

New York Department of State, Division of Consumer Protection,
Utility Intervention Unit
REQUEST FOR QUOTATION (RFQ) #17-UIU-26

Consultant Services: Investor-owned Regulated Public Utility Performance-based Revenues

Key Dates:

Release Date: September 8, 2017
Questions Due: September 15, 2017
Questions & Answers Posted: September 22, 2017
Bids Due: September 29, 2017

The procurement is in a restricted period from the date this RFP is issued until the contract has been approved. All contacts/inquiries shall be made by email to the designated contact for this procurement at the following address:

Email: erin.hogan@dos.ny.gov
(include in subject line: **RFQ# 17-UIU-26** <name of vendor>)

Refer to www.dos.ny.gov/funding to review responses.

Bid Submission:

Kim Giesin
NYS Department of State
1 Commerce Plaza
99 Washington Avenue, Ste. 1110
Albany, NY 12231

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GENERAL INFORMATION

The New York Department of State (DOS), Division of Consumer Protection, Utility Intervention Unit (UIU), through this competitive Request for Quotation (RFQ), is seeking a Consultant experienced in investor-owned regulated public utility performance based revenues to assist the UIU in analyzing and testifying on the Central Hudson Gas and Electric Corporation (Central Hudson or the Company) electric and gas rate cases (17-E-0459 and 17-G-0460) filed with the New York Department of Public Service (DPS) on July 28, 2017. The Company filed electric and gas Earning Adjustment Mechanism (EAM) proposals that allow it to retain earnings exceeding the Company's target Return On Equity (ROE) levels if it achieves certain goals in (1) energy efficiency, (2) carbon intensity, (3) system efficiency, (4) interconnection, (5) customer engagement, and (6) distributed energy resource utilization.

The New York State Public Service Commission (PSC) developed a regulatory policy framework for its Reforming the Energy Vision (REV) initiative (case 14-M-0101) that focuses on aligning ratemaking practices with an evolving set of regulatory and policy objectives such as making energy more affordable for all New Yorkers and achieving a state target of 50% renewable generation by 2030. The Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (REV Track Two Order) changes the current status quo utility business model by adding a combination of market-based platform earnings and outcome-based earnings opportunities to traditional cost of service based earnings. One such new earnings opportunity are EAMs. The Commission directed utilities to file proposals for EAMs based on certain system efficiency, energy efficiency, customer engagement, interconnection, and clean energy standard goals. The UIU's foremost objective in these cases is balancing the interests of all consumers in this utility proceeding while focusing on protecting the interests of New York residential and small commercial consumers. The successful bidder will need to review the Company's proposed EAMs in preparation for submitting a Proposal Package. Strategy proposed as part of the Proposal Package Work Plan will also be considered as part of the award process.

The Consultant should have experience testifying on public utility rate case matters with a specific knowledge base of utility capital structures and incentives. The Consultant is

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expected to be able to coordinate and incorporate recommendations from multiple witnesses testifying on behalf of consumers' groups, commercial consumers, and others to build advocacy consensus around the Company's electric and gas rate cases.

Submissions responsive to this RFQ must include a completed Proposal Package, including the Consultant Background, Proposed Work Plan, and completed Quotation Sheets, the forms for which are attached. The content required for each document is described below. The failure of the Consultant to provide any of the required documents may result in rejection of the Consultant's submission from consideration for this RFQ.

SCOPE OF WORK

The Consultant will agree to review a select number of the Company's electric and gas panels, witness testimony, and/or exhibits, and will submit to the UIU its own independent analysis and review of the appropriateness of the Company's claims. For the purposes of this RFQ, the panels and witnesses of interest to the UIU must include the Testimony and Exhibits of the Earning Adjustment Mechanism Panel. Bidders should also review the Commission's directives and the framework for EAMs in the REV Track 2 Order along with EAM proposals previously filed by Central Hudson in compliance with the REV Track 2 Order. Based on this analysis, the Consultant will, as necessary, prepare written initial and rebuttal testimony and exhibits. The Consultant may also be required to participate in settlement negotiations pertaining to the Company's electric and gas EAM proposals (i.e., earning target structures, financial basis point assignments for achieving targets, data analysis to determine baseline, timing of utility earnings, benefit-cost analysis (BCA), and associated earning adjustment methodologies) and any relevant proposals from other parties in these proceedings. The Consultant is expected to focus on EAMs that carry the highest potential benefits and costs to all consumers, with a focus on the protections of residential and small commercial consumers.

