



# **Spring 2020 Bundled RPS Energy Sale - Solicitation Protocol**

**Issuance Date: April 10, 2020**

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**LIST OF ATTACHMENTS**

Attachment A: Spring 2020 Bundled RPS Energy Sale - Bid Form

Attachment B: Spring 2020 Bundled RPS Energy Sale – Participant Attestations

Attachment C: Spring 2020 Bundled RPS Energy Sale - Confidentiality Agreement

## I. Overview

### A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing the Spring 2020 Bundled Renewable Portfolio Standard (“RPS”) Energy Sale Solicitation (“Solicitation”) to solicit bids (“Bids”) from participants (“Participants”) to purchase bundled RPS-eligible energy and associated Renewable Energy Credits (“REC”) (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 Participants (“Buyers”).

The Solicitation complies with PG&E’s 2019 RPS Plan, which was approved by the California Public Utilities Commission (“CPUC” or “Commission”) in Decision (D.19-12-042).

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 Participant 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 Solicitation website at <http://www.pge.com/rfo> under “Spring 2020 Bundled RPS Energy Sale Solicitation” where Participants can register for the Solicitation. All Solicitation documents, information, announcements and questions and answers will be posted and available to Participants at this website.

To promote accuracy and consistency of the information provided to all Participants, Participant must submit any inquiries via e-mail to [ShortTermRECSales@pge.com](mailto:ShortTermRECSales@pge.com) for matters related to the Solicitation. With respect to matters of general interest raised by any Participant, PG&E may, without reference to the specific Participant 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 Participant and PG&E must be submitted to both PG&E and the Independent Evaluator (“IE”), Lewis Hashimoto at [arroyosecoconsulting@gmail.com](mailto:arroyosecoconsulting@gmail.com). The IE is an independent, third party evaluator who is required by CPUC D.04-12-048 to ensure this Solicitation is conducted in a reasonable and neutral manner.

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**C. Schedule**

The Solicitation schedule is subject to change to conform to any CPUC requirements and at the discretion of PG&E. PG&E will post any schedule changes on PG&E’s Solicitation website. PG&E is planning an expeditious Solicitation process in order to facilitate timely approval of resulting sales. To enable successful involvement in this Solicitation, **PG&E encourages all Participants to begin any internal approval processes at the earliest opportunity possible**, in anticipation of the expedited timelines described below. Also, as further described below, Participants may register at PG&E’s Request for Offer (RFO) website to receive notice of these and other Solicitation changes by electronic mail. PG&E will have no liability or responsibility to any Participant 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):

**Table 1: Spring 2020 Bundled RPS Energy Sale Solicitation Schedule of Events**

Date/Time	Event
Ongoing	Participants may register online at PG&E’s RFO website to receive notices regarding the Solicitation.
April 10, 2020	PG&E issues the Solicitation.
April 16, 2020	Participants’ Webinar.
May 5, 2020	Bids Due. Participants must submit Bid(s) to the online platform at Power Advocate by 1 PM (PPT).
May 7, 2020	PG&E notifies qualified Participants.
Late-May 2020	PG&E and each qualified Participant execute 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**

- a. Registration. Participants 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 Solicitation and post the Solicitation Protocol, form of Agreement, and all other solicitation materials on the Solicitation 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(s) and responding to this Solicitation, the Participant 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 Qualified Bid List. PG&E will notify Participants via email if their Bids have been selected (“Qualified Bids”). PG&E will select Qualified Bids according to the evaluation criteria described in Section III, Evaluation Criteria. Notification of a Qualified Bid does not constitute an offer to sell by PG&E and PG&E may select Qualified Bids in excess of the number of Bids ultimately executed as part of the Solicitation.
- f. Execution of Agreement. PG&E and each Participant with a Qualified Bid may execute an Agreement
- g. Regulatory Approval. 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 Participant, whether submitting a Bid or not.

## **II. Solicitation Product**

PG&E is seeking to sell Product with the attributes listed below.

