

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion, to)
commence a collaborative to consider best practices)
to ensure cost-effective development of new energy)
resources and to limit procurement barriers for)
emerging technologies, including processes for)
competitive bidding.)
_____)

Case No. U-20852

COMMENTS OF THE
MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL
AND
ADVANCED ENERGY UNITED

Introduction

On September 9, 2021, the Michigan Public Service Commission (“Commission”) approved the Competitive Procurement Guidelines for Rate-Regulated Electric Utilities (Not for PURPA Compliance) (“2021 Competitive Procurement Guidelines”). The Michigan Energy Innovation Business Council (“Michigan EIBC”)¹ and Advanced Energy United (“United,” collectively

¹ The Michigan Energy Innovation Business Council is a trade organization tasked with growing Michigan’s advanced energy economy by fostering opportunities for innovation and business growth and offering a unified voice in creating a business-friendly environment for the advanced energy industry in Michigan.

“Michigan EIBC/United”)² offered comments throughout the process of developing the 2021 Competitive Procurement Guidelines. As noted by the Commission, Michigan EIBC/United have raised in multiple contested cases concerns that more needs to be done to ensure fair consideration of third-party owned resources. In its Order in the last Consumers Renewable Energy Plan case (Case No. U-21816), “the Commission acknowledged MEIU’s concern that simply providing an opportunity for third parties to bid into RFPs is not sufficient to encourage competition and to ensure the procurement of cost-effective renewables.”³ The Commission subsequently opened a docket to explore these issues including an initial redline of the 2021 Competitive Procurement Guidelines. Michigan EIBC/United, along with other stakeholders, provided comments on that initial redline. Subsequently, the Commission Staff (“Staff”) posted a revised draft of the guidelines (“Revised Draft”). Michigan EIBC/United appreciate the Commission’s attention to these issues and provide initial comments on the Revised Draft.

Summary

Overall, the Commission opened this docket to revise the Competitive Procurement Guidelines “to ensure that renewable energy resources are procured in a fair and competitive manner with adequate opportunity for third parties to participate in the competitive bidding process.” The Commission also indicated in Case No. U-21816 that compliance with the current Competitive Procurement Guidelines (and the provision of the opportunity for third parties to bid into RFPs) does not sufficiently encourage competition. Given this, Michigan EIBC/United are disappointed

² Advanced Energy United is a national business association representing leading companies in the advanced energy industry. United supports a broad portfolio of technologies, products, and services that enhance U.S. competitiveness and economic growth through an efficient, high-performing energy system that is clean, secure, and affordable.

³ Commission Order in Case No. U-20852, April 30, 2026, p. 3.

that the Revised Draft appears to be even less consequential and impactful than the initial redline and that neither draft accomplishes the goals established by the Commission. In fact, the changes proposed relative to the current Competitive Procurement Guidelines are largely to ensure compliance with current statute and would make very limited progress toward ensuring fair competition and access for third parties. As such, Michigan EIBC/United strongly urge the Commission to make broader, more meaningful updates (as outlined below) to the Competitive Procurement Guidelines to ensure that the stated goals are accomplished.

General Recommendations

Require third-party ownership and a 50/50 split in ownership

Michigan EIBC/United strongly urge the Commission to establish a requirement within the Competitive Procurement Guidelines that ensures that each competitive procurement establishes a roughly 50/50 split in ownership between utility-owned projects (self-built projects and build transfer agreements, “BTAs”) and third-party owned projects (see Line-By-Line Edits below). One essential role of the Commission is to determine whether utility proposals are “reasonable and prudent.”⁴ A core element of determining whether a proposal is reasonable or prudent is ensuring that the lowest cost, highest quality projects are selected. Michigan EIBC/United, however, contend that simply allowing third-party owned projects to bid into RFPs is not sufficient to ensure that these projects are fairly evaluated and that a strong third-party market exists. Instead, there are a number of reasons to establish a 50/50 split in ownership including:

⁴ Case No. U-22058, DTE Application for Approval of Special Contracts and for other relief, p. 6; *see also* MCL 460.6t.

