

# **REQUEST FOR PROPOSALS**

**FOR**

**CAPACITY**

Levitan & Associates, Inc.

Procurement Administrator on behalf of

**Illinois Power Agency**

for

**Ameren Illinois Utilities**

**AmerenCILCO**

Peoria, IL

**AmerenCIPS**

Springfield, IL

**AmerenIP**

Decatur, IL

**ISSUE DATE: March 20, 2009**

**DUE DATE: April 13, 2009**

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# **The Ameren Illinois Utilities Request for Proposals for Capacity**

## **1.0 Introduction**

Levitan & Associates, Inc. (“LAI”), as Procurement Administrator on behalf of the Illinois Power Agency (“IPA”) for the Ameren Illinois Utilities, is issuing this Request for Proposals (“RFP”) for capacity covering the period June 1, 2009 through May 31, 2012. Serving about 1.2 million customers throughout Illinois, the Ameren Illinois Utilities include Central Illinois Light Co. doing business as (d/b/a) AmerenCILCO, Central Illinois Public Service Co. d/b/a AmerenCIPS, and Illinois Power Co. d/b/a AmerenIP. Unless otherwise noted, throughout this RFP AmerenCILCO, AmerenCIPS, and AmerenIP are hereafter referred to as the Ameren Illinois Utilities. The Ameren Illinois Utilities are subsidiaries of Ameren Corporation, headquartered in St. Louis, Missouri. More information about the Ameren Illinois Utilities can be found at <http://www.ameren.com>.

The Illinois Power Agency seeks to procure 100% of the Ameren Illinois Utilities’ monthly capacity for the months June 2009 through May 2010, 50% of the monthly capacity requirements for the months June 2010 through May 2011, and 33% of the monthly capacity requirements for the months June 2011 through May 2012 to meet the resource adequacy requirements of eligible customers that are served under fixed price, bundled service tariffs. Eligible customers include retail customers in the following customer classes for whom energy requirements are less than 1 MW and whose service has not been declared competitive: residential (BGS-1); non-residential less than 150 kW (BGS-2); non-residential from 150 kW to 400 kW (BGS-3A); non-residential from 400 kW up to 1,000 kW (BGS-3B); and, lighting service (BGS-5). The capacity to be procured under this RFP on behalf of the Ameren Illinois Utilities will be allocated among the respective requirements of AmerenCILCO, AmerenCIPS and AmerenIP.

## **2.0 Background**

Under the Electric Service Customer Choice and Rate Relief Law of 1997 (the “Customer Choice Law” or the “Law”), retail customers were provided the opportunity to purchase their power and energy requirements from alternative suppliers. The Customer Choice Law also contained provisions to restructure the State's electric utility industry, in particular, incentives for electric utilities to divest generation assets. After residential rates were discounted in accord with the Customer Choice Law, retail rates for all customers were frozen. Further, the utilities filed delivery service rates for those customers that elected to take their power supply from other retail suppliers. During this transition period, the Ameren Illinois Utilities utilized long-term purchased power agreements (“PPAs”) to provide capacity, energy and certain ancillary services to their full requirements customers. By January 1, 2007 the transition period and the PPAs used to supply this service ended.

Facing the end of the transition period and the coincident expiration of the PPAs, the Ameren Illinois Utilities participated in the Illinois Commerce Commission

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(“ICC” or “Commission”) approved Illinois Auction in September 2006. The goal of the Illinois Auction was to procure the full requirements service – capacity, energy and ancillary services – needed to meet the requirements of the retail customers who continued to rely on the Ameren Illinois Utilities at the end of the transition period. For customers with peak demands up to 1 MW, the Illinois Auction produced contracts with varying terms covering total load: 17 months for about one-third, 29 months for the next one-third, and 41 months for the last one-third. Upon expiration of the transition period, Ameren Illinois Utilities’ rates were unfrozen, thereby exposing customers to rate increases consistent with changes in market prices. As a result of the rate increases, Public Act 095-0481 was signed into law, including the Illinois Power Agency Act (IPA Act) and modifications to the Public Utility Act (PUA). The IPA Act and PUA replaced the Illinois Auction with a portfolio procurement process. This legislation declared that customer classes with peak demands of 400 kW or more to be competitive by no later than May 2010 for the Ameren Illinois Utilities. The legislation also established the IPA to administer a procurement process beginning in August 2008. Under Section 16-111.5(a) of the PUA, the Ameren Illinois Utilities had oversight responsibility for procuring capacity, energy, and renewable energy credits (RECs) for eligible retail customers for the period June 1, 2008 through May 31, 2009. Procurement responsibility now shifts to the IPA and the IPA’s administrator to facilitate the procurement process to ensure additional power purchases from June 1, 2009.

