



**THE INDEPENDENT EVALUATOR'S
ASSESSMENT OF
PORTLAND GENERAL ELECTRIC'S
FINAL DRAFT 2018 REQUEST FOR
PROPOSALS FOR RENEWABLE RESOURCES**

**Presented to:
OREGON PUBLIC UTILITY COMMISSION**

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I. INTRODUCTION AND SUMMARY

Bates White, LLC (“Bates White”) was chosen by the Public Utility Commission of Oregon (“Commission”) to serve as the Independent Evaluator (“Oregon IE” or “IE”) for Portland General Electric’s (“PGE” or “the Company”) 2018 Request for Proposals for Renewable Resources (“RFP”).¹ This report represents Bates White’s analysis of the Final Draft of the RFP as filed with the Commission on March 9, 2018.

The purpose of this report is to identify areas of concern regarding the RFP design and to recommend areas where the Company could improve the RFP to achieve a better outcome. This report complies with the requirements of the Competitive Bidding Guidelines (“Guidelines”),² which state:

The utility will consult with the IE in preparing the RFPs, and the IE will submit its assessment of the final draft RFP to the Commission when the utility files for RFP approval.³

A. Background

PGE engaged Bates White to be the IE with Commission approval back in 2017. We were provided with an initial draft of the RFP and some appendices on January 31, 2018. We provided initial thoughts on these materials in February. Based on our feedback PGE made several changes, including changes to the schedule and bidder qualification requirements. We participated in two workshops with stakeholders at the beginning of March where PGE presented the draft RFP and took questions.

In this report we make several additional suggestions to improve participation in the RFP process and make the process more open and fair. In addition, during the process itself, we will independently monitor the process and evaluate all offers, including self-build offers, to ensure the process is fair. These suggestions are based on our experience as an IE for traditional and renewable generation supply procurements in jurisdictions across the country, with notable emphasis on our experience as an IE in Oregon. We are currently the IE for PacifiCorp’s 2017R Renewable RFP.

¹ Bates White has significant experience as an Independent Evaluator representing state public utility commissions. In addition to the 2017R RFP we previously monitored PacifiCorp’s, 2008 All Source, 2008R-1, 2009R, 2011 All Source, and 2012 Baseload RFPs on behalf of the Oregon Commission. All this work was performed under the name of Boston Pacific Company, Inc. In November of 2016 Boston Pacific entered into a strategic combination with Bates White.

² Oregon’s Competitive Bidding Guidelines Modified, Public Utility Commission of Oregon, Order No. 14-149, Appendix A, April 30, 2014 (“Competitive Bidding Guidelines”).

³ Competitive Bidding Guidelines, item 6.

B. Summary

When appraising the design of any competitive procurement process, we begin with the goal of the procurement, which is to get the best deal possible for ratepayers in terms of price, risk, and reliability, given market and regulatory conditions. To know if a process will satisfy this goal we look to answer four key questions. These are:

- (1) Is the process fair and transparent?
- (2) Does the process properly measure and assign risk?
- (3) Will the process likely lead to a positive result? and,
- (4) Is the process compliant with the Commission's regulatory rules and Bidding Guidelines?

These topics each serve an important function. First, fairness and transparency attract bidders and encourage them to bid aggressively. One cannot have competition without competitors, and the more competitors, the more likely that ratepayers will enjoy net benefits. Second, effective risk measurement and assignment assure that the winning bids will mitigate ratepayer risk and perform the best under a variety of possible future scenarios. Third, if the procurement does not produce positive results (i.e., signed contracts for new supply), then the entire process will be of marginal value, as the whole purpose of the RFP is to secure the lowest cost supply for ratepayers, when accounting for risk. Fourth, the process must be in line with Commission rules and Competitive Bidding Guidelines as those Guidelines represent the Commission's goals in terms of the type of supply procured and the method by which it is to be procured; moreover, these goals have been vetted extensively with all stakeholders. For further discussion on these topics, please see Appendix A.

Our general concern with the RFP is twofold. One, there are many "threshold" requirements, meaning requirements that, if not achieved, will automatically eliminate bidders from consideration. While many of these requirements are reasonable (e.g. resources must be renewables resources as defined by the State) others are more matters of judgement by the RFP designers (e.g. how far along in the permitting process a project must be to participate). The RFP, as currently designed, tilts more towards projects that are far along in the development phase, requiring a number of milestones to be reached before a bid can even participate in this RFP. In some ways, this is a defensible choice, as it eliminates some argument about whether certain bids in an earlier stage of development can fulfill their promises to come on line and deliver supply. The downside of this is that there can be many otherwise-viable projects that cannot meet these requirements and are eliminated from competition. In an RFP such as this, which features a large self-build project offer which will presumably meet all these requirements we think it is better to err on the side of allowing more offers in. Therefore, many of our suggestions revolve around relaxing threshold requirements.

