



Portland General Electric Company
121 SW Salmon Street • 1WTC0306 • Portland, OR 97204
portlandgeneral.com

May 05, 2021

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St SE, Suite 100
Salem, OR 97308-1088

RE: UM 2166, PGE Application for Approval of Independent Evaluator for 2021 All-Source RFP

PGE hereby submits its Independent Evaluator (IE) Request for Proposals (RFP). This IE RFP is being issued for the purpose of selecting an Independent Evaluator to oversee its 2021 All-Source RFP, in accordance with OAR 860-089-0200. The 2021 All-Source RFP, which was called for in PGE's 2019 IRP action plan, seeks to fill PGE's identified capacity need of roughly 500 MWs starting in 2025.¹ PGE will conduct portfolio analysis as part of this RFP to determine the optimal combination of renewable and dispatchable non-emitting capacity resources to meet customer needs, and that analysis will incorporate the 150 MWa limit on renewable energy that PGE can procure in this solicitation per the 2019 IRP Action Plan. The Competitive Bidding Rules apply in this instance as the resources in this RFP are anticipated to be larger than 80 MWs in aggregate and have terms that are longer than five years.

Per discussions at the IRP Update special public meeting on April 20, 2021, PGE solicited feedback from Staff and NIPPC on criteria and questions for the IE solicitation. The IE RFP document identifies key obligations of an IE under the Competitive Bidding Rules and proposes a high-level timeline for the 2021 All-Source RFP proceeding. Following scoring the proposals from IE candidates, PGE will host a virtual stakeholder workshop, tentatively scheduled for June 2nd from 1:00-2:30pm PST, to discuss results and solicit additional feedback from stakeholders. After the workshop, PGE will file a request with the Commission for approval to engage an IE. Along with that filing, PGE intends to detail proposed modeling and scoring methodologies for the 2021 All-Source RFP.

¹ PGE continues to pursue bilateral capacity resource discussions and will update the overall RFP solicitation size in the instance that those negotiations are successful. Additionally, PGE's 2019 IRP Update, which was acknowledged with additional guidance by the Commission at a special public meeting on April 20, 2021, contained no changes to this action plan. See Order No. 21-129.

Enclosed is a copy of PGE's IE RFP, which is being issued to potential IE candidates, contemporaneously with this filing, as identified by PGE and interested stakeholders pursuant to OAR 860-089-0200(1) and as requested by PGE in the initial application for Docket No. UM 2166.

Sincerely,
/s/ Jay Tinker

Jay Tinker,
Director, Rates and Regulatory Affairs

Enclosures



REQUEST FOR PROPOSAL

for

An Independent Evaluator

05/05/2021

Table of Contents

SECTION 1: INTRODUCTION	3
Introduction	3
General Description of Request	3
PGE Representative	3
Questions	4
PGE Philosophy	4
SECTION 2: SCOPE OF WORK	4
Detailed Description of Project	4
A. Management.....	5
B. Deliverables	6
C. Other Activities and Requirements per the Competitive Bidding Rules.....	7
D. Estimated 2021 All-Source RFP Timeline	8
E. Minimum Requirements, Independence and Conflicts of Interest.....	8
Incorporated Documents	9
SECTION 3: PROPOSAL REQUIREMENTS	9
IE RFP Timeline.....	9
Complete Proposal	10
Proposal Format	10
List of Required Submittal	10
Submittal Part 1	10
Submittal Part 2	10
Submittal Part 3	10
Submission of Proposals	12
Alternate Proposals.....	12
SECTION 4: RFP EVALUATION	13
Bidder Selection Process.....	13
Validity of Proposal.....	13
SECTION 5: ADDITIONAL REQUIREMENTS	13
PGE Supplier Code of Conduct.....	13
PGE Supplier Qualification Program (SQP).....	13
SECTION 6: GENERAL PROVISIONS	14
Disclaimer.....	14
Eligibility and Transfer	14
Qualification of Personnel	14
Reservation of Rights	14
Return of Materials.....	15
Proposal is not Proprietary	15
Errors and Omissions	15
Confidentiality of Response	15
Ownership of Work Product	16
Competitive Bidding	16
Code of Ethics	16
Non-Discrimination	16
Preparation & Presentation Costs	16
Bidder's Responses	16
Prime Contractor and Subcontractors	17
Publicity	17
Compliance with Applicable Laws	17
Non-Disclosure	17

SECTION 1: INTRODUCTION

Introduction

Portland General Electric Company ("PGE") is Oregon's largest electric utility and has provided electricity to customers in the northern Willamette Valley since 1889. Headquartered in Portland, Oregon, PGE has over 130 years of experience in the generation, transmission, and distribution of electricity, supplying power to 901,000 residential, commercial, and industrial customers in 51 cities and seven counties.

As an investor-owned utility, PGE is regulated by the Oregon Public Utility Commission (OPUC) under its Orders and is also subject to the Federal Energy Regulatory Commission's (FERC) Affiliate Restrictions and Standards of Conduct. These rules, generally, prohibit PGE from providing preferential treatment, unfair competitive advantage, or non-public proprietary utility information to PGE's affiliates. In connection with performing the services as described in this RFP, Bidder will be expected to comply with all affiliate rules that may apply.

Please visit the company web site at www.portlandgeneral.com for more detailed information. A service area map depicting PGE's service coverage area as well as other pertinent company information may be found on the company web site.

General Description of Request

Portland General Electric Company ("PGE" or "Company") is seeking proposals from qualified entities ("Proposers") interested in serving as an Independent Evaluator ("IE") to assist PGE in conducting and evaluating bids in response to a requests for proposals for new electric generation supply to be initiated by PGE in 2021 ("2021 All-Source RFP").¹

The purpose of this solicitation ("IE RFP") is to assist the Public Utility Commission of Oregon ("OPUC" or "Commission") Staff in recommending an IE for the OPUC's approval for the 2021 All-Source RFP. The IE will participate in the 2021 All-Source RFP to ensure that it is conducted fairly, properly, and transparently, and that bids thereto are evaluated consistently. The IE must be independent of PGE, potential bidders, and participating stakeholders. The IE must be experienced and competent to perform all IE functions identified in the OPUC Competitive Bidding Rules, as set forth in OPUC Order No. 18-324, and included as Attachment A to this IE RFP. PGE will contract directly with the OPUC-selected IE pursuant to the PGE Terms and Conditions, included as Attachment D to this IE-RFP.

The term "Bidder" shall mean any person or company receiving this RFP or submitting a proposal in response to this RFP.

PGE Representative

The PGE Representative for all correspondence related to this RFP is as follows:

Lily Stone
Portland General Electric
121 SW Salmon Street, 1WTC0505
Portland, OR 97204
Email: rfp@pgn.com

¹ See OAR 860-089-0020(4) for the definition of Independent Evaluator.

To ensure timely and adequate consideration of your Proposal, Bidders are asked to limit all contact, whether verbal or email, pertaining to this RFP, to the designated PGE Representative above for the duration of the RFP process. Failure to comply with this request will compound the complexity of this project and may jeopardize PGE's ability to meet the timeline. Bidders who are currently engaged with PGE as part of their existing services are asked to limit communication with PGE to existing services. Any communication to other PGE individuals in regard to this RFP without the approval of the PGE representative may immediately disqualify Bidder. Your full support is greatly appreciated.

Questions

Questions should be consolidated into one submittal in the attached Question and Answer document and sent to the PGE representative by 2pm PST on May 10th. Confirmation of receipt will be provided, and PGE will endeavor to respond to questions by May 11th at 5pm PST. Questions and responses will be shared with all bidders. It is Bidder's sole responsibility to ensure that no confidential information is provided within the questions, and that responses to those questions could be shared with all Bidders.

PGE Philosophy

PGE is committed to its Core Principals of Safety & Health, Continuous Improvement, Ethical Business Practices, Diversity & Inclusion, Community Investment, and Environmental Stewardship. We can only achieve success as a company and as individuals by adhering to these values and complying with the laws, rules and regulations that apply to our business. It is critical that all of our employees and contracted suppliers do this every day.

SECTION 2: SCOPE OF WORK

Detailed Description of Project

The 2021 All-Source RFP is intended to address the resource need identified in PGE's 2019 Integrated Resource Plan ("2019 IRP"). Through the 2021 All-Source RFP PGE seeks to acquire new, non-emitting resources to meet the Company's forecasted 2025 capacity needs, which is roughly 500 MWs.² Both dispatchable and renewable resources will be considered, and PGE may procure up to 150 MWa of energy producing resources (equivalent to 350 MW of MT wind or 517 MW of Solar). This procurement could involve both power purchase agreement (PPA) and utility owned structures and is likely to involve a benchmark proposal from the utility.

PGE expects that the 2021 All-Source RFP will address difficult topics, such as acceptable transmission products for renewable resources and portfolio construction that allows for the optimal consideration of renewable and capacity resources. Additionally, the inclusion of benchmark resource(s) from PGE will require the selected IE to do supplemental assessments regarding the reasonableness of PGE's benchmark scoring as well as the unique risks and advantages of available ownership structures. To ensure that an Independent Evaluator is familiar with Oregon state law and Commission policy regarding the allowance for diverse ownership of procured resources, please review the Oregon Competitive Bidding Rules included in

² PGE continues to pursue bilateral capacity resource discussions and will update the overall RFP solicitation size in the instance that those negotiations are successful

Attachment A, OPUC Order 18-324, comments from PGE's recent 2019 IRP Update, and the order from the 2019 IRP.³

PGE's proposed RFP design must be acknowledged by the OPUC. PGE desires to retain the IE in July 2021 so that PGE can begin the necessary regulatory process to allow for OPUC approval of the 2021 All-Source RFP.

A. Management

1. PGE responsibility

PGE is ultimately responsible for the procurement of least-cost, least risk resources for the benefit of its customers. PGE will conduct the 2021 All-Source RFP to identify those resources. PGE's activities will include the identification of resource need, the definition of resource requirements for consideration in the RFP, the development of recommended commercial terms, the organization of RFP materials, the scoring of RFP bids, the selection of short-listed bidders, the negotiation with top-scoring counterparties, and the selection of the winning counterparty.

2. IE responsibility

The IE is responsible to ensure that PGE has conducted the 2021 All-Source RFP in a manner that is fair, transparent, proper, and consistent with the Competitive Bidding Rules detailed in Attachment A. Through regular contact with the Commission and the Company, the IE will ensure the RFP design is fair, allows for consideration of diverse ownership structures and long-lead time resources, includes reasonable commercial terms, fairly scores bids, and makes appropriate selections for the initial and final shortlists.

3. IE advises PGE

The IE shall make available its experience and recommendations to PGE. The IE will aid the Company in development of the 2021 All-Source RFP design and scoring criteria. The IE is to advise PGE as early as possible of any issue that might reasonably be construed to affect the fairness of the solicitation process and provide PGE an opportunity to remedy the defect identified. The IE will be in regular contact with PGE, by phone, by virtual meeting and/or by e-mail. If necessary, in person meetings may be required.

4. IE reports to the Commission

The IE is selected by and will work under the direction of the Commission. The IE will confer with OPUC Staff as needed on the IE's duties. The IE will proactively

³ LC 73 Order No. 20-123. Additional Comments are included in the LC 73 docket on the Oregon Public Utility Commission website.

communicate with Commission Staff, be responsive to Staff's questions and concerns, and generally act as the Commission's liaison throughout the RFP process. The IE will be in regular contact with Commission Staff by phone, by virtual meeting and/or by e-mail. If necessary, in person meetings may be required. The Commission or Commission Staff may also request the IE to provide the IE's notes from conversations or written communications with PGE and any third-party bidders related to the 2021 All-Source RFP.

B. Deliverables

The IE will provide the following for PGE's 2021RFP:

1. IE Assessment of PGE's draft 2021 All-Source RFP

The IE assessment is due when PGE submits its final draft 2021 All-Source RFP to the OPUC for approval. The assessment should consider the criteria for RFP approval (Attachment A). The assessment should address the evaluation criteria, methods, and pro forma term sheets included with the 2021 All-Source RFP. The assessment also should review the adequacy, accuracy, and completeness of all solicitation materials to ensure compliance with the OPUC's Competitive Bidding Rules and consistency with accepted industry standards and practices.

2. Supplemental Reports, Scores, Evaluations

- i. An assessment of the reasonableness of the score(s) for PGE's benchmark resources.
- ii. An independent score of PGE Benchmark Resource(s) (if any) and all or a sample of bids to determine whether the selections for the initial and final short-lists are reasonable.⁴
- iii. An evaluation of the unique risks and advantages associated with available ownership structures (including the Benchmark Resource(s)) as well as third-party bids where applicable.
- iv. An assessment of the design and results of sensitivity analyses of bid rankings performed by PGE and final short list sensitivities.
- iv. An assessment of consistency with PGE's acknowledged IRP.

3. IE Closing Report

The IE Closing Report is due 14 calendar days after PGE has selected the final short-list of bids for submittal with PGE's shortlist acknowledgement application. As part of the Closing Report, the IE will make its detailed bid scoring and evaluation results available to the utility, OPUC staff and interested, non-bidding parties in PGE's 2021 All-Source RFP docket, subject to the terms of a protective

⁴ For more detail please see OAR 860-089-0450(4) & OAR 860-089-0450(5) included in attachment A to this document.

order. The Closing Report will provide the IE's detailed assessment of the company's selection of the final short-list of bids, including all aspects of the solicitation process and the IE's involvement, observations, conclusions, and recommendations. The reasons and basis for a) ranking bids, b) selecting a bid, and c) rejecting bids are to be fully detailed in the Closing Report. Any unreconciled discrepancy in bid ranking between the IE and PGE should also be detailed in the Closing Report.

C. Other Activities and Requirements per the Competitive Bidding Rules

1. Consult with PGE and OPUC Staff on scoring and evaluation methodologies in advance of issuing 2021 draft RFP.
2. Consult with PGE in preparing the 2021 draft RFP.
3. Review PGE's 2021 All-Source RFP screening for bidder eligibility.
4. Participate in an OPUC public meeting to review the OPUC's decision on RFP approval, based on the IE's assessment of PGE's 2021 All-Source RFP design.⁵ This would likely include a formal presentation.
5. Participate in any pre-bid conferences and/or workshops with OPUC Staff and non-bidding stakeholders.
6. Participate in the pre-bid conference for bidding parties (anticipated 15 days after draft 2021 All-Source RFP issuance) and make a presentation to communicate the IE role in the process.
7. Monitor all aspects of the solicitation process for the final short-list of bids, including the following:
 - i. 2021 All-Source RFP(s) screening
 - ii. Communications between bidders and PGE before and after proposals are due
 - iii. Any requested bidder updates
 - iv. Any amendments to the 2021 All-Source RFP issued by PGE
 - v. Evaluation and ranking of responses
 - vi. Selection of the initial short-list of bids
 - vii. Evaluation of capacity factor verification report (to be provided by independent third-party) for variable energy resource bids⁶
 - viii. Selection of the final short-list of bids

⁵ At this time, all meetings mentioned are expected to be virtual or to allow for virtual participation.

⁶ For more details please see Attachment A, OAR 860-089-0400 5(a)

-
8. Audit the bid evaluation process and validate that evaluation criteria, methods, models, and other solicitation processes have been applied consistently and appropriately to all bids. Verify assumptions, inputs, and results are appropriate and reasonable.
 9. Compare the IE's and PGE's scoring and evaluation of the competing bids and attempt to reconcile and resolve any scoring differences.
 10. In consultation with OPUC Staff, participate in additional meetings and/or workshops with parties, hosted by Staff, related to final short-list selection and request for acknowledgment of final short-list. These could include formal presentations.
 11. Identify and communicate conflicts of interest between bidders, the IE, and the Company as soon as they are identified. The IE shall summarize all known conflicts in its closing report.
 12. Participate in OPUC proceedings on acknowledgment of the final short-list of bids. Participation would include written comments filed with the OPUC and oral comments at an OPUC public meeting or hearing. This could include a formal presentation.
 13. Maintain involvement through negotiations process if required by Commission at the request of Staff.

D. Estimated 2021 All-Source RFP Timeline

The schedule presented below is draft, and subject to change based on a variety of factors including Commission approval.

