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MEMORANDUM

TO: Docket Control

EA for EGJ

FROM: Ernest G. Johnson
Director
Utilities Division

DATE: October 2, 2007

RE: DRAFT STAFF REPORT ON COMPETITIVE PROCUREMENT ISSUES FOR THE GENERIC INVESTIGATION INTO ELECTRIC RESOURCE PLANNING (DOCKET NO. E-00000E-05-0431)

Attached is the Draft Staff Report on Competitive Procurement issues for the Generic Investigation into Electric Resource Planning. Staff is providing this report to the Parties and invites any comments to be filed with the Commission on or prior to October 12, 2007.

EGJ:BEK:tdp

Originator: Barbara Keene

Attachment: Original and 13 Copies

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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

GENERIC INVESTIGATION INTO ELECTRIC RESOURCE PLANNING

DOCKET NO. E-00000E-05-0431

DRAFT
STAFF REPORT ON
COMPETITIVE PROCUREMENT ISSUES

OCTOBER 2, 2007

STAFF ACKNOWLEDGMENT

The Draft Staff Report on Competitive Procurement Issues for the Generic Investigation into Electric Resource Planning, Docket No. E-00000E-05-0431, was the responsibility of the Staff member listed below.

Barbara Keene

Barbara Keene
Public Utilities Analyst Manager

EXECUTIVE SUMMARY
DRAFT STAFF REPORT ON COMPETITIVE PROCUREMENT ISSUES FOR THE GENERIC INVESTIGATION INTO ELECTRIC RESOURCE PLANNING DOCKET NO. E-00000E-05-0431

Commission Decision No. 67744 directed Staff to schedule workshops on resource planning issues. Additionally, as part of the Settlement Agreement of that case, it was agreed that "the Commission Staff will schedule workshops on resource planning issues to focus on developing needed infrastructure and developing a flexible, timely, and fair competitive procurement process." (Paragraph 79, Settlement Agreement)

On April 5, 2007, Staff docketed a Request for Meetings Notice, and indicated that a series of three workshops specifically related to issues of competitive procurement would be held, and that the remaining issues related to resource planning would be conducted in other workshops and noticed separately. Three workshops on competitive procurement were held on April 25, 2007; May 23, 2007; and July 13, 2007. Seven entities have filed eight sets of written comments.

It is Staff's intention to continue to facilitate competitive wholesale market options for the acquisition of resources to serve electric consumers. Staff believes that conducting a rulemaking on procurement issues is premature at this time. To enable the procurement process to go forward expeditiously, Staff recommends that the Commission adopt Recommended Best Practices for Procurement. The Recommended Best Practices include types of acceptable methods of procurement, a preference for requests for proposals ("RFPs"), and the role of an independent monitor. Staff believes that these Recommended Best Practices would provide a means by which the Commission, ratepayers, and bidders in the wholesale market can be assured that the procedures for obtaining new resources are fair, transparent, and result in the most economical resources being selected.

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1 Recommended Best Practices for Procurement
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Introduction

Commission Decision No. 67744 directed Staff to schedule workshops to consider resource planning issues. Additionally, Paragraph 79 of the Settlement Agreement, adopted as part of Decision 67744, states:

> 79. The Commission Staff will schedule workshops on resource planning issues to focus on developing needed infrastructure **and developing a flexible, timely, and fair competitive procurement process.** These workshops will also consider whether and to what extent the competitive procurement should include an appropriate consideration of a diverse portfolio of short, medium, and long-term purchased power, utility-owned generation, renewables, DSM, and distributed generation. The workshops will be open to all stakeholders and to the public. If necessary, the workshops may be followed with rulemaking. (Emphasis added)

The first workshops on resource planning issues were conducted on July 6, 2005 and August 24, 2005. On April 5, 2007, Staff docketed a Request for Meetings Notice, and indicated that a series of three more resource planning workshops **specifically related to issues of competitive procurement** would be held, and that the remaining resource planning issues would be conducted in other workshops and noticed separately.[1]

Parties were advised in the Request for Meetings Notice that the Commission Staff planned to address issues related to developing a **"flexible, timely, and fair competitive procurement process."** As part of these workshops, discussion was to include issues and matters contained in the Commission's Decision No. 65743, Docket Nos. E-00000A-02-0051, et al. ("Track B"). The parties were additionally informed that the workshops may be followed with rulemaking.

