

Solicitation/Contract/Order for Commercial Items

Issued by:

General Services Administration
Energy Center of Expertise (PNU)
1800 F Street, NW, Room 2301
Washington, DC 20405

Administered by:

Environmental Protection Agency, Region 9
1337 South 46th Street
Richmond, California 94804

A.1 GENERAL

The General Services Administration (GSA) is requesting proposals for electricity generated from 100 percent renewable generation sources, to be supplied to the Environmental Protection Agency (EPA) Laboratory located at 1337 South 46th Street, Building 201, Richmond, California. Proposals shall be for firm electricity, including firm transmission and distribution, as well as all ancillary services associated with a full requirements offering. The successful offeror (i.e. Contractor) will supply such electricity for thirty-six (36) successive billing cycles for the account. The expected initial delivery of renewable energy is scheduled for the May 1999 billing cycle. The contract length will be a total of thirty-six (36) complete billing cycles with a one (1) thirty-six month renewal option period.

A.10 RENEWABLE POWER

The EPA would like to take advantage of the opportunity to reduce the environmental impact of their electricity consumption at the EPA Richmond, CA laboratory by choosing an electricity supplier that provides 100 percent renewable power. For the purposes of this contract, renewable power is defined as biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, digester gas and landfill gas. This is the definition for "renewable electricity generation technology" contained in California Public Utilities Code 383.5, but excludes waste tire and municipal solid waste generation technologies. In the case of a tie, priority will be given to renewable power from "New" renewable generation facilities. "New" facilities are those which became operational on or after September 23, 1996, per California law.

A.11 GREEN-e REQUIREMENTS

Green-e certification, including strict adherence to the Green Power Board's Code of Conduct (see Exhibit 1) is the minimum standard for this contract. This is the most efficient way for the EPA to ensure that the Contractor is adequately fulfilling its obligation to provide green power, as specified in this contract. The Contractor's product must be Green-e certified within 45 days of contract award. Failure to obtain the Green-e certification, failure to deliver 100 percent renewable energy, as measured by the one year settlement period described in Section A.4, or the loss of the Contractor's Green-e certification shall be grounds for Termination for Cause. The Contractor's liability to the EPA under a Termination for Cause shall be the cost of procurement, as well as any incidental or consequential damages incurred as a result of the termination.

Green-e requirements can and do change from year to year. Contractors will be expected to meet all new Green-e requirements, including the requirement that a percentage for renewable generation come from "new" sources (see Exhibit 2).

If the Green-e brand name ceases to exist, the Contractor shall be responsible for submitting to the Contracting Officer or his Authorized Representative a report that includes all the information specified in the Green-e Code of Conduct, Section VI Product Substantiation. The report shall be accompanied by a signed affidavit attesting to the accuracy of the report. If the Contractor knowingly renders erroneous information, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract for cause.

C.2 EVIDENCE OF TECHNICAL CAPABILITY

(a) General: Due to the critical nature of the electricity procured under this solicitation, the ability of the offeror to follow through on the commitments made in this contract is crucial. Offerors are required to submit the information outlined below so that the Government may make a determination of capability without requesting additional information from an offeror. The Contracting Officer reserves the right to request additional information not outlined below, if required.

(b) Qualification: To substantiate meeting general and special capability criteria, the offeror must submit evidence that they possess the following minimum qualifications:

(1) Evidence that they are registered by the California Energy Commission to sell renewable electric service and that the offer is consistent with State law governing the provision of electric utility service, including state utility commission rulings and electric utility franchise or service territories established pursuant to State statute, regulation, or territorial agreements [FAR 41.201(d)].

(2) Evidence that the offeror possesses, at a minimum, one year of experience (within the past two years) providing electricity to wholesale and/or retail customers at the time of contract award. To document this experience, the offeror shall submit the contact person, company name, and phone number of the 10 largest wholesale/retail electric customers of the last six months.

(3) The offeror must possess, or demonstrate the ability to obtain, transmission service agreements (network or point to point) in the offeror's name for the delivery of the energy to the Delivery Point of this contract.

