

## INSTRUCTIONS TO BIDDERS

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## PART 1 – INTRODUCTION

### 1.1 COMPANY BACKGROUND

Public Service Company of New Mexico (“PNM”) is a wholly owned subsidiary of PNM Resources, Inc. (NYSE: PNM) based in Albuquerque, N.M. PNM is an electric utility that provides generation, transmission, and distribution service. PNM’s retail service territory covers a large area of north central New Mexico, including the cities of Albuquerque, Rio Rancho, and Santa Fe and most of the area around the Rio Grande valley, from Belen to Santa Fe. Other communities served include Lordsburg, Silver City, Deming, Alamogordo, Ruidoso, Tularosa, Clayton, and Las Vegas. PNM also serves several New Mexico pueblos, tribes and nations and numerous unincorporated areas. In total, PNM serves about 530,000 electricity customers statewide. As shown in Figure 1, PNM’s electric service territory covers geographically diverse areas. Electric demand and energy usage varies based upon geography, customer mix, and climate.

PNM currently produces nearly 50 percent carbon free energy and has committed to being 100 percent carbon free by 2040, five years ahead of the state’s legislated date of 2045, as provided in the Renewable Energy Act, NMSA 1978, §§ 62-16-1 to -10 (“REA”). This commitment will involve PNM’s implementation of a combination of energy generation, storage, demand-side and energy efficiency resources over the next 20 years.

Figure 1. PNM’s Electric Service Territory Map



## **1.2 PURPOSE OF RFP**

PNM is progressing with the State of New Mexico's plan to create a sustainable energy future for New Mexico. PNM currently serves retail customers through supply-side resources and demand side management programs reliably, safely, and cost-effectively. Our commitment is to provide reliable power with a cleaner, more sustainable energy resource mix in a cost-effective manner for our customers. As outlined in our 2020 Integrated Resource Plan filed on January 29, 2021, PNM is taking significant measures with plans to meet this commitment. We are proud to issue this request for proposals ("RFP") to solicit Bids (each a "Bid" or "Proposal") from capable providers to deliver energy and capacity resources in support of this commitment.

This RFP is part of a solicitation process for the purpose of acquiring replacement resources associated with PNM's planned exit from the Four Corners Power Plant in December 2024 while also acquiring reliable, cost-effective resources consistent with the direction set forth in PNM's 2020 Integrated Resource Plan.

Respondents to this RFP (each a "Respondent") are required to propose resource options that support PNM's transition to a zero-carbon energy future by 2040 while fulfilling PNM's obligation to serve its customers with reliable, low cost energy, in an environmentally responsible manner. No resource type or project ownership structure is specifically requested, preferred, or excluded by PNM in response to this RFP. As PNM anticipates future solicitations to satisfy resource needs and to continue to explore opportunity resources, Respondents are encouraged to propose resource options that could potentially offer future capacity expansion and growth.

## **1.3 RESOURCES SOUGHT THROUGH THIS RFP**

PNM is soliciting Proposals for capacity and energy resources that facilitate the replacement of a portion of PNM's current portfolio and to support other anticipated resource needs in the near future. Specifically, PNM is targeting the acquisition of 200 to 400 MW of firm capacity for its New Mexico portfolio. The exact quantity of resources selected will be dependent upon resource characteristics, resource modeling and PNM's most recent load and planning forecasts as well as the resources selected in response to PNM's 2020 Replacement Generation RFP all of which is subject to New Mexico Public Regulation Commission ("NMPRC" or "Commission") approval. Parties interested in supplying resources that provide the best value to PNM's customers and that are in alignment with PNM's goals of a zero-carbon energy future by 2040 are invited to participate in this RFP. Respondents shall propose resources consistent with the requirements outlined in the New Mexico Public Utilities Act ("PUA") and the REA, including but not limited to those that maximize the use of New Mexico work force, employ apprentices for the construction of the facilities, and advance a zero-carbon future.

The RFP evaluation team will have a separate "best-in-class" bid evaluation and short-list selection for renewable generation on Navajo Nation lands in consideration of the just energy transition for the future Four Corners Power Plant shutdown. In this manner, individual Navajo project(s) will be considered in the Phase 3 bid evaluation as part of a complete generation portfolio.

Resources selected under this RFP are targeted for an in-service date prior to December 31, 2024; earlier in-service dates will be considered.

PNM is scheduled to join the CAISO Energy Imbalance Market ("EIM") in April 2021. PNM will factor this future participation into the evaluation and selection process as further discussed in Section 8.2.3.1 below.

## **1.4 RFP PROCESS OVERVIEW**

### **1.4.1 Announcement and Release**

The RFP was announced via press release on March 3, 2021. This Instructions to Bidders document is provided as a non-confidential document on the PNM websites identified below:

- <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=PNMResources>  
(Click on 101-GENALL-2021-NDA)
- <https://www.pnm.com/rfp>

Interested parties are requested to execute a non-negotiable, non-disclosure agreement to receive additional Bid Documents. All non-public and proprietary information communicated by PNM, including but not limited to information related to existing PNM site infrastructure and system security shall be considered as confidential information under the non-disclosure agreement unless it is specifically designated as non-proprietary and non-confidential. Only interested parties that execute the non-disclosure agreement and submit it through the RFP event "101-GENALL-2021-NDA" hosted by SciQuest, an affiliated entity of Jaggaer, will receive access to the additional Bid Documents.

### **1.4.2 RFP Sourcing Platform**

In order to efficiently administer this RFP for 2021 Replacement Generation Resources, the RFP event is structured by different modules: the "101-GENALL-2021-NDA" to be utilized as described in 1.4.1, "101-GENALL-2021-Market" for market Proposals and "101-GENALL-2021-EPC" for EPC Proposals. The RFP event includes a description of the request, an outline of the solicitation process, relevant dates, contact information, and Proposal submission requirements. Access to the "101-GENALL-2021-Market" module will be granted to participants upon submittal of a fully executed non-disclosure agreement and access to the "101-GENALL-2021-EPC" will be granted to participants intending to submit an EPC Proposal and requesting such access via the Question & Answer ("Q&A") Board. All Proposals submitted in response to this RFP must be submitted by accessing the pertinent RFP's modules.

Respondents must follow the instructions provided herein in the preparation and submittal of their Bids.

### **1.4.3 Proposal Development and Evaluation**

The Proposal development cycle ("Proposal Development Cycle") is the time from when the RFP is released until Proposals are due; the Proposal Development Cycle is approximately thirteen (13) weeks. While assembling Proposals, Respondents are allowed to ask questions in accordance with the communications protocols in Section 7.1 and participate in a virtual pre-bid conference and EPC site visit.

Evaluation will begin upon receipt of Proposals and will progress in phases. The evaluation of Proposals is more fully discussed in Section 8.

### **1.4.4 Regulatory Compliance**

This RFP is conducted in compliance with New Mexico statutory and regulatory supply resource procurement requirements and guidelines, including compliance with the PUA and the REA.

Furthermore, PNM has established a Governance for Competitive Bid Processes document to which PNM employees and consultants involved with the RFP process are signatory. This governance document establishes strict guidelines under which communications and access

to information are restricted. As further discussed below in Sections 1.4.5 and 1.4.6, there is a strict division in PNM's RFP team in that the team supporting the structuring and technical evaluation of PNM-owned EPC projects will not be involved in or be aware of any market-based Bids received in response to the RFP process.

Additional regulatory considerations are discussed throughout this RFP.

#### **1.4.5 Role of RFP Administration Team**

PNM and its RFP consultants including Aion Energy LLC for RFP administration support and other consultants for portfolio system modeling (together, the "RFP Administration Team") will be responsible for administration and overall management of the RFP process including supporting the initial release by PNM's Supply Chain Sourcing Team, the Proposal Development Cycle and the evaluation of Proposals. The RFP Administration Team will be responsible for Bid clarifications, Phase 1 through Phase 3 Bid evaluation activities including modeling, short-list selection, and contract negotiations for all Proposals. The RFP Administration Team will not be involved in the definition or establishment of EPC technical bid requirements or associated existing site conditions. PNM's Supply Chain Sourcing Team, via the Q&A Board in the "101-GENALL-2021-Market" and "101-GENALL-2021-EPC" RFP modules will be the main point of contact for Respondents during the RFP process and all correspondence must be directed through the RFP event unless otherwise directed.

#### **1.4.6 Role of EPC Proposal Facilitator**

Throughout the RFP process, technical communications and coordination with Respondents submitting EPC Proposals ("EPC Respondents") will be managed separately from the RFP Administration Team. PNM has assigned a representative from PNM's Generation Engineering team to coordinate with and respond to Respondents offering EPC Proposals ("EPC Proposal Facilitator"). The EPC Proposal Facilitator and their consultant, HDR Engineering, Inc. (together, the "EPC Support Team") will be responsible for providing all existing site technical information, resolving EPC technical Bid clarifications, technical review of EPC Bids, and support of the Bid evaluation process. The EPC Support Team will not be involved in or be aware of any market-based Bids received in response to the RFP process. As with the RFP Administration Team, PNM's Supply Chain Sourcing Team, via PNM Sourcing's public site will be the main point of contact for EPC Respondents during the RFP process and all correspondence must be directed through the RFP event "101-GENALL-2021-EPC" unless otherwise directed.

#### **1.4.7 Role of Project Manager**

PNM has assigned a Project Manager that will remain responsible for leading the project and the bid evaluation process. The Project Manager will be responsible for management of the communications flow with Respondents as well as the review and approval of the selected Proposals and will coordinate the implementation and administration of the RFP and awarded projects throughout the duration of the RFP process.