Staff noticed and conducted three workshops, on April 25, 2007; May 23, 2007; and July 13, 2007.[2] The workshops were generally well attended and resulted in significant discussion, much of which has been documented in minutes of the workshops.[3] Additionally, seven entities (Arizona Public Service Company ("APS"), Tucson Electric Power Company ("TEP"), Arizona Electric Power Cooperative, Arizona Competitive Power Alliance, SouthWestern Power Group, Comverge, and Interwest Energy Alliance) have docketed eight sets of comments related to questions that Staff posed to the parties and other written comments they wished to submit.

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1 An additional workshop related to all other aspects of resource planning was held on June 22, 2007, and future related workshops are anticipated.

2 All workshops were publicly noticed as Special Open Meetings.

3 The minutes of each of the workshops have been e-mailed to all of the parties who are on Staff's email list of parties who have attended any of the resource planning workshop, or indicated a desire to be on the e-mail distribution list. The minutes are also available for review on the Commission's website.

Workshops

The First Workshop (April 25, 2007)

Review of Commission's Track B Decision

At the first workshop on April 25, 2007, Staff made a presentation of the "Track B" proceeding (Decision No. 65743) as it related to the "Staff Proposed Solicitation Process." Among other things, the Track B Decision set forth how APS and TEP were to solicit new wholesale power sources for the years 2003-2006, including the use of an independent monitor hired by and overseen by the Commission Staff. Copies of the relevant part of the Track B decision, entitled "D. Detailed Staff Proposed Solicitation Process" were distributed to the group.

Review of Competitive Procurement Rules in other States

Also at the first workshop, Staff made a presentation of rules which had been adopted by regulatory commissions in five other jurisdictions related to competitive procurement.[4] Staff presented copies of those rules, as well as summaries of some of the features of the rules, which vary considerably. Four of the five jurisdictions' rules require the use of an independent evaluator in all bids or in bids where the utility or its affiliate is bidding (subject to a few exceptions, such as emergencies).[5]

Issues Identified

At the first workshop held April 25, parties were asked to identify the major issues and topics of interest for these workshops. After identifying a number of issues and areas of interest, several parties suggested Staff re-organize and consolidate the issues. Staff did so, included these issues in the written minutes of the meeting, and invited parties to file written responses to the issues that had been identified. Those issues identified were the following:

1. Whether the Commission should go through a formal rulemaking to formalize procurement procedures
2. What types of generation, purchase power, or fuel resources should be subject to formalized procurement procedures
3. Whether or not an Independent Evaluator should be required as part of the process, and if so, the Independent Evaluator's role in the process
4. Any required protocols for the utility self-build or affiliate bid and build options
5. Whether the Commission should have a direct role in the procurement process (i.e. whether the Commission should approve draft RFPs, the timing of any required Commission proceedings, and cost recovery and prudency issues for utilities)

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[4] Washington, Oregon, Utah, Oklahoma, and Iowa.

[5] And as a practical matter, independent evaluators are always used in the fifth jurisdiction (Washington State), even though the rule doesn't require it, according to discussions Staff had with a member of the Washington Commission Staff.

