



BIDDING
BASELOAD CONTRACT CAPACITY OF 400 MW (NET),
EFFECTIVE 26 FEBRUARY 2024

BID BULLETIN NO. 2

To all Interested Bidders:

1. A matrix containing the set of queries that have been received by, and the corresponding responses of, the Meralco's BAC-PSA are set out in **ANNEX A**.
2. A matrix showing the amendments to the Bid Requirements and Instructions to Prospective Bidders (dated 3 January 2024) ("IPB") is provided herein as **Annex B**.

For your guidance and information.

Issued on 25 January 2024.

Bids and Awards Committee-Power Supply Agreements ("BAC-PSA")
Manila Electric Company

(sgd)

Lawrence S. Fernandez
Chairman

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 400 MW (NET), EFFECTIVE 26 FEBRUARY 2024

FORMATTING/PROCEDURAL-RELATED QUERIES/COMMENTS				
	TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	INITIAL BAC-PSA's RESPONSE
1.	Instruction to Prospective Bidders (IPB) IPB Annexes for Bidders CN02	Section 3.1.1, IPB, page 23 Par. 2, ANNEX QD-1B, page 6	<p><i>Question: Kindly confirm that the CRF to be offered by the Bidder should not be higher than the <u>latest</u> ERC-approved rate/s in with other offtake agreements for the same Nominated Plant. If yes, we propose that the template be revised as follows:</i></p> <p>IPB</p> <p>"3.1.1 Application to Qualify and Participate in the Bidding, using the form in Annex QD-1, with attached (i) Authority to Participate in the Bidding and Designation of Authorized Representative using the form in Annex QD-1A, and (ii) Sworn Undertaking that the Bid Price's Capital Recovery Fee is not higher than the <u>latest</u> ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant, using the from in Annex QD-1B;"</p> <p>IPB Annexes for Bidders</p> <p>"2. Pursuant to 3.1.1 of the Instructions to Prospective Bidders for the CSP, the COMPANY shall not offer a Capital Recovery Fee higher than the <u>latest</u> Energy Regulatory Commission-approved rate/s in the COMPANY's agreements with other off-takers for the same Nominated Plant."</p>	<p>Yes. The CRF should not be higher than the <u>latest</u> ERC-approved rate/s in its agreements with other off-takers for the same Plant. For this purpose, this portion of the Bid Requirements and IPB will be revised as follows:</p> <p>Bid Requirements: "The Bidder shall not offer Capital Recovery Fee higher than the <u>latest</u> ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant and is required to submit a sworn undertaking to this effect."</p> <p>IPB: "Application to Qualify and Participate in the Bidding, using the form in Annex QD-1, with attached (i) Authority to Participate in the Bidding and Designation of Authorized Representative using the form in Annex QD-1A, and (ii) Sworn Undertaking that the Bid Price's Capital Recovery Fee is not higher than the <u>latest</u> ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant, using the from in Annex QD-1B;"</p> <p>Please see Annex "B" of this Bid Bulletin No. 2 reflecting the amendments to the Bid Requirements and IPB.</p>
2.	Instruction to Prospective Bidders	Section 3.2(c), page 26	"(c) The Nominated Plant must be covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC at the start of the OED of the PSA, as submitted by the Bidder as a certified true copy by (i) the ERC; or (ii) the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized;"	1. Yes, Bidder can submit, together with the previous expired PAO, an ERC-issued letter in favor of the Bidder extending the Nominated Plant's PAO until March 2024.