Open IE selection docket	April 28th, 2021
Issue draft IE RFP	May 5th, 2021
IE RFP responses due	May 17th, 2021
IE contract award after OPUC Approval	July 2021
Regulatory Process & Resource Selection	July 2021- 2022

E. Minimum Requirements, Independence and Conflicts of Interest

Per the stipulations in OAR 860-089-0020, the IE must be independent of the utility and potential bidders. The following are minimum requirements that must be demonstrated by Proposers:

- Proposer shall disclose all business conducted with PGE or its affiliates, past or present.

- Proposer shall disclose any conflict, or potential conflict of interest, that might arise during the course of the project, including with any potential bidders or stakeholders (parties who regularly intervene in dockets before the Commission) in PGE’s 2021 All-Source RFP.
- The bidder shall be experienced and competent to perform all IE functions identified in the Competitive Bidding Rules.
- The bidder shall demonstrate its experience and competence in assessment, evaluation, and monitoring related to competitive bidding for electricity supplies.

Incorporated Documents

The following documents are incorporated into this RFP as attachments

1. PGE Supplemental Terms and Conditions (Attachment D)
2. Proposal Letter (Attachment B, template provided)
3. General Requirements (Attachment C, template provided)
4. Price Proposal Sheet (Attachment E, template provided)
5. PGE Question and Response Form (Attachment F, template provided)

SECTION 3: PROPOSAL REQUIREMENTS

IE RFP Timeline

The following dates have been established as milestones for this RFP. PGE reserves the right to modify or change this timeline at its discretion, or based on recommendations or actions from the Commission or Commission Staff. Bidders who are responding to this RFP should time their correspondence with PGE in accordance with these milestone dates.

Date	Activity
May 5th, 2021	RFP issued to Bidders via email invitation
May 7th, 2021	Bidder to acknowledge receipt by emailing PGE
May 10th, 2021	Questions sent to PGE by 2pm, Pacific Time
May 11th, 2021	Depending on the volume of questions, PGE will strive to reply by 5pm, Pacific Time
May 17th, 2021	RFP responses due by 2:00 PM , Pacific Time
June 2nd, 2021	PGE to host virtual workshop for 2021 All-Source RFP Intervenor/Stakeholders that have signed the protective order to review and evaluate proposals, check references, and determine finalist candidates
June 15th, 2021	PGE to file a request for Commission approval to engage an Independent Evaluator
July, 2021	Contract Award after OPUC selection approval

Complete Proposal

Each Bidder's proposal will be evaluated on the completeness of the information provided. For full consideration, each proposal must respond to all mandatory requirements below or it may be deemed non-responsive.

Proposal Format

Please provide the following information completely and accurately and in the format provided. The purpose of this format is to allow PGE to evaluate the Bidder responses quickly and accurately and to help ensure the Bidders have responded fully to the requirements. Compliance to this format will enable us to locate the required information for verification and analysis.

List of Required Submittal

A complete proposal includes submittal of the documents listed in Submittal Parts 1 - 3, as identified below:

Submittal Part 1

Proposal Letter (Attachment B, return in PDF format)

Bidder must complete and sign the Proposal Response Letter included with this RFP. A copy of this letter must be submitted to the identified PGE Representative upon submitting your company's proposal.

Submittal Part 2

Proposal General Requirements (Attachment C, return in PDF format)

Bidder must complete the General Requirements form included with this RFP. A copy of the General Requirements must be submitted to the identified PGE Representative upon submitting your company's proposal. Project resource resumes/bios shall be included with the proposal as a separate attachment to the RFP response.

Submittal Part 3

Bidder must provide the following information in documents separate from the Proposal Letter and General Requirements.

1. Details regarding prior experience with RFP evaluations or energy industry consulting on topics relevant to RFPs or current industry challenges in the West and Pacific Northwest, such as transmission and incorporating long lead time resources in procurements
 - For prior RFP experience please include the following:
 - The resource types considered
 - The year the RFP was conducted
 - The client
 - The types of resource ownership structures considered
 - Any recommendations that you have made as part of an RFP or would potentially make as part of this RFP to increase benefits and/or reduce risk to ratepayers
 - Any recommendations that you have made as part of an RFP or would potentially make as part of this RFP to provide an opportunity for diverse ownership

-
- A description of experience overseeing final resource selection and how you have or would ensure that it is done fairly, transparently, and properly
 - A description of any experience incorporating long-lead time resources like pumped hydro into an RFP and/or any experience evaluating long-lead time resources in general
 - For relevant energy industry consulting experience include the following:
 - A description of the scope of work
 - Any public or shareable work products
 - The year the work was conducted
 - The client

2. Complete Price Proposal Sheet (Attachment E)

- The information requested in this section will be used by PGE and the OPUC to evaluate the reasonableness of the overall project quotation. The Proposer must estimate the major cost categories. As a minimum requirement, each Proposal shall contain the following:
 - A not to exceed fixed price for time and materials that accounts for all deliverables, analysis, and meeting participation referred to in section 2 parts B and C of this RFP. Assume that the number of bid variations PGE receives is not to exceed 100.
 - Additional fixed price per variation scored in excess of 100 bid variations
 - A separate line item that illustrates the cost per day as well as time and materials if the independent evaluator is required to attend a in person meeting. At this time meetings are planned to be held virtually.
- Bidder shall quote one of PGE's preferred payment terms below. Quoted payment terms and associated discounts will be considered in the commercial evaluation.
 - Virtual Card, NET 15
 - Net 45 Days, paid via ACH
- Additional detail is supplied in Attachment E

3. Terms and Conditions (Attachment D):

- Purchase agreement(s) that result from this RFP, if any, shall be governed by the Terms and Conditions accompanying this RFP, which is incorporated herein by this reference. If Bidder has already executed an Agreement which may serve to cover the goods or services contemplated by this RFP, Bidder should include a copy of their existing Agreement as part of the response.
- Bidders should state clearly if they fully agree with PGE's Terms and Conditions, and any revisions and/or exceptions proposed by Bidder to PGE's Terms and Conditions must be submitted in a redline markup of the PGE Terms and Conditions Word file and returned with the proposal.
- The extent and nature of any exceptions will be considered in the evaluation process and will be scored accordingly; as PGE expects aggressive timelines to expedite the work or materials associated with the RFP, Bidder's response to the Terms and

Conditions that indicates a potentially protracted negotiation, and thereby a negative impact on those expected timelines, will be negatively evaluated.

- Bidder's separate terms and conditions are not considered specific exceptions and will not be accepted. PGE's Terms and conditions may be negotiated, but EXCEPTIONS to the terms and conditions that accompany this Request for Proposal must be submitted with pricing information.
- Any final written agreement will govern all aspects of a relationship between Bidder and PGE and nothing herein shall be interpreted otherwise. No person has authority to bind PGE or interpret the rights of prospective Bidders either through this document or through any other oral or written statements not found within the final, written agreement.
- Any exceptions to the Terms and Conditions submitted by Bidder after the deadline for the RFP response will be rejected by PGE, and Bidder's continued insistence on such exceptions may be grounds for Bidder's disqualification.
- Bidder shall not substitute, nor use a preprinted reference to Bidder's general terms and conditions in lieu of PGE's Terms and Conditions. Any proposal received with such substitution shall be considered non-responsive and may be subject to rejection.

4. Bidder W9

- Bidder shall include a copy of its W9 for PGE's records.

Submission of Proposals

Email the required submittal documents and any relevant supplementary materials, to the PGE Representative identified above. Email should include the following subject: "**Confidential - PGE Independent Evaluator RFP; Due Date May 17th, 2021**". Proposal is due by no later than **2:00 PM**, Pacific Time on proposal due date. Please limit the size of the email message(s) to **10MB**. Multiple emails may be used for submission, if necessary. Confirmation of receipt will be provided via email.

Any proposal received after 2:00 P.M. PST on the bid due date shall be considered non-responsive, and may be excluded from award consideration. It is the Bidder's sole responsibility to ensure that delivery of the proposal is made before the specified due date and time. Delivery in any other mode, method or manner and to any other PGE location shall NOT constitute compliance with the RFP Submittal Requirements set forth herein. Failure to comply with this requirement shall result in the disqualification of Bidder's submittal for this RFP.

IF NO RECEIPT CONFIRMATION IS PROVIDED, BIDDER SHALL ASSUME THAT THEIR RESPONSE HAS NOT BEEN RECEIVED AND ENSURE PROPER RECEIPT PRIOR TO THE BID DUE DATE.

Alternate Proposals

Bidder must submit a proposal in full compliance with this RFP. Bidder may also submit an alternate proposal, or propose alternate features, which Bidder believes will meet the basic objectives of the service described in this RFP and which is cost-effective for PGE. Such alternate proposal or features must be documented separately so it will not be confused with

the base proposal. PGE will evaluate all alternate proposals and alternate features which it deems to be in its best interest.

SECTION 4: RFP EVALUATION

Bidder Selection Process

PGE will evaluate Bidder's proposal and other pertinent information to arrive at an award decision. Bidder's entire proposal will be reviewed for responsiveness to the RFP and for clarity and conciseness of the information presented. PGE will review the information presented to determine which proposal best meets PGE's criteria.

PGE will evaluate each Bidder's proposal for how it performs in the following categories:

- Proposal completeness & understanding of scope of work
- Bidder's experience- past performance with RFPs that included renewable and/or capacity resources and consulting work on topics relevant to the energy industry, especially in the West and Pacific Northwest
- Willingness to adhere to PGE's Terms and Conditions
- Competitive pricing

Additional detail is provided in Attachment G.

Validity of Proposal

Due to the duration of the evaluation, approval, and procurement processes at PGE, proposals are required to be valid for a minimum of one-hundred eighty (180) days following the deadline for submission of the proposal. A proposal may not be modified, withdrawn or canceled by the Bidder for a 180-day period following the deadline for submission of the proposal. The Bidder so agrees to this condition by submission of the proposal.

SECTION 5: ADDITIONAL REQUIREMENTS

PGE Supplier Code of Conduct

PGE expects all suppliers to adhere to the Supplier Code of Conduct. The PGE Supplier Code of Conduct can be found on the Portland General website at <https://www.portlandgeneral.com/suppliers>. Submission of a proposal in response to this request for proposal is taken as evidence that you have read and understand the document.

PGE Supplier Qualification Program (SQP)

To help strengthen Portland General Electric's relationship with our suppliers, manage insurance risk and ensure compliance with federally mandated laws and regulations, PGE has implemented a Supplier Qualification Program with ISNetworld. Based upon project risk profile, PGE may require awarded supplier to enroll at <https://www.isnetworld.com/> and comply with the PGE program requirements or agree to enroll and achieve compliance.

SECTION 6: GENERAL PROVISIONS

Disclaimer

This RFP shall not be construed in any manner to create an obligation on the part of PGE to enter into any contract, or serve as a basis for any claim whatsoever for reimbursement of costs for efforts expended. Furthermore, the scope of this RFP may be revised at the option of PGE at any time, or this RFP may be withdrawn or canceled by PGE at any time. PGE reserves the right to waive formalities and to add, modify, or delete items, requirements, terms or conditions prior to making the award whenever it is deemed to be in PGE's best interest. Notwithstanding any other provision of this RFP, Bidder is hereby specifically advised that this RFP is an informal solicitation of information only, and is not intended to be (nor is it to be construed as) engaging in formal competitive bidding pursuant to any statute, code, ordinance, rule, or regulation. Therefore, PGE shall not be obligated by any responses received by PGE or by any statements or representations, whether oral or written, that may be made by PGE, and PGE reserves the unqualified right to reject any or all proposals submitted hereunder for any reason whatsoever. PGE SHALL BE HELD FREE FROM ANY LIABILITY RESULTING FROM THE USE OR IMPLIED USE OF THE INFORMATION SUBMITTED IN ANY RESPONSE TO THIS RFP. Submission of a response shall constitute the Bidder's acknowledgment of this notice and the Bidder's acceptance of this disclaimer. PGE reserves the right to engage in parallel negotiations with some or all of the Bidders that respond to this RFP.

PGE reserves the right to verify all information provided by Bidder via direct contact with the Bidder prior clients and prior personnel, and the Bidder must agree to provide and release necessary authorizations, if required, for PGE to verify any of the Bidder's previous work and the Bidder's qualifications to perform this work. Misstatements of experience, qualifications and scope of prior work may be grounds for disqualification of the Bidder. PGE reserves the right to amend the schedule of RFP activities, as it deems necessary.

Eligibility and Transfer

This RFP is intended for the sole use of the recipient to which it is addressed and may contain confidential, personal and/or privileged information. Please notify the PGE Representative immediately if you are not the intended recipient of this RFP, and do not distribute, or take action relying on it. Only those individuals, companies, and corporations having received this RFP document directly from PGE are eligible to submit a response. The invited party may not transfer its right, nor transfer this RFP document, to any other individual, company, corporation, or subsidiary without prior notification to, and expressed consent of, PGE.

Qualification of Personnel

Subject to and in accordance with applicable law, Bidder shall have, prior to assigning an individual as Bidder personnel or a subcontractor and at Bidder's sole expense, appropriately verified, represent and warrant to PGE, that the personnel or subcontractors proposed in response to this RFP, performing the Services or providing the Deliverables, have the requisite qualifications, education, technical certifications and education degrees to perform the Services and provide the Deliverables in a competent, workmanlike manner in accordance with the applicable standards relevant to the Scope of Work described herein.

Reservation of Rights

This is a request for proposal and is in no way to be construed as a commitment to purchase goods or services on the part of PGE. Even though the Bidder's proposal may be rejected, PGE reserves the right to use any of the concepts or ideas contained therein without incurring any liability.

PGE reserves the right in its absolute discretion to select the successful Bidder for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or to not award any contract as a result of this RFP.

PGE reserves the absolute right to withdraw this RFP, by written notice, or to reject any or all proposals submitted in response to this RFP. PGE further reserves the right to accept proposals from one or more prospective Bidders. PGE shall not incur any liability whatsoever by reason of such withdrawal, rejection, or acceptance.

Return of Materials

At any time, PGE may, in its absolute discretion, require that any or all of its documentation and materials be returned or destroyed by Bidder.

Proposal is not Proprietary

All proposals and any other materials submitted in response to this RFP (including proposals, drawings and other data) will become the property of PGE and may be returned only at PGE's sole option and at the prospective Bidder's expense. PGE assumes no obligation regarding confidentiality of all or any portion of a proposal or any other material unless the prospective Bidder clearly designates their response as containing proprietary information by selecting the option "CONFIDENTIAL INFORMATION: Do not disclose." In such event, PGE's sole responsibility shall be limited to maintaining the confidentiality of the information to the same extent that it maintains its own proprietary information.

Errors and Omissions

Should the Bidder discover any material ambiguity, conflict, discrepancy, omission, or other error in this RFP, please immediately notify the PGE Representative in writing of such discovery with a request of modification or clarification of this RFP, and cite the specific paragraph in question.

PGE solely reserves the right to determine the materiality of such discovery or question. If, in the opinion of PGE, such discovery or question may cause an ambiguity in the bid responses, PGE shall issue an Addendum to amend the RFP, extend the RFP due date if necessary, and/or provide answers to questions received in writing or clarifications to remove the ambiguity. Otherwise, PGE reserves the right to negotiate minor exceptions, irregularities, or errors in the RFP and/or the bid responses.

Confidentiality of Response

Notwithstanding any labeling as confidential, all information submitted in Bidder's response shall not be considered confidential or proprietary and may be disclosed or used by PGE or its affiliates for any purpose and in any manner without compensation, liability or other obligation to Bidder, unless a nondisclosure agreement has been executed between PGE and Bidder with respect to such information. Bidder should not submit any information unless absolutely necessary to understand and evaluate its response. If such confidential information is submitted pursuant to an executed nondisclosure agreement, PGE and its affiliates shall not be liable for the disclosure of information that (i) is or becomes publicly available; (ii) was

known to PGE or an affiliate at the time of its receipt; (iii) is disclosed inadvertently despite the exercise of the same degree of care as PGE uses to protect its own similar information; (iv) is independently developed by PGE or an affiliate; (v) is required to be disclosed as part of a regulatory proceeding; or (v) is obtained from a third party that has a right to disclose the information.