- *Capital bias:* If given the choice, a regulated utility, which earns a significant return on equity (“ROE”) for all capital expenditures, can be expected to prefer investing its own capital towards the development and ownership of renewable energy and energy storage projects. This bias needs to be recognized and addressed, both through an established split in ownership and through use of an Independent Administrator (“IA,” as described below).
- *Cost considerations:* Third-party owned renewable energy resources have been shown to be just as economic and, in many cases, more economic, than utility-owned resources.^{5, 6,}
⁷ Using Commission-maintained data,⁸ for projects approved by the Commission between 2019 and 2025, for Consumers Energy, utility-scale solar PPAs greater than 20 MW had an average cost of \$51.80/MWh (n = 8) and company-owned utility-scale solar projects (including BTAs) greater than 20 MW had an average cost of \$56.75/MWh (n = 4). This provides valuable and direct insight into these cost considerations, while still understanding that in any given year, prices of all projects (regardless of ownership) may be higher or lower depending on factors including permitting and interconnection timelines, supply

⁵ Dominion Energy Virginia, Appendix 3K-1 – Comparison of per MWh Costs of Selected Resources, 2024 Integrated Resource Plan, Case No. PUR-2024-00184, October 15, 2024, available at https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/global/company/irp/2024-irp-w_o-appendices.pdf?rev=c03a36c512024003ae9606a6b6a239f3, pp. 257-258.

⁶ Avista Utilities, 2025 Electric Integrated Resource Plan, December 31, 2024, available at <https://www.myavista.com/-/media/myavista/content-documents/about-us/our-company/irp-documents/2025/2025-avista-electric-irp.pdf>, pp. 185 and 191.

⁷ Public Service Commission of Colorado, an operating company subsidiary of Xcel Energy, Inc., PSCo 2025 Near-Term Procurement Request for Proposals, August 29, 2025, available at <https://xcelnew.my.salesforce.com/sfc/p/1U0000011ttV/a/R300000BqVCg/WvTerHpBFyd8qGYJphrfuLUMKIIEXD6R9N.8DeCgJ74>, p. 2.

⁸ “Renewable Contracts,” Michigan Public Service Commission, available at <https://www.michigan.gov/mpsc/consumer/electricity/renewable-energy>, accessed December 24, 2025.

chain issues, and materials and labor costs. In addition, although the financial compensation mechanism (“FCM”) is a direct payment to the utility (and not to the third-party owner, and thus not a cost attributable to the third-party project), the FCM (unfairly) increases the total evaluated cost of PPA projects. As referenced in a recent Independent Monitor (“IM”) report included in the last DTE Electric Integrated Resource Plan (“IRP”) filing, DTE incorporates the FCM directly into the levelized cost of energy (“LCOE”) used to economically evaluate PPA bids.⁹ While the filing does not make clear whether the same FCM-inclusive LCOE is used when comparing PPAs against utility self-builds, doing so would artificially increase the evaluated cost of third-party resources relative to utility-owned alternatives. This would effectively disadvantage third-party bids through the same mechanism the Legislature established to support third-party bids by providing utilities with a financial incentive to enter into third-party PPAs (effectively countering the legislative intent of the FCM).

By virtue of the economic nature of competition, Michigan EIBC/United would expect that third-party owned resources will generally be less costly than Company-owned resources. In addition to the elevated project costs inherent to an investor-owned utility like DTE Electric with a current guaranteed return on equity of 9.90%,¹⁰ competition among third-party developers to win contracts tends to drive down costs. In the presence of this competition, as an empirical matter, it is simply less likely that PPAs with third parties collectively would end up materially higher in price than Company-owned projects. In the

⁹ DTE Electric Company’s ex parte Application and supporting documents, Case No. U-21193, p. 438.

¹⁰ Commission Order in Case No. U-21860, February 19, 2026.

alternative, the lack of a robust competitive market for renewable projects in Michigan would likely result in elevated costs. Simply put, if the utility is the only entity practically able to build and own projects, there would be no reason to expect that costs would remain low and every reason to expect that costs would be elevated in the future.