6. The design, mechanics, and timing of the RFP, including evaluation criteria to be used
7. The interaction of a formalized procurement process with a utility which is presently subject to a building moratorium
8. Protocols for the process of evaluating RFPs that insure integrity of the process
9. How confidential and trade secret information provided by bidders should be handled
10. Whether and to what extent there should be bid fees, or other prequalification requirements for bidders
11. The treatment of "non-conforming" proposals
12. What to do about bids received outside the RFP process
13. How to handle demand-side management and renewables proposals and the evaluation criteria for each to insure that the value of each is fairly reflected
14. Whether the procurement process should be tailored to interact with a utility's integrated resource plan, should the Commission begin to require the filing of such plans
15. The adoption of "Codes of Conduct" and "Best Practices" procedures by the utility
16. What waivers or exceptions to this process should be adopted
17. Other issues related to competitive procurement

The Second Workshop (May 23, 2007)

For the second workshop, Staff invited participants to make their own presentations of how they recommend the resource procurement process operate. Two entities, APS and the Arizona Competitive Power Alliance, made presentations to the group. APS also explained its "Secondary Protocol," which was recently approved by the Commission as part of its Code of Conduct. The second workshop also contained significant discussion of whether the Commission should go into a rulemaking proceeding to deal with resource procurement. Although some parties saw value in eventually creating procurement rules in conjunction with a revised integrated resource planning ("IRP") process, there was little sentiment in the workshop for conducting a rulemaking at this time specifically to deal with resource procurement. There was sentiment expressed for using APS' secondary protocol and features of the Track B decision as guidelines for the procurement process.

The Third Workshop (July 13, 2007)

In the third workshop, Mr. Ernest Johnson announced that it would likely be Staff's position that independent monitors be generally used in resource procurement processes, and Mr. Johnson invited discussion of when it might make sense *not* to use a monitor. There was general discussion of the role that the monitor should or should not have in the process.

Track B Process and APS' "Secondary Protocol" for Resource Procurement

Heretofore, there have been two instances where procurement procedures have been ordered by the Commission, or filed with the Commission by a utility. The first, as previously

noted, was part of the Commission's "Track B" Decision, in which TEP and APS were directed by the Commission to solicit resources for the period between 2003 and 2006. The Track B Decision was the first instance in which the Commission had ordered the use of an Independent Monitor, along with other protocols appropriate for the solicitation process. While the Track B competitive procurement process applied to Arizona's two largest regulated electric utilities, there was no discussion of the procurement process that should be utilized by other utilities.

The second instance was with the "Secondary Protocol" that the Track B Decision required APS to file by June 14, 2006.[6] and that was later approved by the Commission as part of APS' Code of Conduct on June 5, 2006 (Decision No. 68741) The Secondary Protocol lists acceptable procurement methods for APS to use in acquiring resources for its customers, including procedures if APS is dealing with its own affiliate. An independent monitor is also called for as part of the Secondary Protocol, but only when an affiliate of APS participates as a bidder in the competitive process.

Competitive Procurement Requirements in other Jurisdictions

Staff has found written rules and/or orders setting forth competitive procurement requirements from eight other jurisdictions (including the five discussed at the first workshop.) Staff has analyzed critical features of each of these jurisdictions' most relevant provisions and summarized them in a table, attached hereto as Appendix 2. These jurisdictions are Utah (whose rules were initiated by an act of legislation and went into effect on July 1 of this year), Washington, Oregon, Oklahoma, Colorado, Iowa, Georgia, and Florida. References to these jurisdictions' rules are included in Appendix 2.

Staff's Analysis and Recommendations

General Observations

Staff appreciates the work, comments, and suggestions made by all of the parties who have participated in these workshops, and this participation has been invaluable to Staff in developing its recommendations.

Staff believes that in a state with such dynamic growth as Arizona, it is essential to have a healthy wholesale market for electricity. A competitive, functional wholesale market may make it more likely that the costs and burdens associated with adding large amounts of infrastructure yearly are kept as low as possible, which in turn helps keep electrical rates for consumers as low as possible. In order for that to occur, however, Staff believes that merchants, developers, and other non-utility generators must have confidence that the resource acquisition process is a fair, transparent, and non-discriminatory process.

