

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 16, 2023**

REGULAR X CONSENT EFFECTIVE DATE N/A

DATE: May 2, 2023

TO: Public Utility Commission

FROM: Pat Shaughnessy

THROUGH: JP Batmale and Kim Herb **SIGNED**

SUBJECT: IDAHO POWER COMPANY:
(Docket No. UM 2255)
Application for Approval of 2026 All-Source RFP Final Draft.

STAFF RECOMMENDATION:

Approve Idaho Power Company's Final 2026 All-Source Request for Proposals (2026 AS RFP) with the RFP Conditions recommended by Staff.

Approve the associated Scoring and Modeling Methodology (SMM) with the SMM Conditions recommended by Staff.

RFP and SMM Conditions:

SMM Condition 1: IPC provides the specific weighting for each question included in the Project Readiness and Deliverability section of its Non-Price Scoring Matrix.

SMM Condition 2: IPC amends its Non-Price Scoring Matrix to remove any scoring penalties applied to bidders that provide redlines to form contracts or other elements of the RFP and its exhibits.

SMM Condition 3: IPC does not add or apply any cost of imputed debt to the price scores of any bids, specifically those using PPAs, BSAs, or similar contractual structures.

RFP Condition 1: Idaho Power provides a table clearly delineating any and all modeling inputs and assumptions that will be used in this procurement, showing how those values differ from the values provided in its 2021 IRP and providing support for all changes.

RFP Condition 2: Idaho Power clarifies that no bids will be excluded or otherwise penalized as long as all materials and documentation have been completed and submitted by the Bid Due Date, scheduled for June 13, 2023, in the Final RFP.

RFP Condition 3: IPC removes from the Final RFP the Supplemental Fee to bidders selected for the Final Shortlist.

RFP Condition 4: IPC updates item No. 2 on the BEC by adding the following language, "Documentation can include construction plans and schedules, evidence that necessary permits have been or are being acquired, proof of equipment procurement and delivery on site, and interconnection studies and agreements that support the commercial operation date."

RFP Condition 5: IPC changes the transmission requirements in Exhibit C of the Final RFP to make them consistent with Exhibit D.

RFP Condition 6: IPC increases the cure period in the Final RFP for mistakes in the Bid Entry or other forms to five calendar days from the date the bidder is notified of the deficiency by IPC.

RFP Condition 7: IPC removes §8.5 "Negotiation of Facility Purchase" from all Draft Form Agreements in which it appears.

DISCUSSION:

Issue

1. Whether the Commission should approve Idaho Power's Final Draft 2026 All-Source Request for Proposals with Staff's recommended conditions.
2. Whether the Commission should approve the associated Scoring and Modeling Methodology, with Staff's recommended conditions.

Applicable Rule or Law

The Commission's Competitive Bidding Requirements (CBRs) in OAR Chapter 860, Division 89 apply when an electric utility may acquire a resource or a contract for more than an aggregate of 80 megawatts and five years in length, as specified in OAR 860-089-0100(1).

Requirements for RFPs are set forth in OAR 860-089-0250. OAR 860-089-0250(2) requires that a draft RFP must reflect the elements, scoring methodology, and associated modeling from a Commission acknowledged IRP.

OAR 860-089-0250(3) specifies that a draft RFP must include minimum bidder requirements, standard form contracts, bid evaluation and scoring criteria, language allowing bidders to negotiate final contract terms, a description of how the utility will share information, the bid evaluation and scoring criteria for the selection of the shortlist, the alignment of the needs addressed by the RFP with an identified need from an acknowledged IRP, and the impact of any multi-state regulation on the development of the RFP.

Under OAR 860-089-0250(5), the Commission may approve an RFP with any necessary conditions if the Commission finds the RFP meets the requirements of the CBRs and will result in a fair and competitive bidding process.

Analysis

Background

On September 15, 2022, Idaho Power Company filed an application to open an Independent Evaluator (IE) selection docket for its 2026 All-Source Request for Proposals. In that filing, IPC included a proposed Scoring and Modeling Methodology (SMM) and a preliminary draft of its RFP (Attached as Appendix A to the filing).

At a public meeting on December 27, 2022, the Commission adopted Staff's recommendation to approve IPC's selection of London Economics International (LEI) as the IE for this procurement and granted a partial waiver of OAR 860-089-0250(2)(a).¹ The partial waiver allowed for the concurrent review and consideration of both the SMM and the draft RFP. This waiver was requested by Staff to expedite the review process and was based on feedback from some stakeholders who felt it would be an efficient and effective way to evaluate the SMM within the context of the RFP, rather than in isolation.

Prior to filing, IPC held a stakeholder workshop on the draft RFP on February 21, 2023. The Company subsequently made some alterations based on initial feedback from stakeholders, the IE, and Staff before filing its draft RFP and associated SMM on February 22, 2023.

¹ See UM 2255, Order No. 22-495, December 29, 2022.