- *Fostering a competitive market:* Beyond historic price differences, fostering a competitive market will help ensure that future prices remain competitive for customers. A strong third-party market will provide competitive prices for the simple reason that cost is a very important, if not the most important, factor in determining the winning bid(s) in an RFP. As such, competitors are only awarded contracts if their projects are the least-cost, best-fit bids – thereby helping to ensure that customers and ratepayers are paying the lowest prices. However, customers will likely pay the lowest prices *only* if there is competition among projects bid in to solicitations from many competitors in a well-developed market and not simply a veneer of competition within a system that is otherwise skewed toward utility ownership and utility-owned projects winning bids. Without a path to ownership, third-party developers, many of whom operate an Independent Power Producer (“IPP”) model of ownership and operation of assets, may limit development in Michigan over time, instead preferring neighboring states that offer better market opportunities.

Opportunities for third-party ownership and third-party competition reduce the risk that customers and ratepayers will pay elevated monopolistic prices that benefit utilities and their shareholders rather than customers and ratepayers. In other words, without a strong third-party competitive market, the utility will not face competition, which would likely

result in price increases over time. Although the Commission has the authority to disallow costs to ratepayers should it deem them unreasonably high, without a competitive market to provide a touchpoint for what market prices *should* be at any given time, the Commission would be starved of the information necessary to indicate when and in which cases such disallowances should be made. Given the demonstrated capital bias of monopoly utilities,¹¹ it behooves the Commission to heed, consider, and when appropriate, take action to mitigate these risks.

- *Speed to operation:* Third-party owned resources may be capable of reaching commercial operation more quickly than Company-owned resources. First, enabling third-party projects to compete for a portion of each procurement will ensure a more robust response to an RFP because a larger number of projects will be available for bid. This, in turn, helps ensure that the utility has access to more projects on the desired timeline. Second, compared to PPAs with third-party owned projects, BTAs can be more difficult to negotiate because these agreements combine the components of both a PPA and an Engineering, Procurement, and Construction (“EPC”) contract. The additional complexity associated with a BTA structure is illustrated by Consumers Energy’s 2022 VGP RFP BTA Term Sheet, which requires due diligence, negotiation of the BTA and related agreements, and review of project permits, real property interests, interconnection rights, environmental

¹¹ See Rosenbach, *et al.*, Rocky Mountain Institute, “The Nuts and Bolts of Performance-Based Regulation: Tools to Build a More Affordable, Reliable, and Equitable Grid,” July 2024, available at https://rmi.org/wp-content/uploads/dlm_uploads/2024/07/PBR_Deck_final.pdf, p. 11.

reports, design documents, tax-credit documentation, and other project records.¹² These additional ownership-transfer requirements can extend procurement and contracting timelines relative to arrangements that do not involve the transfer of project ownership.

- *Risk allocation:* There are also important risk-allocation considerations associated with third-party owned projects. In Virginia, State Corporation Commission (“SCC”) Staff has found that third-party solar PPAs can be the “least cost, lowest risk option,” explaining that, where “all operational risk is borne by the solar developer,” the utility’s ratepayers and shareholders are shielded from that risk.¹³ In contrast, SCC Staff found that Company-built, rate-based solar was the “highest cost, highest risk option” and that such projects expose jurisdictional customers to operational and performance risk, even where a performance guarantee shields customers from some, but not all, of that risk.¹⁴ Maintaining a balanced mix of Company-owned and third-party owned resources therefore provides important risk diversification benefits. It allows the utility to distribute risk across multiple counterparties while also benefiting from the experience, existing development pipelines, and execution capabilities of third-party developers.

¹² Consumers Energy Company, 2022 VGP RFP, Appendix D-3: Build Transfer Agreement (BTA) Term Sheet, available at <https://www.consumersenergy.com/-/media/CE/Documents/residential/renewable-energy/electric-power-notices/ceco-2022-vgp-rfp-appendix-d3-build-transfer-agreement-bta-term-sheet.ashx?>, pp. 4–8.

¹³ Virginia State Corporation Commission Staff, Pre-Filed Testimony of Gregory L. Abbott, Virginia Electric and Power Company, Case No. PUR-2019-00105, November 19, 2019, available at <https://www.scc.virginia.gov/docketsearch/DOCS/4jxv01%21.PDF>, pp. 1, 6–7.