The second concern of the RFP, which is related to the first, is that it runs the risk of placing too much emphasis on non-price features. As explained in more detail below, we generally prefer to see a procurement where the best offer in terms of price, risk, reliability and environmental performance wins. With high threshold requirements, and a relatively high score for non-price factors, the danger is that the evaluation will overweight bids that are far along in the development phase.

II. DETAILED DISCUSSION OF THE RFP

The following section contains our complete review of the RFP. The review is focused on four criteria: (a) fairness and transparency, (b) risk measurement and assignment, (c) producing a positive result, and (d) compliance with appropriate Commission Guidelines. For the purposes of this report we focus mainly on changes that would improve the RFP outcome.

A. Fairness and Transparency

Fairness, in our definition, means that all bidders are treated the same. All bidders want to know that they are competing on a “level playing field,” and that they can win the RFP by offering the best deal in terms of price and risk allocation. Transparency means that all parties can clearly understand the RFP requirements, products solicited and evaluation methods.

An important part of ensuring a fair and transparent RFP is making sure that the evaluation is based on objective criteria and that the evaluation method and criteria to be used are clearly explained to bidders.

1. PGE should clarify interconnection requirements and remove or reduce restrictions on projects located in other service territories

As noted by several interveners, many offers in this RFP are expected to come from outside of PGE’s service territory. Therefore, it is especially imperative that the RFP be very clear on the requirements for such offers.

Given that the Company’s interface with PacifiCorp is small and not usable in this RFP most bids are expected to be located in Bonneville Power Administration (BPA) territory. Under the draft RFP rules, bidders are required to provide a “reasonable and achievable plan to obtain long-term firm transmission from the resource to the delivery point prior to project Commercial Operation Date (COD).”⁴ In particular bidders relying on BPA transmission must have completed “Phase Four” of the “TSR Study and Expansion Process (TSEP)” and require “near-term viable upgrades” to receive long-term firm service.

While requiring a plan for achieving firm service is reasonable, our concern is that by adding the threshold conditions (e.g. reaching Stage 4 of the TSEP process) PGE is removing bids from contention that could otherwise provide value to ratepayers. As an example, in the 2016 Cluster study BPA found that about 1,700 of 2,000 MW requesting service would need upgrades identified in the study.⁵ These upgrades would be energized anywhere from 2021

⁴ Filed Draft RFP p 14.

⁵ <https://www.bpa.gov/transmission/Reports/PerformanceMetrics/Pages/Transmission-Service-Request-Studies.aspx>

through 2029.⁶ Since these upgrades take place after most projects' CODs, it would appear that most of the bidders would not be able to offer in this RFP.

We think it would be beneficial to remove the current restriction in order to allow more bids to participate. We are open to the exact language, but can suggest using the restriction that PacifiCorp used in its 2017R RFP, which was that bidders had to have requested long-term firm transmission service from their point of interconnection to a point of delivery on PacifiCorp's system.

We understand that with such a requirement, given the constraints on the BPA system, resources may not be able to immediately offer firm service to PGE's territory, having to rely on conditional firm or other service instead. We would expect to work with PGE to assess the additional cost burden this would impose on ratepayers. We also note that PGE should retain the ability to reject an offer should they determine that such an offer does not present a realistic plan for achieving firm service.

Beyond this issue, the requirements for interconnection and transmission service are unclear in places. Section 6.2.7 states that "All Bidders Must have an executed System Impact Study prior to bid submittal". However, Section 4.3 says that "bidders relying on PGE transmission are required to have completed facilities studies and subsequent construction agreements." It appears that the latter requirement refers to an agreement for transmission service and the prior requirement is for generation interconnection, but PGE should clarify its intended requirements.

2. PGE should not use existing transmission reservations for the purpose of its benchmark bid

As a general rule of thumb, we like to see self-build or "benchmark" offers treated in the same manner as non-affiliate bids—that is, held to the same qualification and offer requirements. Several interveners have raised the issue of PGE's proposed requirements for bids relying on third-party transmission service. While, as discussed above, it is somewhat unclear on what PGE is proposing, it does appear that all bids relying on third-party transmission must present an achievable plan to acquire firm transmission service prior to COD. Intervenors have raised the point that one way this could be done would be to require a bidder to demonstrate that they have secured transmission capacity on a given delivery path.