Under Section 16-111.5(d) of the PUA, the IPA filed a procurement plan with the ICC. On January 7, 2009, the ICC approved the procurement plan with certain modifications.<sup>1</sup> Consistent with the requirements of the PUA, the procurement plan identifies the portfolio of energy and power products to be procured. On March 9, 2009, the IPA notified the ICC that it had selected LAI to serve as the Procurement Administrator for the 2009 procurement cycle for the Ameren Illinois Utilities procurement requirements. On March 11, 2009, the ICC voted to accept the IPA’s selection of LAI as Procurement Administrator for the Ameren Illinois Utilities. As Procurement Administrator, LAI is authorized to serve as the interface between the Ameren Illinois Utilities and bidders. In issuing this RFP, LAI has the responsibility for managing the bidder pre-qualification and registration process, receiving and reviewing all bids, and submitting a confidential report to the ICC recommending acceptance or rejection of bids. The IPA Act and the PUA authorizes the Procurement Monitor to monitor the interactions among the Procurement Administrator, suppliers and the utilities and to report to the Commission on progress of the procurement process. The Procurement Monitor also consults with the Procurement Administrator regarding the development and use of benchmark price criteria, standard form contracts, credit policies, and bid documents. Boston Pacific Company, Inc. has been

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<sup>1</sup> 08-0519 (Illinois Power Agency - Approval of Initial Procurement Plan) Order January 7, 2009.

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selected to be the Procurement Monitor for this procurement process.

**3.0 Purpose and Scope**

The IPA intends to procure capacity on behalf of the Ameren Illinois Utilities for period June 1, 2009 through May 31, 2012, consistent with the ICC approved procurement plan. The IPA will also solicit bids for both financially settled energy products and renewable energy credits to serve eligible customer load through separate RFPs.

Two-thirds of the full requirements service contracts entered into by the Ameren Illinois Utilities resulting from the Illinois Auction will have expired on May 31, 2009. The capacity provided under these contracts will be replaced by the procurement of the following monthly “Capacity Amounts”:

<b>Month</b>	<b>Capacity Amount (MW) 2009/2010</b>	<b>Capacity Amount (MW) 2010/2011</b>	<b>Capacity Amount (MW) 2011/2012</b>
June	2,950	2,110	1,370
July	3,500	2,530	1,630
August	3,470	2,500	1,650
September	2,780	1,980	1,300
October	2,080	1,480	960
November	1,980	1,430	910
December	2,360	1,690	1,100
January	2,340	1,670	1,100
February	2,170	1,560	1,020
March	1,910	1,370	900
April	1,690	1,240	800
May	2,200	1,590	1,040

Each Capacity Amount above represents the quantity in MW of Unforced Capacity during the applicable Period of Delivery.

**3.1 Product Definition**

Capacity (“Capacity”) means the right of the Buyer (a) in accordance with the requirements of the MISO Documents, to designate the Capacity Source with respect to the Contract Quantity, with the MISO as a Planning Resource that satisfies the resource adequacy requirement obligations of

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the MISO Transmission & Energy Markets Tariff (“TEMT”) and (b) to utilize the Capacity Source as Daily Capacity to meet the Buyer’s Local Balancing Authority (“LBA”) daily resource adequacy requirement.

“Daily Capacity” means an amount equal to the Installed Capacity (“ICAP”), or percentage of ICAP (if only a portion of a resource is the Capacity Source), from the Capacity Source that must be offered by Seller into the MISO Day-Ahead Market pursuant to the MISO Documents.

During periods of unit outage, Seller shall provide timely notification and will have the option of replacing Capacity. Details are provided in the attached Confirmation Agreement.

