



# **2018 Bundled RPS Energy Sale - Solicitation Protocol**

**Issuance Date: February 13, 2018**

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Attachment A: 2018 Bundled RPS Energy Sale Bid Form

Attachment B: 2018 Bundled RPS Energy Sale EEI Master Agreement Confirmation

Attachment C: 2018 Bundled RPS Energy Sale Non-Disclosure Agreement

## I. Overview

### A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing the 2018 Bundled RPS Energy Sale Solicitation (“Solicitation” or “2018 RPS Sale”) to solicit bids (“Bids”) from participants (“Participants” or “Bidders”) for bundled Renewable Portfolio Standard (“RPS”) - eligible energy and associated Renewable Energy Credits (“RECs”) (collectively, “Product”) pursuant to a confirmation (“Agreement”). This Solicitation protocol (“Solicitation Protocol”) describes the process by which PG&E seeks, evaluates, and accepts Bids in this solicitation from winning Bidders (“Buyers”).

The 2018 RPS Sale complies with PG&E’s 2017 RPS Plan, which was approved by the California Public Utilities Commission (“CPUC” or “Commission”) in Decision 17-12-007.

Subject to Bid pricing and other factors in this Solicitation Protocol, PG&E seeks to sell a volume of Product commensurate with Bid prices received. PG&E will utilize a proprietary price curve to determine the volume of Product available for sale at different price points.

PG&E will make all sales according to the terms and conditions set forth in the Agreement. This Solicitation Protocol sets forth the procedures a Bidder must follow in order to participate in the Solicitation. Capitalized terms used in this Solicitation Protocol, but not otherwise defined herein, have the meanings set forth in the Agreement.

### B. Bundled RPS Energy Sale Solicitation Communication

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PG&E has established the 2018 RPS Sale website at <http://www.pge.com/rfo> under “2018 Bundled RPS Energy Sale Solicitation.” This site will be where Bidders register and where all Solicitation documents, information, announcements and questions and answers are posted and available to Bidders.

To promote accuracy and consistency of the information provided to all Bidders, PG&E encourages Bidders to submit any inquiries via e-mail to [RECSolicitations@pge.com](mailto:RECSolicitations@pge.com) for matters related to the 2018 RPS Sale. With respect to matters of general interest raised by any Bidder, PG&E may, without reference to the specific Bidder raising such matter or initiating the inquiry, post the questions and responses on its website. PG&E may, in its sole discretion, decline to respond to any email or other inquiry.

Any exchange of material information regarding this Solicitation between Bidder and PG&E must be submitted to both PG&E and the Independent Evaluator (“IE”). The IE is an independent, third party evaluator who is required by CPUC Decision 04-12-048 to ensure this Solicitation is conducted in a reasonable and neutral manner.

**2018 Bundled RPS Energy Sale Solicitation Protocol**

**C. Schedule**

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The Solicitation schedule is subject to change to conform to any CPUC requirements but otherwise is at the discretion of PG&E. PG&E will post any schedule changes on PG&E’s 2018 RPS Sale website. Also, as further described below, Bidders may register at PG&E’s RFO website to receive notice of these and other Solicitation changes by electronic mail. PG&E will have no liability or responsibility to any Bidder for any change in the schedule or for failing to provide notice of any change.

The schedule for this Solicitation is (all times are in Pacific Prevailing Time (“PPT”)):

**Table 1: 2018 Bundled RPS Energy Sale Solicitation Schedule of Events**

<b>Date/Time</b>	<b>Event</b>
Ongoing	Bidders may register online at PG&E’s RFO website to receive notices regarding the Solicitation.
February 13, 2018	PG&E issues the Solicitation.
February 21, 2018	Participants’ Webinar
February 27, 2018 at 1:00 PM	Bids Due. Bid(s) must be submitted to the online platform at Power Advocate.
March 6, 2018	PG&E notifies shortlisted Participants.
March 23, 2018	PG&E and shortlisted Participants complete negotiation of an Agreement, which shall be subject to “CPUC Approval,” as provided in the Agreement.
No later than 60 days after execution	PG&E submits Agreements for CPUC Approval.