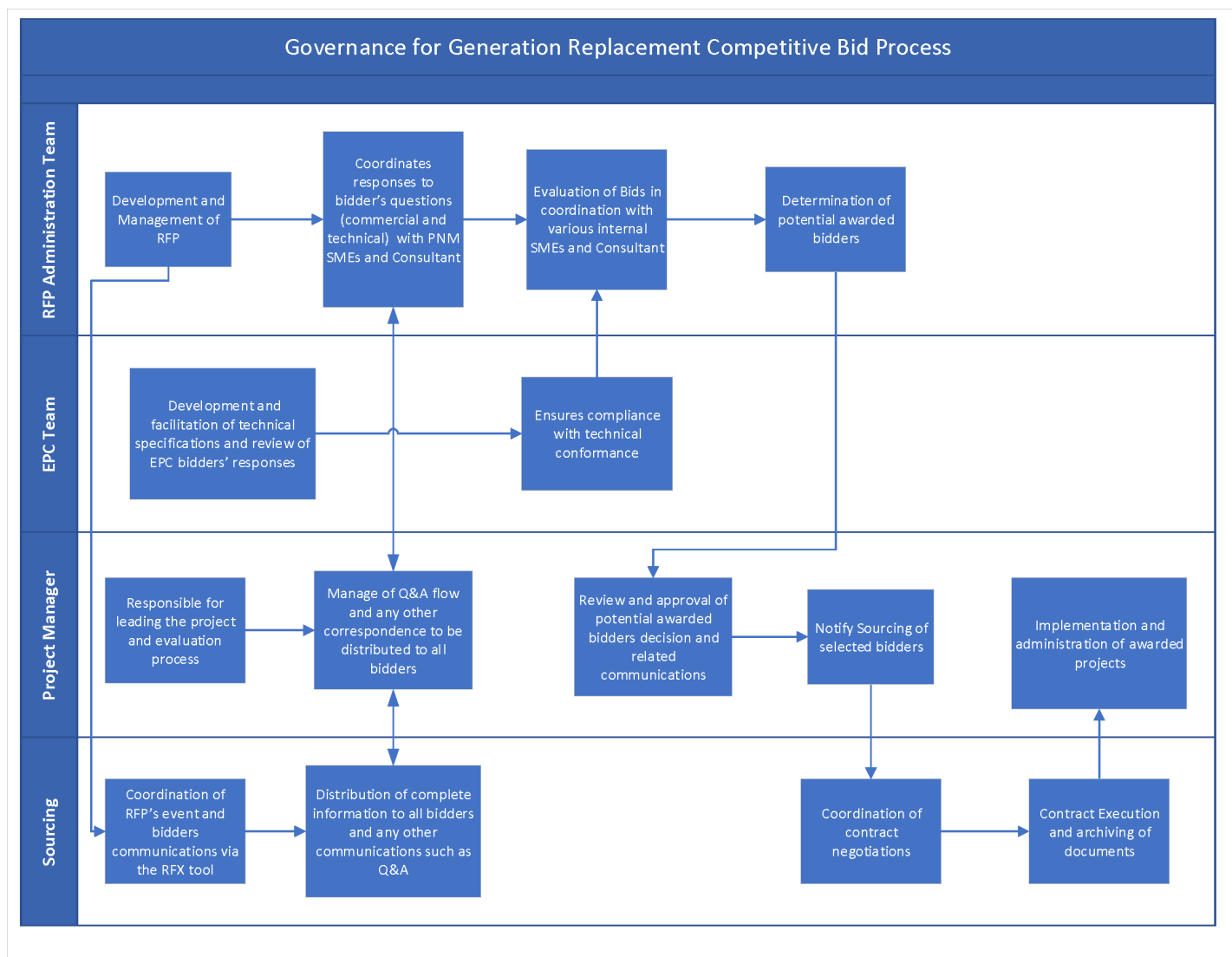
#### **1.4.8 Role of PNM Staff**

PNM has subject matter experts ("SMEs") in resource planning, electric transmission planning, natural gas fuel supply planning, portfolio modeling, environmental, and other functions who will be engaged throughout the process.

PNM SMEs will provide input to the RFP Administration Team and the EPC Support Team to support the Proposal Development Cycle and Proposal evaluation throughout the RFP Process.

### 1.4.9 RFP Process Governance Overview

The following diagram provides a high-level overview of the responsibilities of the RFP team members and the associated progression of the RFP process.



## PART 2 - RESOURCE NEEDS ASSESSMENT

### 2.1 REPLACEMENT RESOURCES

The objective of this RFP is to solicit competitive Proposals from all forms of capacity, energy, storage, and demand-side resources for the procurement of resources that can best satisfy PNM's system needs for capacity, energy, and reliability requirements.

PNM requires that, in conjunction with the existing resource portfolio, selected resources must be capable of meeting capacity requirements and maintaining necessary system reliability requirements on a portfolio basis. In order to achieve this objective, Proposals will be evaluated in conjunction with PNM's existing and planned resources using both hourly and intra-hour software modeling tools.



## **2.2 LONG-TERM PORTFOLIO NEEDS**

This RFP is part of PNM's continued effort to address its long-term portfolio needs via the implementation of varying generation, storage, and/or demand-side technologies. Resources with the flexibility to be used in multiple applications, including but not limited to providing capacity for peak-usage times, economic dispatch in real-time markets, intra-hour balancing, and contingency reserves are anticipated to demonstrate higher values in PNM modeling. Additionally, PNM anticipates a higher value for resources that will help integrate and firm its increasing portfolio of variable energy resources ("VERs").

## **PART 3 – COMPLIANCE WITH LAW**

PNM will evaluate all resources that meet applicable local, state and federal rules and regulations. PNM's selection of resources will specifically consider the ability of those resources to allow PNM to comply with the provisions of the PUA and the REA in a reliable and cost-effective manner. Amongst other requirements identified herein, selection of resources from this RFP will consider the following.

### **3.1 RENEWABLE PORTFOLIO STANDARD**

The Commission adopted Rule 17.9.572 NMAC ("Rule 572") to carry out the renewable portfolio standard ("RPS") established in the REA. The REA sets an increasing RPS requirement that 20% of retail sales be served by renewable energy beginning 2020, and increasing to 40% in 2025, 50% in 2030 and 80% in 2040. These requirements are subject to adjustments for voluntary program sales and new procurements are subject to cost impact protections.

### **3.2 LICENSING**

Each Respondent must ensure that its Proposal is in full compliance with all applicable Federal, State and local laws, rules, regulations or other requirements. It is the obligation of Respondent to determine whether a contractor's license is required to submit a Proposal and/or complete the Work. If a license is required to submit a Proposal, Respondent must ensure that the license is issued in Respondent's name and that Respondent is in possession of such license at the time it submits its Proposal. Proposals for EPC and BT projects must include copies of required license(s) in the Proposal submittal. Additional information may be obtained from the New Mexico Construction Industries Division - <http://www.rld.state.nm.us/construction/>.

It is the obligation of Respondent to determine whether a professional engineering license in one or more disciplines is required to perform the Work and to ensure that Respondent is in possession of such license at the time it submits its Proposal. New Mexico Administrative Code Rule 16.39.3.12. See also, generally, NMSA 1978, Sections 61-23-1 through 61-23-24 and New Mexico Administrative Code Title 16, Chapter 39, Part 3. Additional information may be obtained directly from the New Mexico Board of Licensure for Professional Engineers and Professional Surveyors - <http://www.sblpes.state.nm.us>.

### **3.3 HIRING OF APPRENTICES**

Section 62-13-16 of the PUA requires that, subject to the availability of qualified applicants, the construction of facilities that generate electricity for New Mexico retail customers shall employ apprentices from an apprenticeship program during the construction phase of the project. Successful Respondents must comply with this requirement at a minimum level of ten percent for projects for which on-site construction commences beginning prior to January 1, 2024. Any apprenticeship program relied upon for sourcing the apprentices shall

be registered pursuant to the Apprenticeship Assistance Act. Respondents shall identify in Attachment J or EPC Attachment G, as applicable, the extent to which they advertised or investigated the availability of qualified apprentices and the extent to which they shall be employed.

### **3.4 PREFERENCE FOR NEW MEXICO WORKERS**

PNM promotes and encourages the use of workers residing in New Mexico to the greatest extent practicable and PNM will take the use of New Mexico workers into consideration in evaluating Proposals. Respondents shall identify the extent to which they anticipate use of New Mexico workers, shall submit with their Bid the percentage of New Mexico workers anticipated to be used, and shall identify what assurances are being provided to maximize this percentage during the actual construction period. Respondents shall identify the extent to which they advertised or investigated the availability of qualified local labor resources and services as well as the extent to which they shall be applied to the proposed project in Attachment J or EPC Attachment G, as applicable.

## **PART 4 - ELIGIBLE PROPOSALS**

### **4.1 TYPES OF ELIGIBLE PROPOSALS**

The following types of Proposals are eligible for consideration under this RFP:

- Proposals to sell energy, capacity, and/or ancillary services, under a power purchase agreement ("PPA") or under an energy storage agreement ("ESA") with or without an option to purchase the facility. PPA and ESA Proposals must utilize facilities located on a site controlled by the Respondent;
- Proposals to sell all or a portion of a generating asset under an asset purchase agreement ("APA") with rights to all capacity, energy, renewable energy certificates ("RECs"), and all other physical, financial, environmental, or other attributes associated with the asset;
- Proposals for build-transfer ("BT") projects on the Respondent's site. The site, the facility, all other improvements, and all environmental and other attributes of the project would be transferred to PNM upon completion. For a BT Proposal to be considered, the Respondent must submit proof of having a valid contractor's license in accordance with the New Mexico Construction Industries Division. Such license must be in the name of the Respondent and must be valid as of the time that the Proposal was submitted in response to this RFP (see Section 3.2 Licensing for further detail);
- Proposals for engineering, procurement, and construction ("EPC") contracts on a site controlled by PNM, as described in Section 6.4. For an EPC Proposal to be considered, the Respondent must submit proof of having a valid contractor's license in accordance with the New Mexico Construction Industries Division. Such license must be in the name of the Respondent and must be valid as of the time that the Proposal was submitted in response to this RFP (see Section 3.2 Licensing for further detail); and
- Proposals for demand-side resources ("DSR") sourced from PNM retail customer load as long as the offering meets the dispatchability, savings and other requirements identified herein.

