



BIDDING
CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

BID BULLETIN NO. 6

To all Interested Bidders:

1. A matrix containing the set of additional 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 Invitation to Bid, Terms of Reference, Bid Requirements, Instructions to Prospective Bidders (dated 1 November 2023) ("IPB") and Power Supply Agreement ("PSA") template is provided herein as **ANNEX B**.
3. In line with item 87, Annex A of Bid Bulletin No. 4 dated 23 November 2023, the BAC-PSA shall release to your respective cloud-based online folder (containing the Bid Documents) the corrected Financial Evaluation Workbook ("**FEW**") which reflected the corrected formula in the computation of the required amount of Bid Security.

For your guidance and information.

Issued on 11 December 2023.

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 1,800 MW (NET), COD 2024-2025

INSTRUCTIONS TO PROSPECTIVE BIDDERS / BIDDING DOCUMENTS and PSA-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA’s RESPONSE
1.		Comparable Plant Technical Proposal (Envelope 2)	Bid Requirements, p. 15	Questions for Clarification: What is the meaning of “generating unit of same technology”? We understand that the Comparable Plant shall be evaluated in its entirety and the Bidder only needs to indicate that the overall plant technology of both the Comparable Plant and Nominated Plant are the same (i.e. Simple Cycle Gas Turbine, Combined Cycle Gas Turbine, etc.). As such, the Manufacturer and/or Make/Type/Model of each key components (i.e. Boiler, Plant Turbine, and Generator) in the Comparable Plant can be different from the Manufacturer and/or Make/Type/Model of each key components (i.e. Boiler, Plant Turbine, and Generator) in the Nominated Plant as long as the Comparable Plant in its entiretyhas been in commercial operation for at least one year in a 60Hz	Power plant technology and key components of the Nominated Plant should be similar to the technology and key components of the Comparable Plant.
2.		Bid Security	Bid Requirements Bid Price and Bid Security (Envelope 3)	May we request for a list of issuers of irrevocable standby letter of credit that are acceptable to the BAC and Meralco?	Those found in Schedule 1 of the IPB (List of Allowed Banks) are acceptable to the BAC-PSA and Meralco.
3.		ANNEX QD-1A Authority to Participate in the Bidding and Designation of Authorized Representative	Instructions to Prospective Bidders ANNEX QD-1A Authority to Participate in the Bidding and Designation of Authorized Representative Item No. 3	We respectfully request that Prospective Bidders be allowed to make the following revision in Item No. 3 of Annex QD-1A in the event that it shall nominate an existing plant, [3. The Company has been (established to develop, own, operate) a (specify details of the Nominated Plant) with the target completion date of (specify target completion date, as applicable).]	Kindly see response to Bid Bulletin #4, item 8. “With completion date of”.

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4.		Annex QD-9 Statement on Project Cost and Financing Plan and its required attachments	Instructions to Prospective Bidders Section 3.1.6 p. 27	May we confirm that Annex QD-9 Statement on Project Cost and Financing Plan, and its required attachments shall no longer apply to existing power plants that have been in commercial operation?	Kindly see response in Bid Bulletin #5, item 34, Annex A: “QD-9 pertaining to Project Cost, Commitment Letter and Testimonial are intended for Nominated Plant of the Bidder if it has not started commercial operation (between January 2020 to present).”
5.		Technical Proposal (Envelope 2) Comparable Plant	Bid Bulletin 4 Annex A No. 52 p. 23 and No. 88 p. 32	<p>Based on the BAC's response to Item No. 52 of Annex A of Bid Bulletin 4, item (d) of Section 3.1.4 of the Instructions to Bidders need not to be submitted by prospective bidders that have nominated plants that are in commercial operations.</p> <p>Kindly see the BAC's response below:</p> <p><i>"Thus, if the Nominated Plant of the Bidder started commercial operation (between January 2020 to present), it only needs to submit the documents listed in Section 3.2 (q.) of the IPB."</i></p> <p>However, BAC's response to Item No. 88 of Annex A of Bid Bulletin 4 indicates that the Comparable Plant requirement is applicable to all Bidders even those that have been in commercial operations as early as January 2020.</p> <p>Please confirm whether or not the comparable plant requirement is applicable to Bidders with existing nominated plants are in commercial operations.</p>	Annex QD-9 pertaining to Project Cost, Commitment Letter and Testimonial are intended for Nominated Plant of the Bidder if it has not started commercial operation (between January 2020 to present).
6.		Annex A of Annex QD-6	Instructions to Prospective Bidders Annex A of Annex QD-6 List of Bidder's Counterpart(ies) / Financial Lenders	<p>We propose that the Project(s) or Contract(s) with Counterparties of the Bidder or its Affiliate be limited to the Top five (5) major projects or contracts of the Bidder and/or its Affiliates with MERALCO and/or its Affiliates engaged in power generation, distribution and supply.</p> <p>Similarly, we propose that the Project(s) or Contract(s) with Financial Lender/s of the Bidder and/or its Affiliates be limited to the Top five (5) major projects or contracts that involves MERALCO and/or its Affiliates engaged in power generation, distribution and supply.</p> <p>Expanding the coverage of this list of counterparties and/or financial lenders beyond Meralco and its Affiliates will be difficult for the bidders as consent from such counterparties will require consent prior to disclosure of information.</p>	<p>Not amenable to the proposal.</p> <p>This Legal Qualification requirement (No Unsatisfactory Performance, Outstanding Dispute or Unsettled Dispute or Due and Demandable Obligation) is already limited.</p> <p>It is already limited to: (i) the Bidder’s Affiliates engaged in power generation only; and <i>vis-à-vis</i> (ii) Meralco itself, or its Affiliates engaged in power generation, distribution and supply (those found in Schedule 2 of the IPB).</p>

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7.		Terms of Reference	Scheduled Commercial Operations Date ("COD")	Can a bidder only offer capacity specifically for the 600MW lot with SCOD by May 2025? If yes, where do the bidders indicate such?	See response in Bid Bulletin #4, item 19. To reiterate, "[a]s the Bid Requirements and IPB describe, "all the Offered Contract Capacities of the Qualified Bidders that meet the Reserve Price of the LCOE shall be stacked from lowest to highest LCOE until the required Contract Capacity (i.e., 1,800 MW [net]) is filled up." Thus, Bidders cannot choose which specific SCOD they will place their bids. As to what SCOD will the Bidder be stacked would depend on how low or high its LCOE is.
8.		Terms of Reference	Scheduled Commercial Operations Date ("COD")	How will BAC-PSA evaluate the following offers and award capacities? Offer #1 SCOD by May 2025 Offer #2 SCOD by Dec 2024 LCOE of Offer # 1 is LOWER than LCOE of Offer #2	(similar response immediately above)
9.		Terms of Reference	Scheduled Commercial Operations Date ("COD")	How will BAC-PSA allocate or assign the SCOD of winning Bidders? Will the BAC-PSA award the lowest LCOE to the earliest SCOD (i.e. Dec 2024) until the total 1,200 MW is filled up? Will the BAC-PSA then assign the remaining Winning Bidders to the next SCOD (i.e. May 2025)?	(similar response immediately above)
10.		Terms of Reference	Bid Price/ Tariff Structure of the Contract Price, p. 2	"e. The Bidder shall submit a Fuel Formula linking its Nominated Fuel Index to its Fuel Price cost (in USD/MMBtu). The Fuel Formula shall be composed of the following: (i) Up to two (2) Nominated Fuel Indices representing its fuel commodity cost, which may or may not include freight cost, provided that the Bidder shall also indicate the share or weight of each Nominated Fuel Index in the Fuel Formula,..." Clarification: (1) Please confirm that the Bidders can freely choose their fuel indices provided these are objectively verifiable. (2) May we request for the BAC-PSA's/ Meralco's criteria and/or definition of a Fuel Index?	1. Fuel Indices can either be (a) readily available to the public or (b) available only through subscriptions; provided that in case of (b), bidder shall make the same available to MERALCO at bidder's own expense. For this purpose, bidder shall waive confidentiality in favor of MERALCO and execute the necessary document to facilitate MERALCO's access to the subscription. 2. As to the criteria and/or definition of Fuel Index, the Fuel index should be an industry accepted index for the Bidder's fuel. For clarity, US CPI and PH CPI are not allowed as fuel indices.

