorporated joint venture or a partnership, each entity or party thereto, must:

- (i) submit its audited (parent and consolidated, if applicable) financial statements for the last three (3) years (the latest of which must not be earlier than for the year ending December 31, 2019) and recent quarterly financial statements; and
- (ii) the consolidated financial statements must show an Unrestricted Net Worth of at least 30% of the Project Cost (defined below) ("**Required Unrestricted Net Worth**") based on its submitted financial statements.

For this purpose, "**Unrestricted Net Worth**" means the sum of subscribed and paid up equity, including additional paid-in capital, and unrestricted retained earnings, preferred shares, perpetual shares less treasury shares of common, preferred, and perpetual shares. Unrestricted retained earnings means the amount of accumulated profits and gains realized out of the normal and continuous operations of the company after deducting therefrom distributions to stockholders and transfers to capital stock or other accounts, and which is: (1) not appropriated by its Board of Directors for corporate expansion projects or programs; (2) not covered by a restriction for dividend declaration under a loan agreement; (3) not required to be retained under special

circumstances obtaining in the corporation such as when there is a need for a special reserve for probable contingences (as defined in SEC Memorandum Circular No. 11-08 dated December 5, 2008); and (4) not otherwise covered by any other legal restriction (which refers to any injunction, judgement, or order issued by any judicial authority) on the ability of the company to distribute or otherwise apply its equity.

(b) With respect to the Nominated Power Plant, the Bidder must provide the details of the costs of the project (the "**Project Cost**") and its proposed financing plan, specifically indicating the portion of the Project Cost to be financed by debt and by equity. Additionally, the Bidder must submit (1) in support of the portion of the Project Cost proposed to be financed by equity, a notarized letter from its shareholders confirming their respective equity commitment (each, a "**Commitment Letter**"); and (2) in support of the portion of the Project Cost proposed to be financed by debt, a Testimonial from one or more debt providers or arrangers, for the amount of the Project Cost that will be funded through debt to be obtained either by the Bidder directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent, if applicable (each, a "**Testimonial**"). The aggregate amounts indicated in the Commitment Letters and/or the Testimonial shall in no case be less than the Project Cost.

Technical Proposal (Envelope 2)

In relation to the Nominated Power Plant and/or portfolio of plant/s, the Bidder must provide (for each Plant):

- (a) Evidence of land acquisition, or legal possession of the proposed site/s over the Required Contract Period, showing that Bidder has acquired, or will be able to acquire ownership or legal possession of the right, title or interest therein;
- (b) Technical characteristics of the Plant showing evidence of compliance to the technical requirements stated in the Invitation to Bid's Terms of Reference Table ("**TOR Table**");
- (c) The Bidder shall provide a description, for the Nominated Power Plant, of its use of a technology that complies with the prevailing emission standards under pertinent DENR issuances on emission and other environmental standards for power plants. The Bidder shall provide convincing proof that the key components of the Nominated Power Plant (e.g., boiler, turbine and generator) is of proven design and technology, which means that generating facility elements of similar design must have been engaged in reliable commercial operation for at least one (1) year in a 60 Hertz system ("**Comparable Plant**"). The Comparable Plant will be considered to have been in "reliable" commercial operation for the purposes of this requirement once the TPBAC's independent engineer determines and certifies that the equipment proposed has an average forced outage factor that has not been above five percent (5%)

and its average Unit equivalent availability factor has not been below 87.67% for the duration of the commercial operation period except in a year of a major planned overhaul;

- (d) Details of the Project's execution, where the Bidder shall provide a description on how it will carry out the development, financing, construction, interconnection, operation, and maintenance of the Nominated Power Plant, including but not limited to general information on the Nominated Power Plant and its key components (e.g., boiler, turbine and generator), such as the design data (e.g., type, including specific fuel, heat rate at 100% Load Factor, number of units, and capacity), proposed plant site/s, and proposed interconnection site/s; the key project milestone schedule, if available; and the details on the development, engineering, procurement and construction plan of the Nominated Power Plant;
- (e) The Bidder shall submit a certified statement that the Nominated Power Plant is capable of operating consistent with the Performance Guarantees;
- (f) The Bidder shall state its fuel source and a nominated fuel price index. The nominated fuel price index should be among the relevant indices published by the World Bank's Commodity Markets Outlook (i.e. [i] Coal, Australia; [ii] Natural Gas, US; [iii] Natural Gas LNG, Japan), CoalSpot.com for other coal ranks, or any other index that is easily accessible by Meralco and the electric power industry participants;
- (g) If the Bidder's Nominated Power Plant will use a fuel source other than coal or natural gas, the Bidder shall submit its own technical parameters (which shall nevertheless comply with requirements in the TOR Table and information prescribed in Annex TP-1 of the IPB), fuel forecast and nominated fuel price index for evaluation of the TPBAC;
- (h) Bidder shall also provide the specifications of the Performance Fuel by way of a Proximate Analysis and Ultimate Analysis. The Performance Fuel shall be used for the conduct of the Net Dependable Capacity (NDC) Test and the Heat Rate Test (HRT) in accordance with the PSA;
- (i) The Fuel Supply Plan or Agreement, containing a narrative description of strategies and plans for ensuring long-term availability of fuel and regulatory compliance on fuel inventory and specification. Bidders shall ensure that it shall procure its fuel supply and its freight following a competitive selection process to be promulgated pursuant to the PSA;
- (j) The Environmental Compliance Certificate (ECC) issued by the Department of Environment and Natural Resources (DENR); or an application for ECC pending before the DENR, provided that if the Bidder's Bid Price is declared as the Best Bid (and issued a Notice of Award), a certified true copy of the ECC issued by the DENR must be submitted as required by the ERC;

