

ADDITIONAL QUESTIONS / ANSWERS
to the Official Question / Answers
SOLAR PHOTOVOLTAIC SYSTEM
RFP 6100033872

8/17/2015

Question #	RFP Page #	RFP Section Reference	Question	Answer
	(If Known)	(If Known)	(Required)	(Required)
1		Previous Q&A, Question # 6, 18 and 46.	<p>In reviewing the Official Questions / Answers for Solar Photovoltaic System RFP 6100033872, I wanted to request clarification on the responses provided to questions 6, 18 and 46.</p> <p>Specifically, standard industry practice for solar project ownership involves the formation of a new limited liability company or limited partnership entity to own the solar project in order to monetize federal income tax benefits associated with project Section 48 investment tax credits and depreciation.</p> <p>The newly formed special purpose entity is not a public entity, typically does not have historical or audited financial statements and would likely not have a Dun and Bradstreet report associated with its federal EIN.</p> <p>What additional information would be acceptable to the Commonwealth to demonstrate the financial capability of the LLC / LP (the Offeror) under Section II-7, Financial Capability ?</p>	<p>Each of the entities forming the new business entity for the purpose of this RFP would need to provide their own financial statements for evaluation.</p>
2		Previous Q&A, Question # 6, 18 and 46.	<p>Additionally, the response to question 6. Indicates: "A performance bond will not be accepted in lieu of financial statements."</p> <p>As such, how should the response to question 6 be interpreted given the following language in Section III-5 of the RFP: "An Offeror which fails to demonstrate sufficient financial capability to assure good faith performance of the contract specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issued Office may require a certified or bank (cashier's) check, letter of credit or performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror and cannot increase the Offeror's cost proposal or the contract cost to the Commonwealth.</p>	<p>Offerors may not submit a performance bond in lieu of financial statements. The provisions of Section III-5 apply if, after the evaluation of the Offeror's financial capabilities, an Offeror has failed to demonstrate sufficient financial capability to assure good faith performance of the contract. At that point, the Issuing Office, in its sole discretion, may make Best and Final Offers or contract negotiation contingent upon the Offeror's providing a performance bond as described in Section III-5.</p>

ADDITIONAL QUESTIONS / ANSWERS
to the Official Question / Answers
SOLAR PHOTOVOLTAIC SYSTEM
RFP 6100033872

8/17/2015

Question #	RFP Page #	RFP Section Reference	Question	Answer
	(If Known)	(If Known)	(Required)	(Required)
3		Previous Q&A, Question # 6, 18 and 46.	<p>regarding the answer to question #41 ... if the service contract between DMVA and the Awardee contains the provision that the asset will be transferred to DMVA at the end of the 20 year term for \$0, then the IRS will classify the contract a lease not a service contract/PPA.</p> <p>If solar property is leased to a non-profit, all the tax benefits including the 30% tax credit and accelerated depreciation are lost which makes the project at FTIG unfeasible for all prospective bidders.</p> <p>In fact any language in the service contract regarding a buyout or sale to DMVA must state that the asset has to be sold for a minimum of Fair Market Value. Those three words "Fair Market Value" need to be the language regarding any sale or buyout.</p> <p>Federal facilities have been installing large solar arrays thruout the country the past few years. I suggest getting a copy of the PPA contract used on one or more of those projects and reviewing the language related to sale or buyout.</p>	Refer to the Response provided on Addendum 4
4		Previous Q&A, Question # 6, 18 and 46.	<p>Q11. Entities looking to finance this project are going to want clarity on contract T&Cs prior to the submission of bids in October in order to make certain that they can recover their investment. If there is insufficient clarity on the Termination for Convenience or Force Majeure clauses i) financing may be unavailable or ii) financing may be offered but at a higher cost because of potential risks associated with the RFP. Both outcomes would be counterproductive in achieving DMVA's goal of cost effective renewable energy. IRS rules regarding the tax credits/accelerated depreciation further complicate an early termination scenario because a termination prior to the end of the accelerated depreciation window will result in the system owner paying recapture penalties to the IRS. The amount of costs needed to be recovered will also depend on the financing method each bidder uses for the project.</p>	Refer to Addendum 4 for a response.
5		Previous Q&A, Question # 6, 18 and 46.	<p>The RFP states that bids cannot contain any caveats, however given the above concerns, can bidders submit along with their proposal, an early termination payment schedule that they would require in order to finance the project? It would be incumbent upon the bidder to verify that lost profit is not included in the early termination payment schedule submitted. Agreeing to an early termination payment schedule AFTER the bids are submitted does not eliminate the concern of financing entities who need to make their financing commitments based on the RFP requirements in place PRIOR to bid submission.</p>	No.