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11.		Bid Bulletin No. 2	Item No. 3(b)	"(b) Provide the actual monthly values of its chosen Nominated Fuel Index/Indices for the period January 2020 to December 2022. For this purpose, the Bidder shall submit supporting or source documents to validate that the monthly figures are the actual values of the Nominated Fuel Index/Indices as released by their respective publishers." Clarification: (1) Do Fuel Indices need to be published by a third party and need to be readily available to the public? (3) Please confirm that Fuel Indices that are available only through subscriptions acceptable.	See response immediately above, no. 2.
12.		PSA	PSA Appendix H (4) (Invoicing and Payment Procedures) p. 116 PSA Article 11.2.6	Par. 2 of Item 4 of Appendix H Notwithstanding any provision in the Agreement to the contrary, if a Party fails to pay any amount due under this Agreement in accordance with the terms of this Agreement, PhP BVAL Reference Rate plus two hundred (200) basis points for PhP-denominated charges <u>and/or LIBOR plus two hundred (200) basis points for USD-denominated payments</u> shall apply on the outstanding amount, computed from the due date until full payment is received by the Party entitled thereto. Article 11.2.6 of the PSA "11.2.6 If any Party fails to make payment to another Party of any amount due under this Agreement, where such amount is not the subject of a Dispute, including but not limited to the award or settlement amount due under Section 11.2.5, interest thereon from the date when payment was originally due until payment thereof is received shall be calculated on the actual number of days elapsed over a three hundred sixty-five (365) Day basis equivalent to (i) the PhP BVAL Reference Rate plus two hundred (200) basis points for PhP-denominated charges or (ii) SOFR plus two hundred (200) basis points for USD- denominated payments , pursuant to Section 4 of Appendix H, in each month in which the sum was due and payable." Clarification May we ask which rate shall apply on outstanding amount?	This is noted. For clarity, the PhP BVAL Reference Rate plus two hundred (200) basis points for PhP-denominated charges or (ii) SOFR plus two hundred (200) basis points for USD-denominated payments will apply. For clarity, paragraph 2, item 4 of Appendix H will be revised as follows: 4 Payment Date Notwithstanding any provision in the Agreement to the contrary, if a Party fails to pay any amount due under this Agreement in accordance with the terms of this Agreement, PhP BVAL Reference Rate plus two hundred (200) basis points for PhP-denominated charges and/or LIBOR SOFR plus two hundred (200) basis points for USD-denominated payments shall apply on the outstanding amount, computed from the due date until full payment is received by the Party entitled thereto." <u>Please see Annex B of this Bid Bulletin No. 6 reflecting the amendment to the PSA template.</u>

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PSA TEMPLATE-RELATED QUERIES/COMMENTS					
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13.		PSA	VAT Payments	May we confirm that VAT payments corresponding to USD-denominated charges shall be paid in USD, while VAT Payments for Philippine Peso-denominated charges shall be paid in Philippine Peso?	As relayed by the DU, Meralco bills its customers in Philippine peso. VAT billed to customers are based on the VAT billings of generators wherein dollar denominated billings are converted to Philippine Peso using the supply month end dollar exchange rate. Given that the VAT related to generation charges are pass through in nature, Meralco will pay and monitor VAT on generation charge in Philippine peso.
14.		Instructions to Prospective Bidder Annexes	TP-1 Template	<p><i>The Comparable Plant will be considered to have been in "reliable" commercial operation for the purposes of this requirement once the BAC-PSA's independent engineer determines and certifies that the Bidder's submitted Comparable Plant 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 87.75% for the duration of the commercial operation period except in a year of a major planned overhaul.</i></p> <p><i>For this purpose, the Bidder's authorized representative should submit a notarized certification attaching as proof a certification, issued by the Comparable Plant's owner, operator, or manufacturer that the Comparable Plant is of proven design, which means that a generating unit of the same technology, with at least 150 MW installed capacity, must have been engaged in reliable commercial operation for at least one (1) year in a 60 Hertz system. For clarity, when the certification from the Comparable Plant's owner, operator, or manufacturer is issued or executed in a foreign country, it should be authenticated or apostilled.</i></p> <p>What is the earliest date that the certification may be issued by the Comparable Plant's owner, operator, or manufacturer?</p> <p>Can Bidder submit the certification issued by the Comparable Plant owner, operator or manufacturer (without apostille and authentication) on Bid Submission Deadline and submit the apostilled document only during Post-Qualification?</p>	<p>The unauthenticated or non-apostilled copy may be submitted during the Bid Submission Deadline, provided the document is an original copy. However, the authenticated or apostilled copy must be submitted no later than Post-Qualification (i.e. within seven (7) days from the Notification of Best Bid) if the said Interested Bidder is the recipient of a Notification of Best Bid.</p> <p>Please refer to Sections 2.7(e) and 3.3.2(l) of the IPB:</p> <p>"All documents required in this Section to be authenticated by the Philippine consular official or apostilled may be submitted by the Interested Bidder during the Bid Submission Deadline unauthenticated or non-apostilled, provided the document is an original copy and provided further that the authenticated or apostilled copy must be submitted no later than Post-Qualification (i.e. within seven (7) days from the Notification of Best Bid) if the said Interested Bidder is the recipient of a Notification of Best Bid. Failure to submit the said authenticated or apostilled copy during Post-Qualification shall be sufficient cause to "fail" in the Post-Qualification and to allow the BAC-PSA to proceed to the Next Best Bid.</p> <p>xxx</p> <p>(l) a Bidder with the Best Bid failed to submit the authenticated or apostilled documents required in Section 2.7 (e.) during Post-Qualification."</p>

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15.		Instructions to Prospective Bidder Annexes	TP-1 Template	<p>“If applicable, the Water Rights Permit/s issued by the National Water Resources Board (NWRB) for the Nominated Plant, or application/s for the Water Rights Permit/s before the NWRB, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the Water Rights Permit issued by the NWRB must be submitted during Post-Qualification if the Bidder’s Bid Price is declared as the Best Bid;”</p> <p>Can the Water Rights Permit be submitted during the PSA Application with the ERC if not yet available during Post-Qualification? We note that the issuance of such permit is beyond the control of the Bidder as it is dependent on the issuing agency.</p> <p>In the alternative, kindly confirm that a certification issued by the NWRB that a water permit application has been filed and is currently pending before the NWRB is sufficient for this purpose.</p> <p>Assuming an actual permit is available, and pursuant to the prevailing practice in water permit applications before the NWRB, kindly confirm that a Conditional Water Permit which is normally the type of initial permit issued by the NWRB is sufficient for this purpose.</p>	<p>The Water Rights Permit requirement was lifted from the ERC CSP Guidelines Checklist (Appendix D-2, p.2, item 12), which states: “Water Permit from the National Water Resources Board (NWRB). Note: Applicable for Genco utilizing hydro technology.”</p> <p>If the Bidder’s Nominated Plant is not “utilizing hydro technology,” this Sec. 3.2(o), IPB requirement is not applicable unless it is required by the ERC during the PSA application.</p> <p>We also remind the Bidders that under Section 23, Article VII of the ERC CSP Guidelines, the pre-filing documents should be submitted within 15 days from the signing/execution of the PSA and any delay entitles MERALCO to forfeit the Performance Bond.</p>
16.		Instructions to Prospective Bidder Annexes		<p>“If applicable, the Certificate/s of Non-Overlap (CNO) and/or Free and Prior Informed Consent (FPIC) Certificate/s issued by the National Commission on Indigenous Peoples (NCIP) for the Nominated Plant, or application/s for the CNO and/or FPIC Certificate pending before the NCIP, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the CNO and/or FPIC Certificate/s issued by the NCIP must be submitted during Post-Qualification if the Bidder’s Bid Price is declared as the Best Bid;”</p> <p>Can the CNO be submitted during the PSA Application with the ERC if the CNO is not available during Post-Qualification? We note that the issuance of such permit is beyond the control of the Bidder as it is dependent on the issuing agency.</p> <p>In the alternative, kindly confirm that a certificate from the NCIP or any document of similar nature which will attest or certify that an application for CNO has been filed and is currently pending before said office is sufficient for this purpose.</p>	<p>Upon verification, the CNO requirement is not expressly listed in the ERC CSP Guidelines Checklist (Appendix D-2), therefore, this CNO requirement under Sec. 3.2(n) of the IPB will be submitted when it is required by the ERC during the PSA application.</p> <p>We also remind the Bidders that under Section 23, Article VII of the ERC CSP Guidelines, the pre-filing documents should be submitted within 15 days from the signing/execution of the PSA and any delay entitles MERALCO to forfeit the Performance Bond.</p>