(4) The offeror must include in its offer how it plans to supply ("supply plan") the energy required by this contract to the subject Delivery Point. Supply plans must include power source(s), power path(s), and address the issue of mitigation of transmission congestion. The supply plan shall also include a listing of the renewable electrical generation capacity that will originate from "old" sources and the amount of generation capacity that will be "new" sources as defined by California law. If the "new" renewable generation will be added after the contract start date, include the estimated on-line date for that generation.

(5) The evidence of capability required by the above is in addition to the general responsibility criteria set forth in FAR 9.104. In addition, the Government may conduct pre-award surveys in accordance with FAR 9.106 in order to obtain, from available sources, relevant information concerning the offeror's ability to satisfy the standards stated in FAR 9.106.

The Green-e Renewable Electricity Branding Project

CODE OF CONDUCT, DRAFT VII

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I. PREAMBLE

Creating environmentally preferable electricity services and products provides customers with choices that make a positive difference in the environment, encourages the development and deployment of clean renewable energy technologies, and opens exciting new market opportunities for entrepreneurs in the energy sector. In order to realize this potential, and to maintain and improve customer confidence, power marketers must provide customers with easily understood information about their electricity products and services, and adhere to the highest standards of professionalism in business practices. Signatories of this Code of Conduct pledge to abide by the standards reflected in this Code, and to cooperate with the Green Power Board in ensuring that these standards are effective in providing customers information about environmentally superior services and products in competitive electricity markets.

All power marketers committed to providing electricity supply from renewable resources, as defined by this Code of Conduct, are eligible to become signatories to the Green Power Board’s Code of Conduct. In addition to signing the Code, power marketers providing a product that reflects over 50 percent renewable electricity supply are eligible to use the Green-e assuming they meet additional eligibility requirements. Marketers with a product that reflects less than 50 percent renewable electricity content, but more than that contained in system power (to the nearest higher 10 percent increment), may sign the Code of Conduct and have the product verified. However, such products may not display the Green-e Brand, which is reserved for products that meet the minimum criteria listed below.

Environmental performance is at the heart of the classification of electric generation technologies as “environmentally preferable.” The Green Power Board has adopted a definition for renewable energy primarily based upon the existing law in states where the program is active. In addition, the Board is committed to developing and incorporating a new renewable energy supply requirement, improved emissions and other environmental performance standards and introducing a standard for low-impact hydro electric generation technologies over time. The Board anticipates that any substantive changes made to the Code of Conduct will be done with the advice of marketers and generators, and that most changes will be made on a prospective basis. The content of the Code of Conduct could also change to be consistent with changes in state and federal laws and regulations.

II. MISSION STATEMENT

The Green Power Board seeks to:

1. Bolster customer confidence in the reliability of retail electricity products reflecting renewable energy generation.
2. Expand the retail market for electricity products incorporating renewable energy, including expanding the demand for new renewable energy generation.
3. Provide customers clear information about retail “green” electricity products to enable them to make informed purchasing decisions.
4. Encourage the deployment of electricity products that minimize air pollution and reduce greenhouse gas emissions.

III. DEFINITIONS

Eligible Renewable Resource Facility: A certified project generating electricity from a renewable resource.

Eligible Renewable Resource Product: A “green” electricity product that meets the following conditions:

- i) obtains at least 50 percent of its total electricity supply from “eligible renewable resource facilities;”
- ii) the non-renewable generation component of an eligible product must have an emissions rate per kWh for SO₂, NO_x, and CO₂ that does not exceed the average emissions rates for the fossil portion of system power; moreover, in no event may the total fossil emissions from an eligible product exceed the average system power emissions rate;
- iii) the product does not include nuclear power other than what is contained in any system power purchased for this product.

In addition, within one year from the initiation of this program, the Green Power Board will create a standard that includes a requirement for “new” renewable resource power supply (i.e., the generation of new “renewable” kilowatt hours that were not previously available in the marketplace) and low-impact hydro standard. These standards will be prospectively incorporated into the minimum criteria, and will be periodically reviewed and adjusted by the Board as necessary to meet the goals of this program.

Finally, it is the intent of the Green Power Board that the total emissions from an eligible renewable facility using waste fuel be a net emissions benefit. To achieve this, the total emissions from an eligible renewable facility using waste biomass fuel must be less than the emissions from the most common alternative method for disposing of that fuel plus the emissions associated with producing an equivalent quantity of system power. We do not anticipate a problem in this area, but the Green Power Board reserves the right to develop an official standard of this type in the future and verify compliance if necessary.