LEI filed its initial observations and assessment of the RFP on March 1, 2023. On March 17, 2023, the Northwest and Intermountain Independent Power Producers Coalition (NIPPC) filed comments on the proposed SMM and the Draft RFP.

IPC subsequently filed an updated Draft RFP, along with its reply comments, on March 24, 2023. This updated draft included several improvements suggested by the IE, Staff, or other commenters. The Company later posted another draft of the RFP to its website on April 5, 2023.² Based on the Company's representation that the changes in this version will be included in the Final RFP, Staff's analysis is based upon that most recent draft, and the recommended conditions are in addition to adoption of the changes in that draft.

Staff Analysis

Idaho Power is seeking approximately 350 MW of peak capacity and 1,100 MW of variable energy resources to fill needs identified in its 2021 IRP. Eligible resources cover a wide swath of different technologies, contractual arrangements, and ownership structures which must be capable of achieving a commercial operation date (COD) of either June 1, 2026, or June 1, 2027. Since the initial RFP draft was filed in February, Staff has worked with stakeholders, the IE, and the Company to identify and, where possible, resolve issues with the draft RFP and associated scoring. Some issues and concerns remain outstanding and have led to the recommendations contained in this report. Below, Staff will provide its analysis and recommendations for both the scoring and modeling methodology and the Draft RFP itself.

Staff appreciates IPC's willingness to address concerns raised by the IE and stakeholders over multiple iterations of the Draft RFP. While some issues remain open, the Company has resolved many of those identified earlier in the review process. IPC also provided clarification on several ambiguous points that sparked questions at its stakeholder workshop and in written comments. Finally, Staff thanks IPC for its responsiveness and constant communication with Staff throughout the process thus far.

Several issues identified early by Staff, LEI, and NIPPC have already been satisfactorily resolved by the Company and warrant no further action or recommendations. Staff has some remaining concerns, which will be discussed below along with Staff's recommended conditions to address them. The issues addressed by Staff are not exhaustive of all the concerns raised in public comments, but only those for which Staff has specific recommendations based on stakeholder feedback.

² chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://docs.idahopower.com/pdfs/AboutUs/businessToBusiness/2026_IPC_AllSource_RFP.pdf.

Staff finds that IPC's Draft 2026 AS RFP complies with the Commission's CBRs that are applicable to this RFP, except as otherwise waived by the Commission. Further, Staff believes that the IPC Draft RFP, and the associated SMM, can be employed in a generally fair and open competitive procurement process. In recommending that the Commission approve the Draft RFP, Staff is also recommending the approval of the SMM included in the Draft RFP, with the conditions described throughout this report.

Staff Analysis of Scoring and Modeling Methodology

Per Commission Order No. 22-495, the SMM for this procurement were reviewed and analyzed in conjunction with the rest of the draft RFP.

AURORA Modeling

In its initial draft, IPC proposed using its AURORA modeling for the development of both the initial and final shortlists. In its comments, NIPPC proposed delaying the use of AURORA portfolio modeling until the development of the final shortlist. NIPPC argued that given the complexity of AURORA modeling, and the fact that it is opaque to bidders, AURORA should only be used for the development of the final short list. The initial shortlist, NIPPC argued, should be developed using only the price and non-price scores of each bid.³

In its updated draft filed with its reply comments on March 24, IPC reconfigured its scoring process. Rather than using AURORA to develop the initial shortlist, the Company opted to use price scoring based on the price and non-price factors provided as NIPPC suggested. Staff appreciates the Company's willingness to accommodate this change and agrees with NIPPC that it will result in a more transparent process.

While no longer utilized for the development of the initial shortlist, AURORA modeling will still be used to develop the final shortlist. Both Staff and LEI have been provided with the assumptions, system topology, and other elements of its AURORA model that will be used to evaluate the initial shortlist and create the final shortlist.

IPC's IRP Team will utilize the Long-Term Capacity Expansion (LTCE) functionality in AURORA to conduct portfolio analysis and create a final shortlist that represents a least-cost, least-risk portfolio mix. Staff has worked with AURORA models before in other contexts and is generally familiar with the functionality of the software.

Overall, Staff feels confident that AURORA's LTCE module is an appropriate tool for developing a final shortlist. Staff expects to work closely with the IE and the Company

³ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, pages 9.

as bids are received to ensure that the AURORA modeling that leads to a final shortlist conforms to the Commission's expectations for a fair, competitive procurement.

IPC will also use AURORA's electric market model to perform stochastic and sensitivity analyses as an additional step in the development of a final shortlist and evaluates the resources available for its portfolio. In addition to the sensitivity analyses required by Oregon's CBRs and those generally performed by IPC as part of its IRP modeling process, this stage of the process will include sensitivities specifically regarding the Boardman to Hemingway (B2H) transmission project, which is discussed below. As this procurement moves towards a final shortlist and begins using AURORA modeling, Staff will continue to work with the IE and Idaho Power to determine what additional sensitivity analyses may be required to ensure the portfolio of projects in the final shortlist are least-cost, least-risk.