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[6] Docket Nos. E-00000A-02-0051 and E-00000A-01-0630

Analysis of the Process to Date

A fundamental question Staff had entering this process was whether it was appropriate to initiate a rulemaking proceeding in order to develop formalized resource procurement rules, such as exist in other jurisdictions. Throughout the workshop process, Staff did not detect a strong interest from any party to initiate rulemaking proceedings on this matter. At most, some of the parties seemed to suggest that formal rules could be more appropriately adopted as part of a comprehensive review of Arizona's IRP process, which is expected to take more time to complete. There seemed to be a strong view that Staff should recommend policies, guidelines, or best practices—something short of formal rules, which all jurisdictional utilities would be encouraged (though not necessarily obligated) to follow, and which could be put into effect in a short time frame.

Most non-utility parties seemed to agree that the Track B process for APS and TEP had generally been a success, and felt that the procedures adopted therein, especially as they related to an independent monitor, had been good ones. Non-utility parties also seemed to support the "secondary protocol" that APS has included as part of its Code of Conduct for its dealings with affiliates, and expressed a desire that such a protocol apply to all electric utilities and under all circumstances (not just in dealings with affiliates).

Another item of discussion in the third workshop was the Commission's opening of a new docket[7] pursuant to Decision No. 69663, which would require the Commission's Hearing Division to conduct a proceeding under A.R.S. § 40-252 to consider modifying Decision No. 67744 related to APS' self-build option. Although some of the issues between this proceeding and the new proceeding may overlap, Staff notes that this new proceeding will apply only to APS rather than to all jurisdictional electric utilities. Therefore, Staff recommends addressing procurement practices in the current proceeding, with the understanding that the outcome of this proceeding may provide some guidance for the APS case.

Given the fact that there is little desire from the parties to instigate formal rulemaking as part of this proceeding, Staff recommends that the Commission adopt a set of recommended best practices to deal with some of the large issues involved with resource procurement.

RFP Solicitation Process Should Be the Primary Resource Acquisition Tool

While utilities have a number of procurement options available, Staff believes that a utility should look first to the market. When a utility does look to the market, a request for proposals ("RFP") process should be the primary means by which utilities acquire needed wholesale power resources.[8]

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[7] Docket No. E-01345A-07-0420

[8] Identification of the type of resources to be added, and amounts of resources to be added, are matters more properly discussed in the main portion of this docket, which will consider resource planning issues at large, including the possible renewal of an IRP process.

At this time, Staff does not recommend that the Commission adopt an overly prescriptive solicitation regulatory scheme as has been done in some other states. Staff recommends that the utilities be free to develop their own RFP process without Commission pre-approval (though subject to review by the Commission). Arizona's electric utilities have very different characteristics and a "one size fits all" set of procurement rules might not allow for flexibility that each of the utilities needs to fulfill its individual growth requirements.

As Staff and the Commission explore the reinstitution of IRP, there will be opportunities to further develop this process and, if necessary, adopt more formal rules. Staff is recommending a set of best practices that the utilities, Staff, and other interested parties should follow until the Commission has the opportunity to explore whether a more formalized RFP process ought to be adopted and integrated into an IRP process.

Although Staff believes that utilities should seek to use an RFP as the primary acquisition process, Staff recognizes that there may be exceptions:

A. For emergencies. The parties to the proceeding were virtually unanimous that a utility should not have to go through either an RFP process or use an independent monitor.

B. For short-term acquisitions to maintain system reliability.

C. When the planning horizon is two years or less.

D. When a utility encounters a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount when compared with the cost of acquiring new generating facilities that will provide unique value to customers.

E. For purchases from distributed renewable energy resources.

Staff recommends that the following procurement methods (based on APS' Secondary Protocol) be considered acceptable for the wholesale acquisition of energy, capacity, and physical hedge transactions:

A. Purchases through third party, on-line trading systems, including but not limited to the Intercontinental Exchange, Bloomberg, California Independent System Operator, New York Mercantile Exchange, or other similar on-line third party systems.

