

**REQUEST FOR PROPOSALS
TO PROVIDE SUPPLY OF ENERGY TO
VILLAGE OF SOLVAY, NEW YORK**

September 02, 2009

Issued by New York Power Authority



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RFP Highlights:

- ❖ The New York Power Authority ("NYPA" or the "Authority") is seeking proposals from Bidders interested in offering energy to serve the incremental energy requirements of the Electric Department of the Village of Solvay ("Solvay"), in Onondaga County, New York.
- ❖ NYPA is seeking the following:
 - Energy to serve up to 35 MW of incremental load,
 - This energy can come from existing or new facilities or financial energy hedges in the form of Contracts for Differences ("CFDs").
- ❖ Facilities may be directly connected to the 13.8 kilovolt bus at the Bridge Street substation within the Village of Solvay, or may be delivered to any point of interconnection within the New York Control Area ("NYCA"), In the latter event, energy will be scheduled and delivered via the New York Independent System Operator ("NYISO") system.
- ❖ NYPA operates within the competitive electric market in New York State. It is not financially supported by the State and has no taxing authority; rather, it raises capital through the issuance of Revenue Bonds, which are repaid from revenues from the sale of its power services. Purchases made by NYPA through this RFP will be incorporated into the portfolio of resources for the benefit of Solvay. Contracts entered into by NYPA must be competitive with expected market energy prices and provide financial advantage to Solvay while minimizing cost risk to NYPA.
- ❖ NYPA may also accept, as an option, associated unforced capacity ("UCAP") to be bundled with the energy.
- ❖ Bidders proposing development of renewable energy facilities are invited to provide pricing offers with and without conveyance of the associated renewable energy credits and attributes ("Attributes"). Bidders shall provide, along with pricing for Attributes, eligible resource type, emission characteristics, third party verification and certification/verification of delivery of all rights to the Attributes purchased by NYPA for Attributes bid.
- ❖ NYPA prefers products that will be available commencing no sooner than January 1, 2011, and no later than December 31, 2013, for a period of up to twenty (20) years for supplies from specified physical facilities. For financial hedges, bids can be for up to three (3) years, commencing January 1, 2011. NYPA may execute contracts with multiple suppliers for varying terms should it best meet Solvay's needs.
- ❖ Preference will be given to proposals that represent renewable energy sources and those that demonstrate beneficial economic impacts to the Onondaga county area.

- ❖ *NOTE: In furtherance of State clean energy and sustainability policies, bids representing physical products from coal-burning generation facilities are not eligible to bid in response to this RFP. See Section II.H.*
- ❖ The successful Bidder(s) will enter into the following agreement(s) with the Authority: the Master Power Purchase & Sale Agreement (“MPPSA”) for the Products, and the ISDA Agreement for financial transactions. The MPPSA and ISDA agreements will be posted on the Authority’s RFP website, cited below, on or before September 18, 2009. Section III of this RFP provides additional information on these agreements. The Authority will not accept any material changes to the terms and conditions of its MPPSA or ISDA agreements.
- ❖ For all information concerning this RFP, including the MPPSA and ISDA documents, refer to NYPA's website at <http://www.nypa.gov/doingbusiness/powerpurchase/powerpurchase.htm>
- ❖ Target dates:
 - Due date for all bids: October 29, 2009
 - Commencement of Bid Awards: January, 2010 (Upon Approval of NYPA Trustees)

All questions regarding this RFP must be submitted as set forth herein. Mr. Jordan Brandeis, Vice President of Power Resource Planning & Acquisition will serve as NYPA's point of contact for all communications with Bidders. Except as otherwise stated in this RFP (see Section VIII) no other contact with NYPA or the Village of Solvay Electric Department concerning this RFP will be allowed during the RFP process. Violation of this requirement may be grounds for disqualification from the RFP process.

