

Global Project Finance Alert

U.S. Army Releases Final RFP for \$7 billion in Renewable Energy Contracts

August 8, 2012

On August 7, 2012, the U.S. Army Engineering and Support Center, Huntsville, issued a Request for Proposals (RFP) for \$7 billion in total contract capacity to procure large-scale (i.e., 10 MW or higher), reliable, locally generated, renewable and alternative energy.

The Army will award multiple Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts (or Multiple-Award Task Order Contracts (MATOC)) for qualified bidders in four renewable energy technologies: solar, wind, geothermal and biomass. Under this process, a company must first establish its qualifications and be selected as a “qualified” contractor, and it will then be given the opportunity to compete for a task order for a specific project; failure to be selected in the first round precludes a company from competing for specific projects/task orders. Only bidders qualified for a particular technology in the first round will have the opportunity to compete for projects for that technology in the second round.

Upon being awarded a contract for a specific project (i.e., a task order), a company will be responsible for developing, financing, designing, building, operating, owning and maintaining the generation assets. Project locations may be on or near any federal property located within the United States, including Alaska, Hawaii, territories, provinces or other property under the control of the U.S. government. The government intends to purchase the energy that is produced for up to 30 years through site- or project-specific power purchase agreements (PPA) or other contract equivalent. These site-specific contracts will be firm fixed-priced. In addition, pursuant to current Army policy, the ownership of the renewable energy credits (RECs) resulting from renewable energy generated “on-site” will be determined on a case-by-case basis. The Army has not indicated how it will treat RECs for energy generated near, but not on, government-owned installations.

To the extent possible, the government intends to complete the National Environmental Policy Act (NEPA) environmental review process and secure environmental permits for a project prior to issuing a site-specific task order. Contractors will be responsible for securing all other remaining licenses, permits and approvals for developing the generation facility, and for satisfying financial and regulatory requirements; utility interconnect; and all electrical, metering and technical requirements.

Companies interested in responding to the RFP should:

- understand the procurement rules and requirements associated with contracting with the U.S. government and the Department of Defense (DoD), including Buy American/Trade Agreement Act requirements for photovoltaics and other equipment, labor requirements and subcontracting goals. Interested companies should also confirm that they are willing to and can meet these requirements and factor the cost of compliance into applicable budgets
- determine whether they will need to set up a special-purpose entity or limited-liability company to complete and perform the contract



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- consider whether it would be necessary or advisable to partner with another company for purposes of responding to the RFP
- identify and understand DoD requirements, regulations and accepted practices regarding installations, including security-check requirements that will apply to all contractor personnel entering DoD facilities.

Throughout the process culminating in the release of this RFP by the Army Corps of Engineers, Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”) attorneys have been involved and have striven to keep our clients informed of the progress towards the RFP and structure that this RFP would take, including attending briefings and meetings with the government. Additionally, Akin Gump has a partnership with Jones Group International (JGI), the global consulting group led by Gen. James L. Jones, USMC (Ret.), former National Security Advisor to President Obama, Supreme Allied Commander Europe and Commander of the U.S. European Command, and 32nd Commandant of the Marine Corps. Through the alliance, Akin Gump clients will benefit from Gen. Jones’ and JGI’s expertise in dealings with the Pentagon and military installations.

With the release of the RFP, clients should plan on attending the upcoming Akin Gump webinar on the RFP where more details will be discussed and clients will have the opportunity to ask questions. Details about the planned webinar will be forthcoming.

The full text of the press release announcing the RFP release can be seen [here](#).

The solicitation for the Renewable and Alternative Energy Power Production for DoD Installations will be available for 60 calendar days on the Federal Business Opportunities website [here](#).

Any comments to the RFP may be submitted [here](#), in accordance with the instructions contained in the RFP.

CONTACT INFORMATION

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