- (k) The Grid Impact Study (GIS) / System Impact Study (SIS), whichever is applicable, issued by NGCP; or an application for GIS/SIS pending before the NGCP, provided a certified true copy of the GIS/SIS must be submitted during Post-Qualification if the Bidder's Bid Price is declared as the Best Bid;
- (l) If applicable, the Certificate of Registration issued by the Board of Investments (BOI), which shall be certified as a true copy by (i) the BOI; or (ii) the corporate secretary, in which case it must be under oath and notarized; and
- (m) A Project Feasibility Study.

Bid Price and Bid Security (Envelope 3)

- (a) Using the relevant forms prescribed in the IPB, the Bidder must submit its Bid Letter, Bid Security (as defined below), Proposed Price (in hard copy form and in the **Financial Evaluation Workbook** encoded in a CD-R/DVD-R optical storage device or a USB/thumb flash memory drive), and uploaded to the cloud-based online repository/folder assigned to the Bidder in a password-protected zip folder [.zip file], and a signed Letter of Acknowledgement and Acceptance of the Power Supply Agreement template (collectively referred to as the "**Bid Price**"). For clarity, in accomplishing the Financial Evaluation Workbook, the Bidder shall consider the following:
 1. The fuel handling and freight costs should be included in Bidder's proposed Variable and/or Fixed O&M expense;
 2. The Bidder shall provide a quarterly fuel price forecast for the third quarter of 2022 until second quarter of 2023, in USD/MMBtu. The simple average of this quarterly fuel price forecast shall be used as the reference price (F_o).

For Contract Years 1 to 10 implementation, the reference price (F_o) shall be adjusted on a quarterly basis using an adjustment factor and shall serve as the Quarterly Fuel Price Cap. The adjustment factor for a given calendar quarter shall be equal to the ratio of P_n to P_o , as defined below. Expressed in formula,

$$\text{Quarterly Fuel Price Cap}_{\text{Contract Years 1 to 10}} = F_o \times \left(\frac{P_n}{P_o} \right)$$

Where:

F_o is the simple average of the quarterly fuel price forecast for the four quarters beginning third quarter of 2022 as submitted by the Bidder, in USD/MMBtu

P_o is the simple average of the actual quarterly fuel price for the four quarters beginning third quarter of 2022, in USD/MMBtu

P_n is the simple average of the actual quarterly fuel prices from the preceding four calendar quarters, in USD/MMBtu. For clarity, the calendar quarters are defined by the following dates:

- (i) December 26 to March 25
- (ii) March 26 to June 25
- (iii) June 26 to September 25
- (iv) September 26 to December 25

For clarity, upon implementation of the PSA, the fuel price shall be the lower between the result of the aforesaid formula and the actual fuel costs.

For Contract Years 11 to 20, the fuel cost shall be a pass-through cost.

For purposes of evaluation of this Bidding, for Contract Years 1 to 20, the Bidder's F_0 as submitted shall be escalated at a rate of 2% p.a., based on the 2020 Philippine inflation forecast of the Economist Intelligence Unit (EIU) as of August 2020, and the resulting fuel prices shall be used for each respective Contract Year;

3. If the Nominated Power Plant is a coal plant, the Bidder shall indicate the coal rank and state the Guaranteed Net Plant Heat Rate (GNPHR), in Btu/kWh at HHV. Such GNPHR shall be from 40% to 100% Load Factor and in increments of 1% Load Factor for Contract Year 1. If the Nominated Power Plant is a gas plant, the Price Bidder shall state the Guaranteed Net Plant Heat Rate (GNPHR), in Btu/kWh at GCV. Such GNPHR shall be from 50% to 100% Load Factor and in increments of 1% Load Factor for Contract Year 1. In addition to this, the Bidder shall also indicate the Cumulative Degradation Factor of the GNPHR from Contract Year 1 on a yearly basis starting Contract Year 2. The Independent Engineer shall assess and determine if the provided GNPHR can comply with the prevailing emission standards under pertinent DENR issuances on emission and other environmental standards for power plants;
 4. The Bidder shall also indicate the Line Rental cap on a yearly basis starting Contract Year 1. In no case will the annual Line Rental cap be higher than PHP 0.2000/kWh.
- (b) The Bid Security should be in the form of an irrevocable standby letter of credit equivalent to Three Million Pesos (Php3,000,000.00) multiplied by MegaWatt (MW) of Offered Contract Capacity, which must be issued by an Allowed Bank listed in the IPB and in the form required of the Bidders in the IPB (the "**Bid Security**").