B. Purchases from qualified, third party, independent energy brokers.

C. Purchases from non-affiliated entities through auctions or an RFP process.

D. Bilateral contracts with non-affiliated entities.

E. Bilateral contracts with affiliated entities, provided that non-affiliated entities are provided notice of and an opportunity to beat any proposed contract before executing the transaction.

F. Any other competitive procurement process approved by the Commission.

Independent Monitor

In most states with a regulatory requirement for competitive bidding, an independent monitor or "evaluator"[9] is always used. Other states use an evaluator when there is a likelihood that the utility itself will bid or its affiliate plans to bid in the process. Staff is persuaded that the utility is *always* a potential bidder, since it may be required to construct or develop the generation if none of the bids meets its benchmark price. Therefore, given the large amounts of money that are involved in developing, constructing, and operating generation projects, Staff believes that the cost of an independent monitor is relatively small by comparison, and a good means by which the Commission and bidders in the wholesale market can remain assured that the procedures for selecting new resources are fair, transparent, and result in the most economical resource being selected.

Additionally, Staff believes that the use of an independent monitor can also be in the utility's best interest, because an independent party can potentially testify as to the fairness and transparency of the process, and that the lowest cost option was selected. This arguably reduces regulatory risk to the utility. This may be the reason, for example, that independent monitors are routinely used in Washington State, despite there being no regulatory requirement to do so.

Staff believes that a monitor should be selected from a group of qualified consultants in consultation with the Staff of the Commission. Once the monitor is selected, the utility should publicly announce which entity it has selected and file notice of such with the Commission. Staff believes that there should be a 30-day window for any interested party to raise objections to the selection of the monitor. If there are any objections, Staff should prepare a report that either recommends proceeding with the selected monitor, or recommends against using the chosen monitor.

The monitor should have no vested interest in the outcome of the process and be free of any potential conflicts of interest. Any potential monitor should fully disclose any potential

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[9] There has been much discussion about the use of the terms "independent monitor," "independent evaluator," and "independent auditor" and whether these terms are generally interchangeable or whether they are special terms of art. APS has indicated that it believes an "auditor" is someone who reviews the project *ex post facto*, while a "monitor" and "evaluator" have involvement throughout the process. An "evaluator," according to APS, has a much deeper level of involvement, and runs all of the calculations independently, whereas the "monitor" insures that proper procedures are followed and lets the utility run all of the calculations. Staff has not observed a strict delineation in use of the term in other states though, where this entity is generally called an "independent evaluator," irrespective of the duties. In the Commission's Track B decision, the entity was referred to as an "independent monitor;" therefore, in Arizona the parties have traditionally described the entity as an "independent monitor." Staff will continue to refer to this entity as an "independent monitor."

conflicts of interest before commencing work. Any monitor should be required to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature made available to it by the utility.

The monitor should issue regular reports (at least monthly) to Staff. The contract for the monitor's services should be between the utility and the monitor. The utility should pay for the monitor. Staff would meet and communicate directly and regularly with the monitor concerning the operation of the RFP process. Staff believes that reasonable prudently incurred costs associated with utilization of an independent monitor should be recoverable in rates. Reasonable bidders fees may be used to help offset these costs.

Staff believes the role of the independent monitor may be best determined by the type of RFP the utility intends to issue. If it is reasonably anticipated that a utility or its affiliate intends to submit a proposal, then the role of the monitor should be a larger one, with the monitor involved in the process of receiving bids and independently performing the scoring of the bids. On the other hand, if the utility or its affiliate does not desire or reasonably anticipate bidding in the process, and would only build if the received bids are higher than the utility's benchmark,[10] then the role of the monitor may be less intrusive in the process, with the monitor reviewing the procedures and other work that the utility alone is performing to insure that procedures have been followed and the process has been a fair one.

The monitor should provide guidance to make sure that the utility utilizes procedures that insure objectivity, such as intra-company separation of the group that prepares the benchmarks and/or bids, and the group that evaluates and scores the bids.

