

PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: December 27, 2022

REGULAR X **CONSENT** **EFFECTIVE DATE** **NA**

DATE: December 19, 2022

TO: Public Utility Commission

FROM: Pat Shaughnessy

THROUGH: Bryan Conway, JP Batmale, and Kim Herb **SIGNED**

SUBJECT: IDAHO POWER COMPANY:
(Docket No. UM 2255)
Approval of Independent Evaluator selection for Idaho Power 2026
All-Source Request for Proposal and Staff's request for a partial waiver of
OAR 860-089-0250(2)(a).

STAFF RECOMMENDATION:

Approve selection of London Economics International (LEI) to serve as an Independent Evaluator (IE) for Idaho Power Company's (IPC or Company) 2026 All-Source Request for Proposals (RFP) for resources identified in its 2021 Integrated Resource Plan (IRP) and waive the requirement under OAR 860-089-0250(2)(a) for Commission approval of IPC's proposed scoring and modeling prior to preparing a draft RFP.

DISCUSSION:

Issues

1. Whether the Commission should approve selection of Staff's recommended IE candidate to serve as IE for IPC's 2026 All-Source RFP for resources identified in its 2021 IRP.
2. Whether the Commission should waive the requirement under OAR 860-089-0250(2)(a) for Commission approval in the IE selection docket of a proposal for scoring methodology and associated modeling, prior to preparing a draft RFP.

Applicable Rule or Law

The Commission's competitive bidding requirements 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 with a duration of five or more years, as specified in OAR 860-089-0100(1).

Under OAR 860-089-0200(1), when an electric utility is subject to competitive bidding requirements, it must engage the services of an IE to oversee the RFP process. To engage an IE, the utility must do the following:¹

1. Notify all parties to its last general rate case, RFP, and IRP dockets that it needs an IE.
2. Solicit input from those parties and from interested persons regarding potential IE candidates.
3. File a request for Commission approval to engage an IE.
4. Upon approval by the Commission, engage the IE with a contract that "must require that the IE fulfills its duties under these [competitive bidding] rules and that the IE confers as necessary with the Commission and Commission Staff on IE's duties."

The duties of an IE are set forth in OAR 860-089-0450. In fulfilling its duties, the IE must be provided with full access to the utility's production cost and risk models and sensitivity analyses.²

When a utility files for Commission approval to engage an IE, Commission Staff reviews the request, and solicits input from interested persons. Per OAR 860-089-0200(2), Commission Staff then makes its recommendation on IE selection based on the following:

1. Input received from the electric company and interested, non-bidding parties.
2. Review of the degree to which the IE is independent of the electric company and potential bidders.
3. The degree to which the cost of the services to be provided is reasonable.
4. The experience and competence of the IE.
5. The public interest.

¹ OAR 860-089-0200(1), (2), (3), (4).

² OAR 860-089-0400(6).

Per OAR 860-089-0010(2), upon request or its own motion, the Commission may waive any of the Division 89 rules for good cause shown.

Under OAR 860-089-0250(1) and (2), a draft RFP must reference and adhere to the RFP elements, scoring methodology, and associated modeling described in the Commission acknowledged IRP associated with the RFP.

OAR 860-089-0250(2)(a) requires that if a utility does not have a Commission acknowledged IRP in which the RFP design, scoring methodology, and associated modeling was included, the utility must develop and file for approval, in the IE selection docket, a proposal for scoring methodology and associated modeling prior to preparing a draft RFP.

Analysis

Background on IE Selection

Idaho Power Company filed its 2021 IRP on December 30, 2021, in Docket No. LC 78. The 2021 IRP identified capacity deficits in the years 2023, 2024, and 2025, and the associated action items in the IRP included a procurement to fill those deficits.³ The deficits identified in the IRP exceed the RFP 80 MW threshold making the procurement of those resources subject to competitive bidding rules.⁴

IPC applied to open an IE selection docket on September 15, 2022. The Company shared a draft IE RFP with interested intervenors for feedback. On November 1, 2022, IPC issued a final IE RFP to invite IE candidates to submit bids by November 15, 2022.

On December 8, 2022, IPC filed its request for approval to engage an IE. The Company received five bids, all of which met the minimum qualifications and were scored. The five firms that were evaluated were the following:

Table 1: IE RFP Bidders

Bates White
CRA International
London Economics International
Merrimack
PA Consulting

³ IPC 2021 Integrated Resource Plan. Page 170.

⁴ OAR 860-089-0100(1)(a).