The concern raised by intervenors is that PGE will make this demonstration for its benchmark project by either (a) using transmission rights that it has acquired to serve native load or (b) using its status as a native load provider to acquire transmission rights for the benchmark project with a backup plan of assigning these rights to serve native load should the benchmark not be selected. Needless to say these are not rights enjoyed by third-party bidders and, because

⁶ 2016 Transmission Service Request Study and Expansion Process (TSEP), Cluster Study Results Customer Briefing, June 14, 2017.
<https://www.bpa.gov/transmission/CustomerInvolvement/TSRStudyExpansionProcess/Documents/2016-Cluster-Study-Results-Overview.pdf>

they derive from PGE's status as a network provider, we do not believe that they should be enjoyed exclusively by PGE in its role as a self-build bidder in this RFP.

PGE has been clear that the benchmark will be required to make the same demonstrations as other offers but it has yet to say how the bid will fulfill its obligation to present a plan to acquire third-party service (presuming that it will be located outside of PGE's territory). If the bid is relying on reserved PGE transmission capacity then this capacity should be made available to all bidders. PGE should publically inform potential bidders as soon as possible if this is the case. If PGE is acquiring new capacity in anticipation of serving load with the benchmark offer and the offer is not selected they should not be allowed to use that capacity to serve native load; in other words, they should be required to bear the same risks as other developers.

3. Credit requirements for both the APA/EPC and the PPA should be relaxed

Once final offers are selected they will be signed to a contract, most likely either a Power Purchase Agreement (PPA) or an Asset Purchase Agreement (APA).⁷ Each contract has its own credit requirements. The APA asks for \$200/kW as well as a 100% performance bond.⁸ The PPA collateral is \$200/kW until the project reaches COD. Upon COD collateral is "marked to market" over a five-year period meaning that the bidder could owe the market exposure (difference between PPA prices and market prices) of their offer over a five year period. The PPA does offer some unsecured credit for highly-rated bidders, this would reduce the amount owed by such bidders.

Based on our experience the credit requirements for both contracts would appear to be extreme. For the APA the requirement for a 100% performance bond *in addition to* substantial pre-COD credit appears to be excessive. For reference, PacifiCorp's 2017R RFP asked only for \$200/KW in collateral, and nothing additional.

For the PPA the post-COD collateral is, as noted, based on 5 years of mark-to-market exposure. PGE claims, in part, that this is because they base the offer on a shorter-term agreements which used mark-to-market exposure over five years. In our experience renewable PPAs typically feature a flat rate for credit requirements. If a mark-to-market approach is used it is typically based on the time it would take the utility to replace the contract. Under this method the exposure period would be about two to three years.

We suggest either shortening the exposure period or using a simple fixed credit requirement for post-COD credit. Our preference would be to use a flat fee because a mark-to market exposure may drive bidders to avoid using flat pricing as market energy prices can be generally expected to rise over the 20-plus-year term of the contract. With a fixed price this would lead to increased exposure as the contract term progressed. In terms of a level of cost, the

⁷ The RFP also contains an Engineering, Procurement and Construction (EPC) contract, with similar requirements to the APA contract.

⁸ Non-investment grade bidders are further required to obtain a guarantee from an investment grade guarantor. This requirement is discussed further on in this report.

pro forma PPA in the PacifiCorp 2017R RFP used \$100/kW. We think this is a reasonable requirement and it did not appear to hinder competition.

4. PGE should not make permitting status a threshold obligation

In the current draft of the RFP PGE lists permitting status as a partial threshold obligation.⁹ In other words, certain permits are required to be present at bid submittal and shortlisting time or the bid will be immediately rejected. The RFP claims to lay out the permitting requirements in a specific table but it does not appear that the table was included with the draft RFP. Even had the table been provided, using permitting status as a threshold requirement could serve to unnecessarily restrict the pool of potential bidders. While permitting status is certainly a consideration in bid evaluation we think it would be wiser to include it as part of the non-price score and not reject an offer simply because it will acquire a permit slightly later than PGE would prefer. As a backstop to prevent bids which truly will not achieve their promised COD the RFP Section 6.2.2 already notes that PGE reserves the right to reject any offers which it determines cannot meet its permitting requirements. We would expect that PGE's evaluation team would conduct a discussion with the IE and any such bidders prior to making such a determination.

5. The PPA should remove damages for failure to meet the Specified Energy Amounts

Some interveners take issue with the draft PPAs definition of "Specified Energy" and the payments and penalties contained in the draft PPA. In essence, the PPA only pays bidder their bid price for such specified energy up to a "Specified Amount" for each month and on or off-peak period. This amount appears to initially be the P(50) delivery rate, the rate such that there is a 50% chance of exceedance.¹⁰ After several years the amount is changed to be based on the unit's actual output record. Deliveries beyond this amount are paid at spot market rates.¹¹ If a bidder falls short of this amount then they must pay PGE for replacement energy and RECs.¹²

This, to us, would appear to be both an overly tight ceiling and an extreme penalty to place on a PPA bidder and could serve to bias bidders into offering utility ownership options. Typically, variation in deliverability can be handled in PPAs via a number of means. First and foremost, bidders are only paid for what they deliver, resulting in a natural penalty for under-deliveries. Second, PPAs typically have availability guarantees and liquidated damages should those guarantees not be met (sometimes with termination provisions for repeated failure). Third, if the utility is concerned about over-deliveries PPAs sometimes have limits on total deliveries for a given period, though these are typically defined on an annual basis.