Ownership of Work Product

All documentation and work product submitted by Bidder in its response shall become the exclusive property of PGE, including without limitation all ideas, concepts, models, plans, designs, drawings, projections, specifications, computer programs and other items developed or compiled by Bidder specifically for this RFP, except only as may be specified in an agreement executed between PGE and Bidder.

Competitive Bidding

PGE encourages free and open competition among Bidders; therefore, each Bidder must guarantee that its quoted prices have been established without collusion with other Bidders or informed parties and without any effort to preclude PGE or its affiliates from obtaining the lowest possible competitive price. Whenever possible, specifications, bid invitations and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the needs of PGE and the accomplishment of a sound economical operation. At no time shall PGE be considered to be under any obligation or commitment to purchase any products or services from any Bidder to the RFP until after a contract has been signed. The award, if any, will be made to the Bidder whose overall proposal is determined to be the most advantageous to PGE. Notwithstanding the foregoing, this RFP is only an informal solicitation of data and information, and is not intended nor should it be construed as formal competitive bidding pursuant to any statute, code, ordinance, rule or regulation.

Code of Ethics

Upon receipt of the RFP through the final selection by PGE, the Bidder shall not engage in any conduct that could be seen as improperly influencing PGE's decision. The exchange or offering of any money, gift item, personal service or unusual hospitality by either party is expressly prohibited. This prohibition is equally applicable to either party's officers, employees, agents or immediate family members. Failure to comply with this policy will disqualify a Bidder from participation.

Non-Discrimination

Neither PGE nor Bidder shall discriminate in the provision of the proposed products or services in connection with this RFP on the basis of age, race, color, national origin, religion, sex, disability, qualified disabled veteran status, qualified veteran of the Vietnam era status, or any other category protected by law.

Preparation & Presentation Costs

Bidder shall be solely responsible for all costs and expenses incurred in the preparation and presentation of its response to this RFP, including without limitation market research and attendance at meetings.

Bidder's Responses

PGE reserve the right, in its absolute discretion, to accept or reject any or all responses to this RFP, to waive formalities, and to make exceptions to the specifications and requirements

contained in this RFP. No Bidder shall have an automatic right to submit revisions to its original response, and PGE, in its absolute discretion, may accept or reject any such revision.

Prime Contractor and Subcontractors

PGE reserves the right to accept or reject any subcontractor the Bidder may include in its proposal. The prime contractor and all subcontractors and related services must be clearly identified in the Bidder proposal.

Publicity

Any publicity, announcement or other disclosure regarding this RFP, Bidder's response or subsequent communications with PGE may only be made with the prior written authorization of an officer of PGE, which PGE may withhold in its absolute discretion. Neither this RFP nor any subsequent contract shall confer on any Bidder the right to use the name "Portland General" or "PGE" (either alone or in conjunction with or as part of another word or name), or any other name or designs of any of its subsidiary or affiliated companies (a) in any advertising, publicity or other disclosures, (b) to express or imply any endorsement of Bidder's products or services, or (c) for any other purpose or in any other manner.

Compliance with Applicable Laws

Submission of a response to this RFP shall constitute Bidder's acknowledgment and acceptance of all of its provisions, including a warranty that such response and any contract negotiations will comply with all laws as well as judgments, orders, decrees or consent agreements with any governmental agency or court relating to the manufacture, promotion, advertising, marketing, sale or pricing of any product or service to be furnished to PGE or its affiliates.

Non-Disclosure

In order to respond to this RFP, a Bidder must agree to the following provision.

Unless PGE otherwise consents, Bidder shall not, for a period of two (2) years after the date of the issuance of any Purchase Agreement based on this RFP, disclose to or use for the benefit of any third party, any information provided by PGE as a part of this RFP process.

A similar provision will be included in the successful Bidder's Purchase Agreement that restricts Bidder's disclosure of information about any Purchase Agreement issued as a result of this RFP.

Further, Bidder shall not include in any proposal submitted hereunder, or in any documentation submitted as a part of any such proposal, proprietary or confidential written data without the prior written consent of the PGE Representative unless specifically required by the Purchase Agreement.

A similar restriction will be included in the Purchase Agreement that prohibits including proprietary or confidential information as part of a deliverable without PGE's consent. If PGE agrees to accept proprietary or confidential information, then PGE will agree to make reasonable efforts, to the extent allowed by law, to keep in confidence and not to disclose to any third party, without the prior written consent of Bidder, the confidential or proprietary information of Bidder provided that any drawing or other document that contains this proprietary or confidential information is clearly marked by Bidder to indicate that the information is confidential or proprietary. Such information shall be protected by the same industrial security procedures as are used by PGE in protecting its own trade secrets and confidential data and shall be examined by and disclosed to only such persons as may require

such information in the course of their duties. PGE's obligation of nondisclosure shall terminate two (2) years after the date of the Purchase Agreement.

Notwithstanding the other provision of the Purchase Agreement, or any confidential or proprietary markings placed on documents by Bidder, PGE shall not be prohibited from disclosing to third parties information which is required to perform the services provided hereunder, enhance service reliability or add to, or maintain the services acquired by PGE pursuant to this Purchase Agreement, so long as PGE secures the agreement of the third party in writing to use the information for only such purposes and to otherwise restrict disclosure as provided above.

The obligation to maintain the confidentiality of a party's confidential or proprietary information, pursuant to this Section, "NON-DISCLOSURE," shall not apply to information which was: (i) in the public domain prior to the party's receipt of the data or has subsequently become part of the public domain, (ii) in the party's possession prior to its receipt of the data and was not acquired directly or indirectly from the other party, or (iii) received from a third party which the party reasonably believes has no obligation of confidentiality.

Attachment A: Competitive Bidding Rules

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 600

In the Matter of Rulemaking Regarding
Allowances for Diverse Ownership of
Renewable Energy Resources.

ORDER

DISPOSITION: NEW RULES ADOPTED

In this order we adopt competitive bidding rules that allow for diverse ownership of resources, consistent with Section 6 of 2016 Senate Bill 1547.¹ These rules are the culmination of two years of engagement between Staff, stakeholders and this Commission, building on decades of direct experience with competitive bidding guidelines in Oregon.

I. INTRODUCTION

Senate Bill 1547 Section 6 amends ORS 469A.075, requiring that the Commission to adopt rules “[p]roviding for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity.”² In Order No. 16-188, we opened this permanent rulemaking docket to implement this requirement.

In May 2016, Staff began efforts to work informally with stakeholders to further define the scope and purpose of the rulemaking, and to develop proposed rules. Staff held seven workshops and sponsored several rounds of informal comments. On January 18, 2018, Staff presented its proposed rules at a public meeting, and we adopted the recommendation to proceed to formal rulemaking and to provide policy guidance. We held a workshop on March 6, 2018, to consider policy questions, and on March 19, 2018, we provided guidance in Order No. 18-087.

On April 18, 2018, we filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State, and we provided

¹ Codified in Oregon Laws 2016, Chapter 28, Section 6.

² Senate Bill 1547 (2016) at Section 6.

notice to all interested persons on the service lists established under OAR 860-001-0030(1)(b) and to legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the May 2018 Oregon Bulletin, setting a hearing date of May 16, 2018.

We held a rulemaking hearing on May 16, 2018. Prior to the hearing, written comments were filed by the Joint Utilities (PacifiCorp, dba Pacific Power; Idaho Power Company; and Portland General Electric Company (PGE)). At the hearing, Staff, PGE, PacifiCorp, the Alliance of Western Energy Consumers (AWEC), the Northwest and Intermountain Power Producers Coalition (NIPPC), and Idaho Power offered comments on the proposed rules. Post-hearing written comments were filed by NIPPC, the Joint Utilities, Staff, AWEC, and Renewable Northwest. We closed the comment period on June 15, 2018.

We discussed the proposed rules at our Regular Public Meeting on August 28, 2018, and adopted the rules attached as Appendix A and made the decisions reflected in this order during that meeting.

II. DISCUSSION

Below, we address significant issues we considered in adopting these rules. In this discussion, we summarize comments from stakeholders and electric companies, as well as Staff. We provide our decision and where appropriate clarify some of the implications of the adopted rules.

A. Applicability of the Rules and Waivers – OAR 860-089-0010

a. *Comments*

The Joint Utilities seek two changes to the proposed rules regarding resources acquired outside the competitive bidding process. First, the proposed rules require an electric company to file a waiver if it intends to acquire a resource outside of the rules. According to the rules, that waiver request is to be made at the time of the resource acquisition, which is defined as:

[A] process for the purpose of acquiring energy, capacity or storage resources that starts with an electric company's:

- (a) Circulation of a final or draft RFP to third parties; or
- (b) Communication of an offer or receipt of an offer in a two-party negotiation.

The Joint Utilities argue that a resource acquisition may be abandoned after studies or negotiations, and so the filing of a waiver could be a waste of resources if a utility is in an exploration phase.

Second, the Joint Utilities also request that the proposed rules be amended to remove language that preclude acknowledgement of a resource if it is acquired before a waiver is filed. Staff opposes this change.

b. Resolution

We modify the resource acquisition definition to apply to the communication of a “final” offer, or receipt of a “final” offer. Although the resource acquisition language proposed in rules does not trigger a waiver in the case of study or negotiation, but rather only upon the circulation of an RFP or the communication of an offer, we acknowledge that general offers may be made very early in the resource acquisition process. Accordingly, we make changes to reflect the reality that offers made early in a negotiation are not analogous to final offers. This language is intended to apply our competitive bidding rules before a utility is contractually bound to a resource, but should also leave utilities with ample flexibility to engage in negotiations without triggering the rules.

We decline to remove rule language that precludes acknowledgement of a resource if it is acquired before a waiver is filed. We believe that an RFP conducted consistent with the rules is more likely to result in a low-cost, low-risk resource acquisition than an RFP conducted outside of the rules. Despite this presumption, these rules preserve the province of utility management to make its own resource decisions, including a decision to secure a resource outside our competitive bidding rules, with or without a waiver. If a utility secures a resource outside the rules, we see little value to an after-the-fact Commission acknowledgment. In this way, our clear preference for an RFP conducted within the confines of the rules is expressed, but utility management judgement is preserved. A utility that fails to act within these rules, or fails to seek or secure an applicable waiver, will need to justify that decision during a subsequent rate proceeding.

B. Express Purpose of Rules – OAR 860-089-0015

a. Comments

The Joint Utilities want to add the minimization of risks to the minimization of energy costs in the purpose statement of the rules. Staff opposes this change.

b. Resolution

We accept the proposal of the Joint Utilities to include risk in the purpose statement in the rules. It is our longstanding policy to analyze resource acquisition in the context of both cost and risk. The inclusion of risk in the purpose statement will align these rules with that policy. For simplicity, we also incorporate the policy statement with the applicability statement for these rules in OAR 860-089-0010.

C. Definition of Emergency – OAR 860-089-0100(3)(a)

a. Comments

The Joint Utilities propose to expand language that defines an “emergency” for purposes of allowing the acquisition outside the competitive bidding process under certain circumstances. Staff opposes this change arguing the Joint Utilities’ definition is too expansive.

b. Resolution

We make no changes to the proposed definition of emergency, which includes the terms “catastrophe” and “unusual and unexpected.” We decline the Joint Utilities’ proposal to modify the definition to expand this exception to situations beyond what we believe to be a common understanding of an “emergency.”

D. Impartiality of the IE - OAR 860-089-0200

a. Comments

The Joint Utilities seek to add language to the definition of an independent evaluator (IE), which would require IE independence from utilities and bidders.

b. Resolution

We adopt the change supported by the Joint Utilities. We expect that the IE will be independent from utilities and bidders, but clarify that “independence” should not be defined so narrowly as to prevent the hiring of an IE that has previously contracted with a potential or anticipated bidder in an unrelated matter.

E. Size and Applicability Threshold – OAR 860-089-0100(1)(a)*a. Comments*

The Joint Utilities oppose the proposal to lower the applicability standard for competitive bidding requirements from the current 100 megawatt (MW) threshold to 50 MW, both for general resources and for storage resources. They oppose the definition for several reasons, including cost and inconsistency with PURPA's 80 MW threshold. The Joint Utilities suggest a retaining the 100 MW threshold, including for storage resources. In the alternative, the Joint Utilities suggest a 60 MW threshold for storage resources.

b. Resolution:

We adopt an applicability threshold of 80 MW, which is higher than Staff's proposed 50 MW threshold but lower than the Joint Utilities threshold proposal of 100 MW. We find that this 80 MW level aligns with the applicability of PURPA requirements for utilities, and provides a natural dividing line between large projects that are the intended focus of these rules, and smaller projects that are implicated by a wide variety of Commission rules and procedures including PURPA enforcement and community solar legislation.

We also note that the adopted rules are applicable to aggregate acquisitions that are equal to or greater than 80 MW, not just single resources of 80 MW or greater. This language is intended to capture acquisitions that have a large system impact, but are accomplished on a smaller individual or distributed scale. As utilities and the Commission move towards more innovative and distributed solutions to system needs, we expect this language to apply competitive bidding requirements to those distributed solutions where they reach an 80 MW aggregate target.

We also eliminate previous references to a separate storage threshold. We find that the main justification for a separate, lower storage applicability threshold is not justified. A separate storage threshold has been supported by the argument that storage may be more costly on a per MW or megawatt-hour (MWh) basis than other resources. This justification has been overtaken by the rapidly falling costs of storage resources. We expect that storage resources will become increasingly competitive in future RFPs.

We recognize, however, that since storage represents an important emerging resource on which we and the state have placed special emphasis, we may wish to require in the future that a smaller storage resource acquisition should be subject to these competitive bidding requirements. Accordingly, we have included language in these rules that allows

the Commission to apply competitive bidding rules at our discretion, regardless of resource acquisition size, on a case-by-case basis.

Finally, to clarify the applicability of these rules, we modify language in proposed OAR 860-089-0100(1) to state that an electric company “must comply with the rules in this division when it seeks to acquire generating or storage resources or to contract for energy or capacity” if any of the identified criteria apply.

F. Applicability to Undefined Resource Acquisitions – OAR 860-089-0100(1)(b)

a. Comments

The Joint Utilities are concerned that the requirement that an all-source, undefined capacity RFP will limit some of the activities that utilities may engage in, including requests for interest (RFIs) and preliminary explorations of options. They propose language that would allow all such activity up until the time that it becomes “reasonably likely that a transaction” will emerge.

b. Resolution

We make no changes to this part of the rule. We find that the changes we have made to the resource acquisition definition, which include references to final offers, adequately addresses the concerns expressed by the Joint Utilities.

G. Applicability to Transmission Acquisitions – OAR 860-089-0100(3)(d)

a. Comments

The proposed rules clarify that transmission assets are not subject to the rules. The Joint Utilities want to ensure that they also do not apply to transmission rights.

b. Resolution

We revise the rules to clarify that the competitive bidding requirements do not generally apply where a utility is seeking to exclusively acquire transmission assets or rights.

**H. IE Requirement in the Case of No Possibility of Utility Ownership –
OAR 860-089-0200**

a. Comments

One of the central points of disagreement in Staff's proposed rules is the language in the applicability section allowing the Commission to drop the IE requirement if utility ownership of resources is not contemplated in the RFP. Joint Utilities propose to eliminate this language, and instead allow a case-by-case exemption. NIPPC and Staff argue in favor of the rule. NIPPC argues that the provision should be more explicitly tied to the ownership structure proposed.

b. Resolution

The adopted rules eliminate any separate treatment between RFPs that contemplate utility ownership of resources and those that do not. While we recognize the position of Staff and some stakeholders arguing that competitive bidding rules largely serve to protect against the well-recognized utility bias in favor of ownership of resources, we find that the application of the rules and the involvement of the IE will have intrinsic value in any RFP circumstance. As we have previously held:

We conclude that an IE should be used for all RFPs. While an IE's role is not as involved for an RFP without ownership options of Affiliate Bidding, we find that using an IE has value.³

Our decision is bolstered by the IE cost data provided by Staff in this proceeding. In the context of a large resource investment of 80 MW or more, an average cost of \$254,000-\$329,000 is a meaningful amount, but justified by the fact the IE involvement is likely to lead to more competitive RFPs, and lower-cost, lower-risk resource decisions.⁴ While impossible to quantify, we anticipate that the costs of the IE over the long term will more than be outweighed by the savings to ratepayers that are likely to result from higher-quality, more competitive RFP processes. Should IE costs increase, or should resource costs or our rule applicability threshold change to such a degree that IE costs become a more significant cost as compared to anticipated resource costs, we will re-evaluate this decision.