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17.		Instructions to Prospective Bidder Annexes	QD-6 Template	<p>"1. The following contains the complete list of the (Insert name of Bidder)'s Affiliates engaged in power generation:"</p> <p>Is the operation of a battery energy storage system (BESS) considered power generation for this purpose?</p>	If the company that operates the BESS is registered in the WESM, then it is assumed that it is engaged in power generation.
18.		Instructions to Prospective Bidder Annexes	QD-6 Template	<p>"1. The following contains the complete list of the (Insert name of Bidder)'s Affiliates engaged in power generation:"</p> <p>Should we list affiliates with power plants that are not yet commercially operating (i.e., construction phase)?</p>	Yes.
19.		PSA Template Interpretation	1.2.20, page 16	<p>For consistency and uniformity in the implementation of the PSA, the following are hereby suggested after the last sentence thereof which would read as - - -</p> <p>"xxx shall prevail. However, after the execution of this Agreement and even prior to the filing thereof before the ERC, the provisions of this Agreement shall govern the relationship of the parties and that the provisions hereof shall prevail as against any and or all of Meralco's bidding documents and relevant bid bulletins."</p>	As relayed by DU, Meralco prefers to retain this provision. It should be noted that the bidding documents and relevant bid bulletins revise the PSA template in so far as necessary.
20.		PSA Template Covenants	14.2.1 page 38	<p>In view of the number of documents that will be attached in the Joint Application for the approval of the Agreement the period of "five (5) days as mentioned in the first line of the subject portion of the PSA is suggested to be edited to read as- - -</p> <p>"Within fifteen (15) Days after receipt from Power Supplier xxx xxx"</p>	<p>As relayed by DU, Meralco prefers to retain this provision. The standard documents for pre-filing are already listed down in Part III of Appendix C, thus, giving ample time for Bidder to prepare the same in time for filing of the relevant application.</p> <p>See also response in Bid Bulletin #5, item 65.</p>
21.		PSA Template Event of Default	18.1, page 48	The sixty (60)-day periods referred to under 18.1 (Power Supplier Events of Default) or the period within which to discharge or dissolve suits / cases that may result to a Power Supplier Event of Default is too short considering customary judicial/legal processes. We thus suggest that the same be increased to at least ninety (90) days, which as matter of equity should also be applied to Article 18.2 (Meralco Events of Default).	As relayed by DU, Meralco prefers to retain this provision as Meralco deems this to be a reasonable period which is made standard across all of Meralco's PSAs.
22.		Instructions to Prospective Bidder Annexes	QD-9; QD-9B Template	"This is to confirm that (<i>insert name(s) of Debt Provider/Arranger(s)</i>) (the [" Debt Provider/Arranger "] [" Debt Providers/Arrangers "]) [has/have] indicated its/their [commitment/consideration/interest to arrange debt financing] to finance the project should the Bidder be declared as the Winning Power Supplier for the implementation of the Project in the aggregate amount of up to (<i>insert amount</i>)."	The bidder may submit more than one Testimonial and from different debt providers/arrangers to support the total amount of debt declared on the Statement of Project Cost and Financing Plan.

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				<p>How many Testimonials does a Bidder need to submit? Can the Testimonial only cover a portion of the total amount of Debt declared on the Statement of Project Cost and Financing Plan?</p>	
23.		Instructions to Prospective Bidder Annexes	QD-9; QD-9B Template	<p>"This is to confirm that (<i>insert name(s) of Debt Provider/Arranger(s)</i>) (the ["Debt Provider/Arranger"]["Debt Providers/Arrangers"]) [has/have] indicated its/their [commitment/consideration/interest to arrange debt financing] to finance the project should the Bidder be declared as the Winning Power Supplier for the implementation of the Project in the aggregate amount of up to (<i>insert amount</i>)."</p> <p>If the Bidder's direct shareholder obtained Debt for various purposes including LNG projects but none of the loan proceeds were actually allocated to the Bidder's Nominated Plant, please confirm that the Bidder need not submit a Testimonial from a debt provider and need not include such loan in the Debt declared on the Statement of Project Cost and Financing Plan.</p>	<p>The Testimonial from a debt provider/arranger will not be applicable if 100% of the project cost will be funded by the Interested Bidder's or Project Company's shareholders in the form of equity or shareholder loans.</p> <p>If the Interest Bidder or the project company will obtain loans to fund a portion or the entire project cost, a Testimonial from a debt provider/arranger should be submitted.</p>
24.		Instructions to Prospective Bidder Annexes	QD-2, Section 2	<p>"For entities listed on the Philippine Stock Exchange ("PSE"), the Bidder must submit the listed entity's latest Public Ownership Report and List of Top 100 Stockholders, as submitted to the PSE. The information in such Report and List must be as of a date no earlier than 31 December 2022. Shares held by PCD Nominee may be lumped together in the List of Top 100 Stockholders."</p> <p>Please confirm that this statement will not apply if the Bidder is not listed on the PSE even if its parent company or Ultimate Parent is listed.</p>	As mentioned in the provision, the requirement is "for entities listed on the [PSE]".
25.		Instructions to Prospective Bidder Annexes	Letter (a) Annex QD-2, page 62	<p>It was provided under the cited portion that one of the required attachments is the "executive summary showing a brief description of its company history and structure, including relevant capabilities in the construction, operation and maintenance of a power plant or in the supply of electricity".</p> <p>Kindly confirm that the executive summary of a Bidder (with a Nominated Plant that is not yet operational) is compliant and acceptable to the BAC-PSA even if the executive summary will only be limited to available information as of such date and exclude matters that are not yet available to Bidder given the development stage of the Nominated Plant, such as but not limited to "relevant capabilities in the construction, operation and maintenance of a power plant or in the supply of electricity". Otherwise, can the Bidder cite relevant capabilities of its Affiliates?</p>	IPB provision states "executive summary showing a brief description of <i>its</i> company history and structure, including relevant capabilities in the construction, operation, and maintenance of a power plant or in the supply of electricity". Relevant capabilities must pertain to Company (of Bidder).

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26.		Invitation to Bid Bid Price/Tariff Structure	Item 3 (iii) Page - 2	<p><i>"(iii) Any fixed pricing component of the fuel price, including its value and duration"</i></p> <p>If the Bidders are allowed to submit a different Fuel Fixed Price component for each year, how would these values be inputted in each contract year? Note that the FEW provides only one cell to input Fuel Fee formula and fixed price (c7 under Input_FuelFormula Sheet).</p> <p>How would it be considered in the calculation of the LCOE?</p>	The Financial Evaluation Workbook (FEW) shall be revised in order to allow Bidders to capture the nuances of its Fuel Formula for each year, which includes possible different fixed price component for each year. The Bidders shall enter its Fuel Formula for each year in cells C8 to Q8 of the Input_FuelFormula worksheet of the revised FEW. Further instructions shall be specified in the corrected version of the FEW.
27.		Bid Bulletin No. 2	Page 1	<p><i>"If the Nominated Power Plant is a gas plant, the Interested Bidder shall state its GNPHR Table, in Btu/kWh at GCV. Such GNPHR Table shall be from 50% to 100% Load Factor and in increments of 1% Load Factor for Contract Year 1."</i></p> <p>Under the Input_BaseValues sheet of the FEW, there are required input cells for GNPHR data from 40% to 49% Load Factor (cells D74 to D83). If the Bidder is a gas plant, should the Bidder ignore these cells and it will be marked as "No value entered"?</p>	If the Bidder indicated that it is a gas plant, then it shall leave blank the input cells for GNPHR data from 40% to 49% Load Factor (cells D47 to D83). As long as the Bidder indicates in the FEW that it will use a gas plant, then the FEW will compute the LCOE even if no values are entered in cells D47 to D83.
28.		Annexes	TP-1 Template	<p>"12. If applicable, the Certificate/s of Non-Overlap (CNO) and/or Free and Prior Informed Consent (FPIC) Certificate/s issued by the National Commission on Indigenous Peoples (NCIP) for the Nominated Plant ..."</p> <p>Question: Kindly confirm if the CNO issued to the owner of the land where the Nominated Plant is situated and from whom the Bidder is leasing the land as plant site is sufficient for this requirement.</p>	Yes, the CNO for the Nominated Plant's site location is sufficient.
29.		Invitations to Prospective Bidders	Item (o), Section 3.2, page 30	<p>"(o) If applicable, the Water Rights Permit/s issued by the National Water Resources Board (NWRB) for the Nominated Plant, or application/s for the Water Rights Permit/s before the NWRB, xxx"</p> <p>Question: Kindly confirm that a Bidder can also submit an NWRB Permit for water use of the Nominated Plant issued in favor of its lessor or the owner of the land where the Nominated Plant is situated.</p>	Yes, provided the Evidence of Land Acquisition/ Possession (Sec. 3.2 [b]) of the IPB) submitted will show that the Bidder is the duly authorized lessee or possessor of the Nominated Plant's site.
30.		Invitation to Bid	TOR Table / Scheduled COD	<p>"1,200 MW (net) by December 2024, with option by Meralco to take available energy up to 1,200 MW (net), at Commissioning Energy Charge, starting December 2023.</p> <p>Additional 600 MW (net) by May 2025, with option by Meralco to take available energy up to 600 MW (net), at Commissioning Energy Charge,</p>	Power Supplier should be ready to make available the electrical energy quantities in MWh generated by the Plant to the extent of the Contract Capacity, subject to occurrence of early COD in Article 5 of the PSA.