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			<p><i>Question: Please confirm if the Bidder can submit, together with the previous expired PAO, an ERC-issued letter in favor of the Bidder extending the Nominated Plant's PAO until March 2024, pursuant to ERC Resolution No. 17, Series of 2023 which automatically extended valid and existing COCs/PAOs until 2024.</i></p> <p><i>Further, since the Nominated Plant's PAO is set to expire in March 2024, can the Bidder also submit its COC/PAO renewal application (accomplished ERC form) with confirmation of receipt by the ERC, without the attachments to the application.</i></p>	<p>2. Yes, Bidder can also submit its COC/PAO renewal application (accomplished ERC form) with confirmation of receipt by the ERC.</p> <p>We note, however, that the Bidder cannot use the unsuccessful renewal of the COC/PAO as a reason for non-performance of its obligations under the PSA. Furthermore, if the Bidder is deemed the Winning Power Supplier, and the ERC does not accept the application for approval of the PSA, or holds in abeyance, delays or disapproves the said application for the reason that the Power Supplier's COC/PAO is covered by a COOE, the said Power Supplier's Bid Security (which is defined in the PSA template to alternatively refer to the performance bond required under the ERC CSP Guidelines) will be forfeited pursuant to Section 12.3.2 of the PSA, which states that: "Meralco reserves the right to forfeit the Bid Security or Performance Security in the event that Power Supplier fails to comply with any order or directive of the ERC or provide any document required by the ERC, resulting in non-performance of its obligations under this Agreement.</p>
3.	Instruction to Prospective Bidders	Section 3.2(b), p. 26	<p>"(b) From 26 February 2024 and for the duration of the PSA, no capacity and electrical output within the Contract Capacity shall be contracted under an agreement apart from the PSA resulting from this Bidding;"</p> <p><i>Kindly confirm that the Bidder can use the template in Annex QD-5 (Certification that Nominated Plant is Uncontracted) for the requirement under Section 3.2(b) and Attachment 4 to Annex TP-1.</i></p>	<p>Yes, Bidder can use the template in Annex QD-5 for requirement under Section 3.2(b). Attachment 4 to Annex TP-1, however, pertains to:</p> <p>"4. The Nominated Plant must be covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC at the start of the OED of the PSA, as submitted by the Bidder as a certified true copy by (i) the ERC; or (ii) the corporate secretary/assistant</p>

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				<p>corporate secretary, in which case it must be under oath and notarized;"</p> <p>If the Bidder is referring to Attachment 3 to Annex TP-1, which reads:</p> <p>"3. From 26 February 2024 and for the duration of the PSA, no capacity and electrical output within the Contract Capacity shall be contracted under an agreement apart from the PSA resulting from this Bidding",</p> <p>Then the answer is yes, this is also acceptable.</p>
4.	Instruction to Prospective Bidders	Section 3.2(e), p. 27	<p>(e) The Nominated Plant's valid Fuel Supply Agreement, if available, otherwise a Fuel Procurement Plan containing a narrative description of strategies and plans for ensuring long-term availability of fuel and regulatory compliance on fuel inventory and specification, which shall be certified as a true copy by the corporate secretary/assistant corporate secretary, in which case it must be under oath and notarized; and</p> <p><i>Kindly confirm that the Bidder can redact commercial and confidential terms in the Fuel Supply Agreement.</i></p>	<p>Yes, Bidder may simply redact portions of its Fuel Supply Agreement that it believes to be confidential in nature, as long as the following information are available for the BAC-PSA: (i) the basis of its pass-through fuel commodity costs and fuel non-commodity costs (if available), (ii) length of their fuel supply contract, and (iii) contractual volumes to ensure that they have enough fuel supply to meet the obligations of the PSA.</p> <p>Please note that the FSA is required to be submitted to the ERC as part of the pre-filing requirements and the pre-filing timeline is within 15 calendar days from execution of PSA. As guidance on how the Fuel Supply Agreement will be treated, the Bidder can refer to the ERC Advisory, entitled "Treatment of Documents and Information with Motion for Confidentiality Filed Before the Energy Regulatory Commission" that was released last 13 November 2023.</p>