## **PART 5 - RESOURCE CHARACTERISTICS**

### **5.1 REQUIREMENTS APPLICABLE TO ALL RESOURCES**

The following requirements are applicable to all resource types:

- Technologies proposed must be commercially available and commercially operating at the size and scale proposed;
- It is preferred that Proposals utilize the latest version of the selected technology available at the time of bidding, however, grey market equipment will be considered if provided with warranties and guarantees equivalent to those provided by the Original Equipment Manufacturer;
- All geographical locations proposed for projects will be considered provided the necessary transmission system improvement costs are accounted for to ensure resources can deliver to PNM load within WECC Path 48 and evidence is provided that such transmission can be built and operational to support the proposed date of commercial operation/start-of-delivery; and
- Proposals involving a combination of resources will be evaluated considering the combined benefits of all resources proposed.

### **5.2 RENEWABLE RESOURCES**

#### **5.2.1 Wind & Solar Resources**

PNM will evaluate new wind and solar resource Proposals with respect to their capabilities for operational flexibility and system reliability capability such as Automatic Generation Control, Fast Frequency Response, curtailment optionality, capacity firming optionality, or other reliability technologies and tools. Wind and solar resources with these operational/reliability advantages assist in meeting the reliability requirements of the PNM system. Additionally, given the significant increase in implementation of solar and battery resources by PNM in recent years, projects offering an ability to better match generation to PNM's load in conjunction with these resources will be viewed as advantageous. The above advantages may offset pricing differentials between Bids. PNM will also examine any contract limitations or pricing penalties in PPA Proposals associated with operational flexibility, minimum take obligations or maintenance outage scheduling.

#### **5.2.2 WREGIS Registration and Certification**

For all renewable Proposals, the generating facility must be registered or will have to be registered in the Western Renewable Energy Generation Information System ("WREGIS") and its monthly generation reported to WREGIS, with RECs certified by WREGIS and transferable via WREGIS. All costs and fees associated with WREGIS registration and certification will be borne by the Respondent.

### **5.3 ENERGY STORAGE RESOURCES**

Energy storage technologies play an important role in managing carbon-free resource integration including but not limited to offering flexibility and short lead times for construction as well as the abilities to provide ancillary services, manage curtailment, and provide fast response times. These resources improve the ability of PNM's system to incorporate and manage increased VER technologies.

All energy storage system Proposals will be evaluated considering the requirements of Section 62-9-1 of the PUA as applicable to the project:

- Reduce costs to ratepayers by avoiding or deferring the need for investment in new generation and for upgrade to systems for the transmission and distribution of energy;
- Reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services;
- Assist with ensuring grid reliability, including transmission and distribution system stability, while integrating VERs into the grid;
- Support diversification of energy resources and enhance grid security;
- Reduce greenhouse gases and other air pollutants resulting from power generation;
- Provide the public utility with the discretion, subject to applicable laws and rules to operate, maintain, and control energy storage systems to ensure reliable and efficient service to customers; and
- Serve as the most cost-effective resource among feasible alternatives.

Projects involving energy storage shall comply with the following requirements:

- Be fully dispatchable by PNM, including within-hour dispatch changes;
- Be capable of nominally 365 annual equivalent full charge and discharge cycles and with the ability to meet varying annual cycling requirements over the resource life as a function of changes in storage use case and/or variation in the needs of PNM's Balancing Area ("BA") (proposed pricing structure must allow for variability in annual and total cycle quantities and provide a clear definition of a "cycle"). Alternative pricing for additional annual cycles above the base annual allowance on a \$/cycle or \$/MWh basis is also requested;
- Be provided with no daily cycling restrictions;
- Be dispatchable across the entire operating range. Resources that are dispatchable from zero (or nearly zero) to full output add additional benefit in meeting a loss of load expectation ("LOLE") requirement consistent with the 2020 IRP. Resources that have a minimum output greater than zero will be considered as long as they meet the dispatchability requirements across their operating ranges;
- Have a maximum average annual state of charge requirement of at least 50 percent or higher;
- Battery energy storage systems shall have a system latency of 1 second or less, a ramp rate (in both charging and discharging) of full capacity (in MW) within 1 second, and shall be provided with grid-forming inverters;
- Have the control systems in place with the ability to respond to dispatch and disconnection signals that originate remotely from PNM operations centers;
- As noted in Section 8.2.2.2 of this RFP for all technologies, commercial viability, maintainability, and maturity of technology proposed at the scale quoted will be considered in the Non-Price Evaluation;
- If combined with a renewable resource and obtaining federal tax credits, be capable of charging and discharging directly to the grid after recovery of the tax credits;
- Include firm pricing for a maintenance agreement to maintain the energy storage capacity (MW and MWh) of the system for the duration of the term quoted or for 20 years for an EPC Proposal; and
- Have a minimum rate of charge equivalent to its rate of discharge.

PNM is interested in traditional 2 to 4 hour energy storage alternatives, but also foresees the need for longer duration (e.g. 8 to 10 hour) energy storage resources over the planning lifecycle. As such, Respondents are invited to submit offers of varying storage durations for

evaluation. Additionally, if an energy storage system is provided in conjunction with an ITC-qualifying renewable resource, Respondents are invited to provide pricing alternatives for varying degrees of partial grid charging during the ITC recapture period and alternatives to allow for grid charging only during emergency conditions.

#### **5.4 NATURAL GAS FLEXIBLE RESOURCES**

Flexible combustion turbine technologies (aero-derivatives) and reciprocating engines offer the ability to provide fast start times, flexible dispatch, economic ancillary services support and short lead times for construction. These resources improve the ability of PNM's system to incorporate and manage increased VER technologies.

Requirements associated with flexible natural gas resources are included below:

- Be fully dispatchable by PNM, including within-hour dispatch changes;
- Be dispatchable across the entire operating range. Resources that are dispatchable from zero (or nearly zero) to full output add additional benefit in meeting LOLE expectations consistent with the 2020 IRP. Resources that have a minimum output greater than zero will be considered as long as they meet the dispatchability requirements across their operating ranges;
- Be provided with the capability to convert to a non-carbon emitting or otherwise renewable fuel or proposing a methodology that is in full compliance with the emissions concentration requirements of, Section 62-18-10(D) of the PUA with the costs and performance associated with such compliance methodology clearly identified in the Proposal;
- Have the control systems in place with the ability to respond to dispatch signals that originate remotely;
- Reciprocating engines - minimum load capability of no more than 25 percent of the unit rated full load capacity;
- Other natural gas technologies - minimum load capability of no more than 40 percent of the unit rated full load capacity;
- Be capable of achieving full output from a cold start in 10 minutes or less (faster start is preferred);
- Be capable of 1,500 starts per year and up to 8,760 hours of annual operation. Proposal and operations and maintenance costs will be based upon an assumed dispatch of 400 starts and 2,500 hours of operation per year;
- Reciprocating engines - minimum down time requirement of less than five (5) minutes after a unit shut down and a minimum up-time requirement of less than five (5) minutes after a unit start;
- Have the ability, including any air permit restrictions, to execute multiple starts and cycle from offline to full output at least five (5) times per day;
- Have a minimum ramp rate of 20% of rated unit capacity per minute both for increasing and decreasing load after initial unit startup and load stabilization, but if this is not achievable, Respondents should indicate the achievable range of ramp rates per generator; and
- PNM, as a Balancing Area Authority ("BAA"), requires a minimum frequency response capability consistent with NERC Standard BAL-003-1 to maintain interconnection frequency within predefined boundaries. PNM requires that Respondents provide actual frequency response via operating governors. This would require that PNM receive the allocated share of frequency response from the proposed unit(s), based on generation capacities.

## **5.5 DEMAND-SIDE RESOURCES**

PNM encourages and will evaluate Proposals for DSR capacity and energy products as part of this RFP. Such Proposals must consider the levels of DSR currently in-place and/or planned in PNM's DSR programs and must be incremental and separate from existing DSR programs. Appendix G provides an overview of PNM's customer profile as well as those customers already participating in PNM's existing DSR programs.

Information regarding rates and past energy efficiency filings and load management programs may be found at <https://www.pnm.com/regulatory> or through the NMPRC website at <https://edocket.nmprc.state.nm.us>. Energy efficiency cases include Case Nos. 20-00218-UT, 20-00087-UT, 17-00076-UT, 16-00096-UT, and 14-00310-UT. PNM's 2018 and 2019 EE&LM Annual Reports and Measurement & Verification Reports are also available on [pnm.com/regulatory](https://www.pnm.com/regulatory).

PNM is interested in evaluating the following types of DSR capacity or energy products and applications that can deliver services to retail load within PNM's BA.

- Load reduction from individual customers;
- Load reduction from multiple entities (i.e. aggregation); and
- General program management associated with any of the above.

The proposed structure, availability, pricing, and commercial terms for such DSR products shall be clearly detailed in the body of the Respondent's Proposal.

Bidders shall identify the firm capacity that can be delivered in the DSR Proposal Data Forms for each hour of the day and each month of the year.

Delivery of services to PNM's BA will be considered as a PPA if services are deliverable to customers – DSR services must be deliverable to retail customer load as further described in Section 6.