Two members of IPC staff independently reviewed and scored each proposal. The Company then developed an overall score for each RFP bid. Broadly, IPC’s IE RFP scoring was broken down into three categories and weighted as follows:

Table 2: IE Scoring Criteria and Weighting

Category	Description	Pts	Weight
Ability to Perform	Understanding the scope of service and deliverables, as shown by the Respondent's description of the tasks in its deliverables, understanding of the functions to be performed, and experience evaluating another type of all-source resource RFP, or other related experience outside the Western Electricity Coordinating Council (WECC).	400	53.3%
	Specific experience reviewing an RFP for transmission, renewable, and non-renewable market purchase resources, including experience with evaluating benchmark and market bids.		
	Experience evaluating new or existing resources, including storage options such as Battery Energy Storage System (BESS) or other types of energy storage.		
	Experience evaluating another type of renewable resource RFP, or other related experience in the WECC.		
	Experience with utility applications of production cost modeling specific to firm transmission, and renewable and non-renewable generation resources as part of an RFP.		
	Initial assessment and review of the scoring methods and computer models as described in RFP Attachment C.		
Price Proposal	Total price of the proposal, and the overall elements of that price.	300	40.0%
	Overall appropriateness of the cost in relation to the submitted proposal.		
Acceptance of Contract Documents	Respondents must provide redlines and comments to attached Professional Services Agreement.	50	6.7%
Total Points		750	100%

On December 1, 2022, IPC hosted a workshop for Staff and non-bidding intervenors to discuss the IE candidates. Staff commends IPC’s staff in balancing the need for openness with confidentiality in this process. Following the workshop, the Company filed its request for approval to engage an IE and proposed, based on its scoring of the proposals shown in Table 3 below, the approval of LEI for this procurement. IPC states that it determined that all five IE candidates possessed the necessary experience and supports selection of any of the five, but stated a preference for LEI.

[BEGIN CONFIDENTIAL]

[END CONFIDENTIAL]

No interested parties present at the workshop objected to the Company's preference, or to any of the top four performing bids.

IE Selection Recommendation

Staff independently reviewed and evaluated each of the five proposals received by IPC in response to its IE RFP. Staff only had follow-up questions regarding the proposal from LEI. Staff posed several questions to LEI to clarify Staff's understanding of the preferred proposal. LEI provided written responses and further discussed those responses during a December 7, 2022, call between Staff, IPC, and LEI. Staff is confident it received sufficient information about the bidders' experience and capabilities. Based on this evaluation, Staff agreed with Idaho Power's preference for LEI for IPC to engage as IE for this procurement.

A discussion of Staff's considerations of each of the criteria outlined in OAR 860 089-0200(2) follows:

Input received from the electric company and interested, non-bidding parties:

Northwest and Intermountain Power Producers Coalition (NIPPC), as an interested, non-bidding party, along with PUC Staff, provided feedback on the IE recommendation.

During the workshop held by IPC, NIPPC stated that it was comfortable with the technical capabilities of LEI and had no objection to LEI's selection as IE.

Review of the degree to which the IE is independent of the electric company and potential bidders:

Bidders for IPC's IE RFP were required to disclose any potential or actual conflicts of interest, including any business conducted with IPC 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. To the best of Staff's knowledge, LEI has no conflicts of interest that would make it unable to act as IE for this procurement. During the discussion between LEI, IPC, and Staff, LEI noted that it provides services to types of companies that might bid into an RFP like this, and has reached out to its clients to determine whether any intended to bid. At the time of the meeting, LEI said that none of its clients indicated intentions to bid, but in the event that a client were to subsequently decide to bid, it would notify all parties and arrange for strategies to mitigate conflicts of interest.

The degree to which the cost of the services to be provided is reasonable:

All of the bids were well below the upper number of historical IE costs Staff calculated as part of Docket No. AR 600. In Docket No. AR 600, Staff conducted analysis on historic IE costs of Oregon utilities. Staff noted that, based on ten data points between 2007 and 2018 for two Oregon utilities, the range of IE costs was from \$190,000 to \$929,000. Any cost recovery related to engagement of this IE is beyond the scope of this memo, and Staff makes no findings related to any such proposal. Staff finds the pricing proposed for services to be sufficiently reasonable to support engagement of an IE at this time. Staff also notes that the drivers of IE costs include: the complexity of the RFP design process, the number of proposals received in response to an RFP, and the need for analysis and review of high-end production cost and transmission modeling.⁵

Among the five bidders, LEI was [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] proposal. Although Staff believes the experience and ability to perform should be primary drivers of IE selection, the cost to ratepayers must also be considered. Staff examined the proposals to determine the drivers of the cost difference between proposals and noted that LEI's time and staff commitment, as well as its experience and expertise, aligned with other top performing bids. The primary difference in cost was due to [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. Given that all interested non-bidding stakeholders agreed that LEI demonstrated sufficient experience and ability perform the work requested Staff finds the cost of services to be provided by LEI as reasonable and commensurate with the expected services.

⁵ See AR 600, Staff Comments, June 13, 2018. Page 2.

The experience and competence of the IE:

Per the RFP issued by the Company, all bidders were required to meet minimum qualifications by demonstrating in their application that they had the adequate experience and competency such that they could perform the IE functions identified in the Commission's competitive bidding rules. Based on the application materials, Staff considered whether applicants had previous IE experience, recent or prior RFP evaluation or moderation experience, or other relevant experience. This included the specialized experience noted above in Table 2, including experience in the WECC; experience with RFPs for transmission, renewables, market purchases, and energy storage; evaluation of benchmark resources; and advanced modeling capabilities.