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
				starting May 2024..."	
				Question: Is the Bidder obliged to supply Commissioning Energy to Meralco by December 2023 and/or May 2024, as may be applicable?	
31.		Instructions to Prospective Bidders	Qualification Documents/3.2 Technical Proposal	<p>"(q) If the Nominated Plant is already in commercial operation, it must be:</p> <ol style="list-style-type: none"> 1. Covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC at the start of the Operations Effective Date of the PSA, as submitted by the Bidder.... 2. Be registered as a direct member of the WESM and a copy of its Market Participation Agreement for the Nominated Plant... 3. Covered by a valid Fuel Supply Agreement ... 4. Covered by a valid Transmission Service Agreement (TSA) or, if embedded, a Distribution Wheeling Service Agreement (DWSA) <p>Question: If the Nominated Plant is not yet in commercial operation but the Bidder has already secured some (but not all) of the above listed documents such as MPA and TSA, should the Bidder still submit those <u>available</u> documents, or can it simply state that the requirement is not applicable to it since it is not yet in commercial operation?</p>	This requirement (Sec. 3.2 [q]) is only required to be submitted for Nominated Plants that are already in commercial operation (i.e. with ERC's Certificate of Compliance/COC).
32.		Invitation to Prospective Bidders	<p>Item (d), Section 3.1.4, page 26</p> <p>Item (q), Section 3.2, page 31</p>	<p>"(d) Proof that the Reference Plant is covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC xxx"</p> <p>"(q) If the Nominated Plant is already in commercial operation, it must be:</p> <ol style="list-style-type: none"> 1. covered by a Certificate of Compliance (COC) or Provisional Authority to Operate (PAO) from the ERC at the start of the Operations Effective Date of the PSA" <p>Question: Kindly confirm that Meralco will accept COCs/PAOs that were automatically extended until 2024 by virtue of Section 35, Art. IX of ERC Resolution No. 17, Series of 2023:</p> <p style="text-align: center;">"ARTICLE IX TRANSITORY PROVISION</p> <p style="text-align: center;">Section 35. Transitory Provision for GenCo and MGSP.</p>	Yes, COCs/PAOs that were automatically extended until 2024 by virtue of Section 35, Art. IX of ERC Resolution No. 17, Series of 2023 will be accepted.

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

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				<p>For existing Generation Facilities with pending application for renewal of COC filed before the ERC, the validity period of such COC is extended until 2024, and the date of which shall be the day and month of its original expiry. xxx</p> <p>For existing Generation Facilities with issued PAO, the validity period of such PAO is extended until 2024, and the date of which shall be the day and month of its original expiry. xxx.</p>	
33.		Annexes	QD-7 Template vis-à-vis 3.1.4 (a)	<p><u>QD-7</u></p> <p>“(a) The Bidder, whether directly or indirectly or through any of its direct shareholders representing Controlling Interest, Affiliates or Ultimate Parent must submit:</p> <p>(i) List of projects undertaken over the last ten (10) years; (ii) List of electricity generation plants that it has operated for the last five (5) years; <u>AND</u> (iii) Proof/documentation of track record for the last five (5) years of power plants operated by it;”</p> <p><u>3.1.4 (a)</u></p> <p>(i) List of projects undertaken over the last ten (10) years; (ii) List of electricity generation plants that it has operated for the last five (5) years; <u>OR</u> (iii) Proof/documentation of track record for the last five (5) years of power plants operated by it;”</p> <p>Question: Please clarify the inconsistency in this requirement (whether AND or OR).</p>	Section 3.14(a) should be “and”.
34.		PSA	Definition of Material Adverse Government Action	<p>“Material Adverse Government Action means:</p> <p>(a) any Law or Directive coming into effect after the signing of the Agreement, including the adoption or enactment, or any change or repeal with respect to the imposition of taxes, duties, levies, fees, charges and similar impositions, and the right to remit or convert currencies....</p> <p>(b) the amendment, modification, repeal or withdrawal of any Law or Directive (including any official interpretation thereof which the Parties have relied upon in entering into this Agreement) in force at the date of this</p>	<p>The 10% threshold is taken from the acceptable range of common materiality threshold based on finance principles.</p> <p>The rationale is to provide a measure on when to deem a government action to be materially adverse, we compare the Power Supplier’s overall cost prior to the government action and the overall cost after government action has taken effect. If the increase in cost will be more than 10% of the annual</p>

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				<p>Agreement; or</p> <p>(c) the modification in the application, enforcement, interpretation, implementation of any Law or Directive by a Governmental Instrumentality which the Parties have relied upon in entering into this Agreement ...</p> <p>which causes or may cause serious damage to, or materially and adversely affects the financial condition of, any of the Parties. <i>It is understood that there is serious damage to, or material and adverse effect on the financial condition of, a Party if the cost impact is more than ten percent (10%) of the annual capacity payment.</i>"</p> <p>Question: What is the basis of more than 10% threshold in determining serious damage or material or adverse effect on the financial condition of a Party?</p>	<p>capacity fee, then the government action is considered to have materially adverse impact.</p>
35.		PSA	Article 3.3 Commercial Operations Date	<p>"3.3.3 If the Commercial Operations Date has not occurred by the Scheduled Commercial Operations Date, from and after the Scheduled Commercial Operations Date, Power Supplier shall, for each day of unexcused delay, (i) procure and cause delivery to Meralco of Replacement Power of up to 1,800 MW (net), as may be applicable, subject to Article 6 and in accordance with Appendix E, to be paid for Meralco at the lower between the actual price of Replacement Power and the Price specified in Annex E; or (ii) to the extent that such Replacement Power is not available due to inadequate supply from WESM or from any other source, pay to Meralco fine equivalent to Nine Hundred Eight Pesos (PhP908.00) multiplied by each affected MWh nomination by Meralco,</p> <p><u>For any deliveries of Replacement Power made pursuant to this Section 3.3.3,</u> Meralco shall pay for such Replacement Power at the lower between the WESM price and the Price specified in Appendix E.</p> <p>If Power Supplier fails to provide Replacement Power despite availability from WESM or any other source, Meralco will be deemed to have sourced the Replacement Power, subject to reimbursement by Power Supplier of the difference between (i) WESM price and (ii) Price, plus all relevant transaction cost and taxes....</p> <p>Question: What other instances are contemplated in the second paragraph above, if not covered by the first and third paragraphs?</p>	<p>See response in Bid Bulletin #5, item 44.</p>

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36.		PSA	Article 4 Bid Security and Performance Security	<p>"4.2 Power Supplier shall, within fifteen (15) Days from Acceptance Date, deliver to Meralco one or more security (each, a "Performance Security") in an aggregate amount equivalent to [Security Amount Based on Bid] Philippine Pesos (Php [·]) (the "Security Amount"). Each Performance Security shall (i) be an irrevocable stand-by letter of credit or bank guarantee, in the form customarily issued by an Allowed Bank, (ii)</p> <p>As used herein, "Allowed Bank" means an international or domestic bank that is not an Affiliate of Power Supplier and is included in the list of banks agreed between the Parties,"</p> <p>Question: Kindly confirm that Bid Security can be issued by the Affiliate bank of the Bidder provided that such bank is included in the List of the Allowed Banks.</p> <p>Likewise, kindly confirm that the Affiliate bank of the Power Supplier is also allowed to issue Performance Security.</p>	See response in Bid Bulletin No. 5, item 19.
37.		PSA	Article Bid Security and Performance Security	<p>"4.4 If a Performance Security is subject, pursuant to its terms, to a fixed expiry date, Power Supplier shall, <u>not less than fifteen (15) Days prior to such expiry date</u>, amend or replace the Performance Security with a duly executed amended or replacement Performance Security compliant with the requirements under Section 4.2 of this Agreement. <u>At any time within the 9-day period prior to such expiry date</u>, Meralco shall have the right to draw on the entire amount of the Performance Security and hold the proceeds in trust for Power Supplier as security if Power Supplier fails to procure a replacement Performance Security within the time required under this Section 4.4 until the Performance Security is: (i) replaced by Power Supplier; (ii) returned to Power Supplier in accordance with Section 4.6; or (iii) forfeited in favor of Meralco in accordance with Section 18.6.2(b)."</p> <p>Question: We suggest deleting the 9-day period since it would defeat the 15-day period afforded to Power Supplier within which to amend or replace the Performance Security.</p>	There are two different events: (1) the "15 days prior to expiry date" is the deadline for Power Supplier to replace an expiring performance security; and (2) "within 9-day period prior to expiry date" where Meralco can call on the Performance Security. The difference of 6 days allows the Power Supplier to communicate to Meralco the status of the replacement/amendment of the Performance Security.

