

Responses to the
Division of
Consumer Advocacy's
Information Requests

CA/HECO-IR-1

Ref: HECO Companies Final SOP at 2.

The HECO Companies state that the “objectives of competitive bidding should be established to assess whether [competitive bidding] will be beneficial.”

- a. Please identify, specifically and completely, the actual “objectives” (i.e., rather than a conceptual description) that the HECO Companies would recommend be established (i.e., if different from those discussed under 4.a, b. and c. at 2-3 of the Final SOP).
- b. Please state who should be responsible for “establishing” these “objectives,” and why.
- c. Please indicate when the objectives should be established. Explain.

HECO Response:

- a. Please refer to HECO’s response to CA/HECO-IR-2, to which HECO has attached Competitive Bidding Guidelines. Section II.B (Competitive Bidding Objectives) provides proposed objectives.
- b. As stated in Exhibit II, page 2, of HECO’s Final Statement of Position, “the details of the competitive bidding process should be developed in a follow-up proceeding based on the principles enunciated by the Commission in this proceeding.” HECO further stated, “In essence, the Companies view a three-stage process - - in the first stage, basic guidelines are established; in the second stage, framework provisions (or agency rules) are established based on the guidelines; and in the third-stage, utility-specific provisions (RFP documents, process manuals, etc.) are developed in a manner consistent with the framework provisions (or rules).” The objectives can be developed within the first stage or the second stage. The specifics regarding the framework for undertaking competitive bidding should be developed in the follow-up proceeding to ensure that the details of the competitive bidding process can be adequately assessed and evaluated. Ultimately, in a framework proceeding (like that used

to develop the IRP Framework), the Commission could establish more specific objectives for competitive bidding, should competitive bidding be adopted in Hawaii, based on input from the parties to this proceeding.

- c. Please see the response to subpart b. above.

CA/HECO-IR-2

Ref: HECO Companies Final SOP at 11.

The HECO Companies state that “the details of the competitive bidding process should be developed in a follow up proceeding, based on the principles enunciated by the Commission in this proceeding.”

- a. What “principles” do the HECO Companies believe that the Commission should “enunciate” in this proceeding? Explain.
- b. Please provide a specific and complete list of the principles identifying the HECO Companies’ actual preferred principles (i.e., rather than a conceptual description of such principles), and explain the rationale for each such principle.
- c. What “details” do the Companies believe that the Commission should establish through the proposed “follow up” proceeding? Please provide a specific and complete list identifying the HECO Companies’ actual preferred “details” (i.e., rather than a conceptual description of such details), and explain the rationale for each such detail.
- d. Please explain why the evolving nature of competitive bidding processes (Ref. HECO Companies Final SOP, Exh. I, at 29) would not threaten to undermine the “details” that the HECO Companies propose be established (i.e., in their response to Part (b) above).

HECO Response:

- a. The Commission should establish guidelines regarding competitive bidding in this proceeding. The Commission should determine whether or not competitive bidding is an appropriate mechanism for acquiring or building new generating capacity in Hawaii. If the Commission finds in the affirmative, then the Commission should issue policy statements on the key issues HECO identified in its Final SOP on page 12: “(2) what competitive bidding process, if any, should be implemented, (3) which resources should be subject to the competitive bidding process (since there are significant differences between central station firm capacity, distributed generation, and as-available renewable energy generation), (4) how should competitive bidding procedures be developed, and (5) how should such a competitive bidding process be “integrated” with the integrated resource planning (“IRP”)

process?”

In effect, this proceeding should establish the “strawman” for competitive bidding. Guidelines consistent with the positions taken by the Companies in their Final SOP are attached as Exhibit “A” to this response. The details of the competitive bidding process should be established in the follow-up framework proceeding, as was the case in developing the Framework for Integrated Resource Planning. (In the third stage, utility-specific provisions [RFP documents, process manuals, etc.] would be developed in a manner consistent with the framework provisions.) As HECO has noted, the devil is in the details when it comes to developing a competitive bidding process. Exhibit “B” to this response provides an illustrative Competitive Bidding Framework outline that would be consistent with the guidelines prepared by the Companies in Exhibit “A”.

The Consumer Advocate’s five pages of general guidelines in its Final SOP are consistent with strawman proposals for competitive bidding only. Most of the competitive bidding rules developed in other states are detailed documents that are designed to provide specific details. For example, Oregon’s bidding rules are over 30 pages in length and provide details about the application of competitive bidding. (The Oregon Public Utility Commission opened an Investigation Regarding Competitive Bidding in April, 2005 (UM 1182). The intent of the Investigation is to reassess and potentially revise the 1991 bidding rules.) (See also the response to CA/HECO-IR-1, subpart a.)

