

## **Attachment RJL-6**

# **Communications Protocols for AES Ohio's CBP Auctions**

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## 1. INTRODUCTION

These Communications Protocols apply to the competitive bidding process ("CBP") auctions for AES Ohio to procure supply for the provision of Standard Service Offer supply ("SSO Supply") for all of their retail customers that take retail generation service from AES Ohio.

The Communications Protocols in this document are intended to promote a fair, open, transparent, objective, and non-discriminatory process for the CBP auctions to procure supply for SSO customers of AES Ohio. These protocols also intend to protect proprietary information of participants and information that, should it be released, would be detrimental to the outcome of the auction process or future competitive bidding processes.

Unless noted otherwise, all capitalized terms are defined in Appendix B to this document, the Glossary. These protocols elaborate upon the means by which confidentiality is to be maintained by all parties through adherence to the procedures in this document. Should the Auction Manager recognize that additional information should be kept confidential, the Auction Manager will establish additional procedures in keeping with the principles provided in this document and inform AES Ohio, the PUCO and PUCO Staff, the PUCO Consultant, and Bidders in a timely manner.

This document is organized as follows:

- Section 2 summarizes the objectives of this document.
- Section 3 describes protocols regarding communications within AES Ohio and with Bidders, including any affiliate of AES Ohio.
- Section 4 summarizes information that may be communicated with the general public, including the media, and the means by which that information is disseminated.
- Section 5 addresses Bidder Communications Protocols, including communications among Bidders and between the Auction Manager and Bidders.
- Section 6 summarizes Communications Protocols with the PUCO, including communications between the PUCO and the Auction Manager, between the PUCO and AES Ohio, and disclosure of confidential information.
- Appendix A includes a confidentiality agreement to be signed by any party other than the Auction Manager or Bidders who may have access to proprietary and confidential information.

## **2. OBJECTIVES**

This document and the procedures it describes promote four main objectives:

- The first objective is to establish a fair and equitable process for all Bidders by ensuring all Bidders have equal access to the same information necessary to evaluate the bidding opportunity and to prepare their bids in a timely manner.
- The second objective is to take all reasonable precautions that any information generated by the auction process that could harm the competitive position of Bidders or AES Ohio, if released, is kept confidential.
- The third objective is to take all reasonable precautions that confidential information is provided only to those persons to whom it is deemed necessary for the conduct and management of the auction process.
- The fourth objective is to ensure that information that, if released, could harm the competitiveness of future competitive bidding processes is kept confidential from all entities including Bidders.

These objectives will be accomplished by following two guiding principles. The first is that there will be one communication point for Bidders: all communications to prospective and actual Bidders will be directed through the Auction Manager. The second guiding principle is that the Auction Manager will distribute and disseminate information equally and fairly to all prospective and actual Bidders. These two guiding principles facilitate equal access to the same information for all Bidders. Only the Auction Manager responds to inquiries from Bidders and information is disseminated to all Bidders by or under the supervision of the Auction Manager.

The Auction Manager also will ensure that information generated by the implementation of the auction that could harm the competitive position of Bidders, if released, is kept confidential by those who have access to such information.

## **3. AES OHIO AND AFFILIATES**

### **3.1 Internal Communications**

AES Ohio will designate individuals to work on the auction process. These individuals directly or indirectly will not have communication with, or exchange information with, any individuals of an affiliate of AES Ohio that may bid in the auction process where such communication or information is related directly or indirectly to this auction process.

### **3.2 Communications with Bidders**

AES Ohio will not communicate with Bidders prior to the selection of winning bids. When the Auction Manager informs AES Ohio about the prices and tranches of the winning bids and the identity of winning Bidders, representatives from AES Ohio then will communicate with the winning Bidders in order to execute the necessary documents.

If a Bidder attempts to contact AES Ohio regarding the auction process by phone call, email, fax, or other means, AES Ohio will direct the Bidder to the Information Website and/or to the Auction Manager.

### **3.3 Part 1 Application Process**

For the Part 1 Application process, the Auction Manager will need to provide the names of applicants to AES Ohio credit department for purposes of confirming the applicants' credit requirements.

### **3.4 Part 2 Application Process**

For the Part 2 Application process, the Auction Manager will need to provide the aggregate eligibility and other information from the Part 2 Applications to AES Ohio. Following the Part 2 Application process, the Auction Manager will provide to AES Ohio the name and initial eligibility of each Registered Bidder.

