

Comparison of Selected State Competitive Procurement Requirements

State	Competitive Procurement for Wholesale Acquisition/Construction	Independent Evaluator (IE)	Competitive / RFP Process	Criteria for Selection
Arizona ¹	A load-serving entity must use an RFP as its primary acquisition process for the wholesale acquisition of energy and capacity (subject to several exceptions)	A load-serving entity (LSE) must engage an Independent Monitor to oversee all RFP processes for the procurement of new resources. The LSE must consult with the AZ Commission staff on the identity of the IE. The IE is paid by the LSE.	The LSE will design the RFP and evaluate bids. The LSE or an affiliated entity must submit to the IE any bid proposal any benchmark or reference cost that the LSE has developed to evaluate bids.	Established in the RFP by the LSE.
Florida ²	Prior to filing a petition for a determination of need for a new power plant, a utility must evaluate supply-side alternatives by issuing an RFP.	None	Publish notice of the RFP in major publications, periodicals and trade publications. Notice must include a general description of the utility's next planned generating unit – including planned in-service date, cost, MW size, location, fuel type and technology. FL Commission must approve the RFP-resulting PPA or a self-build option	Price Non-price attributes: technical and financial viability; dispatchability; deliverability (interconnection and transmission); fuel supply; water supply; environmental compliance; performance criteria

¹ Arizona Administrative Code, § R14-2-705 (2010), available at: http://www.azsos.gov/public_services/Title_14/14-02.htm.

² Florida Administrative Code, § 25-22.082 (2003), available at: <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=25-22>.

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			as part of the need determination.	
Georgia ³	New supply-side resources identified in the IRP Plan	<p>Retained by the soliciting entity; selected by and reporting to the GA Commission. The IE will work in coordination with Commission staff and the soliciting entity. The IE will be funded through reasonable bid fees collected by the soliciting entity.</p> <p>The IE must agree to any proxy price included in the RFP against which bids will be tested. All bidder communications occur through the IE.</p> <p>The IE (and Commission staff) will participate in the certification proceeding to testify about their independent evaluation of the selected resources and</p>	<p>Soliciting entity responsible for preparing the initial RFP draft, including procedures, evaluation factors, credit & security obligations, a pro forma PPA, proxy price, and solicitation schedule. The IE and Commission staff will review the draft RFP and propose changes. The final version is subject to Commission approval.</p> <p>If the soliciting entity wants to consider a self-build option, the construction proposal must be submitted at the time other bids are due.</p>	<p>Total cost impact analysis (assessment by the soliciting entity)</p> <p>Second track evaluation by the IE and Commission staff using their discretion to evaluate the resource options received.</p> <p>The soliciting entity will consider the IE/Staff evaluation, but it has the final determination of what resources will be submitted to the Commission for certification.</p>

³ Ga. Comp. R. & Regs. 515-3-4-.04 (2011), available at : http://rules.sos.state.ga.us/cgi-bin/page.cgi?g=GEORGIA_PUBLIC_SERVICE_COMMISSION%2FGENERAL_RULES%2FINTEGRATED_RESOURCE_PLANNING%2Findex.html&d=1.

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		whether the soliciting entity conducted the RFP process in a fair manner.		
Illinois ⁴	For electric utilities that serve at least 100,000 customers, the Illinois Power Agency (IPA) must prepare an annual procurement plan for demand-response, power and energy products. The procurement plan must include a competitive solicitation.	The IL Commission must retain a Procurement Monitor that will monitor the interactions between the Procurement Administrator (PA), suppliers and electric utility; report to the IL Commission on the procurement process; provide an independent confidential report regarding the results of the procurement event; assess compliance with procurement plans; and consult with the PA on the development and use of benchmark criteria, standard form of contracts and bid documents.	The IPA will select a PA to design the procurement process, develop benchmarks to evaluate bids, serve as the interface between the electric utility and suppliers, manage the bidder pre-qualification and registration process, administer the RFP process, and negotiate final bids. The PA is a 3rd party expert or consulting firm.	Developed by the PA in accordance with the IPA's procurement plan.
Montana ⁵	Least cost resource	N/A	An all-source solicitation	Resources identified

⁴ Illinois Electric Service Customer Choice and Rate Relief Law of 1997, 220 ILCS 5/16-111.5, *available at*: <http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022000050HArt%2E+XVI&ActID=1277&ChapterID=23&SeqStart=35800000&SeqEnd=40900000>; *see also*, Illinois Power Agency Act, 220 ILCS 3855/1-75 (2007), *available at*: <http://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2934&ChapterID=5>.

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	planning – before acquiring any new resources		means an RFP issued to the broadest practical group of demand- and supply-side resource providers. The utility’s resources should be included in the competition with solicited resources.	through competitive solicitations should be evaluated with respect to planning principles.
Oklahoma ⁶	<p>For a presumption of prudence, a utility must use competitive procurement for purchase or self-building of new long term electric generation, long term PPA, or long-term fuel supply for self-generation of electricity.</p> <p>Utility may seek waiver of competitive procurement requirements for a long-term procurement action.</p>	<p>The OK Commission, at its discretion, may retain and arrange compensation for an IE to monitor the RFP and competitive bidding process. The Commission must retain an IE in the following instances: (1) when an affiliate of the utility is anticipated to participate; (2) with the RFP and resulting bids is expected to have a material impact on the utility’s cost of providing electricity to its customers; or (3) when it is anticipated that the utility</p>	<p>Prior to issuing an RFP, the utility must file the initial draft with the OK Commission for approval. The RFP must contain the RFP procedures, pro forma PPA, and identify the term, amount of MW, types of products, price and non-price evaluation factors and their respective weighting, and a preliminary analysis of transmission availability.</p> <p>The utility and the IE will attempt to resolve any differences in the selection</p>	<p>Price factors: charges or costs relating to long-term fuel supply, transport, storage, and processing.</p>

⁵ Mont. Admin. R. 38.5.2010 (1992), available at: <http://www.mtrules.org/gateway/ChapterHome.asp?Chapter=38%2E5>.