- b. In response to part a above, HECO identified several principles and policy issues which the Commission would need to address in this proceeding. It should not be construed as a final and complete list as other issues may arise during the remaining course of this proceeding. As the Commission stated in its Order No. 20583, dated October 21, 2003, on page 3, “As

we examine the various generic competitive bidding issues in this proceeding, the commission anticipates that other related matters may also be simultaneously addressed through other state and federal actions (i.e., legislation). Further, these issues may tangentially or indirectly be raised in future commission dockets or tariff filings.”

As stated in part a above, the Commission should “enunciate” guidelines regarding competitive bidding in this proceeding, should the PUC determine that competitive bidding is an appropriate mechanism for acquiring or building new generating capacity in Hawaii. The guidelines and the detailed reasons for the guidelines are addressed in HECO’s Final Statement of Position (“SOP”).

- (i) What competitive bidding process, if any, should be implemented? The Commission should determine whether or not competitive bidding is an appropriate mechanism for acquiring or building new generating capacity in Hawaii. As stated in HECO’s Final SOP on page 1, “The HECO Companies can support competitive bidding for certain forms of new generation, but only if it is structured in such a fashion that the potential benefits can be realized, and the potential disadvantages can be mitigated or eliminated, and only if appropriate exceptions are recognized.” The rationale for this principle lies in HECO’s discussion of the benefits and impacts of competitive bidding Exhibit I, pages 1 to 25, and in HECO discussion of the exceptions to competitive bidding in Exhibit II, pages 5 to 10. Simply put, competitive bidding would be beneficial to ratepayers only if the actually realized benefits (in terms of cost and reliability) outweigh the actually incurred “sacrifices” (in terms of cost and reliability).
- (ii) Which resources should be subject to the competitive bidding process (since there

are significant differences between central station firm capacity, distributed generation, and as-available renewable energy generation)? The Commission should define the scope and applicability of the competitive bidding process. The scope of competitive bidding should apply only to new generation, subject to the exceptions identified by HECO in Exhibit II, pages 5 to 10, of its Final SOP. HECO stated on page 5 that, "Exceptions to any mandated competitive bidding process must be allowed when the competitive bidding process would not allow needed generation to be added in a timely fashion, and when another competitive procurement process would be more efficient." Furthermore, as HECO stated in its Final SOP, page 15, footnote 6, "This docket was opened to address competitive bidding for new generation. Thus, competitive bidding for DSM resources is clearly beyond the scope of this docket. In fact, the acquisition of DSM resources is the subject of the energy efficiency docket opened by the PUC, Docket No. 05-0069." The rationales behind these principles are to establish reasonable boundaries around which resources would be subject to competitive bidding.

- (iii) How should competitive bidding procedures be developed? The Commission should define the process and forum in which competitive bidding procedures will be developed. HECO stated in Exhibit II, page 2, of its Final SOP that "In essence, the Companies view a three-stage process - - in the first stage, basic guidelines are established; in the second stage, framework provisions (or agency rules) are established based on the guidelines; and in the third-stage, utility-specific provisions (RFP documents, process manuals, etc.) are developed in a

manner consistent with the framework provisions (or rules).” Furthermore, “The HECO Companies prefer that the procedures be developed and adopted in a framework proceeding, like that used to develop the IRP Framework, rather than in a rulemaking proceeding. HECO recommends guidelines over rules in order to provide for flexibility to adjust to different situations and circumstances.” The rationale behind these principles is to promote an orderly and measured approach to developing the guidelines and, as stated, “to provide for flexibility to adjust to different situations and circumstances.”

- (iv) How should such a competitive bidding process be “integrated” with the integrated resource planning (“IRP”) process? As stated in Exhibit II, page 34, of HECO’s Final SOP, “HECO discussed three approaches for conducting the IRP and competitive bidding process in its Preliminary SOP. See PSOP, Exhibit A at 17-20. HECO’s preferred approach is the first one in which the IRP Plan can continue to be developed using the current process followed by the HECO Companies. In this case, the role of the IRP Plan should be to identify the preliminary “preferred” resource plan, define capacity and energy requirements, the timing of need, any preferred technologies, and potentially any other preferred attributes. The IRP Plan can also be used to identify any preferences or criteria for resource selection and can be used to determine avoided costs.” The rationale for this approach is that it utilizes the existing IRP process to the extent practical while still enabling a competitive bidding process to be established, if the Commission decides that competitive bidding for new generation is appropriate for Hawaii.