³ See Docket UM 1182, *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation Regarding Competitive Bidding*, Order No. 06-446 at 6.

⁴ Staff's Initial Comments at 2, June 11 2018.

Finally, we note that the value in a proceeding created by IE is dependent on the level of engagement that the Commission and Commission Staff provide to the IE. Staff brings a detailed and extensive understanding of RFP and resource selection standards to the process, while the IE brings detailed technical, financial, and transactional knowledge and experience. In working together, we are confident that the engagement of an IE with active management from Staff will help lead to better procurements in partnership with utilities.

I. Design of Requests for Proposals – OAR 860-089-0250

a. Comments

The proposed rules require that the scoring and methodologies used in the RFP be consistent with those from the IRP. Where they are not, the utility is required to file alternative scoring prior to the filing of the RFP and support the change from the IRP. The Joint Utilities oppose a separate filing, and suggest that if a utility chooses to change its scoring, the Commission may impose a longer review time frame.

b. Resolution

We retain the requirement for a separate filing when a utility chooses to deviate from the scoring methodology identified in the acknowledged IRP. Clearly expressing the system needs associated with a resource acquisition is an important objective reflected in these rules. Presenting those needs in detail and the scoring associated with an acquisition in the IRP will allow notice to prospective bidders and the opportunity for stakeholders to understand and, where necessary, for utilities and the Commission to improve the acquisition process. If a utility chooses to deviate from the scoring proposed in the RFP, the same sort of notice and review should be available to all stakeholders.

Additionally, we add language that clarifies how the RFP should be aligned with the IRP. Specifically, the RFP should be aligned with the need identified in the IRP to be addressed by the resource, rather than the specific resource alone.

J. QF Limitations - OAR 860-089-0250

a. Comments

The Joint Utilities seek new language in the rules that would act to limit qualifying facility (QF) participation in RFPs to those that have not yet executed a power purchase agreement, arguing that allowing this would upset resource planning assumptions.

b. Resolution

We decline to adopt the Joint Utilities' proposal. Where final offers from active or potential QFs are lower than avoided cost prices, the utility consumer will experience a net savings associated with the selection of a QF resource that has been bid into an RFP at a lower cost than currently or previously available or contracted avoided cost prices. If QF resources acquired in this way result in planning challenges and the need for additional resources, the utility would be justified in expanding the RFP to include those needed resources.

K. Review Period – OAR 860-089-0250(6)

a. Comments

The proposed rules allow for a possible 100-day RFP review period, but note that we may set a shorter period where appropriate. Joint Utilities propose to set the review at 60 days, reverting to current guidelines.

b. Resolution

We adopt an 80-day review period. The rules provide for a possible, but not required 100-day review period, and clearly contemplate that a utility may seek a shorter review period for good cause shown. A central objective of these rules is clarity, transparency, and notice for stakeholders in expression by the utility of system needs in an RFP. If a utility has clearly identified system needs, described scoring, methodologies, and other relevant details in advance of the RFP proceeding through the IRP process, as these rules encourage and contemplate, then good cause for a shorter review period could be justified upon request. However, we find that an 80-day review period is an appropriate starting point, and that 100 days will likely be excessive in most cases.

L. Resource Ownership – OAR 860-089-0300

a. Comments

The proposed rules wall off utility personnel who work to develop the RFP from those who work to develop the response to the RFP. Initially, the Joint Utilities sought to loosen this restriction, and only wall off personnel who *significantly* participate in the development of the RFP. Subsequently, the Joint Utilities proposed a wholesale revision to the rule that would require utilities to create a benchmark or affiliate team. The Joint

Utilities' proposal would prevent members of this team from participating in scoring of bids. The Joint Utilities' proposal would also allow any supporter of a team to provide support to any other team.

b. Resolution

We find that the Joint Utilities' proposal is overly complicated and would prove difficult to effectively enforce. In a competitive solicitation, it is not appropriate for those with internal perspective in the development of an RFP to participate in the development of a response to that RFP. However, we understand the Joint Utilities' concern that limited shared resources may necessitate some limited cross-over of roles. Accordingly, we note here that a utility may demonstrate that this provision should be waived for good cause shown.

M. Third Party Access to Benchmark Bid Resources – OAR 860-089-0300

a. Comments

The proposed rules encourage the opening of utility owned assets to third parties. The Joint Utilities seek to restrict this language to ensure that all utility assets that may be utilized by third parties are fully compensated by the third parties. The Joint Utilities also seek to limit the encouragement to only those assets that are already included in customer rates, which effectively exempts all utility assets that the utility intends to include in rates, but has not yet done so.

NIPPC argues for expansion of Staff's proposal and to make any utility decision not to offer important benchmark resources de-facto imprudent. NIPPC references recent RFPs in which transmission capacity constraints have effectively prevented or limited bidders and the number of viable bids as evidence of the need for this provision.

b. Resolution

We eliminate Staff's encouragement requirement in rule and instead require utilities to provide us with information that may be utilized in a subsequent prudence determination. The ultimate goal of a competitive bidding process is the identification of the lowest cost, lowest risk resource. More bids and more ownership options provide the opportunity to identify the lowest cost, lowest risk resource. We believe that the use of utility owned resources by third parties to develop additional or better, more efficient bids will help facilitate the objective of more and better proposal options. Though we eliminate the

encouragement provision in rule, we re-emphasize here that utilities are encouraged to offer elements of benchmark bids to third-party bidders.

The adopted rules do not require that a utility offer benchmark or utility owned resources to third-party bidders as part of the RFP. The decision whether or not to offer elements of a benchmark or utility owned resource to other parties in an RFP remains with utility management. The adopted rule requires that a filed analysis of the decision be provided to the Commission at the time of RFP development, as well in a subsequent prudence determination. We understand that there may be practical impediments to offering elements in certain circumstances. The required explanation will provide an early opportunity for the utility to begin to demonstrate that its decision not to offer elements is reasonable and prudent.

We add clarification in the rules to ensure that adequate protection is given to utilities offering resource elements. Full compensation will be provided for any utility resource element used by a third party bidder. This portion of the rule will ensure that the utility and its shareholders are not economically disadvantaged in any way when resource elements are offered to third parties.

Finally, we clarify that separate utility affiliates need not offer any resource elements to their other bidders nor explain their decision not to offer such elements. A separate affiliate, like a private third party bidding on an RFP, operates in a higher-risk highly competitive environment and it should not be obligated to provide access to its proprietary assets to other competitive entities.

N. Benchmark Resource Score – OAR 860-089-0350

a. Comments

This section in the proposed rules contains numerous references to the submission of benchmark score information to the IE and “Commission Staff.” The Joint Utilities recommend eliminating references to Commission Staff to reflect current practice.

b. Resolution

We eliminate references to Commission Staff, and replace them with the Commission, which is inclusive of Commission Staff. This change does not limit Staff’s access to information in any way. Where access to information is referenced, we make clear in this order that the term “Commission” includes its Staff.

O. Bid Scoring – OAR 860-089-0400*a. Comments*

The Joint Utilities raise four points with regard to rules governing bid scoring. First, the Joint Utilities argue that the requirement that bids be subject to self-scoring may not be practical in some circumstances and recommend language to provide for more utility deviation from this standard. Second, the Joint Utilities object to the requirement that non-price scoring factors that are effectively minimum thresholds or standards be converted into such. Third, the Joint Utilities recommend we eliminate references to “generic fill” in the rules. Finally, the Joint Utilities do not want production cost and risk models made available to Commission Staff or any parties.

b. Resolution

We make only one substantive change to the proposed rules and remove the language referencing generic fill because it is an illustrative example. We clarify, however, that the provisions of OAR 860-089-0400(5) are specifically designed to address such issues as the use of generic fill.

In the context of an RFP, it is important to understand when utility assumptions embedded in generic fill, or other IRP values, become the determinative or dominant factor in a resource decision. For example, when a resource is lowest cost and lowest risk in the near term, but because of a short term length it is not selected due to the assumptions associated with “generic fill,” that decision should be subject to greater scrutiny. Importantly, the rule does not eliminate the possibility of a resource decision heavily influenced by generic fill, but it does provide for a sensitivity analysis necessary to effectively examine such a decision. In this way, utility management discretion to rely on generic fill as an important factor in bid scoring is retained.

We make no other significant changes to Staff’s bid scoring proposal. Effectively, Staff’s language allows utilities two options when reviewing non-price attributes: convert the attribute into a characteristic that can be objectively scored, or make the attribute a minimum threshold.

In the interests of clarity to bidders and the Commission, if the utility has identified a minimum standard, the RFP should clearly designate that standard. The rules require that minimum standards are not to be buried in complicated scoring criteria, but are spelled out clearly in the RFP. Thus, bidders who cannot meet the standard do not waste time and resources attempting to respond, and utilities and the IE are not forced to assess

proposals with no chance of selection due to the failure to achieve a minimum standard that was not clearly identified in the RFP.

P. Independent Evaluator Duties – OAR 860-089-0450

a. Comments

The Joint Utilities raise three issues with proposed language governing an IE's duties. First, they argue that the proposed rules lack symmetry in the evaluation of utility and non-utility owned resources in that they require IE analysis of certain utility owned issues and factors but leave analysis of the same factors optional for non-utility owned assets. Second, the Joint Utilities object to the proposal to require the IE and the utility to report scores to the Commission Staff before reconciliation, arguing it is inconsistent with current practice. Third, the Joint Parties oppose the requirement that the IE, as part of the IE report, provide a review of the process and finding on whether or not it allowed the "opportunity for diverse ownership." The Joint Utilities object to this provision, arguing that it is too nebulous and should be stricken.

b. Resolution

We adopt the Joint Utilities suggestion to eliminate a reporting requirement on the "opportunity for diverse ownership." Although we agree with Staff that this is an essential question, we leave it to our Staff or ourselves, on a case-by-case basis, to ask this question of the IE as part of the reporting process.

We decline to adopt the Joint Utilities suggestion to change the IE review of issues related to ownership. "May" in this part of the rule refers to the fact that many of the attributes to be examined are not applicable to common third-party owned contract structures, such as PPAs. For example, construction cost overruns are not significant issues in the context of a PPA. In a PPA, an owner agrees to deliver energy or capacity at a specific quantity, time, and price. Whether or not the project is completed on budget is not a risk borne by the ratepayer under such a contract. If on the other hand, the PPA agreement contained provisions that added some risk to ratepayers for construction cost overruns, then it would be appropriate for the IE to evaluate that aspect of the proposal. Accordingly, the "may" language in the rule is appropriately flexible.

Finally, we add language to the rule consistent with our revision to OAR 860-089-0300 on resource ownership, which will help us build a record for prudence review. This language requires the IE to review the utility rationale for offering or declining to offer benchmark elements to third parties as part of the reporting requirement.

Q. Final Shortlist Acknowledgement – OAR 860-089-0500*a. Comments*

The Joint Utilities seek two changes to rules governing the Commission’s review of the final short-list. First, they proposed language to require a Commission decision within 60 days, rather than the proposed “generally” within 60 days. Second, they oppose the requirement that a utility file a non-confidential filing of average bid score and average price of a resource on the final shortlist. The Joint Utilities contend this requirement would “chill bidder participation and reduce competition.”

b. Resolution

We decline to remove the word “generally” from the final shortlist acknowledgement rule. We find that in unusual circumstances where a shortlist needs special examination due to complicated issues, we may need more than 60 days to rule on acknowledgement. Additionally, we find that the publication of average bid score information and pricing will not chill participation. The entities representing bidders have not objected to this provision, and it eliminates reference to a particular score by utilizing an average. However, we recognize that there may be circumstances where it is appropriate to waive this requirement; such as where a shortlist is unusually limited.

R. Protected Information – OAR 860-089-0550*a. Comments*

The Joint Utilities seek to eliminate access to non-bidding parties, even under protective order – because non-bidding parties may disclose information that would distort markets and damage competition.

b. Resolution

At this time, absent any specific demonstration of examples of protected information disclosure, we will not automatically eliminate access to protected information to a class of parties. We trust in the professional standards of the energy bar in Oregon, and expect all parties, individuals, and organizations trusted with protected information to strictly adhere to the letter and spirit of our protective orders. It is our conclusion that in practice, this has occurred and will continue to occur. However, this trust can and will be revoked if professional standards break down and information is disclosed improperly.

S. Applicability of Rules*a. Comments*

The Joint Utilities request that any adopted rules are applied prospectively, and not to procurements currently underway.

b. Resolution

We agree with the Joint Utilities. The adopted rules will apply only to RFPs filed after the rules become effective when filed with the Secretary of State.

T. NIPPC due diligence language*a. Comments*

Throughout this rulemaking, NIPPC has argued for the inclusion of language in this rule that would require a separate examination of the prospective of a benchmark or utility owned bid to acquire private financing. NIPPC contends that private financing entities impose higher standards and test project assumptions with more rigor than is imposed by the utility on its own bids. According to NIPPC this type of review, conducted by an independent financial analysis firm, would yield important information as part of shortlist review.

The Joint Utilities oppose inclusion of this language. First, they argue that the language developed by NIPPC is complicated, and that it is not clear that the analysis would yield any useful information. Second, they contend that the language introduces bias against utility owned resource into the rules, in that it does not require analysis for non-benchmark proposals.

Staff found enough potential value from the language to make it part of initial draft rules submitted to us. We ordered Staff to remove it, because we decided that the language lacked clarity, and we invited proponents to make the case for the language and propose improvements.

b. Resolution

We decline to adopt NIPPC's revised due diligence proposal. We appreciate the way NIPPC has responded to our request, working to improve their proposal. NIPPC's

revised language submitted in comments presents a much clearer provision. Ultimately, however, we are not persuaded that the value of this exercise will justify its cost.


We determine that the adopted rule, which in many ways adds transparency and clarity to the process, will provide a more level playing field to third-party bidders, and that the additional language proposed by NIPPC may be obviated by the many provisions in adopted rules that strengthen the fairness of treatment between third-party owned proposals and utility owned proposals.

ORDER


IT IS ORDERED that:

1. OAR 860-089-0010 through 860-089-0550 are adopted as set forth in Appendix A to this order.
2. The new rules will be effective upon filing with the Secretary of State.

Made, entered, and effective AUG 30 2018 .



Megan W. Decker
 Chair



Stephen M. Bloom
 Commissioner



Letha Tawney
 Commissioner



A person may petition the Commission for the amendment or repeal of a rule under ORS 184.390. A person may petition the Court of Appeals to determine the validity of a rule under ORS 183.400.

DIVISION 089
Resource Procurement for Electric Companies

860-089-0010**Applicability and Purpose of Division 089**

(1) The rules contained in this Division apply to electric companies, and are intended to provide an opportunity to minimize long-term energy costs and risks, complement the integrated resource planning (IRP) process, and establish a fair, objective, and transparent competitive bidding process, without unduly restricting electric companies from acquiring new resources and negotiating mutually beneficial terms.

(2) Upon request or its own motion, the Commission may waive any of the Division 089 rules for good cause shown. A request for waiver must be made in writing to the Commission prior to or concurrent with the initiation of a resource acquisition.

(a) In addition to the filing requirements in OAR Chapter 860, Division 001, an electric company filing a request for waiver under this section must serve the request on all parties to the electric company's most recent general rate case, request for proposal (RPF) filing, and IRP docket.

(b) If a request for waiver is filed by an electric company after it acquires a resource, granting, if any, of the waiver request does not result in or equate to the Commission's acknowledgment of the resource acquisition.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28. Sect. 6

Hist.: NEW

860-089-0020**Definitions**

For purposes of this Division, unless the context requires otherwise:

(1) "Benchmark resource" is a resource identified in an electric company's response to its own request for proposals.

(2) "Commission-acknowledged IRP" means an IRP for which the Commission has acknowledged the electric company's action item to procure the resource subject to the rules in this division.

(3) "Electric company" has the meaning given that term in ORS 757.600.

