

Request for Proposal (RFP)



Issued by
Office of the Ohio Consumers' Counsel (OCC)
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

Standard Service Offer Determination Expert

RFP Number: 2014-08
Issued: March 17, 2014

**REQUEST FOR PROPOSAL
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Attachment:

Affirmation and Disclosure Form Executive Order 2011-12K

PART ONE: EXECUTIVE SUMMARY

Purpose. This is a Request for Proposal ("RFP") issued by the Office of the Ohio Consumers' Counsel ("OCC") to solicit bids from Independent Contractors for to provide technical assistance to effectively determine the standard service offer ("SSO") to be charged to customers of Duke Energy Ohio ("Duke") including all terms and conditions of any Electric Security Plan ("ESP") filed by Duke and evaluation of whether the proposed ESP is more favorable in the aggregate as compared to the expected results of a Market Rate Offer ("MRO").

Background. The OCC plays an integral part in Ohio's government and economy by fulfilling its role as the advocate agency for residential utility consumers. Established in 1976, the OCC's services for Ohio consumers include advocacy on their behalf on issues involving the affordability and quality of their utility services. OCC also provides education for consumers regarding their utility services.

The law governing the agency's activities is contained in Chapter 4911 of the Ohio Revised Code.

PART TWO: GENERAL INSTRUCTIONS

Calendar of Events. The schedule for this RFP and the work to be addressed is given below. The OCC reserves the right to change this schedule as needed.

Firm Dates

RFP Issued:

March 17, 2014

Bid Due Date/Time:

March 31, 2014 2:00p.m.

Estimated Dates

Contract Award:

April 10, 2014

Contract End Date

June 30, 2015

Estimated Budget

\$40,000

Contact. The following individual will represent the OCC as the primary contact for matters relating to this RFP and any subsequent contract. All questions must be submitted in writing

Robin Tedrick

Records Management Coordinator
Office of the Ohio Consumers' Counsel
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215
614-466-9591
E-mail: robin.tedrick@occ.ohio.gov

Proposal Submission. Proposals are to be mailed or delivered to: Robin Tedrick, Office of the Ohio Consumers' Counsel, 10 W. Broad Street, Suite 1800, Columbus, Ohio 43215-3485. Proposals can be sent via mail or e-mail to tedrick@occ.state.oh.us. The deadline to submit proposals for this RFP is **March 31, 2014 @ 2:00 p.m.**

The OCC may reject any proposals or unsolicited proposal amendments that are received after the deadline. A prospective Independent Contractor that mails its proposal must allow for adequate mailing time to ensure its timely receipt.

Each prospective Independent Contractor must carefully review the requirements of this RFP and the contents of its proposal. All prospective Independent Contractor are on notice that the OCC will not be liable for any costs incurred by any prospective Independent Contractor in responding to this RFP, regardless of whether the OCC awards the contract through this process, decides not to go forward with the work, cancels this RFP for any reason, or contracts for the work through some other process or by issuing another RFP.

By submitting a proposal, the prospective Independent Contractor acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The prospective Independent Contractor also agrees that the contract will be the complete and exclusive statement of the agreement between the OCC and the Independent Contractor and will supersede all communications between the parties regarding the contract's subject matter.

The OCC may reject any proposal if the prospective Independent Contractor takes exception to the terms and conditions of this RFP, fails to comply with the procedure for participating in the RFP process, or the prospective Independent Contractor's proposal fails to meet any requirement of this RFP. The OCC may reject any proposal that is not in the best interest of the OCC to accept. Further, the OCC may decide not to do business with any of the prospective Independent Contractors responding to this RFP.

All proposals and other material submitted will become the property of the OCC. Proprietary information should not be included in a proposal or supporting materials because all proposals will be treated as a public record and the OCC will have the right to use any materials or ideas submitted in any proposal without compensation to the prospective Independent Contractor.