## **5.6 OTHER RESOURCES**

Resources and combinations of resources other than those identified in Sections 5.2 through 5.5, will be considered and are welcomed in response to this RFP. These resources may include but are not limited to those such as combined technology green energy complexes, hydrogen fueled resources with hydrogen generation, heavy frame combustion turbines, combined cycles, hybridization of existing resources, and solid-fueled resources. These resources shall be required to meet the following requirements:

- Be fully dispatchable by PNM, including within-hour dispatch changes;
- Be dispatchable across the entire operating range. Resources that have a lower minimum output provide additional benefit in meeting LOLE requirements consistent with the 2020 IRP;
- Be provided with the capability to either initially comply with the emissions concentration requirements of, Section 62-18-10(D) of the PUA or be able to convert to a non-carbon emitting or otherwise renewable fuel with the costs and performance associated with such compliance methodology clearly identified in the Proposal;
- Have the control systems in place with the ability to respond to dispatch signals that originate remotely;
- PNM, as a BAA, requires a minimum frequency response capability consistent with NERC Standard BAL-003-1 to maintain interconnection frequency within predefined boundaries. PNM requires that Respondents provide actual frequency response via operating governors. This would require that PNM receive the

allocated share of frequency response from the proposed unit(s), based on generation capacities; and

- Respondents shall identify the following Proposal characteristics in the Bid Forms defined in Section 6.17.2:
  - Minimum load capability;
  - Quantity of allowable starts and hours of operation per year;
  - Minimum down time after a unit shut down;
  - Minimum run time after a unit start;
  - Allowable quantity of starts per day; and
  - Minimum ramp rate per minute both increasing and decreasing load.

## **PART 6 – PROPOSAL CONTENT REQUIREMENTS AND SUBMISSION PROCEDURE**

### **6.1 GENERAL**

All Proposals must satisfy eligibility requirements set forth in the RFP and be submitted in accordance with the instructions of this RFP to be considered for evaluation.

### **6.2 “BID DOCUMENTS”**

As used in this RFP, “Bid Documents” include all documents comprising this RFP, including but not limited to all design documents, technical specifications, and other appended or related data, all as may be amended or supplemented from time-to-time. The Bid Documents are complementary, and the Respondent must consider anything specified by one and not by the others as binding as though specified by all. In the case of a conflict between the various specification sections and/or the drawings and any supplemental information, the stricter interpretation as determined by PNM will govern.

### **6.3 REQUIREMENTS APPLICABLE TO ALL PROPOSALS**

The following requirements apply to all Proposals. Additional requirements applicable to Proposals for specific project types are included in subsequent sections of this Part 6.

- Due to the potential complexity associated with the implementation of multiple projects at multiple project sites, at its discretion, PNM will consider staging / sequencing the projects from this RFP process. As such, within the date range of July 1, 2024 to December 31, 2024, Respondents are requested to identify the earliest achievable in-service date for the project(s) offered.
- Proposals and pricing must be provided for a planned project in-service date of no later than December 31, 2024.
- Proposals and pricing must remain valid and binding through at least April 1<sup>st</sup>, 2023, with the date of expiration explicitly stated in the Proposal. PNM may choose to refresh Proposals and pricing at any time during the Proposal evaluation period.
- All prices in the Proposal and pricing forms must be quoted in nominal U.S. dollars in the year to be incurred.
- Proposed projects must be designed for and capable of both full load and idle operation over an ambient temperature range of -20°F to 110°F with the full range of relative humidity.
- Proposals must identify a firm transmission service path for the delivery of energy to PNM’s load center.

- Proposals must include all applicable taxes (i.e. New Mexico Gross Receipts Tax), licenses, fees, etc. Respondent must provide a clear description and break-out of these taxes, licenses, fees, etc. in the Proposal.
- Proposals involving carbon-emitting technologies must include optionality for carbon-free operation beyond December 31, 2039 or may otherwise be evaluated considering a 15 year useful life.
- Proposals must comply with the requirements of Appendix I to this RFP regarding the design of the Supervisory Control and Data Acquisition ("SCADA") system, with scope adjustments as applicable to the type of resource and contracting structure proposed. This Appendix will be incorporated as an Exhibit to the executed contract and Respondents must provide proposed redlines to the requirements outlined therein.
- Proposals must include all costs of shipping and related expenses associated with the Respondent's work scope.
- Proposals must identify assumed insurance types and levels.
- Proposals must comply with all applicable federal, state and local laws.
- Proposals that culminate in a successful project are required to obtain appropriate registration for all applicable NERC functions and must operate equipment within applicable NERC Standards.
- Proposals must clearly identify the environmental characteristics of the project including emissions rates, land quantities and land owner status (public, private, native, or otherwise protected), right-of-way and site acquisition status, environmental assessments and studies completed or anticipated and potential impacts on biological, geological and archeological resources, environmental permits acquired or anticipated, and other environmental-related factors.
- Proposals for resources on the Respondent's site must identify all costs including electrical interconnection costs. Respondent's Proposal must include firm, not to exceed capital costs with a break-out for electrical interconnection costs. Detailed cost and scope information for the interconnection and power delivery system upgrades must be included in Attachment F – Electrical Interconnection – Power Delivery of the Market Bid Proposal Forms with additional information included, as required, in the Proposal supplemental information. Respondents offering PPA, ESA, BT, or APA offers will be responsible for all transmission arrangements, implementation schedule, and costs to deliver to PNM's load and will assume that PNM has no available long-term, firm transmission rights that may be re-directed or used for this project. Bidders shall provide verified interconnection and transmission costs developed through FERC transmission interconnection request processes or through an equivalent independent study.
- Proposals must identify the extent to which the project will implement the use of workers residing in New Mexico and apprentices from an apprenticeship program.
- In accordance with Section 3.2 regarding Licensing, if New Mexico law requires a contractor's license to construct the project, Respondent must have such license at the time it submits its Proposal, and such license must be issued explicitly in the name of the Respondent. Proposals not conforming with this requirement will not be further considered.



## 6.4 ADDITIONAL REQUIREMENTS FOR EPC PROPOSALS

Respondents offering EPC Bids and requesting access via the Q&A Board to the "101-GENALL-2021-EPC" RFP module will be granted access to data regarding site characteristics for PNM controlled sites. EPC Respondents are encouraged to provide Proposals at these sites for any resource type as long as the resource capacity and type can feasibly be implemented at the associated site. EPC Respondents shall assume that natural gas interconnection and delivery to the project site, as applicable, electrical interconnection, and other required utilities will be provided by PNM at its cost. Respondents must clearly state natural gas, electrical interconnection, and other utility requirements in their Proposal.

EPC Bid information including site infrastructure information, site electrical and fuel interconnection capabilities, and additional technical clarifications will be provided by the EPC Support Team. All EPC Respondent communications prior to Bid Submittal shall be submitted to the "101-GENALL-2021-EPC" RFP module. All such communications will then be directed to the EPC Proposal Facilitator for details and inquiries regarding available sites and technical requirements.

Proposals received from EPC Respondents will be evaluated on equal footing with other Proposals. EPC Respondents will be required to provide detailed information regarding the specifics of engineering and constructing an addition to an existing PNM plant or location. For an EPC Bid at PNM-controlled sites, Respondent will be responsible for ensuring that the Proposal will satisfy the existing site permits and electrical interconnection limitations.

Table 2 provides an indication of suitable technology applications at each of the existing PNM controlled sites based upon existing site characteristics and infrastructure. While technology types are indicated for each site, Respondents are welcome to offer alternative technologies at these sites under an EPC arrangement.

**Table 2. Available EPC Sites and Indicative Capacities**

<b>Technology</b>	<b>EPC Site Options</b>	
<b>Solar</b>	- San Juan Generating Station	95.6 MW
<b>Battery Energy Storage</b>	- San Juan Generating Station	236 MW
	- La Luz Generating Station	40 MW
	- Reeves Generating Station	35 MW
	- Rio Bravo Generating Station	200 MW
	- Sandia Substation	250 MW
	Existing PNM solar project sites with capability to support battery energy storage in the following approximate capacities:	
	- Rio Del Oro Solar	10 MW
	- Rio Rancho Energy Center	10 MW
	- San Miguel 1	10 MW
	- San Miguel 2	10 MW
	- Vista Energy Center	10 MW
	- Albuquerque Solar	2 MW
	- Los Lunas Solar	7 MW
	- Deming Solar	9 MW
	- Alamogordo Solar	5 MW
	- Las Vegas Solar	5 MW
	- Otero County Solar	7.5 MW

	<ul style="list-style-type: none"> <li>- Meadow Lake Solar 9 MW</li> <li>- Sandoval County Solar 6 MW</li> <li>- Cibola County Solar 8 MW</li> <li>- Rio Communities Solar 10 MW</li> <li>- Santa Fe Solar 9.5 MW</li> <li>- Santolina Solar 10.5 MW</li> <li>- Vista Solar 10 MW</li> </ul> <p>Energy storage projects at multiple of the above sites with aggregated pricing would be considered.</p>
<b>Thermal Resources</b>	<ul style="list-style-type: none"> <li>- San Juan Generating Station 236 MW</li> <li>- La Luz Generating Station 40 MW</li> <li>- Reeves Generating Station 35 MW</li> <li>- Rio Bravo Generating Station 200 MW</li> </ul>

## 6.5 ADDITIONAL REQUIREMENTS FOR PPA / BT / ESA PROPOSALS

- A PPA or ESA Proposal term of twenty (20) years or more is preferred. PPAs for shorter terms will be considered and upon expiration of the quoted term will be evaluated with the modeling of replacement resources consistent with PNM's long-term planning objectives.
- PPAs utilizing carbon-emitting technologies shall provide the capability to convert to a non-carbon emitting or otherwise renewable fuel or proposing a methodology that is in full compliance with the emissions concentration requirements of Section 62-18-10(D) of the PUA with the costs and performance associated with such compliance methodology clearly identified in the Proposal.
- Offered resources must be interconnected to PNM's transmission system within WECC Path 48 or at the San Juan or Four Corners switch yards, or delivered on firm, third-party transmission to PNM's system to allow delivery to PNM's load center; in all cases, the ability to deliver to PNM's load is required.
- Costs proposed for all PPA, BT, and ESA resources must include electrical interconnection costs, third-party wheeling fees, fuel, and other utility costs if applicable. Respondent's Proposal must include firm, not to exceed, interconnection costs.
- The Proposal must demonstrate credit support as defined in Section 6.7 and/or collateral value sufficient to provide surety of contract performance over the full agreement term. Acceptable methods of surety, in the reasonable discretion of PNM, include (a) cash, (b) a Letter of Credit in a form reasonably acceptable to PNM issued by a U.S. bank or a U.S. branch of a foreign bank with credit ratings by both Standard & Poor's Ratings Group ("S&P") and Moody's Investor Services, Inc. ("Moody's") of at least A- and A3, respectively and at least Ten Billion Dollars (\$10,000,000,000) in U.S.-based assets (c) a Respondent Guaranty from Respondent Guarantor, or (d) other security as may be reasonably acceptable to PNM.
- PPA Proposals, in Attachment D-1, must outline considerations associated with potential reliability curtailments as directed by PNM or another BA. For renewable resources, the base Proposal shall be based upon no curtailments of the generating resource and Respondent shall provide alternative pricing per one (1)

percent generation curtailment to a maximum level equivalent to ten (10) percent curtailment of the annual generation forecast.