Conclusion

It is Staff's intention to continue to facilitate competitive wholesale market options for the acquisition of resources to serve electric consumers. Staff believes that conducting a rulemaking on procurement issues is premature at this time. To enable the procurement process to go forward expeditiously, Staff recommends that the Commission adopt the Recommended Best Practices for Procurement that are listed in Appendix 1. The Recommended Best Practices include types of acceptable methods of procurement, a preference for RFPs, and the role of an independent monitor. Staff believes that these Recommended Best Practices would provide a means by which the Commission, ratepayers, and bidders in the wholesale market can be assured that the procedures for obtaining new resources are fair, transparent, and result in the most economical resources being selected.

[10] A benchmark is a reference cost that the utility has developed against which to evaluate the bids.

APPENDIX 1

RECOMMENDED BEST PRACTICES FOR PROCUREMENT

Procurement Methods

1. The following procurement methods are considered to be acceptable for the wholesale acquisition of energy, capacity, and physical hedge transactions:

   A. Purchases through third party, on-line trading systems, including but not limited to the Intercontinental Exchange, Bloomberg, California Independent System Operator, New York Mercantile Exchange, or other similar on-line third party systems.

   B. Purchases from qualified, third party, independent energy brokers.

   C. Purchases from non-affiliated entities through auctions or a request for proposals ("RFP") process.

   D. Bilateral contracts with non-affiliated entities.

   E. Bilateral contracts with affiliated entities, provided that non-affiliated entities are provided notice of and an opportunity to beat any proposed contract before executing the transaction.

   F. Any other competitive procurement process approved by the Commission.

2. Utilities should seek to use an RFP as the primary acquisition process. Exceptions may include the following:

   A. For emergencies. The parties to the proceeding were virtually unanimous that a utility should not have to go through either an RFP process or use an independent monitor.

   B. For short-term acquisitions to maintain system reliability.

   C. When the planning horizon is two years or less.

   D. When a utility encounters a genuine, unanticipated opportunity to acquire a power supply resource at a clear and significant discount when compared with the cost of acquiring new generating facilities that will provide unique value to customers.

   E. For purchases from distributed renewable energy resources.

Independent Monitor

1. An independent monitor should be used in all RFP processes for procurement of new resources.

2. The utility should create a short list of three to five companies or consultants who can serve as an independent monitor. The utility should consult with Commission Staff and jointly select an independent monitor for each procurement project.

3. The utility should publicly announce the independent monitor that has been selected and give parties 30 days to object to the selection of the monitor.

4. The utility should enter into a contract with the monitor and should pay the monitor.

5. One week prior to the issuance of any RFP, the utility should provide the independent monitor with a copy of any bid proposal prepared by the utility or its affiliate, or any benchmark or reference cost the utility has developed against which to evaluate the bids. The independent monitor should take steps to secure the utility bid or benchmark price in a location not known or accessible to any of the bidders or the utility or its affiliate.

6. The independent monitor should provide reports (at least monthly) to Commission Staff throughout the RFP process.

APPENDIX 2

SELECTED PROVISIONS OF COMPETITIVE SOLICITATION RULES FOR NEW ENERGY SOURCES COMPARED IN STATES WITH RULES IN EFFECT

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
1. When is an RFP required?	For new energy generation sources	For all Major Resource Acquisitions identified in Commission acknowledged IRP; MRAs are resources for > 5 years and > 100 MW	For "Significant Resource Additions" of >100 MW and 10 yrs of life, or contract term of 100 MW and >10 years, definition per statute	For all long-term electric supply or fuel supply for self-generation of electricity. Long-term means > 1 year	For all resources identified to meet load needs under IRP	For all new generation resources	For each block of new generation identified in IRP unless specifically exempted	Prior to filing a petition for determination of need for power plant, utility must issue RFP
2. Does the Commission require pre-filing or pre-approval of an RFP ?	Yes, RFP filed 135 days before IRP filed, 60-day comment period	Yes	Yes	Yes	Yes. Proposed RFP is filed with IRP for Commission review	Yes	Yes	No, but copy is provided to Commission when issued
3. Are there special rules if a utility or affiliate chooses to bid?	Yes, special notice required, higher level of scrutiny by Commission	Yes, but if so, all bids must be "blinded"	Yes	Yes. Rules require two teams: Bid Team and Evaluation Team, when affiliate bids	Yes	Yes	Yes. Separate bid teams required if utility or affiliate bids	No