Waiver of Defects. The OCC has the right to waive any defects in any bid or in the submission process followed by a prospective Independent Contractor. However, the OCC will only do so if it is in the best interest of the OCC and will not cause any material unfairness to other prospective Independent Contractors.

Amendments to Bids. Amendments or withdrawals of bids will be allowed if the amendment or withdrawal is received before the bid due date. No amendment or withdrawals will be permitted after the due date, except as expressly authorized by the OCC.

Amendments to the RFP. If the OCC decides to revise this RFP, amendments will be made available to all prospective Independent Contractors. When the OCC makes amendments to the RFP after bids have been submitted, the OCC will permit prospective Independent Contractors to withdraw or modify their bids.

Contract. If this RFP results in a contract award, the contract will include by reference this RFP, written amendments to this RFP, the prospective Independent Contractor's bid, and written, authorized amendments to the Independent Contractor's bid. It will also include any purchase orders and change orders issued under the Contract.

In addition, the prospective Independent Contractor will agree to abide by all laws, rules and directives of the State of Ohio, as they pertain to vendors doing business with the State of Ohio.

PART THREE: SCOPE OF WORK AND DELIVERABLES

This section describes the scope of work and what the selected Independent Contractor must deliver as part of the completed work (the "Deliverables") to meet the terms and conditions of a subsequent contract.

Scope of Work. The Independent Contractor will be fully responsible for the review, analysis and evaluation of all materials filed by Duke and any other parties in the Duke ESP 3 proceeding relating to the determination of the Standard Service Offer ("SSO"), including a presentation of the statutory test. The statutory test is a comparison of whether the proposed ESP (including its pricing and all other terms and conditions and including deferrals and future recovery of deferrals) is more favorable in the aggregate than the expected results under an MRO.

The Independent Contractor will be responsible for the presentation of OCC's recommended SSO, including any modifications to the proposed ESP, incorporating information developed by OCC staff and by any other consultants retained by OCC for this case.

Summary. Under Ohio Revised Code 4928.141 electric utilities establish an SSO for generation service through Public Utilities Commission of Ohio ("PUCO") approval of a Market-Rate Offer ("MRO") or an Electric Security Plan ("ESP"). Each Ohio electric utility currently provides customers an SSO for generation service through an ESP approved by the PUCO.

Upon application by a utility of an ESP for a new SSO, the PUCO is required to issue an order no later than 275 days after the application's filing date. In order to approve an ESP the PUCO must find that the ESP, "including its pricing and all other terms and conditions, including deferrals and future recovery of deferrals, is more favorable in the aggregate as compared to the expected results that would otherwise apply" under an MRO.¹ This comparison of the ESP versus an MRO is known as the statutory test.

ORC 4928.143² provides that an ESP "shall include provisions relating to the supply and pricing of electric generation service" and may provide for, "without limitation, any of the following:"

- a) Automatic recovery of certain costs such as fuel and purchased power, emission allowances; and federally mandated carbon or energy taxes;
- b) A reasonable allowance for construction work in progress for the cost of constructing a generating facility or for an environmental expenditure for a generating facility;
- c) A nonbypassable surcharge for costs for the life of a generating facility, that is owned or operated by the electric distribution utility and was sourced through a competitive bid process (the PUCO must first determine in the proceeding that there is a need for the generating facility based on resource planning projections);
- d) Terms, conditions, or charges relating to limitations on customer generation shopping, bypassability, standby, back-up, or supplemental power service, default service, carrying costs, amortization periods, and accounting or deferrals, including future recovery of deferrals, as would have the effect of stabilizing or providing certainty regarding retail electric service;

¹ ORC 4928.143(C)(1)

²A link to ORC 4928 is on the PUCO website at: <http://www.puco.ohio.gov/puco/index.cfm/rules/>

- e) Automatic increases or decreases in any component of the SSO;
- f) Provisions for securitization of any SSO phase-in, inclusive of carrying charges;
- g) Provisions relating to transmission, ancillary, congestion, or any related service required for the SSO;
- h) Provisions regarding the utility's distribution service, including but not limited to, single issue ratemaking, revenue decoupling mechanism, incentive ratemaking, distribution infrastructure and modernization incentives; and
- i) Provisions related to economic development, job retention, and energy efficiency programs.