### **A. Product Attributes**

<b>Product Attributes for Spring 2020 Bundled RPS Energy Sale Solicitation</b>
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<b>Product</b>	<ul style="list-style-type: none"> <li>Bundled RPS-eligible energy and associated RECs from facilities in PG&amp;E’s portfolio.</li> </ul>
<b>Pricing</b>	<ul style="list-style-type: none"> <li>Energy – settled at the day-ahead NP15, ZP26 and/or SP15 Index (Trading Hub Price)</li> <li>REC – fixed price</li> </ul>
<b>Location</b>	<ul style="list-style-type: none"> <li>Selected by Seller in its discretion: NP15, SP15, and/or ZP26 Trading Hub.</li> </ul>
<b>Delivery Term</b>	<ul style="list-style-type: none"> <li>2020</li> <li>2021</li> <li>Delivery start date occurs upon final CPUC Approval of Tier 1 Advice Letter</li> </ul>
<b>Agreement</b>	<ul style="list-style-type: none"> <li>Confirm under an EEI Master Agreement</li> </ul>

### III. Evaluation Criteria

PG&E will evaluate Bids using the evaluation criteria outlined below.

#### A. Quantitative Evaluation

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For the Solicitation, PG&E will consider Price offered as the sole quantitative criterion.

#### B. Qualitative Evaluation

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For the Solicitation, PG&E may apply a qualitative adjustment factor for qualified Participants.

##### 1. Financial Strength

PG&E may consider the Participant’s capability to perform all of its financial obligations under the Agreement and PG&E’s overall credit concentration with the Participant or Participant’s bank used to meet its credit requirements, if applicable, 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 strong preference for standardized Agreements.

##### 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; counterparty diversity; completeness of Bid; and status 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, Participants must register and be accepted through Power Advocate at the Public Registration Link:

<https://www.poweradvocate.com/pR.do?okey=103690&pubEvent=true>

PG&E strongly encourages Participants to register with Power Advocate at least a week before Bids are due. Detailed instructions for submitting Bid(s) and using Power Advocate are on PG&E's Solicitation 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 Participant's company name in each file name. The Participant should not provide documents in other electronic formats, unless specifically requested.

### B. Required Forms

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#### 1. Bid Package

The following documents, which are on the PG&E's Solicitation website, must be completed and included with each PowerAdvocate Bid submission:

- a. Bid Form – (Attachment A)
  - i. The Bid Form is an editable PDF of the EEI Agreement Confirmation. PG&E will consider edits to the Agreement in the following sections:
    1. Quantity
    2. Green Attributes Price
  - ii. The EEI Agreement Confirmation is specific to transactions executed under an EEI Master Agreement with Collateral Annex and as such, Participants will need to have an EEI Master and Collateral Annex in place with PG&E prior to the execution of an Agreement in this Solicitation. Participants interested in establishing an EEI Master Agreement with PG&E should send an email to the Short-

Term REC Sales mailbox at [ShortTermRECSales@pge.com](mailto:ShortTermRECSales@pge.com) with such request as soon as possible.

- iii. PG&E will not accept volumes below 10,000 MWh per calendar year (minimum volume). Bids below these volumes will not be accepted.
- iv. Participant must provide all applicable information requested in the form, and all inputs must match the respective information provided in other required documentation.
- v. PG&E will only accept one Bid Form (editable PDF) per counterparty. Brokers submitting on behalf of multiple counterparties may do so, but must designate the name of the Buyer in the bid form (“Bid Form”).

b. Participant Attestations (Attachment B)

c. Executed Confidentiality Agreement (Attachment C)

d. Documentation of Entity Legal Status from the California Secretary of State or Joint Powers Authority

- i. Participant 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 Participant 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/>. Note, a Joint Powers Authority (“JPA”) is also acceptable.

## V. Confidentiality

No Participant shall collaborate on or discuss with any other Participant 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 qualified Bids or not.