(4) "Independent evaluator" or "IE" refers to a person engaged by an electric company to oversee an RFP process under the rules in this division, and who also reports directly to the Commission during that process. The IE must be independent of the utility and bidders, and also be experienced and competent to perform all IE functions identified in these Division 089 rules.

(5) "Integrated resource plan" or "IRP" has the meaning given that term in OAR 860-027-0400.

(6) "IRP Update" means an update to an acknowledged IRP that is filed in accordance with OAR 860-027-0400(9).

(7) "Qualifying facility" refers to qualifying facilities under 16 USC § 796(17) and (18) (2012) and ORS 758.505(8).

(8) "Request for proposals" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals from prospective bidders.

(9) “Resource acquisition” refers to a process for the purpose of acquiring energy, capacity, or storage resources that starts with an electric company’s:

- (a) Circulation of a final or draft RFP to third parties; or
- (b) Communication of a final offer or receipt of a final offer in a two-party negotiation.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0100

Applicability of Competitive Bidding Requirements

(1) An electric company must comply with the rules in this division when it seeks to acquire generating or storage resources or to contract for energy or capacity if any of the following apply:

(a) The acquisition is of a resource or a contract for more than an aggregate of 80 megawatts and five years in length;

(b) The acquisition is of a resource or contract in which the electric company does not specify the size or duration of the resource or contract sought but may result in an acquisition described in subsection (1)(a) or (1)(c) of this rule;

(c) The acquisition is of multiple resources more than five years in length that in aggregate provide the electric company with more than an aggregate of 80 megawatts, and these resources:

(A) Are located on the same parcel of land, even if such parcel contains intervening railroad or public rights of way, or on two or more such parcels of land that are adjacent; and

(B) The generation equipment of any one of these resources is within five miles of the generation equipment of any other of these resources and construction of these resources is performed under the same contract or within two years of each other; or

(d) As directed by the Commission.

(2) An electric company may request that the Commission find that resources presumed to be subject to subsection (1)(c) of this rule should not be considered in the aggregate. The electric company may make this request before acquiring the resources. The electric company bears the burden of rebutting the presumption that the acquisition is subject to these rules by showing each resource is separate and distinct.

(3) An electric company is not required to comply with the competitive bidding requirements to acquire a resource otherwise subject to section (1) of this rule when:

(a) There is an emergency; meaning a human-caused or natural catastrophe resulting from an unusual and unexpected event, including but not limited to earthquake, flood, war, or a catastrophic energy plant failure, that requires an electric company to take immediate action;

(b) There is a time-limited opportunity to acquire a resource of unique value to the electric company’s customers;

(c) An alternative acquisition method was proposed by the electric company in the IRP and explicitly acknowledged by the Commission; or

(d) Seeking to exclusively acquire transmission assets or rights.

(4) Within 30 days of seeking to acquire a resource under section (3) of this rule, the electric company must file a report with the Commission explaining the relevant circumstances. The report must be served on all the parties to the electric company's most recent rate case, RFP, and IRP dockets.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28
Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6
Hist.: NEW

860-089-0200**Engaging an Independent Evaluator**

(1) Prior to issuing an RFP, an electric company must engage the services of an IE to oversee the competitive bidding process. The electric company must notify all parties to the electric company's most recent general rate case, RFP, and IRP dockets of its need for an IE, and solicit input from these parties and interested persons regarding potential IE candidates.

(2) The electric company must file a request for Commission approval to engage an IE. The Commission Staff will review the request and recommend an IE to the Commission based in part on the consideration of:

- (a) Input received from the electric company and interested, non-bidding parties;
- (b) Review of the degree to which the IE is independent of the electric company and potential bidders;
- (c) The degree to which the cost of the services to be provided is reasonable;
- (d) The experience and competence of the IE; and
- (e) The public interest.

(3) The electric company is responsible for engaging the services of the IE and is responsible for all fees and expenses associated with engaging the IE's services. The electric company may request recovery of fees and expenses associated with engaging an IE in customer rates.

(4) The electric company's contract with the IE must require that the IE fulfills its duties under these rules and that the IE confers as necessary with the Commission and Commission Staff on the IE's duties.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28
Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6
Hist.: NEW

860-089-0250**Design of Requests for Proposals**

(1) For each resource acquisition, the electric company must prepare a draft request for proposals for review and approval with the Commission, and provide copies of the draft to all parties to the IE selection docket. Prior to filing the draft RFP with the Commission, the electric company must consult with the IE in preparing the RFP and must conduct bidder and stakeholder workshops.

(2) The draft RFP must reflect any RFP elements, scoring methodology, and associated modeling described in the Commission-acknowledged IRP. The electric company's draft RFP must reference and adhere to the specific section of the IRP in which RFP design and scoring is described.

(a) Unless the electric company intends to use an RFP whose design, scoring methodology, and associated modeling process were included as part of the Commission-acknowledged IRP, the electric company must, prior to preparing a draft RFP, develop and file for approval in the electric company's IE selection docket, a proposal for scoring and any associated modeling.

(b) In preparing its proposal, the electric company must consider resource diversity (*e.g.* with respect to technology, fuel type, resource size, and resource duration).

(3) At a minimum, the draft RFP must include:

(a) Any minimum bidder requirements for credit and capability;

(b) Standard form contracts to be used in acquisition of resources;

(c) Bid evaluation and scoring criteria that are consistent with section (2) of this rule and with OAR 860-089-0400;

(d) Language to allow bidders to negotiate mutually agreeable final contract terms that are different from the standard form contracts;

(e) Description of how the electric company will share information about bid scores, including what information about the bid scores and bid ranking may be provided to bidders and when and how it will be provided;

(f) Bid evaluation and scoring criteria for selection of the initial shortlist of bidders and for selection of the final shortlist of bidders consistent with the requirements of OAR 860-089-0400.

(g) The alignment of the electric company's resource need addressed by the RFP with an identified need in an acknowledged IRP or subsequently identified need or change in circumstances with good cause shown; and

(h) The impact of any applicable multi-state regulation on RFP development, including the requirements imposed by other states for the RFP process; and

(4) An electric company may set a minimum resource size in the draft RFP, but it must allow qualifying facilities that exceed the eligibility cap for standard avoided cost pricing to participate as bidders.

(5) The Commission may approve the RFP with any conditions it deems necessary, upon a finding that the electric company has complied with the provisions of these rules and that the draft RFP will result in a fair and competitive bidding process.

(6) The Commission will generally issue a decision approving or disapproving the draft RFP within 80 days after the draft RFP is filed. An electric company may request an alternative review period when it files the draft RFP for approval including a request for expedited review upon a showing of good cause. Any person may request an extension of the review period of up to 30 days upon a showing of good cause.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0300

Resource Ownership

(1) An electric company may submit or allow its affiliates to submit bids in response to the electric company's request for proposals.

(a) Electric company and affiliate bids must be treated in the same manner as other bids.

(b) Any individual who participates in the development of the RFP or the evaluation or scoring of bids on behalf of the electric company may not participate in the preparation of an electric company or affiliate bid and must be screened from that process.

(2) An electric company may propose a benchmark bid in response to its RFP to provide a potential cost-based alternative for customers. The electric company may make elements of the

benchmark resource owned or secured by the electric company (*e.g.*, site, transmission rights, or fuel arrangements) available for use in third-party bids.

(3) If benchmark bid elements secured by the electric company are not made available to all bidders, it must provide analysis explaining that decision when seeking RFP acknowledgement and recovery of the costs of the resource in rates.

(a) If electric company resources are offered and made available for use in third-party bids, then the RFP may provide for appropriate compensation of electric company resources by third-party bidders.

(b) Separate electric company affiliate bids are not subject to this section of this rule, and no information on any decision to offer the use of separate electric company affiliate-owned elements to third-parties is required to be supplied to the Commission.

(4) An electric company may consider ownership transfers within an RFP solicitation.

(5) The electric company issuing the RFP must allow independent power producers to submit bids with and without an option to renew, and may not require that bids include an option for transferring ownership of the resource.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0350

Benchmark Resource Score

(1) Prior to the opening of bidding on an approved RFP, the electric company must file with the Commission and submit to the IE, for review and comment, a detailed score for any benchmark resource with supporting cost information, any transmission arrangements, and all other information necessary to score the benchmark resource. The electric company must apply the same assumptions and bid scoring and evaluation criteria to the benchmark bid that are used to score other bids.

(2) If, during the course of the RFP process, the Commission or the IE determines that it is appropriate to update any bids, the electric company must also make the equivalent update to the score of the benchmark resource.

(3) Before the IE provides the electric company an opportunity to score other bids, the electric company must file with the Commission and submit via a method that protects confidentiality the following information:

(a) The final benchmark resource score developed in consultation with the IE, and

(b) Cost information and other related information shared under this rule.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0400

Bid Scoring and Evaluation by Electric Company

(1) To help ensure that the electric company engages in a transparent bid-scoring process using objective scoring criteria and metrics, the electric company must provide all proposed and final scoring criteria and metrics in the draft and final RFPs filed with the Commission.

(2) The electric company must base the scoring of bids and selection of an initial shortlist on price and, as appropriate, non-price factors. Non-price factors must be converted to price factors where practicable. Unless otherwise directed by the Commission, the electric company must use the following approach to develop price and non-price scores:

(a) Price scores must be based on the prices submitted by bidders and calculated using units that are appropriate for the product sought and technologies anticipated to be employed in responsive bids using real-levelized or annuity methods. The IE may authorize adjustments to price scores on review of information submitted by bidders.

(b) Non-price scores must, when practicable, primarily relate to resource characteristics identified in the electric company's most recent acknowledged IRP Action Plan or IRP Update and may be based on conformance to standard form contracts. Non-price scoring criteria must be objective and reasonably subject to self-scoring analysis by bidders.

(c) Non-price score criteria that seek to identify minimum thresholds for a successful bid and that may readily be converted into minimum bidder requirements must be converted into minimum bidder requirements.

(d) Scoring criteria may not be based on renewal or ownership options, except insofar as these options affect costs, revenues, benefits or prices. Any criteria based on renewal or ownership options must be explained in sufficient detail in the draft RFP to allow for public comment and Commission review of the justification for the proposed criteria.

(4) The electric company may select an initial shortlist of bids after it has scored the bids and identified the bids with top scores. Following selection of an initial shortlist of bids, the electric company may select a final shortlist of bids.

(5) Unless an alternative method is approved by the Commission under OAR 860-089-0250(2)(a), selection of the final shortlist of bids must be based on bid scores and the results of modeling the effect of candidate resources on overall system costs and risks using modeling methods that are consistent with those used in the Commission-acknowledged IRP.

(a) The electric company must use a qualified and independent third-party expert to review site-specific critical performance factors for wind and solar resources on the initial shortlist before modeling the effects of such resources.

(b) In addition, the electric company must conduct, and consider the results in selecting a final short list, a sensitivity analysis of its bid rankings that demonstrates the degree to which the rankings are sensitive to:

(A) Changes in non-price scores; and

(B) Changes in assumptions used to compare bids or portfolios of bids, such as assumptions used to extend shorter bids for comparison with longer bids, or assumptions used to compare smaller bids or portfolios with larger ones.

(6) The electric company must provide the IE and Commission with full access to its production cost and risk models and sensitivity analyses. When the IE and Commission concur that appropriate protections for protected information are in place, the electric company must provide access to such information to non-bidding interested parties that request the information in the final short list acknowledgment proceeding.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect 6

Hist.: NEW

860-089-0450**Independent Evaluator Duties**

(1) The IE will oversee the competitive bidding process to ensure that it is conducted fairly, transparently, and properly.

(2) The IE must be available and responsive to the Commission throughout the process, and must provide the Commission with the IE's notes of all conversations and the full text of written communications between the IE and the electric company and any third-party that are related to the IE's execution of its duties.

(3) The IE must consult with the electric company on preparation of the draft RFP and submit its assessment of the final draft RFP to the Commission when the company files the final draft for approval.

(4) The IE must check whether the electric company's scoring of the bids and selection of the initial and final shortlists are reasonable.

(5) To determine if the electric company's selections for the initial and final shortlists are reasonable, when the RFP allows bidding by the issuing electric company or an affiliate of the company, or includes resource ownership options for the electric company, the IE must independently score the affiliate bids and bids with ownership characteristics or options, if any, and all or a sample of the remaining bids. When the IE does not score all bids, and a request for acknowledgment of a final shortlist is pending before the Commission, as provided in OAR 860-089-0500; a participant in the acknowledgment proceeding may request that the Commission direct the IE to score all remaining bids or a broader sample.

(6) The IE must also evaluate the unique risks and advantages associated with any company-owned resources (including but not limited to the electric company's benchmark), and may apply the same evaluation to third-party bids, including an evaluation of the following issues:

(a) Construction cost over-runs (considering contractual guarantees, cost and prudence of guarantees, remaining exposure to ratepayers for cost over-runs, and potential benefits of cost under-runs);

(b) Reasonableness of forced outage rates;

(c) Reasonableness of any proposal or absence of a proposal to offer electric company owned or benchmark resource elements (e.g., site, transmission rights or fuel arrangements) to third-party bidders as part of the draft and final RFP;

(d) End effect values;

(e) Environmental emissions costs;

(f) Reasonableness of operation and maintenance costs;

(g) Adequacy of capital additions costs;

(h) Reasonableness of performance assumptions for output, heat rate, and power curve; and

(i) Specificity of construction schedules or risk of construction delays.

(7) The IE must review the reasonableness of any score submitted by the electric company for a benchmark resource. Once the electric company and the IE have both scored and evaluated the competing bids and any benchmark resource, the IE and the electric company must file their scores with the Commission. The IE and electric company must compare results and attempt to reconcile and resolve any scoring differences. If the electric company and IE are unable to resolve scoring differences, the IE must explain the differences in its closing report to the Commission.

(8) The IE must review the electric company's sensitivity analysis of the bid rankings required under OAR 860-089-0400 and file a written assessment with the Commission prior to the electric company requesting acknowledgment of the final short list.

(9) The IE must file a closing report with the Commission after the electric company has selected its final shortlist. The IE's closing report must include an evaluation of the applicable competitive bidding processes in selecting the least-cost, least-risk acquisition of resources. The Commission may request that the IE include additional analysis in its closing report.

(10) Unless the Commission directs otherwise, the IE must participate in the final short list acknowledgment proceeding initiated by the electric company, and must continue to participate if, at the time of acknowledgment of the electric company's final shortlist, the Commission chooses to require IE involvement through final resource selection. In addition to making a decision on acknowledgment, the Commission, on its own motion or at the request of other parties, including bidders, may require expanded IE involvement. Upon such a request or its own motion, the Commission may require an IE to be involved in the competitive bidding process through final resource selection.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0500

Final Short List Acknowledgement and Result Publication

(1) For the purposes of this section, "acknowledgment" is a finding by the Commission that an electric company's final shortlist of bid responses appears reasonable at the time of acknowledgment and was determined in a manner consistent with the rules in this division.

(2) An electric company must request that the Commission acknowledge the electric company's final shortlist of bids before it may begin negotiations. Acknowledgment of a shortlist has the same legal force and effect as a Commission-acknowledged IRP in any future cost recovery proceeding.

(3) A request for acknowledgement must include, at a minimum, the IE's closing report, the electric company's final shortlist of responsive bids, all sensitivity analyses performed, and a discussion of the consistency between the final shortlist and the electric company's last-acknowledged IRP Action Plan or acknowledged IRP Update.

(4) The Commission will generally issue a decision on the request for acknowledgment within 60 days of receipt of the electric company's filing.

(5) The electric company must make a publicly available filing in the RFP docket providing the average bid score and the average price of a resource on its final shortlist.

(6) Following execution of all contracts resulting from an RFP or cancellation of the RFP, the electric company must provide information, on request, to a bidder about the bidder's bid score.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

860-089-0550**Protected Information**

The electric company may request a protective order be issued prior to making available protected information required to be shared under the rules in this Division. Protected information may include, but is not limited to, RFP-related and bidding information, such as a company's modeling, cost support for any benchmark resource and detailed bid scoring and evaluation results. Protected information may then be provided to the Commission, the IE, and non-bidding parties, as appropriate under the terms of the protective order. Information shared under the terms of a protective order issued under this rule may be used in RFP review and approval, final shortlist acknowledgement, and cost-recovery proceedings.