Duke ESP: In Case No. 11-3549-EL-SSO³ ("Duke ESP 2 case"), the PUCO modified and approved an ESP for Duke for the period January 1, 2012 through May 31, 2015 based on a stipulation reached by numerous parties, including Duke, PUCO Staff and the OCC.⁴

Under the PUCO-approved stipulation in the Duke ESP 2 case, Duke is to file its next SSO application ("ESP 3 case") no later than June 1, 2014. A procedural schedule for Duke's next SSO application will not be determined by the PUCO until after the application is filed. For example, in Ohio Power's most recent ESP case⁵ filed in December 2013, the procedural schedule set by the PUCO included a technical conference 19 days after the application was filed, intervenor testimony due 137 days after the application's filing and a hearing on the ESP scheduled 165 days after the application was filed.

Duke's upcoming application is to provide for SSO generation supply beginning June 1, 2015 to be procured through a descending-clock format Competitive Bid Process ("CBP"). Through the CBP, Duke is to procure, on a slice-of-system basis, the aggregate wholesale full requirements SSO supply, which includes energy and capacity, market-based transmission service, and market-based transmission ancillary services requirements, for the period of its next SSO.⁶

Work Requirements and Deliverables. The Independent Contractor shall undertake the following work and activities, as requested and approved by OCC, for the identification, analysis and development of issues related to Duke's ESP 3 case.

Deliverable 1

The Independent Contractor shall:

- a. Review and become familiar with:
 - i. ORC 4928, especially sections dealing with an ESP and MRO;
 - ii. PUCO rules related to ESP applications, Ohio Administrative Code 4901:1-35;
 - iii. Duke's prior ESPs, as approved by the PUCO in Case Nos. 08-920-EL-SSO, et al. and Case Nos. 11-3549-EL-SSO, et al.;
 - iv. The PUCO's orders in related proceedings, such as other utilities' ESP cases.

³ Orders and Entries in Duke Case Nos. 11-3549-EL-SSO et al. are on the PUCO Docketing website at: <http://dis.puc.state.oh.us/>

⁴ Duke ESP 2 case, October 24, 2011 Stipulation and Recommendation

⁵ Ohio Power ("AEP Ohio") Case Nos. 13-2385-EL-SSO et al.

⁶ Duke ESP 2 case, November 11, 2011 Order at 9-10

- b. Analyze (through a cost-benefit analysis) and determine whether or not the proposed ESP, including its generation pricing and provisions, including any deferrals, future recovery of deferrals and non-generation pricing provisions, is more favorable in the aggregate as compared to the expected results that would otherwise apply under section 4928.142 of the Revised Code. (i.e. under an MRO);
- c. Analyze and determine whether all ESP provisions relating to the supply and pricing of electric generation service are consistent with Ohio laws and that the terms and conditions are reasonable. See ORC 4928.143;
- d. To the extent proposed as part of the ESP, and requested by OCC's lead attorney, determine the appropriateness and reasonableness of all ESP provisions proposed by the utility

Deliverable 2

The Independent Contractor will provide technical support on related issues for the discovery process in the proceeding, including:

- a. Prepare discovery (interrogatories and requests for production of documents);
- b. Review responses to OCC's and other parties' discovery;
- c. Attend any depositions scheduled as required by OCC's lead attorney (Such depositions may require travel);
- d. Review discovery requests served upon the OCC by other parties and assist in preparing OCC's responses to such discovery when requested by OCC's lead attorney;
- e. Give deposition testimony if required.