In addition to the guidelines outlined above, the additional guidelines such as the following should be established:

- (v) The electric utilities should be allowed to participate as bidders in the competitive bidding process and conduct the competitive bidding process. (See HECO's Final SOP, page 8, paragraph 10.) The rationale behind this principle is given in HECO's Final SOP, page 8, paragraph c, which states "The goal of any competitive bidding process is to encourage and evaluate a range of generation options with the objective of obtaining the best option for the customers of the utility. This goal can only be assured if all resource options are allowed to compete. Regulatory commissions have recognized that a utility project may be the lowest cost option and failure to allow that option to compete may result in higher cost power options, contrary to their goals and objectives."
- (vi) The factors and considerations that should be taken into account in the competitive bidding process should be identified. These factors and considerations should include, but not be limited to, "(a) the very limited number of sites that are available to site new generation, and the difficult, time-consuming and uncertain process that must be followed to change land use designations in Hawaii in order to acquire new sites for generation, (b) the extended time that must be allotted to conduct the necessary environmental review for, and to permit and obtain the necessary approvals for, new generation, (c) the utility and island-specific constraints that constrain the size of new generation that can be added to the systems, and (d) the limited fuel options that are economically available in Hawaii." (See HECO Final SOP, page 2, paragraph 3.) The rationale behind this

is as stated in HECO's Final SOP, on page 3, paragraph 5, "The implementation of competitive bidding cannot be allowed to negatively impact the reliability of the electric utility system. The Hawaiian Islands have no interconnections with other islands, and certainly are not interconnected with large mainland electric utility systems." Other factors and considerations are given in HECO's Final SOP, on pages 12 to 14.

- (vii) The circumstances under which an Independent Observer should be used should be specified. The rationale behind this is to support a fair and equitable process, without unduly burdening the utilities or regulators.
- c. As stated in its Final SOP in this proceeding, basic guidelines should be established. In the follow-up proceeding, framework provisions (or agency rules) should be established based on the guidelines. The Companies cannot set forth the "details" that should be established in the follow-up proceeding without knowing the guidelines that are established in this proceeding. The "details" that the Commission should establish through the proposed "follow up" proceeding are the framework that would govern the competitive bidding process. HECO's proposed guidelines are provided in Exhibit "A".

The provisions in the Competitive Bidding Framework would depend on the guidelines enunciated by the PUC. For example, the Consumer Advocate proposes a guideline stating that: "Competitive bidding shall be the presumptive, default mechanism by which new resources shall be procured to meet the needs of Hawaii's electric utilities for new power supplies and demand-side resources." (By way of comparison, the Companies propose that a competitive bidding system be developed as a mechanism that can be used by Hawaii's electric utilities, under appropriate circumstances, to acquire or build new

generation in Hawaii, and that a determination be made in the IRP process as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in the IRP Plan.) If the guideline proposed by the Consumer Advocate, or a guideline requiring competitive bidding, is adopted, then specific Framework provisions stating exceptions to the competitive bidding presumption or requirement should be stated. A preliminary list of exceptions would include:

“1. Utility capacity addition projects already under development should not be subject to the competitive bidding process, in order to allow for near-term needs to be met in a timely manner. [Exhibit I, page 9, third paragraph, and page 25, Section 7.] (As stated in Exhibit A to HECO’s SOP, competitive bidding was not and should not be considered for HECO’s simple cycle peaking unit at Campbell Industrial Park, MECO’s Maalaea Unit 18 and Waena Unit 1, and HELCO’s Keahole Unit ST-7. See responses to CA -HECO -IR - 13.b, PUC-IR-15.a. and PUC-IR-47. The status of these units is described in the response to PUC-IR-15.a. at 2-4. [Exhibit II, page 5, last paragraph])

2. The competitive bidding process should not be required for defined capacity needs of 25 MW or less. [Exhibit I, page 25, Section 7; also Exhibit II, page 8, second to last paragraph]

3. Resource requirements that cannot conform to the time required to implement a solicitation process should be exempt. [Exhibit II, page 8, second to last paragraph]

4. Any expansion or repowering of existing company generating units should be exempt. [Exhibit II, page 9, second paragraph]

5. Distributed Generation (“DG”) and Combined Heat and Power (“CHP”) resources should be exempt from the competitive bidding process. The competitive

procurement process for distributed generation (“DG”) may be different than the competitive procurement process for generation that provides power directly to the utility or sells power to the utility. The competitive procurement procedure that the HECO Companies propose to use for combined heat and power (“CHP”) systems that are installed at customer sites was detailed in the generic DG investigation, Docket No. 03-0371. (See HECO SOP, page 3.) [Exhibit II, page 9, middle]”

If the role of the PUC is expanded to require that the PUC pre-approve certain steps, such as the Independent Observer to be retained by the utility on the RFP to be issued, then specific procedures and timelines would have to be included in the Framework to accommodate such processes.

In general, if steps in the competitive bidding process are made mandatory, then the Framework would have to carefully delineate the circumstances under which the steps would not be required.

The Companies’ preference is for a Framework that provides guidance as to what will constitute “best” or at least “accepted” practices, so as to minimize the potential for later challenges, but allows substantial flexibility for the Companies to adopt to changing circumstances. This is essential for island electric systems that are not interconnected to other systems, and that must rely entirely on their own sources of electric power production.