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
4. Exceptions to the RFP/ Competitive Bidding Requirement	Yes; when no need for generation per IRP; QFs with < 1 MW	Yes, time limited unique opportunity; IRP reviewed by Commission provides for alternative method; Commission-approved waivers	Yes, time limited opportunity, clear emergency, waivers from Commission if in the public interest	Only by waiver granted by the Commission	Only if the Commission approves an alternative acquisition method, which must be in public interest and limited to lesser of 250 MW or 10% of highest base case for forecast peak, or emergencies or utility-owned resources < 30 MW	None mentioned	Purchases from QFs of < 30 MW; re-powering existing generating resources; extraordinary opportunities that require quick action, supply resources of < 30 MW	Upon a showing that not following rule will lower rates, increase reliable supply or otherwise serve public welfare, Commission may exempt utility for compliance with RFP requirement
5. Is there a requirement in the rule for an Independent Evaluator (IE) or monitor?	No, however, Washington Staff indicates that IEs are usually always used per utility's choice	Yes	Yes	Yes, although there is a proposal to make the IE requirement permissive instead of mandatory which decision would be left to the Commission	No. However, if the utility or its affiliate bids, an independent auditor must be hired after bid evaluation has been completed to conduct an audit of the solicitation process and report to the Commission	Yes, in any case where the utility or its affiliate is likely to bid.	Yes, in all cases	No

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
6. When is the IE Requirement Triggered?	N/A	For all RFPs falling under Oregon's Guidelines	Any RFP covered by this rule	Any RFP covered by the Rules	Independent Audit requirement triggered when utility or its affiliate bids	When utility or affiliate is likely to bid	When utility intends to procure resources approved in IRP	Prior to the utility's filing petition for need for electrical plant
7. Who selects the IE?	N/A	Commission. Staff, with input from utility and interested parties, makes recommenda-tion to Commission, which then decides	Commission	Commission	Utility chooses the independent auditor, which must have 5 years experience in the area	Utility chooses from a list of 5 firms that have been approved by State Utilities Board (Commission)	Utility, under a contract acceptable to Commission and consistent with IRP	N/A
8. Does the IE physically handle the bids?	N/A	No, not initially	Yes. The IE receives bids and blinds them if utility or affiliate bids or includes a bench-mark price	Not mentioned specifically, although IE will perform analysis of the bids	No	No, unless evaluator deems it relevant to evaluation	Yes	N/A
9. Who pays the IE?	N/A	Utility	Utility	Commission	Utility	Utility	Utility	N/A

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
10. Does the IE perform analysis or run the numbers?	N/A	Only if the utility or affiliate bids; if utility bids, IE is to independently scores bids	Yes. The IE reviews and independently evaluates all benchmark assumptions, but IE is not allowed to make any decision as to winners of solicitation	Yes. Both the Company and evaluator run numbers, and results are compared. If the results conflict, an effort is made to resolve the differences between utility and IE. If they cannot be resolved, the utility makes the decision.	Possibly. The utility must conduct any modeling requested by the auditor to test the assumptions the utility has made.	Probably not. Evaluator checks for fairness and determines if the utility took unfair advantage. Much discretion given to IE to decide how to check for fairness.	Yes. Evaluation is done on two tracks, one with the company and the other with the IE and Staff.	N/A
11. Is there cost recovery to the utility for the cost of the IE under rule?	Not mentioned	Yes. Utility "may request recovery of its payments to IE in customer rates."	Yes. But bid fees up to $10,000 per bid (if reasonable) may be used to help defray costs	Not mentioned	Not mentioned	Not mentioned	Yes, through the use of bid fees-up to $10,000 per bid, and fee equal to estimated cost of bid divided by estimated # of bidders	N/A