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38.		PSA	Article I/Section 1.1 Definition of Terms/ Page 11	<p>Net Plant Heat Rate Test Certificate means a certificate attesting to the results of the Net Plant Heat Rate Test conducted in accordance with Appendix J and signed by the Independent Engineer.</p> <p>Question: Will MERALCO provide a list of its accredited Independent Engineers from whom the Power Supplier may chose from?</p>	Please refer to Section 22.16 of the PSA.
39.		PSA	Article I/Section 1.1 Definition of Terms/ Page 14	<p>Trading Interval means an hourly interval, unless otherwise agreed upon by the Parties as consistent with WESM Rules.</p> <p>Question: Given that the existing trading interval is no longer on an hourly basis, how would the agreement be made on the appropriate trading interval, in writing?</p>	The agreement will be discussed in the operating protocol with the Winning Power Supplier/s.
40.		PSA	Article II/Section 2.1 Term of the Agreement/ Page 16	<p>The Term may be renewed for an additional period of up to one (1) year under the same terms and conditions, at the option of Meralco, by giving prior written notice to Power Supplier at least one hundred eighty (180) Days prior to the end of the Term.</p> <p>Question: Would the right of MERALCO to renew the PSA for an additional period of one (1) year also be subject to Power Supplier's written consent or written agreement by the Parties and/or subject to ERC Approval?</p>	See response in Bid Bulletin No. 5, item 39.
41.		PSA	Article III/Section 3.3 Commercial Operations Date/Page 21	<p>If Power Supplier fails to provide Replacement Power despite availability from WESM or any other source, Meralco will be deemed to have sourced the Replacement Power, subject to reimbursement by Power Supplier of the difference between (i) WESM price and (ii) the Price, plus all relevant transaction cost and taxes. If Power Supplier fails to reimburse Meralco on or before twelve (12) Business Days from the end of the relevant Billing Period indicated in the notice of Meralco to Power Supplier, Meralco shall have the right to draw on the entire amount of the Performance Security, apply the proceeds</p> <p>Question:</p> <p>1) What is the timeline for MERALCO to submit its reimbursement for the difference between the (i) WESM price and (ii) the Price, plus all relevant transaction cost and taxes?</p> <p>Power Supplier should be given reasonable time to prepare payment of the same, is the twelve (12) Business Days from the end of the relevant Billing Period enough as failure to reimburse would give MERALCO the right to draw on the entire Performance Security</p>	Under this provision, Power Supplier shall be the one to reimburse Meralco for Replacement Power purchased by the latter due to failure of Power Supplier to do so. Period of reimbursement by Power Supplier to Meralco is on or before 12 Business Days from the end of the relevant Billing Period indicated in the notice of Meralco to Power Supplier.

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42.		Instructions to Prospective Bidders	Summary of Bidding/Section 2.2(d)/11	If the EOI is amended before the relevant deadline indicated in the Bidding Documents, should we include both the original EOI and the revised EOI in the documents to be submitted on the Bid Submission Date?	Amendment to the EOI must be within the prescribed deadline. Bidder to submit the revised EOI on the Bid Submission Deadline.												
43.		Instructions to Prospective Bidders	Summary of Bidding/Section 2.2(d)/11	Related to the previous question, what will be the suggested filename for the original and intended revised EOI (if any) if these will be considered as separate pdf documents? In the alternative, may both EOI files be merged in one pdf file?	May indicate the updated date in the filename for ease of monitoring and reference by the BAC-PSA Secretariat.												
44.		Instructions to Prospective Bidders	Qualification Documents/Section 3.1.2(c)/24	Please confirm that as worded below, partnerships need not provide an explanation regarding the absence of by-laws as the same is not required in the Bidding Documents. “(c) if applicable (i.e., corporations), copy of its articles of incorporation and by-laws or articles of partnership, 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;”	Kindly indicate in the submission that this is not applicable to Bidder since it is a partnership.												
45.		Instructions to Prospective Bidders	Qualification Documents/Section 3.1.2(d)/24	Please confirm that as worded below, partnerships need not provide an explanation regarding the absence of a GIS. (d) if applicable (i.e., a corporation), copy of its latest General Information Sheet (GIS), stamped “received” or email acknowledging receipt by the SEC, 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;	Kindly indicate in the submission that this is not applicable to Bidder since it is a partnership.												
46.		Instructions to Prospective Bidders	Annex QD-8/80-82	There are certain line items in Annex QD-8 that are not applicable to a partnership. Thus, kindly confirm if the following proposed revisions in the Equity portion to reflect the proper terminologies are acceptable: From: <table><tr><th>Financial Information</th><th>2022</th></tr><tr><td>4. Subscribed and Paid Up Capital (at par, net of treasury shares) (a) Common Shares (b) Preferred Shares (c) Perpetual Shares Total</td><td></td></tr><tr><td>5. Additional Paid-In Capital (a) Common Shares (b) Preferred Shares</td><td></td></tr></table>	Financial Information	2022	4. Subscribed and Paid Up Capital (at par, net of treasury shares) (a) Common Shares (b) Preferred Shares (c) Perpetual Shares Total		5. Additional Paid-In Capital (a) Common Shares (b) Preferred Shares		We do not encourage changes in the format of QD-8. However, to accommodate the proposed format, we suggest that the equivalent or appropriate account name and amount be indicated in the table. Please see table below for sample format: <table><tr><th>Financial Information</th><th>2022</th></tr><tr><td>4. Subscribed and Paid Up Capital (at par, net of treasury shares) (a) Common Shares (b) Preferred Shares (c) Perpetual Shares Total</td><td></td></tr><tr><td>Or Partners share</td><td></td></tr></table>	Financial Information	2022	4. Subscribed and Paid Up Capital (at par, net of treasury shares) (a) Common Shares (b) Preferred Shares (c) Perpetual Shares Total		Or Partners share	
Financial Information	2022																
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PSA TEMPLATE-RELATED QUERIES/COMMENTS																			
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA’s RESPONSE														
				<table><tr><td>(c) Perpetual Shares Total</td><td></td></tr><tr><td>7. Retained Earnings Appropriated by the Board</td><td></td></tr><tr><td colspan="2">To:</td></tr><tr><td>Financial Information</td><td>2022</td></tr><tr><td>4. Partnership Shares</td><td></td></tr><tr><td>5. [delete]</td><td></td></tr><tr><td>7. Retained Earnings Appropriated by the Partnership</td><td></td></tr></table> <p>In the alternative, will information of any of the direct shareholders representing Controlling interest, Affiliates or Ultimate Parent be acceptable? If yes, please confirm that details from the consolidated financial statements is preferred over information from just the parent company financial statements.</p>	(c) Perpetual Shares Total		7. Retained Earnings Appropriated by the Board		To:		Financial Information	2022	4. Partnership Shares		5. [delete]		7. Retained Earnings Appropriated by the Partnership		<p>If there is no single company owning a controlling interest, all the direct shareholders/partners should submit their respective financial statements and completed Annex QD-8. The financial statements to be submitted should be in accordance with the requirements of Annex QD-8.</p> <p>Annex QD-8 must be accomplished using the consolidated financial statements, but if the consolidated financial statements is not applicable to the direct shareholders/partners, the separate stand-alone statements should be used.</p>
(c) Perpetual Shares Total																			
7. Retained Earnings Appropriated by the Board																			
To:																			
Financial Information	2022																		
4. Partnership Shares																			
5. [delete]																			
7. Retained Earnings Appropriated by the Partnership																			
47.		Instructions to Prospective Bidders	Qualification Documents/Section 3.1.6/27 in relation to Annex QD-9(a) and QD-9A/83-86	<p>In view of a partnership not having “shareholders,” “shares,” and “outstanding capital stock,” please see proposed rewording for BAC-PSA’s approval:</p> <p>Annex QD-9: From: (a) Commitment Letter from the relevant <u>shareholders</u> of the Bidder confirming their respective equity commitment for the amount of the Project Cost that will be funded through shareholders’ equity using the form in Annex QD-9A, and signed by the Chief Financial Officer, Treasurer or equivalent officer of the relevant shareholders of the Bidder;</p> <p>To: (a) Commitment Letter from the relevant partners of the Bidder confirming their respective equity commitment for the amount of the Project Cost that will be funded through shareholders’ equity using the form in Annex QD-9A, and signed by the Chief Financial Officer, Treasurer or equivalent officer of the relevant shareholders of the Bidder;</p> <p>Annex QD-9A: From:</p>	<p>The proposed rewording is acceptable.</p>														

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				<p>We own (insert number of shares), representing approximately (insert percentage) of the <u>issued and outstanding capital stock</u> of the Company. We undertake to provide to the Company the amount of at least (insert amount), in the form of <u>equity or shareholder loans</u>, for the implementation of the Project.</p> <p>To: We own (insert number of partnership interests), representing approximately (insert percentage) of the partnership interest of the Company. We undertake to provide to the Company the amount of at least (insert amount), in the form of partner's contributions or loans, for the implementation of the Project.</p>	
48.		Instructions to Prospective Bidders	Annex QD-9B/87	<p>Please confirm that the following wording is applicable in case there is no Debt Provider/Arranger:</p> <p>"On behalf of the [name] (the "Company"), we hereby state that the required Testimonial Letter from one or more debt providers or arrangers in the form attached as Annex QD-9B is not applicable to the Company, because the entire amount of the Project Cost will be funded through partner's contributions or loans should the Company be declared as the Winning Power Supplier."</p>	Annex QD-9B is applicable if a portion or the full amount of the Project Cost will be funded through debt to be obtained directly by the Interested Bidder or through its shareholders but at the project company level.
49.		PSA in relation to Terms of Reference Table	PSA: Commercial Operations Date/Section 3.3.1/19 TOR: Commercial Operations Date/"Scheduled COD"/1	<p>We request clarification of the following COD if the difference in dates refers to the billing period:</p> <p>Per PSA, Phase 1 COD should be by Nov. 26, 2024, Phase 2 COD should be by April 26, 2025. In the TOR, Phase 1 is by December 2024. Phase 2 is by May 2025.</p> <p>In Section 2.1(c) of the IPB, page 8, the following provides in part: <u>In particular, in case of conflict between the TOR and the PSA, the provisions of the TOR shall prevail</u>, subject to notices and/or bid bulletins that amends the Bidding Documents, including the TOR, within the period prescribed in this IPB.</p>	November 26, 2024 and April 26. 2025 pertain to the Billing Period.
50.		PSA	Article 3.3.4/22	<p>"...provided, in each case, that Power Supplier has exerted due diligence in achieving Commercial Operations Date by the original Scheduled Commercial Operations Date and has no contributory negligence with respect to any Excused Delay Event, and provided further..."</p> <p>What is the standard, guideline, or threshold for MERALCO to consider that</p>	The determination of due diligence and no contributory negligence on the part of Power Supplier will depend on the circumstances and evidence submitted by Power Supplier to that effect.