**D. Events in the Solicitation Schedule**

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- a. Registration. Bidders may register online to receive announcements and updates about this Solicitation through [www.pge.com/rfo](http://www.pge.com/rfo).
- b. Issuance. PG&E will issue the 2018 RPS Sale Solicitation and post the Solicitation Protocol, form of Agreement, and all other solicitation materials on the 2018 RPS Sale website.
- c. Participants’ Webinar. PG&E will hold a Participants’ Webinar to review key Protocol items related to this solicitation.
- d. Bids Due. Bids must be submitted via Power Advocate and must include all of the documents described in Section IV, Required Information. By submitting a Bid and responding to this Solicitation, the Bidder agrees to be bound by all of the terms, conditions and other provisions of this Solicitation and any changes or supplements to it that may be issued by PG&E.

- e. PG&E Selects Bids. Selected Bids (“Selected Bids”) will be notified via email. PG&E will select Bids according to the evaluation criteria described in Section III, Evaluation Criteria. Bids beyond the Selected Bids may be placed on a waitlist to be selected in order of evaluation results and selection constraints, should any Selected Bids fail to complete the Solicitation process.
- f. Negotiation of Agreement. PG&E will engage in limited negotiations with Participants with Selected Bids.
- g. Execution and Regulatory Approval. Once PG&E and the Participants with Selected Bids execute Agreements, if any, resulting from this Solicitation, PG&E will submit all such Agreements to the CPUC for approval via an advice letter filing. Additional regulatory approval information is provided in Section VII, Regulatory Approval.

#### **E. Disclaimers for Rejecting Bids and/or Terminating this Solicitation**

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This Solicitation does not constitute an offer to sell and creates no obligation to execute any Agreement or to enter into a transaction under an Agreement as a consequence of the Solicitation. PG&E shall retain the right at any time, at its sole discretion, to reject any Bid on the grounds that it does not conform to the terms and conditions of this Solicitation and reserves the right to request information at any time during the Solicitation process.

PG&E retains the discretion, subject to, if applicable, the approval of the CPUC, to: (a) reject any Bid for any reason, including but not limited to the basis that a Bid is the result of market manipulation or is not cost-competitive or any other applicable reason; (b) modify this Solicitation and the form Agreement as it deems appropriate to implement the Solicitation and to comply with applicable law or other decisions or direction provided by the CPUC; and (c) terminate the Solicitation should the CPUC not authorize PG&E to sell the Product in the manner proposed in this Solicitation. In addition, PG&E reserves the right to either suspend or terminate this Solicitation at any time if such suspension is required by or with the approval of the CPUC. PG&E will not be liable in any way, by reason of such withdrawal, rejection, suspension, termination or any other action described in this Solicitation Protocol to any Bidder, whether submitting a Bid or not.

## **II. Solicitation Product and Goals**

PG&E is seeking to sell Product with the exact volume to be determined based on the price of bids received.

### **A. Product Attributes**

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**2018 Bundled RPS Energy Sale Solicitation Protocol**

1. Bundled RPS-eligible energy and associated RECs from resources in PG&E's portfolio.
2. Price: NP15 or SP15 Index + REC Price to be specified by Buyer.
3. Location: Buyer to choose energy deliveries at NP15 Trading Hub or SP15 Trading Hub.
4. Scheduled Energy Deliveries: Energy deliveries may be in any months or hours that are mutually agreeable.
5. Delivery Term: 2018, 2019, 2020, 2021 and 2022.

### **III. Evaluation Criteria**

PG&E will evaluate Bids using the evaluation criteria outlined below. PG&E will evaluate Bids for each delivery year independently, which may result in the selection of Bids for non-consecutive delivery years from one Bidder.

#### **A. Quantitative Evaluation**

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For Bids in the 2018 RPS Sale, PG&E will consider Price offered as the sole quantitative criterion.