The Consultant will be expected to monitor the Company's rate case activities and the submissions of other parties, and prepare filing responses as necessary. In addition, the Consultant is expected to prepare written information requests to the Company, New York State Department of Public Service (DPS) Staff, and other party members during the rate cases

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as well as answer relevant information requests directed to the UIU. The Consultant will also be expected to consider other parties' interests and develop responsive strategies concerning their positions regarding the benefits and costs of the Company's proposed EAMs and any relevant issues that are inconsistent with the public interest or UIU goals. The Consultant should be prepared to devote sufficient resources to meet all procedural schedules, timelines, or deadlines established by the UIU Director, DPS Administrative Law Judges (ALJs), or the PSC.

PROPOSAL PACKAGE

The Proposal Package must include the following sections: (1) Consultant Background; (2) Proposed Work Plan; and (3) Quotation Sheet.

1. Consultant Background

- a. A description of the Consultant's background and expertise in investor-owned public utility rate cases. This description should demonstrate the Consultant's general understanding of the Company's electric and gas rate cases with an emphasis on specific utility capital structure and incentive issues regarding system efficiency, energy efficiency, grid interconnection, customer engagement, and clean energy standards. In addition, the Consultant must show proficiency in data analysis and statistical forecasting.
- b. The Consultant and the individual(s) who would be assigned to work on the Company's rate cases, including their name(s), position(s), function(s), and role(s). **Include resumes listing total years of experience with public utility case work.** The combined length of items (a) and (b) may be no more than ten (10) pages.
- c. As a separate attachment to the Proposal of no more than (8) eight pages, please provide a three (3) year sample listing (**which does not need to be continuous**) of the Consultant's utility rate case work **related to regulated public utility performance based revenues. In this list, include specific**

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case numbers, dates, and general background of previous utility rate cases the Consultant worked on that relate to utility capital structures and incentives in the proposal package. Also, demonstrate whether and how the Consultant met each client's needs and expectations in each rate case. This list must also highlight and explain any instances where the client's needs and/or expectations, and the Consultant's work on the client's behalf, may have been in tension with the UIU's primary objective of protecting residential and small commercial consumers. In this section, identify any past or ongoing proceedings or matters that could potentially represent a conflict of interest that may affect the Consultant's ability to work with the UIU on the Company's rate cases. Please also include the names and phone numbers of three (3) references from this list of past clients whom the UIU Director can contact for feedback regarding the Consultant's performance and final work products.

2. Proposed Work Plan

The Consultant will submit a Work Plan that describes the work products to be produced for direct and rebuttal testimony and exhibits, including discovery as necessary; settlement negotiations; and writing and review of documents (e.g., joint proposal, statements of support/opposition, briefs, etc.). The Work Plan should not exceed 5 pages in length.

The Work Plan should provide a description, with a reasonable level of detail, of how the Consultant will evaluate the degree to which the Company's EAMs benefit consumers while balancing the interests of residential, small commercial, and all other consumers. The Work Plan should identify the Company's panels, expert witness testimony, and/or exhibits deemed necessary to develop its work products. It should also provide clearly delineated assumptions associated with the Company's electric and gas rate cases as relevant to the UIU's scope of work.

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The Work Plan will cover the contract period that will likely conclude by March 2018. Direct testimony will be due on November 21, 2017 and rebuttal testimony will be due December 19, 2017 with settlement likely to begin afterwards. The Consultant will not be required to participate in every settlement meeting and the UIU Director will notify the Consultant of the relevant meetings to participate in.

3. Quotation Sheet and Attestation

The Consultant will submit a Quotation Sheet (see Attachment 1) that describes the Consultant's estimated number of work hours multiplied by the Consultant's contract rate and total cost for the work products described in Section 2 ("Work Plan"). The Quotation Sheet must list all individuals assigned to the task and their job titles. Hours listed are estimates for bidding purposes only. The Total Cost on the Quotation Sheet is final. Additionally, the Consultant will complete Attachment 2 and attest to the accuracy of the proposal.