Stat. Auth.: ORS Ch. 183, 756, 758, 2016 OL Ch. 28

Stats. Implemented: ORS 756.040, 758.060, 2016 OL Ch. 28, Sect. 6

Hist.: NEW

Attachment B: Proposal Letter

RFP SUBMITTAL PART 1 - Proposal Letter

Request for Proposal #20210505LC

PROPOSAL LETTER

BIDDER NAME: _____

In response to the above titled Request for Proposal (RFP), Bidder hereby proposes to PGE to furnish required labor, supervision, equipment, materials, supplies and other resources and to perform required operations, duties and obligations to complete the services covered in the RFP.

Bidder agrees that this proposal constitutes a firm offer to PGE which cannot be withdrawn for one-hundred eighty (180) calendar days from the proposal due date.

The undersigned certifies that Bidder has carefully checked all representations and information contained in this proposal and other matters which may affect the proposed products/services or the cost thereof. The undersigned agrees on behalf of Bidder that PGE will not be responsible for any errors or omissions in this proposal or for any costs or expenses in preparing this proposal.

The undersigned certifies that he or she is authorized to bind Bidder to this proposal and to any contractual agreement resulting there from.

Bidder agrees to keep the RFP and the information contained therein confidential and will not use, disclose or reproduce such information for any purpose other than as required for the preparation of its proposal. Bidder also agrees not to use the Portland General Electric Company name or any of its subsidiary or affiliated companies in any advertising, publicity, endorsements, or other disclosures. Notwithstanding restricted legends to the contrary, no confidentiality obligation shall be imposed on PGE by this proposal or any materials supplied by Bidder, except only as may be specified in a nondisclosure agreement executed between PGE and Bidder.

Attached hereto and by this reference incorporated herein and made a part of this proposal are the required data and all other information which Bidder desires to be considered as part of this proposal. Bidder acknowledges that PGE, at its absolute option, may incorporate the RFP, the proposal and any other information submitted by Bidder into a resulting contract between the parties.

The undersigned also acknowledges receipt, understanding and full consideration by Bidder of the following addenda to the RFP. If no addenda have been received, enter "none".

Addenda Nos. _____.

By:

(Signature)

(Type or Print Name)

(Title)

(Date)

Attachment C: Proposal General Requirements

RFP SUBMITTAL PART 2 - PROPOSAL GENERAL REQUIREMENTS

Request for Proposal #20210505LC

Bidder shall provide the following details and include with RFP Submittal Part 1.

1.0 Company information:

#	Bidder Information:	Response:
1.1	Exact legal name of the firm	
1.2	Legal entity under which business is conducted	
1.3	Bidder's mailing address	
1.4	Federal Tax Identification Number	
1.5	Key contact information	Name: Phone: Email:
1.6	Number of years in business	
1.7	Affiliation with other companies	
1.8	Number of customers utilizing your services	
1.9	List industry associations with whom your company affiliates	

2.0 A complete narrative of the Proposer's assessment of the work to be performed, the Proposer's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the Proposer's understanding of performance expectations. Clearly indicate any options or alternatives proposed. A specific point-by-point response by tasks beginning by describing the approach to deliverables in section 2 B and additional activities required in section 2 C. Explain how your proposal meets, or exceeds the minimum requirements.

[Insert narrative here]

3.0 Resumes/bios for each project resource proposed - please send as separate attachment(s)

[List project resources and attachments here]

4.0 References

Please provide at least two (2) references for customers whose requirements are most similar to the current needs outlined within the RFP. The preference is for the references to be other electric utility companies, but this is not necessarily a

requirement. Each reference provided must be callable upon request, and must provide the following minimum information:

	Reference 1	Reference 2
Company name:		
Industry:		
Contact Name:		
Contact Title:		
Contact Phone:		
Contact Email:		

5.0 Conflict of Interest

Bidder must disclose below any potential or actual conflict of interest that it is aware of that could affect or otherwise impair its ability to perform its obligations under any final agreement to provide the services proposed hereunder. This includes any business conducted with PGE or its affiliates, past or present as well as any conflict or potential conflict of interest that might arise during the course of the RFP, including with any potential bidders or stakeholders.

[Insert Conflict of Interest detail here]

Attachment D: PGE's Terms and Conditions

PORTLAND GENERAL ELECTRIC COMPANY SUPPLEMENTAL TERMS AND CONDITIONS

1. **Applicability; Definitions.** These Supplemental Terms and Conditions (“Terms”) apply to and are a part of the Portland General Electric Company (“PGE”) purchase order that references them (“Purchase Order”). “Supplier” means the person or entity to which the Purchase Order is addressed. “Services” means all the services and associated deliverables ordered pursuant to the Purchase Order. “Goods” means those articles, materials, and other tangible property ordered pursuant to the Purchase Order.
2. **Complete Agreement and Order of Precedence.** The Purchase Order, these Terms, and any schedules, exhibits, amendments, supplements, change orders or other documents referenced in the Purchase Order constitute the complete agreement between PGE and Supplier (“Agreement”) and supersede all prior negotiations, representations or agreements, whether oral or written, related to the subject matter of the Agreement. In the event of any conflict between the terms of any documents constituting the Agreement, the following order of precedence will apply: (a) the Purchase Order (excluding all pre-printed terms and conditions printed on the back of the Purchase Order); (b) these Terms; (c) all other documents incorporated into the Agreement by reference, with documents of more recent date (but NOT any acknowledgment of the Purchase Order) taking precedence over prior documents. No Supplier terms and conditions, whether pre-printed or otherwise, shall apply to or be a part of the Agreement, unless expressly incorporated by reference.
3. **Price and Payment.** The price stated in the Agreement is the total purchase price to be paid by PGE for the Services and Goods. Unless otherwise expressly stated, the price stated in the Agreement includes all taxes, duties, interest, transportation service, and charges of every kind. Without limiting the foregoing, Supplier shall be exclusively liable for payment to the appropriate governmental authority of all payroll and other employees' contributions and taxes required for Supplier's performance of the Services and/or delivery of Goods and that of its employees, including, but not limited to, taxes imposed under the provisions of any unemployment insurance, Social Security or pension plan.

All invoices shall contain the number of the Purchase Order and, when requested by the PGE Contract Administrator identified on the Purchase Order, copies of supporting documentation and proof of expenditures. All expenses must comply with the expense guidelines referred to in the Agreement, if any. Invoices shall be sent via electronic mail to accounts.payable@pgn.com. INVOICES THAT DO NOT CONTAIN THE REQUIRED INFORMATION, OR ARE NOT ADDRESSED TO THE PROPER LOCATION MAY RESULT IN PAYMENT DELAY. Payment(s) shall be made by PGE in accordance with the Purchase Order or, if nothing is indicated on the Purchase Order, within forty-five (45) days of the later of receipt and approval of a proper invoice or PGE’s acceptance of the Services or Goods invoiced. Without limiting any other rights or remedies PGE may have, PGE may set off any loss, damage, liability or claim that PGE may have against Supplier against any performance or payment due to Supplier under this Agreement.

4. **Performance Standard.** Supplier shall ensure that the Services are performed by persons who are fully experienced and properly qualified, licensed, and equipped to perform the Services and who meet PGE’s training requirements for the Services. Supplier shall ensure that strict discipline and good order is enforced at all times among those assigned to perform the Services.

Supplier shall perform the Services in a prudent, good and workmanlike manner, free from defects, errors and omissions, and with a high degree of skill and care, no less than that which is utilized by firms and professionals in the same field under the same or similar circumstances. When at a PGE location, facility, worksite or customer location (“Jobsite”) or when accessing PGE’s systems or networks, the conduct of Supplier and any third parties (including affiliates) retained by Supplier in connection with the Agreement to perform the Services and their respective employees, agents, affiliates, and subcontractors shall conform to PGE policies, procedures, rules and standards (collectively, “Requirements”), including but not limited to those related to tobacco, drug and alcohol use, IT access and security, and safety. A copy of the Requirements will be provided by PGE to Supplier upon Supplier's request. Such Requirements include but are not limited to the requirement that Supplier complete drug screening and a criminal background check for any person assigned to any portion of the Services to be performed at a Jobsite or when accessing PGE’s systems or networks. Supplier shall promptly notify PGE prior to commencing the Services if such screening reveals that a person assigned to any portion of the Services to be completed on a Jobsite or who will have access to PGE systems or networks, has been convicted of multiple misdemeanors or one or more felonies within seven (7) years of the date of the Purchase Order. Supplier shall provide PGE a copy of the drug screening and criminal background check results or other supporting documentation and information regarding such results. In the event convictions are identified, PGE will conduct an individualized assessment to determine if a conviction impacts such individual’s ability to perform the Services in accordance with the Requirements, taking into account the seriousness and nature of the offense, amount of time that has elapsed since the conviction, the nature of the Services, and any other legally permissible considerations. In the event PGE (in its sole discretion) determines that such conviction is job-related, and it would be consistent with business necessity to do so, PGE will inform Supplier that Supplier may not assign such individual to perform the Services.

5. **Warranties.** In addition to its obligations under Section 4 and any standard Supplier warranties, Supplier warrants that the Services performed under the Agreement will be free from errors and omissions. Additionally, Supplier warrants that the Services and Goods will conform in all respects to the terms of the Agreement and are free from any defects in design, material, workmanship or title, and will be suitable for the use intended. Supplier additionally warrants that the Goods will be new (unless otherwise specified) and of the best grade if no quality is specified. These warranties will remain in effect for the period specified or for a period of one (1) year following acceptance or initial operation, whichever is later. In the event of nonconformity of these warranties, Supplier shall, on notice from PGE of the nonconformity, promptly remedy the nonconformity at Supplier’s sole cost. Supplier warrants that any remedy will meet the warranty requirements of this Section 5 (Warranties) for a period of one (1) year following PGE’s acceptance of the remedy, or until the expiration of the original warranty period, whichever is later. Supplier shall assume liability for all damages caused by the nonconformity of these warranties or by Supplier’s efforts to correct defects.

6. **Time of Performance.** Time is of the essence with respect to all provisions of the Agreement. Supplier will notify PGE immediately if Supplier will be unable to complete any Services or deliver any Goods in accordance with any specified completion or delivery dates. PGE shall have the right to reject Services or Goods that are not delivered by any required completion or delivery date, as applicable, as set forth in the Agreement.

7. **Compliance with Laws.** Supplier shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulations, court orders and ordinances and shall bear all costs associated with such compliance

8. **Shipment.** No additional charge will be allowed for packing, crating, freight, express or cartage unless specified on the face of the Purchase Order. Any loss or damage that results from Supplier's improper packaging or crating shall be borne by Supplier. All items shall be properly identified with the applicable Purchase Order number and the Purchase Order item number or other identification number shown. Supplier shall be responsible for verifying the completeness and accuracy of any information on Certificates of Origin and all other customs documentation provided to PGE.

9. **Inspection of Goods and Services.** PGE, or its representatives, shall have the right to inspect and witness test at any time during the term of the Agreement. Unless otherwise provided for in the documents or requirements referenced in the Purchase Order, PGE shall complete its final inspection of the Goods and/or Services within a reasonable time after delivery of the Goods or completion of the Services, at the ultimate destination as specified in the Agreement. PGE will not be deemed to have accepted the Goods or Services until after such final inspection. The payment for the Goods or Services prior to any inspection shall in no way impair PGE's right to reject nonconforming Goods or Services or to limit any other remedies to which PGE may be entitled.

10. **Hazardous Materials.** As used herein, "Hazardous Materials" means: (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, lead-containing paints or coatings, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing high levels of polychlorinated biphenyls, and (b) any chemicals or other materials or substances that are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "hazardous chemical" or words of similar import under any federal, state, or local laws, statutes, regulations, rules, ordinances, codes, standards, permits, or licenses.

Supplier shall comply with all applicable federal, state, or local statutes, regulations, ordinances, and judicial or governmental orders pertaining to the use, handling, transportation, storage, and disposal of Hazardous Materials. Supplier shall notify PGE, at least three (3) business days in advance in writing, of the use of any Hazardous Materials in performing the Services by providing PGE a list of such Hazardous Materials and their Material Safety Data Sheets. Supplier agrees to maintain such information current and shall provide PGE with any amendments, alterations or revisions to such information on a timely basis. Supplier's failure to provide such information prior to or at the time of delivery may result in withholding of payment until such is provided.

PGE reserves the right to approve or disapprove the use of any Hazardous Materials in the performance of the Services on PGE's premises or Jobsite including work plans for the use, storage, transportation and disposal of Hazardous Materials. Supplier will use, handle, and store Hazardous Materials on PGE's premises or Jobsite only as is reasonably necessary to perform the Services, in small, properly labeled quantities.

Supplier shall immediately notify PGE of: (i) any release or spill of Hazardous Materials that occur in connection with performance of the Services or at the Jobsite; (ii) any material violations and any and all claims, suits, notices of violation, penalties, or other proceedings related to alleged violations of environmental laws asserted against Supplier or any of Supplier's subcontractors in connection with the Services; or (c) Supplier's discovery of any Hazardous Materials at PGE's premises or the Jobsite.

If Supplier or any subcontractor of Supplier violates the provisions of this Section 10 (Hazardous Materials), or performs any act or omission that results in a spill, release, or threatened release of

Hazardous Materials, or otherwise contaminates or expands the scope of contamination of the Jobsite or the underlying groundwater, or any property adjacent to the Jobsite, or violates or allegedly violates any applicable law, then Supplier will promptly, at Supplier's sole cost and expense, take all investigatory and/or remedial actions (collectively called "Remediation"), required by, and in compliance with, all applicable federal, state and local laws, statues, regulations, rules, ordinances, codes, standards, permits, court orders or licenses. Supplier will also repair any damage to the Jobsite and any other affected property caused by such contamination and Remediation. Supplier shall be identified as the generator on all permits, bills of lading, manifests or other documentation relating to the storage, transportation, treatment, or disposal of such Hazardous Materials generated in a Remediation.

11. **Liens**. Supplier shall ensure that no liens of any kind are fixed upon or against the real or personal property of PGE by Supplier, Supplier's affiliates and their respective subcontractors or materialmen of any tier. If any lien is not properly removed by Supplier in accordance with the Agreement, Supplier will reimburse PGE for all costs incurred by PGE to release any lien filed against the real or personal property of PGE under the Agreement.

12. **Right to Audit**. Supplier shall keep accurate and complete accounting records in support of all cost billings to PGE in accordance with generally accepted accounting principles and practices. PGE, or its audit representatives, shall have the right at any reasonable time or times to examine, audit and reproduce such records, vouchers and their source documents. Supplier shall make such records available to PGE for examination, audit and reproduction for three (3) years after the completion or termination of the Agreement.

13. **Confidentiality**. As used in the Agreement, the term "Confidential Information" means: 1) proprietary information of PGE; 2) information marked or designated by PGE as confidential; 3) information, whether or not in written form and whether or not designated as confidential, that is known by Supplier to be treated by PGE as confidential; 4) information provided to PGE by third parties that PGE is obligated to keep confidential; and 5) information developed by Supplier in connection with performance of the Agreement. Confidential Information does not include: 1) information that is publicly available at the time of disclosure by PGE to Supplier or its Representatives (as defined below); 2) information that becomes publicly available other than through actions of Supplier or any of its Representatives in violation of the Agreement; 3) information already known to Supplier as documented by written records that predate the Agreement; or 4) information rightfully obtained from third parties and not subject to any obligation of confidentiality. Supplier agrees that it will not disclose Confidential Information to any third party, directly or indirectly, under any circumstances or by any means, without PGE's prior written consent. Supplier further agrees that it will not use Confidential Information except as may be necessary to comply with the Agreement and perform the Services or deliver the Goods. Any question regarding use of information or its confidential nature should be directed to the PGE Contract Administrator identified on the Purchase Order.