¹⁴ *Ibid.*

Require use of an Independent Administrator

Michigan EIBC/United strongly urge the Commission to require use of an IA when an affiliate or self-built project is bid into an RFP. Michigan EIBC/United are incredibly disappointed to see that the Revised Draft removed the requirement for an IA to be used when affiliate projects were considered. It is critical that the Commission *require* utilization of an IA *both* when an affiliate project and when a utility self-built project is bid into an RFP.

There are important differences between an IA and an IM. Specifically, an IA conducts the evaluation and scoring of proposals in an RFP and then communicates the results to the utility in an anonymized manner until the utility enters into negotiations with the winning bidders. In contrast, an IM simply helps to oversee the RFP process but largely is simply an extension of the utility – in other words, the IM is not fully “independent” but is instead in “lockstep” with the utility (as directly noted by a representative from DTE Energy during the Competitive Procurement Workgroup meeting on June 15, 2026). In other words, an IM simply supports the utility and ensures that the utility follows the established requirements, but does not play an active role in the selection process. Instead, when a utility uses an IM, all of the scoring, assessment of bids, and final bid selection is done by the utility, and the utility has full access to all of the bidder information.

If bids to an RFP include utility self-built or affiliate projects, allowing the utility to evaluate, score, and select winning bids (as is the case when an IM is used) – including those that will be built and owned by the utility itself – creates at least the appearance of bias, and provides more than adequate opportunity for actual bias. Any continued use of an IM when self-built or affiliate

projects are under consideration casts a shadow of doubt on procurement decisions that have a direct impact on benefits to shareholders and costs to ratepayers.

Improve transparency

Michigan EIBC/United believe that there are additional requirements that could improve transparency throughout the bid evaluation process.

- *Improve evaluation of non-price factors:* Michigan EIBC/United support the addition of long duration resiliency and dispatchability as a clean or renewable resource to the list of potential non-price factors (Guidelines, #4b). However, to the extent that these non-price benefits are considered, their consideration/scoring must be transparent and clear to all bidders. Specifically, scorecards for these qualitative factors must be detailed and very clear as to how each point can be achieved. These scorecards and their evaluation are often opaque, especially if the utility is involved in the establishment and scoring of the scorecards (as is the case when the utility uses an IM). For example, in the 2022 DTE RFP, the Company received 34 proposals, five of which were self-built projects proposed by DTE.¹⁵ In the ranking process, the non-price criteria considered were safety, project feasibility, and project management (ranked on a weighted 0-5 scale). Of the 34 proposals, the five DTE self-built projects scored highest based on this evaluation process and, in fact, these projects were the only projects to receive a 5.1, which likely indicates they received full credit in each category plus bonus credit. The next highest scoring project, which was also significantly lower in price than the DTE self-built projects, received a 4.1. None of

¹⁵ Direct Testimony of Dr. Laura S. Sherman on behalf of the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United, Case No. U-21172, pp. 14-20.

the other evaluated projects received a score higher than 3.6.¹⁶ Although these evaluation procedures appear to be highly subjective and, although they may be explained to Staff, are not explained to stakeholders or, to our knowledge, to RFP bidders. Even if this evaluation was fully consistent and objective, the lack of transparency regarding the non-price factors and use of an IM introduces at least the appearance of bias in favor of the utility self-built projects through the evaluation process. Michigan EIBC/United recommend edits below to improve transparency around these non-price factors (see Line-By-Line Edits).

- *Increase transparency around project bidding:* Transparency around the evaluation of projects, especially those built by a utility and its affiliates, is important. Specifically, it is critical that the price and non-price factors are all accounted for in the same manner for self-built/affiliate projects and third-party developed projects (BTAs and PPAs). Michigan EIBC/United recommend, as described above, that the utilities be required to use an IA for any RFP involving a self-built or affiliate bid.

As part of the standard process, the IA (or potentially an IM if no self-built or affiliate projects are proposed) should be required to detail all of the cost categories for each bid (in an anonymized manner), ensuring that the same cost categories are accounted for and factored into the price aspects of the bid. The IA should also ensure that all the assumptions around the costs for each category are reasonable and as up-to-date as possible to avoid (to the extent possible) future cost overruns.

¹⁶ Exhibits of DTE Electric Company, Case No. U-21193, Exhibit A-9.3.