- d. HECO proposes that a flexible framework for competitive bidding be established. A good framework should be flexible enough to permit tailoring the process to the specific circumstances, yet specific enough to avoid after-the-fact determinations of fundamental process matters. One aspect of the framework will be a waiver provision to allow the utility to suggest exceptions if market conditions change. Finally, while new issues have arisen in

recent competitive bidding initiatives, the basic aspects associated with the development and implementation of a competitive bidding process remain reasonably consistent.

CA/HECO-IR-3

Ref: HECO Companies Final SOP at 15, n.6.

- a. Please state and explain whether it is the HECO Companies' position that demand-side resources should not have a chance to participate in the response to the near-term capacity and energy needs identified by an electric utility company.
- b. Please state and explain the HECO Companies' view regarding whether demand-side resources can be procured effectively through RFP processes.
- c. In light of HECO's current "urgent need" for additional capacity resources, please state and explain whether the HECO Companies agree that competitive bidding processes could augment the processes by which demand-side resources currently are procured, pending possible future modifications to the approach (e.g., as may be implemented through the Commission's Decision and Order in Docket No. 05-0069).

HECO Response:

HECO objects to this information request which asks questions concerning DSM resources on the grounds that competitive bidding for DSM resources is beyond the scope of this docket. This docket was opened to address competitive bidding for new generation. The acquisition of DSM resources is to be addressed in Docket No. 05-0069. Without waiving its objections, HECO responds as follows:

- a. As HECO stated in its Final Statement of Position ("SOP"), page 15, footnote 6, "This docket was opened to address competitive bidding for new generation. Thus, competitive bidding for DSM resources is clearly beyond the scope of this docket. In fact, the acquisition of DSM resources is the subject of the energy efficiency docket opened by the PUC, Docket No. 05-0069."
- b. Please refer to page 24 of Exhibit I to HECO's Final SOP. The procurement of energy efficient demand-side resources is the subject of Docket No. 05-0069, not this docket. The Companies note, however, that there have been few DSM bidding applications on the

mainland over the past ten years. Recent activity associated with DSM bidding has generally focused on a targeted approach to DSM bidding. Under this approach, DSM RFPs are generally separate from supply-side RFPs and generally target sectors which do not overlap with utility DSM programs. Past experience with DSM bidding shows that limited amounts of resources have been secured, yet the cost of implementing a competitive bidding program for DSM is not insignificant, and can be comparable to the cost of a supply-side RFP program. Furthermore, assessments of DSM RFP results and utility DSM programs have illustrated that utility conservation programs have been more economic than DSM bidding options.

- c. See response to subpart b. HECO's interim proposals pending the final outcome of Docket No. 05-0069 are being addressed in Docket No. 05-0069. In addition, HECO notes that it is monitoring activity associated with DSM bidding programs on the mainland. HECO's view is that if DSM resources are solicited, the sectors targeted would be those not currently offered by the Company's existing conservation programs. DSM bidding programs are not cost effective and do not meet the objectives defined by the Consumer Advocate if DSM bidding merely displaces utility sponsored programs. The result would be no additional reduction in demand and additional risk since the third-party vendor would have to perform under the contract as required.

CA/HECO-IR-4

Ref: HECO Companies Final SOP, Exh. I, at 25.

The HECO Companies state that “a Code of Conduct ... likely is needed prior to the issuance of the RFP.” Please provide a copy of the Code of Conduct that the HECO Companies would recommend be adopted if the Commission implements competitive bidding.

HECO Response:

HECO believes the reference should be to FSOP, Exhibit II, page 21, and not FSOP, Exhibit I, page 25. HECO is unable to locate the phrase “Code of Conduct” in the Final Statement of Position, Exhibit I, page 25.

A Code of Conduct for the implementation of competitive bidding has not been developed yet. HECO is unable to develop a Code of Conduct for the implementation of competitive bidding at this stage in the process. A Code of Conduct would be based in part on the guidelines established in the first stage of the process. It would take some time (and money) to develop a Code of Conduct for the implementation of competitive bidding. (FSOP, Exhibit II at 21).

CA/HECO-IR-5

Ref: HECO Companies Final SOP, Exh. I, at 25.