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5.	Instruction to Prospective Bidders	Section 3.1.4(iii)	<p>"3.1.4 The Bidder, whether directly or through any of its direct shareholders representing Controlling interest, Affiliates or Ultimate Parent must submit:</p> <p>(i) list of power plant projects undertaken over the last ten (10) years; (ii) list of electricity generation plants that it has operated for the last five (5) years; and (iii) proof /documentation of track record for the last five (5) years of power plants operated by it."</p> <p><i>Can the GCMRs and MORs by the Bidder's affiliates be certified as true copies by the corporate secretary/assistant corporate secretary of the Bidder?</i></p>	Yes, the copies of the GCMRs and MORs by the Bidder's Affiliates can be certified as true copy by the corporate secretary/assistant corporate secretary of the Bidder.
6.	Instruction to Prospective Bidders Tie	Section 4.5.2 (page 40)	<p>Is the preference for natural gas source applicable for this bidding?</p> <p>In case of a tie between or among Qualified Bidders having the lowest Bids or whose offers are considered the Marginal Bid Offer, the BAC-PSA shall give these bidders five (5) days to improve their Proposed Tariff by submitting a lower Headline Rate until the tie is broken, <u>provided that in case two or more Qualified Bidders have equal Headline Rates resulting in the lowest bid, the Bidder whose Nominated Plant is a natural gas-fired power plant, especially one using indigenous natural gas, shall be declared as having the Best Bid.</u> Subsequent occurrences of a tie, if any, shall be resolved in the same manner until a winner is determined.</p>	<p>As relayed by the DU to the BAC-PSA:</p> <p>"This is an inadvertent error, as there is no intention of including a particular preference for natural gas source. It should be noted that the Invitation to Bid (ITB)/Terms of Reference (TOR) for this Bidding, which was approved by the Department of Energy (DOE) through a Certificate of Conformity, is technology neutral and does not (a) include any statement/provision as to any preference for natural gas source, and (b) contain any specific requirements as to the submissions to be made by the Bidder in case its Nominated Plant is an indigenous natural gas plant. Notably, there was also no recommendation from DOE to encourage natural gas power plants, through these biddings, when the COCs were released to Meralco. Moreover, Section 2.2 (e), page 14 of the IPB which discusses the same tie break mechanism, does not include preference for natural gas power plant in case the Nominated Plant of one of the Qualified Bidders that are tied is a natural gas power plant. For this purpose, we propose revision of Section 4.5.2 of the IPB as follows:</p>

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				<p>"4.5.2. xxx In case of a tie between or among Qualified Bidders having the lowest Bids or whose offers are considered the Marginal Bid Offer, the BAC-PSA shall give these bidders five (5) days to improve their Proposed Tariff by submitting a lower Headline Rate until the tie is broken, provided that in case two or more Qualified Bidders have equal Headline Rates resulting in the lowest bid, the Bidder whose Nominated Plant is a natural gas fired power plant, especially one using indigenous natural gas, shall be declared as having the Best Bid. Subsequent occurrences of a tie, if any, shall be resolved in the same manner until a winner is determined."</p> <p>The BAC-PSA adopts this recommendation.</p> <p>Please see Annex "B" of this Bid Bulletin No. 2 reflecting the amendment to the IPB.</p>
7.	Instruction to Prospective Bidders Technical Proposal	Annex TP-1 Page 88 of the IPB	Please confirm that Bidder may use Annex QD 1-A as proof that the Bidder or its direct shareholder representing Controlling interest is the developer of, owner of, and Controls, the Nominated Plant and has sufficient authority to enter into the offtake agreement with Meralco.	Annex QD-1A only pertains to "Authority to Participate in the Bidding and Designation of Authorized Representative". Bidder must offer proof on this item as this is a required attachment under Annex TP-1 (Technical Proposal) Nominated Plant.
8.	Annex QD-1A	Page 55 of the IPB	<p>Given that Bidder is a partnership and has no board of directors can it revise Annex QD 1A as follows?</p> <p>"4. At a (regular/special) meeting of the board of directors partners of the Company, held on (date) at (place), in which meeting a quorum was present and acting throughout, the following resolutions were passed and approved:"</p>	Yes, this will be allowed.

