



**Implementing
Renewable Power
Purchasing Agreements
Under P.L. 2008, .c. 83**

Joseph A. Valenti, Chief

**Bureau of Local Management Services
Division of Local Government Services**

PPAs Require Competition



- **Entering into a Solar PPA requires a competitive process.**
- **PPAs are not treated as a lease of land or building because it is covered in Local and Public School Procurement Laws**
- **Receipt of formal bids would be difficult to apply to a lease-purchase arrangement**

How Competitive Contracting Works



- **N.J.S.A. 40A:11-4.1 et seq., can be used**
 - **The Division is taking action to declare that it can be used for renewable PPAs**
- **Requires a process that is open, competitive, and transparent to the general public – it is not negotiated between parties**
- **Generally, RFP prepared, proposals received and evaluated, contract awarded**

Preparing the RFP



- **RFP prepared by the owner describing the facilities available for solar panels and what the agency wants to achieve**
- **Develop award criteria that will lead to an award based on “most advantageous, price and other factors considered”**
 - **Criteria can include pricing, technology, experience of the vendor, and other criteria that may be relevant to the site. Cannot be used to exclude otherwise qualified vendors**

Preparing the RFP — Part 2



- **Include guidance to vendors to provide alternate proposals so there is choice**
- **Pricing: Chapter 83 requires that:**
 - **the entire price is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years;**
- **Must also be priced pursuant to BPU guidelines for computing energy cost savings and energy generation costs.**
 - **Guidelines have been adopted, are on the BPU web site, and will be incorporated into a Local Finance Notice due out next week**

Advertising the RFP



- **The RFP must be publicly advertised like a bid:**
 - **But requires 20 days notice (not 10)**
 - **Published conventionally in a newspaper, and, as an option, conspicuously placed on a local unit's website.**
 - **Proposals shall be publicly opened at an announced and advertised time and public location.**
- **Provide vendors opportunity to inspect the facilities prior to the proposal's receipt date**

Awarding the RFP



- **A report must be prepared by the local procurement official or an appointed committee**
 - **The procurement official can be the purchasing agent, attorney, or administrator**
- **The report must analyze the proposals and make a recommendation to the governing body as to whom the contract should be awarded**
- **Awards shall be made by governing body resolution**
- **Upon award, a notice is published in an official newspaper**

Additional Information



- **Local Public Contracts Law:**
 - **N.J.S.A. 40A:11-4.1 through 4.5**
- **Public School Contracts Law**
 - **N.J.S.A. 18A:18A-4.1 through 4.5**
- **Both laws:**
 - **N.J.A.C. 5:34-4.1 et seq.**
- **BPU Renewable energy pricing guidelines:**
www.njcleanenergy.com/files/file/program_updates/2-24-09-8B.pdf
- **Questions:**
 - **LPCCL@dca.state.nj.us**
 - **www.nj.gov/dca/lgs/lpcl**