

Questions for Stakeholder Input:

1. In addressing the draft guidelines below, please indicate your support, opposition, proposed modification, or request for clarification on specific items. Are there any additional guidelines that should be included?
2. Please identify topics that need additional research and/or discussion as part of the workgroup process (e.g., use of independent evaluator, sample scoring criteria or Request for Proposals (RFP)).
3. Are there additional experts or resources that we should consider as part of the workgroup process?
4. What processes should be instituted to ensure streamlined review of winning projects resulting from a procurement process that conforms to these guidelines?
5. With respect to Item 8, and the three options listed below, to address the implementation of MCL 460.6(t)6:
 1. For any of the three options presented, are there any legal constraints?
 2. For any of the three options presented, are there any timing concerns?
 3. For any of the three options presented, are there any concerns with usefulness of the information that would be obtained?
 4. For any of the three options presented, are there any other reasons why they should not be pursued? (Please explain)
 5. Are there additional options or variations to the three options presented that should be considered?

Responses due October 30, 2020.**DRAFT Competitive Procurement Guidelines for Investor-Owned Electric Utilities**

Objective: Develop a final guidance document/rule set for use by the Commission to ensure strong, technology-neutral market response and value for ratepayers through transparency, non-discriminatory access, certainty, and fairness in bidding processes that also provides participants with confidence in the process.

Guiding Principles: When making determinations on the reasonableness and prudence of all utility energy resource arrangements, the following guidelines will be used in the Commission's evaluation of the process and resulting bids. This will include resources necessary for Voluntary Green Pricing Programs, for Renewable Portfolio Standards, to inform Integrated Resource Plans (IRP) or as a result of IRPs, etc. These guidelines do not apply to energy waste reduction or other demand-side programs administered by utilities.

Draft Guidelines:

1. All energy resources, including both short- and long-term supply and utility self-build projects, are arranged through competitive procurement. Bidding processes may be tailored based on the specific energy resource purpose or need.
2. Open, non-discriminatory treatment of resources:
 - a. Conduct open, non-discriminatory procurement process that fairly considers different ownership structures, resource types, and locations with transparency on how they will be evaluated (see minimum requirements below)

- b. Bidding open to all resources and solutions that can meet system needs (e.g., energy, capacity, voltage support, ramping)
 3. Comply with competitive bidding guidelines in FERC's PURPA order (July 2020), including referenced Allegheny case (*Allegheny Energy Supply Co, LLC*, 108 FERC 61082 at p 19 (2004))
 4. Minimum RFP requirements and specification of evaluation criteria:
 - a. Minimum eligibility requirements for bidders and resources
 - b. Price and non-price factors and weighting to be used for project selection (RFP to include scoring sheets with applicable weighting of evaluation factors)
 - c. Template PPA with terms and conditions
 - d. Consideration of transmission and distribution availability and constraints, including treatment of transmission congestion costs and inter-zonal pricing risk
 - e. As applicable, identify the parameters for inclusion of a financial compensation mechanism, terminal value analysis or any other adjustment factor for utility self-build or build/transfer projects.
 - f. As applicable, assumptions for federal tax credit treatment for PPAs and utility self-build or build-transfer projects
 5. Oversight and independence of bidding process:
 - a. Separate staffing and information sharing between utility personnel or utility affiliate responding to RFP (submitting bids) and utility personnel conducting the RFP process (preparation of RFP, scoring/evaluation of results, and contract negotiation)
 - b. Use independent evaluator to administer and oversee the competitive solicitation process (independent evaluator need not have final selection authority but should provide recommendations that could be considered for Commission review through audit process)
 - i. Utility to provide access to all information for the independent evaluator to effectively carry out its roles and responsibilities
 - ii. Independent evaluator will provide utility with sufficient information to conduct a thorough internal review without disclosing the bidder's identity
 - iii. Independent evaluator available and responsive to the MPSC throughout the process
 - c. At its sole discretion and as part of the Commission's regulatory review process, the Commission may hire its own independent evaluator in lieu of or in addition to the independent evaluator hired by the utility
 6. Code of conduct compliance:
 - a. All code of conduct rules shall be followed
 - b. RFPs used to determine "market price" in affiliate transactions for resource supply pursuant to MPSC code of conduct rules
 7. MPSC and Stakeholder Involvement:
 - a. Build in time for Staff and stakeholder review and input on draft RFP, review/scoring processes, and PPA documents
 - b. Review of actual bids will be limited to individuals or parties that do not participate directly in or have affiliations with organizations that have or will submit proposals responding to utility RFPs
 - c. Parties wishing to review bid proposals will be subject to non-disclosure agreements and other requirements to ensure the integrity of the process at the discretion of the utility and Commission
 - d. Continue to refine bidding processes over time based on feedback from bidders, the Commission, and stakeholders as well as experiences in other jurisdictions