New York Power Authority

REQUEST FOR PROPOSALS TO PROVIDE SUPPLY OF ENERGY TO VILLAGE OF SOLVAY, NEW YORK

TABLE OF CONTENTS

- I. Introduction
- II. Specifications for All Bids
- III. Required Contract Agreements
- IV. Letter of Credit Requirements
- V. Bidder and Proposal Requirements
- VI. Submission of Proposals
- VII. Evaluation Process and Criteria
- VIII. Communication during RFP Process
- IX. Miscellaneous

Request for Proposals to Provide Supply of Energy

I. Introduction

- A. *Summary of the Request.* The goal of this New York Power Authority Request for Proposals (“RFP”) is to obtain Energy to serve up to 35 MW of load (fully load-following supply or specify minimum or maximum off-takes) to provide for its Village of Solvay Electric Department customer (“Solvay”). The Authority seeks these Energy products for a maximum of 20 years, commencing no sooner than January 1, 2011 and no later than December 31, 2013. NYPA may execute contracts with multiple suppliers, for varying terms, in order to best meet Solvay’s supply needs. Products to be procured may be in the form of:
- Physical products from existing or new facilities including from renewable energy sources, priced with or without renewable energy credits/Attributes. These facilities may be directly connected to the 13.8 kilovolt bus at the Bridge Street substation within the Village of Solvay (“Direct Connect Option”), or the energy from these facilities may delivered to a point of interconnection anywhere within the New York Control Area (“NYCA”). In the latter event, energy will be scheduled and delivered via the New York Independent System Operator (“NYISO”) system.
 - Financial energy hedges in the form of Contracts for Differences (“CFDs”), to be settled at a specified reference bus within the NYISO. These supplies will be for a maximum term of three (3) years, to commence January 1, 2011, and are intended to serve primarily as an interim supply pending the availability of longer-term supplies.
- B. *Proprietary Information.* Bidders are hereby advised that the Authority is subject to the New York State Freedom of Information Law (“FOIL”). Confidential information will be treated as such to the extent consistent with the Authority’s legal obligations under the FOIL and other applicable laws, regulation or legal process and the provisions of any Confidentiality Agreement between the Authority and Bidder. Bidders are advised that all materials provided will be reviewed jointly by NYPA and Solvay.

Upon the request of a Bidder, NYPA will enter into Confidentiality Agreement with the Bidder concerning information the Bidder wishes to protect from public disclosure. This agreement shall be subject to FOIL and other applicable legal requirements as set forth above.

II. Specifications for All Bids

The following requirements apply:

- A. *Term.* All products shall be available to commence delivery no sooner than January 1, 2011, and no later than December 31, 2013. NYPA will consider terms of up to 20 years.
- B. *Quantities.* Bidders may bid for any or all of the requested Energy in increments of at least 5 MW of Energy, up to the full amount specified.

- C. *Delivery Location for Physical Products.* In the case of the Direct Connect Option, Bidder will be responsible for delivering the requested Energy to the “low” side of Solvay’s Bridge Street substation, at 13.8 kilovolts. In the case of load-following supplies, delivery will be subject to daily and hourly fluctuations in load, corresponding to the day-ahead forecast of Solvay’s electricity requirements. The winning bidder(s) will be responsible for all costs and risks for delivery of products to the specified point of interconnection, or as otherwise required under the rules of the NYISO for the purchaser to fully utilize such products.

In the case of physical facilities that do not employ the Direct Connect Option, Bidder will specify the point of interconnection within the NYISO system. The winning bidder(s) will be responsible for all costs and risks for delivery of products to the specified point of interconnection, or as otherwise required under the rules of the NYISO for the purchaser to fully utilize such products.