The HECO Companies state that “HECO has a number of concerns regarding the potential shortcomings of a competitive bidding process that should be addressed in the design, development and implementation of a competitive bidding program. Without resolution of these issues HECO could not support the institution of competitive bidding”

- a. Do the HECO Companies propose that the electric utilities be responsible for the “design, development and implementation” of a competitive bidding program? Please explain the response relative to the HECO Companies discussion of the “major role” that the host utility “must play” in a competitive bidding process (Ref. HECO Companies Final SOP, Exh. I, at 18).
- b. Who do the HECO Companies believe should be responsible for “the resolution of these issues?” Please explain.
- c. Please identify, specifically and completely, the HECO Companies’ view regarding the appropriate resolution of each of “these issues.” That is, what particular approach would represent an appropriate resolution for each, and why?
- d. For each bulleted item at 32-34, please state whether it is the HECO Companies’ view that a host utility should have flexibility to implement an approach that is suitable to its specific resource needs and circumstances. Please explain the HECO Companies’ response in each instance.
- e. For each “stage” discussed at 35-38, please state whether it is the HECO Companies’ view that a host utility should have flexibility to implement an approach that is suitable to its specific resource needs and circumstances. Please explain the HECO Companies’ response in each instance.

HECO Response:

- a. In the first paragraph quoted by the Consumer Advocate, HECO makes reference to the competitive bidding program (i.e., guidelines underlying competitive bidding). On page 18 of Exhibit I, HECO is referring to the competitive bidding process (i.e., development of the RFP and implementation of competitive bidding through contract negotiation). The design, development and implementation of the competitive bidding program (i.e., guidelines) will be the ultimate responsibility of the Commission based on the input of the parties in this

case. For further discussion of HECO's position with regard to the role of the utility in the bidding process, please refer to Exhibit II, pages 11-12 of HECO's Final SOP.

- b. Many of the issues raised by HECO on pages 16-25 of Exhibit I of HECO's Final SOP should be addressed in the development of the detailed competitive bidding framework in the Framework proceeding in which the Commission will have the responsibility to resolve the issues. Other aspects of these issues may be addressed in the development of the RFP and evaluation process by the host utility. These issues would need to be resolved by the utility. As HECO stated in Exhibit I, page 45 of its Final SOP, "HECO has now concluded that it is preferable that the Commission should not be involved in approving the RFP prior to issuance." Also, HECO stated in Exhibit I, page 44, of its Final SOP, "HECO does not believe that the role of the Commission to resolve disputes between the utility and bidders or among bidders, as suggested by the CA, is an efficient or effective role for the Commission." See also the guidelines proposed by the Companies that are attached as Exhibit "A" to the response to CA/HECO-IR-2.
- c. HECO has identified potential options for addressing each issue, including providing examples from other states and RFP processes on pages 16-25 of Exhibit I to the Final SOP, and in Exhibit II to the Final SOP. An illustrative framework outline that is consistent with the guidelines proposed by the Companies is attached as Exhibit "B" to the response to CA/HECO-IR-2.
- d. The bulleted items referenced on pages 32-34 of Exhibit I are "typical" tasks or steps that a utility undertakes in the development of an RFP process. These pages highlight examples of the requirements necessary to implement an RFP. Since no two RFP processes are the same, it is likely that the tasks undertaken could vary depending on the utility's specific

circumstances, requirements, and resources. The host utility should have the flexibility to implement an approach that meet its specific needs and circumstances within the framework underlying competitive bidding.

- e. Please see Exhibit II to HECO's Final SOP. HECO has listed the general stages of a competitive bidding process as an example. Some stages of the process could be different depending on the objectives and needs of the host utility. As an example, HECO's description of Stage 3: Evaluation of Bids is premised on the development of a multi-stage evaluation process. However, other processes such as a bidder pre-qualification process could result in different steps or approaches in the process. It is practical that a host utility should have flexibility to implement an approach that is suitable to its specific resource needs and circumstances within the framework established for competitive bidding.

CA/HECO-IR-6

Ref: HECO Companies Final SOP, Exh. I, at 32-38.

- a. Should the “major tasks and issues” that “must be addressed” be resolved: (1) as part of each RFP process, or (2) in advance of all RFP processes? Please explain.
- b. Please explain how each of the items listed in response to part (a) of this information request would be “addressed”? For example, would “guidelines” of some sort be established? Please explain.
- c. By whom would they be “addressed?” Please explain.

HECO Response:

- a. Many of the tasks identified on pages 32-38 would generally be undertaken as part of each RFP process. Some tasks (i.e., integration of RFP and IRP, role of the host utility, potential evaluation criteria, schedule, role of the Commission, etc.) may be undertaken in advance of the RFP process and would be included in the framework. Undertaking such tasks for the initial RFP process can be time consuming and challenging. Once the process has been implemented and the necessary tasks defined, it may be reasonable to only make revisions or slight changes for future RFPs.
- b. While the guidelines may define how some of these tasks will be undertaken, others are pertinent to each individual utility (i.e., credit requirements, price evaluation methodology, all items under “Other issues” etc.). As an example, the competitive bidding framework may state that the utility must include a copy of its form of power purchase agreement (“PPA”) with the RFP and bidders will be provided the opportunity to propose exceptions. However, it is up to the host utility to develop the form of PPA. It is likely that within these guidelines, two utilities could have significantly different PPA structures, yet still comply with the competitive bidding framework.