### **3.5 Communication of the Bid Selection Criteria**

No later than one business day before bids are due, AES Ohio will provide the Auction Manager with details concerning any updates to the pre-determined bid selection criteria. The pre-determined bid selection criteria will be price-based, such as a reservation price.

### **3.6 Auction Results**

If there are winning bid(s), the Auction Manager will: (a) inform AES Ohio (as well as the PUCO and PUCO Consultant) about the winning bids and identify the winning Bidders, and (b) notify the winning Bidders. AES Ohio will contact the winning Bidders to execute necessary documents. The Auction Manager also will inform any Bidders who did not win tranches that they have not been awarded any tranches in the auction process.

If there are no winning bid(s), the Auction Manager will inform AES Ohio (as well as the PUCO and PUCO Consultant) there are no bids that met the criteria for a winning bid.

Any paper copies of the bidding results will be secured in the Auction Manager's office.

The PUCO may receive from the PUCO Consultant a post-auction report in addition to the Auction Manager's comprehensive report. The Auction Manager may review the PUCO Consultant's post-auction report in un-redacted, draft form in order to provide comments prior to the final version. AES Ohio may receive the PUCO Consultant's un-redacted report and provide comments to ensure accuracy.

## **4. GENERAL PUBLIC AND MEDIA**

While bidding is in progress, there is to be no communication with the media or the public other than notification when the bidding begins. After the auction process is completed, results are determined, and Bidders have been notified, all media inquiries will be forwarded to AES Ohio.

### **4.1 The Information Website**

The central source of information made available publicly and to Bidders is the Information Website. The Auction Manager will manage the information flow on the Information Website and will be designated on the Website as the contact person for any questions or inquiries from parties. Any party will have access to the public sections of the Information Website.

### **4.2 Registered Users**

If a party wishes to receive notices and updates regarding public information and new postings to the Information Website, then the party can register through the Information Website to become a Registered User. (Note that not all Registered Users become Registered Bidders, but a Bidder that would like to become a Registered Bidder must first register to become a Registered User so they can receive notices and updates.)

Any information the Auction Manager has concerning the auction process that is relevant and that can be disclosed publicly will be made available equally to all Registered Users in a timely manner. The method of such communication likely will be via the Information Website and/or emails to Registered Users using the BCC email field so identification of Registered Users is not disclosed to other Registered Users.

### **4.3 Press Releases**

AES Ohio and/or the Auction Manager may issue one or more press releases or may place news items in the trade press with the intent to disseminate information about the auction process in an efficient, fair, and timely manner.

#### **4.4 Answering Inquiries from the General Public or Media**

Inquiries from the general public or the media to the Auction Manager will be directed to the Information Website.

### **5. BIDDERS**

#### **5.1 Communications Among Bidders**

Pursuant to the auction rules, Bidders are prohibited from communicating with each other in ways that would compromise the integrity and competitiveness of the auction process. Sanctions will be applied if these rules are violated.

#### **5.2 Communications between the Auction Manager and Bidders**

The central source of information made available to Bidders is the Information Website. The Website will facilitate making information available equally to Bidders in a timely manner.

Bidders will be requested to become Registered Users to receive ongoing information about the auction process. As discussed above, once registered through the Information Website, Registered Users will receive notifications from the Auction Manager about updates to the auction process and to the Information Website.

If the Auction Manager receives an inquiry from a party and prepares a response that would be relevant for other parties, the Auction Manager will ensure the information will be made available equally to all Registered Users in a timely manner and will post the information on the Information Website without revealing the identity of parties.

In addition to posting information to the Information Website, the Auction Manager may contact Bidders directly in order to seek or provide information about the auction process in a way that does not advantage any Bidder.

Any communications from the Auction Manager to a Bidder will not reveal the identity of other Bidders.

#### **5.3 Frequently Asked Questions**

Among other information and resources on the Information Website, there will be a FAQ (frequently asked questions) section with posted questions and answers. As inquiries are received, they will be converted into a FAQ and posted on the Information Website without revealing the identity of the party posing the inquiry.

Inquiries to be answered by AES Ohio will be forwarded by the Auction Manager to AES Ohio. Inquiries to be answered by the Auction Manager will be forwarded to AES Ohio with a draft response. Any inquiry or draft response forwarded by the Auction Manager to AES Ohio will not identify the party posing the inquiry. Both AES Ohio and the Auction Manager will review any inquiry and response before the FAQ is posted to the Information Website.