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9.	Annex QD-1A	Page 55 of the IPB	Can we revise this portion of QD -1A as the Bidder is only a successor generating company having purchased the first two units of the Nominated Plant from the Power Sector Assets and Liabilities Corporation. "3. The Company has been (established to develop, owns and operates a (specify details of the Nominated Plant) which started commercial operations on (specify date, as applicable)."	Yes, this will be allowed.
10.	Section 3.1.2 of the Instructions to Prospective Bidders	Documentary Submission (pages 23-24)	If certain Document Submissions are not applicable such as Certificate of Incorporation, By-laws and General Information, since Bidder is a partnership, please confirm that Bidder may provide an explanation of its non-applicability in lieu of such requirement.	Yes, this will be allowed.
11.	Instructions to Prospective Bidders Counterparty	Annex QD-6 (page 66-68)	Please confirm that Bidder should only list financial lenders, which (1) granted loans in favor of the Bidder and its Affiliates engaged in power generation (2) with power supply or off take agreements with Meralco and/or its Affiliates engaged in power generation, distribution, and supply. In other words, we need not include lenders of Bidder's Affiliates engaged in power generation that have no offtake agreements with MERALCO and its Affiliates.	Yes, the financial lenders that must be declared or disclosed are those that granted loans in favor of the Bidder and its Affiliates engaged in power generation with power supply or offtake agreements with Meralco and/or its Affiliates engaged in power generation, distribution and supply.
12.	Instructions to Prospective Bidders Bid Security	Section 3.3 (page 27)	Can the Bid Security be provided by an affiliate of Bidder?	Yes, the Bid Security may be provided by an Affiliate of the Bidder. There is no prohibition in the ERC CSP Guidelines (Sec. 10, Appendix B) if the chosen universal or commercial bank to issue the Bid Security is an Affiliate of the Bidder.
13.	Instructions to Prospective Bidders	Annex QD-2	Since the Bidder is formed as a partnership, it has no SEC Certificate of Incorporation. Please confirm if it can submit the original Articles of Partnership approved by the SEC upon its formation.	Yes, this will be allowed.

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	Qualification Documents		(b) copy of its <u>SEC Certificate of Incorporation/Partnership</u> , which shall be certified as a true copy by (i) the SEC; or (ii) the corporate secretary/assistant corporate secretary, in which case, it must be under oath and notarized;																	
14.	Instructions to Prospective Bidders Technical Proposal	Annex TP-1	<p>Please clarify that since this bidding will involve power plants that are already in operation, the items highlighted below in Annex TP-1 are not applicable and may be deleted.</p> <table><tr><td>Power Supplier Name</td><td></td></tr><tr><td>Offered Contract Capacity, MW</td><td></td></tr><tr><td>Name of Nominated Plant</td><td></td></tr><tr><td>Location of Nominated Plant</td><td></td></tr><tr><td>Description of Nominated Plant<ul style="list-style-type: none">- Fuel source/Plant technology- Number of Units- Gross capacity per Unit, MW- Net capacity per Unit, MW- Proposed Delivery Point</td><td></td></tr><tr><td>Gross Capacity of Nominated Plant, MW</td><td></td></tr><tr><td>Net Capacity of Nominated Plant, MW</td><td></td></tr><tr><td>Current Status of Nominated Plant and Proposed Delivery Point</td><td></td></tr></table>	Power Supplier Name		Offered Contract Capacity, MW		Name of Nominated Plant		Location of Nominated Plant		Description of Nominated Plant <ul style="list-style-type: none">- Fuel source/Plant technology- Number of Units- Gross capacity per Unit, MW- Net capacity per Unit, MW- Proposed Delivery Point		Gross Capacity of Nominated Plant, MW		Net Capacity of Nominated Plant, MW		Current Status of Nominated Plant and Proposed Delivery Point		<p>We are not amenable with the proposed revision and we prefer to retain the required information.</p> <p>The data being asked (i.e., where the proposed delivery point will be and what is the current status of the Nominated Plant) is applicable even if the Nominated Plant is already in commercial operations (i.e., it has nothing to do with the power plant being a greenfield or brownfield plant).</p>
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15.	Invitation to Bid Payment Modalities	Page 3	<p>Will the Prompt Payment Discount be considered in the evaluation of the bids?</p> <p>"Prompt Payment Discount: Power Supplier shall propose/extend discount to Meralco based on the non-fuel fee (sum of Capital Recovery Fee, Interconnection Fees, Fixed O&M Fee and Variable O&M Fee, if applicable) in case of MERALCO's prompt payment. Percentage (%) of discount and days to be considered as prompt payment shall be proposed by Power Supplier."</p>	This was taken from Annex C-2 of the ERC CSP Guidelines (Section 5.3). During evaluation, the Bidder has the option to provide a prompt payment discount to Meralco. However, given the conditional nature of a prompt payment discount, any such discount indicated by the Bidder cannot be considered in the evaluation of its bid. Just the same, during implementation, if Meralco avails the of the prompt payment discount provided by the Winning Power Supplier/s, then it shall be reflected in the charges that Meralco shall bill to its customers.
16.	Instructions to Prospective Bidders	Schedule 1	<p>We propose to include Bank of China (Hongkong) Limited-Manila Branch in the list of Allowed Banks and be one of the acceptable issuing banks for the Bid Security and the Performance Security.</p> <p>Bank of China (Hongkong) Limited is China's most international and diversified bank with operations in 61 countries and regions around the world.¹ In 2023, Bank of China ranked 4th in terms of aggregate assets according to Global Finance's World's Safest Banks 2023.² In the Philippines, Bank of China (Hongkong) Limited-Manila Branch has a full commercial banking license and has been in operations since 2002.³</p> <p>Bank of China (Hongkong) Limited was affirmed with long-term credit ratings of 'A+' by Standard & Poor's, 'Aa3' by Moody's Investors Service, and 'A' by Fitch Ratings.⁴</p>	<p>As consulted with the DU, this is acceptable to MERALCO, provided item 2 of ANNEX BID-2 of the IPB shall be amended to read as follows:</p> <p>"ANNEX BID-2</p> <p><i>[Letterhead of Issuing Bank]</i></p> <p>BID SECURITY</p> <p>xxx</p> <p>"2. Subject to the other provisions of this Letter of Credit, Meralco is hereby irrevocably authorized to make one drawing for the entire Stated Amount under</p>

