
RFP

**Attachment 18: Role And Function Of
The Independent Evaluators And
Communication Protocols**

ROLE OF THE INDEPENDENT EVALUATOR

- 1) The role and function of the Independent Evaluators (“IEs”) is outlined as follows:
 - a. Facilitate and monitor communications between the Soliciting Utility and Bidders.
 - b. ~~Review and validate the assumptions and calculations of any Company Benchmarks.~~
 - c. ~~Analyze the Company Benchmarks, for reasonableness and consistency with the Solicitation Process.~~
 - d. ~~Access all important models in order to analyze, operate and validate all important models, modeling techniques, assumptions and inputs utilized by the Soliciting Utility in the Solicitation Process, including the evaluation of Bids.~~
 - c.f. Provide input to the Soliciting Utility on:
 - i. the development of screening and evaluation criteria, ranking factors and evaluation methodologies that are reasonably designed to ensure that the Solicitation Process is fair, reasonable and in the public interest in preparing a Solicitation and in evaluating Bids;
 - ii. the development of initial screening and evaluation criteria that take into consideration the assumptions included in the Soliciting Utility’s most recent IRP, any recently filed IRP Update, any Commission order on the IRP or IRP Update;
 - iii. whether a Bidder has met the criteria specified in any bidding process and whether to reject or accept non-conforming bid responses;
 - iv. whether and when data and information should be distributed to Bidders when it is necessary to facilitate a fair and reasonable competitive bidding process or has been reasonably requested by Bidders;
 - v. whether to reject non-conforming bids for any reason or accept conforming changes;
 - vi. whether to return bid fees.
 - d.g. Ensure that all Bids are treated in a fair and non-discriminatory manner.
 - e.h. Monitor, observe, validate and offer feedback to the Soliciting Utility and the regulators on all aspects of the Solicitation and Solicitation Process, including:
 - i. content of the Solicitation;

- ii. evaluation and ranking of Bid responses;
- iii. creation of a short list(s) of Bidders for more detailed analysis and negotiation;
- iv. post-bid discussions and negotiations with, and evaluations of, shortlisted Bidders; and
- v. negotiation of proposed contracts with successful Bidders.

fi. Offer feedback to the Soliciting Utility on possible adjustments to the scope or nature of the Solicitation or requested resources in light of bid responses received.

gl. Solicit additional information on Bids necessary for screening and evaluation purposes.

hm. Advise the Commission at all stages of the process of any unresolved disputes or other issues or concerns that could affect the integrity or outcome of the Solicitation Process.

ih. Analyze and attempt to mediate disputes that arise in the Solicitation Process with the Soliciting Utility and/or Bidders, and present recommendations for resolution of unresolved disputes to the Commission.

je. Participate in and testify at Commission hearings on approval of the Solicitation and Solicitation Process and/or approval of a Significant Energy Resource Decision and/or acknowledgement of the final shortlist.

kp. Coordinate as appropriate and as directed by the Commission with staff or evaluators designated by regulatory authorities from other states served by the Soliciting Utility.

lq. Perform such other evaluations and tasks as the Commission may direct.

m. The development of screening and evaluation criteria, ranking factors and evaluation methodologies that are reasonably designed to ensure that the solicitation process is fair, reasonable and in the public interest in preparing a solicitation and in evaluating bids;

n. The development of initial screening and evaluation criteria that take into consideration the assumptions included in the soliciting utility's most recent IRP, any recently filed IRP update, any Commission Order on the IRP or IRP update and its Benchmark option;

o. Whether a bidder has met the criteria specified in any RFQ and whether to reject or accept non-conforming RFQ responses;

p. Whether and when data and information should be distributed to bidders because it is necessary to facilitate a fair and reasonable competitive bidding process or has been reasonably requested by bidders;

q. Whether to reject non-conforming bids or accept conforming changes.

r. If at any time the IE becomes aware of any violation of any requirements of the solicitation process or Commission rules, the IE shall immediately notify the soliciting utility and the Commission. The IE shall report any actions taken by the soliciting utility and any other recommended remedies to the Commission.

s. The IE shall document all substantive correspondence and communications with the soliciting utility and bidders shall make such documentation available to parties in any relevant proceedings upon proper request and subject to the terms of a protective order if the request contains or pertains to confidential information.

2) The Communications between the IEs, the Evaluation Team, the Generation Team Company and the Bidders shall be conducted in the following manner:

a. The Evaluation Team, the Generation Team Soliciting Utility may not communicate with any Bidder regarding the Solicitation Process, the content of the Solicitation or Solicitation documents, or the substance of any potential response by a Bidder to the Solicitation, except through or in the presence of the IEs.

• b. The Evaluation Team and the Generation Team Soliciting Utility shall provide timely and accurate responses to any request from the IEs, including requests from Bidders submitted by the IEs, for information regarding any aspect of the Solicitation or the Solicitation Process.

• c. Communications between the Evaluation Team and the Generation Team and potential or actual bidders shall be conducted only through or in the presence of the Independent Evaluator. Bidder questions and the Evaluation Team and Generation Team or IE responses shall be posted on an appropriate website. The IE shall protect or redact competitively sensitive information from such questions or responses to the extent necessary.

d. _____

• The Evaluation Team or the Generation shall have no direct or indirect contact or communication with any Bidder other than through the IE until such time as a final shortlist is selected by the soliciting utility.

Should any Bidder contact a member of the Evaluation Team or Generation Team, such Bidder shall be directed to the IE for all information and such communication shall promptly be reported to the IE.

- 3) The IEs shall prepare at least the following confidential reports and provide them to the Regulators and the Soliciting Utility:
 - a. Monthly progress reports on all aspects of the Solicitation Process as it progresses;
 - b. Final Reports as soon as possible following the completion of the Solicitation Process. Final reports shall include analyses of the Solicitation, the Solicitation Process, the Soliciting Utility's evaluation and selection of Bids and resources, the final results and whether the selected resources are in the public interest.