



BIDDING
FOR CONTRACT CAPACITY OF 500 MW (NET)

BID BULLETIN NO. 1

To all Interested Bidders:

1. Amendments to the Invitation to Bid (published 16 and 23 July 2019) are set out in **ANNEX A**;
2. Amendments to the Instructions to Prospective Bidders (dated 16 July 2019) ("IPB") are set out in **ANNEX B**;
3. Due to a technical error, the TPBAC Secretariat's e-mail was fixed and you may continue to send to the tpbacsecretariat@meralco.com.ph e-mail; and
4. The Financial Evaluation Workbook soft copy file, contained in DVD-R optical storage device and obtained from the TPBAC, needs to be replaced due to a recently discovered software error. Kindly return and exchange, at the soonest possible time, the DVD-R in your possession (containing the Financial Evaluation Workbook) at the TPBAC-Secretariat receiving office located at 2/F Technical Services Building-Procurement Office, MERALCO Compound, Ortigas Ave., Brgy. Ugong, Pasig City, from 8:00 AM to 4:00 PM on Mondays to Fridays (excluding holidays). The necessary acknowledgement receipt shall be issued in your favor by the TPBAC's duly authorized representative.

For your guidance and information.

Issued on 30 July 2019.

Third Party Bids and Awards Committee ("TPBAC")
Manila Electric Company

(sgd)

Atty. Ferdinand A. Domingo
Chairman

ANNEX A

AMENDMENTS TO THE INVITATION TO BID (published 16 and 23 JULY 2019)

Item	Reference / Subject Matter of Amendment	Amendments
1	<ul style="list-style-type: none"> • Change of Venue, Pre-Bid Conference • Advance Queries, Pre-Bid Conference 	<p>[...]</p> <p>The TPBAC shall conduct a Pre-Bid Conference at 1:30 to 4:30 in the afternoon on 8 August 2019 at the <u>Magellan function room, 41st floor, Discovery Suites Ortigas, 25 ADB Avenue, Ortigas Center, Pasig City.</u> Prior to the Pre-Bid Conference, Interested Bidders are requested to submit any queries or requests for clarifications to the Bidding Documents on or before 4 August 2019 to the TPBAC Secretariat through the following email address: <u>tpbacsecretariat@meralco.com.ph</u>. The TPBAC shall consolidate the said advance queries and prioritize the discussion thereof during the Pre-Bid Conference. If time permits, the TPBAC may entertain and discuss additional queries raised by the Interested Bidders during the Pre-Bid Conference. Only the Interested Bidders' authorized representative/s indicated in the Expressions of Interest are allowed to attend and participate in the Pre-Bid Conference (and the Bidding), together with the DOE and ERC observers invited by the TPBAC.</p> <p>[...]</p>
2	<ul style="list-style-type: none"> • Clarification of Deadline and Change of Venue, Bid Submission Deadline • Change of Venue, 	<p>[...]</p> <p>In order to qualify to bid, an Interested Bidder shall submit to the TPBAC-Secretariat three (3) separate envelopes containing its (a) Qualification Documents (Envelope 1) to demonstrate its compliance with all the Legal Qualification Requirements, Technical Qualification Requirements and Financial Qualification Requirements ("Qualification Requirements"); (b) Technical Proposal (Envelope 2); and (c) Bid, including the Bid Security equivalent to Two Million Three Hundred Thousand Pesos (PhP2,300,000.00) per MegaWatt (MW) of Offered Contract</p>

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	Opening of Bid Document Submissions	<p>Capacity and in the form and substance required by Meralco (Envelope 3). <u>The bid submission shall only be between 8:00 to 9:00 in the morning (8:00 AM to 9:00 AM) of 11 September 2019 (the "Bid Submission Deadline"), at the Clermont function room, 22nd floor, Discovery Suites Ortigas, 25 ADB Avenue, Ortigas Center, Pasig City.</u> [...] After which, the opening of the said submissions and Bid will proceed at 9:30 in the morning (9:30 AM) of the same day at the <u>Clermont function room, 22nd floor, Discovery Suites Ortigas, 25 ADB Avenue, Ortigas Center, Pasig City.</u></p> <p>[...]</p>

ANNEX B

AMENDMENTS TO THE INSTRUCTIONS TO PROSPECTIVE BIDDERS (dated 16 JULY 2019)