”Capacity Source” means, for each Transaction, in respect of that/those certain Generation Resource(s) affiliated with Seller or to which Seller has rights, the units and commercial pricing nodes (“CP Node”) associated therewith set forth in Exhibit A (the foregoing collectively, the “Initial Source”), or any such other Generation Resource(s) and CP Nodes as determined by Seller at any time (“Alternate Sources”), provided that: (i) such Alternate Resources meet the definition of Product herein; (ii) Seller shall provide written and verbal notice to Buyer of Seller’s substitution of Alternate Sources (a) if before one (1) day prior to the applicable Period of Delivery, as soon as practicable, and (b) if one (1) day prior to the applicable Period of Delivery or during the Period of Delivery, no later than one hour prior to the close of the MISO Day-Ahead Energy Market for the applicable Operating Day; and (iii) if Seller meets the conditions of (i) and (ii) above, such Alternate Sources shall thereafter be a Capacity Source for all purposes hereunder and shall comply with all the terms and conditions set forth in this Confirmation Agreement, including, but not limited to, meeting the same deliverability capabilities as set forth in this Confirmation Agreement with respect to the Initial Source.

### **3.2 Bidding Requirements**

Bidders may offer bids for any or all of these monthly capacity requirements subject to the following restrictions:

1. Capacity shall be bid in whole MW amounts with a minimum bid quantity no less than 10 MW, in increments of 10 MW, and a maximum quantity equal to the Capacity Amount for that specific month. Each bid increment must have an associated price.
2. Bidders may offer capacity for some or all the months independently. For example, a bidder may offer 80 MW in blocks in month A, 100 MW in month C, and 50 MW in month E, and any of those bids may be accepted or rejected.

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3. Bidders may not offer capacity bids with contingencies, such that acceptance of one bid is conditioned upon the acceptance or rejection of another bid.
4. The bidder's Capacity Source and associated CP Node and Network Resource name must be specified in the bid. Bids from a system of multiple units must identify each Network Resource to be used by name and CP Node.
5. During periods of unit outage, the bidder's replacement Capacity Source for the Capacity Amount must comply with the obligations of a Network Resource under the MISO Agreements.
6. The capacity offered by the bidder under this RFP may not be committed to any buyer other than the Ameren Illinois Utility, with whom the bidder has contracted, during the same delivery period.

4.0 Other Requirements

4.1 Contract

The Ameren Illinois Utilities expect to individually enter into binding contracts with the winning bidders. Winning bidders in the RFP process will be expected to enter into three contracts: one with AmerenCIPS for 33% of the total contract amount, one with AmerenCILCO for 17% of the total contract amount and one with Ameren IP for 50% of the total contract amount. A draft of the proposed contract is included with this RFP as Attachment A, Confirmation Agreement. The terms and conditions specified in the proposed contract are designed to be consistent with the terms and conditions of the Edison Electric Institute Master Purchase and Sale Agreement Version 2.1.

**Example**

Following the bid evaluation process, Bidder A is identified as a winner for the following products and quantities.

July 2009	400 MW
August 2009	400 MW
January 2010	500 MW
February 2010	300 MW

At the conclusion of the ICC review period, Bidder A would enter into separate contracts with each of the three Ameren Illinois Utilities as follows:

	AmerenCIPS	AmerenCILCO	AmerenIP
July 2009	132 MW	68 MW	200 MW
August 2009	132 MW	68 MW	200 MW

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January 2010	165 MW	85 MW	250 MW
February 2010	99 MW	51 MW	150 MW

Prospective bidders will be provided the opportunity to comment on the draft contract. Comments from prospective bidders regarding the contract terms may be submitted to the Procurement Administrator through the procurement website, at <http://www.levitan.com/AIURFP>. Bidders should download the contract documents and submit comments in red-lined form via email to [aiurfp@levitan.com](mailto:aiurfp@levitan.com). The contract comments will be provided to the ICC for review. Based on comments received from bidders during the Bidder Comment Period, the Procurement Administrator reserves the right to modify the terms of the contract prior to the date when binding bids are due. Bidders must agree to the terms of the final contract in advance of submitting binding bids. The terms of the contract will not be subject to negotiation with the winning bidders.

4.2 Credit Requirement

Prospective bidders will submit credit information in conjunction with the Bidder Pre-Qualification Application described in section 5.3 of this RFP. Each bidder will be required to provide a pre-bid irrevocable letter of credit (“ILOC”) to ensure winning bidders whose bids are approved by the ICC execute contracts.

5.0 RFP Schedule and Procedure

5.1 Schedule

The following schedule and deadlines apply to this RFP. Subject to the provisions of the IPA Act, LAI reserves the right to revise this schedule at any time with the concurrence of the Procurement Monitor. Announcements regarding any schedule revisions will be posted on the RFP website at <http://www.levitan.com/AIURFP>.