8. Ensure bidding process aligns with resource planning and various project/contract approval processes, including requirements in MCL 460.6t(6) (see options below).

Options for Alignment with MCL 460.6t(6):

Option 1: Pre-IRP RFP functions as a Request for Information (RFI) and Post-IRP RFP is specific to resource need identified in IRP proceeding.

- Pre-IRP RFP would be an all-source RFP that would function more like an RFI
- Would allow for price and resource discovery to inform IRP
- Final RFP would take place post-IRP
 - Pros
 - Would be responsive to modeling and the contested process taking place in the IRP proceeding
 - Cons
 - MCL 460.6t(6) uses the wording “RFP”

Option 2: Pre-IRP RFP functions as an RFI, Post-IRP RFP is specific to resource need identified in IRP proceeding. RFP process/parameters specified in IRP with approval/modification by the Commission in the IRP proceeding.

- Process used would mimic process identified within Option 1, but any deviations from the process would be vetted through a contested case process.

Option 3: Pre-IRP RFP is a true all-source RFP which informs and drives the modeling and project selection in the IRP and will result in executable contracts following approval in IRP.

- No post-IRP RFPs unless needed.
 - Pros
 - Adheres to exact language in MCL 460.6t(6)
 - Relies on market response for resource acquisition vs. use of planning models/projections to identify resource needs
 - Cons
 - Long lead-time for developers (> one year) which may introduce risk for bidders/increase costs
 - Resource need identified in IRP may not match RFP results

Attachment: Sample Timelines for RFI/RFP Processes and Regulatory Approvals

Option 1 Timeline

Pre-Integrated Resource Plan RFP (Functions as an RFI)			Post-Integrated Resource Plan RFP		
Needs to be completed at least 6 months prior to IRP filing date. All-source bid.			RFP will solicit resources based on approved IRP (may utilize results of all source bidding presenting in IRP or selected through modeling and other information in the IRP proceeding).		
Ways to encourage participation in pre-IRP RFP could be included such as advanced notice of post-IRP RFP release, etc.			Need to determine methods to ensure respondent confidence with respect to confidentiality and interested party review.		
Activity	Business Days		Activity	Business Days	Simultaneous Business Days
RFP Review (Commission Staff and Interested Non-Competitive Parties)	14		RFP Review (Commission Staff and Interested Non-Competitive Parties)	14	
Utility Receives Feedback	7		Utility Receives Feedback	7	
Release RFP	30		Release RFP	30	
Response Review	30		Independent Evaluator Review	10	
IRP Incorporation	60		Utility Reviews Responses	30	
			Contract Negotiations	30	
			Utility Presentation, MPSC Staff Review		2
			Utility Presentation, Interested Non-Competitive Party Review		2
			Submit Contract(s) to Commission for Ex-Parte Review	45	
Total Business Days	141			166	

Option 3 Timeline

Pre-Integrated Resource Plan RFP		
Needs to be completed at least 6 months prior to IRP filing date. All-source bid.		
Need to determine methods to ensure respondent confidence with respect to confidentiality and interested party review.		
Activity	Business Days	Simultaneous Business Days
RFP Review (Commission Staff and Interested Non-Competitive Parties)	14	
Utility Receives Feedback	7	
Release RFP	30	
Independent Evaluator Review	10	
Utility Reviews Responses	30	
Contract Pre-Negotiations	30	
IRP Incorporation	60	
IRP Case Final Order	360 (non-business)	
Final Contract Negotiations	30	
Utility Presentation, MPSC Staff Review		2
Utility Presentation, Interested Non-Competitive Party Review		2
Submit Contract(s) to Commission for Ex-Parte Review	45	
Total Business Days	616	