Staff has no specific recommendations regarding AURORA modeling. We plan to work with the IE to ensure that LEI has full access to any modeling and information it may require to evaluate the final shortlist as the procurement moves forward.

Non-Price Scoring

Over multiple iterations of the RFP, Idaho Power has made several improvements to clarify this procurement's non-price scoring rubric. Staff appreciates the Company's willingness to incorporate suggestions from Staff, the IE, and NIPPC. In previous RFPs, Staff has supported changes to make the non-price scoring components as clear and objective as possible, as required by OAR 860-089-0400(2), 2(c). For PacifiCorp's 2022 All-Source RFP, following significant effort by Staff, the IE, stakeholders, the Company employed a non-price scoring matrix that was objective and amenable to self-scoring. NIPPC incorporated Appendix L from PacifiCorp's 2022 AS RFP as Attachment No. 2 to its comments in this docket as an example of a clear, well-designed, and objective non-price scoring matrix.⁴

In its initial draft, the Company's non-price scoring matrix included elements that were not fully explained and would have made accurate self-scoring difficult. Additionally, the Company failed to provide a description of how the various elements would be weighted to calculate a final non-price score.

The non-price scoring matrix is divided into two sections, one addressing Contracting Progress and Viability and the other demonstrating Project Readiness and

⁴ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, Attachment No. 2.

Deliverability. These are worth five points and twenty points, respectively, which will be summed to assign each bid a non-price score out of twenty-five total available points.

The Contracting Progress and Viability section includes five questions with three possible responses each. The responses indicate different assessments by bidders of how likely their requested amendments to different contractual terms are to allow for the successful conclusion of commercial negotiations on terms acceptable to IPC. Responses will be awarded zero, one, or two points based on the bidders' assessment of whether their contractual redlines would be totally inconsistent with, somewhat inconsistent with, or totally consistent with the specifications sought by the Company. Total scores for this section would then be divided in half to arrive a total out of five possible points.

The Project Readiness and Deliverability section consists of twelve questions and is worth a total of twenty points. These questions cover things like site control, interconnection progress, bidder experience, and other elements that may indicate how likely a project is to be able to achieve the COD sought by the Company.

Although the Company provided more detail on how bidders should respond to the non-price scoring matrix and a more thorough explanation of how those answers would translate into a total score, there is still some ambiguity present in the non-price scoring. For example, the Company provides a clear and concrete weighting for each question in the Contracting Progress and Viability section of the matrix. However, for the Project Readiness and Deliverability Section, the Company states that each question will receive different weighting, but provides no further details.⁵

The non-price scoring matrix included in the Final Draft RFP showed several improvements from the preliminary draft. Many questions were changed to allow for intermediate options where appropriate, rather than offering only binary options which might encourage bidders to over- or understate their ability to meet certain criteria, per the recommendation of the IE.⁶

In comments to the RFP, Staff expressed concern that the non-price scoring matrix would penalize bidders for providing redlines or changes to the form contracts and other documents contained within the RFP and its exhibits.⁷ This concern was shared by

⁵ See Idaho Power 2026-2027 All Source Request for Proposals, page 26.

⁶ See Observations on Idaho Power Company's Draft 2026 All Source Request for Proposals for Peak Capacity and Energy Resources: Independent Evaluator Assessment Report, March 1, 2023, pages 12.

⁷ See Staff Comments on Draft RFP and Scoring and Modeling Methodology, March 17, 2023, pages 3-5.

NIPPC and raised in its comments as well.⁸ Although IPC did make a number of clarifications and improvements to the overall Non-Price Scoring Matrix, the version provided in its Final Draft continues to penalize bidders for offering redlines to various terms and form contracts contained in the RFP.

Moreover, items 1-3 of the Non-Price Scoring Matrix require bidders to assess whether the redlines they have provided would reduce the likelihood of successfully contracting with Idaho Power. This is an inherently subjective evaluation and therefore runs counter to the Commission's goal of objective non-price scoring elements that are reasonably subject to self-scoring by bidders.⁹

SMM Condition 1: IPC provides the specific weighting for each question included in the Project Readiness and Deliverability section of its Non-Price Scoring Matrix.

SMM Condition 2: IPC amends its Non-Price Scoring Matrix to remove any scoring penalties applied to bidders that provide redlines to form contracts or other elements of the RFP and its exhibits.

Price Scoring Model

IPC has provided Staff and the IE with its proprietary price scoring model. Additionally, the Company provided a thorough walkthrough of its model to both Staff and the IE. The IE requested additional information from the Company, such as supporting detail for variables values that were hardcoded into the pricing model, in order to more fully evaluate the appropriateness of the model for scoring purposes. IPC has committed to providing updated models to the IE that provide this additional information. Staff has no recommendations based on the price scoring model.