#### **B. Qualitative Evaluation**

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For the 2018 RPS Sale, PG&E may apply a qualitative adjustment factor for counterparties that have acceptable credit with PG&E and minimize proposed edits to the form of Agreement.

##### **1. Credit**

PG&E may consider the Participant's capability to perform all of its financial and financing obligations under the Agreement and PG&E's overall credit concentration with the Participant or its banks, including any of Participant's affiliates.

##### **2. Agreement Modifications**

PG&E may assess the materiality and cost impact of any of Participant's proposed modifications to the Agreement. PG&E has a preference for standardized Agreements. To the extent possible, PG&E requests Bidders limit edits to the Agreement to the following sections:

- Product (in limited circumstances)
- Quantity
- Green Attributes Price
- Energy Delivery Period
- Delivery Point
- Credit Terms

##### **3. Other Qualitative Considerations**

In addition to the criteria specifically listed above, PG&E may consider other qualitative factors that could impact the value of Bids, including, but not limited to: previous adverse commercial experience between PG&E and Participant; Participant concentration; and existence of an acceptable EEI Master Agreement between PG&E and Participant.

## IV. Required Information

### A. Submission Overview

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All Bid submittal information pertaining to this Solicitation will be hosted on the Power Advocate site. Telephonic, hardcopy or facsimile transmission of a Bid is not acceptable. In order to participate in this Solicitation, Bidders must register and be accepted through Power Advocate at the Public Registration Link:

<https://www.poweradvocate.com/pR.do?okey=76065&pubEvent=true>

PG&E strongly encourages Bidders to register with Power Advocate well before Bids are due. Detailed instructions for submitting Bid(s) and using Power Advocate are on PG&E's 2018 RPS Sale website.

**Electronic Documents:** The electronic documents for the attachments must be in a Microsoft Word, Excel file or Adobe Acrobat PDF file as applicable. For each document, please include the Bidder's company name in each file name.

### B. Required Forms

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#### 1. Bid Package

The following documents, which are on the PG&E's 2018 RPS Sale website, must be completed and included with each Bid:

- a. Bid Form (Attachment A)
  - i. Bidder must provide all applicable information requested in the form, and all inputs must match the respective information provided in other required documentation.
  - ii. PG&E will only accept one Bid per counterparty. Brokers submitting on behalf of multiple counterparties may do so, but must designate the name of counterparty in the Bid Form.
  - iii. PG&E will not accept Bids that are contingent on the selection of a specified delivery year(s).
- b. Redline of Agreement (Attachment B)

## 2. Shortlist Documents (if applicable)

If the Bidder is notified via an emailed letter that they are eligible for PG&E's Shortlist ("Shortlist Letter"), Bidder must submit the following documents upon acceptance of its shortlist position in the 2018 RPS Sale:

- a. Any redline of Non-Disclosure Agreement (Attachment C); and
- b. Documentation of Entity Legal Status from the California Secretary of State
  - i. Bidder or end-user counterparty must demonstrate that it has an "Active" legal status authorized by the California Secretary of State in order to engage in business with PG&E. A webpage screenshot verifying Bidder or end-user counterparty's "Active" legal status via the California Secretary of State's webpage is acceptable. The California Secretary of State website is located at <https://businesssearch.sos.ca.gov/>.

## V. Confidentiality

No Bidder shall collaborate on or discuss with any other Bidder or potential Bidding strategies, the substance of any Bid(s), including without limitation the price or any other terms or conditions of any Bid(s), or whether PG&E has Selected Bids or not.

All information and documents in Bidder's Package that have been clearly identified and marked by Bidder as "Proprietary and Confidential" on each page on which confidential information appears shall be considered confidential information. PG&E shall not disclose such confidential information and documents to any third parties except for PG&E's employees, agents, counsel, accountants, advisors, or contractors who have a need to know such information and have agreed to keep such information confidential and except as provided otherwise in this section. In addition, Bidder's Package will be disclosed to the IE.