- c. Approval of the overall framework that would be developed in a follow-up proceeding will ultimately be the responsibility of the Commission, based on input from the parties.

Ensuring that the components of the RFP adhere to the framework would be the responsibility of the host utility. See also HECO's response to CA-IR-5, part b.

CA/HECO-IR-7

Ref. the HECO Companies Final SOP, Exh. I, at 45.

- a. Would the electric utility companies be under any obligation to adhere to any “guidelines,” “details” or other competitive bidding rules prescribed by the Commission? Please explain the response relative to the HECO Companies’ statement that “it is preferable that the Commission should not be involved in approving the RFP prior to issuance.”
- b. At what stage of an RFP process would stakeholders have opportunity to submit a formal complaint to the Commission that its approved “guidelines,” “details” or other competitive bidding rules (e.g., as relate to a particular RFP design provision) have been violated in some egregious manner that might substantially affect the results of the RFP (i.e., assuming such violation actually has occurred, and the host utility has not remedied the problem). Please explain.
- c. At which stage of an RFP process would the Commission be able to intervene to require correction of a violation of its “guidelines,” “details” or rules, as relate to the design of an RFP (e.g., if such action is deemed necessary by the Commission to protect the public interest)? Please explain.

HECO Response:

- a. The Consumer Advocate is identifying two separate issues – one related to the framework for a competitive bidding process and the other related to the actual implementation of competitive bidding through an RFP. If a framework is promulgated by the Commission, utility companies would be under an obligation to adhere to the established framework. At the same time, the framework should be flexible enough to permit the utility to adjust to the circumstances of the particular bid process, and should include a waiver provision. HECO’s position that the Commission should not be required to approve the RFP is related to the actual implementation of competitive bidding through an RFP. Please also refer to HECO’s response to CA-IR-5, part b.
- b. The framework could include a formal complaint procedure, but the Companies would propose a simple statement that the Commission should serve as an arbiter of last resort only

after the utility, independent observer and bidders have attempted to resolve any dispute or pending issue. Utilities conduct their own RFP processes to acquire equipment and services without the need for the PUC to resolve disputes. Procedures for bringing questions or “disputes” to the utilities would be identified in the RFP and/or the utility’s Procedures Manual. HECO’s position is that the utility should first attempt to remedy the problem before the Commission gets involved. Bidders should not be encouraged to go directly to the Commission to address any concern they want to raise. Problem resolution should be initiated with the utility and possibly with the involvement of the independent observer. Direct Commission involvement as a referee in the operations of the competitive bidding process will encourage bidders and others to frequently contact the Commission to favor their own cause. An “open door” policy to the Commission risks exposing the confidentiality of the bidding process, could jeopardize the fairness objectives of the process, and could slow down the process. Please refer to Exhibit II, page 24, section f, of HECO’s Final SOP, for HECO’s position on the Commission’s role in dispute resolution.

- c. The Commission would be able to intervene on its own at any time with respect to the design of an RFP. However, such participation would not be an automatic step in the process.

CA/HECO-IR-8

Ref: HECO Companies Final SOP, Exh. II, at 2.

The HECO Companies state that “HECO recommends guidelines over rules, in order to provide for flexibility and to adjust to different situations and circumstances.”

- a. Taking each sequentially, please state whether the HECO Companies agree or disagree with the guidelines recommended by the Consumer Advocate in Appendix F1 to its Final SOP.
- b. Where the HECO Companies disagree with a particular guideline advanced by the Consumer Advocate, please state specifically how the guideline should be modified (i.e., provide alternate language for the guideline) and why.
- c. Please provide in summary form (i.e., in a manner generally consistent with the presentation in Appendix F1 of the Consumer Advocate’s Final SOP) the set of guidelines that the HECO Companies would recommend be adopted by the Commission.
- d. If the Commission were to adopt the competitive bidding guidelines recommended by the HECO Companies in the response to part (c) above, what specific changes (i.e., provide a list) to the Commission’s IRP Framework would be appropriate (Ref. the HECO Companies Final SOP, Exh. I, at 44). Please explain the rationale for each such change.

HECO Response:

- a. Please refer to attached pages 2-5 to this IR response.
- b. In the attached pages 2-5, please refer to the column labeled “HECO’s comments”. Also refer to the response to CA/HECO-IR-2, for specific guidelines suggested by HECO.
- c. See the response to part (b) above.
- d. See the response to part (b) above.