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
12. Is there cost recovery to the utility for the resources selected under RFP rules?	If the utility gives unfair advantage to itself or affiliate, all costs of project may be disallowed			If utility's self-build bid is chosen, recovery is limited to the amount that was submitted in the bid	The utility must present prima facie evidence in a rate proceeding that its actions were consistent with an approved IRP plan	Not mentioned	Probably	Yes. Prudently incurred costs of purchase power agreements and self-build options. However, in self-build situations, costs in addition to those identified in need determination not recoverable unless costs were prudent and due to extraordinary circumstances
13. Who does the IE report to?	N/A	Not specifically mentioned	The Commission	The Commission and the Attorney General	Independent auditor hired by utility but must file its report with the Commission	Probably the Public Utilities Board	The Commission and Staff	N/A
14. Do the rules address bid scoring, the process, and evaluation criteria?	N/A	Yes	Yes	Yes	Not specifically	No	Yes, in great detail	No

	Washington	Oregon	Utah	Oklahoma	Colorado	Iowa	Georgia	Florida
15. Is the RFP rule part of the state integrated resource planning (IRP) structure?	Yes	Yes	Yes	No. There is an IRP process, but RFP process doesn't appear to be integrated into it	Yes	No	Yes	No
16. Other interesting aspects of various state processes	Rules in place for many years; QF advocates blame these rules for lack of significant presence of QFs in the State	Oregon has "Guidelines" rather than "rules"—and they are found in a Commission Order, with discussions of each guideline, rather than in a Code	Utah's rules are based on a statute enacted in 2005. Utah has one of the most comprehen-sive and detailed schemes of any of the States for resource solicitations	Oklahoma unique in that the Commission retains and pays for the IE—and may in the future decide when it wants to use an IE	The competitive procurement process is entirely woven into the IRP process	If a utility or affiliate is going to bid, the bid must be filed with the Public Utilities Board seven days before other bids are received.	Georgia's rules are probably the most comprehen-sive and detailed of any state	

References:

Colorado, 4 Code of Colorado Regulations (CCR) 723-3 §§ 3600-3615, http://www.dora.state.co.us/puc/rules/723-3.pdf.

Utah, Energy Resource Procurement Act (2005), Utah Revised Statutes, §§ 54-17-101—54-17-502, http://www.le.state.ut.us/~code/TITLE54/54_12.htm; Utah Administrative Code Rules R746-420, 430 and 440, http://www.rules.utah.gov/publicat/code/r746/r746-420.htm, http://www.rules.utah.gov/publicat/code/r746/r746-430.htm, http://www.rules.utah.gov/publicat/code/r746/r746-440.htm.

Washington, WAC 480-107-015, 480-107-135, http://apps.leg.wa.gov/WAC/default.aspx?cite=480-107-015, http://apps.leg.wa.gov/WAC/default.aspx?cite=480-107-135.

Oregon, PUC Order No. 06-0446, http://apps.puc.state.or.us/orders/2006ords/06-446.pdf.

Iowa, IAC 199-40.1(476), http://www.legis.state.ia.us/Rules/Current/iac/199iac/19940/19940.pdf

Oklahoma, OAC 165:35-34-1--165:35:41-3, http://www.occ.state.ok.us/Divisions/GC/OCCRULES/permrules/chapter%2035%20master%20electric%20rules%2006.pdf.

Georgia, General Rules of the Public Service Commission, § 515-3-4-.04, http://rules.sos.state.ga.us/docs/515/3/4/04.pdf.

Florida https://www.flrules.org/gateway/readFile.asp?sid=0&tid=1484505&type=1&file=25-22.082.doc, http://www.psc.state.fl.us/library/filings/03/00810-03/00810-03.pdf