LEI demonstrated experience across a variety of procurement activities for both utility and developer clients, experience with applicable regulatory environments, and experience in diverse geographic areas, including the Western United States. LEI also noted prior procurement work in Oregon as the IE for PacifiCorp's 2017 Solar RFP. This engagement provided LEI some familiarity with Oregon's regulatory environment.

LEI has acted as an independent evaluator and in similar roles, throughout the United States and Canada. This includes experience within WECC, particularly with California Independent System Operator where LEI acted as an IE for a large, investor-owned utility. Staff believes this familiarity with regional dynamics may be directly transferrable to the current procurement.

LEI also has extensive experience performing modeling on all aspects of the energy market, including transmission systems and interconnection studies; renewable energy development and procurement; and BESS projects.

Finally, LEI demonstrated experience involving analysis and evaluation of benchmark resources; designing and ensuring competitiveness of procurement processes; and various contractual structures including Build Transfer Agreements and Power Purchase Agreements.

The public interest:

In addition to the factors discussed above, Staff believes there is an additional public benefit to this selection. Given the number and complexity of procurements likely to be launched in coming years due to the evolving statutory and regulatory environment in Oregon and around WECC, having more potential IEs with recent experience working closely with the OPUC on competitive procurements would be beneficial.

Although LEI has acted as an IE for a solar procurement in Oregon, it has not to date filled that role for a larger, more complex all-source procurement. Increasing the number of potential IEs with that experience may be useful in future procurements by Oregon's regulated utilities. While this consideration would not in-and-of-itself justify the selection of an otherwise unqualified IE, it does represent an ancillary benefit to LEI's selection in this docket.

Staff Request for Partial Waiver of OAR 860-089-0250(2)(a)

Idaho Power did not include an RFP scoring methodology and associated modeling (SMM) in its last Commission-acknowledged IRP, LC 78. As such, per OAR 860-089-0250(2)(a), prior to preparing a draft RFP and as part of the IE selection docket, the Company is required to develop and file for approval a proposed RFP SMM. Staff notes that IPC submitted its Proposed 2026 RFP Bid Scoring and Modeling Process as Attachment D to its initial filing on September 15, 2022.⁶

In its "Request for Commission Approval to Engage Independent Evaluator" filing on December 8, the Company states it will invite feedback on this proposal and "work with the IE to prepare the draft 2026 All-Source RFP to be filed for Commission approval."⁷ Staff understands this to mean that the Company will work with the IE, Staff, and stakeholders in the review of the SMM, and seek approval of the SMM prior to the Commission issuing approval the draft RFP.

In conversations with Staff stakeholders, such as NIPPC, have suggested that a more integrated and concurrent evaluation of SMM and the draft RFP could be a more efficient and effective process than one that approves the SMM prior to launching the draft RFP review process.

Staff is supportive of this approach, which launches both processes at the same time but finishes the approval of the SMM prior to seeking approval of the draft RFP, so that the approved SMM is fully integrated into the draft RFP. In both instances Staff remains committed to ensuring a robust stakeholder engagement process. All stakeholders will be given the opportunity to discuss both SMM and the draft RFP, as envisioned by current competitive bidding rules, with the SMM still being approved *prior to* the approval of the RFP. Staff will work with Idaho Power, stakeholders, and the IE to establish a schedule that reflects this.

⁶ Docket UM 2255, Application for Approval of 2026 All-Source Request for Proposals to Meet 2026 Capacity Resource Need, September 15, 2022.

⁷ Docket UM 2255, Idaho Power's Request for Commission Approval to Engage Independent Evaluator, December 8, 2022.

Given the circumstances presented by IPC's need to close very near-term resource deficits, Staff supports allowing limited flexibility in this proceeding to launch the review of the SMM and draft RFP at the same. This accommodates a tight procurement timeline while maintaining the transparency of the sequential two-step approval process under the current rules.

To that end, Staff recommends the Commission grant a partial waiver of OAR 860-089-250(2)(a) and allow concurrent discussion of both scoring and modeling methodologies and the draft RFP. As stated previously, Staff will establish with the Company and interested stakeholder, a procedural schedule for Commission approval of the SMM and then the subsequent approval draft RFP. Staff suggests this process should include at least one workshop dedicated to scoring methodology and associated modeling, and—as required by rule—⁸ no fewer than two workshops dedicated to the draft RFP, with at least one for potential bidders and at least one for the broader stakeholder community.

Conclusion

Staff independently reviewed the IE bids, considered feedback, and recommends that IPC be approved to engage London Economics International as the IE for IPC's 2026 All-Source RFP. Additionally, Staff recommends the Commission waive the provision under OAR 860-089-0250(2)(a) requiring approval of the RFP scoring methodology and associated modeling prior to preparing a draft RFP.

PROPOSED COMMISSION MOTION:

1. Approve LEI as the Independent Evaluator for Idaho Power Company's 2026 All-Source Request for Proposals.
2. Waive the requirement in OAR 860-086-0250(2)(a) for Commission approval of RFP scoring methodology and associated modeling prior to preparing a draft RFP.

⁸ OAR 860-089-0250(1).