⁹ Filed Draft RFP Appendix H, p 9.

¹⁰ Draft PPA Article 3.3.

¹¹ Draft PPA, Article 2.3.2.

¹² Draft PPA, Article 6.1.

The draft PPA does have penalties based on availability, requiring the bidder to maintain a 97% availability and allowing for termination if this is not met for 2 out of 3 years. However, instead of damages for failing to meet availability there are the charges mentioned above for failing to deliver energy. This is an important distinction. Typically such penalties exist because availability is related to keeping the facility available to generate if the wind is blowing or the sun is shining. This penalizes the seller for failure to control what they can control. Under PGE's PPA the seller is also penalized for what they cannot control. In addition, the "caps" for delivery are not annual (as is usually the custom when such caps are used) but set each month and peak or off-peak period.

We would recommend removal of the penalty for under-delivery and replacing this with liquidated damages for any availability shortfall. We would also recommend reducing the availability target as it is relatively high based on our experience. If PGE is concerned about over-delivery we would then suggest that the delivery cap apply to an entire year, allowing for some variation within a given month and peak or off-peak period.

It is certainly possible that this was not PGE's intention, or that we are not reading the contract correctly, but the fact that other interveners have pointed out this issue means that it is likely not clear.

6. PGE should not make the seller responsible for replacement energy during curtailment

Section 3.8.8 of the draft pro forma PPA requires that the seller shall pay PGE for any replacement energy due to the actions of a "Reliability Entity.". Because this is an action outside of the control of a seller this is not the typical practice. Because the PPA only pays for energy delivered the real penalty the seller suffers is simply not receiving payment during a curtailment. We would suggest removing requirement that the seller pay for replacement energy.

B. Risk Measurement and Assignment

Risk measurement and assignment is essential in any RFP. As a guiding principle, risks should be put on the party best equipped to address them. Moreover, the evaluation should give credit to bidders who assume more risk than others. In this area, we have two suggested changes.

1. The initial shortlist scoring has the potential to overweight non-price factors

The most transparent form of procurement is a "price-only" procurement. In this form of procurement all bidders offer the same product and the winner is judged solely on price. This is transparent because all bidders understand that all they must do is offer the lowest price and they will win. Here, however, PGE is seeking a variety of products, with different characteristics. This makes it harder to have a strict price-only evaluation. In these cases, while it is appropriate to review and assess non-price factors, we still like to see a "price-mostly" evaluation, where the

emphasis is on getting to lowest-priced resource for ratepayers. This avoids arguments among bidders and evaluators over subjective characteristics.

PGE proposes an initial shortlist scoring system which assigns 600 points to the price offered by a bidder and 400 points to non-price factors assessed by PGE evaluators, a 60/40 price/non-price split. The price score is scaled such that the bid offering the best cost/benefit ratio will get 600 points. It appears that a bid with a cost benefit ratio 100% higher than the best bid would receive zero points and bid in between would receive a scaled score.

In our view, this 60/40 split may run the risk of placing too much emphasis on non-price factors. While PGE has used this split in past RFPs it is more heavily weighted towards non-price scores than some other utilities. In comparison, PacifiCorp's current 2017R Renewables RFP uses an 80/20 split. Past PacifiCorp RFPs used a 70/30 split.

Until we get the actual range of offers it is hard to say if the proposed scoring system will have a material impact on the selection of bids, i.e., elevating higher-priced offers above lower-priced offers. It is important to note that the initial shortlist score is merely a screen to remove some offers prior to assessing their costs in the final shortlist screen. It is not the final ranking of offers and will not determine the final winning offer. In the initial shortlist screen evaluators typically look for the highest scoring offers up to a target level set in the RFP and then try to identify a "gap" in scoring as a place to divide selected offers from non-selected offers. If offers are tightly bunched in scoring then more offers will be taken to the final shortlist evaluation.

There are two potential ways to adjust the scoring system and ensure that price offered is the dominant trait in initial selection. One way would be to adjust the scoring split at the outset to be more heavily weighted towards price, using a 70/30 or 80/20 split. A second way would be to keep the scoring system as is, but, once offers come in, perform sensitivities by adjusting either the price non-price split or moving the "anchor points" for the price score. By "anchor points" we mean the points at which a bid receives 600 or 0 points.