- D. *Pricing Options.* Bidders must specify in detail the pricing method proposed. If in the form of fixed price, firm bids, the prices may vary from year to year, but the price in each year should be specified in the bid. Prices quoted must include all costs to the specified delivery point.
- E. *Facility Identification.* See Section V. B.2.
- F. *Performance Guarantees for Unit-Firm Physical Products.* Bidder shall specify the schedule of planned outages and the guaranteed availability percentages to be applied throughout the term of the bid.
- G. *Validity of Offers.* Prices and terms offered by Bidders must remain valid and available until 12/31/2009.
- H. *NOTE: In furtherance of New York State’s clean energy goals (including Governor Paterson’s 45 x 15 initiative), NYPA and the Village of Solvay have determined that physical products from coal burning generation facilities are not eligible to respond to this RFP.*

III. Required Contract Agreements

Every Bidder selected to provide UCAP and/or physical energy products shall be required to execute NYPA’s Master Power Purchase & Sale Agreement (“MPPSA”). Every Bidder selected to provide CFDs shall be required to execute an ISDA Master Agreement, Schedule and Confirmation (collectively, the “ISDA Agreement”). These forms of agreement will be available on the RFP website on or before September 18, 2009.

<http://www.nypa.gov/doingbusiness/powerpurchase/powerpurchase.htm>

No material changes to the NYPA MPPSA or the ISDA Agreement will be entertained. Bidders must identify any of their non-material changes, in the form of a red-line version, 10 business days prior to their bid submittal.

IV. Credit & Surety Requirements

Detailed credit support requirements are set forth in the MPPSA Agreement posted on the NYPA website.

All Letters of Credit, Performance Bonds, Payment Bonds, or similar instruments shall name as beneficiary the Power Authority of the State of New York and may be invoked to the benefit of the Power Authority of the State of New York, upon delivery of a certified statement to the issuing bank or surety company that the Bidder has failed to perform pursuant to the terms and conditions of its contract with the Power Authority of the State of New York. The Bidder shall provide, a letter from its bank or surety company stating that the letter of credit or bond will be provided if considered for a contract or in the event of a contract.

V. Bidder and Proposal Requirements

- A. *Minimum Bidder Requirements for all Bidders:* In order to be considered, all Bidders' proposals must meet the following Minimum Requirements:
1. Proposals must be received on time.
 2. Proposals must be complete, in conformance with the specifications and other requirements of this RFP and include all documentation, evidence or verification requested.
 3. Bidders shall be responsible for all costs and risks for delivery of products to the specified point or points of delivery.
 4. All Bidders must supply a summary description of its business and history, including its experience in the area of electric supply, and information concerning the existing electric generating plants owned and/or operated by the Bidder.
 5. Bidders must specify in the proposal the bank or banks that will provide the necessary letters of credit.
 6. All Bidders must agree to comply with applicable local, state and federal laws and regulations including, but not limited to, the requirements of the New York State Public Officers Law establishing standards for business and professional activities of New York State employees and governing the conduct of employees of private firms in business with New York State. Master Power Purchase and Sale (MPPSA) Agreements and any other agreements entered into by and between the Authority and Bidder under this RFP shall be governed by and construed in accordance with the laws of the State of New York.
 7. Bidders must recognize that providers are subject to the rules and procedures of the NYISO. It is the Bidders' responsibility to assess the applicability of the rules and processes of the NYISO.
 8. Disclosure of any instances in the last five years where Bidder, any of its officers, directors or partners, any of its affiliates, or its proposed guarantor (if any) defaulted or was deemed to be in noncompliance with any obligation related to the sale or purchase of power (capacity, energy and/or ancillary services), transmission, natural gas, or financial instruments, or was the subject of a civil proceeding for conversion, theft, fraud, business fraud, misrepresentation, false

statements, unfair or deceptive business practices, anti-competitive acts or omissions, or collusive bidding or other procurement- or sale-related irregularities.

