

DEPARTMENT OF THE INTERIOR

Notice of Intent to Accept Proposals, Select a Potential Lessee, and Contract for Hydroelectric Power Development at [Site], a feature of the [Project], [State]

AGENCY: Office of the Assistant Secretary – Water and Science, Department of the Interior.

ACTION: Notice of Intent

SUMMARY:

The Department of the Interior plays a critical role in meeting America’s energy needs and moving the Nation toward a clean energy future. In this role, the Department encourages non-Federal development of environmentally sustainable hydropower on Federal water resource projects.

The Department, acting through Reclamation, in consultation with [xxx]¹ will consider proposals for non-Federal development of hydroelectric power at [Site] of the Federal [Project], [State]. [Site] has been authorized for hydropower development; accordingly Reclamation is considering non-Federal hydroelectric power development through a lease of power privilege.

No Federal funds will be available for such hydroelectric power development. [PMA] would have the first opportunity to purchase and/or market the power that would be generated by such development under a lease of power privilege.

To be considered for selection, the applicant’s proposed Lease of Power Privilege (LOPP) project must not impair the efficiency of Reclamation project power or water deliveries, impact the structural integrity of the project, jeopardize public safety, or negatively affect any other Reclamation project purposes. Reclamation will give more favorable consideration to proposals that (1) are well-adapted to developing, conserving, and utilizing the water and natural resources; and (2) clearly demonstrate that the entity is qualified to develop the hydropower facility and provide for long-term operations and maintenance.

This notice presents background information, proposal content guidelines, and information concerning selection of a non-Federal entity to develop hydroelectric power at [site], and power purchasing and/or marketing considerations.

DATES:

A written proposal and [x]² copies must be submitted on or before [time] (MDT), on [date]. A proposal will be considered timely only if it is received in the office of the Lease of Power Privilege Lead by or before [time] (MDT) on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will

¹ Consultants generally include the Department of Energy and Power Marketing Administrations

² Typically 7 copies

not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

ADDRESSES:

Written proposals and [x] copies should be sent to [xxx], Lease of Power Privilege Lead (XX-xxx), [address].

Information related to [PMA] purchasing and/or marketing the power may be obtained at [Address], [Telephone].

Information related to the operation and maintenance of [Site] may be obtained from [Contact], [Address], and [Telephone].

FOR ADDITIONAL INFORMATION CONTACT:

[Lease of Power Privilege Lead] and [Telephone].

Reclamation will be available to meet with interested entities only upon written request to the Lease of Power Privilege Lead at the above address. Reclamation reserves the right to schedule a single meeting and/or visit to address at once the questions of all entities that have submitted questions or requested site visits.

SUPPLEMENTARY INFORMATION:

[Brief summary of project authorization, indicating hydropower as a project purpose]

Reclamation is considering hydroelectric power development at [Site] through a lease of power privilege. A lease of power privilege is a congressionally authorized alternative to Federal hydroelectric power development. A lease of power privilege grants to a non-Federal entity the right to utilize the [Project] for non-Federal electric power generation and sale, consistent with project purposes. Leases of power privilege have terms not to exceed 40 years. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 ([43 U.S.C. 522](#)) (1906 Act) and the Reclamation Project Act of 1939 ([43 U.S.C. 485h\(c\)](#)) (1939 Act). Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any lease of power privilege considered in response to this Notice. Leases of power privilege may be issued only when Reclamation, upon completion of the NEPA process, determines that the affected hydroelectric power sites are environmentally acceptable. Any lease of power privilege at [Site] must accommodate existing contractual commitments related to operation and maintenance of such existing facilities, and must meet the requirements of applicable law, including, but not limited to, the 1906 Act and the 1939 Act.

[PMA] would have the first opportunity to purchase and/or market the power that would be generated under any lease of power privilege. Under this process, [PMA] would have 60 calendar days from the date of notification of selection of a preliminary lessee in which to decide whether to purchase and/or market the power.

All costs incurred by the United States related to development and operation and maintenance under a lease of power privilege, including but not limited to NEPA compliance, development of the lease of power privilege, design reviews, construction oversight, and any other associated documents, would be the expense of the lessee.

Proposal Content Guidelines: Interested parties should submit one or more proposals explaining in as precise detail as is practicable how the hydropower potential at each site would be developed. Factors which proposals must consider and address include, but are not limited to, the following:

1. Information relevant to the qualifications of the proposing entity to plan and implement such a project, including but not limited to, information about preference status; type of organization; length of time in business; experience in funding, design, and construction of similar projects; industry rating(s) that indicate financial soundness and/or technical and managerial capability; experience of key management personnel; history of any reorganizations or mergers with other companies; and any other information that demonstrates the interested entity's organizational, technical, and financial ability to perform all aspects of the work. Proposals will include a discussion of past experience in operating and maintaining similar facilities and provide references as appropriate.

The term *preference entity*, as applied to a lease of power privilege, means an entity qualifying for preference under Section 9(c) of the 1939 Act, as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended.

