

STRAW PROPOSAL
PROPOSED REVISIONS TO THE FY2015 SUSTAINABLE BIOPOWER COMPETITIVE SOLICITATION
JULY 22, 2014

Introduction

On February 19, 2014, the New Jersey Board of Public Utilities (“NJBPU”) approved Staff and the Renewable Energy Market Manager’s recommendation to issue the FY2014 Sustainable Biopower Competitive Solicitation (“Solicitation”). The solicitation which had been developed through a public stakeholder process involved the circulation of a straw proposal for public comment. The straw proposal was issued on September 18, 2013 discussed at the Biopower Technical Working Group meeting and written public comments were received in response to the straw proposal through October 7, 2013. .

The FY2014 solicitation was issued on February 20, 2014 with responses due by April 21, 2014. A public webinar on the application requirements for potential applicants was held on March 13, 2014. One application in response to the FY2014 solicitation was submitted during the application window, and was denied by the Solicitation Evaluation Committee (“Committee”) for failing to satisfy the solicitation eligibility requirements as set forth in the solicitation documents.

To gauge potential demand for biopower incentives in FY2015, in March 2014 the Market Managers issued a survey of market stakeholders. A total of 10 survey responses were received, with half of the respondents identifying themselves as “developers” and the remainder “client/end user”. For the FY2014 Solicitation, respondents advised they would be submitting seven projects with a combined capacity of 13.2 MW with incentive requests between \$7 and \$13.75 million. Ten projects were proposed for FY2015 and eleven for FY2016. Survey respondents projected demand for incentives over the next three years for 5 to 10 projects at 20 to 25 MW. Respondents felt that incentives should cover 25% of total project costs on average, with 5 to 7 years being the consensus for a reasonable payback period. Eighteen months was the most common answer for completion time, with 25-50% of that period allocated for permitting, interconnection and inspections. Four respondents recommended annual budgets in the \$3-\$5 million range; the others ranged from \$20-\$100 million.

In light of the low response rate to the FY2014 solicitation and despite the indication of interest by developers responding to the March survey, Staff and the Market Manager recognized that the eligibility requirements along with the Solicitation’s evaluation criteria and application procedures, should be reviewed with stakeholder’s toward drafting the FY2015 Solicitation that will be presented to the NJBPU for approval.

Concepts for potential revisions to the FY2015 Solicitation were presented at the June 26, 2014 Biopower Technical Working Group meeting. This Straw Proposal reflects the discussion of the potential revisions and the responses expressed by the public stakeholders.

Behind-the-Meter, Net Metering and Interconnection Requirements

The FY2014 Solicitation offered incentives only to projects that were (a) behind the meter; (b) net metered; and (c) interconnected to New Jersey's electric distribution system – requirements that were carried forward from its predecessor CORE and REIP rebate programs.

A proposal was put forward to modify the requirement for net metering and interconnection of the proposed biopower system on the basis that an installation which reduces the amount of electricity and natural gas that the host site must purchase from its EDC/LDC (local gas distribution company), provides emergency back-up capability and reduces the waste stream in the process is beneficial to the State and its ratepayers. Modifying the net metering and interconnection requirement for the FY2015 Solicitation would encourage islanded power systems at critical facilities that are otherwise consistent with the program's resiliency, environmental and energy production goals.

It is therefore recommended that consideration should be given to allowing eligibility for "stand alone" systems, i.e., those that are neither net metered nor grid connected, but are also not designed for grid supply, i.e., a merchant power producer supplying electricity directly to the grid at wholesale electricity rates. Providing this type of flexibility is anticipated to help increase participation in the program while staying true to the program's intent.

EPC Contract and Feedstock Contract

The FY2014 Solicitation required applicants to submit the following documents with their initial application packet:

- A copy of the contract signed by both the applicant and installer or, if the project is a Power Purchase Agreement (PPA), a copy of the contract between the applicant and the PPA provider. Either contract must also include the installation warranty.
- A feedstock plan detailing the type and source(s) of the project's feedstock; whether it is produced on- or off-site; contracts required for obtaining the feedstock (if applicable); the quantity of feedstock available on an annual basis; and an estimate of the annual production and Btu value of the biogas the feedstock will produce.

The intent of these requirements is to demonstrate that (a) the project has a legally binding commitment to be installed; and (b) that the project – if it is dependent on an external source(s) of feedstock – has a guarantee of readily available, long-term feedstock supplies to keep the system operating.

However, stakeholders pointed out that executing an Engineering, Procurement and Construction (EPC) contract may "start the clock" on certain contract provisions – including the applicant's payments to the installer – without any assurance that the project will receive funding through the Solicitation. Public entities that must comply with the state's public bidding law currently have a six-month grace period to submit an executed EPC contract following approval of their applications. Private entities, though, must include an executed EPC contract with their application.

Stakeholders also pointed out that contracts for feedstock supplies between system owners and outside vendors (i.e., food waste or wood waste haulers) are unlikely to be executed until the vendors are completely assured that a facility will exist to which they can deliver their feedstock supplies.

Based on the working group discussion, it is recommended that both EPC and feedstock contracts should become evaluation criteria rather than minimum requirements. Under this scenario, priority would be given to applications containing executed contracts, but those which don't contain them would not be deemed "incomplete". Toward ensuring award of funds to projects more capable of timely completion, Staff seeks comment on the feasibility of requiring an executed contract with a contingency provision for award of the incentive and, or making incentive award contingent upon the presentation of an executed contract.

Staff also seeks comments on the implications of requiring legally binding document in lieu of executed contracts. Applicants not submitting executed contracts are proposed to have to include a timeline showing the expected date on which an executed contract will be submitted, and any relevant milestones leading up to that date. In the case of feedstock, applicants would be required to submit a document demonstrating feedstock control (i.e., a sound plan for obtaining the necessary quantities of feedstock over time with the initial application in lieu of a feedstock contract(s), showing the plan in place for obtaining the contract(s)).

System Efficiency

The FY2014 Solicitation set a minimum efficiency level of 65% for combined heat and power (CHP) systems, in an effort to make certain requirements of the biopower program consistent with the NJCEP's C&I Energy Efficiency program for CHP systems that operate on non-renewable fuels. However, Staff and several stakeholders noted that biogas has a significantly lower Btu value than natural gas and should not be held to the same standards for efficiency.

It is therefore recommended that the efficiency levels of biogas-fueled CHP systems become an evaluation criteria rather than a minimum requirement. Priority will be given to those systems with a higher efficiency level than other systems applying for incentives, but no minimum requirement will be imposed.

Paperwork Modification

Section 5.2 of the FY2014 Solicitation required applicants to submit "a narrative or free-form document" in response to a series of questions on the economic, project readiness, technical and resiliency characteristics of the project. The intent of this requirement was to provide the Solicitation Evaluation Committee with a single source of information relating to the project's alignment with the Solicitation's four criteria. However, the Committee reported that the narrative or free-form format did not aid evaluation appreciably. In addition, they noted that much of the information requested was already contained on the Application Form, Technical Worksheet or Milestone Reporting Form.

It is therefore recommended that the narrative or free-form document be replaced with a project summary form on which applicants will re-enter the information that appears elsewhere in the application packet. This will enable the Committee to view critical information relating to the Solicitation's criteria on one document.

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