STANDARDS OF PERFORMANCE OF CONTRACTED SERVICES

The Consultant will be expected to produce work products that are a direct result of its coordination and collaboration with UIU Staff. As stated under the Scope of Work, the Consultant should be prepared to devote resources sufficient to meet any procedural schedules, timelines, or deadlines as established by either the UIU Director, the DPS Administrative Law Judge, DPS Staff, and/or the New York Public Service Commission. The Consultant's work products as specified in the Work Plan are to be completed in a timely manner. The UIU Director will monitor the progress and results of the Consultant's work products through direct communications with the Consultant.

Performance standards are based on the following criteria:

1. Project management effectiveness, including planning and timeliness of work products.
2. Thoroughness of issue identification, development, and recommendations, including the accuracy of analyses and associated supporting evidence.

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3. Thoroughness and persuasiveness of written and oral communications to the UIU Director and Staff.

**QUANTITATIVE FACTOR FOR NEW YORK STATE CERTIFIED MINORITY
AND WOMEN-OWNED BUSINESS ENTERPRISES**

Pursuant to New York State (NYS) Finance Law section 163(1)(j), a quantitative factor for certified Minority or Women-owned Business Enterprises (MWBES), as defined in subdivision 1 section 310 of the NYS Executive Law, will be included in the total evaluation scale. A percentage of the total evaluation scale will be awarded to a responsive Consultant who is listed as an MWBE firm in the directory of NYS Certified MWBEs (“Directory”), or who enters into a partnership with a certified MWBE firm found in the Directory in response to this RFQ. The Directory can be found at:

<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=6158>.

PUBLIC DISCLOSURE

The Consultant may not make media releases (written or oral) or other public disclosures related to this RFQ or the work to be performed without receiving prior written consent from the UIU Director.

TERMINATION

The UIU Director, with written approval of the DOS Director of Administration, reserves the right to terminate the contract with the Consultant for any or no cause upon fifteen (15) calendar days’ written notice. In the event of termination, other than a result of default by the Consultant, the UIU shall make payment for the services rendered prior to the effective date of termination, provided the UIU Director has received proper and accurate invoices for those services rendered.

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TYPE OF CONTRACT

Payment to the Consultant under a contract executed as a result of this RFQ will be based upon the hours actually worked by each individual based on authorized itemized expenses. Payments will be made for each individual at the quoted, contracted rate for that individual. Total payments to the Consultant shall be limited to the Total Cost on the Quotation Sheets.

INCURRING COSTS

Any Consultant shall bear all costs incurred prior to the receipt of a fully executed contract, including costs associated with preparing the Consultant's response to this RFQ.

REJECTION OR MODIFICATION OF PROPOSALS

The UIU Director may also undertake negotiations regarding Total Cost, assigned staff, and/or other matters with any consultants who submit the highest scoring bid. Every Proposal represents a firm offer not revocable for a period of 60 days from the bid opening.

EVALUATION OF PROPOSALS

The UIU Director will make the award based on the highest score. The Total Cost on the Quotation Sheet of each Proposal will receive significant weight, but will not be the sole determining factor in the selection process.

Factors for selection include

1. Qualifications of staff (15 points)
2. Cost (10 points)
3. Demonstrated approach in the Work Plan (10 points)
4. Positions in past testimony (5 points)
5. Quality of proposal (5 points)
6. MWBE certification or teaming (5 points).

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At this time, the UIU anticipates to make a final selection of a consultant no later than October 6, 2017. Within five (5) business days of selection, the UIU and the Consultant will execute a contract setting forth each party's responsibilities. This contract will incorporate this RFQ, the Consultant's Proposal, Quotation Sheet, and referenced attachment(s). The Consultant must be prepared to start work immediately upon contract execution.