ADDITIONAL QUESTIONS / ANSWERS
to the Official Question / Answers
SOLAR PHOTOVOLTAIC SYSTEM
RFP 6100033872

8/17/2015

Question #	RFP Page #	RFP Section Reference	Question	Answer
	(If Known)	(If Known)	(Required)	(Required)
6		Previous Q&A, Question # 6, 18 and 46.	<p>Also, in the event of an early termination, what does DMVA assume will be done with the system (abandon in place, removal)? If removal is the expected outcome, will the Awardee be allowed to recover removal costs as an additional payment? The alternative would be for each Bidder to include anticipated removal costs in the early termination payment schedule suggested above.</p> <p>Lastly, will the Awardee be made whole for any contract exposure associated with sREC sales? For instance, the Awardee contracts to sell the sRECs expected to be produced by the system for ten years to ACME utility co for \$45/mWh. The DMVA triggers an early termination in year 6 of the contract. At that time the market price of PA produced sRECs has climbed to \$100/mWh. The Awardee would need to buy sRECs on the market at the higher price in order to fulfill their sREC contract responsibilities or forfeit the bid security the Awardee posted when they entered into the sREC contract.</p>	Refer to Addendum 4 for a response.
7		Previous Q&A, Question # 19	<p>Q19. If the PPA agreement is written with a transfer of the asset to the host at below Fair Market Value, then the IRS is will likely view the transaction as a Sales contract as opposed to a Services (PPA) contract. Under that circumstance the Investment Tax Credit, Bonus and Accelerated Depreciation would go to the host which is deemed the Buyer by the the IRS. Since the host is a non-profit entity, the tax benefits associated with the project would be lost. Since the tax benefits subsidize approximately 50% of the system cost, the loss of them would make the project unworkable. Following is a link with discussion reagrdng this topic (see "Mistake 2: Fixed Buyout Price").</p> <p>http://greenzu.com/invest-advice/tax-equity-due-diligence</p> <p>□</p>	Refer to Addendum 4 for a response.
8		Previous Q&A Q# 26	<p>Q26 If First Energy requires "significant" system modifications to either their facilities or FTIG's facilities after the interconnection review, will the successful Offerer be allowed to adjust their cost proposal to recover these additional charges?</p>	Refer to Commonwealth's response to Question 42 of the Official Questions/Answers issued with Addendum #2 on June 25, 2015.

ADDITIONAL QUESTIONS / ANSWERS
to the Official Question / Answers
SOLAR PHOTOVOLTAIC SYSTEM
RFP 6100033872

8/17/2015

Question #	RFP Page #	RFP Section Reference	Question	Answer
	(If Known)	(If Known)	(Required)	(Required)
9		Appendix D - Cost Submittal	The Cost Submittal (Appendix D) is requesting "the average net output in kW of the Offeror's proposed Solar PV system during the potential peak hours of 3PM to 5PM on weekdays June 1st thru August 30th. Is there a stipulated modeling software bidders should employ to determine hourly system output in order to have uniformity among bidders? Secondly do you want average 3PM to 5PM output (which will include a wide range of temperature and solar irradiance conditions that take into account cloudy/rainy conditions) or do you want the 3PM to 5PM summer output modeled on conditions likely to occur during PJM system peak hours i.e. high 90s temperatures and higher solar irradiance?	Offers shall use a modeling program recommended by the panel system manufacturer that accurately reflects the system's net peak power and energy generation capabilities based on Fort Indiantown Gap's variable weather conditions i.e. cloud covering effecting delivered solar energy, air temperature ranges effective thermal efficiency of supporting electrical equipment, and the panel's orientation/mounting configuration design. The modeling program's output shall meet the criteria per Appendix D Cost Submittal sub-section III B d. The net hourly peak power output and the average net peak power output values contained in the modeling shall be reflected in the annual energy and power values submitted in the pricing sheet. The quantities submitted for both power and energy shall meet the requirements under section V Solar PV net Energy Requirements subsection A and B.
10			Do you have a draft Power Purchase Agreement that you will be using for the FTIG project?	The resulting Contract between the Selected Offeror and the Commonwealth will serve as the Power Purchase Agreement.
11			I found this solicitation late last night. As I was reading through the attachments, I found that the mandatory meetings have come and passed. I am very interested in this BID and would submit a competitive bid, but I am concerned that I have missed the opportunity because of the mandatory meetings held in June. Will there be any additional meetings? Is there anything that I can obtain, read or listen to that would permit my BID for submittal?	No. Refer to Addendum 1. Failure to attend the Preproposal conference and site visit shall disqualify an Offeror from consideration for the contract to be awarded from this RFP, and its proposal will be returned unopened.