Notwithstanding anything contained in the Agreement to the contrary, Supplier may disclose Confidential Information to its employees, representatives, contractors and other agents ("Representatives"), but only on a "need to know" basis and only after notifying such Representatives of the confidential nature of the information, the terms of this Section 13 (Confidentiality), and that such terms apply to them. Supplier shall ensure that Supplier and any third party (including its affiliates) retained by Supplier in connection with the Agreement and their respective officers, employees, agents, and representatives agree to take all reasonable precautions to protect the confidentiality of Confidential Information and, on request by PGE, to return to PGE any documents that contain or reflect Confidential Information. If as part of the Services, Supplier performs an activity for PGE in connection with one or more customer accounts and/or obtains access to personally identifiable customer information, Supplier shall

comply at all times with all applicable laws related to the protection of personal information and have in place policies and procedures that are designed to detect, prevent and mitigate the risk of identity theft, and shall follow such policies and procedures. Any unpermitted disclosure by any Representative of Supplier shall be deemed made by Supplier.

If Supplier or any of its Representatives is subsequently required by law, by order of any court or other governmental authority, to disclose Confidential Information to any regulatory agency or court that has jurisdiction over PGE, Supplier or such Representative, Supplier or such Representative shall disclose only the part of the Confidential Information as Supplier or such Representative may reasonably determine in good faith, after consultation with legal counsel, is required by law to be disclosed, and provided further that Supplier or such Representative shall first notify PGE in writing as soon as reasonably possible prior to disclosure so that PGE has a reasonable opportunity to secure a protective order or similar confidential protection of the Confidential Information.

It is further understood and agreed that money damages may not be a sufficient remedy for a breach of this Section 13 (Confidentiality) and that PGE is entitled to seek equitable relief, including injunction and specific performance, as a remedy for such breach. Specifically, PGE is entitled to seek a temporary restraining order or a preliminary or final injunction without the necessity of posting any bond or undertaking in connection therewith to restrain the breaching party from such violations or threatened violations. Such remedies are not exclusive remedies for a breach by Supplier of this Section 13 (Confidential) but are in addition to all other remedies available at law or equity to PGE.

14. **PGE Data**. PGE's data ("PGE Data"), which shall also be known and treated by Supplier as PGE Confidential Information shall include: (a) PGE's data collected, used, processed, stored, or generated as the result of the use of the Goods or Services; and, (b) personally identifiable information ("PII") collected, used, processed, stored, or generated as the result of the use of the Goods or Services, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements listed herein. PGE Data is and shall remain the sole and exclusive property of PGE and all right, title, and interest in the same is reserved by PGE. Supplier is provided a limited license to PGE Data for the sole and exclusive purpose of providing the Goods or Services, including a license to collect, process, store, generate, and display PGE Data only to the extent necessary in the providing of the Goods or Services. Supplier shall: (a) keep and maintain PGE Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose PGE Data solely and exclusively for the purpose of providing the Goods or Services, such use and disclosure being in accordance with this Agreement and applicable law; and, (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available PGE Data for Supplier's own purposes or for the benefit of anyone other than PGE without PGE's prior written consent.

15. **Title and Risk of Loss**. Unless otherwise provided in the Agreement, Supplier shall have title to all Goods, free and clear of all liens, and bear the risk of any loss of or damage to the Goods purchased hereunder until they are delivered in conformity with the Agreement at the delivery point specified in the Agreement, and on such delivery, title shall pass from Supplier to PGE and Supplier's responsibility for loss or damage shall cease except for loss or damage resulting from Supplier's negligence, willful misconduct or failure to comply with the Agreement. Passing of title on such delivery shall not constitute acceptance of the Goods by PGE.

16. **Ownership of Services.** All Services, including any and all associated deliverables and the underlying data, created, prepared or developed pursuant to or in connection with the Agreement by Supplier and any third parties retained by Supplier in connection with the Agreement and their respective employees, directors, officers, subcontractors, or agents will become the property of PGE when prepared, whether delivered to PGE or not, and will, together with any materials furnished to Supplier by PGE pursuant to the Agreement, be delivered to PGE on request, and, in any event, on termination or final acceptance of the Services. All Services prepared by Supplier and any third parties retained by Supplier in connection with the Agreement and their respective employees, directors, officers, subcontractors or agents pursuant to or in connection with the Agreement that is subject to protection under copyright laws constitutes “work made for hire,” and all such copyrights belong to PGE. Supplier hereby assigns to PGE all rights, title and interest in, to, pertaining to, or associated with such Services, including but not limited to all copyrights, trade secret rights, trademark rights, inventor’s rights, rights to apply for patents, patent applications, patents, industrial design rights, and similar or equivalent rights anywhere in the world. Supplier agrees to execute all documents and provide other assistance that PGE requests for use by PGE in applying for, perfecting or enforcing intellectual property rights, including, but not limited to, the execution of any assignments and patent, trademark or copyright applications. Supplier will obtain from each individual, person or entity who participates in or contributes to the creation, preparation or development of any Services (prior to the date that such individual, person or entity commences participation in the creation, preparation or development of any Services or contributes to any Services) a written assignment from such individual, person or entity to Supplier of all intellectual property rights and other rights that such individual, person or entity may acquire in any Services, sufficient to enable Supplier to make the assignment of rights to PGE set forth in this Section 16 (Ownership of Services).

17. **Infringement.** In addition to any other express or implied indemnification provided by Supplier to PGE, Supplier shall indemnify, defend and hold harmless PGE, its subsidiaries and affiliated companies and their respective directors, officers, employees and agents against and from all claims, losses, costs, suits, judgments, damages and expenses, including but not limited to royalties or license fees paid or payable to a claimant and reasonable attorneys’ fees, whether incurred at the trial or appellate level, in an arbitration, in bankruptcy (including, without limitation, any adversary proceeding, contested matter or application), or otherwise, to the extent based on any actual or alleged infringement or misappropriation of any intellectual property right of any third party, including claims thereof pertaining to, or arising from Supplier’s performance of the Services or the Goods. If any portion of the Services, the Goods or Supplier’s equipment, material or processes are likely to become or does become the subject of a claim of infringement or misappropriation of any intellectual property right or other right of any third party, Supplier, at PGE’s option, will: (i) promptly replace such Services, Goods or equipment, material or processes with a substantially compatible and functionally equivalent non-infringing Services, Goods or equipment, material or process, (ii) promptly modify such Services, Goods or equipment, material or processes to make it non-infringing and functionally equivalent, (iii) promptly procure the right of PGE to continue using such Services, Goods or equipment, material or processes; or (iv), refund all amounts paid by PGE to Supplier. Supplier’s compliance with any one or more of the above enumerated remedies of this Section 17 (Infringement) does not relieve Supplier of the indemnity obligations in the Agreement or other claims for damages.

18. **Indemnification.** In addition to any other indemnification provided for under the Agreement, Supplier shall indemnify, defend and hold harmless PGE and its affiliated companies and their directors, officers, employees and agents (hereinafter collectively “Indemnitees”) from

any and all claims, demands, suits, losses, costs, expenses, liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, including attorneys' fees, whether incurred at the trial or appellate level, in arbitration, in bankruptcy (including, without limitation, any adversary proceeding, contested matter or application), or otherwise, brought or made against or incurred by any of the Indemnitees resulting from, arising out of, or in any way connected with any act, omission, fault or negligence of Supplier and any third parties retained by Supplier in connection with the Agreement, and their respective employees, directors, officers, subcontractors or agents in the performance or nonperformance of Supplier's obligations under the Agreement. Supplier's indemnity obligation under this Section 18 (Indemnification) shall not extend to any liability to the extent caused by the contributory negligence of any of the Indemnitees.

19. **Liability Insurance.** Prior to starting any Services, Supplier and Supplier's subcontractors of any tier shall secure and continuously carry insurance meeting the requirements set forth in Exhibit B of the Agreement and provide PGE with evidence of such insurance. Supplier agrees to promptly provide evidence of insurance required under this Section 19 (Liability Insurance) at any time during the term of the Agreement upon request by PGE or a third party engaged by PGE to manage and administer the insurance requirements under this Section 19 (Liability Insurance), and to pay any fees charged by such third party for participation in its supplier qualification program.

20. **Force Majeure.** As used in the Agreement, an event of "Force Majeure" shall mean an event that prevents the affected party from performing its obligations under the Agreement and is unforeseeable and beyond the reasonable control of the affected party. In no instance will the following be considered events beyond a party's reasonable control: (i) strikes or labor disturbances involving the employees of the affected party or its subcontractors; (ii) price fluctuations; (iii) economic hardship; (iv) normal climatic conditions; or (v) any failure of any equipment or materials utilized by the affected party or any subcontractor. Neither party shall be liable for delays due to an event of Force Majeure. The party incurring the delay shall within five (5) calendar days from the beginning of the delay, notify the other party in writing of the causes of the delay and its probable extent. In the event of any such delay, the required completion date may be extended by a reasonable period not exceeding the time actually lost by reason of the delay; provided, however, that if Supplier's performance is delayed for more than thirty (30) days, PGE, may, at its option, cancel the affected Purchase Order by written notice to Supplier and PGE shall pay Supplier for any Services satisfactorily performed and/or conforming Goods accepted by PGE prior to the date of such termination. The delay shall not be the basis for additional compensation.

21. **Changes.** PGE may request changes to the quantity and/or the specifications of Services and/or Goods. All requests shall be in the form of a written change order. The parties will undertake to negotiate an appropriate adjustment in price and terms where Supplier's direct costs or the time for performance are materially affected by PGE's proposed change order. Within ten (10) days after receiving a change order, Supplier shall submit to PGE a detailed written proposal for accomplishing the requested changes and setting forth any proposed adjustments to the purchase price or other terms (and the basis for each adjustment) if Supplier intends to assert a claim for adjustment. If the parties reach agreement to adjust price, time for performance or other terms, PGE shall issue a final written change order amending the Agreement, which Supplier shall acknowledge in writing. No change order will be binding on either party until a final written change order is issued by an authorized representative of PGE and acknowledged by Supplier, that expressly states that it constitutes a change to the Agreement. THE ISSUANCE OF INFORMATION, ADVICE, APPROVALS OR INSTRUCTIONS BY ANYONE OTHER THAN THE AUTHORIZED REPRESENTATIVE OF A PARTY DOES NOT CONSTITUTE AN AUTHORIZED CHANGE TO THE AGREEMENT.

22. **Termination.**

A. For Convenience. PGE may, by delivering a written notice to Supplier, terminate the Agreement or a Purchase Order subject to the Agreement at any time without cause for Goods not shipped or prior to the completion of all or a portion of the Services, in which event Supplier shall stop work immediately as to the terminated portion of the Agreement and notify all suppliers and subcontractors to stop work. Upon termination for convenience, PGE's sole obligation shall be to pay Supplier, in full satisfaction and discharge of all liabilities and obligations owed to Supplier, the contracted-for price for all Services satisfactorily performed and for all Goods delivered or then in progress, provided that such payment amount will not include damages, payment for any Goods maintained in stock, or anticipated profits on Goods not yet shipped or Services not yet performed.

B. For Cause. If a Supplier Event of Default occurs, then PGE may, without prejudice to any other right or remedy PGE may have under the Agreement, terminate the Agreement or all or any portion of a Purchase Order as to which there has been a breach, such termination becoming effective upon Supplier's receipt of written notice from PGE. For purposes of the Agreement, a "Supplier Event of Default" is defined as:

- (i) Supplier breaches any term of the Agreement and such breach remains uncured five (5) business days after receipt of written notice thereof from PGE; or
- (ii) Supplier files, or has filed against it, a petition for voluntary or involuntary bankruptcy; pursuant to any other insolvency law, Supplier makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its assets; or Supplier is generally not, or is unable to, or admits in writing its inability to, pay its debts as they become due and payable.

In the event of a termination under this Section 22B (Termination – For Cause), Supplier shall be liable to PGE for any damages occasioned by Supplier's breach and the early termination.

23. **Amendment; Assignment and Subcontracts.** No change, amendment or modification of any provisions of the Agreement shall be valid unless set forth in a written amendment or change order signed by authorized representatives of PGE. Supplier may not assign or transfer the Agreement, in whole or in part, and may not subcontract any portion of the Services without PGE's prior written consent.

24. **Notices.** All notices permitted or required to be given under the Agreement shall be in writing and shall be deemed given: (i) if delivered by courier, on receipt by the intended recipient or on the date of delivery (as confirmed by the records of such courier), (ii) if mailed, on the date of delivery as shown by the return receipt, or (iii) if by email, on the date officially recorded as delivered, according to return receipt or other record of delivery. Notices must be sent to the addresses set forth below or to such other addresses as a party may from time to time specify by notice pursuant hereto:

To PGE: Portland General Electric Company
 Attention: Supply Chain Department
 121 SW Salmon Street
 Portland, OR 97204

To Supplier: To the address shown on the Purchase Order

25. **Restriction on Publication.** No publication or advertisement concerning the Agreement, PGE or the subject matter of the Agreement may be made at any time by Supplier or its subcontractors without prior written authorization from PGE, including but not limited to any publication or use of PGE's name or logo.
26. **Nonwaiver.** No waiver of the nonperformance or violation of any term or condition of the Agreement or any default under the Agreement should be construed to be or operate as a waiver of any subsequent nonperformance, violation, or default. No waiver of any portion of the Agreement is effective unless made in writing.
27. **Controlling Law and Venue.** THE AGREEMENT SHALL BE INTERPRETED IN ACCORDANCE WITH AND GOVERNED BY THE SUBSTANTIVE AND PROCEDURAL LAWS OF THE STATE OF OREGON WITHOUT REGARD TO CHOICE-OF-LAW PRINCIPLES. SUPPLIER IRREVOCABLY CONSENTS TO THE JURISDICTION OF THE COURTS OF THE STATE OF OREGON OR OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF OREGON FOR ANY ACTION, SUIT, OR PROCEEDING IN CONNECTION WITH THE AGREEMENT AND WAIVES ANY OBJECTION THAT SUPPLIER MAY NOW OR HEREAFTER HAVE REGARDING CHOICE OF FORUM.
28. **Independent Contractor.** Supplier is acting solely as an independent contractor of PGE and nothing in the Agreement is intended to create a partnership, joint venture, or any relationship of principal-agent, employer-employee, or franchiser-franchisee between Supplier and PGE. Supplier shall be responsible for all methods, means and procedures necessary to properly complete the Services.
29. **Survival.** Any and all provisions contained in the Agreement which by their nature or effect are required or intended to be observed, kept, or performed after termination of the Agreement will survive such termination of the Agreement.
30. **Severability.** If any provisions of the Agreement are for any reason held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the Agreement should be construed to give effect as nearly as possible to the intent of the parties. The parties agree to work together to replace such invalid, illegal or unenforceable provision as promptly as possible with a provision that is valid, legal and enforceable
31. **Attorneys' Fees.** In the event of any legal action arising out of or related to the Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees, including attorneys' fees incurred at the trial or appellate level, in an arbitration, in bankruptcy (including, without limitation, any adversary proceeding, contested matter or application), or otherwise.
32. **Supplier Authorized Representatives.** Before starting the Services, or commencing delivery of Goods under the Agreement, Supplier shall designate a qualified individual to represent Supplier and shall inform PGE in writing of the name and address of the representative and shall provide a clear definition of the scope of his or her authority to represent Supplier, and shall specify any limitations on such authority.
33. **No Third Party Beneficiaries.** The Agreement is intended solely for the benefit of the parties hereto. Nothing in the Agreement shall be construed to create any liability to or any benefit for any person not a party to the Agreement.
34. **Successors and Assigns.** The Agreement shall be binding on the parties' successors, and insofar as assignment is permitted, on the parties' assignees.
35. **Labor.** If requested by PGE, Supplier shall be aware of and familiar with all collective bargaining agreements that pertain to or affect the Services. Supplier shall conduct its operations so that its employees will harmoniously work with other workmen employed at the Jobsite or on

the same or related projects to ensure that there are no delays, endangerment, work stoppages, excessive labor costs or other labor difficulties.

36. **Foreign Corrupt Practices Act.** Supplier, and its officers, directors, employees, contractors and agents have not and may not take any action that would cause it to be in violation of the Foreign Corrupt Practices Act of 1977, as amended, or any rules or regulations thereunder.

37. **Ethics.** PGE commits to providing an ethical environment and encourages Supplier to report, and have its subcontractors (and other third parties retained by Supplier) report, any unethical behavior of an employee of PGE. The preferred means of reporting questionable or unethical behavior by a PGE employee is through a PGE buyer. However, Supplier may also communicate observations anonymously by using PGE's EthicsPoint feature. To do so, log onto the EthicsPoint system on the Internet at www.ethicspoint.com or call 1-800-384-4277.