Imputed Debt

The Draft RFP includes within its price scoring an imputed debt adder for all long-term financial contracts between the Company and a bidder, namely Power Purchase Agreements (PPAs) and Battery Storage Agreements (BSAs). Concerns with this issue were raised by NIPPC at the Company's stakeholder workshop on February 21, 2023.

⁸ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, page 16.

⁹ OAR 860-089-0400(2)(b).

The issue was discussed further in the IE's initial report,¹⁰ in Staff's Opening Comments,¹¹ and in comments filed by NIPPC,¹² all of which objected to its inclusion in the price scores for the RFP.

In its reply comments, Idaho Power provided an extensive explanation of the imputed debt adder and justification for its inclusion in the price scoring for the RFP.¹³ IPC also provided examples to Staff, the IE, and NIPPC showing exactly how imputed debt costs would be calculated and what those costs would amount to when applied to a hypothetical PPA. Staff appreciated this discussion and the Company's willingness to engage on this subject and provide additional information to all parties.

In brief, IPC states that bond ratings agencies such as Standard and Poor's (S&P) and Moody's treat the long-term financial obligations represented by a PPA or BSA as equivalent to debt for purposes of assessing the credit worthiness of a utility. As a result, the Company claims that its borrowing costs increase any time it is a party to such a long-term contract.¹⁴ In fact, the Company relates that its credit rating has already suffered due to its large outstanding obligations under PPA and BSA contracts, with Moody's citing those obligations in its most recent downgrade to IPC's credit rating.¹⁵

To compensate for these increased borrowing costs, the Draft RFP states that for all PPAs and BSAs, the Company intends to include an imputed debt adder which would attribute its increased borrowing costs to its counterparties. IPC claims that this is an attempt to protect ratepayers, who ultimately bear the increased cost of borrowing when the Company's credit rating is lowered.

In its initial report on the RFP, the IE raised concerns with the inclusion of an imputed debt adder for PPAs, BSAs, and similar contractual structures. LEI argued that the imputed debt adder would add significant complexity to the scoring process and make that process much less transparent to bidders and other stakeholders. Further, LEI

¹⁰ See Observations on Idaho Power Company's Draft 2026 All Source Request for Proposals for Peak Capacity and Energy Resources: Independent Evaluator Assessment Report, March 1, 2023, pages 14-15.

¹¹ See Staff Comments on Draft RFP and Scoring and Modeling Methodology, March 17, 2023, pages 3-4.

¹² See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, pages 6-8.

¹³ See Idaho Power Company's Reply Comments, March 24, 2023, pages 6-14.

¹⁴ See Idaho Power Company's Reply Comments, March 24, 2023, page 7.

¹⁵ Ibid, page 8.

stated that the inclusion of imputed debt would add so much complexity to the price scoring that it may be necessary to engage a utility accounting expert to assess.¹⁶

NIPPC also objected to the imputed debt adder, noting that it lacked transparency, would make the price scoring much more opaque to bidders, and would disadvantage third-party resources.¹⁷ In its reply comments, IPC stated that it applies its costs of debt and equity to self-build resources, however those costs are not necessarily equivalent to the imputed debt adder that the Company intends to add to third-party owned resources.¹⁸ According to models provided by the Company, the imputed debt adders contemplated in the draft RFP could add eighteen percent to the cost of PPAs, BSAs, and similar contractual structures.¹⁹ Staff is concerned this would put third-party bids using those structures at a marked disadvantage to utility-owned resources.

Additionally, Staff, the IE, and potential bidders are unable to independently verify the imputed debt costs the Company seeks to impose on bidders. As IPC noted in its reply comments, Moody's and S&P calculate the impact of imputed debt differently and both utilize at least some proprietary elements.²⁰ While Idaho Power did attempt to provide a clear explanation for how imputed debt would be calculated, there are still too many unknown variables for Staff to assess the imputed debt adder the Company is seeking to impose.

In its reply comments, IPC provided a detailed description of its current credit position and relayed information it has received from the ratings agencies about how future obligations may affect its creditworthiness and, therefore, its cost of borrowing. While this information was useful, it did not provide sufficient justification for the imputed debt adder. For example, IPC stated that imputed debt relating to contractual obligations "contributed" to the financial risk score of 'Significant' in S&P's most recent credit report on the Company. Similarly, IPC states that imputed debt "contributed" to the factors which led Moody's to downgrade the Company's credit.²¹

However, without a comprehensive picture of the IPC's balance sheet and credit position, it is not possible for Staff to evaluate whether the imputed debt adder proposed by the Company fairly and accurately reflects the increased debt costs attributable to any individual PPA or BSA. Evaluating the accuracy of the debt attribution would require

¹⁶ See Observations on Idaho Power Company's Draft 2026 All Source Request for Proposals for Peak Capacity and Energy Resources: Independent Evaluator Assessment Report, March 1, 2023, pages 15.