Given that we do not know how the scoring for the offers will work we would suggest that, rather than adjusting the scoring at this point, we will conduct sensitivities (i.e. changing the price/non-price split and the anchor points of the price evaluation) once the bids come in to determine if there are any offers that we believe are being unfairly excluded due to the proposed scoring system. We recommend that PGE add language to the RFP stating that such sensitivities will be conducted at the initial shortlist stage.

2. PGE's self-build "Benchmark" bid should be held to its assumptions regarding cost and operating performance

This RFP features a self-build or "Benchmark" resource that the Company will offer. As the IE, in accordance with the Guidelines, we will review the offer to ensure that all cost estimates are reasonable and that no costs have been omitted from the estimate. We will also score the offer prior to the opening of market bids.

Beyond these protections, we recommend that the Benchmark offer be held to its cost and performance assumptions as offered, the same as any third-party bidder would. This will help

ensure a level playing field for all offers.

C. Producing a Positive Result

Beyond fairness and transparency, we still must consider whether there are any other requirements that could keep the RFP from producing a positive result for ratepayers. In other words, are there any barriers to entry or other requirements that would prevent the Company from contracting with resources that would form the lowest cost portfolio when adjusted for risk?

1. PGE should include a best and final offer process

In the current draft of the RFP all bidders are bound to their initial offer. This is a reasonable requirement. However, with a procurement that seeks long-term resource-based offers such as this one we have found it useful to include a provision for a “best and final” offer (BAFO) in the process. Offers would be requested from all bidders selected to the initial shortlist. To prevent “gaming” of offers a requirement that best and final offers not exceed initial offers could be included as well.

This requirement can be helpful for two reasons. First, as bidders progress on their projects they can get a more concrete idea of their true costs and bid more accurately, removing risk premiums that may have existed in their initial offer. Second, by receiving some indication they have a competitive offer (via selection to the initial shortlist) bidders can be incented to drop their prices if they understand that a “win” is within their reach.

One concern with this approach is that it could take too much time and delay the RFP process. The best way to deal with this is to schedule a BAFO due date immediately (e.g. one-week) after notification of selection to the initial shortlist. Bidders can then have their offer prepared in advance and bid evaluation can proceed without delay.

2. Pre-contract credit requirements should be made clear and commitment letters should only be required after selection to the final shortlist

Because credit represents a tangible cost to bidders credit requirements are often a contentious issue in any RFP. In the current draft it is somewhat unclear as to what amounts are due, in what form, and when. Appendix E states that non-investment grade bidders must demonstrate “prior to bidding” that a Qualified Institution will support their obligations through a Letter of Credit Commitment Letter and, for utility-owned bids, a Guarantor commitment letter.¹³ Section 6.2.3 of the RFP says that bidders who cannot balance sheet finance their project should provide evidence of a good faith commitment from a financial institution “prior to placement on PGE’s final shortlist.” Appendix H states that PGE will only award contracts to bidders with investment grade ratings or with investment grade guarantors.¹⁴

¹³ Filed Draft RFP, Appendix E, Page 1.

¹⁴ Filed Draft RFP, Appendix H, Page 10.

While we believe that it is prudent to require bidders to post some form of credit prior to signing contracts (which have their own credit requirements as we discuss above), it is important that such a requirement not place undue burden on bidders. Use of a less costly “commitment” letter versus an actual letter of credit is reasonable; however we do have some issue with the timing of the requirement. In the PacifiCorp 2017R RFP bidders had to provide letters of commitment “upon selection to the shortlist.” While this was initially interpreted to mean the initial shortlist we found that bidders had some difficulties obtaining commitment letters so early in the process because (as we understand it) banks had to set aside capital for these obligations. Therefore, the requirement was interpreted as allowing bidders to present such letters within a set time (20 days) of being selected to the final shortlist. We suggest similar timing here (in line with the cited language in section 6.2.3 above). To be clear, bidders should still show a plan to obtain financing and PGE should retain the right to reject offers without a reasonable plan.

3. PGE should reduce the resource data requirement

We suggest reducing the resource data requirement. PGE asks for three years of resource data.¹⁵ In comparison, PacifiCorp in their 2017R RFP asked for one (for PPAs) or two (for BTAs) years of on-site resource data. Other RFPs – such as the California Renewable Auction Mechanism (RAM) RFOs – have no such threshold requirement. As an alternative, PGE could also allow other forms of wind data such as data from nearby sites. We note that the RFP as drafted is somewhat unclear on whether the data provided has to be site-specific, merely that it has to substantiate forecasted deliveries.