Eligible Retail Customers: Customers who satisfy their total external electricity need (i.e., power not generated on-site) from an “eligible renewable resource product.”

Environmentally Superior Product: A product that reflects 1) a greater proportion of renewable energy and 2) lower emissions per kilowatt hour of SO_x, NO_x, and CO₂ than system power.

Fossil Resources: Electric generation using natural gas, oil, coal, or petroleum coke or other petroleum based fuels.

Green Power: This term is synonymous with “eligible renewable resource product.”

Green Power Board (Board): The Governing Board for this project (see Attachment COC-A -- Governance Policies). The Board meets twice annually as a full board, and may convene meetings in subcommittee as necessary.

Green-e Brand: The certification mark, registered and owned by the Center for Resource Solutions, representing an electric power product conforming with and used in conformance with the requirements of this Code.

Green-e Certified Supplier: An electric power product supplier who has agreed to abide by the Code of Conduct and who sells products conforming with Board standards, including a minimum renewable resource content not less than the next 10 percent increment greater than the renewable resource content of system power. Board certified providers may not use the Green-e Brand in conjunction with any product unless the product reflects not less than 50 percent of its energy supply from renewable resources and meets the additional eligibility requirements.

Net System Power: Mix of electricity fuel source types based upon governmental reporting and record collection activities for electricity generation source that are not disclosed or marketed as specific purchases.

New Renewable Resource Power: Energy generated by a certified renewable resource facility that was not available in the marketplace prior to January 1, 1997 (either through a utility contract or otherwise). Examples: Power generated in excess of that provided for in a utility interconnection agreement/utility power purchase agreement; increased energy capacity resulting from re-powering a renewable resource facility; or power generated by a renewable resource facility not operational (not selling into the grid) prior to 1997.

Product: Under the Green-e Program a product is defined as a mix of specific purchase and possibly system power resources offered to consumers that conforms to the Program’s resource content and emissions guidelines. Pricing variations that do not change a given product’s resource mix, SO_x, NO_x, or greenhouse gas emissions, do not constitute different products.

Renewable Resources: Technologies using biomass (including waste-to-energy and land-fill gas); geothermal; small hydro-electric (≤30MW); solar; wind or ocean-based renewable resources to generate electricity. This definition may be modified upon recommendation of a state or regional stakeholders advisory group establishing the Green-e Program. In California, the definition is intended to be consistent with California Resources Code Section 2805, Article 7, 381.b.3, and PURPA’s relevant “technology definitions.” In Pennsylvania, the definition of biomass excludes municipal waste incineration, coal and other fossil fuel incineration, and tire incineration. The Pennsylvania definition also includes use of approved energy efficiency measures (see “*Green-e Energy Efficiency Option: Marketer Guidelines*”). In all cases, the definition applies unless and until more rigorous standards are adopted by the Board.

Secondary Use of the Brand: Secondary use of the Brand includes any and all uses of the Brand by eligible retail customers, whether in advertising, public display or otherwise. Secondary use requirements are provided in the Green-e Compliance Review Procedures, Attachment C (“*Green-e Logo Use Standards and Guidelines: Large Customers*”).

Specific Purchases: Electricity transactions which are traceable to specific generation sources by an auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to retail consumers.

Supply: Specific purchases of power reflected in the product produced for ultimate sale and sold over the electric grid. This Code does not intend to assert that products reflect an actual physical relationship between electrons generated at a particular facility and those used by a particular customer.

IV. ETHICAL GUIDELINES

The following ethical guidelines, policies for censure, data for verification, and required customer contract information apply to a participating company’s non-eligible products as well as their to eligible products.

