



Appendix F

***Process for
Protection of Proposal Information
For
2008 Western Region
Request For Proposals (RFP)
For
Limited-Term
Supply-Side Resources***

Entergy Services, Inc.
January 22, 2008

Appendix F

Process for Protection of Proposal Information

SUMMARY

This Appendix F describes the process that ESI will follow to ensure that information provided by Bidders in response to this 2008 Western Region RFP is kept confidential, and is not improperly disclosed to or used by any employee, consultant, or other representative of ESI or any other Entergy affiliate.

Additionally, this Appendix F outlines how ESI has designed its process for evaluating proposals submitted in response to the 2008 Western Region RFP to achieve the following:

- the objective and impartial treatment of all Bidders; and
- compliance with all applicable legal and regulatory requirements, including Affiliate Rules and Codes of Conduct requirements.

OVERVIEW

This Appendix F details the various mechanisms put in place by ESI to protect the confidentiality of information provided by Bidders in the 2008 Western Region RFP process, and to achieve the additional objectives outlined above, which mechanisms include the following:

1. Reliance upon an RFP Administrator;
2. Protocols for Receipt of Bidder Registration Information;
3. Procedures for Receipt of Proposal Information and Protection of Confidentiality;
4. Protocols for the Protection of Market Sensitive Proposal Information; and
5. Affiliate Rules and Codes of Conduct.

1. Role of the RFP Administrator

Consistent with previous RFPs, ESI has a designated “RFP Administrator.” The RFP Administrator will serve in a multi-purpose role that includes the following responsibilities:

- 2.1 **Responsibility as Liaison** – The RFP Administrator shall serve as a liaison between all market participants and ESI with regard to 2008 Western Region RFP-related matters.

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- 2.2 **Responses to Bidder Questions** – The RFP Administrator shall ensure that Bidder questions are addressed, with all questions and answers posted on the 2008 Western Region RFP Website. All questions will be posted without identifying the Bidder or confidential information that may have been submitted by the Bidder in its question. ESI reserves the right to decline to respond to questions that seek confidential information of ESI or the Entergy Operating Companies. ESI also reserves the right not to respond to questions that cannot be answered without revealing confidential information regarding the Bidder.
- 2.3 **Distribution of Proposal Information** – The RFP Administrator shall ensure that proposal information is distributed to appropriate members of the evaluation teams. All submitted proposals will be reviewed and screened by the RFP Administrator, who will redact certain information from the proposal documents to ensure that information that is needed for review of the proposals is retained without also providing information from the proposals that would identify the Bidders to persons who do not need to receive that information. The RFP Administrator also will oversee the segregation of information from the proposals into confidential reports (e.g., a report containing credit-related information only, a report containing only information necessary for the economic evaluation, and a report containing information needed for the Deliverability Evaluation), which will then be made available to that evaluation team, with each team seeing only the report(s) that include information it needs to see in order to carry out its part of the proposal evaluation. The RFP Administrator may consult with one or more persons within SPO or another organization within ESI who is not a member of an evaluation team process or an executive responsible for the selection of proposals in the 2008 Western Region RFP regarding whether proposal information may be needed by a particular evaluation team. This information segregation process is designed to protect Bidder confidentiality and ensure impartial evaluation of all proposals by the evaluation teams. While no process can ensure that the identity of the Bidder remains completely anonymous, the intention of this process is to provide the maximum reasonably practicable level of assurance of anonymity in order to maintain a fair and consistent evaluation process. These confidential reports will provide only the information required for the evaluator to perform the specified function, with the name of the Bidder withheld and substituted with a randomly-generated identification number (other than for the credit evaluation process). This process will be completed before any proposal information is provided to the evaluation teams.
- 2.4 **Processing of Questions** – In the event that ESI needs to contact a Bidder for purposes of clarifying proposal terms or requesting additional information, ESI will rely on the RFP Administrator to communicate directly with Bidders. Bidders will submit their written responses to the RFP Administrator, who will undertake the redactions needed to provide the information to the appropriate evaluation team,

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making any redactions as are appropriate, consistently with the process described in Section 2.3, above.