Notwithstanding the foregoing, it is expressly contemplated that the information and documents submitted by Bidder in connection with this Solicitation, including Bidder's confidential information, may be provided to the CPUC, its staff, and the Procurement Review Group ("PRG"), and established pursuant to Decision 02-08-071. PG&E retains the right to disclose any information or documents provided by Bidder to the CPUC, the PRG, in the advice letter filing or in order to comply with any applicable law, regulation, or any exchange, control area or California Independent System Operator ("CAISO") rule, or order issued by a court or entity with competent jurisdiction over PG&E at any time even in the absence of a protective order, confidentiality agreement, or nondisclosure agreement, as the case may be, without notification to Bidder and without liability or any responsibility of PG&E to Bidder. PG&E cannot ensure that the CPUC will afford confidential treatment to Bidder's confidential information, or that confidentiality agreement or orders will be obtained from and/or honored by the PRG, the California Energy Commission ("CEC"), or the CPUC. By submitting a Bid, Bidder agrees to adhere and be bound by the confidentiality provisions described in this section.

The treatment of confidential information described above shall continue to apply to information related to Selected Bids.

## VI. Procurement Review Group Review

Following completion of the evaluation and rankings of Bids, PG&E will submit the results of the evaluation and its recommendations to its PRG members. PG&E will consider any alternative recommendations proposed by the PRG. PG&E, in its sole discretion, shall determine whether any alternatives proposed by the PRG should be adopted. PG&E has no obligation to obtain the concurrence of the PRG with respect to any Bids.

PG&E assumes no responsibility for the actions of the PRG, including actions that may delay or otherwise affect the schedule for this Solicitation, including the timing of the selection of Bids and the obtaining of Regulatory Approval.

## VII. Regulatory Approval

After Agreement execution, PG&E is required to submit executed Agreements to the CPUC for approval via an advice letter filing.

The effectiveness of any executed Agreement is expressly conditioned on PG&E's receipt of final and non-appealable CPUC approval of such Agreement ("Regulatory Approval").

## VIII. Dispute Resolution

Except as expressly set forth in this Solicitation Protocol, by submitting a Bid, Bidder knowingly and voluntarily waives all remedies or damages at law or equity concerning or related in any way to the Solicitation, the Solicitation Protocol and/or any attachments to the Solicitation Protocol ("Waived Claims"). The assertion of any Waived Claims by Bidder may, to the extent that Bidder's Package has not already been disqualified, automatically disqualify such Bid from further consideration in the Solicitation.

By submitting a Bid, Bidder agrees that the only forums in which Bidder may assert any challenge with respect to the conduct or results of the Solicitation is through the Alternative Dispute Resolution ("ADR") services provided by the CPUC pursuant to Resolution ALJ-185, August 25, 2005. The ADR process is voluntary in nature, and does not include processes, such as binding arbitration, that impose a solution on the disputing parties. PG&E will consider the use of ADR under the appropriate circumstances. Additional information about this program is available on the CPUC's website at the following link: [www.cpuc.ca.gov/PUBLISHED/Agenda\\_resolution/47777.htm](http://www.cpuc.ca.gov/PUBLISHED/Agenda_resolution/47777.htm).

Participant further agrees that other than through the ADR process, the only means of challenging the conduct or results of the Solicitation is a protest to an Advice Letter Filing seeking approval of one or more Agreements entered into as a result of the Solicitation, that the sole basis for any such protest shall be that PG&E allegedly failed in a material respect

to conduct the Solicitation in accordance with this Solicitation Protocol, and the exclusive remedy available to Bidder in the case of such a protest shall be an order of the CPUC that PG&E again conduct any portion of the Solicitation that the CPUC determines was not previously conducted in accordance with the Solicitation Protocol. Bidder expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorney's fees. Unless PG&E elects to do otherwise in its sole discretion during the pendency of such a protest or ADR process, the Solicitation and any related regulatory proceedings related to the Solicitation, will continue as if the protest had not been filed, unless the CPUC has issued an order suspending the Solicitation or PG&E has elected to terminate the Solicitation.

Bidder agrees to indemnify and hold PG&E harmless from any and all claims by any other Bidder asserted in response to the assertion of a Waived Claim by Bidder or as a result of a Bidder's protest to an advice letter filing with the CPUC resulting from the Solicitation.