⁶ Oklahoma Administrative Code § 165:35-34-1 *et seq.* (2012), available at: <https://www.sos.ok.gov/oar/online/viewcode.aspx>.

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		<p>may participate as a bidder.</p> <p>The IE will report to the Commission and Attorney General.</p>	<p>of the winning bidder(s). If they cannot agree, the utility’s selection wins. The IE will submit its independent evaluation to the Commission.</p>	
<p>Oregon⁷</p> <p>Order No. 06-446</p>	<p>All Major Resource acquisitions (duration greater than 5 years and quantities greater than 100 MW) in the utility’s last IRP</p>	<p>An IE must be used to ensure that all offers are treated fairly. The Oregon Commission will select or approve the IE for the RFP. The IE must be independent of the utility and likely, potential bidders. The IE is paid by the utility.</p> <p>The utility will conduct the RFP process, score the bids, select the short-list and conduct negotiations with bidders. The IE will oversee the RFP process to ensure it is conducted fairly. If the RFP allows affiliate bidding or includes ownership options, the IE will independently score the utility’s Benchmark resource</p>	<p>Draft RFP must be circulated to stakeholders for comment; must be submitted for approval by the Oregon Commission, including standard form contracts – final terms of contracts to be negotiated between the utility and bidder.</p> <p>Affiliates are permitted to bid, but all bids must be blind.</p> <p>Utility may use a self-build option in the RFP to provide a potential cost-based alternative.</p>	<p>Decision criteria must be consistent with IRP (non-price factors like dispatch flexibility, resource term, portfolio diversity, etc.).</p> <p>Selection of initial short-list of bids should be based on price and non-price factors and provide resource diversity.</p>

⁷ Oregon Public Utility Commission, Order No. 06-446 (2006).

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		and all or a sample of the bids to assess whether the utility's selection of the short-list is reasonable.		
Pennsylvania ⁸	<p>Mandatory competitive bidding for purchases of capacity and associated energy for electric utilities with annual gross intrastate operating revenue of \$500 million.</p> <p>Power plant life extensions programs are exempt from competitive bidding.</p> <p>An electric utility may petition for permission to construct its own generating plant outside of a competitive bidding program.</p>	An IE is required for all bidding processes in which the utility or its affiliates participate. All such bids are to be evaluated by an IE selected by the utility.	<p>All sources of capacity must be permitted to submit offers. The utility and its affiliates may participate in the capacity solicitation.</p> <p>A utility's competitive bidding program must be part of its long-term resource plans reflected in its Annual Resource Planning Report.</p> <p>Utility must file a petition for approval of its Capacity Resource Plan. Upon approval, the utility must develop an RFP for the purchase of capacity. RFP must include size and timing, non-price benchmarks or other factors, thresholds, evaluation criteria, standard</p>	No Commission-mandated benchmarks, price factors, non-price factors – the utility may propose all benchmarks and selection criteria.

⁸ 52 Pa. Code § 57.34 (1995), available at: <http://www.pacode.com/secure/data/052/chapter57/subchapCtoc.html>.

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			agreements.	
Utah ⁹	<p>Acquisition or construction of a significant energy resource.</p> <p>The utility may request a waiver of solicitation requirements.</p>	<p>Use of an IE is required. The IE is hired by the Utah Commission and paid by the utility.</p> <p>Utility to provide data, information and models necessary for the IE to analyze and verify the models.</p> <p>The Dept. of Public Utilities and the IE (if then under contract) will be involved in preparing the screening and evaluation criteria, ranking factors, and evaluation methodologies.</p> <p>If an RFQ process is used, the IE will consult on evaluating potential bidders assign qualified bidders a Bid number to enable</p>	<p>The Utah Commission must approve the utility's solicitation process.</p> <p>After the utility has completed the evaluation of bids, the utility must provide a written notification to the Utah Commission of the bid selected and the reasoning for the selection. The utility may negotiate a proposed final agreement at any time, but it will be conditional on approval of the Commission.</p> <p>Prior to RFP process, the utility may use a Request for Qualifications (RFQ) process, to pre-qualify bidders.</p>	<p>Solicitation requirements: be designed to lead to lowest reasonable cost, and take into account the following factors: long-term and short-term impacts, risk, reliability, financial impact on the soliciting utility.</p> <p>Initial screening criteria can include (but are not limited to): cost, timing, point of delivery, dispatchability, credit requirements, level of change to pro forma contracts, transmission and interconnection, feasibility (timing & permits), fuel choice, cooling technology, system-wide benefits of transmission investment associated with the project, environmental impacts, and</p>

⁹ Utah Code § 54-17-201 *et seq.* (2008), available at: <http://le.utah.gov/UtahCode/section.jsp?code=54-17>; see also Utah Admin. Code R 746-420 and 746-430 (2007), available at: <http://www.psc.utah.gov/rulesandcode/index.html>.

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		<p>blinded bids. Bidders will submit bids directly to the IE. The IE will monitor the utility's evaluation of the bids and conduct its own evaluation in consultation with the Division of Public Utilities.</p>	<p>Benchmark Options (either self-build or purchase option) can be included in the solicitation with certain utility disclosures.</p> <p>The IE will "blind" all bids and provide the blinded bids to the utility for evaluation.</p>	<p>risk allocation.</p>