- For renewable PPA Proposals, the Respondent must configure the ramp rate for the project such that it will not generate energy at a rate that increases greater than ten (10) MW per minute.
- Respondents proposing BT projects must provide a comprehensive Proposal demonstrating compliance with the applicable Technical Specifications included in Appendix F. For any Proposals considering technologies other than those specified in Appendix F, Respondents must provide sufficient detail to demonstrate that the project will be developed, designed and delivered in accordance with prudent utility practices and to utility-grade standards.
- Due to the associated risk of liabilities (e.g. health, safety, environmental), NERC and WECC security requirements, and the associated complications with having a third-party owner/operator on a PNM-controlled site, PNM will not consider PPA or BT Proposals on existing PNM controlled locations.
- PNM has a preference for PPA Proposals that do not subject PNM to any accounting or tax treatment that results from imputed debt, capital lease or Variable Interest Entity ("VIE") treatment. All PPA Proposals must:
  - Demonstrate that the Respondent has considered applicable accounting standards in regard to capital leases, specifically Financial Accounting Standards Board ("FASB") Accounting Standards Codification Topics ("ASC") 840 and 842 Leases and any PNM variable interest in a VIE pursuant to FASB Topic ASC 810 Consolidation-Variable Interest Entities;
  - Provide analysis and conclusion of the Respondent's knowledge and belief regarding why the Respondent's Proposal would not result in a capital lease (ASC 840 and 842) or a variable interest in a VIE (ASC 810);
  - Summarize any changes that the Respondent proposes to the Model PPA Form Agreements or Term Sheets attached to this RFP in order to attempt to address these issues; and
  - Describe the role of federal and state tax credits (or other incentives) on the financing of the project. Proposals considering qualification of the Federal Production Tax Credit or the Federal Investment Tax Credit must include documentation/evidence of qualification or, as applicable, approach for qualification. Proposals considering PPA structures must be based on the Respondent retaining all risk associated with federal tax credit qualification including any associated price and schedule impacts.

## **6.6 ADDITIONAL REQUIREMENTS FOR APA PROPOSALS**

All APA Proposals must provide a description of the proposed transaction from a tax perspective, including whether the Respondent plans to sell an LLC or assets, which could have tax implications for PNM. Costs proposed for all APA resources must include all electrical interconnection, fuel, and other utility costs, as applicable. Respondent's Proposal must include firm, not to exceed, interconnection costs.

## **6.7 CREDIT REQUIREMENTS**

The Respondent must be able to satisfy PNM's credit standards to ensure the Respondent has adequate financial capability. PNM requires qualified Respondents to either have an investment grade rating (S&P BBB- or above; Moody's Baa3 or above) or have sufficient equity security to cover Respondent's anticipated delivery obligations under any agreement entered into as a result of this RFP process. PNM will utilize the lower of the published credit ratings from S&P or Moody's for long-term senior unsecured debt to determine a Respondent's credit rating. PNM may also consider credit rating by other credit agencies. If Respondent is unable to satisfy the foregoing credit standards, Respondent may designate a Credit Support Provider / Guarantor, and if the Credit Support Provider / Guarantor is satisfactory to PNM, the Respondent will be deemed to have satisfied PNM's credit standards. The quality of credit of the proposed Credit Support Provider / Guarantor will be evaluated under the same standards as that of the Respondent.

Execution of a final, definitive agreement under this RFP will be conditional upon full satisfaction of PNM's credit support requirements. PNM reserves the right to require additional credit standards and to review and evaluate the quality of credit of each Respondent and Credit Support Provider/Guarantor and to make adjustments, as necessary, in the application of the foregoing standards.

## **6.8 COST OF BIDDING**

Respondent will bear all costs associated with the preparation and submission of its Bid. Neither PNM, nor its parent company or affiliates, nor any agent of PNM will be responsible or liable for any costs, regardless of the cost or outcome of the bidding process.

## **6.9 BID SUBMISSION FEE**

A non-refundable bid submission fee must accompany each Proposal in order to qualify the Proposal for consideration. The bid submission fee will be \$5,000 for each Proposal in response to the RFP.

The quantity of Proposals and associated bid fees will be determined based upon resource type and contracting structure as follows:

- Proposals for projects of different technology types (at the same or different locations) shall be considered separate Proposals;
- Proposals for projects with different contracting structures (e.g. PPA, ESA, DSR, EPC, APA, BT) shall be considered separate Proposals.

Proposals for projects with variations in the following, factors will not be considered to be separate Proposals and will not require an additional bid submission fee;

- Location
- Pricing structures
- Project capacity/sizing
- Alternative in-service dates

Bid submission fee examples are as follows:

- 1) An RFP response that offers a solar/battery energy storage hybrid solution, a stand-alone solar, and a stand-alone battery energy storage offer under a PPA contracting structure will require a bid submission fee of \$15,000 based upon three individual technology offers being proposed.

- 2) An RFP response that offers a DSR solution with varying capacities and availability will incur a single bid submission fee of \$5,000.
- 3) An RFP response that offers a single Proposal for a combined hybrid wind, solar, and storage solution will incur a single bid submission fee of \$5,000.
- 4) An RFP response offering a PPA and a BT contracting structure for a wind project at a single site will incur a bid submission fee of \$10,000.
- 5) An RFP response offering a solar EPC project and an energy storage EPC project at three different sites and two different capacities at each site will incur a bid submission fee of \$10,000 based upon two individual technology offers being proposed.
- 6) An RFP response offering energy storage solutions of varying capacities, storage durations, site locations, pricing structures, and in-service dates under an ESA contracting structure will incur a bid submission fee of \$5,000.

The bid submission fee may be paid by certified check made out to "Public Service Company of New Mexico". Payment via ACH is also accepted.

Mail bid fees to:       Public Service Company of New Mexico  
                                  Attn: Division Accounting MS-ES01  
                                  2021 Gen Resources RFP  
                                  4201 Edith Blvd.  
                                  Albuquerque, NM 87107

**ACH Remittance Instructions:**

Bank Name: Wells Fargo Bank  
ABA# 12100248  
Attn: Dan Conklin  
MAC: Q2129-103  
200 Lomas Blvd. NW  
Albuquerque, New Mexico 87102  
Phone: (505) 765-5224  
Beneficiary:  
Account Name: PNM Misc. Depository  
Account No.: 651-100-3698  
For: PNM 2021 Replacement Generation RFP

**6.10 DISCLAIMER**

Respondent is responsible for examining the complete Bid Documents and any subsequently issued RFP addenda and is responsible for analyzing all RFP requirements that might in any way affect the cost of the project or performance of any part of the work to be completed in

connection with the project ("Work"). Failure to do so will be at the sole risk of the Respondent, and no relief will be given for errors or omissions resulting therefrom.

### **6.11 RESPONDENT'S REPRESENTATION**

Each Respondent, by submitting a Proposal, represents that the Respondent has read and understands the Bid Documents and is familiar with the local conditions under which the Work is to be performed. Respondent further represents that it holds all licenses and permits required by applicable law to submit its Bid and that all such licenses and permits are issued in its name.

### **6.12 REQUIRED APPROVALS**

Each Proposal must state that Respondent has obtained all necessary internal approvals prior to the submission of the Proposal. All Proposals must be signed as follows:

- Corporations: Signature of officer must be accompanied by a certified copy of the resolution of the Board of Directors authorizing the individual signing to bind the corporation.
- Partnerships: Signature of one partner must be accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all partners. If a certified copy of the partnership's certificate submitted with the Bid indicates that all partners have signed, no authorization is required.
- Joint Ventures: Signature by one of the joint venture parties accompanied by a certified copy of the power of attorney authorizing the individual signing to bind all the joint venture parties. If a certified copy of the joint venture party's certificate submitted with the Bid indicates that all joint venture parties have signed, no authorization is required.

### **6.13 PROPOSAL SUBMITTAL**

Respondents must submit Proposals via PNM Sourcing's RFP event modules as explained in Section 1.4.2. Complete Proposals, including all exhibits, forms, and fee, must be received on or before 4:00 p.m. (Mountain) on the RFP response due date via the corresponding RFP module. All Proposals will become the property of PNM and will not be returned to the Respondent. Upon uploading the Proposal(s) to the applicable RFP module, Respondents must click the "Submit" button, which changes the Proposal status to "Submitted," to fully transmit all of the Proposal's uploaded files and allow for its proper retrieval.

### **6.14 WITHDRAWAL OF BIDS**

A Respondent may withdraw a Bid, by written request, at any time prior to the scheduled time for opening Bids. No Respondent may withdraw a Bid prior to April 1, 2023 without written consent of PNM, and Bids will be subject to acceptance by PNM during this period.