- 2.5 **Responsibility for 2008 Western Region RFP Files** – The RFP Administrator shall ensure that all related 2008 Western Region RFP files and information are properly organized, stored, and secured so as to protect adequately the confidentiality of information in accordance with the processes and procedures described herein.

2. Protocols for Receipt of Bidder Registration Information

All information submitted to ESI through the Bidder registration process will be included in a confidential database accessible only to the RFP Administrator, who, together with any person(s) that has been designated to assist her in this process (as discussed in Section 2.3 above, such person will not be a member of a proposal evaluation team or an executive that is responsible for the selection of proposals from the 2008 Western Region RFP) will review the information received from Bidders and oversee the preparation of reports that transmit some of the information contained in proposals to different members of the RFP evaluation teams, as described below.¹

3. Procedures for Receipt of Proposal Information and Protection of Confidentiality

A key process objective of the market-based RFP process is to ensure that information provided by Bidders in response to this 2008 Western Region RFP is kept confidential. ESI has designed procedures that its employees, agents, and consultants will be required to follow in conducting the proposal review process and the proposal evaluation process phases of the 2008 Western Region RFP. These procedures are designed to preserve, to the extent practicable, the confidentiality of any confidential information contained in Bidders' proposals, including, but not limited to, the identities of Bidders and the proposal prices and other terms and conditions of their proposals. These procedures include use of: (a) electronic submission of proposals; and (b) the creation and use of data reports for the evaluation of each proposal. These reports are based on information provided to ESI in the proposals submitted by Bidders, with identifying information about the Bidder redacted so that different members of the evaluation teams receive only the specific limited information that they need to carry out their evaluations.

These procedures are intended to provide reasonable assurance to Bidders that, except as noted below with respect to legal or regulatory requirements, information contained in their

¹ Certain technical personnel responsible for computer systems and information necessarily will have access to the confidential database. However, this access will be solely for the purpose of providing computer-related technical support.

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proposals will be disclosed only to the relevant members of the evaluation teams, and select agents and consultants. Also, these procedures are designed so that this information will be disclosed to members of the evaluation teams only to the extent necessary for the sole purpose of resource evaluation and will be disclosed to other agents and consultants only to the extent necessary for them to perform their respective functions in connection with this 2008 Western Region RFP.

- 3.1. Immediately after the end of the proposal submission period, each proposal package will be reviewed by the RFP Administrator, and any person(s) she may designate to assist her (subject to the restrictions in Section 2.3, above), who will redact certain information from the proposal documents prior to giving any information from the proposals to any member of the evaluation teams. This information redaction process will be accompanied by an automated process that generates separate data reports, with each report being provided only to those members of the evaluation teams who are responsible for evaluating a particular aspect of the proposal response. Prior to providing these data reports to the evaluation teams, the RFP Administrator will review the reports to ensure that they contain no information regarding the name, address, telephone number or other pertinent Bidder contact information. This process will be completed before any proposal information is provided to members of the evaluation teams.
- 3.2. Upon completion of the proposal submission process, the RFP Administrator will prepare two summary reports of proposals received:
 - 3.2.1. The first report, the RFP Summary Report, will communicate the following: (1) the actual number of Bidders submitting proposals; (2) the total number of resources for which proposals have been submitted; and (3) the number of proposals submitted for each product category.
 - 3.2.2. The second report, the Executive Report, will be communicated only to the Entergy Operating Committee and to the Group President of Utility Operations and, upon request, to other senior executives. This summary report will communicate the following: (1) the actual number of Bidders submitting proposals; (2) the total number of resources for which proposals have been submitted and the state in which those resources are located; (3) the number of proposals submitted for each product category; and (4) any additional information that such executives may request and that the RFP Administrator concurs is appropriate to provide.
- 3.3. ESI has developed reporting software to generate automated proposal data reports that will contain limited proposal data. There are three distinct proposal data reports:

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- (a) a report containing information regarding the operational and economic characteristics of the proposal, which report will be provided to members of the Economic Evaluation Team (“EET”);
- (b) a report containing the proposal information regarding fuel supply issues for each proposal, which report will be provided to members of the Fuel Evaluation Team (“FET”); and
- (c) a report containing the proposal information for each proposal regarding the location of the Bidder’s facility, which report will be provided to members of the Transmission Analysis Group (“TAG”).