4. PGE should include a post-issuance bidder’s conference

We would recommend adding a bidder’s conference after the issuance of the final RFP. This is standard procedure in most procurements across the country. PGE has already conducted a stakeholder workshop, but that covered the initial draft RFP. A bidders’ conference should review the issued RFP and answer any questions regarding the bidding opportunity. It is our understanding that PGE plans to have such a conference, but the time is not listed in the RFP schedule.

5. PGE should provide additional justification as to why 60 minute scheduling is necessary

Several interveners raise the issue of PGE requiring bids to schedule deliver using 60-minute scheduling intervals. Staff notes that BPA began allowing 15-minute scheduling intervals in order to better incorporate renewable resources into dispatch. We are unclear as to why this requirement is in the RFP and would request that PGE provide an explanation in its reply comments so that we can better understand its purpose.

¹⁵ Filed Draft RFP Section 6.1.8.

6. For additional clarity PGE should make several additional edits

We would suggest edits and clarification in a few places in the document:

- a. In Appendix H the max scores in the summary table for the non-price scoring categories do not match the max scores in the detailed tables that follow.
- b. Section 3.6 should clarify if bid validity is 200 days after the initial or final shortlist.
- c. Section 1.3 should note that the IE may request additional modeling sensitivities.
- d. For mentions of alternate bid proposal structures (e.g. Section 5.2), PGE should make clear that adjustments may be made to the listed evaluation procedures.

D. Compliance with Commission Guidelines

The final standard we examine is whether the RFP is in compliance with regulatory rules and guidelines. In Oregon, this means that the RFP is in conformance with the Commission's Competitive Bidding Guidelines, which were developed in 2006 and revised in 2014.¹⁶ These Guidelines are important because they were vetted with multiple stakeholders and lay out exactly how the Commission wants a procurement to operate.

Overall, we find the RFP to be in compliance with most of the Guidelines. In this section, we elaborate on each relevant Guideline and how the RFP attempts to meet that Guideline. There are a total of thirteen Guidelines, some of them, for example, the requirement for a closing report, will be complied with at a later date. Below we discuss all relevant Guidelines.

1. Guideline #1 - Need for an RFP

Guideline #1 requires that an RFP be issued for all major resource acquisitions identified within an acknowledged IRP.¹⁷ This RFP is based on PGE's revised renewable action plan filed on November 9, 2017 as an addendum to its 2016 IRP. The plan calls for 100 average megawatts (MWA) of renewable energy resources. The Oregon Commission approved the plan in Order 18-044 entered on February 2, 2018.

¹⁶ Oregon's Competitive Bidding Guidelines Modified, Public Utility Commission of Oregon, Order No. 14-149, Appendix A, April 30, 2014.

¹⁷ There are some exceptions, which are covered in Guideline #2.

2. Guideline #3 and #4 - Affiliate bidding and self-build option

Guideline #3 is not relevant because here are no affiliate bids being offered. Guideline #4 allows for the utility to provide a site-specific self-build option, known as the Benchmark resource. In this case, the Company plans to submit a self-build wind resource of approximately 300 MW in size, located in eastern Oregon. We will work to ensure the bid is held to the same standards as third-party offers.

3. Guideline #5 - Independent Evaluator

Guideline #5 requires the use of an Independent Evaluator to ensure that all offers are treated fairly. The RFP has called for an appropriate role for the IE. We will work going forward to ensure that all offers are treated fairly.

4. Guideline #6 - RFP design

Guideline #6 requests that the Company provide a draft RFP to all parties and interested persons in the utility's most recent general rate case, IRP and RFP dockets and conduct a stakeholder and bidder workshop on the draft RFP. The utility will then submit the final draft RFP for approval. The IE must be consulted when preparing the RFPs and will submit a report assessing the final draft RFP.

The Company submitted a draft RFP to the IE on January 31. We provided comments and asked questions regarding the draft in early February. In response, the Company made several productive changes. PGE submitted this revised initial draft RFP to stakeholders and held workshops with interested parties, including bidders, on March 2, 2018 prior to submitting the final draft RFP on March 9.

This Guideline also requires that the RFP set forth minimum bidding requirements and scoring criteria, which this draft RFP does. These are reasonable, subject to the changes noted above. The RFP must also have standard form contracts but allow bidders to negotiate mutually agreeable terms. The RFP does have these contracts and does contemplate this negotiation.

Guideline 6 also states that Qualifying Facilities (QFs) larger than 10 MW must be allowed to participate. Several interveners raise the issue of the RFP barring QFs that are currently contracted with PGE or engaged in negotiations with PGE under Schedule 202 – their contract for QFs greater than 10 MW. Intervenors note that the Schedule 202 process is lengthy and if they should drop out in order to bid in this RFP they will lose progress in that process. This requirement would seem to target a situation where a bidder tries to participate in two processes to get a better offer for their facility. While this may be something for evaluators to consider in their offer selection it should not represent a threshold requirement. We would recommend removal of this requirement.