Each company wishing to use the Green Power Board Brand (Green-e) or to claim status as a Green Power Board Certified Supplier agrees to do the following:

1. Provide all customers, at the time of subscription, a one page summary of contract information (using the adopted format and guidelines) written in clear, simple and easily understood terms.
2. Provide a disclosure statement to prospective customers that lists (using the standard format provided) the resources from which the electricity in the product being marketed will be generated (prospective disclosure). The resource disclosure statement shall be provided with any mailed marketing materials, before switching a customer and once per year thereafter. If applicable, this information will also be posted on the company’s website. The proposed format of the disclosure statement is listed in Attachment COC-B; in California, the final format will remain consistent with implementation of state of California disclosure requirements.
3. Provide customers with an annual report that includes data on the resources used to generate the past year’s electricity purchased by the customer (historic disclosure - format consistent with Attachment COC-B).
4. Provide the Center for Resource Solutions with the information necessary to substantiate the portfolio electricity sources and air emission content required for program eligibility.
5. Agree to sell retail renewable energy only once and, in the case of a reseller that purchases a wholesale product for retail sale, to take reasonable measures, to ensure that suppliers (if different from the marketer) also do not sell renewable energy more than once.
6. Environmental marketing claims used in advertising will be factually based (and be objectively verifiable to the extent technically possible) and:
 - ⌘ Be sufficiently clear and prominent to prevent deception;
 - ⌘ Not represent that customers are actually delivered electrons from specific generation facilities;
 - ⌘ Not overstate environmental attributes or benefits, expressly or by implication; and

⌚ Present comparative claims in a manner that makes the basis for the comparison sufficiently clear to avoid customer deception.

7. Disclose information, but not make specific claims about the attributes of system power purchased as part of an electricity product.

8. Use the Green-e Brand (Green-e) only in compliance with the Brand usage standards and guidelines outlined in the contract under “Use of Logo” and in accordance with the Green-e Compliance Review Procedures, Attachment B (“*Green-e Logo Use Standards and Guidelines: Power Marketers*”), including using the specified artwork and colors as indicated. Violators of the usage standards and guidelines can lose their eligibility to use the Green-e upon action by the Board.

9. Submit to the Board only applications from “eligible retail customers,” as defined above, for licensed secondary Brand use.

10. Notify customers and the Green Power Board annually if/when an eligible product does not meet its eligibility requirements (e.g., if the renewables fraction is reduced by over 5 percent even after the four month remedy period) and:

i) allow the customer the option of canceling the service if the product reflects a lower renewable content than that for which they have contracted;

ii) provide the Center for Resource Solutions with the information required to substantiate claims for new product supply elements; and

iii) if this change results in a product that does not meet threshold criteria, notify customers that this product is no longer eligible to use the Green-e Brand.

V. G UIDELINES FOR PRESENTING CUSTOMER TERMS OF SERVICE INFORMATION

A summary of primary contract terms and provisions will be provided to potential customers so they have information for making informed decisions. A format for this summary sheet is provided in the Green-e Compliance Review Procedures, Attachment A (“*Price, Terms, and Conditions of Service*”). The Green Power Board will coordinate with appropriate regulatory officials to ensure that the content and format of this information is compatible with state regulations. The Green Power Board reserves the right to require additional information beyond that required by law and regulation. This information includes:

⌚ Name of the Company and/or joint venture partners with whom the customer is contracting (if a subsidiary or joint venture, list name of parent company).

⌚ Primary customer contact person and their phone number (and customer service number, email or website, if available).

⌚ Brief summary (2 or 3 sentences) of the advantages of the portfolio being marketed (e.g., “Solar B Power is a competitively priced electric service product that reflects more than 50 percent power from solar thermal and solar electric “photovoltaic” renewable resources. Solar B Power has 75percent lower air emissions (SO₂, NO_X, and CO₂ - greenhouse gases) than system power. Solar B subscribers purchase the power output from the newly constructed Solar III Power Tower and Sacramento photovoltaic facilities.”)

⌚ Duration of the contract (contract length in months).

⌚ The proposed rate structure, including fixed and variable charges.

⌚ Price volatility or other price, environmental, or availability risks associated with the product.

⌚ A disclosure statement indicating the percentage of the energy portfolio that will be contributed by various resources. (Prospective disclosure -- see label sample).

¶ The obligations/charges associated with changing from the current portfolio and/or retail provider to another (if any).

The resource disclosure statement shall be included in written marketing materials, at the time of subscription in a written report to customers once per year thereafter, and, if applicable, will be posted on the company's website.