Item	Reference / Subject Matter of Amendment	Amendments
1	Section 2.2 (c)	<p>(c) <u>Prior to the Pre-Bid Conference, Interested Bidders are requested to submit any queries or requests for clarifications to the Bidding Documents on or before 4 August 2019 to the TPBAC Secretariat through the following email address: tpbacsecretariat@meralco.com.ph. The TPBAC shall consolidate the said advance queries and prioritize the discussion thereof during the Pre-Bid Conference. If time permits, the TPBAC may entertain and discuss additional queries raised by the Interested Bidders during the Pre-Bid Conference. Only the Interested Bidders' authorized representative/s indicated in the Expression of Interest are allowed to attend and participate in the Pre-Bid Conference and the Bidding, including the submission of written queries or comments to the Bidding Documents. For the avoidance of doubt, each Bidder must execute the Expression of Interest and the Confidentiality Undertaking, and must pay the Participation Fee.</u></p> <p>[...]</p>
2	Section 2.2 (f.)	<p>(f) <u>Between 8:00 to 9:00 in the morning (8:00 AM to 9:00 AM) of 11 September 2019 (the "Bid Submission Deadline"), the Bidders shall submit to the TPBAC their Qualification Documents, Technical Proposals, and Bids in separate and properly labelled sealed envelopes (e.g. Envelope 1: Qualification Documents; Envelope 2: Technical Proposal; and Envelope 3: Bid). Late submissions and requests for additional time shall not be accepted/allowed. Submissions after the Bid Submission Deadline shall be rejected and returned unopened to the concerned Bidder. <u>For the purpose of monitoring time of the Bid Submission Deadline, the Philippine standard time as provided in < https://oras.pagasa.dost.gov.ph/widget.shtml > shall be followed.</u></u></p> <p>[...]</p>

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3	Section 2.2 (g)	<p>If the Qualified Bidders' total Offered Contract Capacity go beyond the required Contract Capacity (i.e. more than 500MW), the Qualified Bidder that fills up the last stack (hereinafter referred to as the "Marginal Bid Offer") shall have its Offered Contract Capacity reduced accordingly up to the extent of the required Contract Capacity. Should there be a tie in the LCOE of several Bidders whose offers are considered the Marginal Bid Offer, the TPBAC shall give these Bidders <u>at least one (1) hour, on the same day, to improve their Proposed Price until the tie is broken. If after one (1) hour and the involved Bidders refused/fail to revise/improve their Proposed Price and its LCOE, or if they submitted their revised/improved Proposed Price and its LCOE and there is still a tie, the procedure for breaking the tie shall be done through drawing of lots or similar methods that are non-discretionary and non-discriminatory such that it is based on sheer luck or chance.</u></p> <p>[...]</p>
4	Section 2.6	<p>2.6. CONFIDENTIALITY</p> <p>Information relating to the examination, clarification, evaluation and comparison of Document Submissions, and recommendations concerning the award of the Project shall not be disclosed to any of the Bidders or other persons not involved with the Bidding; provided that the TPBAC or Meralco shall not have the obligation to keep any information submitted by a Bidder confidential after the signing of the Power Supply Agreement or the lapse of sixty (60) days after the Bid Submission Deadline, whichever comes earlier.</p> <p><u>No individual shall be allowed to take photos or video/audio recording of the proceedings in this Bidding. Upon a valid and reasonable written request made by a Bidder, the TPBAC may grant access/viewing of the official recording but only inside a data room to be provided to the requesting Bidder.</u></p> <p>[...]</p>

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5	Section 2.8	<p>2.8. PRE-BID CONFERENCE</p> <p>[...]</p> <p>The DOE and ERC observers, duly invited by the TPBAC pursuant to DOE Circular No. DC2018-02-0003, are allowed to attend the Pre-Bid Conference and the Bidding; however, only the Interested Bidders' authorized representative/s indicated in the Expressions of Interest are allowed to attend and participate in the Pre-Bid Conference and the Bidding.</p> <p><u>During the Pre-Bid Conference, the TPBAC shall present to the Interested Bidders the sealed envelope containing the Reserve Price, signed and prepared by Meralco. The TPBAC shall then place the sealed envelope inside an outer envelope marked as follows:</u></p> <div data-bbox="953 875 1717 1234" style="border: 1px solid black; padding: 10px; text-align: center;"> <p><u>MANILA ELECTRIC COMPANY</u> <u>500MW BIDDING</u></p> <p><u>RESERVE PRICE</u></p> <p><u>DO NOT OPEN UNTIL BID SUBMISSION</u> <u>DEADLINE</u></p> </div> <p><u>The members of the TPBAC shall then sign over the sealed flap of the outer envelope. Thereafter, the TPBAC Chairperson shall place or transfer custody of the sealed outer envelope to a bank representative of an Allowed Bank listed in Schedule 1, through a custodianship or escrow arrangement for the security and custody of the Reserve Price</u></p>