Deliverable 3

The Independent Contractor shall:

- a. Provide a recommendation as to the determination of the Standard Service Offer ("SSO"), including the application of the statutory test, in consultation with any other OCC experts and/or OCC staff working on related issues;
- b. Prepare written, direct and, if needed, rebuttal testimony and present that testimony at hearing;
- c. Provide technical assistance needed for any pre-hearing or settlement conferences;
- d. Provide technical assistance, when expressly requested by OCC's lead attorney, for the legal preparation involved in the proceeding including an analysis of written and oral testimony of other witnesses (Utility, PUCO Staff, and other intervenors) to assist with cross examination;
- e. Provide technical assistance subsequent to the hearing in order to prepare post-hearing briefs and evaluate issues for possible rehearing and/or appeals including, but not limited to, evaluation of those and related issues in the PUCO's Opinion and Order and, if requested, by OCC's lead attorney.

PART FOUR: BID REQUIREMENTS

Bid Format. Each bid must include sufficient data to allow the OCC to verify the total cost for the work and all of the prospective Independent Contractor's claims of meeting the RFP's requirements. These instructions describe the required format for a responsive bid. The prospective Independent Contractor may include any additional information it believes is relevant.

1. **Independent Contractor Profile.** Each bid must include a general profile of the prospective Independent Contractor's relevant experience working on projects similar to this work. In the **Independent Contractor Profile**, or in **Personnel Profile Summaries** (see below), details on prior and current similar and/or relevant work projects should be provided, including the scope of such work and clients. While detail is generally preferred on an Independent Contractor's most recent work, Independent Contractors are encouraged to provide detail on relevant work in Ohio.

The profile must also include the prospective Independent Contractor's legal name, address, and telephone number; home office location; date established; ownership (such as public firm, partnership, or subsidiary); firm leadership (such as corporate officers or partners); total number of employees nationwide and in Ohio; the percentage of women employees nationwide and in Ohio; the percentage of minorities nationwide and in Ohio; number of employees to be engaged in tasks directly related to the work; and any other background information the prospective Independent Contractor believes would be useful during the bid evaluation process.

2. **Work Plan.** The prospective Independent Contractor must fully describe its approach, methods, and specific work steps for doing the work and producing the **Work Requirements and Deliverables** set forth in Part Three of this RFP. The OCC encourages responses that demonstrate a thorough understanding of the nature of the work and what the Independent Contractor must do to get the work done well. The prospective Independent Contractor must also provide a complete and detailed description of the way it will do the work that addresses the areas of concern identified below. The OCC seeks insightful responses that describe proven, state-of-the-art methods. Recommended solutions should demonstrate the prospective Independent Contractor's ability to quickly undertake and successfully complete the required tasks.

The prospective Independent Contractor's work plan must clearly and specifically identify key personnel assignments, by individual, as to who would be addressing the deliverables set forth in Part Three of this RFP.

3. **Personnel Profile Summaries.** Each bid must include a profile and/or resume that demonstrates the competency of the Independent Contractor by submitting the following information:
 - **Team Members Names**
 - **Experience and Qualifications.** Experience and qualifications relevant to this project.
 - **Dates of Employment.** The length of time the team members performed relevant work requiring the necessary technical expertise.
 - **Project Experience.** The work of the team members on projects of similar or greater size and scope.
4. **References.** The prospective Independent Contractor must include three references for which the prospective Independent Contractor has successfully provided services on projects that were

similar in their nature, size, and scope of work. These references must relate to work that was completed within the past five (5) years.

Note: Each reference must be willing to discuss the prospective Independent Contractor's performance with an OCC representative.