VI. PRODUCT SUBSTANTIATION INFORMATION

An independent audit that verifies a marketer's purchases of renewable and non-renewable supply, consistent with a marketer's claims, will be kept on file at the Green Power Board (or its agent's) offices and will be made available upon request. The Green Power Board (or its agent) will verify each product the first year it is introduced, and will spot check products subsequently. Substantiation data must be provided each year, and this information must include:

¶ Verification that the appropriate information on renewable resource purchases and basic resource information has been filed with the Center for Resource Solutions;

¶ An affidavit that the product (averaged over one year) will be comprised of energy from the resources indicated (within + 5 percent or will be remedied within 4 months of receiving the tally of the average resource contributions for that year);

¶ An annual affidavit attesting to the product content for the past calendar year;

¶ Documentation using the program's adopted algorithms (or some other credible source such as EPA or local air district reports) that show the fossil portion of the product has the same or lower air emissions in each category than does the fossil portion of an equivalent amount of system power (or other undifferentiated power source).

¶ Data for verification of non-eligible product claims, prices or contract conditions may be requested of a marketer if complaints relevant to the Green Power Board's Code of Conduct provisions are received by the Board about a participating marketer's product(s) and/or professional conduct.

VII. CENSURE OF MARKETERS USING DECEPTIVE OR UNETHICAL PRACTICES OR ADVERTISING

Retail electric power marketers who do not adhere to the Code of Conduct or knowingly use deceptive or unethical practices/advertising will be denied the right to use the Green-e or statement of verification on any of their electricity products for 18 months. A repeat or egregious offender could be permanently censured at the discretion of the Board, and may be liable for damages incurred by this program and/or its Board as a result of these offenses.

In the event that the Board decides that a retail electric power marketer shall not be eligible to use the Brand, the Board may require the marketer to:

¶ Immediately desist using the Green-e; and

¶ Refrain from making public reference to participation in the Green-e Program's activities in marketing and other materials; and

¶ Allow any customer to terminate (without penalty) any existing contracts for previously Certified products and offer to compensate any customer for switching expenses.

Further, pursuant to the terms of this Code of Conduct and participation in the Green Power Board's activities, the Board reserves the right to:

¶ Notify the censured power marketer's customers in writing of the marketer's loss of authority to use the Brand;

¶ Provide such customers with a list of alternative suppliers offering products authorized to use the Brand.

GREEN-E RENEWABLE ELECTRICITY PROGRAM STANDARD FOR NEW RENEWABLES

On September 3, 1998 the Green Power Board finalized the following provisions for the Green-e standard on use of new renewable resources.

Definition of New Renewables

1) The Green-*e* definition of new renewables is consist with California state law, but with a "trigger" date of January 1, 1997. Green-*e* excludes the use of hydropower to meet the program's new resource requirements.

Certified vs. Verified Products

2) All products, whether wholesale or retail, must meet the new standard to remain Green-*e* certified. Green-*e* will, however, verify *wholesale* products that meet all Green-*e* criteria other than the new standard. These products will be unable to use the Green-*e* logo, which is used only to denote certified products. In all other respects, marketers with verified products will have equal standing within the Green-*e* program.

Standard Start Date

3) All products offered in California beginning 1/1/2000 must meet the new standard. In all other states, the new standard will begin one year after Green-*e* launch.

Percentage Requirements for New Resources

4) The new standard starts at 5 percent of total product content in the first year, increasing to 10 percent in the following year. Green-*e* has a goal of increasing the percentage further to 25 percent by year five, most likely in 5 percent increments over the course of the five years. Recognizing that market conditions may change, however, Green-*e* will only commit to the 5 percent and 10 percent standards at this time. Green-*e* commits to reviewing the standard level, at least two years before a change is made, to assess whether and how to meet the year five 25 percent new content goal. These standards are strict minimum standards.

Accounting/Audit Mechanism

5) Total demand for each certified product in a given year must be met with the appropriate level of new renewables required in that year, to be supplied *no later than* one year later. Using the year one standard as an example, the 5 percent new requirement in California for the year 2000 must be met *no later than* the end of 2001. That is, total demand for a certified product in the year 2000 must be met with 5 percent new renewables that is supplied *no later than* the end of the year 2001. Total demand for a certified product in year 2001 must be met with 10 percent new renewables by year end 2002.