9. Disclosure of any instances in the last five years where Bidder, any of its officers, directors or partners, any of its affiliates, or its proposed guarantor (if any) was convicted of (i) any felony, or (ii) any crime related to the sale or purchase of power (capacity, energy and/or ancillary services), transmission, natural gas, or financial instruments, or was the subject of a civil proceeding for conversion, theft, fraud, business fraud, misrepresentation, false statements, unfair or deceptive business practices, anti-competitive acts or omissions, or collusive bidding or other procurement- or sale-related irregularities.
10. Information indicating Bidder's and any proposed guarantor's financial condition and evidence of creditworthiness. Bidder must provide its and any proposed guarantor's most recent audited financial statements. If audited financial statements are not available, Bidder must explain.
11. Business Background. Briefly describe the Bidder's business organization and history, emphasizing relevant experience.
12. Environmental Considerations. All generation and transmission facilities must be licensed, constructed and operated pursuant to and be in compliance with, for the duration of the agreement, all applicable New York state, local and federal laws, regulations and permit conditions. At NYPA's option and upon NYPA's request, Bidder shall provide to NYPA copies of any or all reports, certifications and similar filings that are submitted by Bidder to any federal, state or local regulators. In no event and under no circumstances will NYPA bear any responsibility for failure of Bidder to meet applicable state or federal environmental regulations. Failure to meet environmental compliance requirements of any local authority, state or the federal government shall not act to release Bidder from its obligations to the Authority.
13. Changes by the Bidder. If a Bidder changes any element(s) of its bid, NYPA, in its sole discretion, may disqualify the Bidder.
14. Procurement Disclosure Requirements. See attached Appendix J- Bidder/ Contractor Compliance with New York Power Authority Policy Providing for Certain Procurement Disclosure. The New York Power Authority has adopted a policy providing for increased disclosure in the public procurement process. The Authority has determined that this Request for Proposals shall be subject to this policy. Therefore, each Bidder must complete Appendix J in its entirety and return with Bidder's proposal.

B. *Additional requirements for Bidders proposing New Facilities:*

1. Facility Identification. Bidders of physical products shall describe in full the facility or facilities that will serve as the underlying generation source, including the facility name, location, fuel type, and date of interconnection. Bidders shall also describe generation or transmission equipment, including rated capacity, actual or expected in-service date and expected life. Describe in full the underlying capacity source(s), including facility names, locations or proposed location, interconnection

information and ages, if currently in service, or anticipated in-service dates. Identify regulatory approvals granted or still needed for operation.

2. For proposed new facilities, provide an estimated construction schedule and in-service date. Indicate current status of and projected schedule for all development and pre-development elements of the project, including permits, financing, site control, rights-of-way, FERC filings, interconnection queue position, and interconnection studies (provide if available).
3. Provide details of any guaranties or other security for timely completion of proposed project by equipment suppliers, engineering and other contractors.
4. For proposed new facilities, describe anticipated environmental impacts, including mitigation and compliance measures relating to proposed installations. Include any positive or negative land-use impacts.
5. Describe in detail the economic impact (e.g., job creation, etc.) of the proposed new facility in the Onondaga County area.
6. Describe any action plan for community outreach and mitigation associated with siting and permitting issues, including estimated costs. Please identify any land use impacts that would indirectly result from the proposed project.
7. If any permitting processes have commenced, describe in detail the status of these processes. If any such processes have been completed, provide copies of any certificates obtained or agreements that are in place.
8. Provide detailed specification of all major components, equipment and transmission cable (above-ground or submarine), as applicable. Identify proposed manufacturers or vendors, and indicate the estimated lead time for delivery of such components, equipment or cable.
9. Describe Bidder's contractual arrangements for obtaining necessary rights for all sites and rights-of-way.
10. SEQRA Obligations - New Facilities: Any contract for the output from any proposed new facilities will not be executed until after the project has successfully undergone the requisite environmental reviews and secured the necessary findings and permits. For purposes of SEQRA, the Authority will not act as the lead agency on behalf of any Project Sponsor.

VI. Submission of Proposals

- A. All proposals in response to this RFP must be received no later than 12:00 noon Eastern Standard Time on October 29, 2009. All proposals must be in a sealed envelope, marked as "NYPA RFP Supply of Energy – Solvay" and addressed to:

Jordan Brandeis, Vice President, Power Resource Planning and Acquisition
 New York Power Authority
 123 Main Street
 White Plains, NY 10601

B. Two hard copies of the proposals are required. Late proposals may be returned unopened. Bidders should mark any items regarded as confidential. NYPA reserves the right to reject any and all bids for any reason or no reason.