EXHIBIT B

CONTRACTOR INSURANCE REQUIREMENTS

1. Acceptable Insurers. All insurance required herein must be obtained from insurers duly authorized to do business in Oregon and which maintain a minimum financial strength rating of "A- VIII" by the A. M. Best Key Rating Guide.
2. Required Insurance and Minimum Limits. During the term of this Agreement, Contractor must maintain, at its sole expense, the following insurance coverage:
 - A. Workers' Compensation and Employer's Liability Insurance
 - i. Scope. Workers' Compensation and Employer's Liability to cover claims under applicable State or Federal workers' compensation laws. Coverage must include Employer's Liability to cover claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of the applicable workers' compensation law.
 - ii. Minimum Required Limit.

Workers' Compensation:	Statutory
Employer's Liability:	\$2,000,000 each accident, bodily injury by accident
	\$2,000,000 each employee, bodily injury by disease
	\$2,000,000 policy limit, bodily injury by disease
 - iii. Navigable Waters. If any Work or Services under this Agreement involves work in, over or alongside any navigable waters, then Contractor's workers' compensation coverage must cover liability under U.S. Longshoremen and Harbor Workers' Compensation Act, The Jones Act, Maritime Employers Liability and any other coverage required under Federal or State laws pertaining to workers in, over or alongside navigable waters.
 - iv. Waiver of Subrogation. To the fullest extent permitted by law, Contractor shall cause its insurer to waive all rights to recover any payments made from PGE, its affiliates, and their respective officers, directors, agents and employees.
 - B. Commercial General Liability Insurance
 - i. Scope. Commercial General Liability Insurance written on an occurrence form and must cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). If any Work or Services under this Agreement involves or requires blasting, explosive conditions, or underground operations, the coverage must not contain any exclusion relative to blasting, explosion, collapse of buildings, or damage to underground structures. If any Work or Services under this Agreement involves Contractor exercising care, custody or control of PGE property, then Contractor must endorse its Commercial General

Liability coverage to remove any exclusionary language relative to property damage in Contractor's care, custody or control, or maintain Property, Inland Marine or other bailee insurance to cover damage to PGE's property in the care, custody or control of Contractor.

- ii. Minimum Required Limit. \$2,000,000 Each Occurrence
- iii. Waiver of Subrogation. To the fullest extent permitted by law, Contractor shall cause its insurer to waive all rights to recover any payments made from PGE, its affiliates, and their respective officers, directors, agents and employees.
- iv. Additional Insured. To the fullest extent permitted by law, the insurance must include PGE, its affiliates, and their respective officers, directors, agents and employees as additional insureds.. This insurance must apply as primary insurance without any contribution from any other insurance afforded to or self-insurance maintained by such additional insured. There must not be any endorsement or modification of this insurance to make it excess over any other insurance available to such additional insured.
- v. Completed Operations. Contractor must purchase completed operations coverage for a period of two (2) years after termination or expiration of this Agreement.

C. Automobile Liability Insurance

- i. Scope. Automobile Liability insurance to cover liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with the Work or Services under this Agreement.
- ii. Minimum Required Limit. \$2,000,000 Each Accident
- iii. Pollution. If Contractor is transporting chemicals, hazardous materials, or similar pollutants, then the Automobile Liability Insurance must include pollution liability coverage at least as broad as the coverage provided under the ISO endorsement CA 99 48 "Pollution Liability—Broadened Coverage For Covered Autos".
- iv. Waiver of Subrogation. To the fullest extent permitted by law, Contractor shall cause its insurer to waive all rights to recover any payments made from PGE, its affiliates, and their respective officers, directors, agents and employees.
- vi. Additional Insured. To the fullest extent permitted by law, the insurance must include PGE, its affiliates, and their respective officers, directors, agents and employees as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance afforded to or self-insurance maintained by such additional insured. There must not be any endorsement or modification of the insurance to make it excess over any other insurance available to such additional insured.

D. Professional Liability Insurance (Errors and Omission Insurance)

- i. Scope. If any of the Work or Services under this Agreement involves the rendering of professional services then Contractor must obtain and maintain Professional Liability (Errors and Omissions) insurance to cover claims arising from Contractor's acts, errors or omissions. Contractor will require Professional Liability (Errors and Omissions) insurance in the same amounts from any and all third parties Contractor utilizes in performing its design responsibilities under this Agreement.
- ii. Minimum Required Limit. \$1,000,000 Per Claim
- iii. Extended Reporting Period. The insurance must contain an extended reporting period of five (5) years.

E. Pollution Legal Liability

- i. Scope. If any of the Work under this Agreement involves cleanup, removal, storage, or otherwise handling of hazardous or toxic chemicals, materials, substances, or any other pollutants, Contractor shall provide at its expense Pollution Legal Liability Insurance appropriate to cover such activities against the risk of bodily injury and property damage. Such policy must be endorsed to specifically provide coverage for Work performed under this Agreement and must extend to all Subcontractors engaged in cleanup, removal, storage, or otherwise handling of hazardous or toxic chemicals, materials, substances, or any other pollutants.
- ii. Minimum Required Limit. \$5,000,000 Per Claim
- iii. Additional Insured. To the fullest extent permitted by law, the insurance must include PGE, its affiliates, and their respective officers, directors, agents and employees as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance afforded to or self-insurance maintained by such additional insured. There must not be any endorsement or modification of the insurance to make it excess over any other insurance available to such additional insured.
- iv. Waiver of Subrogation. To the fullest extent permitted by law, Contractor shall cause its insurer to waive all rights to recover any payments made from PGE, its affiliates, and their respective officers, directors, agents and employees.

F. Unmanned Aircraft Systems Liability

- i. Scope: PRIOR TO USING AN UNMANNED AIRCRAFT SYSTEM OF ANY KIND IN PERFORMING THE WORK UNDER THIS AGREEMENT, CONTRACTOR SHALL NOTIFY PGE AND OBTAIN ITS PRIOR WRITTEN CONSENT. If an Unmanned Aircraft System is to be used in performing the Work under this Agreement, Unmanned Aircraft Systems Liability insurance coverage appropriate to cover such

activities against the risk of bodily injury, trespass, invasion of privacy and property damage.

- ii. Minimum Required Limit: \$5,000,000 Each Occurrence
- iii. Additional Insured. To the fullest extent permitted by law, the insurance must include PGE, its affiliates, and their respective officers, directors, agents and employees as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance afforded to or self-insurance maintained by such additional insured. There must not be any endorsement or modification of the insurance to make it excess over any other insurance available to such additional insured.

G. Aircraft Liability

- i. Scope: **PRIOR TO USING AN AIRCRAFT OF ANY KIND IN PERFORMING THE WORK UNDER THIS AGREEMENT, CONTRACTOR SHALL NOTIFY PGE AND OBTAIN ITS PRIOR WRITTEN CONSENT.** If an aircraft is to be used in performing the Work under this Agreement, Aircraft Liability insurance covering fixed wing and rotorcraft aircraft whether owned, hired or non-owned.
- ii. Minimum Required Limit: \$10,000,000 Each Occurrence
- iii. Additional Insured. To the fullest extent permitted by law, the insurance must include PGE, its affiliates, and their respective officers, directors, agents and employees as additional insureds. This insurance must apply as primary insurance without any contribution from any other insurance afforded to or self-insurance maintained by such additional insured. There must not be any endorsement or modification of the insurance to make it excess over any other insurance available to such additional insured.

H. Network Security & Privacy Liability

- i. Scope: If any of the Work or Services under this Agreement involves the rendering of IT services including, but not limited to software, software or hardware or systems development or consulting services; internet/application services (e.g., web hosting); providing content; connected to PGE network(s); or if Contractor in any way collects, obtains, maintains or in any way uses PGE customer information, then Contractor shall maintain Network Security & Privacy Liability, including Technology Errors & Omissions.
- ii. Minimum Required Limit: \$5,000,000 Each Claim

I. Cargo/Transit

- i. Scope: If any of the Work or Services under this Agreement involves the transportation of PGE property, by any form of conveyance, Contractor

shall maintain Cargo and/or Transit coverage for the duration of such transportation.

- ii. Minimum Required Limit: Full replacement value of the shipment
3. Excess or Umbrella Insurance. The required minimum limits may be met through any combination of primary and excess insurance policies.
4. Certificates of Insurance. Prior to commencement of any Work or Services under this Agreement, Contractor must furnish PGE with a Certificate of Insurance evidencing compliance with these requirements. Without penalty or default, PGE has the right, but not the obligation, to prohibit commencement of any Work or Services until such Certificate of Insurance or other evidence satisfactory to PGE is received and approved by PGE. The Certificate of Insurance must list as the certificate holder:

Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

5. No Waiver. PGE's failure to demand the Certificate of Insurance or to identify a deficiency from the Certificate of Insurance or other evidence provided will not be deemed a waiver of PGE's rights or Contractor's obligations. Furthermore, these insurance requirements must not be construed in any manner as waiving, restricting or limiting PGE's rights or Contractor's obligations under this Agreement.
6. Notice of Cancellation. No insurance policy may be canceled or materially modified unless Contractor or insurer(s) provide at least thirty (30) days prior written notice to PGE.
7. Failure to Maintain Required Insurance. If at any time during the term of this Agreement Contractor fails to maintain any required insurance, PGE may, at its sole discretion, either suspend the Work or Services or terminate this Agreement.
8. Contractor Responsible for Deductibles or Retentions. With respect to any insurance required herein, Contractor must bear all costs of all deductibles or Self-Insured Retentions.
9. No Representation of Coverage Adequacy. PGE does not represent that coverage and limits required herein will be adequate to protect Contractor. Contractor remains responsible for any liability not paid by insurance.
10. Contractor's Property. Contractor is responsible for any loss or damage to its property, however caused, and any insurance covering such property will be at Contractor's expense and Contractor shall cause its insurer to waive all rights to recover any payments made from PGE, its affiliates, and their respective officers, directors, agents and employees.

11. No Violation of Insurance Policies. Contractor must not knowingly violate or knowingly permit any violation of any warranties, representations, declarations or conditions contained in the policies of insurance.
12. No Claims. As of the execution date of this Agreement, Contractor is not aware of any claims or potential claims which have been made, filed or threatened against any of the insurance required herein.
13. Other Insurance. If there is any material change to the nature or scope of the Work or Services under this Agreement, PGE may require Contractor to obtain and maintain additional insurance.
14. Subcontractors. If subcontractors or third parties are used in the performance of any Work or Services, then Contractor must cause each of its subcontractors or third parties to comply with the same insurance requirements imposed on Contractor herein. If requested by PGE, Contractor must furnish certificates of insurance evidencing compliance with these requirements for each subcontractor or third party.
15. Primary Insurance. The insurance required of Contractor under this Exhibit shall be primary and may not seek contribution from any insurance or self-insurance maintained by PGE.
16. Contractor's Builder's All Risk Insurance If required for any of the Work or Services under this Agreement.

16.1 Scope. The Contractor shall procure and maintain in effect or cause to be maintained, to protect the interests of the Owner, the Contractor, and subcontractors of any tier, Builder's Risk Insurance coverage provided by insurers properly authorized to provide insurance in the jurisdiction(s) where the Work will be performed and rated at least A-VII by the AM Best Insurance Report or rated at similar levels by other internationally recognized insurance rating experts. The Builder's Risk policy shall at a minimum meet the following requirements:

16.2 "All-Risk" Coverage. The policy shall cover all equipment, materials and supplies, including temporary structures and false works (but excluding Contractor's and subcontractors' equipment) in connection with the Work at the site and shall be in an amount equivalent to one hundred percent (100%) of the full replacement cost insuring against all risk of direct physical loss. Such coverage shall cover loss or damages caused by or resulting from, including but not limited to, earth movement, flood, terrorism, equipment and mechanical breakdown, transit, and all operational and performance testing until the Substantial Completion Date. The Policy may have sublimits, exclusions and terms and conditions reasonably acceptable to Owner. Such coverage will include "soft cost cover" in an amount to be elected by Owner including, without limitation, attorneys' fees, engineering and other consulting costs, and permit fees, and providing

- (i) coverage for removal of debris and insuring the buildings, structures, boiler and machinery, equipment, facilities, fixtures and other properties constituting a part of the Facility

- (ii) inland transit coverage, with sublimits sufficient to insure the full replacement value of the Equipment;
- (iii) off-site storage (including any additional laydown areas) coverage with sublimits sufficient to insure the full replacement value of any property or equipment not stored on the Project Site, and
- (iv) coverage for damage of property of every description used or to be used in, as part of, or incidental to, the completion of the Work (excluding Contractor's or subcontractors' equipment). The policy is to insure gas, electrical, transmission lines and equipment to the extent Owner has an insurable interest as covered by the Work Scope. The policy will be endorsed to provide either an agreed amount clause or waiver of coinsurance, and shall include a waiver of subrogation in favor of Owner and all additional insureds/loss payees and include a non-vitiation clause. ;
- (v) the minimum design/defects coverage shall be LEG 2

16.3 Deductibles. Consistent with Article 1.7 Risk of Loss under the Agreement, Contractor shall be responsible for and assume the cost of such deductibles in the event of loss or damage insured under this policy.

16.4 Time of Coverage. The policy shall be in effect from the planned start of any on-site activity through the Substantial Completion of the project and the end of the Contractor's obligations and be non-cancelable (except for non-payment of premium).

16.5 Insured Parties. The policy shall include as named insured for their onsite activities, Owner, Contractor, subcontractors of any tier, and any additional parties to the Contract and, any Affiliate of any Party to the Contract that is performing work in connection with the Contract,; and the policy shall also include a waiver of subrogation in favor of all named insured parties.

16.6 Evidence of Coverage. Contractor shall provide the Owner a full copy of the Builders Risk policy at least thirty (30) days prior to the scheduled start of any work on the Project Site. Owner shall be permitted to examine the insurance proposals or summaries with respect to Insurance for Works which shall include sums insured, loss limits, deductible, details of cover, exclusions or conditions, and a list of security (each insurance company' participation in the insurance policy required for this Project only)

Attachment E: Price Proposal Sheet

Independent Evaluator for PGE's 2021 All-Source Request for Proposal

Proposer Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Pricing for this RFP shall be defined into three areas. Proposer shall provide **fixed** pricing by area.

Deliverables listed below refer to Section 2 parts B and C of this Request for Proposal. Please note any areas that will not be conducted by Proposer, but rather outsourced.

Selected payment type: _____ (Virtual Card, NET 15 or Net 45 Days, paid via ACH)

Area One: A not to exceed fixed price for time and materials that accounts for all deliverables, analysis, and meeting participation referred to in section 2 parts B and C of this RFP. Assume that the number of bid variations PGE receives is not to exceed 100.

Fixed Price \$ _____

Notes:

Area Two: Additional cost incurred for each bid variation scored in excess of 100 bid variations.

Fixed Price per bid \$ _____

Notes:

Area Three: Additional cost incurred if PGE was to require that the selected independent evaluator attend a in person meeting

Estimated travel expenses (per diem amount) \$ _____

Notes:

Attachment F: Question and Response Form

**RFP # 20210505LC
BIDDER QUESTIONS & PGE RESPONSES**

[COMPANY NAME] QUESTIONS				PGE RESPONSES		
#	RFP Section	Bidder Question	Date	PGE Response	Date	Update Required (Y/N)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

*Add additional Questions as required by adding additional rows.

Attachment G: Scoring Criteria

PGE intends to score bids as follows:

Category	Description	Total Weight
Proposal Completeness & Understanding of Scope of Work	Complete and very detailed description of project in deliverables Clear knowledge and understanding of functions to be performed Provides a clear project management plan with dedicated resources	10%
Bidder Experience	Specific experience reviewing RFPs for renewable resources and energy storage resources Relevant energy industry consulting work on topics pertaining to challenges in the West and Pacific Northwest Consulting experience that illustrates exposure to and familiarity with techniques and tools that are used in resource solicitations Specific experience working with utilities in the PNW	40%
Adherence to PGE's Terms and Conditions	Willingness to adhere to PGE's Terms and Conditions	10%
Competitive Pricing	Points based on the quoted cost of the project in relation to other proposals	40%