¹⁷ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, pages 7-8.

¹⁸ See Idaho Power Company's Reply Comments, March 24, 2023, page 11.

¹⁹ Ibid, Attachment No. 1, Idaho Power's Response to NIPPC's First Information Request.

²⁰ See Idaho Power Company's Reply Comments, March 24, 2023, page 6.

²¹ Ibid, page 8

information and a level of analysis that are outside of what is feasible within the context of this procurement.

The Commission provided direction on this topic in docket number UM 1267, which was an investigation into buy versus build bias in utility acquisitions. That investigation culminated in Commission Order No. 11-001, which addressed the issue of debt imputation. At that time, the Commission stated that debt imputation issues are more appropriately addressed in a general rate case where there can be a comprehensive examination of a utility's cost of capital.²²

While appreciative of the extended explanation provided by Idaho Power, Staff is not persuaded that an imputed debt adder is appropriate for this RFP. With the limited information provided, and with limited ability to fully investigate and evaluate that information, Staff believes the Commission's concerns in Order 11-001 apply here and recommends that any issues related to IPC's credit profile and credit risks be addressed in a rate proceeding. As such, Staff recommends that any imputed debt adder be removed from the price scoring in IPC's 2026 AS RFP.

SMM Condition 3: IPC does not add or apply any cost of imputed debt to the price scores of any bids, specifically those using PPAs, BSAs, or similar contractual structures.

Staff Analysis of Draft RFP

RFP Issues and Staff Recommendations

IRP Alignment

This RFP is somewhat complicated by the timing of Idaho Power's current planning process. IPC has been working on its 2023 IRP, which it intends to file in September. The needs the Company is seeking to fill are derived from its 2021 IRP, which used one set of assumptions and parameters for all portfolio modeling.

However, in the interest of using the best and most timely information available, the Company intends to update a number of those assumptions and parameters based on its forthcoming 2023 IRP. As a result, the Company has yet to specify exactly which assumptions and inputs will be used for the modeling in this procurement and whether they align with the 2021 IRP. OAR 860-089-0250(3)(g) requires, "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

²² See Docket UM 1276, Commission Order No. 11-001, January 3, 2011, page 6.

good cause shown.” While the needs filled by this RFP are derived from a Commission acknowledged IRP, the modeling will be based on the work IPC has done in preparing its 2023 IRP, which will be filed later this year.

In several responses to comments and information requests, the Company has directed Staff or the IE to its 2021 IRP or to materials provided as part of its Integrated Resource Plan Advisory Council (IRPAC) stakeholder process for the 2023 IRP.²³ While the information regarding its IRP modeling may already be available, it is unclear to Staff and the IE, what values are being used and notes that requiring bidders to seek information from multiple sources imposes an unnecessary burden on them. Moreover, Staff wishes to ensure alignment between the RFP and IRP processes as much as possible as the 2023 is developed and filed.

For the sake of clarity, Staff requests that the Company provide a clearly laid-out table showing assumptions, inputs, or other variables from its IRP modeling that will be used as part of the scoring and evaluation for this RFP. The table should indicate which of those variables are likely to be updated; what those values were as of the 2021 IRP; any updated values; and support for those updates, including whether the values align with the 2023 IRP in development.

RFP Condition 1: Idaho Power provides a table clearly delineating any and all modeling inputs and assumptions that will be used in this procurement, showing how those values differ from the values provided in its 2021 IRP and providing support for all changes.

Benchmark Resource Scoring and IE Review

Idaho Power has informed Staff, LEI, and stakeholders that it expects one or more benchmark bids will be submitted in response to this RFP. The IE expressed initial concern that IPC’s proposed schedule would not allow sufficient time for it to fully analyze, evaluate, and score any benchmark bids offered in this procurement.²⁴ The Company subsequently amended its suggested schedule and allowed more time for the IE to perform these functions. Staff appreciates Idaho Power’s flexibility on this point.

IPC Proposed Schedule

²³ See Idaho Power Company’s Reply Comments, March 24, 2023, pages 2.

²⁴ See Observations on Idaho Power Company’s Draft 2026 All Source Request for Proposals for Peak Capacity and Energy Resources: Independent Evaluator Assessment Report, March 1, 2023, page 10-11.

Section 2.8 of the Draft RFP includes a schedule of key milestones preferred by IPC. In the interest of efficiency, IPC has opened its bid portal to allow bidders to begin completing the Bid Definition Form, Bid Entry Form, Bid Eligibility Checklist, and Non-Price Scoring Matrix (Exhibits A, B, C, and D, respectively). While this may be a prudent way to provide additional time to potential bidders, the Draft RFP has not been approved by the Commission and the Company has revised it. Despite this fact, the draft suggests that Bid Entry Forms must have been completed by April 13.²⁵ Staff is concerned that such actions sow confusion and may impact the competitiveness of the procurement.