C. Bidders must also submit one copy of their proposal electronically, either on a CD-ROM or by e-mail to jordan.brandeis@nypa.gov, to be received by the date and time set forth above.

VII. Evaluation Process and Criteria

A. *Selection Process.* The bids will be evaluated and any decisions will be rendered jointly by NYPA and Solvay. The process of selecting bids and negotiating final terms may be an iterative process. The evaluation team will evaluate the proposals based upon the supplied information and may, in its discretion, develop a "short list" of Bidders who may be asked to meet with the evaluation team at the NYPA's office in White Plains, New York, as a part of the selection and/or negotiation process. If necessary, Bidders may be asked to refine their bids in subsequent rounds of bidding.

B. *Evaluation Criteria.* Evaluation criteria will include, but not be limited to, the following (not necessarily in order of importance):

- Conformance with the goals of this RFP
- Total delivered energy cost benefit to Village of Solvay
- Minimization of financial risk to NYPA
- Provision of energy from renewable sources
- Compatibility with NYPA environmental and other policies
- Economic impact in the Onondaga county area.
- Sensitivity of evaluated net cost to fluctuations and uncertainties of future energy markets
- Likelihood of timely regulatory/permitting approvals
- Schedule risk (firmness of project completion date)
- Project risk (technical soundness, experience of lead development team, experience of proposed contractor team)
- Creditworthiness of Bidder including robustness of Bidder's financing plan
- Conformance/acceptance of material terms of NYPA's MPPSA and ISDA

C. *Basis for Disqualification.* A Bidder may be disqualified and the bid not considered for reasons including, but not limited to, the following:

- Receipt of the bid after the deadline for submission;
- Failure to meet all eligibility requirements;
- Incomplete bid;
- Willful misrepresentations in the bid;
- Illegal or undue attempts to influence the bid review process;
- A determination by NYPA or its customer that the Bidder is incapable of meeting its financial obligations including, but not limited to, inadequate credit rating or creditworthiness, failure to supply a requested letter of credit, parent guaranty or other form of security acceptable to the Authority;
- A determination by NYPA or its customer in their sole discretion that the Bidder is incapable of carrying out its power supply responsibilities;
- A determination by NYPA or its customer that some or all bids should be rejected.

VIII. Communication during RFP Process

NYPA's contact person for this solicitation is Jordan Brandeis, who can be reached at:

Telephone: (914) 681-6413
Fax: (914) 390-8156
Email: jordan.brandeis@nypa.gov

Unless otherwise agreed in advance with Mr. Brandeis, Bidders must not communicate directly or indirectly with any NYPA Trustee, officer, employee, or consultant or other representative of NYPA or its advisors or customer (Village of Solvay Electric Department) or its advisors on matters related to this RFP other than the designated contact person specified above.

Answers to questions of general interest will be posted on the NYPA website:

<http://www.nypa.gov/doingbusiness/powerpurchase/powerpurchase.htm>

IX. Miscellaneous

Failure to Reach Timely Agreement. NYPA and selected Bidder(s) will endeavor to reach final agreement on terms and conditions within a reasonable interval from NYPA's notification to the Bidder(s) of the selection of the Bidder(s). NYPA, in its sole discretion, may terminate negotiations with the Bidder(s) at any time.

RFP Not Binding on Authority. This RFP is not an offer or commitment and is not capable of being accepted to form a binding agreement. The Authority reserves the right, in its sole discretion, to withdraw or modify this RFP at any time, to reject any or all proposals for any reason, or no reason, and to enter into further discussions or interviews with any one or more Bidders.

Approval of NYPA's Trustees. Execution of a final, binding agreement or agreements shall be subject to the approval of NYPA's Trustees.