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<b>Activity</b>	<b>Date</b>
RFP Issued	March 20, 2009
Bidder Pre-Qualification Applications Due	5:00 p.m. CPT, April 3, 2009
Bidders Notified of Results of Pre-Qualification Application Review	April 8, 2009
Bidder Contract Comment Period	March 20, 2009 to April 3, 2009
Final Contracts Posted to Website	April 8, 2009
Bidder Practice Session	April 9, 2009
Irrevocable Pre-Bid Letter of Credit Due, Bidder Registration Form Due	5:00 p.m. CPT, April 9, 2009
Binding Bids Due	12:00 noon, CPT, April 13, 2009
Procurement Administrator Submits Report to ICC	April 14, 2009 <sup>2</sup>
ICC Approval of Recommendation	April 16, 2009 <sup>3</sup>
Bidders Notified of Selection	April 16, 2009 <sup>4</sup>
Contracts Executed with Selected Suppliers; Performance Assurance Provided	No later than April 22, 2009

5.2 Communications

LAI's point of contact for this RFP is:

John Bitler, Vice President & Principal  
Levitan & Associates, Inc.  
100 Summer Street, Suite 3200  
Boston, MA 02110

Office: 617-531-2818 x 22  
Fax: 617-531-2826  
Email: jrb@levitan.com

<sup>2</sup> Legislation allows the Procurement Administrator two days to submit its report to the ICC. LAI will submit its report within one day.

<sup>3</sup> Legislation allows the ICC two days after the Procurement Administrator submits its report to approve the recommendation of winning bids.

<sup>4</sup> Winning bidders will be notified immediately after the ICC approves the Procurement Administrator's report and recommendations.

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All questions regarding this RFP must be submitted in writing to the procurement website at: <http://www.levitan.com/AIURFP>. Questions should not be directed to the Ameren Illinois Utilities. Questions and responses will be posted on the website. All identifying information will be redacted from the questions and responses prior to posting.

The Pre-Qualification Application and the Binding Bid must be submitted to the secure procurement website at <http://www.levitan.com/AIURFP>.

### **5.3 Bidder Pre-Qualification Application**

Bidders shall submit a complete Pre-Qualification Application through the secure procurement website at <http://www.levitan.com/AIURFP> no later than 5:00 p.m. on April 3, 2009. A non-refundable fee of \$500 (the "Bid Participation Fee") will be required for any bidder submitting a Pre-Qualification Application. The Bid Participation Fee can be submitted by certified check mailed to: Levitan & Associates, Inc., Attn: John Bitler, 100 Summer Street, Suite 3200, Boston, MA 02110. The check should be made out to "Levitan & Associates, Inc." The Bid Participation Fee can also be submitted via wire transfer. Wire transfer instructions can be requested by emailing [aiurfp@levitan.com](mailto:aiurfp@levitan.com).

The Pre-Qualification Application must contain the following information. All non-public information will be treated as confidential.

5.3.1 Bidder's Information. Provide name of company, address, and company representative (name, phone number, email address and fax number). Provide basic information on the bidder as requested, including a brief description of bidder ownership or operation of capacity sources in MISO. Describe any defaults or adverse situations as requested. This information will be treated as confidential.

5.3.2 Financial Information. The bidder or its parent company that is providing an unconditional corporate guarantee (Guarantor) must provide the following information indicating financial condition and evidence of creditworthiness. (a) Credit information must include the current senior unsecured long-term debt credit ratings from Standard & Poor's, Moody's, and Fitch, if available, or if not available, the current issuer or corporate credit ratings. (b) Financial information must include the most recent annual audited financial statement from an SEC Form 10-K, most recent quarterly unaudited financial statement from an SEC Form 10-Q, all SEC Form 8-Ks filed since the last Form 10-K or Form 10-Q, and all associated notes to such financial statements. If these financial statements are not available, provide substitute financial information and a signed attestation from the company's Chief Financial Officer that the substitute financial information is

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accurate and complete. (c) Prior to execution of the Confirmation Agreement referenced in this RFP, if there is any subsequent material change in credit rating (including watch list actions), litigation, financial commitments, contingencies, or financial condition, a statement describing such material change must be submitted to LAI within 1 business day of occurrence. LAI will utilize this financial information to assess the creditworthiness of the bidder or its Guarantor, and calculate the collateral Threshold (set forth in Table A in Section 5.5 below) that will be in effect for the bidder.

5.3.3 The bidder will certify that the bidder is not part of a joint venture or participating in a bidding agreement with another bidder for the purposes of submitting a bid under this RFP.