More specifically, for any self-built or affiliate project bid into an RFP, the utility/affiliate should be required to provide the IA, Staff, and stakeholders, under appropriate confidentiality protections, with the key assumptions supporting the project's proposed LCOE, including estimated EPC costs, land costs, interconnection costs, and other material and/or non-material inputs. The IA should review those assumptions for reasonableness and consistency with accepted industry benchmarks, and the relevant assumptions should be preserved and compared by Staff against actual project costs in future renewable energy cost reconciliation filings. Where actual costs materially exceed bid-stage assumptions, the utility should bear the burden of demonstrating that the variance was unavoidable and not the result of overly optimistic assumptions during the bid stage (see Line-By-Line Edits).

Include all quantified benefits

Michigan EIBC/United appreciate the addition of the requirement that utilities consider projects with different interconnection levels (Guidelines, #3a). To the extent that the benefits of a class of resources (e.g., front-of-the-meter distribution-connected solar and storage projects) have been quantified, those benefits should be included in the project evaluation (i.e., as a price factor/adjustor). For example, Michigan EIBC/United witness Justin Barnes quantified avoided transmission and distribution costs for distribution-connected solar projects in his testimony¹⁷ in the most recent Consumers Voluntary Green Pricing case (Case No. U-21972). The Commission should require these benefits to be included in the price factor analysis, likely as a standard post-bid adjustment to the bid-price for any distribution-connected solar and storage project such that the Commission-ordered benefits (e.g., avoided transmission and distribution costs) are subtracted

¹⁷ Direct testimony of Justin B. Barnes on behalf of the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United, Case No. U-21972.

from the bid price. Similar benefits, as they are quantified, should be added to the required list of price adjusters by the Commission (e.g., after an Order approving the quantified benefit for a certain class of resource; see Line-By-Line Edits).

Risk adjustments

The Revised Draft (Guidelines, #4h) requires that the utility identify the “parameters for inclusion of a financial compensation mechanism, terminal value analysis, or any other adjustment factor for all projects.” The Revised Draft then goes on to outline the requirements for a terminal value analysis. However, other post-bid cost adjusters, including commonly used “risk adjusters” and contractual exceptions adders are not defined. It is unclear how these risk adjusters are calculated and how a bidder would avoid the institution of a risk adjustor. These must be transparent, clear, and calculable for all bidders from the start (see Line-By-Line Edits).

Line-By-Line Edits

Optionality

(Guidelines, #1) Michigan EIBC/United are concerned that the Revised Draft reverts to the original language removing the requirement that competitive procurement is used to arrange all resources. Instead, Michigan EIBC/United recommend that Guidelines, #1 read: “All long-term resources, including utility self-build projects, ~~should be procured~~ **are arranged** through competitive procurement.”

Ownership Split

(Guidelines, new section) Michigan EIBC/United, for the reasons outlined above, strongly recommend the addition of the following requirement to the Guidelines as a new section (e.g., #2):

2. Every competitive procurement must be designed to procure at least 50% of the total sought resources from projects owned by independent third parties (i.e., not projects that will be ultimately owned by the utility including self-built projects and BTAs).

Independence

(Guidelines, #2a) Michigan EIBC/United recommend the addition of the following requirement under #2a to ensure transparency around the use of separate staffing for affiliate proposals and clarify what steps the utility has taken to ensure independence:

i. A detailed description of this requirement and steps the utility has taken to implement it must be included in the RFP documents, including how it will avoid improper information sharing following the conclusion of the bidding process.

Independent Administrator

(Guidelines, #2b) Michigan EIBC/United, for the reasons outlined above, strongly recommend that the Commission *require* the use of an IA to conduct all aspects of the Competitive Procurement process if a utility affiliate or a utility self-build project intends to bid into a solicitation. Michigan EIBC/United recommend modifying the Guidelines, #2b to read:

It is ~~preferred~~**required** that an IA conducts all aspects of the Competitive Procurement process, including scoring of proposals, ~~especially~~ if a utility or its affiliate intends to bid a self-build project into the utility's competitive solicitation.

Non-discriminatory Treatment

(Guidelines, #3a) Michigan EIBC/United recommend that the Commission require the utilities to allow bidders to combine smaller projects together into one bid to meet minimum RFP guidelines.