RFP Condition 2: Idaho Power clarifies that no bids will be excluded or otherwise penalized as long as all materials and documentation have been completed and submitted by the Bid Due Date, scheduled for June 13, 2023, in the Final Draft RFP.

Supplemental Fee for Final Shortlist

IPC proposed a fee of \$250 per MW for bidders selected for the final shortlist. NIPPC objected to the Draft RFP's inclusion of a Supplemental Fee, arguing that such a fee would not apply to benchmark bids and therefore disadvantage independent developers.²⁶

In reply comments, IPC described this fee as a "passive obligation" to ensure good faith negotiations.²⁷ The Company also notes in the RFP that this fee may be refunded to the bidder at IPC's discretion.

In Staff's view, the Company's treatment of this fee is vague and confusing. By describing it as a passive obligation and allowing refund of the fee at its own discretion, IPC would be introducing ambiguity into the process. Moreover, allowing the Company discretion to charge or refund this fee would introduce a potential source of favoritism or bias. Given IPC's assertion that the fee is only to ensure good faith negotiations rather than to compensate the Company for actual resources consumed in the bid evaluation process, Staff questions the efficacy of this provision in the RFP and agrees with NIPPC that it should be removed.

RFP Condition 3: IPC removes the Supplemental Fee to bidders selected for the Final Shortlist.

²⁵ See Idaho Power 2026-2027 All Source Request for Proposals, page 7.

²⁶ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 17, 2023, pages 25.

²⁷ See Idaho Power Company's Reply Comments, March 24, 2023, pages 24.

Bid Eligibility Checklist

NIPPC argued in its comments that two particular elements of the Bid Eligibility Checklist (BEC) that address COD viability and transmission rights warranted additional clarification. Item 6 of the BEC requires that bidders provide documentation indicating the viability of the bid's COD.²⁸ However, neither the BEC exhibit nor the RFP specify what documentation the Company would accept. NIPPC suggested that the Company should clarify what documentation would be considered sufficient evidence that a bid could meet its proposed COD, for example by listing what leases, permits, regulatory approvals, construction plans, or similar documents would be deemed acceptable.

Staff agrees that further clarification on this point is warranted. If the Company wishes to require documentation to demonstrate the viability of a project's COD as one of its basic screening criteria, then it should be clear what documentation it will accept for that purpose. In PacifiCorp's 2022 All-Source RFP, the non-price scoring matrix included a section on demonstrating project readiness and deliverability, in which the bidder could provide the following elements:

“Schedule and supporting documentation include development and construction milestones (major equipment procurement and delivery on site, EPC execution and notice to proceed, interconnection backfeed, mechanical completion) which support the commercial operation date...Bidder has signed LGIA which demonstrates ability to interconnect before proposed commercial operations date”²⁹

Staff proposes the Company include similar language to clarify this element of the BEC to ensure bidders know what documentation must be provided to demonstrate the viability of proposed CODs. Staff encourages both the Company and stakeholders to react to this proposed language in their reply comments.

RFP Condition 4: IPC updates item No. 2 on the BEC by adding the following language, “Documentation can include construction plans and schedules, evidence that necessary permits have been or are being acquired, proof of equipment procurement and delivery on site, and interconnection studies and agreements that support the commercial operation date.”

Transmission and Interconnection

²⁸ See Idaho Power 2026-2027 All Source Request for Proposals, Exhibit C – Bid Eligibility Checklist.

²⁹ See PacifiCorp 2022 All-Source Request for Proposals, Appendix L - Non-Price Scoring Matrix.

In its comments, NIPPC noted the inconsistency in the treatment of transmission rights between the Bid Eligibility Checklist and the Non-Price Scoring Matrix. The BEC (Exhibit C) requires that a bidder indicate that it has “provided appropriate transmission rights to deliver to IPC points of delivery” on the IPC system.³⁰ In the Non-Price Scoring Matrix (Exhibit D), however, IPC details specific milestones in the interconnection process well-short of having secured transmission rights and awards bidders points for having achieved those milestones.

Staff agrees with NIPPC that the inconsistency between Exhibits C and D may cause confusion for bidders. NIPPC suggests Exhibit C transmission requirements align with the description in Exhibit D, in which the bidder can “demonstrate it has submitted...any required transmission service request(s) to the relevant Transmission Providers and that it is meeting the requirements in those processes.” Staff supports this suggested condition.

RFP Condition 5: IPC changes the transmission requirements in Exhibit C to make them consistent with Exhibit D.