Consumer Advocate's Recommended Competitive Bidding Guidelines

CA/HECO-IR-8					
The HECO Companies state that "HECO recommends guidelines over rules, in order to provide for flexibility and to adjust to different situations and circumstances."					
a. Taking each sequentially, please state whether the HECO Companies agree or disagree with the guidelines recommended by the Consumer Advocate in Appendix F1 to its Final SOP.					
No.	Description	Agree	Partially Agree	Disagree	HECO's Comments
General Guidelines					
1	Competitive bidding shall be the presumptive, "default" mechanism by which new resources shall be procured to meet the needs of Hawaii's electric utilities for new power supplies and demand-side resources.			X	HECO disagrees that Competitive Bidding shall be presumptive. Please refer to the response to CA/HECO-IR-2, Exhibit A.
2	Competitive bidding is an integral part of the Commission's integrated resource planning ("IRP") framework.		X		HECO does not agree that Competitive Bidding shall be presumptive, and therefore, does not agree that it is an integral part of the IRP Framework. However, HECO does agree that if Competitive Bidding is implemented, it should be integrated with the IRP process, as stated in HECO FSOP Exhibit II at 35. Competitive bidding follows the development of the preliminary IRP.
3	Subject to Commission oversight, each utility will be responsible for RFP design, RFP implementation, bid evaluation, and contracting with winning bidders.	X			Please refer to the response to CA/HECO-IR-2, Exhibit A.
4	Each utility will design and implement its competitive bidding processes in keeping with "best practices" in the electric utility industry.		X		1. "Best practices" is not a sufficient guideline. FSOP, Exhibit II, pages 4-5. 2. Please see the response to CA/HECO-IR-2, Exhibit A. 3. Any "best practices" that would be appropriate for Hawaii utilities would have to take into account Hawaii's unique circumstances.
RFP Design					
5	Creating solicitation documents that all resources - supply and demand-side - to compete for identified resource need is a basic objective			X	Competitive Bidding for DSM resources is beyond the scope of this docket, as stated in HECO FSOP, Note 6 at 15.
6	A commercial contract is the expected result of the competitive bidding processes. A proposed contract should be included with each RFP.		X		1. There is no presumption that the result of the Competitive Bidding process is a power purchase agreement between the utility and a third party. The result could be a utility self-build or turnkey option (which could include a "commercial contract"), as stated in HECO FSOP at 7. 2. Form of power purchase agreements and turnkey project agreements can be provided by the utility. CA/HECO-IR-2, Exhibit B, Section II.C.

Consumer Advocate's Recommended Competitive Bidding Guidelines

No.	Description	Agree	Partially Agree	Disagree	HECO's Comments
7	An independent advisor may assist the solicitation design process.		X		The utility could ask an independent observer to assist in the design process, but the role of the independent observer would generally be to review the solicitation process, bid evaluation and selection, and contract negotiations. HECO FSOP, Exhibit II at 12. Please refer to the response to CA/HECO-IR-2, Exhibit B, Section I.E.2.
RFP Implementation					
8	Each utility shall take steps to encourage participation from the full range of prospective bidders. PURPA QFs, IPPs, utility-affiliates and other utilities should not be unduly restricted from participation in any supply-side RFP.		X		Please refer to the response to CA/HECO-IR-2, Exhibit A, Section III.C.
9	Bid evaluation should include both price and non-price factors (e.g., dispatch ability, availability, environmental impacts).	X			HECO agrees that both price and non-price factors should be considered in the bid evaluation, as stated in HECO FSOP Exhibit II at 30. Please refer to the response to CA/HECO-IR-2, Exhibit B, Section III.A.
10	The utility shall summarize solicitation results in a report to the Commission.	X			If an independent observer is used, the utility may ask the independent observer to report to the Commission.
11	An independent entity may assist the solicitation implementation and evaluation process.	X			Please see comments to Item 7
Participation by the Host Utility					
12	Where system reliability is at stake, the utility must develop a "backup" project that is responsive to the identified need and represents the best ("self-build") response to that need in terms of foreseeable costs and other characteristics.		X		The need for a "backup" project would depend on specific circumstances. The utility should be allowed some discretion to propose a backup project that is not necessarily the self-build project. If a project fails during development, the backup option may have to be emergency generators until the utility can construct its self-build option. Please refer to the response to CA/HECO-IR-2, Exhibit B, Section IV.C.
13	Where the utility seeks to advance its project (i.e., over those of other developers), the proposal:				
a	Must be well-developed.	X			Generally, the information supplied by the utility should be consistent with the information provided by other bidders.
b	Must be cost-based.	X			Cost of service is most common for utility projects
c	Must identify a cap on cost-recovery to the proposal set forth in its bid offering.			X	If utility decisions are prudent, the process must be flexible enough to allow for cost-recovery in excess of initial project estimates. A cap on cost recovery is one-sided, resulting in the lower of cap or cost of service, without any symmetry to compensate the utility for this risk. See response to HREA-HECO-FIR-17.
d	Must anticipate ratebase treatment of costs.		X		HECO would generally anticipate ratebase treatment of costs, but the process should allow for alternative financing arrangements.
e	Must be capable of implementation.		X		HECO does not fully understand this statement, but does agree that bid threshold criteria will be met by the utility proposal.