### **6.15 CONFIDENTIALITY AND COMPLIANCE**

PNM will take reasonable precautions and use commercially reasonable efforts to protect any claimed proprietary and confidential information contained in a Proposal, provided that such information is clearly identified by the Respondent as "PROPRIETARY AND CONFIDENTIAL MATERIAL". Notwithstanding the foregoing, PNM in its sole discretion may release such information: (1) to any external contractors for the purpose of evaluating Proposals, but such contractors will be required to observe the same care with respect to disclosure as PNM; (2) to others who have a need for such information for purposes of evaluating the RFP and the Proposals, the RFP process or a final definitive agreement resulting from the RFP process ("Agreement"), including but not limited to the Commission,

its employees, staff, consultants and/or agents, and other parties, their consultants and/or agents, or in any Commission proceedings relating thereto; or (3) if PNM is requested or compelled to disclose such information (or portions thereof) (i) pursuant to subpoena or other court or administrative process, (ii) at the direction of any governmental authority with jurisdiction over PNM, or (iii) as otherwise required by law. If PNM determines that the release of such information will be made under one of the circumstances set out above, PNM will provide Respondent with written notice. PNM is under no duty or requirement to Respondent to withhold such information or take legal steps to protect the information from disclosure if, in PNM's judgment, there is a need to provide it under the circumstances described above. Under no circumstances will PNM, its parent corporation or affiliates, or any of their directors, officers, management, employees, agents or contractors be liable for any damages resulting from the disclosure of Respondent's claimed proprietary and confidential information during or after the RFP process. By submitting a Proposal in response to this RFP, Respondent acknowledges and agrees to the requirements in this provision concerning confidentiality. In the event PNM uses internal, proprietary projections in its evaluation process, the resulting projections will not be shared with Respondents.

## **6.16 COLLUSION**

By submitting a Proposal to PNM in response to this RFP, the Respondent certifies that the Respondent has not divulged, discussed, or compared its Proposal with other Respondents and has not colluded whatsoever with any other Respondent or parties with respect to its Proposal or other Proposals; provided, however, that this provision is not intended to prevent multiple parties from making a joint Proposal in which the roles and responsibilities of each party are clearly delineated in the Proposal.

## **6.17. BID FORMAT AND CONTENTS**

This section outlines the content and format requirements for all Proposals submitted in response to this RFP. Unless PNM in its sole discretion elects otherwise, Proposals that do not include the information requested in this section will be ineligible for further evaluation, unless PNM determines that the information requested is not applicable or not relevant to a given Proposal. PNM reserves the right to conduct any further due diligence it considers necessary to fully understand and evaluate Proposals prior to entering into any Agreement.

A complete Proposal will include the following components:

- Executive Summary;
- Complete set of applicable Bid Forms (Forms identified below);
- Form attachments (as necessary to elaborate on Bid Form information); and
- Any additional electronic data or narrative discussion.

### **6.17.1 Executive Summary**

The Executive Summary should briefly describe the Respondent, the project(s) or resource(s) that are part of the Proposal, the capacity amount, timing and term of the Proposal, and key highlights of the pricing and terms of the Proposal, including whether it will be considered a capital lease or be subject to VIE treatment.

### **6.17.2 Bid Forms**

Required Bid Forms will vary between EPC Proposals, DSR Proposals and all other Proposals. The required forms for each are as identified below. To the extent the full completion of any form requires additional information or clarification, please provide that information as an attachment to the form. Information provided in these forms will be a basis for determining performance guarantees associated with a potential Agreement. Electronic submissions should include the completed Bid Forms in the format provided on the RFP event.

**6.17.2.1 EPC Bid Forms.** The Bid Forms for EPC Proposals include:

- EPC Attachment A – Notification of Intent to Bid Form
- EPC Attachment B – Bid Profile
- EPC Attachment C – Bid Certification Form
- EPC Attachment D – Proposal Form
- EPC Attachment D-1 – Price Breakdown Table
- EPC Attachment E-1 – Commercial Clarifications and Exceptions
- EPC Attachment E-2 – Technical Clarifications and Exceptions
- EPC Attachment F – Conflict of Interest Form
- EPC Attachment G – Contracting/Employment Plan
- EPC Attachment H – Milestone Payment Schedule
- EPC Attachment I – Cancellation Schedule
- EPC Attachment J – Proposal Data Forms
- EPC Attachment K – Technical Submittal Checklist

**6.17.2.2 Market Bid Forms.** The Bid Forms for all Proposals, other than EPC and DSR Proposals, include:

- Attachment A – Notification of Intent to Bid Form
- Attachment B – Bid Profile
- Attachment C – Bid Certification Form
- Attachment D-1 – PPA Proposal Data Forms
- Attachment D-2 – APA Proposal Data Forms
- Attachment D-3 – BT Proposal Data Forms
- Attachment D-4 – ESA Proposal Data Forms
- Attachment E – Technical Description
- Attachment F – Electrical Interconnection – Power Delivery
- Attachment G – Fuel Information
- Attachment H – Permitting, Land Use, Zoning
- Attachment I – Project Milestones
- Attachment J – Contracting/Employment Plan
- Attachment K – Conflict of Interest Form
- Attachment L – APA/BT Technical Submittal Checklist

**6.17.2.3 DSR Bid Forms.** The Bid Forms for DSR Proposals include:

- Attachment A – Notification of Intent to Bid Form
- Attachment B – Bid Profile
- Attachment C – Bid Certification Form
- Attachment D-5 – DSR Proposal Data Forms
- Attachment J – Contracting/Employment Plan
- Attachment K – Conflict of Interest Form

**6.17.2.4 EPC Supplemental Information.** In addition to the Bid Forms noted above, Respondents must include supplemental information to clearly identify the scope of the Proposal. The supplemental information for EPC Proposals, at a minimum, must include the following, in the order identified, with each topic beginning on a separate page.

- A. Description of the Respondent
- B. Financial Information / Credit Quality
- C. Exceptions / Red-Line Markup to the form Contract (provide in original, native file formats with tracked changes)



- D. Identification of all Pricing Terms
- E. EPC Contractor Rate Schedule (engineering, construction, field labor, and equipment)
- F. Required Licenses as referenced in Sections 3.2 and 4.1
- G. Project Description
- H. Equipment Description
- I. EPC Experience / Similar Projects
- J. Project Team Organization and Resumes
- K. Contracting and Employment Plan
- L. Corporate Environmental, Health, and OSHA Safety Records for the last three years
- M. Project Implementation Schedule
- N. Project and Construction Execution Plan
- O. Exceptions / Red-Line Markup to Appendix D – EPC Form Agreement
- P. Exceptions / Red-Line Markup to Appendix I
- Q. Other Attributes

**6.17.2.5 Market Bid Supplemental Information.** The supplemental information for Market Proposals, at a minimum, must include the following, in the order identified, with each topic beginning on a separate page.

- A. Description of the Respondent
- B. Financial Information / Credit Quality
- C. Contract Accounting / Project Financing Plan
- D. Identification of all Pricing Terms
- E. Project Description
- F. Power Delivery Plan
- G. Transmission Plan
- H. Interconnection Plan
- I. Fuel Contracting Plan
- J. Project Environmental Overview
- K. Operations and Maintenance Plan
- L. Contracting and Employment Plan
- M. Environmental Permitting and Compliance Plan
- N. Corporate Environmental, Health, and OSHA Safety Records for the last three years
- O. Exceptions / Red-Line Markup to the applicable form Contract or Term Sheet (provide in original, native file formats with tracked changes) or, for DSR Proposals, a standard form agreement for the product proposed
- P. Exceptions / Red-Line Markup to Appendix I
- Q. Assignability
- R. Projects to-be-built
  - 1. Equipment Description
  - 2. Required Licenses as referenced in Sections 3.2 and 4.1
  - 3. Development Experience
  - 4. Development Schedule
  - 5. Real Property Acquisition Description and Plan
  - 6. Permitting Plan
  - 7. Community/State Reaction Assessment
- S. Other Attributes

**6.17.2.6 DSR Bid Supplemental Information.** The supplemental information for DSR Proposals, at a minimum, must include the following, in the order identified, with each topic beginning on a separate page.

- A. Description of the Respondent
- B. Financial Information / Credit Quality
- C. Contract Accounting / Project Financing Plan
- D. Identification of all Pricing Terms
- E. Project Description
- F. Marketing and Customer Recruitment Plan
- G. Summary of Customer Outreach / Marketing Completed
- H. System Diagram (specific to Proposal and not generic)
- I. Generic System Information (marketing / qualification material – optional)
- J. Software System Overview and Specifications
- K. Technology Overview and Specifications
- L. Cybersecurity Provisions and Specifications
- M. Communications System Diagram
- N. Preferred Vendor and Contractor List
- O. Implementation Plan and Schedule
- P. Metering Schematic and Plan
- Q. Operations and Maintenance Plan
- R. Customer Service Plan
- S. End-of-Term Customer Requirements (Equipment Ownership)
- T. Detailed List of Requirements from PNM
- U. Billing Program Structure Overview
- V. Draft Form Agreement between Respondent and Customer(s)
- W. Draft Form Program Agreement between Respondent and PNM
- X. Other Attributes

## **PART 7 – RFP PROCESS**

### **7.1 COMMUNICATION**

#### **7.1.1 PNM Sourcing's RFP Site**

All inquiries and other communications relating in any manner to this RFP will be hosted on the Q&A Board of the corresponding RFP module "101-GENALL-2021-MARKET" and/or "101-GENALL-2021-EPC. To send a private message, inquiry, or communication to the RFP Team, please utilize the option "Ask a Question."

PNM makes no commitment to respond to other communications received via telephone, FAX, text messaging or other media. Additionally, Respondents may not rely on any oral representation or oral modification made by any PNM employee or agent of PNM. In order to preserve transparency in the process and to assure that all Respondents receive equal consideration, Respondents may not contact any PNM employees or agents of PNM in regard to this RFP. Failure to comply with this requirement could result in disqualification of the corresponding Proposal. All communications are to be conducted through the RFP event.

#### **7.1.2 Responses to Inquiries**

PNM will prepare written responses to questions received and will post the responses (without identification of the party asking the questions) on the applicable RFP module for

all Respondents who submit a Notice of Intent to Respond. Questions that are applicable to both the Market and EPC events will be shared with all Respondents. All questions must be submitted via the RFP module Q&A Board.