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		<p><u>envelope, which envelope shall be instructed to be returned at the time and place of the Bid Submission Deadline.</u></p>
6	Section 2.9	<p>2.9. QUERIES AND COMMENTS</p> <p>Likewise, only Interested Bidders are allowed to submit queries, requests for clarifications or revisions to the Bidding Documents.</p> <p><u>Prior to the Pre-Bid Conference, Interested Bidders are requested to submit their advance queries or requests for clarifications to the Bidding Documents on or before 4 August 2019 to the TPBAC Secretariat through the following email address: tpbacsecretariat@meralco.com.ph using the format indicated below. The TPBAC shall consolidate the said advance queries and prioritize the discussion thereof during the Pre-Bid Conference. If time permits, the TPBAC may entertain and discuss additional queries raised by the Interested Bidders during the Pre-Bid Conference.</u></p> <p>[...]</p>
7	Section 2.10.2	<p>2.10.2 CONFLICT OF INTEREST</p> <p>(a) All Bidders found to have conflicting interests shall be disqualified to participate in this Bidding, without prejudice to the imposition of appropriate administrative, civil, and criminal sanctions. A Bidder may be considered to have conflicting interests with another Bidder in any of the events described below:</p> <p>[...]</p> <p>(iv) <u>A Bidder's Nominated Power Plant or listed portfolio of plants is also a Nominated Power Plant or listed portfolio of plants of another Bidder in another pending competitive selection process (CSP) being conducted by Meralco, provided, however, that a Bidder will not be considered in Conflict of Interest if its total Offered Contract Capacity in this Bidding and the other pending CSP being conducted by Meralco is equal</u></p>

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		<p><u>to or less than the total available capacity of its Nominated Power Plant or listed portfolio of plants not contracted to any offtaker. Should a Bidder decide to withdraw from this Bidding, which should be no later than the Bid Submission Deadline, due to this ground of Conflict of Interest, the Bidder may request the TPBAC pursuant to Section 8.1 to reconsider and return its Participation Fee in this Bidding; or</u></p> <p>(v) A Bidder submits more than one Bid in this Bidding. [...]</p>
8	Section 4.1	<p>SECTION 4. OPENING AND EVALUATION OF DOCUMENT SUBMISSIONS</p> <p>4.1. The TPBAC shall have the sole responsibility and authority, subject to assistance from the TPBAC-TWG, to open the Document Submissions.</p> <p>Only Bidders who completely submit their Document Submissions are allowed to attend the opening and evaluation thereof. Failure of a Bidder to be present during the opening and evaluation of the Document Submissions shall be considered a waiver of the right to witness the opening and evaluation thereof.</p> <p><u>Before the start of the opening of the Document Submissions, the TPBAC Chairperson shall receive back in custody the sealed envelope containing the Reserve Price from the bank representative of an Allowed Bank in charge of the custodianship or escrow arrangement for the Reserve Price envelope. Thereafter, the bank representative will be excused from attending and further participating in the opening of the Document Submissions.</u></p> <p><u>The Reserve Price envelope shall be placed on a book stand in front of the TPBAC Chairperson’s table and should be in full view of all Bidders until the same is opened and disclosed pursuant to Section 4.4.1.</u></p>

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		<u>Bidders who fail to qualify in Stage 1 and/or 2 (as detailed below) shall have their remaining unopened Document Submissions returned and shall be required to leave the venue before the next stage begins.</u>
9	Section 4.4.1	4.4.1 <u>Before proceeding to open the Qualified Bidders' Envelope 3, the TPBAC Chairperson shall proceed to open the sealed Reserved Price envelope and disclose the Reserve Price, which shall again be placed on a book stand in front of the TPBAC Chairperson's table and in full view of all Bidders until all Qualified Bidders' Proposed Price (for the first Contract Year) and the LCOE thereof are compared to the Reserve Price. Thereafter, provided there is no failure of the Bidding under Section 4.3, the TPBAC shall proceed to evaluate and open Envelope 3 of the Qualified Bidders. The TPBAC shall open Envelope 3 to determine the compliance and completeness of the Bid submission of the Bidder. Each of the documents in Envelope 3 submitted by each Bidder shall be examined and checked using a non-discretionary "Pass/Fail" assessment for completeness. If a required document is present, it shall be rated "PASSED" for that particular requirement; if all required documents are rated "PASSED", the Bid shall be rated "PASSED"; otherwise, the Bid shall be rated "FAILED".</u>
10	Section 4.4.4.	4.4.4 The TPBAC shall proceed to rank the LCOE of the Proposed Price of the Qualified Bidders from lowest to highest. The Bid with the lowest LCOE shall be ranked first and its corresponding Offered Contract Capacity shall be stacked first in filling up the required Contract Capacity. This stacking will be repeated for the Bidder with the next lowest LCOE until the Marginal Bid Offer is reached. The Bidders who fill up the required Contract Capacity until the Marginal Bid Offer shall be considered the Best Bid/s and shall be recipients of the Notification of Best Bid/s. If the Qualified Bidders' total Offered Contract Capacity go beyond the required Contract Capacity, the Qualified Bidder having the Marginal Bid Offer shall have its Offered Contract Capacity reduced accordingly up to the extent of the required Contract Capacity. Should there be a tie in the LCOE of several Bidders whose offers are considered the Marginal Bid Offer, the TPBAC shall give these Bidders <u>at least one (1) hour, on the same day, to improve their Proposed Price until the tie is broken. If after one (1) hour and the involved Bidders refused/fail to revise/improve their Proposed Price and its LCOE, or if they submitted</u>