5. Guideline #7 - RFP approval

Guideline #7 states that Commission approval of the RFP will focus on three items: (1) the alignment of the RFP with the latest acknowledged IRP, (2) whether the RFP satisfies the

Guidelines, and (3) the overall fairness of the bidding process. Stakeholders submitted initial comments on this RFP on March 30.

6. Guideline #8 and #9 - Bid scoring

Guideline #8 requires the Company to submit a detailed score for the benchmark bid to the IE prior to opening market bids. We presume PGE will follow this process. We will review the offer to ensure that it is reasonable and has no omitted costs. We will work with the Company to score the bid prior to reviewing third-party offers.

Guideline #9 requires that the initial shortlist selection be based on price and non-price factors, with price scores representing a comparison of the levelized bid cost to forward market prices, and provide resource diversity. Final shortlist selection is to be based on modeling consistent with the IRP. Finally, debt imputation (also known as “debt equivalence”) is reserved for the selection of final bids.

The RFP successfully meets each of these standards. As noted above, the initial shortlist features a price and non-price score. The price score is determined by the levelized net benefit of the bid. The non-price score is based on an assessment of project development and compliance with RFP requirements. We will confirm that the final shortlist modeling uses current IRP inputs (in some cases, updated to the most current assumptions) and the models, process and scenarios are the same as used in the latest IRP. Diversity is provided by the fact that multiple sources are allowed to offer.

Finally, the debt equivalence issue is contemplated as a potential part of the final-shortlist considerations. Debt imputation, or debt equivalence is a controversial topic driven by the fact that some credit rating agencies view PPAs and similar contracts (e.g. Tolling Agreements) as the functional equivalent of debt, treating a portion of the payments under these agreements as *hypothetical* debt to the Company’s balance sheet. The Commission has the power to request PGE to obtain an advisory opinion from a credit rating agency if it wishes to substantiate claims of harm from debt equivalence issues.

7. Guideline #10 through 13 - Roles and Responsibilities

The final guidelines involve items that will be addressed as we move through the RFP process. The roles of the IE and Company are laid out in the RFP similar to Guideline #10 and we will hold to these going forward. We will submit a Final Closing Report (Guideline #11) when the Company requests acknowledgement of the Final Short List (Guideline #13) and will keep information confidential (Guideline #12). If there are any issues, we will alert Commission Staff at once and bring those to the Commission’s attention in our Final Closing Report.

APPENDIX A: KEY CRITERIA OF RFP EVALUATION

KEY CRITERIA OF RFP EVALUATION

Our starting point in reviewing any RFP is the basic premise that the purpose of any competitive solicitation should be to get the best deal possible for ratepayers in terms of price, risk, reliability, and environmental performance, given current market and regulatory conditions. In evaluating whether or not the RFP will lead to this goal, we have found it helpful to focus on four key questions: (1) Is the process fair and transparent? (2) Does the process properly measure and assign risk? (3) Will the process likely lead to a positive result? and (4) Is the process compliant with the Commission's regulatory rules and guidelines?

Following is a brief primer as to why these questions are important and some ways in which to achieve positive answers to these questions.

A. FAIRNESS AND TRANSPARENCY

Why is it important?

To achieve a positive outcome for ratepayers the methods of bid evaluation must be fair and transparent to all. Fairness means that all parties are treated equally. This includes not only third party bids, but also utility Benchmark or self-build options. Transparency means that all parties can understand the RFP requirements and evaluation methods. Only if fairness and transparency are present will a large number of competing power suppliers participate and bid aggressively.

Fairness and transparency attract bidders for several reasons. First, if a solicitation is "fair," bidders know that their bid will be considered on equal footing with other bids, and they do not have to worry about their bid losing out to an inferior offer. Second, if a process is transparent, bidders know exactly what is being solicited and how bids will be evaluated. When bidders know that no special privilege will be granted to any bidder and evaluation criteria are laid out clearly, they know that aggressive bidding is the only way to ensure that they win the RFP.

Fairness and transparency also benefit ratepayers. The more bidders, bidding aggressively, that participate in the RFP, the better chance the ratepayers have of receiving a quality offer. Transparency also has the added benefit of letting the ratepayers know just how the winning bids were chosen.

How do we achieve it?

There is no single right way to solicit electric supply and, therefore, there is no single right way to achieve fairness and transparency. In general, a fair and transparent process would involve; (a) all parties bidding under the same terms, (b) a precisely defined product, and (c) a price only or "price mostly" evaluation. The point of these conditions is to make sure that all bidders understand what they are bidding for and how they will be evaluated and that the winner will simply be the bidder who offers the best deal for ratepayers.