Questions must be formatted as follows:

- Clearly identify the specific document reference to which the question pertains, and date; and
- Clearly identify the document language or section in question.

Questions must be timely submitted in groups to allow for proper consideration and response. Questions that Respondent believes to be commercially sensitive or confidential must be individually marked as "Confidential". Questions marked "Confidential" will not be shared with other Respondents unless PNM determines that the question is a general, non-sensitive technical or commercial question.

## **7.2 SCHEDULE**

The RFP process will proceed in accordance with the following schedule:

BID SCHEDULE – ACTIVITY	DATE
RFP Process Announced	March 3, 2021
Non-Disclosure Agreement Available on PNM's RFP event	March 3, 2021
RFP/Bid Documents available	March 8, 2021
Virtual Pre-Bid Conference and EPC Site Visits Registration Deadline	March 26, 2021
Pre-Bid Virtual Conference	March 31, 2021
Virtual EPC Site Visits	April 1, 2021
Notification of Intent to Respond Due **	April 14, 2021
Last Date for Submittal of the Executed Non-Disclosure Agreement	May 12, 2021
Deadline for Questions from Respondents	May 21, 2021
RFP Response & Proposal Fee Due*	June 7, 2021
Successful Short-List Respondents Notification	3 <sup>RD</sup> Quarter 2021
Successful Respondent Notification	4 <sup>TH</sup> Quarter 2021
Estimated Commission Approval of Selected Project(s)	1 <sup>ST</sup> Quarter 2023

Targeted Power Supply / Commercial Operation Date	December 31, 2024 or before
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- \* Respondents must note that the RFP response due date is firm. No extensions to the bid process duration as noted above will be offered.
- \*\* Respondents executing a non-disclosure agreement and receiving the Bid Documents after the Notification of Intent to Respond due date will be required to submit a Notification of Intent to Respond within one week of executing the non-disclosure agreement.

PNM reserves the right to revise, suspend, or terminate this RFP process and any schedule related thereto at its sole discretion without liability to Respondents or any other person or entity.

Communications regarding the status of this RFP process, including any and all changes and addenda to this RFP or attendant schedules, will be made via the applicable RFP event.

### **7.3 PRE-BID CONFERENCE**

#### **7.3.1 Schedule**

PNM will host a pre-bid conference further detailing information requested in the RFP. A webinar will be available and webinar information will be available in the respective RFP modules. Interested parties and Respondents are encouraged to bring any questions requiring clarification. Your registration, submitted via the Q&A Board, will be required to assure adequate webinar access for participants.

**Date:** **Wednesday March 31, 2021**  
**Time:** **1:00 PM – 3:00 PM, Mountain Time**

#### **7.3.2 Virtual Site Visit Details**

PNM will host a virtual site visit via web-conference to provide information regarding the potential EPC project sites as coordinated with the EPC Proposal Facilitator. Prior registration via the "101-GENALL-2021-EPC" RFP event via the Q&A Board for the virtual site visit will be required to allow the EPC Proposal Facilitator to allow access to the web-conference. Webinar instructions will be available to all registered participants prior to the web-conference via the RFP event.

**Date:** **Thursday April 1, 2021**  
**Time:** **1:00 PM – 3:00 PM, Mountain Time**

### **7.4 EPC SITE INSPECTION**

In addition to these site visits, any supplemental information provided by the EPC Support Team, and examination of the Bid Documents, each Respondent will be solely responsible for conducting such due diligence as it deems necessary or desirable to be fully informed as to the existing and expected job site and off-site conditions and matters that might in any way affect the cost and/or the performance and completion of the Work. Any failure by Respondent to fully investigate the job site and complete its due diligence as to job site conditions will not relieve Respondent from responsibility for estimating properly the difficulty or cost of successfully performing and completing the Work.

In addition, prior to submitting its Bid, Respondent must familiarize itself with local conditions that could affect or impact the Work in any manner whatsoever, and all requirements of applicable permits, licenses, laws, codes, rules, regulations, ordinances, statutes, labor policies, zoning, and local transportation issues. All communications with any local authorities must be coordinated through PNM.

## **7.5 NOTIFICATION OF INTENT TO RESPOND**

In order to identify persons or entities interested in submitting a Proposal, and for those persons or entities to receive any subsequent information distributed in the Proposal process, interested parties shall submit via the Q&A Board within the respective RFP module a Notification of Intent to Respond on or before 4:00 P.M. Mountain Time on the Notification of Intent to Respond due date. The form is available as Attachment A to this RFP and can be downloaded from the applicable RFP event.

Any Respondent requesting access to the Bid Documents and executing a non-disclosure agreement after the Notification of Intent to Respond due date shall be required to submit a Notification of Intent to Respond within one week of executing the non-disclosure agreement.

Respondents shall identify the type(s) of project structure that they intend to bid in the Notification of Intent to Respond.

## **7.6 OWNERSHIP OF BID DOCUMENTS**

The Bid Documents are confidential, are the property of PNM, and are only for the purpose of Respondents' preparing and submitting a Proposal in response to this RFP. In anticipation of a non-disclosure agreement between Respondent and PNM for the project, no information contained or referred to in the Bid Documents may be disclosed or released except as agreed to by PNM.

## **7.7 PNM RESERVATION OF RIGHTS AND DISCLAIMERS**

Nothing in this RFP constitutes an offer or acceptance by PNM, and PNM hereby disclaims any intent for this RFP to constitute a binding contract between PNM and any Respondent. PNM may, and expressly reserves the right to, at any time, and from time-to-time, without prior notice and without providing an explanation or reason therefor:

- Modify, suspend or withdraw this RFP;
- Establish a minimum and/or maximum amount of energy to be acquired under any Proposal or combination of Proposals;
- Accept or reject any or all Proposals;
- Reject incomplete or unclear Proposals or contact Respondents for purposes of Proposal clarification;
- Request changes to any Proposal, scope or general offering as may be desired by PNM or as may be necessary based on regulatory requirements;
- Determine, in its sole discretion, the value to PNM and its customers of any or all Proposals;
- Negotiate with a Respondent or Respondents after submission of a Proposal.
- Negotiate with only those Respondents whose Proposals, as PNM determines in its sole discretion, have a reasonable likelihood of being executed;

- Enter into an Agreement at any time with a Respondent who, in the opinion of PNM, will provide the most value to PNM customers;
- Contract with Respondent(s) other than the lowest price Respondent or with other than the Respondent evidencing the greatest technical ability, if PNM determines that to do so would result in the greatest value to PNM customers;
- Decline to enter into an Agreement with any Respondent and terminate negotiations with any Respondent, at any time during the process; and
- Pursue any and all other resource options available to it in the event negotiations with a Respondent or Respondents do not produce a final and fully executed Agreement satisfactory to PNM and authorized by the Commission, without material changes, for inclusion in PNM's resource portfolio.

By way of example and not limitation, PNM may reject any Proposal that it determines, in its sole discretion:

- Does not meet the minimum requirements set forth in the RFP; or
- Does not include all required elements under Commission Rule 572; or
- Does not provide required information in a manner that allows effective evaluation; or
- Is not economically competitive with other Proposals or, when evaluated in combination with other selected Proposals, does not meet PNM's requirements for energy, capacity and flexible generation by 2024.

Those Respondents who submit Proposals do so without legal recourse against PNM, PNM's parent company or affiliates, and the directors, management, employees, agents or contractors of any of them, due to (1) PNM's rejection, in whole or in part, of the Respondent's Proposal; (2) PNM's rejection, modification, delay or withdrawal, in whole or in part, of this RFP; (3) failure to execute any Agreement; and (4) any other reason arising out of this RFP. PNM will not be liable to any Respondent or to any other party, in law or equity, for any reason whatsoever relating to PNM's acts or omissions arising out of or in connection with the RFP process.

Respondent will be liable for all of its costs, and PNM will not be responsible for any of Respondent's costs, incurred to prepare, submit, or negotiate its Proposal, a definitive Agreement or any other activity related thereto.

## **PART 8 – BID EVALUATION AND CRITERIA**

### **8.1 CLARIFICATION OF PROPOSALS**

PNM may request clarification or additional information during the RFP evaluation process about one or more items in a Respondent's Proposal. Such requests will be sent via the respective RFP module Q&A Board to Respondents, who will be required to provide an electronic response within five (5) business days, or PNM may deem the Respondent to be non-responsive and either suspend or terminate evaluation of the Proposal. Respondents may provide an alternate point of contact to ensure a timely response to clarification questions.

### **8.2 EVALUATION OF PROPOSALS**

The objective of this RFP is to identify and procure resources that, when combined with the existing PNM generation portfolio, support overall reliability of system service and result in a portfolio of generating resources capable of meeting capacity and energy needs of PNM's

customers at a low cost. The objective of the evaluation is to fairly and competitively select those projects that bring the most value to PNM's customers while, consistent with the objectives of the PUA, the REA, and the IRP Rule, preferring resources with the least environmental impacts, those that maximize employment of New Mexico work force, and those that utilize apprentices for the project construction. In addition to the evaluation of individual Proposals as described below, PNM will conduct an evaluation of the overall portfolio of resources.

### **8.2.1 Phase One Evaluation**

The evaluation will be conducted in three phases with Phase One being an initial screening of the Proposals for compliance with the RFP minimum requirements (See, e.g., Section 5.1 and Part 6). The Phase One screening process will be performed for each Proposal to determine if all required information has been provided and minimum requirements satisfied. Material deficiencies will disqualify a Proposal from further consideration, and the Respondent will be notified in such event. PNM may reject incomplete or unclear Proposals from further consideration or contact Respondents for clarification, pursuant to Section 8.1 of this RFP.