Except as expressly provided in this Solicitation Protocol, nothing herein including Bidder's waiver of the Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of PG&E. Nothing in this Solicitation Protocol is intended to prevent any Bidder from informally communicating with the CPUC or its staff regarding this solicitation.

## **IX. Termination of the Solicitation-Related Matters**

PG&E reserves the right at any time, in its sole discretion, to terminate the Solicitation for any reason without prior notification to Bidders and without liability to, or responsibility of, PG&E or anyone acting on PG&E's behalf. Without limitation, grounds for termination of the Solicitation may include the assertion of any Waived Claims by a Bidder or a determination by PG&E that, following evaluation of the Bids, there are no Bids that meet the requirements of this Solicitation.

PG&E reserves the right to terminate further participation in this process by any Bidder, to accept any Bid or to enter into any Agreement, and to reject any or all Bids, all without notice and without assigning any reasons and without liability to PG&E or anyone acting on PG&E's behalf. PG&E shall have no obligation to consider any Bids.

In the event of termination of the Solicitation for any reason, PG&E will not reimburse Bidder for any expenses incurred in connection with the Solicitation. PG&E shall have no obligation to reimburse any Bidder's expenses regardless of whether such Bidder's Package is selected, not selected, rejected or disqualified. Unless earlier terminated, the Solicitation will terminate automatically upon the execution of one or more Agreements by Participants with Selected Bids. In the event that no Agreements are executed, then the solicitation will terminate automatically on July 31, 2018.

## X. Bidder's Representations and Warranties

1. By submitting a Bid and clicking "Yes" to the "Acknowledgment of Protocol" section of the Bid Form, Bidder agrees to be bound by the conditions of the Solicitation, and makes the following representations, warranties, and covenants to PG&E, which representations, warranties, and covenants shall be deemed to be incorporated in their entirety into each of Bidder's Package. Bidder agrees that an electronic signature of a duly authorized representative of Bidder shall be the same as delivery of an executed original document for purposes of the Bid Form.
  - Bidder has read, understands and agrees to be bound by all terms, conditions and other provisions of this Solicitation Protocol;
  - Bidder has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the Solicitation and this Solicitation Protocol, including the submittal forms and documents listed in this Solicitation Protocol which are posted on the RFO website;
  - Bidder has obtained all necessary authorizations, approvals and waivers, if any, required by Bidder to submit its Bid pursuant to the terms of this Solicitation Protocol and to enter into an Agreement with PG&E;
  - Bidder's Package complies with all applicable laws;
  - Bidder has not engaged, and covenants that it will not engage, in any communications with any other actual or potential Bidder in the Solicitation concerning this Solicitation, price terms in Bidder's Package, or related matters and has not engaged in collusion or other unlawful or unfair business practices in connection with the Solicitation;
  - Any Bid submitted by Bidder is subject only to PG&E's acceptance, in PG&E's sole discretion; and
  - The information submitted by Bidder to PG&E in connection with the Solicitation and all information submitted as part of any Bid is true and accurate as of the date of Bidder's submission. Bidder also covenants that it will promptly update such information with PG&E upon any material change thereto.
2. By submitting a Bid, Bidder acknowledges and agrees:
  - That PG&E may rely on any or all of Bidder's representations, warranties, and covenants in the Solicitation (including any Bid submitted by Bidder);
  - That in PG&E's evaluation of Bids pursuant to the Solicitation, PG&E has the right to disqualify a Bidder that is unwilling or unable to meet any other requirement of the Solicitation, as determined by PG&E in its sole discretion.

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3. BY SUBMITTING A BID, BIDDER HEREBY ACKNOWLEDGES AND AGREES THAT ANY BREACH BY BIDDER OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE SOLICITATION INSTRUCTIONS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH BIDDER, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO PG&E UNDER APPLICABLE LAW, AND DEPENDING ON THE NATURE OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE SOLICITATION IN ITS ENTIRETY.