## **5.4 Bidding Process**

During the auction, the Auction Manager, the PUCO, the PUCO's consultant if any, and AES Ohio personnel may monitor the bidding process.

The Auction Manager will ensure the bids submitted by Bidders conform to the rules of the auction process.

The Bidding Rules and pre-determined bid selection criteria will be applied to determine which bids, if any, are winning bids.

## **5.5 Limitations on Disclosures by Bidders**

Bidders are not allowed to disclose they are participating in a CBP auction and winning Bidders are not allowed to disclose that they have won any tranches in a CBP auction until the PUCO publicly reports the results of the CBP auction. Such limitation on public disclosure by bidders is waived if disclosure is required by law.

# **6. PUBLIC UTILITIES COMMISSION OF OHIO**

## **6.1 Identification of the PUCO Consultant**

The PUCO may identify up to three individuals who will serve as the PUCO Consultant and may be onsite at the offices of the Auction Manager during the bidding process. Other than information that is accessible by being onsite, the PUCO Consultant will not be forwarded confidential information electronically or in hardcopy format. Those individuals are required to abide by the Communication Protocols and sign the confidentiality agreement in Appendix A.

## **6.2 Communications with the Auction Manager**

During the bidding process, the identity of Bidders, prices, and the number of tranches each winning Bidder has won will be kept confidential. This information may be released to the PUCO after the auction results are finalized.

### **6.3 Communications with AES Ohio**

The PUCO may communicate with AES Ohio regarding the auction process. However, AES Ohio will not disclose any proprietary information until after the final round of the auction is completed and Bidders are informed of the results of the auction.

### **6.4 Communications with Bidders**

The PUCO will not communicate with Bidders about the auction process prior to the determination of winning bids. If a Bidder attempts to contact the PUCO by phone call, email, fax, or other means, the PUCO will direct the Bidder to the Information Website and/or to the Auction Manager.

### **6.5 Information on Auction Participation**

In order to maintain confidential and proprietary information provided by Bidders as part of the auction process, the identity of all Bidders that submitted Part 1 and/or Part 2 applications in the auction and the indicative offers of Bidders will be kept confidential until released publicly by the PUCO. The PUCO may elect to keep these data confidential at its sole discretion.

### **6.6 Round-by-Round Bids**

Actual round-by-round bids by Bidders will be kept confidential pursuant to the confidentiality provisions of the Bidding Rules and the Master SSO Supply Agreement.

**APPENDIX A**

CONFIDENTIALITY AGREEMENT

I acknowledge that I have read and understand the Communications Protocols and obligations regarding treatment of confidential information related to the CBP auctions to procure generation supply for SSO customers of AES Ohio.

I certify that I have abided by its terms and that I agree to continue to abide by its terms and conditions. I acknowledge that I may be subject to potential injunctive action to enforce this confidentiality agreement, as well as liability from parties participating in the CBP auctions to procure supply for SSO customers of AES Ohio should I be found in violation of this confidentiality agreement.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Signed by

\_\_\_\_\_  
Date

Please return the signed form to the Auction Manager at [AES-Ohio.auctionmanager@crai.com](mailto:AES-Ohio.auctionmanager@crai.com) or fax to:

CRA International, Inc.  
200 Clarendon Street,  
T-9 Boston, MA  
02116-5092  
Phone: 617.425.3365  
Fax: 617.425.6574  
[AES-Ohio.auctionmanager@crai.com](mailto:AES-Ohio.auctionmanager@crai.com)  
Attn: Robert Lee, Vice President / Auction Manager

## APPENDIX B

### GLOSSARY

This Glossary applies to the competitive bidding process ("CBP") auctions to procure supply for the provision of Standard Service Offer supply ("SSO Supply") for all of their retail customers that take retail generation service from AES Ohio.

In the event of a conflict between this Glossary and the prevailing Master SSO Supply Agreement with respect to the definitions provided, the definitions included in the prevailing Master SSO Supply Agreement shall control.

**Advisor** is a person or persons who will be advising or assisting the Qualified Bidder with respect to bidding strategy, estimation of the value of any Tranche, or estimation of the risks associated with any Tranche.

**Affiliate** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Announced Price** is the price of a Product in effect during a bidding round of the auction.

**Applicant** refers to a Party that has submitted or has indicated that it intends to submit a Part 1 Application or a Part 2 Application.