All information and documents in Participant’s Package that have been clearly identified and marked by Participant 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, Participant’s Package will be disclosed to the IE.

Notwithstanding the foregoing, it is expressly contemplated that the information and documents submitted by Participant in connection with this Solicitation, including

Participant's confidential information, may be provided to the CPUC, its staff, and the Procurement Review Group ("PRG"), and established pursuant to D.02-08-071. PG&E retains the right to disclose any information or documents provided by Participant 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 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 Participant and without liability or any responsibility of PG&E to Participant. PG&E cannot ensure that the CPUC will afford confidential treatment to Participant's confidential information, or that confidentiality agreement or orders will be obtained from and/or honored by the PRG, the California Energy Commission, or the CPUC. By submitting a Bid, Participant 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 Qualified Bids.

## **VI. Procurement Review Group Review**

Following completion of the evaluation and ranking of Bids, PG&E will submit the results of the evaluation and its review to its PRG members. 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, Participant 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 Participant may, to the extent that Participant's Package has not already been disqualified, automatically disqualify such Bid from further consideration in the Solicitation.

By submitting a Bid, Participant agrees that the only forums in which Participant may assert any challenge with respect to the conduct or results of the Solicitation is through processes at the CPUC, including 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).

In addition to the ADR process referenced above, Participant further agrees that the only other means for Participant to challenge the conduct or results of the Solicitation is for Participant to protest PG&E's 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 Participant 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. Participant expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorneys' 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.

Participant agrees to indemnify and hold PG&E harmless from any and all claims by any other Participant asserted in response to the assertion of a Waived Claim by Participant or as a result of a Participant'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 Participant'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 Participant 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 Participants 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 Participant 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 Participant, 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

Participant for any expenses incurred in connection with the Solicitation. PG&E shall have no obligation to reimburse any Participant's expenses regardless of whether such Participant'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. If no Agreements are executed, then the solicitation will terminate automatically on August 15, 2020.

## X. Participant's Representations and Warranties

1. By submitting a Bid and clicking "Yes" to the "Acknowledgment of Protocol" section of the Bid Form, Participant 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 Participant's Package. Participant agrees that an electronic signature of a duly authorized representative of Participant shall be the same as delivery of an executed original document for purposes of the Bid Form.
  - Participant agrees to adhere and be bound by the confidentiality provisions described in the Spring 2020 Bundled RPS Energy Sale Solicitation Protocol and the Confidentiality Agreement included as Attachment C to the Solicitation Protocol.
  - Participant has read, understands and agrees to be bound by all terms, conditions and other provisions of this Solicitation Protocol;
  - Participant 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 Solicitation website;
  - Participant has obtained all necessary authorizations, approvals and waivers, if any, required by Participant to submit its Bid pursuant to the terms of this Solicitation Protocol and to enter into an Agreement with PG&E;
  - Participant's Package complies with all applicable laws;
  - Participant has not engaged, and covenants that it will not engage, in any communications with any other actual or potential Participant in the Solicitation concerning this Solicitation, price terms in Participant'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 Participant is subject only to PG&E's acceptance, in PG&E's sole discretion; and
  - The information submitted by Participant to PG&E in connection with the Solicitation and all information submitted as part of any Bid is true and

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accurate as of the date of Participant's submission. Participant also covenants that it will promptly update such information with PG&E upon any material change thereto.

2. By submitting a Bid, Participant acknowledges and agrees:

- That PG&E may rely on any or all of Participant's representations, warranties, and covenants in the Solicitation (including any Bid submitted by Participant); and
- That in PG&E's evaluation of Bids pursuant to the Solicitation, PG&E has the right to disqualify a Participant that is unwilling or unable to meet any other requirement of the Solicitation, as determined by PG&E in its sole discretion.

BY SUBMITTING A BID, PARTICIPANT HEREBY ACKNOWLEDGES AND AGREES THAT ANY BREACH BY PARTICIPANT OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE SOLICITATION INSTRUCTIONS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH PARTICIPANT, 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.