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				1. due diligence has been exerted, and 2. No contributory negligence is involved in the Delay Event for it to qualify as an Excused Delay Event. The determination may depend on a subjective appreciation of facts which the parties (Bidder and MERALCO) may not entirely agree with.	
51.		PSA	Article 5.3/25	<p>Please confirm that the "fine" referred to below will not apply if the commissioning that occurred on or after the Scheduled Commercial Operations Date is an Excused Delay Event.</p> <p>"On and after the Scheduled Commercial Operations Date, if the Plant is still under Commissioning or the Commissioning Period for providing Commissioning Energy under relevant regulations (that shall not exceed six (6) months) pursuant to Section 5.1 has not yet been completed, Power Supplier shall likewise provide Meralco with Replacement Power in excess of the Commissioning Energy up to the extent of the day-ahead nomination at a rate equivalent to the lower between the WESM price and Commissioning Energy Charge as computed in accordance with Article C, Section 1 (Component J) of Appendix E. <u>To the extent that such Replacement Power is not available due to inadequate supply from WESM or from any other source, Power Supplier shall pay to Meralco a fine equivalent to Nine Hundred Eight Philippine Pesos (PhP 908.00) multiplied by each affected MWh nomination by Meralco.</u>"</p>	<p>Article 5.3 contemplates a situation wherein: (a) there is early occurrence of COD, pursuant to Section 3.4, and parties agreed to declare early COD, pursuant to Section 5.1. In which case, Power Supplier shall make available to Meralco the Commissioning Energy during the period for Commissioning, (b) however, the Plant is still under Commissioning or the Commissioning Period for providing Commissioning Energy under relevant regulations (that shall not exceed six (6) months) pursuant to Section 5.1 has not yet been completed and it's already on and after the SCOD. In this case, as stated in Section 5.3:</p> <p>"Power Supplier shall likewise provide Meralco with Replacement Power in excess of the Commissioning Energy up to the extent of the day-ahead nomination at a rate equivalent to the lower between the WESM price and Commissioning Energy Charge as computed in accordance with Article C, Section 1 (Component J) of Appendix E. To the extent that such Replacement Power is not available due to inadequate supply from WESM or from any other source, Power Supplier shall pay to Meralco a fine equivalent to Nine Hundred Eight Philippine Pesos (PhP 908.00) multiplied by each affected MWh nomination by Meralco."</p>
52.		PSA	Material Adverse Government Action/Article 12.2.2(a) 3 rd paragraph and 12.2.2(b)/37	<p>Please confirm that the provision below on termination of the PSA will not apply if the party/ies have applied for appellate remedies and/or a temporary injunction (TRO) has been issued.</p> <p><u>"(a) ...In case of termination by reason of a denial by the ERC or applicable Government Instrumentality of the existence of a Material Adverse Government Action, Power Supplier shall pay the liquidated damages calculated in accordance with Section 18.3.3(a); provided that, if Power Supplier suspended the performance of its obligation to make available the Contract Capacity and supply the Associated Energy to Meralco, Power Supplier shall also refund to Meralco the equivalent of the Material Adverse</u></p>	<p>Denial by ERC or applicable Government Instrumentality of the existence of a Material Adverse Government Action is executory unless TRO is issued.</p>

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
				Government Action Rate corresponding to the total replacement energy purchased from WESM during the suspension period, calculated in accordance with Appendix E; provided further, that if the denial is for a reason other than non-existence of a Material Adverse Government Action, Power Supplier shall only pay fifty percent (50%) of the liquidated damages calculated in accordance with Section 18.3.3(a)."	
53.		PSA	Material Adverse Government Action/Article 12.2.2(a) 3 rd paragraph and 12.2.2(b)/37	<p>Please confirm that to be considered Material Adverse Government Action ("MAGA"), cost of impact is more than 10% of annual capacity payment. However, to trigger possible termination of the PSA, the MAGA cost of impact must be more than 30%. In this regard, what is the required proof to show the accumulation of cost of impact to more than 30%</p> <p>"(a) ...If the Application for Price Adjustment has been denied, in whole or in part, Power Supplier shall be entitled to terminate this Agreement in accordance with the provisions of Section 18.6.5(a); provided that, serious damage or material and adverse effect on Power Supplier has resulted in its having actually incurred costs amounting to <u>more than thirty percent (30%) of the annual capacity payment</u>.</p> <p>(b) Meralco may dispute the existence of a Material Adverse Government Action following the procedure set in Article 20. During the pendency of the dispute, Power Supplier shall continue to make available the Contract Capacity and supply the Associated Energy to Meralco; provided that, when the Material Government Action results in Power Supplier having actually incurred costs amounting to <u>more than thirty percent (30%) of the annual capacity payment</u>, Power Supplier shall be entitled to terminate this Agreement..."</p>	For the proof, the Power Supplier can show substantiation/ calculation of actual or future losses (certified and notarized) explaining how the government action affects costs or resulted into losses or if there is actual losses equivalent to the amount, Power Supplier may also provide their financial statement showing such losses.
54.		PSA	Material Adverse Government Action/Article 12.2.3(ii)/38	<p>Please confirm that the procedure for refund, if any, and any installments/tranches shall be agreed by the Parties separately.</p> <p>"Power Supplier shall be required to refund to Meralco the amounts paid, which Meralco was not able to collect from its customers or which is required to be refunded, to restore Meralco's commercial position prior to such Material Adverse Government Action, including an adjustment of the Price."</p>	Section 12.2.3 of the PSA contemplates refund resulting from a corresponding order of the ERC or any other Governmental Instrumentality. In which case, ERC or such other Governmental Instrumentality may direct the manner how the refund is implemented by the Parties.
55.		PSA	Instances of Force Majeure/Article 17.2(a)/44	<p>Please clarify if this can be understood to include wars occurring outside the Philippines, <i>i.e.</i>, international wars.</p> <p>"(a) acts of war or the public enemy whether war is declared or not;"</p>	Consistent with Section 6.1.3 of Appendix C-2 of the ERC CSP Guidelines, these Force Majeure events should be "occurring in or directly affecting the Philippines".

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
56.		PSA	Instances of Force Majeure/Article 17.2(c)/44	Please clarify if this can be understood to include situations occurring outside the Philippines, <i>i.e.</i> , international situations. (c) public disorders, civil disturbance, insurrection, rebellion, acts or campaigns of terrorism, piracy, embargo, sabotage, blockade, revolution, riots or violent demonstrations;	For clarity, Section 17.2(a) and (c) shall be revised as follows: "(a) acts of war or the public enemy, whether war is declared or not, <u>occurring in or directly affecting the Philippines</u> ; xxx (c) public disorders, civil disturbance, insurrection, rebellion, acts or campaigns of terrorism, piracy, embargo, sabotage, blockade, revolution, riots or violent demonstrations, <u>occurring in or directly affecting the Philippines</u> ; xxx" <u>Please see Annex B of this Bid Bulletin No. 6 reflecting the amendment to the PSA template.</u>
57.		PSA	Instances of Force Majeure/Article 17.2 last paragraph/44-45	Please confirm that this means if there is extreme difficulty to procure fuel due to items that qualify as instances Force Majeure, then the situation is also considered an Instance of Force Majeure. "For the avoidance of doubt, (i) the breakdown or failure of equipment or machinery of the Plant or the <u>delay or inability to procure fuel for the Plant shall not in itself be considered as an Event of Force Majeure, unless otherwise due to an Event of Force Majeure</u> and (ii) any (x) interruption of the Plant's generating capability resulting in an unplanned reduction or suspension of the electrical output from the Plant and/or unavailability of capacity in whole or in part from the Plant; (y) automatic shutdown of any part of the Plant; and (z) other unavailability of the Plant for operation, that is due to an Event of Force Majeure, shall be treated for all purposes of this Agreement as an Event of Force Majeure and not as a Scheduled Outage or a Forced Outage."	As stated in the provision, by itself, the <u>delay or inability to procure fuel for the Plant shall not be considered as an Event of Force Majeure, "unless otherwise due to an Event of Force Majeure."</u>
58.		Billing and Payment	Article 11 Page 32 of PSA template	Is Bidder required to provide discount to Meralco? Is this included in the rate computation? Power Supplier shall extend [] percent ([]%) discount based on the non-fuel fee (sum of Capital Recovery Fee, Interconnection Fees, Fixed O&M Fee and Variable O&M Fee, if applicable) to Meralco as prompt payment if (i) payment is made within [] Days from receipt of Power Supplier's billing, and (ii) Meralco is up to date with all its payment obligations under this	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. For clarity, any prompt payment discount that will be indicated by the Bidder during evaluation shall not be considered in the evaluation of its bid. However, during implementation, if Meralco avails of the prompt payment discount provided by the Winning Power Supplier/s, then it shall form part of the