An example of these principles in action can be seen in the full requirements solicitations for Standard Offer or Basic Generation Service in PJM. The product for these solicitations is

precisely defined as full requirements supply which, in essence, makes each supplier responsible for serving a percentage share of the energy, capacity, and ancillary service needs of a ratepayer class. Bidders offer an amount of supply at a stated price. The winners are simply the bidders who offer to supply at the lowest cost. All bidders, including the utility affiliate, are treated in the same manner and sign the same contracts.

This is not meant to suggest that PGE must conduct a full-requirements type solicitation, only to provide a real-world demonstration of fairness and transparency. We feel that it is important for parties to understand that these are more than just “principles” but standards that are achievable in the real world.

B. MEASURING AND ASSIGNING RISK

Why is it important?

In reviewing RFPs we look for an evaluation process which, to the best extent possible, recognizes the uncertain nature of the future, that the only thing certain is uncertainty. Today, future values of variables such as gas prices, emissions regulations, and construction cost escalations are unknown. Yet these variables will have a great impact on future ratepayer costs. The impact of new technology could also greatly affect the choice and cost of future supply.

If the exact paths of these variables were known, the selection of new resources would be relatively easy. In reality, there are no certainties about the future, which makes the evaluation process much more complex. The best evaluation process is one which acknowledges the risks that ratepayers face, and incorporates an analysis of those risks into the selection of bids which perform well under many different future scenarios.

The RFP, then, must do two things to take account of risk. First, the evaluation methods must recognize and measure risk. Second, bids must be credited to the extent that they assign risk away from the ratepayers and onto parties better equipped to manage risk.

This focus also assists ratepayers because, if the evaluation clearly accounts for risk, then credit can be given to the bidders who act to shield ratepayers from risk and the lowest-risk bids can be identified. It also encourages innovative risk management. If bidders know that they will stand a greater chance to win, all things being equal, by removing risks from the ratepayer, then they will be encouraged to come up with ways to remove or hedge risk.

How do we achieve it?

To find the best deal for ratepayers, risks must be accurately measured in the evaluation process. There are two chief ways to handle this task. One way is to assign each bidder the same risk profile through a tightly defined product, process, and a contract which holds all bidders to the same risk assignment standard. This method is used in the previously-mentioned full requirements solicitations in areas like New Jersey and Maryland, where all bidders, including utility affiliates, bid by the same rules for the same product and sign standardized contracts.

The second way to measure risk is to review the key risks inherent in each bid and attempt to value each of them separately. This requires sophisticated modeling techniques which model what costs would be incurred for each bid based on changes in key variables. This sort of modeling can take two basic forms, “scenario” modeling or “stochastic” modeling. Scenario modeling examines a single “path” for a given variable and reports what ratepayers would pay given that scenario. Stochastic modeling involves essentially creating multiple “paths” for each variable, basically hundreds of scenario runs at once, which give both an average or expected value of the bid as well as a risk metric such as standard deviation.

The ultimate goal of these exercises is to compare bids with different risk profiles. This comparison is key because the nature and extent of risk varies across technologies and transaction types. For example, for coal-fired technologies the greater risks are linked to capital costs and environmental regulations. In contrast, for natural gas, fuel price risk is the more prominent risk. Similarly, a fixed price pay-for-performance power purchase agreement puts all risks on the bidder, while a cost-plus transaction puts the risk burden on the ratepayer.

C. LEADING TO A POSITIVE RESULT

In reviewing and conducting an RFP, it is always important to keep the end goal in mind, the acquisition of the best deal for ratepayers in terms of risk, reliability, price, and environmental performance, given market conditions. The above prescriptions should aid in that goal, but they do not guarantee it. If, for example, a bidding requirement, say, a credit threshold, disqualifies a wide selection of potential participants, then the likelihood of a good result is lower. With this in mind we also review an RFP with an eye toward items which could affect the participation levels in the RFP.

We note that there are times when the goal of a positive result could come into conflict with the other goals mentioned above. For example, a bidder could present an offer that is attractive, but features a non-fixed (or indicative) price. At this point, it is up to the evaluators to decide whether allowing this bid to be evaluated is appropriate given the fact that other bidders have conformed to the requirement to submit a binding bid. In these cases Bates White views part of the IE’s job as providing advice on moving forward in the best interests of ratepayers.

D. COMPLYING WITH COMMISSION RULES AND GUIDELINES

A final topic that we review is compliance with appropriate Commission regulatory rules and guidelines. While these are usually in line with the goals of fairness and transparency and, of course, are geared toward producing a positive result we cannot simply ignore rules and guidelines because they represent the will of regulators and the ratepayers, having been vetted through a public comment process.