**Associated Bidders** are two or more bidders with ties that could allow them to act in concert or that could prevent them from competing actively against each other.

**Association** exists between two or more Qualified Bidders if they are Associated Bidders.

**Auction Manager** for this CBP is the team at CRA International, Inc. d/b/a Charles River Associates ("CRA") working on this CBP.

**Auction Software** has the meaning set forth in the Bidding Rules document.

**Authorized Representative** is a designated person that is authorized to represent the Applicant in the CBP. The Authorized Representative must ensure that only authorized persons act on behalf of the Applicant in the CBP and is responsible for ensuring that no Confidential Information is disclosed improperly.

**Backup Bidding Fax Number** means any telephone number provided to Registered Bidders in advance of the auction for use in submitting a bid by fax in the event of a complication with access to the Bidding Website

**Bidder** means any party that may become a Qualified Bidder in the CBP or that submits bids in the CBP.

**Bidding Agreement** is an arrangement involving joint or coordinated bidding with any other Party.

**Bidding Consortium** is a group of separate businesses or business people joining together to submit joint bids in the auction.

**Bidding Website** means the secure Website used by Registered Bidders to participate in the CBP auction. The URL address for the Bidding Website will be provided to Registered Bidders.

**Business Day** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Capacity** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**CBP** stands for Competitive Bidding Process.

**Charge** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Commission (PUCO)** is the Public Utilities Commission of Ohio.

**Competitive Retail Electric Service Supplier (CRES Supplier)** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Confidential Information** is non-public, competitively-valuable information that is meant to be kept non-public and for which precautions have been taken to have it remain non-public. Confidential information relative to bidding strategy includes information relating to a Bidder's bid, written or oral, which if it were to be made public or known to another Bidder would be likely to have an effect on any of the bids that another Bidder would be willing to submit in the CBP. Confidential information regarding the CBP includes information, written or oral, that is not released publicly by the PUCO or the Auction Manager and that a Bidder acquires as a result of participating in the CBP, which if it were to be made public could impair the integrity of the current or future CBPs, impair the ability of AES Ohio to hold future CBPs, harm consumers, or injure Bidders or Applicants.

**Confirmed Bid** is a bid submitted by a Bidder that is confirmed by the Bidding Website. A bid submitted by a Bidder is confirmed only if the Bidder receives a unique confirmation ID and time-stamp by the Bidding Website server. If the Bidder submits a bid but fails to complete the last step to confirm the bid, that bid will not be considered a Confirmed Bid.

**Credit-Based Tranche Cap** is the maximum possible Initial Eligibility for a Qualified Bidder based on its credit rating.

**Credit Representative** is the Applicant's designated in-house Credit Representative who can answer questions or provide information about the Applicant's credit with respect to the requirements for the CBP.

**Customer** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Day(s)** refer to Business Day(s), unless noted otherwise.

**Default Bid** refers to the bid that is assigned to a bidder with positive eligibility that does not confirm a bid in a round.

**Defaulting Party** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Delegate** is authorized by the Applicant to be a secondary point of contact for the Auction Manager.

**Delivery Period** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Eligibility** is the maximum number of Tranches a Bidder can bid across all Products in a bidding round. From round to round, a Bidder's Eligibility cannot increase; it can only stay the same or decrease.

**Energy** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**FERC** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Foreign Applicant** is an entity organized in a foreign jurisdiction not under the laws of the United

States that is applying to participate in a CBP auction.

**Foreign Guarantor** is an entity organized in a foreign jurisdiction, not under the laws of the United States that is submitting a guaranty on behalf of a potential SSO Supplier.

**Form of SSO Supplier Letter of Credit** is an attachment to the Master SSO Supply Agreement.

**Guarantor** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Guaranty** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Help Desk** means the Auction Manager's resource available to provide technical assistance during a live CBP auction.

**Indicative Offer made by a Qualified Bidder** specifies two (2) numbers of Tranches for each Product in the auction. For each Product, the first number represents the number of Tranches that the Qualified Bidder is willing to serve at the Minimum Starting Price for the Product and the second number represents the number of Tranches that the Qualified Bidder is willing to serve at the Maximum Starting Price for the Product.

**Information Website** means <http://www.AES-OhioAuction.com> which is the website that will be the primary online source of information about the CBP auctions.