### **5.4 Requests for Additional Information from Bidders**

The Procurement Administrator may contact bidders to obtain additional clarification regarding the Pre-Qualification Application. All requests for information from the Procurement Administrator will be issued in writing, via email.

### **5.5 Review of Bidder Pre-Qualification Application**

The Procurement Administrator and Procurement Monitor will review the Pre-qualification Applications submitted by prospective bidders to determine the completeness of the applications. The information provided will be used to pre-qualify all prospective bidders.

The bidder must meet specific creditworthiness criteria in order to be eligible for a positive collateral Threshold. Table A below illustrates the collateral Thresholds for different credit ratings. Each bidder and Guarantor will be granted a single credit limit to be applied across any Confirmation Agreement awarded as a result of this Capacity RFP and all other Fixed Price Customer Supply Contracts (as defined in Attachment A) between the parties.

Notwithstanding the foregoing, if the bidder has entered into one or more BGS-FP Supplier Forward Contracts ("SFC") with the Ameren Illinois Utilities following the 2006 Illinois auction and such SFCs call for delivery of products beyond May 31, 2009, the bidder's Threshold shall equal the lesser of (a) the positive amount, if any, determined by multiplying each utility's share (IP 50%, CIPS 33% and CILCO 17%) and the amount by which the Credit Limit under the SFCs exceeds the Total Exposure Amount under the SFCs (if the result is a negative amount, the bidder's Threshold shall be zero) and (b) the bidder's Threshold as determined in accordance with the paragraph immediately above and

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Table A.

The credit rating used for Table A will be the lowest senior unsecured long-term debt rating then assigned by Standard and Poor’s (a division of The McGraw-Hill Companies) (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”) or Fitch Ratings (a subsidiary of Fimalac, S.A.) (“Fitch”) or their respective successors, or if such senior unsecured long-term debt rating is not available, then the then assigned issuer rating (or corporate credit rating) assigned by S&P or Fitch, discounted one notch, or the then assigned issuer rating assigned by Moody’s; provided, however, that (a) in the event a Party is rated by all three rating agencies, then the lower of the two highest ratings will be used and (b) in the event the two highest ratings are common, such common rating will be used.

**Table A**

Credit Rating			Threshold (the lesser of the following)	
S&P	Moody’s	Fitch	Percent of Tangible Net Worth	Credit Limit
A- and above	A3 and above	A- and above	16%	\$80,000,000 [\$40,000,000 – IP] [\$26,400,000 – CIPS] [\$13,600,000 – CILCO]
BBB+	Baa1	BBB+	10%	\$60,000,000 [\$30,000,000 – IP] [\$19,800,000 – CIPS] [\$10,200,000 – CILCO]
BBB	Baa2	BBB	8%	\$40,000,000 [\$20,000,000 – IP] [\$13,200,000 – CIPS] [\$6,800,000 – CILCO]
BBB-	Baa3	BBB-	6%	\$20,000,000 [\$10,000,000 – IP] [\$6,600,000 – CIPS] [\$3,400,000 – CILCO]
Below BBB-	Below Baa3	Below BBB-	0%	\$0

**5.6 Bidder Registration**

Once the Procurement Administrator has completed its review of the Pre-Qualification Applications, bidders will be notified if they have or have not been pre-qualified. Notification of pre-qualification will be issued no later than April 8, 2009. If a bidder satisfies the pre-qualification

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requirements, the bidder will then be required to provide the Ameren Illinois Utilities with a pre-bid ILOC in the amount of \$100,000. The pre-bid ILOC must be in the form provided as Attachment B. The pre-bid ILOC must be provided by 5:00 p.m. CPT on April 9, 2009 in order to satisfy the registration requirements. Such pre-bid ILOC must remain valid from April 9, 2009 through April 24, 2009.

### **5.7 Binding Bids**

Registered bidders shall submit binding, firm and irrevocable bids for each product offered no later than 12:00 noon CPT, April 13, 2009. Binding bids must be submitted on the form provided on the secure procurement website. Capacity bids shall be priced at \$ per MW-month over the term of the bid. Bids must be offered as sealed, binding commitment with pay-as-bid-settlement with a fixed price. The bidder will be responsible for providing Capacity for all hours of the term.

### **5.8 Notification and Award**

In accordance with the IPA Act, the Procurement Administrator will evaluate the binding bids immediately after 12:00 noon CPT, April 13, 2009, and will submit a confidential report of the procurement and the bids recommended for selection within two business days of receipt to the ICC. As specified in Section 16-111.5 (f), the ICC shall review the confidential report and shall accept or reject the recommendations of the procurement administrator within two business days after receipt of the report.