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
				Agreement.	charges that Meralco shall bill to its consumers.
59.		Water Permit	Section 3.2 Technical Proposal paragraph (o) Page 30 of the IPB	While Bidder has applied for the relevant water permit with the National Water Resources Board (NWRB), the timeliness of the issuance thereof is beyond the Bidder's control. In case the water permit is not available by post-qualification date, can Bidder submit a certification to be issued by the NWRB certifying Bidder's application for water permit and status thereof.	See response in item 15.
60.		Additional 600MW (net) Capacity	2.2 Summary of Bidding Page 14 of the IPB	Can Bidder offer its Contract Capacity starting May 2025? Will Meralco accept Contract Capacity that is available starting in May 2025 only? Can Bidder offer contract capacity that is available only by May 2025 to supply the additional 600MW power requirement of Meralco? If yes, what are the mechanics for the stacking of the bid offers for those covering only the additional 600MW Contract Capacity?	See response in item 7.
61.		Annex TP-1	Section 3.2 Technical Proposal Annex TP-1 Page 29 and 88 of the IPB	The requirement, "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" under Annex TP-1 template is not found under Section 3.2 Technical Proposal. Should this be the first attachment of Annex TP-1?	Please refer to 1 st paragraph of Section 3.2: "The Interested Bidder must identify the proposed power plant/s that it or its direct shareholder representing Controlling interest is the developer of, owner of, and Controls, and has sufficient authority to enter into the offtake agreement with Meralco xxx." Necessarily, this identification must be substantiated by proof that "it or its direct shareholder representing Controlling interest is the developer of, owner of, and Controls, and has sufficient authority to enter into the offtake agreement with Meralco xxx." Hence, under Annex TP-1, this attachment is listed as #1 on the list: "Required attachments: 1. 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; xxx"

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
62.		Details of Project Execution	Section 3.2 Technical Proposal Annex TP-1 Page 29 and 91 of the IPB	While requirement on information on Nominated Plant's key components and specific fuel is mentioned in Section 3.2 Technical Proposal paragraph (f), it is not included in the table provided under item 7 of Annex TP-1 template. Do we just add this information under General Information?	Yes, the Bidder can just add it under General Information.
63.		Technical Proposal	Section 3.2 paragraphs l to p Page 30-31 of the IPB.	Can the following documents required to be submitted during post-qualification be certified by the corporate secretary and assistant corporate secretary of the Bidder? (i) Environmental Compliance Certificate issued by the Department of Environment and Natural Resources (ii) Grid Impact Study (GIS) / System Impact Study/ies (SIS) (iii) If applicable, Certificate/s of Non-Overlap (CNO) and/or Free and Prior Informed Consent (FPIC) Certificate/s issued by the National Commission on Indigenous Peoples (NCIP) (iv) If applicable, Water Rights Permit/s issued by the National Water Resources Board (NWRB) and (v) If applicable, Certificate of registration issued by the Board of Investments?	1. ECC must be certified as true copy by DENR; 2. See response in Bid Bulletin#4, item 14. "During Post-Qualification, and only in instance where [application for GIS/SIS or DIS/DAS] was submitted, and Bidder's Bid Price is declared as the Best Bid, Bidder needs to submit the GIS/SIS or DIS/DAS certified as true copy by NGCP or the applicable distribution utility, as the case may be; 3. CNO must be certified as true copy by the NCIP; 4. Water Rights Permit/s must be certified as true copy by the NWRB; 5. Certificate of Registration must be certified by corporate secretary/assistant secretary. For items 3. (CNO) and 4. (Water Rights Permit), see also responses above, items 15 and 16.
64.		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 just refers to "AUTHORITY TO PARTICIPATE IN THE BIDDING AND DESIGNATION OF AUTHORIZED REPRESENTATIVE."
65.		Annex QD-1A	Page 60 of the IPB	Given that Bidder is a partnership and has no board of directors can it revise Annex QD 1A as follows? 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:	Yes
66.		Commitment Letter	Annex QD-9A Page 86 of the IPB	Underlined words in the template do not apply to partnerships. xxx We own (insert number of shares); representing approximately (insert percentage) of the issued and <u>outstanding capital stock</u> of the Company. We	The proposed changes in the wordings are acceptable.

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
				undertake to provide to the Company the amount of at least (insert amount), in the form of equity or shareholder loans, for the implementation of the Project. xxx Please see proposed revisions: We own (insert number of partnership interest); representing approximately (insert percentage) of the partnership interest of the Company. We undertake to provide to the Company the amount of at least (insert amount), in the..."	
67.		Replacement Power	Section 3.3.3 Page 21 of the PSA	This should be Contract Capacity and not 1,800MW (net) as Contract Capacity may be lower than 1.800MW (net). 3.3.3 If the Commercial Operations Date has not occurred by the Scheduled Commercial Operations Date, from and after the Scheduled Commercial Operations Date, Power Supplier shall, for each Day of unexcused delay, (i) procure and cause delivery to Meralco of Replacement Power of up to the Contract Capacity , as may be applicable, ..."	This is noted. For clarity, Section 3.3. will be revised as follows: "3.3. If the Commercial Operations Date has not occurred by the Scheduled Commercial Operations Date, from and after the Scheduled Commercial Operations Date, Power Supplier shall, for each Day of unexcused delay, (i) procure and cause delivery to Meralco of Replacement Power of up to 1,800 MW (net) the Contract Capacity , as may be applicable xxx." <u>Please see Annex B of this Bid Bulletin No. 6 reflecting the amendment to the PSA template.</u>
68.		Letter Testimonial	Annex QD-9B Page 87 of the IPB	If Project Cost of the Nominated Plant will be funded entirely through equity or shareholder loans in the event that Bidder is declared as Winning Bidder, testimonial from a debt provider/arranger is not applicable. Kindly confirm if Bidder is allowed to submit an explanation on the foregoing instead.	Confirming that there is no need to submit testimonial from debt provider provided that the project will be funded wholly by equity. In such case, we will expect the Commitment Letter from equity shareholder showing their commitment to fund project
69.		Diagram	Section 3.1 (e) Page 24 of the IPB	What entities that are affiliates of Bidder and engaged in power generation should be included in the diagram of the corporate structure of the Bidder? Are the following entities also considered as engaged in power generation? a. holding company owning shares in a corporation engaged in power generation b. O&M contractor providing services to a power generator a landholding company leasing land to a power generator?	Yes, these entities should also be included in the diagram of the corporate structure of the Bidder.
70.		ANNEX QD-1A	AUTHORITY TO PARTICIPATE IN THE BIDDING AND DESIGNATION OF AUTHORIZED	Will the BAC consider the [revisions to the Annex QD-1A] Secretary's Certificate of the bidder for CSP purposes with template, [the pertinent provisions of which are shown] below: "RESOLVED, AS IT IS HEREBY RESOLVED, that the (name of owner of the	The submitted revisions to the Annex QD-1A is acceptable as substitute for Annex QD-1A, but date of Unanimous Written Consent on paragraph 2 should be dated.

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS				
	TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
		REPRESENTATIVE	<p>Nominated Plant) (the "Company") be, and is hereby, authorized to participate in the Bidding to make available the Contract Capacity and supply associated energy, under the terms and conditions set out in the PSA template, to the Manila Electric Company pursuant to its (indicate CSP requirement as appearing on title/cover page of IPB) ("Project") <u>as a bidder in the competitive selection processes for power supply contracts conducted from 2022 to 2023 (the "Competitive Biddings"); and thus, (ii) to submit the eligibility requirements, bidding-related documents, qualification documents, financial proposal/s, technical and financial proposals and any and all documentary requirements in relation to the Competitive Biddings (the "Bidding Documents");</u></p> <p><u>RESOLVED FURTHER, that any one (1) of the following individuals of the Partnership (the "Authorized Representatives"): [xxx]</u></p> <p><u>be authorized, as each is hereby authorized, to execute and sign, for and on behalf of the Partnership, the Bidding Documents, with full power and authority to do, execute and perform any and all acts necessary to represent the Partnership in the Competitive Biddings;</u></p> <p><u>RESOLVED, FURTHER, to appoint [xxx], acting singly, as the Partnership authorized representatives (the "Contact Persons") to initial on each and every page of the Bidding Documents relevant to the Competitive Biddings (as may be necessary) and obtain electronic copies of such Bidding Documents;</u></p> <p><u>RESOLVED FURTHER, to authorize any of the Authorized Representatives and Contact Persons, each acting singly, to attend, represent, negotiate, and appear for and communicate on behalf of the Partnership in pre-bid conferences and any and all other actions, proceedings, and incidents necessary to represent the Partnership during the course of the Competitive Biddings;</u></p> <p><u>RESOLVE, FURTHER, that in case of award of contracts, subject to the [xxx] to fully authorize the following individuals acting singly, to sign the power supply contracts or power purchase and sale agreements [xxx]</u></p> <p>RESOLVED FURTHER, that in the event the Company is declared as the Winning Power Supplier, the Company commits to fulfill all the Post</p>	