5. **Cost Summary.** Each prospective Independent Contractor must provide a cost summary table showing: (1) Team Members' names, (2) their hourly rates, (3) their estimated hours, and (4) total estimated project cost for the Work Requirements and Deliverables set forth in Part Three of this RFP.
 - a) The OCC requires the inclusion of ALL expenses associated with this project within the hourly rates and hours used to determine the costs for the deliverables, thereby eliminating the need for expense billings. Items to be taken into consideration in determining the cost of each deliverable should include supplies and materials, transportation and per diems, copying and overnight mail charges, etc. The successful bidder will be responsible for direct payment to vendors for any requirements for overnight mail and any "on-site" photocopying charges.
 - b) Independent Contractor may invoice only for actual work performed and documented.
6. The OCC will not be liable for any costs the prospective Independent Contractor does not identify in its bid.
7. The prospective Independent Contractor must complete the Standard Affirmation and Disclosure form attached to this RFP which addresses Executive Order 2011-12K, Governing the Expenditure of Public Funds on Offshore Services. This executive order states in part "...No State Cabinet Agency, Board or Commission ("Executive Agency") shall enter into any contract which uses any public funds within its control to purchase services which will be provided outside of the United States..." By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, the Bidder/Offeror becomes the Independent Contractor and affirms that both the Independent Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States. To access the executed Executive Order, please visit: <http://procure.ohio.gov/pdf/EO201112K.pdf>.
8. Submit an original W9 form along with your response to this RFP so that, if a contract is awarded, the OCC can process any invoices submitted by your company. The Internet link to the form is: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. The form must be signed and dated.
9. Submit a statement as part of your response to this RFP, affirming that you or members of your staff do not currently owe any money to the state of Ohio or have an unresolved finding for recovery from the Auditor of State as per Ohio Revised Code (ORC) 125.25. To access more information regarding ORC 125.25, please visit: <http://codes.ohio.gov/orc/125.25>.
10. **Campaign Contribution.** House Bill 694 requires that every contract for goods or services of more than \$500 must contain a certification signed by the contract recipient certifying that the recipient is in compliance with ORC 3517.13 Divisions (I) or (J) regarding limitations on political contributions. If awarded a contract, the Independent Contractor will certify that they are in full compliance with these Divisions of ORC 3517.13. For more information, please refer to <http://codes.ohio.gov/orc/3517.13>.

PART FIVE: EVALUATION OF BIDS

Evaluation of Bids. Generally, the evaluation process may consist of up to four distinct phases:

1. The Initial Review of all bids for defects;
2. The Evaluation of the bids;
3. Request for More Information (Interviews, Presentations, and Demonstrations);
4. Negotiations.

It is within the purview of the OCC to decide whether phases three and four are necessary.

Initial Review: The bids will be reviewed for their timeliness, format, and completeness. Any late, incomplete, or incorrectly formatted bids may be rejected. Likewise, any defects may be waived or a prospective Independent Contractor may be allowed to submit a correction.

If a late bid is received, it will not be considered unless the prospective Independent Contractor has received prior OCC approval for a late bid for good cause shown.

Rejection of Bid. The OCC may reject any bid that is not in the required format, does not address all the requirements of this RFP, or that the OCC believes is excessive in price or otherwise not in the best interest of the OCC to consider or to accept. In addition, the OCC may cancel this RFP, reject all the bids, and seek to do the work through a new RFP or other means.

Clarifications: During the evaluation process, clarifications may be requested from any prospective Independent Contractor under active consideration and the clarification may give any prospective Independent Contractor the opportunity to correct defects in its bid. This may be done in cases where doing so would not result in an unfair advantage to the prospective Independent Contractor and the clarification is in the best interest of the OCC.

Contract Award. The OCC plans to tentatively award a Contract for this work on **April 10, 2014**. The OCC reserves the right to change the contract award date if it becomes necessary. The contract will be awarded to the Independent Contractor that demonstrates a clear understanding of OCC's expectations; can complete the scope of work and deliverables within the designated timeframe, and at the lowest or most competitive cost.

DEPARTMENT OF ADMINISTRATIVE SERVICES

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2011-12K

Governing the Expenditure of Public Funds on Offshore Services

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed hereto, the Contractor affirms, understands and will abide by the requirements of Executive Order 2011-12K. If awarded a contract, both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

(Address) (City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address) (City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name) (Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change in shift in location of services performed by Contractor or its subcontractors before, during and after execution of any Contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclose form and have read and understand that this form is a part of any contract that Contractor my enter into with the State and is incorporated therein.

By: _____
Contractor

Print Name: _____

Title: _____

Date: _____