Cure Period

In its comments, NIPPC objected to the two-day cure period for errors or insufficiencies in the Bid Eligibility Form, arguing that this was an unreasonably short time that could exclude potential bidders for minor, inadvertent mistakes. NIPPC suggested in its comments that this cure period should be increased to seven calendar days at a minimum.³¹

In its reply comments, the Company asserted that a two-day cure period was consistent with its past RFPs.³² Staff would note that this is IPC’s first RFP which is subject to the Commission’s CBRs. Staff agrees with NIPPC that two days is an unreasonably short time to allow for bidders to correct errors and recommends providing additional time to cure bids. Furthermore, IPC would allow five business days for bidders to respond to requests from the Company for clarification or additional information.³³ As such, Staff believes that five calendar days should be allowed for the correction of bids.

³⁰ See Idaho Power 2026-2027 All Source Request for Proposals, Exhibit C – Bid Eligibility Checklist.

³¹ See Northwest & Intermountain Power Producers Coalition’s Comments on Draft Request for Proposals, March 17, 2023, pages 20-21.

³² See Idaho Power Company’s Reply Comments, March 24, 2023, pages 23.

³³ See Idaho Power 2026-2027 All Source Request for Proposals, page 23.

RFP Condition 6: IPC increases the cure period for mistakes in the Bid Entry or other forms to five calendar days from the date the bidder is notified of the deficiency by IPC.

Form Contracts

In Exhibit H to the draft RFP, Draft Form Agreements for Resource Based Bids, IPC provided provisional form agreements for BSAs, PPAs, and Build Transfer Agreements (BTAs). In its comments, NIPPC raised several concerns with the form contracts attached as exhibits to the Draft RFP. NIPPC divided these concerns among those specific to the form PPA, those specific to the form BSA, and those common to both contracts.

NIPPC's concerns that spanned by the form PPA and form BSA included the provision on Right of First Refusal; the amount of delay damage; allowable forms of development security; the contingency of all contracts on Idaho Public Utilities Commission approval; consistency in the treatment of interconnection between the form contract and the RFP; PUC jurisdiction over disputes; the lack of recourse for delays caused by Idaho Power's interconnection department; limits on seller's damages; and the definition of Qualified Operator.

Regarding the solar-specific form PPA, NIPPC raised the issues of solar forecasting cost attribution; consistency in performance guarantees between different sections of the contract; the treatment of compensated curtailment; and extraneous language that did not seem to apply to this agreement. Finally, NIPPC raised issues with the form BSA agreement, namely roundtrip efficiency requirements and charging management.

In response to the list of contractual issues identified by NIPPC, Idaho Power stated that specific components of the form contracts it provided in Exhibit H should be negotiated between the Company and its counterparties after shortlist selections have been made, rather than debated in the context of RFP approval.³⁴ IPC did not reply to any of the specific contractual concerns raised by NIPPC.

³⁴ See Idaho Power Company's Reply Comments, March 24, 2023, page 24.

Staff appreciates IPC's stance that contractual negotiations should be left to the Company and its selected counterparties, but finds that one of the contractual elements identified by NIPPC would run counter to the CBRs and the Commission's goal of fostering truly competitive procurements. The Commission has an expressed interest in ensuring that those contracts do not unreasonably burden potential bidders to the advantage of Company owned resources. Furthermore, the Commission has made clear its goal of reducing the potential for bias for utility-owned resources.

Right of First Refusal

In its comments, NIPPC objected to the inclusion of an overly broad right of first refusal provisions in the form contracts for both PPAs and BSAs. The provision in question is §8.5 of both draft form agreements. The language in §8.5 would require that upon signing the agreement, the parties thereto would be compelled to immediately begin negotiations in good faith for IPC to purchase the facility outright.³⁵ NIPPC noted that this provision of the form PPA and BSA contracts would effectively render all PPA or BSA bids into Build Transfer Agreements (BTA).³⁶

The Commission's CBRs "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."³⁷ A competitive bidding process must necessarily be open to bids encompassing resources with a diversity of ownership structures. The CBRs expressly provide for participation by third-party bidders.³⁸ Third-party bidders should be permitted to offer projects under eligible contractual structures, PPAs and BSAs among them, and provisions that limit those structures are likely to have a chilling effect on the number of third-party bids responsive to the RFP. Staff agrees with NIPPC's concern and finds that this provision effectively converts any projects offered under a PPA or BSA into a BTA. This is not consistent with the purpose of the CBRs, to establish a fair competitive bidding process.

RFP Condition 7: IPC removes §8.5 "Negotiation of Facility Purchase" from all Draft Form Agreements in which it appears.

³⁵ See Idaho Power 2026-2027 All Source Request for Proposals, Exhibit H.

³⁶ See Northwest & Intermountain Power Producers Coalition's Comments on Draft Request for Proposals, March 24, 2023, page 28.

³⁷ OAR 860-089-0010(1).

³⁸ E.g. OAR 860-089-0300.

Other RFP Issues

In addition to the issues raised above, there are two other, related issues unique to this RFP as compared to prior procurements reviewed by Staff. While Staff currently has no specific recommendations or concerns regarding these issues, Staff and the IE will continue to monitor them and engage with the Company.