These proposal data reports will provide only the information required by the RFP evaluation teams to perform the specified evaluation function for which each team is responsible. The reports described above will exclude data specifically identifying the Bidder (*e.g.*, Bidder company name, Bidder company address and Bidder company contact information). While no process can ensure that the identity of the Bidder remains completely anonymous, the intention is to provide the maximum reasonably practicable level of assurance of anonymity in order to maintain a fair and consistent evaluation process. As described in Section 3.1, the RFP Administrator will review the output of this automated system prior to the distribution of any information to members of the evaluation teams. During proposal evaluation, each proposal will be identified by its unique Proposal ID and/or Plant ID.

The Credit Evaluation Team will receive a report that includes the identity of the bidder and the pricing, capacity amount, term, and other proposal information that is needed for the CET to perform its analysis. By necessity, the CET must be given access to the Bidders’ identities and proposal terms in order to perform its evaluation. However, the report prepared by the CET of its analysis for use prior to the selection of proposals to the preliminary shortlist will not include data specifically identifying the Bidder.

- 3.4. The evaluation teams will prepare reports that summarize information from the data reports described above and from the results of analysis of the various proposals. These summary reports will be reviewed by senior advisors and other decision-makers of ESI and the Entergy Operating Companies. In addition, once a proposal has been selected for either the preliminary shortlist, all information relating to such proposal will be provided to the appropriate negotiation team and to appropriate executives and other decision-makers of ESI and the Entergy Operating Companies. All Entergy personnel and other agents and consultants having access to confidential information as described above will be contractually and/or professionally bound to protect the confidentiality of confidential Bidder information and to use it for no other purpose besides activities related to the 2008 Western Region RFP process and resource evaluation processes more generally. ESI and the Entergy Operating Companies, however, disclaim any liability to

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a Bidder for damages of any kind resulting from disclosure of any Bidder or proposal information.

- 3.5. Proposals or other information or correspondence submitted in response to this 2008 Western Region RFP will not be returned to Bidders. At the conclusion of this 2008 Western Region RFP process (including regulatory review of specific transactions entered into as a result of this RFP), all proposals will be either destroyed or archived by ESI, subject to the procedures described in this section providing for the treatment of such proposals as confidential and subject to any applicable Codes of Conduct.
- 3.6. All information contained in a proposal (a) may be required to be disclosed by ESI or any Entergy Operating Company pursuant to (i) applicable law, rule, or regulation or (ii) any legal proceeding involving ESI or any affiliates; and (b) may be subject to review by one or more of the regulatory commissions having jurisdiction over ESI and/or any of the Entergy Operating Companies, and/or their staffs in connection with regulatory proceedings, or any other Governmental Authority with jurisdiction relating to these matters, and may be subject to legal discovery. By submitting a proposal, the Bidder agrees to allow ESI to (a) use any of the information contained in the proposal as information, testimony or evidence in any proceeding before any such regulatory commissions, or in any proceeding before any other Governmental Authority with jurisdiction relating to these matters; and (b) disclose any of the information contained in the proposal when required to do so as described above; provided, however, that in the event such information is to be so disclosed, ESI will use its reasonable efforts to attempt to obtain from such authority, or other entity to whom such disclosure is being made, approval of a confidentiality agreement or protective order or other mechanism to protect the confidentiality of such information and to limit its dissemination.

ESI makes no assurance of the outcome of any such attempt, and advises Bidders that some merchants and others who have intervened in regulatory proceedings pertaining to potential acquisitions of resources in connection with previous RFPs and in other proceedings in which ESI and/or one or more of the Entergy Operating Companies are involved have sought access to confidential Bidder information.