### **8.2.2 Phase Two Evaluation**

Proposals that have provided the required data and satisfied the minimum Bid requirements will be passed to Phase Two of the evaluation. Phase Two of the evaluation will focus primarily on price and deliverability, including consideration of pricing factors associated with each Proposal, the overall viability of the Proposal with respect to its ability to achieve commercial operation by the required in-service date, and overall compliance with the objectives of NMSA 1978, Section 62-13-16, the REA, and the IRP Rule. Both price and non-price criteria for each Proposal will be summarized and evaluated. Proposals will be ranked on a total evaluated delivered cost of energy basis with non-price evaluation factors considered in establishing a "short-list" of Bids. Respondents must include sufficient detail for PNM to be able to evaluate all costs associated with the Proposal(s). Price and non-price evaluation factors considered in the establishment of a short-list are summarized below.

If available in response to the RFP, a sufficient quantity of "best-in-class" Bids of each proposed technology will be carried into the selected short-list to fulfill the RFP needs identified herein. These short-listed projects will be carried into more detailed system portfolio modeling in Phase Three of the evaluation.

In addition, the RFP evaluation team will have a separate "best-in-class" bid evaluation and short-list selection for renewable generation on Navajo Nation lands that will be carried into the Phase Three evaluation.

**8.2.2.1 Price Evaluation Process.** PNM will rank all Proposals from a cost standpoint. The price screening consists of measuring each Proposal's total delivered cost of energy, including:

- A. Capital costs and/or capacity costs;
- B. Fixed operation and maintenance costs;
- C. Variable production costs;
- D. Fuel and water costs;
- E. Transmission costs, including third party wheeling;
- F. Operational costs, including system regulation requirements as a result

of the project;

- G. Other system benefits (including accounting for availability of RECs) or costs (including impact to system losses);
- H. Opportunities for marketing of excess energy;
- I. Any additional costs that are required, but not provided for in the Proposal; and
- J. Financial implications of accounting and tax treatment.

In Phase Two, Proposals will be ranked on the basis of minimizing the total evaluated delivered cost of energy and capacity (i.e. total cost impact) from the resource. Proposals with a low total cost impact on the PNM system will receive a higher score than Proposals with a high total cost impact.

**8.2.2.2 Non-Price Evaluation Process.** The following non-price factors will be given consideration in the Phase Two evaluation process. These factors are established as a measure of the viability of the project and the Respondent's ability to deliver the project, as proposed.

- A. Project Viability including:
  - a) Project development and permitting status, including any potential for delay as the result of a Respondent's need for regulatory actions or approvals or for permitting, licensing or transmission interconnection;
  - b) Commercial viability, maintainability, and maturity of technology proposed at the scale quoted;
  - c) Detailed project critical path schedule identifying all important development elements, environmental permit milestones and their timing;
  - d) Respondent's experience with technology and contract structure proposed; and
  - e) Viability of performance and capacity quoted.
- B. Contribution to PNM's overall system reliability. (i.e. the project's operational control or lack thereof and its effect on PNM's reliability metrics);
- C. Project Employment Plan – measuring Respondent's intention for employment of local, New Mexico work force and apprentices for the construction of the facilities;
- D. Environmental and Siting Plan – An assessment of the emissions profile, environmental footprint and overall environmental feasibility for each project, site, access, permits, and all necessary right of ways; and
- E. Respondent's OSHA Safety records.

At the end of Phase Two, a short-list of projects will be determined, at which time Respondents may be requested to supply additional information. Unsuccessful Respondents will be notified at the end of the Phase Two assessment that their Proposals will not be considered further. Successful Respondents will be notified via the RFP event that they have



passed to the third phase of the process, whereupon additional evaluation will be conducted and the preferred resources identified ("Phase Three").

### **8.2.3 Phase Three Evaluation**

Short-listed Proposals will undergo further assessment in the Phase Three evaluation. The Phase Three evaluation will involve portfolio system modeling, more in-depth assessment of the pricing factors noted above as well as comparison and ranking of additional non-price factors. All factors will be ranked in a Bid ranking matrix to assist in the final selection of Proposals. The results of the ranking matrix will be considered in conjunction with portfolio economics and system reliability evaluation results from the system portfolio modeling analyses. From the final set of short-listed Proposals, PNM will select the preferred alternative or combination of alternatives and will pursue negotiations to secure resources. Provided the parties successfully negotiate an Agreement for the project, PNM will then make appropriate filings seeking approval from the Commission based on the negotiated terms of the Agreement(s).

**8.2.3.1 Non-Price Evaluation Process.** In addition to the non-price evaluation factors identified in the Phase Two evaluation, the additional factors reviewed in the Phase Three evaluation and the Bid ranking matrix will include the following:

- A. Commercial / Contract Compliance including:
  - a) Degree of acceptance of PNM's commercial terms; and
  - b) Product and equipment warranty protections.
- B. Respondent Characteristics including
  - a) Creditworthiness;
  - b) Ownership structure and operating history;
  - c) Health and safety history (see Section 8.3.2 below);
  - d) Environmental record/history; and
  - e) Financing plan/structure.
- C. Environmental Considerations including:
  - a) A Respondent's Environmental Management System, (i.e., how the Respondent handles the environmental risk and recycling of project materials associated with its operations and the extent Respondent has developed and implemented an Environmental Management System).
- D. Project Design Plan / Characteristics including:
  - a) Operational flexibility characteristics of the proposed resource and its ability to support CAISO EIM participation (start times, ramp rates, frequency response, minimum down-times / up-times, allowable start frequency, etc.). In particular, if proposing a PPA, limitations on or financial consequences of curtailments, maintenance scheduling, or operational parameters will be evaluated;
  - b) Operations and maintenance plan for the project; and
  - c) Preliminary engineering study describing the generation

technology, emission control equipment and fresh water usage.

- E. Electrical Interconnection Plan / Transmission System Benefits including:
  - a) Assessment of Respondent's transmission capability/deliverability analysis to deliver power to PNM's load center and how Respondent proposes to address potential transmission constraints; and
  - b) Benefits to PNM's electrical transmission system (locational, capital deferral, reliability, etc.).
- F. Community / Stakeholder Considerations including:
  - a) Assessment of community and stakeholder engagement implemented by the Respondent.

Further to item 8.2.3.1 D.a) above regarding EIM participation, PNM assesses resource requirements for serving its retail customers safely and reliably at lowest reasonable costs. PNM's obligation is to complete this evaluation without leaning on potentially speculative wholesale market transactions including the EIM. However, as joining the EIM is anticipated to provide significant benefits to PNM customers, after resource adequate, low cost portfolios have been identified, PNM will evaluate the potential for wholesale market benefits and can use this information to distinguish between portfolios that perform similarly prior to the wholesale market evaluation. For example, if two portfolios are resource adequate, (near) equivalent in cost and have similar environmental benefits, PNM would then prefer the portfolio that could provide the greater wholesale market benefits, knowing that if those do not materialize, its customers are not worse off. This rationale is similar in logic to 17.3.6 NMAC which provides that when costs and service quality are equivalent, the utility should prefer resources that minimize environmental impacts.

## **8.3 CONTRACTUAL CONSIDERATIONS**

### **8.3.1 Small Business Plans**

PNM promotes and encourages diversity in project sourcing and encourages all Respondent's to maximize the use of small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small business concerns to the greatest extent practical.

### **8.3.2 Contractor Safety Prequalification Program**

PNM has implemented a Contractor Prequalification process as part of its effort to continuously improve in the areas of health, safety, risk, and finance. EPC or BT Respondents who are finalists of this RFP will be required to register with ISNetworld (ISN) auditing at:

<https://www.isnetworld.com>

and obtain a passing safety grade prior to final award of the contract. PNM will notify all finalists and allow reasonable time for the registration process. Contractor is responsible for any costs associated with registration.

### **8.3.3 Insurance**

The successful Respondent will be required to maintain, at a minimum, standard insurance coverages for Workers' Compensation; Commercial General, Employer's and Automobile liability; an Umbrella excess liability; and Cyber insurance coverage. Respondents are

requested to provide evidence and level of coverage of such insurance for bidding purposes in the Proposal. Specific insurance requirements of PNM and lender's will be addressed as part of the evaluation and negotiation of the Agreement.

#### **8.3.4 Commercial Terms and Conditions**

All Proposals will represent a firm offer to contract on the terms and conditions included as Appendices to this RFP. Each representation of fact and promise of future performance within a Proposal will be incorporated into the Agreement as a warranty or covenant. Any statement of fact or promise of future performance that is not intended by the Respondent as a warranty or covenant should be clearly identified.

#### **8.4 AWARD**

PNM reserves the right to reject any and all Bids and will inform unsuccessful Respondents upon rejection of their Bids. Prior to PNM's bid award, PNM may have discussions with Respondents whose Bids are under consideration. Respondents may be required to travel to PNM's office or other locations for further discussions.

Negotiations arising out of the Proposals may be conducted with any or all Respondents, at PNM's sole discretion. Following the award of the Bid, winning Respondents will be expected to enter into an Agreement addressing commercial terms and conditions. PNM will have no obligation to accept any Proposal submitted pursuant to this RFP. Whether, and on what terms, any Proposal is accepted is within PNM's sole discretion.

A Proposal will be deemed formally accepted only if and when the Agreement has been executed by a Respondent and delivered to PNM, and PNM has signed it. The effectiveness of any Agreement will be subject to certain conditions precedent, including Commission authorization. Until such time, none of PNM, its parent company, its subsidiaries or its other affiliates will have any obligation to any Respondent with respect to a proposed project, and following such time, the only obligations of PNM will be those set forth in the Agreement. By submitting a Proposal, each Respondent agrees that PNM (i) is under no obligation to consider or accept any Proposals made, (ii) will not be liable to any Respondent for the selection of one Proposal in lieu of another Proposal or combination of Proposals and (iii) will not be liable for any costs incurred by any Respondent in connection with this RFP process. By submitting a Proposal, each Respondent agrees to the terms of these Instructions to Bidders and acknowledges that Respondent is relying solely upon its own independent investigation and evaluation of its proposed project.