ISSUING PARTY AND CONTRACT EXECUTION

The DOS (Division of Consumer Protection, UIU) is the issuing party for this RFQ. Upon entering a contract with the UIU, the Consultant will be required to provide a current Workers' Compensation Form and Disability Certification Form, or Exemption from Workers' Compensation and Disability Form. **The New York State Department of State must be listed as the certificate holder in box 2 on the forms.** The only acceptable forms are listed below and are to be obtained by contacting the Consultant's insurance carrier:

- Workers' Compensation Form - C-105.2 or SI-12 or U-26.3
- Disability Form - DB-120.1 or DB-155
- Exemption from Workers' Compensation & Disability - CE-200

Please note that **ACORD** Forms are **NOT** acceptable proof of insurance coverages.

The successful bidder will also be required to complete and submit the following forms:

- Consultant Disclosure
- Procurement Lobbying

If awarded a contract, the Consultant will be provided with the above-mentioned forms to complete and submit with the contract package.

RESPONSE DATE AND CONTACT INFORMATION

Submissions are due no later than September 29, 2017 at 4:00 p.m. Eastern Standard Time. **Submissions received after this time will not be considered.** Please submit one complete original Proposal Package and all associated required documents plus two exact

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copies of the original package by the time and date stated above. All submissions must contain the complete Proposal Package, including attachments. All applications must be delivered to:

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**Kim Giesin
Bureau of Fiscal Management
NYS Department of State
One Commerce Plaza
99 Washington Avenue, Suite 1110
Albany, NY 12231**

Please direct any questions regarding this RFQ to Erin Hogan, UIU Director at erin.hogan@dos.ny.gov, and include “RFQ: **17-UIU-26**” in the subject line.

Reservation of Rights

In addition to all rights described elsewhere in the Request for Quotations, the New York State Department of State (DOS) reserves, without limitation, the rights to:

1. Reject any or all proposals received in response to the RFQ;
2. Withdraw the RFQ at any time, at the DOS’s sole discretion;
3. Make an award under the RFQ in whole or in part;
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFQ;
5. Seek clarifications and revisions of proposals;
6. Use proposal information obtained through site visits; management interviews; the State’s investigation of a bidder’s qualifications, experience, ability or financial standing; and/or any material or information submitted by the bidder in response to the agency’s request(s) for clarifying information; in the course of evaluation and/or selection under the RFQ;
7. Prior to the bid opening, amend the RFQ specifications to correct errors or oversights, or to supply additional information as it becomes available;
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFQ amendments;
9. Change any of the scheduled dates;
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders;

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11. Waive any requirements that are not material;
12. Negotiate with the successful bidder within the scope of the RFQ in the best interests of the state;
13. If unsuccessful in negotiating a State contract with the selected applicant within an acceptable time frame, the DOS may begin State contract negotiations with the next ranked qualified applicant(s) in order to serve and realize the best interests of the State;
14. Utilize any and all ideas submitted in the proposals received;
15. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a bidder's proposal and/or to determine a bidder's compliance with the requirements of the solicitation;
16. Waive or modify minor irregularities (such as typographical errors) in applications received;
17. Not fund an application that fails to submit a clear and concise Work Plan or budget;
18. Adjust or correct cost figures with the concurrence of the applicant if errors exist and can be documented to the satisfaction of the DOS and State Comptroller;
19. Award more than one contract resulting from this RFQ;
20. In its sole discretion, determine the total number of awards to be granted pursuant to this RFQ; and
21. In the event that a Work Plan submitted following an award during contract negotiations is substantially different from the application submitted through the procurement process, DOS reserves the right to require modifications to the Work Plan to bring it into conformance with the application. If no such modifications are made and approved within a reasonable time period, DOS may rescind the award and make funding available to the next highest scoring application.

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ATTACHMENT 1

<u>Staff</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Total Cost</u> <u>Hours x Rate (\$)</u>
Consultant			
Analyst			
Support			
Task Total			

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ATTACHMENT 2

Consultant Information

Name: _____

Title: _____

Company: _____

Address: _____

Phone Number: _____

Email Address: _____

NYS Vendor ID# _____

FEIN # _____

By signing this form, I attest to the accuracy of this submission. Additionally, I certify that I am authorized to submit the attached proposal on behalf of the organization listed above.

Certification/Signature *Date*

☐ **NYS MWBE Certified**

☐ **NYS SDVOB**