Boardman to Hemingway

The 2026 AS RFP assumes that the Boardman to Hemingway transmission line will be energized by June 2026, making it operational in time to serve resources acquired through this procurement.

Uncertainty remains around the B2H project. As of the date of this report, the Commission has still not issued a decision on the Company's application for a Certificate of Public Convenience and Necessity (CPCN), in Docket PCN 5, although the procedural schedule for that docket indicates a decision is anticipated by the end of June 2023.

In addition to the regulatory uncertainty around the project, there is the practical risk of construction delays that may prevent a transmission line the size and length of B2H from being fully constructed and energized in time to serve resources selected in this procurement.

Staff raised these concerns in its comments to the RFP, requesting that the Company agree to perform different sensitivity analyses around the B2H completion by certain dates, including the possibility that the line is never available to serve potential resources in this procurement.³⁹

In its reply comments, Idaho Power assured Staff that it would perform a number of sensitivity analyses around B2H as it moves from its initial shortlist to its final shortlist using its AURORA planning model.⁴⁰ Staff will work collaboratively with the Company and the IE to identify B2H and any other sensitivities to perform on the final shortlist, and to establish adequate timeframes to perform and report out on sensitivity findings.

Market Energy Purchases

Idaho Power's 2021 IRP identified energy purchases via B2H as part of the least-cost, least-risk portfolio to meet its needs.⁴¹ In Exhibit C to the 2026 AS RFP, the Company

³⁹ See Staff's Comments on Draft RFP and Scoring and Modeling Methodology, March 17, 2023, page 8.

⁴⁰ See Idaho Power Company's Reply Comments, March 24, 2023, page 20.

⁴¹ Idaho Power Company's 2021 IRP, page 152.

specifies the preferred volumes, times, and delivery points for market energy purchases. This is a new element that Staff has not seen in prior RFPs. Staff will continue to monitor the inclusion of market energy purchases as an eligible resource in this RFP.

The 2021 IRP demonstrated that market purchases would be particularly effective early in the planning period, namely in the years 2026-2031.⁴² Between its initial draft and final draft of the RFP, IPC specified which elements of the RFP would apply to market energy bids versus resource bids. The Company also divided its description of the price and non-price scoring into different sections for market and resource bids, providing additional clarity.

Idaho Power issued an RFP specifically for market energy purchases in 2021 but received no bids. In meetings with the IE and Staff, the Company provided an overview of how it views the potential for market energy purchases in this RFP, but was unsure whether it expected to receive bids for the total market energy purchases sought.

However, the Company expects the increased transmission capacity to deliver energy from Mid-Columbia to its territory may yield different results in this 2026 RFP. Staff has no concerns or recommendations regarding market energy purchases at this time.

Conclusion

Based on the above analysis, Staff believes IPC's Draft 2026 All-Source Request for Proposals should be approved for issuance, subject to the conditions recommended by Staff. Below is a summary of Staff's recommendations:

SMM Condition 1: IPC provides the specific weighting for each question included in the Project Readiness and Deliverability section of its Non-Price Scoring Matrix.

SMM Condition 2: IPC amends its Non-Price Scoring Matrix to remove any scoring penalties applied to bidders that provide redlines to form contracts or other elements of the RFP and its exhibits.

SMM Condition 3: IPC does not add or apply any cost of imputed debt to the price scores of any bids, specifically those using PPAs, BSAs, or similar contractual structures.

⁴² Ibid, page 152.

RFP Condition 1: Idaho Power provides a table clearly delineating any and all modeling inputs and assumptions that will be used in this procurement, showing how those values differ from the values provided in its 2021 IRP and providing support for all changes.

RFP Condition 2: Idaho Power clarifies that no bids will be excluded or otherwise penalized as long as all materials and documentation have been completed and submitted by the Bid Due Date, scheduled for June 13, 2023, in the Final Draft RFP.

RFP Condition 3: IPC removes the Supplemental Fee to bidders selected for the Final Shortlist.

RFP Condition 4: IPC updates item No. 2 on the BEC by adding the following language, "Documentation can include construction plans and schedules, evidence that necessary permits have been or are being acquired, proof of equipment procurement and delivery on site, and interconnection studies and agreements that support the commercial operation date."

RFP Condition 5: IPC changes the transmission requirements in Exhibit C to make them consistent with Exhibit D.

RFP Condition 6: IPC increases the cure period for mistakes in the Bid Entry or other forms to five calendar days from the date the bidder is notified of the deficiency by IPC.

RFP Condition 7: IPC removes §8.5 "Negotiation of Facility Purchase" from all Draft Form Agreements in which it appears.

PROPOSED COMMISSION MOTION:

Approve Idaho Power Company's 2026 All-Source Request for Proposals with the RFP Conditions recommended by Staff.

Approve the associated Scoring and Modeling Methodology (SMM) with the SMM Conditions recommended by Staff.