For example, RFPs often require bids to be at least 20 MW in capacity. A bidder should be able to combine four 5 MW projects into one bid to meet that requirement. To ensure this is possible, Michigan EIBC/United recommend modifying the Guidelines, #3a to read:

. . . applicable resource types of combinations of resource types **(including combinations of smaller projects bid together to meet a required capacity threshold)**, . . .

RFP Requirements

(Guidelines, #4b) For clarity, Michigan EIBC/United recommend the following edit:

. . . (RFP ~~to~~ **shall** include scoring sheets with applicable weighting of evaluation factors **which clearly indicate to bidders how each non-price factor will be scored**).

Non-price Factors

Michigan EIBC/United recommend that the Commission standardize and strengthen how brownfield and previously-disturbed-land siting is valued in competitive procurement. Brownfield redevelopment is already a listed and scored non-price factor (Guideline, #4b), but as a single discretionary point readily outweighed by price, it rarely affects outcomes. These sites deliver concrete, ratepayer-facing benefits including materially lower siting, land-use, and permitting risk; avoidance of the farmland-conversion conflicts that drive delay; and frequent proximity to existing transmission and distribution infrastructure, reducing interconnection cost and time to operation. As stated above, where these benefits can be quantified for a class of resources, they should be applied as a standardized adjustment to evaluated price — not left solely to a subjective non-price score. Peer states already operationalize brownfield preferences inside procurement. For example, Connecticut's statewide Shared Clean Energy Facility program lowers the evaluated price of

brownfield and landfill projects for ranking purposes (20% in its current Year 7 procurement¹⁸) while still paying full bid price; Illinois ran a dedicated brownfield photovoltaic procurement category;¹⁹ and New Jersey conditions community-solar participation on a preferred-siting framework with capacity reserved for landfill and brownfield projects.²⁰

In addition to the incorporation of any quantified benefits, Michigan EIBC/United recommend adding additional clarity to the description of non-price factors by adding the following language:

. . . brownfield redevelopment and the redevelopment of other previously-disturbed land (including closed landfills, former industrial sites, and contaminated parcels) . . .

(Guidelines, #4b) There should be a preference given to projects located within the state and projects that use materials produced in the state as these projects drive in-state economic growth.

Michigan EIBC/United recommend adding the following non-price factors to the list:

. . . in-state vs. out-of-state project location, use of Michigan-made components/materials, and other factors. . .

(Guidelines, #4bi) Michigan EIBC/United suggest that the Revised Draft does not provide sufficient clarity as to when information must be provided about non-price factors. Requiring this to be provided clearly “before proposals are received” does not necessarily mean that it must be done when the RFP is finalized and released. However, if this information is not finalized and

¹⁸ Connecticut Department of Energy & Environmental Protection, “Statewide Shared Clean Energy Facility (SCEF) Program,” available at <https://portal.ct.gov/DEEP/Energy/Shared-Clean-Energy-Facilities/Shared-Clean-Energy-Facilities>.

¹⁹ Illinois Power Agency, “Brownfield Site Photovoltaic Procurement,” available at <https://www.ipa-energyrfp.com/brownfield/>.

²⁰ State of New Jersey, “Landfill to Solar Incentive Programs,” available at <https://www.nj.gov/landfillsolar/>.

clearly provided in the RFP, it disadvantages all bidders (perhaps except utility self-built projects).

Given this, Michigan EIBC/United recommend this clarification:

~~Before proposals are received~~ **In the released RFP**, the criteria must be clearly specified

(Guidelines, #4bi) Michigan EIBC/United also suggest this addition to the end of #4bi to ensure that bidders are well-informed about how to achieve success with each non-price factor:

It must be clear to bidders exactly how to achieve the maximum score for each non-price factor.