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
				<p>Qualification compliances, if deemed necessary by the BAC PSA, including the execution of the Power Supply Agreement with the Manila Electric Company;</p> <p>RESOLVED FURTHER, that (name of representative) is hereby appointed as the authorized representative of the Company during the Bidding, authorized to execute, sign, submit and receive documents for, and otherwise act in the name of, the Company;</p> <p>RESOLVED FINALLY, that any and all acts done or performed by (name of representative) under and by virtue of this resolution be, as they are hereby, confirmed and ratified."</p>	
71.		PSA	Article 9 - Outages	<p>9.1.1 After Commercial Operations Date, Power Supplier shall be allowed Scheduled Outages not exceeding [•] ([as indicated in Bid, which shall not exceed allowable planned outages for similar plant technology under relevant ERC Resolution])</p> <p>Question: If there will be any amendment on the resolution pertaining to the allowed scheduled and unscheduled outages from the ERC. Will the provision in the PSA be superseded?</p>	No. The prevailing regulation on period of outages is ERC Resolution No. 10, Series of 2020. Any amendment to said resolution, including the allowed scheduled or unscheduled outages, has prospective application, and subject to ERC approval if to be incorporated in the PSA.
72.		ANNEX QD-8	STATEMENT OF FINANCIAL CAPABILITY	Should the bidder submit the AFS of both its nominated power plant and the AFS of parent and consolidated companies, what financial information should be included? Is it acceptable for the bidder to only reflect the details of the parent or the AFS that meets the Unrestricted Net Worth?	Please refer to response in Bid Bulletin #6, item 30.
73.		ANNEX QD-6-A	COUNTERPARTY'S CERTIFICATION OF ABSENCE OF UNSATISFACTORY PERFORMANCE RECORD, OUTSTANDING DISPUTE OR UNSETTLED DISPUTE OR DUE AND DEMANDABLE FINANCIAL	Can the counterparty issue a single certification for the bidder covering all executed agreements for the past 5 years?	Yes.

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE
			OBLIGATION/S		
74.		Bid Security / Instructions to Prospective Bidders/ Terms of Reference	Section 3.3 (b) / page 31/ Bid Security	<p>In Bid Bulletin #4, Annex "A", item 17, the BAC-PSA, in response of the concerns raised by the Bidders on "significance" of the amount of the Bid Security, stated that:</p> <p>"Noting the concerns raised by Interested Bidders on the challenge in getting line of credit to put up the Bid Security amount, <u>this matter will be elevated by the BAC-PSA to the Energy Regulatory Commission (ERC) for guidance.</u> Nonetheless, pending clarification, and considering that this requirement is lifted from the ERC CSP Guidelines, Section 3.3 of the IPB needs to be complied with by Interested Bidders."</p> <p>Accordingly, on 01 December 2023, the BAC-PSA wrote a letter to the ERC raising the concerns of the Interested Bidders and seeking guidance and confirmation "<i>whether Distribution Utilities (DUs), such as MERALCO, have flexibility to fix the amount and methodology of computing the Bid Security in their respective CSPs and treat the computation set in the ERC CSP Guidelines as the maximum amount of Bid Security that can be imposed.</i>"</p>	<p>In a letter dated 7 December 2023 from ERC Chairperson Monalisa C. Dimalanta, a copy of which was received by the BAC-PSA on 11 December 2023, it was clarified that:</p> <p>"Section 10 (Bid Security), Appendix "B" of the Commission's CSP Implementing Guidelines stated that:</p> <p>(c) The amount must be equivalent to three (3)-month contract cost of the proposed power supply agreement computed using the bid price offered by the Bidder. If forfeited, the Bid Security shall be used by the DU in purchasing power covering the period affected by the delay in the bidding process, which it shall not recover from consumers; xxx</p> <p><u>It is clear from the language of Section 10 that the computation of the bid security is not a maximum or cap, but rather a formula in computing the exact amount of the bid security for each bidder. Please be advised that, until amended or repealed, MERALCO is advised to strictly observe the provision in the CSP Implementing Guidelines, unless the same is amended or repealed.</u>"</p> <p>Given the clarification of ERC Chairperson Monalisa C. Dimalanta, the BAC-PSA hereby reiterates the following response, also shown in Bid Bulletin #4, Annex "A", item 17:</p> <p>"Please note that the DU is only strictly complying with Section 10(c) of the ERC CSP Guidelines, which prescribes that the Bid Security is equivalent to three (3) month contract cost of the PSA, computed using the bid price offered by the Bidder."</p>

COMPETITIVE SELECTION PROCESS (CSP) FOR CONTRACT CAPACITY OF 1,800 MW (NET), COD 2024-2025

PSA TEMPLATE-RELATED QUERIES/COMMENTS					
		TOPIC / BID DOCUMENT REFERENCE	ARTICLE / SECTION / PAGE NO.	DISCUSSION OF COMMENTS / QUESTIONS FOR CLARIFICATION RECOMMENDATIONS / PROPOSED WORDING	BAC-PSA's RESPONSE

AMENDMENTS TO THE BID REQUIREMENTS (posted starting 1 November 2023)

Item	Reference / Subject Matter of Amendment	Amendments
1	Technical Proposal p.17	<p>[...]</p> <p>(n) If applicable, the Certificate/s of Non-Overlap (CNO) and/or Free and Prior Informed Consent (FPIC) Certificate/s issued by the National Commission on Indigenous Peoples (NCIP) for the Nominated Plant, or application/s for the CNO and/or FPIC Certificate pending before the NCIP, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the CNO and/or FPIC Certificate/s issued by the NCIP must be submitted during Post-Qualification <u>when required by the ERC during the PSA application</u> if the Bidder’s Bid Price is declared as the Best Bid;</p> <p>(o) If applicable, the Water Rights Permit/s issued by the National Water Resources Board (NWRB) for the Nominated Plant, or application/s for the Water Rights Permit/s before the NWRB, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the Water Rights Permit issued by the NWRB must be submitted during Post-Qualification <u>when required by the ERC during the PSA application</u> if the Bidder’s Bid Price is declared as the Best Bid;</p> <p>[...]</p>

AMENDMENTS TO THE INSTRUCTIONS TO PROSPECTIVE BIDDERS (dated 1 November 2023)

Item	Reference / Subject Matter of Amendment	Amendments
1	Section 3.2 (n) and Annex TP-1 list of attachments Instructions to Prospective Bidders	[...]If applicable, the Certificate/s of Non-Overlap (CNO) and/or Free and Prior Informed Consent (FPIC) Certificate/s issued by the National Commission on Indigenous Peoples (NCIP) for the Nominated Plant, or application/s for the CNO and/or FPIC Certificate pending before the NCIP, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the CNO and/or FPIC Certificate/s issued by the NCIP must be submitted during Post-Qualification <u>when required by the ERC during the PSA application</u> if the Bidder’s Bid Price is declared as the Best Bid
2	Section 3.2 (o.) and Annex TP-1 list of attachments Instructions to Prospective Bidders	[...]“If applicable, the Water Rights Permit/s issued by the National Water Resources Board (NWRB) for the Nominated Plant, or application/s for the Water Rights Permit/s before the NWRB, provided that if the Bidder becomes the Winning Power Supplier, a certified true copy of the Water Rights Permit issued by the NWRB must be submitted <u>when required by the ERC during the PSA application</u> during Post-Qualification if the Bidder’s Bid Price is declared as the Best Bid. [...]

AMENDMENTS TO THE POWER SUPPLY AGREEMENT (PSA) TEMPLATE

Item	Reference / Subject Matter of Amendment	Amendments
1	Sec. 3.3.3, PSA	[...] "3.3. If the Commercial Operations Date has not occurred by the Scheduled Commercial Operations Date, from and after the Scheduled Commercial Operations Date, Power Supplier shall, for each Day of unexcused delay, (i) procure and cause delivery to Meralco of Replacement Power of up to 1,800 MW (net) the Contract Capacity , as may be applicable xxx." [...]
2	Section 17.2(a) and (c) PSA	[...] "(a) acts of war or the public enemy, whether war is declared or not, <u>occurring in or directly affecting the Philippines;</u> xxx (c) public disorders, civil disturbance, insurrection, rebellion, acts or campaigns of terrorism, piracy, embargo, sabotage, blockade, revolution, riots or violent demonstrations, <u>occurring in or directly affecting the Philippines;</u> xxx" [...]
3	Appendix H, paragraph 2, item 4, PSA - Appendices	[...] "4 Payment Date Notwithstanding any provision in the Agreement to the contrary, if a Party fails to pay any amount due under this Agreement in accordance with the terms of this Agreement, PhP BVAL Reference Rate plus two hundred (200) basis points for PhP-denominated charges and/or LIBOR SOFR plus two hundred (200) basis points for USD-denominated payments shall apply on the outstanding amount, computed from the due date until full payment is received by the Party entitled thereto." [...]