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		<p><u>their revised/improved Proposed Price and its LCOE and there is still a tie, the procedure for breaking the tie shall be done through drawing of lots or similar methods that are non-discretionary and non-discriminatory such that it is based on sheer luck or chance.</u></p> <p>[...]</p>				
11	Section 7 (f) and (g)	<p>SECTION 7. FAILED BIDDING</p> <p>The TPBAC expressly reserves the right to declare a failed bidding for any of the following instances:</p> <p>[...]</p> <p>(f) the Bidder with the Best Bid “failed” the Post-Qualification, and <u>the TPBAC</u> opts not to proceed with the Bidding or determines that there <u>are no other qualified Bidders;</u> <u>and</u></p> <p>(g) the Winning Power Supplier refuses or fails, without justifiable cause, to timely sign the Power Supply Agreement template within the period prescribed in this IPB and <u>the TPBAC</u> opts not to proceed with the Bidding and/or <u>determines that there are no other qualified Bidders.</u></p>				
12	Section 9.41	<p>9.41 “Outstanding Dispute” refers to any pending judicial, administrative, contractual or alternative dispute resolution proceeding between the Bidder or any of its Affiliates engaged in power generation, on one hand, and Meralco, on the other, <u>provided that the following pending judicial or administrative cases involving the Bidder or any of its Affiliates and Meralco are excluded from the definition of Outstanding Dispute:</u></p> <table border="1" data-bbox="705 1295 1923 1377"> <thead> <tr> <th data-bbox="705 1295 1314 1377"><u>Case Title and Docket Nos.</u></th> <th data-bbox="1314 1295 1923 1377"><u>Subject Matter</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="705 1377 1314 1380"></td> <td data-bbox="1314 1377 1923 1380"></td> </tr> </tbody> </table>	<u>Case Title and Docket Nos.</u>	<u>Subject Matter</u>		
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		<u>Bayan Muna, et. al. v. ERC, et. al.</u> (G.R. Nos. 210245, 210255 & 210502)	<u>Supreme Court T.R.O. on MERALCO's December 2013 billing rate increase in relation to the generation cost price spike in November 2013 and December 2013</u>
		<u>SN Aboitiz-Magat, et. al. v. ERC, et. al.</u> (G.R. No. 246641-50, 246729, 246739-48, 246685-94, 246873-82, 246661-70, 246631-40)	<u>Supreme Court - Legality of ERC Order voiding the Luzon WESM prices during the November and December 2013 supply months</u>
		<u>ERC I.U. v. Meralco and TMO</u> (ERC Case No. 2015-025 MC)	<u>ERC Investigating Unit complaint in relation to the generation cost price spike in November 2013 and December 2013</u>
		<u>Meralco v. SPPC, et. al.</u> (ERC Case No. 2013-077 MC)	<u>Petition for Dispute Resolution with the ERC in relation to the refund of the 2.98% transmission line losses</u>
13	Section 9.52 (revised, for clarity)	<p>“Reserve Price” means the pre-determined maximum prices for each of the Bidder’s <u>Headline Rate (Proposed Price for the first Contract Year) and LCOE. The Bidder’s Headline Rate (Proposed Price for the first Contract Year) must not be higher than the Reserve Price for the Headline Rate and the Bidder’s resulting LCOE must also not be higher than the Reserve Price for the LCOE. For avoidance of doubt, the Reserve Price for the Headline Rate shall be compared to the total price of the Bidder’s Headline Rate (Proposed Price for the first Contract Year) while the Reserve Price for the LCOE shall be compared to the total price of the Bidder’s resulting LCOE. The total prices of the Bidder’s Headline Rate and its resulting LCOE shall be the values as reflected in the “LCOE Result Worksheet” of the Financial Evaluation Workbook and all prices shall be compared up to four (4) decimal places only. In addition, the said pre-determined maximum prices will only be revealed by the TPBAC to the Qualified Bidders during the opening of the Bids.</u></p>	