The Procurement Administrator will notify the successful bidder(s) immediately upon receiving approval from the ICC. The successful bidders will be required to sign the contract upon notification that they have been selected. The maximum time between the close of bidding and the execution of the contract, which is specified by the PUA, is 7 business days, based on the following provisions. (a) The Procurement Administrator and the Procurement Monitor will submit separate confidential reports on the procurement results and recommendation to the ICC within 2 business days after opening the bids. (b) The ICC will review the reports and accept or reject the recommendations of the Procurement Administrator within 2 business days of after receipt of the reports. (c) The individual Ameren Illinois Utilities, AmerenCILCO, AmerenCIPS and AmerenIP, will enter into binding contracts with the winning bidders within 3 business days after the ICC approves the results of the procurement.

### **5.9 Performance Assurance**

Immediately following execution of the Confirmation Agreements, if a

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Seller's collateral Threshold is less than 10% of the remaining contract value, the Seller will be required to provide performance assurance in the form of a letter of credit, cash collateral or another form of commercially reasonable security acceptable to Buyer. Such assurance would be equal to the positive difference, if any, between 10% of the remaining contract value with respect to all outstanding transactions under the Confirmation Agreement and the Seller's collateral Threshold, rounded up to the nearest \$10,000.

### 6.0 Evaluation Process and Criteria

#### 6.1 Evaluation of Binding Bids

Upon receipt of binding bids from Registered Bidders, the Procurement Administrator will evaluate the bids in accordance with the requirements specified in Section 16-111.5 (e) of the PUA. Bids will be evaluated based on price to arrive at the lowest cost combination of bids that satisfy the monthly Capacity Amounts, subject to price benchmarks. The Procurement Administrator, in consultation with the Procurement Monitor, the ICC Staff, and the IPA, will establish market-based price benchmarks for the purpose of independently evaluating the bids received. The benchmarks will be considered confidential but will be subject to review and approval by the ICC prior to bidding. By submitting a binding bid, the bidder agrees to execute the contract upon award.

#### 6.2 Bids Not Subject to Subsequent Negotiation

Illinois law grants procurement administrators the "discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; [and further provides that] any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and shall be conducted in a fair and unbiased manner; [and further provides that] in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; [and further provides that] if information is disclosed to any bidder, it shall be provided to all competing bidders." (220 ILCS 5/16-111.5(c)(1)(vii)) Illinois law also requires the procurement administrator to "notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks." (220 ILCS 5/16-111.5(e)(1)) **In accordance with this discretion, LAI has chosen NOT to engage in any post-bid price negotiations as a part of this RFP.**

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### **6.3 Binding Bids**

All bids must remain open, firm and binding until 5:00 pm on April 17, 2009 or until the Illinois Commerce Commission has approved the results of the procurement event.

Those bids that are identified as winning bids following the Commission's approval of the procurement event must remain open, firm and binding until April 22, 2009 or until the bidder has executed a contract, whichever comes first.

### **7.0 Confidentiality**

Except for bidder's questions on the RFP, all information provided through the secure procurement website will be considered confidential. The Procurement Administrator will take reasonable precautions and use reasonable efforts to maintain the confidentiality of all Pre-Qualification Applications and Binding Bids submitted. Bidders should be aware that, in addition to employees of the Procurement Administrator, the Procurement Monitor will have concurrent access to all information on the secure procurement website. The Procurement Monitor is under contract with the ICC, and has pledged to protect all confidential information to which the Procurement Monitor has access during this RFP. The ICC will also receive confidential reports from the Procurement Administrator and from the Procurement Monitor, which may contain confidential information submitted by bidders. The winning bidders and the load weighted average of the winning bid prices for each product will be announced publicly after the ICC approves the RFP results and the Procurement Administrator's recommendations. In addition, the ICC determined that the number of megawatts awarded for each contract type and for each contract term will be publicly disclosed after a Commission vote accepting a procurement administrator recommendation to accept certain bids, provided there are at least three winning bidders in the entire procurement event.

Prior to the selection of winning bids, bidders will be prohibited from (i) disclosing any information about their bids to other parties and (ii) receiving information about competing bids from other parties. No party will disclose the terms or conditions of such agreements, except (i) to those persons who have a need to know and have agreed to keep such information confidential, and (ii) to comply with any applicable law, rule, regulation, tariff, or court order, consistent with PUA section 16-111.5(h).

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