

Appendix G

Procurement Process Applicability Comparison (Section 16-111.5)

Procurement Process Provision	Changes
Section 16-111.5(c)(1)	
(i) design the final procurement process in accordance with Section 1-75 of the Illinois Power Agency Act and subsection (e) of this Section following Commission approval of the procurement plan;	No changes
(ii) develop benchmarks in accordance with subsection (e)(3) to be used to evaluate bids; these benchmarks shall be submitted to the Commission for review and approval on a confidential basis prior to the procurement event;	Not applicable
(iii) serve as the interface between the electric utility and suppliers;	No changes
(iv) manage the bidder pre-qualification and registration process;	No changes
(v) obtain the electric utilities' agreement to the final form of all supply contracts and credit collateral agreements;	No changes
(vi) administer the request for proposals process;	No changes
(vii) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;	Not applicable. Bids not based on price.
(viii) maintain confidentiality of supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs;	No changes
(ix) submit a confidential report to the Commission recommending acceptance or rejection of bids;	No changes
Section 16-111.5(e)	
(1) Solicitation, pre-qualification, and registration of bidders. The procurement administrator shall disseminate information to potential bidders to promote a procurement event, notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process. In addition to such other publication as the procurement administrator determines is appropriate, this information shall be posted on the Illinois Power Agency's and the Commission's websites. The procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (e). The procurement administrator shall then identify and register bidders to participate in the procurement event.	No changes other than to note that provision related to post-bid price negotiation does not apply
(2) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the utilities, the Commission, and other interested parties and subject to Commission oversight, shall	No changes other than "...must agree to the terms of the

<p>develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the applicable electric utility as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.</p>	<p>contract in advance so that winning bids are selected solely on the basis of price” does not apply.</p>
<p>(3) Establishment of a market-based price benchmark. As part of the development of the procurement process, the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the products that will be procured through the procurement process. The benchmarks shall be based on price data for similar products for the same delivery period and same delivery hub, or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific products and procurement process being used to procure power for the Illinois utilities. The benchmarks shall be confidential but shall be provided to, and will be subject to Commission review and approval, prior to a procurement event.</p>	<p>Not applicable, bids not based on price, therefore price benchmarks do not apply.</p>
<p>(4) Request for proposals competitive procurement process. The procurement administrator shall design and issue a request for proposals to supply electricity in accordance with each utility's procurement plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.</p>	<p>No changes, other than to note this procurement is subject to the Zero Emission Standard Plan rather than “each utility’s procurement plan” and that the request for proposals is not based on price-based bidding but rather the bid selection process outlined in Chapter 5.</p>
<p>(5) A plan for implementing contingencies in the event of supplier default or failure of the procurement process to fully meet the expected load requirement due to insufficient supplier participation, Commission rejection of results, or any other cause.</p>	<p>No changes</p>
<p>(i) Event of supplier default: In the event of supplier default, the utility shall review the contract of the defaulting supplier to determine if the amount of supply is 200 megawatts or greater, and if there are more than 60 days</p>	<p>Not applicable, however note the provisions of</p>

<p>remaining of the contract term. If both of these conditions are met, and the default results in termination of the contract, the utility shall immediately notify the Illinois Power Agency that a request for proposals must be issued to procure replacement power, and the procurement administrator shall run an additional procurement event. If the contracted supply of the defaulting supplier is less than 200 megawatts or there are less than 60 days remaining of the contract term, the utility shall procure power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy, or both, for the duration of the contract term to replace the contracted supply; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.</p>	<p>Sections 1-75(d-5)(E) and (F) provide for a process related to contract suspension or termination.</p>
<p>(ii) Failure of the procurement process to fully meet the expected load requirement: If the procurement process fails to fully meet the expected load requirement due to insufficient supplier participation or due to a Commission rejection of the procurement results, the procurement administrator, the procurement monitor, and the Commission staff shall meet within 10 days to analyze potential causes of low supplier interest or causes for the Commission decision. If changes are identified that would likely result in increased supplier participation, or that would address concerns causing the Commission to reject the results of the prior procurement event, the procurement administrator may implement those changes and rerun the request for proposals process according to a schedule determined by those parties and consistent with Section 1-75 of the Illinois Power Agency Act and this subsection. In any event, a new request for proposals process shall be implemented by the procurement administrator within 90 days after the determination that the procurement process has failed to fully meet the expected load requirement.</p>	<p>No changes</p>
<p>(iii) In all cases where there is insufficient supply provided under contracts awarded through the procurement process to fully meet the electric utility's load requirement, the utility shall meet the load requirement by procuring power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy or both; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.</p>	<p>Not applicable, procurement does not apply to "load requirement"</p>
<p>(6) The procurement process described in this subsection is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.</p>	<p>No changes</p>
<p>Section 16-111.5(f)</p>	
<p>Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the products along with the procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the</p>	<p>Timing for Commission approval is not practicable. See Section 6.2 of the Plan for a discussion of the scheduling of</p>

<p>sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement process and rules. The Commission shall review the confidential reports submitted by the procurement administrator and procurement monitor, and shall accept or reject the recommendations of the procurement administrator within 2 business days after receipt of the reports.</p>	<p>Commission approval of procurement results</p>
<p>Section 16-111.5(g)</p>	
<p>Within 3 business days after the Commission decision approving the results of a procurement event, the utility shall enter into binding contractual arrangements with the winning suppliers using the standard form contracts; except that the utility shall not be required either directly or indirectly to execute the contracts if a tariff that is consistent with subsection (l) of this Section has not been approved and placed into effect for that utility.</p>	<p>No changes</p>
<p>Section 16-111.5(h)</p>	
<p>The names of the successful bidders and the load weighted average of the winning bid prices for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a procurement event. The Commission, the procurement monitor, the procurement administrator, the Illinois Power Agency, and all participants in the procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the procurement administrator and procurement monitor pursuant to subsection (f) of this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.</p>	<p>Partially applicable, the information release will follow from the provisions of Section 1-75(d-5(1)(C-5). Provisions related to confidentiality will not change</p>
<p>Section 16-111.5(i)</p>	
<p>Within 2 business days after a Commission decision approving the results of a procurement event or such other date as may be required by the Commission from time to time, the utility shall file for informational purposes with the Commission its actual or estimated retail supply charges, as applicable, by customer supply group reflecting the costs associated with the procurement and computed in accordance with the tariffs filed pursuant to subsection (l) of this Section and approved by the Commission.</p>	<p>No Changes</p>