**Initial Eligibility** is the Bidder's Eligibility for round 1 of the auction.

**Joint Venture** is an enterprise entered into by two or more people for profit with the purpose of bidding in the CBP. A Joint Venture has most of the elements of a partnership, such as shared management, the power of each venturer to bind the others in the business, division of profits, and joint responsibility for losses. However, unlike a partnership, a Joint Venture anticipates a specific area of activity and/or period of operation, so after the purpose is completed, bills are paid, profits (or losses) are divided, and the Joint Venture is terminated.

**Legal Representative** is a legal counsel or a representative agent that is authorized and willing to accept service of process on the Applicant's behalf; and has an address in Ohio.

**Load Cap** is a limit on the number of tranches that can be bid on and won by any individual bidder. The load cap will be a specified percentage on an aggregated load basis across all auction products for each auction date such that no bidder may bid on and win more tranches than the load cap.

**Load Serving Entity (LSE)** has the meaning set forth in the applicable PJM Agreements.

**Master Standard Service Offer Supply Agreement (or Master SSO Supply Agreement or Agreement)** is the standard contract that will be used by the SSO Suppliers and AES Ohio.

**Maximum Starting Price** is the maximum Announced Price for a Product that can be set for round 1.

**Minimum Starting Price** is the minimum Announced Price for a Product that can be set for round 1.

**Notification of Qualification** is sent by the Auction Manager to an Applicant once the Applicant becomes a Qualified Bidder. The Notification is in the format set forth in Part 1 Application.

**Notification to Registered Bidders** is sent by the Auction Manager to the Qualified Bidder once the Qualified Bidder becomes a Registered Bidder. The Notification is in the format set forth in Part 2 Application.

**Over-Subscribed Product** is a Product with supply (i.e., the number of Tranches bid) greater than the Product's Tranche Target.

**Part 1 Application** is the first of the two parts of the application process for prospective Bidders to participate in the CBP.

**Part 1 Application Due Date** is the date specified in the timeline on the Information Website.

**Part 2 Application** is the second of the two parts of the application process for prospective Bidders to participate in the CBP.

**Part 2 Application Due Date** is the date specified in the timeline on the Information Website.

**Party** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Person** has the meaning set forth in the prevailing Master SSO Supply Agreement..

**PJM** has the meaning set forth in the prevailing Master SSO Supply Agreement..

**PJM Agreement** has the meaning set forth in the prevailing Master SSO Supply Agreement..

**Pre-Bid Security Letter of Credit is an acceptable form for Pre-Bid Security**, subject to the letter of credit itself complying with AES Ohio's requirements.

**Pre-Bid Security** is posted by each Qualified Bidder in amount sufficient for the Bidder's Indicative Offer. Pre- Bid Security to be posted by a Qualified Bidder must be included as part of its Part 2 Application and must be in the form of cash or a Pre-Bid Security Letter of Credit.

**Price Decrement** is the reduction in the Announced Price for a given Product from one round to the next round of the auction.

**Product** is the SSO Load of AES Ohio for the Delivery Period.

**PUCO** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**PUCO Consultant** means any firm and/or individual(s) retained by the PUCO for purposes of assisting the PUCO or PUCO Staff.

**Qualified Bidder** refers to a Party that in the judgment of the Auction Manager has successfully completed a Part 1 Application.

**Registered Bidder** refers to a Party that has successfully completed a Part 2 Application

**Registered User** refers to a Party that has registered through the Information Website to receive information about the CBP.

**Secure Application Process** is the process by which a prospective bidder submits a Part 1 Application to become a Qualified Bidder and a Part 2 Application to become a Registered Bidder.

**SSO Customers** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**SSO Load** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**SSO Service** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**SSO Supplier** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**SSO Supply** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Standard Service Offer** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Starting Price** is the announced price in effect for round 1 of the auction.

**Subscribed Product** is a Product with supply (i.e., the number of Tranches bid) equal to the Product's Tranche Target.

**Total Initial Eligibility** means the sum across all Registered Bidders of the Indicative Offers at the Maximum Starting Prices.

**Tranche** has the meaning set forth in the prevailing Master SSO Supply Agreement.

**Tranche Size** means the fixed percentage of SSO load assigned to each tranche.

**Tranche Target** for a product is the number of Tranches intended to be procured for the Product in the auction.

**Under-Subscribed Product** is a product with supply (i.e., the number of Tranches bid) less than the Product's Tranche Target.