2. Geographical locations and descriptions of principal structures and other important features of the proposed development including roads and transmission lines. Proposals must estimate and describe installed capacity and the capacity of the power facilities under dry, average, and wet hydrological conditions. Proposals must also describe the daily, weekly, monthly, and annual pattern of expected generation under average, wet, and dry hydrological conditions; the ability of generation to provide ancillary services such as regulation, spinning reserves, and voltampere reactive support; and information on the reliability of the generation, potential maintenance outage schedule, and duration. If capacity and energy can be delivered to another location, either by the proposing entity or by potential third party transmission agents, the proposal must specify where that capacity and energy can be delivered. The proposal must describe the concepts and contractual arrangements (including the involved parties) related to transmission interconnection, power sales, and the proposed approach to third party transmission if required.

3. Existing title arrangements or a description of the ability to acquire title to or the right to occupy and use lands necessary for the proposed LOPP project, including such additional lands as may be required during construction.

4. A description of studies necessary to adequately define impacts of the proposed LOPP project on the Reclamation project, historic properties (if such are present), and the environment. The proposal must describe any significant environmental issues associated with the proposed LOPP project and the proposing entity's approach for gathering relevant data and resolving such issues to protect and enhance

the quality of the environment. The proposal will explain any proposed use of the LOPP project for conservation and utilization of the available water resources in the public interest.

5. A detailed description of any contractual arrangements with the entity having operation and maintenance responsibility for the Reclamation project feature(s) that are proposed for utilization in the hydropower development under consideration. The proposal must define how the LOPP project would operate in harmony with the Reclamation project and existing applicable contracts related to operation and maintenance of Reclamation project feature(s) being considered for modification.
6. Plans for assuming liability for damage to the operational and structural integrity of the Reclamation project caused by construction, operation, and/or maintenance of the hydropower development.
7. The organizational structure planned for the long-term operation and maintenance of any proposed hydropower development.
8. A management plan, including schedules of these activities as is applicable, to accomplish activities such as planning, National Environmental Policy Act (NEPA) compliance, National Historic Preservation Act (NHPA) compliance, Endangered Species Act (ESA) compliance, necessary studies, LOPP project development, design, construction, safety plan, facility testing, and the start of hydropower production.
9. An estimate of development costs. These costs will include all investment costs such as the cost of studies to determine feasibility; NEPA compliance; NHPA compliance; ESA compliance; other statutory compliance; design; construction; financing as well as the amortized annual cost of the investment; annual operation, maintenance, and replacement expense for the hydropower development; lease payments to the United States; expenses associated with the Reclamation project; and anticipated return on investment. If there are additional transmission expenses associated with the development of the LOPP project, these expenses must also be included. The proposal must identify proposed methods of financing the LOPP project. The proposal must include an economic analysis that compares the present worth of all benefits and costs of the hydropower development.

Selection of Lessee: Reclamation will evaluate proposals received in response to this published notice.

[Provide detail on the scoring criteria of project proposals for the required elements listed above]

Credit will be given to those proposals that demonstrate development of power in an environmentally-friendly manner. While all developments will be required to perform NEPA analysis, proposals should include information as to how the proposer will minimize environmental impact during construction, maintenance and operation. Proposers should also include design characteristics and methods that will be used to minimize environmental impacts and improve the environmental attributes of the facility. Any work the developer is proposing to do to enhance the ecosystem should also be explained in the proposal. A proposal will be deemed unacceptable if it is inconsistent with **[Project]** purposes, as determined by Reclamation.

Reclamation will give preference to those entities that qualify as preference entities (as defined under Proposal Content Guidelines, item 1.) provided that their proposal is at least as well-

adapted to developing, conserving, and utilizing the water and natural resources as other submitted proposals and that the preference entity is well qualified.

For Conduit LOPP projects where the project will be located on a site where a Federal water user organization has OM&R transfer contracts associated with the existing Federal project, preference will first be granted to that entity provided the Federal water user organization is well qualified to develop and provide for long-term operations and maintenance of the hydropower facility.

For all other LOPP projects, Reclamation will give equal preference to all entities that qualify as Preference Entities, provided that the Preference Entity is well qualified to develop and provide for long-term operations and maintenance of the hydropower facility.

If one applicant is a Preference Entity, and the other is not, Reclamation will inform the Preference Entity of the specific reasons why its plans are not as well adapted and afford up to 30 calendar days for the Preference Entity to render its plans at least as well adapted as the other plans. All other applicants will be informed of this action. If the plans of the Preference Entity are rendered at least as well adapted within the time allowed, Reclamation will favor the Preference Entity. If the plans are not rendered at least as well adapted within the time allowed, Reclamation will favor the other applicant.

Power Purchasing and/or Marketing Considerations: [PMA] would have the first opportunity to purchase and/or market the power that would be generated by the project under a lease of power privilege. [PMA] will consult with Reclamation on such power purchasing and/or marketing considerations.

In the event [PMA] elects to not purchase and/or market the power generated by the hydropower development or such a decision cannot be made prior to execution of the lease of power privilege, the lessee will have the right to market the power generated by the project to others.

Notice and Time Period to Enter Into Lease of Power Privilege: Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee no later than [date]. The selected potential lessee will have [x]³ years from the date of such notification to enter into a lease of power privilege for the site or sites identified in the proposal. This period may only be extended by the United States in writing. Such leases of power privilege will state whether and how Western will be involved in purchasing and/or marketing the power.

Dated: [xxx]

[xxx]

Regional Director

³ Dependent upon whether the site is a conduit or a dam