Transparency

As described above, it is critical that the price and non-price factors are all accounted for in the same manner for self-built/affiliate projects and third-party developed projects (BTAs and PPAs). The IA (or IM if no self-built or affiliate projects are proposed) should be required to detail all of the cost categories for each bid (in an anonymized manner), ensuring that the same cost categories are accounted for and factored into the price aspects of the bid. The IA should also ensure that all the assumptions around the costs for each category are reasonable and as up to date as possible to avoid (to the extent possible) future cost overruns. Michigan EIBC/United recommend the addition of a new subsection to #4 to accomplish this:

For each RFP, the IA (or IM if no self-built or affiliate projects are proposed) is required to detail all of the costs for each bid (in an anonymized manner), ensuring that the same cost categories are accounted for and factored into the price factors in the bid and that appropriate, up-to-date assumptions are used by each bidder. For any self-built or affiliate project, the IA or IM shall preserve the material bid-stage assumptions supporting the project's proposed LCOE for use in subsequent cost-reconciliation proceedings. Staff shall

compare those assumptions against actual project costs, and the utility shall explain any material variance.

Transmission and Distribution

(Guidelines, #4e) Michigan EIBC/United do not support the removal (from the Revised Draft) of the requirement that information regarding transmission and distribution availability and constraints be provided to bidders. These data should still be provided to respondents to enable more effective and less costly interconnections. Michigan EIBC/United recommend adding the following to #4e:

These data shall be provided to respondents in an accessible format and shall include detailed locational information.

PPA Adjustments

(Guidelines, #4c) In addition to making it clear to bidders which terms and conditions are non-negotiable, Michigan EIBC/United recommend that the Commission clarify that, in general, the intent is for there to be a limited number of non-negotiable terms:

Templates of Power Purchase Agreement (PPA), Build Transfer Agreement (BTA), or any other contracts with terms and conditions and identification of what **limited** terms and conditions are non-negotiable.

(Guidelines, #4h) It is often unclear how the risk adjustors are calculated and how a bidder would avoid the institution of a risk adjustor. This must be transparent, clear, and calculable for all bidders. To ensure clarity, Michigan EIBC/United recommend the addition of this sentence to #4h after the first sentence:

If any other adjustment factor will be included, including a risk adjustment factor, the parameters for inclusion of this factor must be clearly defined in the RFP and methods to avoid inclusion of this factor must be enumerated.

(Guidelines, #4h) To the extent that the benefits of a class of resources (e.g., distribution-connected solar and storage projects) have been quantified, those benefits should be included in the project evaluation. The Commission should require these benefits to be included in the price factor analysis, likely as a standard adjustment to the bid-price (i.e., PPA LCOE decrease for a bid that demonstrates those benefits) for any relevant project. Similar benefits, as they are quantified, should be added to the required list of price adjusters by the Commission (e.g., after an Order approving the quantified benefit for a certain class of resource). Michigan EIBC/United recommend the addition of the following language to #4h to accomplish this:

The utility must consider any additional benefits that have been quantified (including those related to distribution-connected projects such as avoided transmission costs and previously-disturbed sites) and approved by the Commission as a post-bid LCOE adjustment factor (i.e., decreasing the bid LCOE) and shall make these considerations clear in the solicitation documents.

Labor Standards

(Guidelines, #4k) Michigan EIBC/United argue that the role of the competitive bidding guidelines is to ensure that the utilities require bidders to comply with Michigan's labor laws. However, it is not clear legally whether these standards apply to literally every project or only RFPs used to fulfill specific resource needs. Given this legal uncertainty, Michigan EIBC/United recommend the following addition:

To the extent that the RFP bidder is constructing a new resource, a commitment by the RFP bidder, **to the extent required by statute**, to comply with the Michigan Labor Standards as directed by Public Act 231 of 2023 and Public Act 10 of 2023.

Code of Conduct

(Guidelines, #5a) The code of conduct must equally apply to a utility self-built project as to an affiliate. As such, Michigan EIBC/United recommend the following addition:

All code of conduct rules shall be followed. Utility shall document compliance with the Code of Conduct for any award to an affiliate **and for any award to a self-built project** and shall include such documentation when it files for approval.

(Guidelines, #5c) As described above, Michigan EIBC/United strongly urge the Commission to require use of an IA when an affiliate or self-built project is bid into an RFP. Michigan EIBC/United were pleased to see the requirement in the initial draft for an IA to be used when affiliate projects were considered and are incredibly disappointed to see that the Revised Draft has removed this requirement. Michigan EIBC/United recommend the following change to #5c:

The utility is ~~strongly urged~~ **required** to utilize an IA when allowing affiliates **or utility self-built projects** to bid.