4. Protocols for the Protection of Market Sensitive Proposal Information

Because there are numerous departments and personnel in the ESI organization involved in the resource planning, asset management/supply procurement, and operations functions, ESI has implemented specific protocols for the protection of proposal information to limit access to specific market sensitive proposal information provided by Bidders in response to ESI's 2008 Western Region RFP, which protocols are listed below:

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- 4.1. No proposal information will ever be disclosed to any Entergy Competitive Affiliates, except to the extent that such information is made public.
- 4.2. Prior to the selection of the proposals to the preliminary shortlist, no member of the RFP evaluation teams shall provide any proposal information to any person within ESI who is not otherwise a part of the RFP evaluation teams, other than the information that may be provided to senior advisors and decision makers of ESI and the Entergy Operating Companies in the summary reports provided for in Section 3, above.
- 4.3. No proposal information shall be provided to any member of the RFP evaluation teams prior to the expiration of the proposal submission deadline.
- 4.4. All files created in connection with the 2008 Western Region RFP process shall be available only to the approved personnel. Approved personnel will include only the RFP Administrator, those members of the RFP evaluation teams with designated access to specific information, and counsel and support personnel involved in any regulatory proceedings relating to the 2008 Western Region RFP.
- 4.5. ESI management is responsible for communicating to the members of the RFP evaluation teams the importance of compliance with these protocols, both at the outset of the 2008 Western Region RFP process and on a continuing basis.
- 4.6. ESI personnel involved with the Western Region RFP process will sign a confidentiality acknowledgement (referenced in Section 3, above) that governs access to and uses of information contained in proposals and proposal documents.

5. Affiliate Rules and Codes of Conduct

All employees of ESI, any Entergy Operating Company, or any Entergy Competitive Affiliate, currently must adhere to the following Affiliate Rules and Codes of Conduct as applicable:

- 5.1. Entergy Corporation Standards of Conduct
 - 5.1.1. Entergy Corporation Standards of Conduct regarding the relationship between Entergy Corporation's regulated and nonregulated subsidiaries
- 5.2. Codes of Conduct: Entergy Operating Company specific
 - 5.2.1. Electric Affiliate Transaction Rules (Affiliate Rules) of the Arkansas Public Service Commission
 - 5.2.2. Council for the City of New Orleans Code of Conduct for Entergy New Orleans, Inc.
 - 5.2.3. October, 1992 Settlement Agreement between Entergy and the Arkansas Public Service Commission

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- 5.2.4. Appendix 3 to the Louisiana Public Service Commission's May 3, 1993 Order No. U-19904
 - 5.2.5. March 26, 1998 Settlement Agreement between Entergy and the Council for the City of New Orleans
 - 5.2.6. April 10, 1998 Settlement Agreement between Entergy and the Mississippi Public Service Commission
 - 5.2.7. October 19, 2000 Gas Settlement Agreement between the Council for the City of New Orleans and Entergy New Orleans, Inc.
- 5.3. Codes of Conduct: Between Affiliated Power Marketers and the Entergy Operating Companies
- 5.3.1. EKT LP Code of Conduct
 - 5.3.2. ENF Standards of Conduct
 - 5.3.3. ENGC Standards of Conduct
 - 5.3.4. ENIP 2 Code of Conduct
 - 5.3.5. ENIP 3 Standards of Conduct
 - 5.3.6. Entergy Nuclear Vermont Yankee, LLC Code of Conduct
 - 5.3.7. Entergy Solutions Supply Code of Conduct
 - 5.3.8. Entergy Power Ventures, L.P. Code of Conduct
 - 5.3.9. EWO Marketing Code of Conduct
 - 5.3.10. Koch Energy Trading Code of Conduct
 - 5.3.11. Llano Estacado Wind, LP Generic Code of Conduct
 - 5.3.12. Northern Iowa Windpower Code of Conduct
 - 5.3.13. Warren Power Code of Conduct
- 5.4. Standards of Conduct: Between Transmission and any Wholesale Merchant Function Group
- 5.4.1. FERC Transmission Standards of Conduct

A link to these Affiliate Rules and Codes of Conduct is posted on the RFP Website.

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