¹ <https://www.bankofchina.com.ph/en-ph/top/about-us.html> last accessed on 4 January 2024.

² <https://gfmag.com/banking/worlds-biggest-banks-2023/> last accessed on 4 January 2024.

³ <https://www.bankofchina.com.ph/en-ph/top/about-us.html> last accessed on 4 January 2024.

⁴ <https://www.bochk.com/en/aboutus/ir/rating/credit.html> last accessed on 4 January 2024.

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				<p>this Letter of Credit by presenting to the Issuer, at its address set forth above <u>(insert Branch Name and Address, which should be within Metro Manila)</u>, a demand for payment from Meralco in substantially the form attached as Annex A, duly completed, and is in the form of a letter on Meralco's letterhead signed by any of its authorized signatories."</p> <p>Please see Annex "B" of this Bid Bulletin No. 2 reflecting the amendment to the IPB.</p>

AMENDMENTS TO THE BID REQUIREMENTS / INSTRUCTIONS TO PROSPECTIVE BIDDERS (dated 3 January 2024)

Item	Reference / Subject Matter of Amendment	Amendments
1	Bid Requirements	[...] Bid Price and Bid Security (Envelope 3) xxx The Bidder shall not offer Capital Recovery Fee higher than the latest ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant and is required to submit a sworn undertaking to this effect. [...]
2	Section 3.1 IPB	[...] "3.1. QUALIFICATION DOCUMENTS xxx Application to Qualify and Participate in the Bidding, using the form in Annex QD-1 , with attached (i) Authority to Participate in the Bidding and Designation of Authorized Representative using the form in Annex QD-1A , and (ii) Sworn Undertaking that the Bid Price's Capital Recovery Fee is not higher than the latest ERC-approved rate/s in its agreements with other offtakers for the same Nominated Plant, using the from in Annex QD-1B ; xxx" [...]
3	Section 4.5.2 IPB	[...] 4.5.2. xxx In case of a tie between or among Qualified Bidders having the lowest Bids or whose offers are considered the Marginal Bid Offer, the BAC-PSA shall give these bidders five (5) days to improve their Proposed Tariff by submitting a lower Headline Rate until the tie is broken, provided that in case two or more Qualified Bidders have equal Headline Rates resulting in the lowest bid, the Bidder whose Nominated Plant is a natural gas-fired power plant, especially one using indigenous natural gas, shall be declared as having the Best Bid. Subsequent occurrences of a tie, if any, shall be resolved in the same manner until a winner is determined." [...]
4	Annex BID-2 IPB	[...] ANNEX BID-2 [Letterhead of Issuing Bank] BID SECURITY xxx "2. Subject to the other provisions of this Letter of Credit, Meralco is hereby irrevocably authorized to make one drawing for the entire Stated Amount under this Letter of Credit by presenting to the Issuer, at its address set

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		forth above <i>(insert Branch Name and Address, which should be within Metro Manila)</i> , a demand for payment from Meralco in substantially the form attached as Annex A, duly completed, and is in the form of a letter on Meralco’s letterhead signed by any of its authorized signatories. [...]