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# Auctions, Bids, and PPAs for Power Investments

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- Request for Proposals (RFPs) For Wholesale Electric Power Supply
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# Model Bid Plans

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- Electric supply obtained using DistCo specific bid plans based on model bid plans.
- Use of competitive wholesale procurement process.
- Presumption is that process will use RFPs to solicit supply offers.
- DistCo will solicit offers for Full Requirements Service under Commission supervision.
- Contracts for supply could be varied by customer class and years, e.g.,
  - Type A = small commercial for 1 and 2 years;
  - Type B = medium commercial for 1 year;
  - Type C = small manufacturing for 1 year.
  - Type D = Domestic/residential for 1, 2, and 3 years.
- Total supply load may be divided into load blocks (tranches) for supply diversity and reliability.

# Example of A Wholesale Bidding Process

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- DistCo submits specific forms of bid requests, evaluation plan, and standard form contracts to Commission for review of compliance with Commission-approved MBP.
- Commission assigns senior staff to monitor bid process.
- DistCo submits final bid results, bid awards and proposed contracts to Commission for review and determination of compliance.
- Commission has certain time (e.g., 48 hours) to determine if contracts are in compliance; contracts are considered approved unless Commission orders otherwise.
- Winning bidders receive actual prices in their offers for each year of the term of their supply contract; winning bidders not able to revise prices or terms and conditions of their supply contracts.
- Commission does not sign contracts; DistCo signs contract with supplier

# Typical Activities in a Bid Process Week

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- Monday - Bids faxed to DistCo by 17:00 (local time) with Commission monitors in sealed bid room and analyzed late night.
- Tuesday - Winning bidders notified; preliminary documents signed; bidders hold price for 48 hours.
- Wednesday – DistCo files winning bids by 17:00 (local time) to the Commission for review.
- Thursday - Commission meets with senior Staff (and maybe a technical consultant) for review.
- Friday - If Commission finds anomalies in bids, then rejected; otherwise, no action by Commission means bids are accepted.
- Wholesale contract is between DistCo and supplier.

# RFPs for Wholesale Electric Power Supply - 1

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- Services Requested
  - Supply Requirement Overview
  - Product Definition
  - Customer Restrictions
- Eligibility of Applicants
  - Submittal of Expression of Interest
  - Confidentiality Agreement
  - Submittal of Credit Application and Financial Information
  - Cure Time for Deficiencies in Qualification Requirements
  - Bid Assurance Collateral and Alternative Letter of Credit Form
  - Alternative Forms of Performance Assurance

# RFPs for Wholesale Electric Power Supply - 2

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- Proposals
  - Bid Format
  - Submittal of Proposals
  - Conforming Proposals
  - Expiration of Proposals
  - Evaluation of Proposals
- Reserved Rights
  - Bidder Elimination Right
  - Termination Right

# RFPs for Wholesale Electric Power Supply - 3

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- Miscellaneous
  - Warranty on Information
  - Hold Harmless
  - Proposals Become Property of Utility
  - Bidder's Acceptance
  - Permits, Licenses, and Compliance with other aspects of the Law
  - Proprietary Information
  - Disclosure of Awarded Bid Information
  - Regulatory Approvals



# Suggested Items in PPAs - 1

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- DEFINITIONS
- TERMS AND CONDITIONS
  - Seller's Obligation to Provide Services
  - Buyer's Obligation to Take Service
  - Transmission Service and Distribution Service
  - Governing Terms
- SCHEDULING, FORECASTING, AND INFORMATION SHARING
- DETERMINATION OF DELIVERED QUANTITIES
  - Monthly Settlement Load
  - Base Load and Increment Load Percentages

# Suggested Items in PPAs - 2

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- BILLING AND SETTLEMENT
  - Billing
  - Payment of the Invoice
  - Netting of Payments
  - Billing Disputes and Adjustments of Invoices
  - Interests on Unpaid Balances
- TAXES
- INDEMNIFICATION
  - Seller's Indemnification for Third-Party Claims
  - Buyer's Indemnification for Third-Party Claims
  - Indemnification Procedures
  - Survival of Indemnification Provisions

# Suggested Items in PPAs - 3

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- LIMITATIONS ON LIABILITY
- FORCE MAJEURE
- EVENTS OF DEFAULT; REMEDIES
- DISPUTE RESOLUTION
  - Informal Dispute Resolution
  - Binding Arbitration
- PERFORMANCE ASSURANCE/ACCELERATED PAYMENTS
- REPRESENTATIONS AND WARRANTIES
- MISCELLANEOUS
  - Notices, Rules of Interpretation; Audit, Confidentiality; Successors; Assignment/Change in Corporate Identity; Governing Law, Jurisdiction and Venue; Amendments; Delay and Waiver; Regulatory Approvals

# Salient features for successful PPAs

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- Assemble a good internal team of engineers, lawyers, and financial analysts.
- Know what electricity product your agency seeks and what are the legal and technical parameters.
- Hire a good external consultant to assist your agency through the process; this consultant has to be independent of utilities, bidders, and other participants.
- Create a process that is transparent with a continuous review mechanism -- sanctity of the process is important.
- Keeping certain market information confidential is acceptable.
- Please do not “second-guess” your team members; rather, record possible changes for the next round of such a PPA.
- Weigh the need for a long-term PPA vis-à-vis the flexibility to change with a short-term PPA.