Consumer Advocate's Recommended Competitive Bidding Guidelines

No.	Description	Agree	Partially Agree	Disagree	HECO's Comments
f	Must be held to the same contractual standards as would be projects advanced by other bidders (such as minimum availability requirements), whereby failure to meet such standards will affect the utility's earned returns in the same way that it would affect a winning bidder's earned returns.			X	The utility option is not a performance-based contract. There is no symmetry to balance performance penalties with the potential for higher returns. See response to HREA-HECO-FIR-17.
14	Where the utility does not seek to advance it project (i.e., over those of other developers), the utility:				
a	Must demonstrate that there is a reason to believe that relying on the market to provide the needed resource is prudent.		X		This proposed guideline does not appear to be consistent with guideline #1; that Competitive Bidding should be the presumptive mechanism, which presumes that the competitive market will produce reasonable proposals. See also the comments to Item 12.
b	Must develop a "backstop" proposal to a degree consistent with prudent planning, such that the utility is able to respond in a reasonable timeframe if the competitive bidding process unexpectedly fails to produce a viable project proposal. In this regard, the utility must frame a backstop proposal that is capable of being implemented, to the extent foreseeable after an appropriate amount of planning.		X		Same comment as above.
c	Must anticipate cost-based treatment of its backstop proposal with expectation that the cost of such proposal will be reflected in the utility's ratebase.		X		Cost recovery for development costs associated with the backup proposal is necessary. This is effectively an "option" (which has value) in case of project failure. See also comments to Item 13.d.
d	Must be held to the same contractual standards as would be projects advanced by other bidders (such as minimum availability requirements), whereby failure to meet such standards will affect the utility's earned returns in the same way that it would affect a winning bidder's earned returns.			X	This guideline would not apply to the assumption that the utility does not seek to advance its project. In the case where the utility does seek to advance its project, please refer to item 13f.
15	Where the solicitation has as its focus something other than a reliability need, the utility may choose (or decline) to advance its own project proposal (either in the form of a bid or a backstop). If the utility chooses to advance its own proposal, the subparts of Part 14 above, would apply.		X		Subparts 14a and 14b would not apply, and subpart 14d does not seem to be applicable to the scenario where the utility does not seek to advance its project. Subpart 14c would apply.
16	A utility shall not be allowed to advance multiple (i.e., mutually exclusive) projects in response to an identified need.		X		Multiple utility proposals could occur, not including the utility's backup project. For example, an RFP could be issued for more than one unit, or for a block of resources.
17	A utility affiliate may participate in any competitive solicitation, provided that proper safeguards are in place. This may require that a third party either administer or closely monitor the solicitation process.		X		The independent monitor would not administer the process

Consumer Advocate's Recommended Competitive Bidding Guidelines

No.	Description Role of the Commission	Agree	Partially Agree	Disagree	HECO's Comments
18	The primary role of the Commission shall be to ensure that each competitive bidding process is fair in its design and implementation and to ensure that projects selected through each utility's competitive bidding processes are consistent with the utility's IRP Action Plan.		X		HECO notes that the final IRP plan comes after the final bids are selected, as stated in HECO FSOP, Exhibit II at 35. Generally, the competitive bidding process should be consistent with the framework established by the Commission.
19	The Commission shall review each proposed RFP.	X			The review and comment role of the Commission is reasonable. Please refer to the response to CA/HECO-IR-2, Exhibit B, Section II.A.6.
20	The Commission will resolve disputes that arise among parties during the course of a utility's competitive bidding process.		X		The Commission should be the arbiter of last resort. Please refer to response to CA/HECO-IR-2, Exhibit B, Section III.D.
21	The Commission will review of each signed contract resulting from competitive bidding processes.	X			If the result of the Competitive Bidding process is a contract, the Commission should review and approve this contract.
Rate-making					
22	The costs that a utility reasonably and prudently incurs in designing and administering its competitive bidding processes should be recoverable through rates.	X			
23	The costs that a utility incurs in taking reasonable and prudent steps to anticipate the need for backstop projects through "parallel" planning processes should be recoverable through rates.	X			
24	The Commission shall consider each utility's performance in implementing competitive bidding in determining the utility's allowed rate of return in future rate proceedings.			X	It is not clear why "each utility's performance in implementing competitive bidding" should be singled out as a factor to be considered "in determining the utility's allowed rate of return in future rate proceedings". Is this intended to be a component of an incentive regulation mechanism? If so, the mechanism should be more explicit than a "factor considered in determining the allowed rate of return". The allowed rate of return (i.e., the rate of return found to be fair in determining a utility's revenue requirements in a rate case) generally is based on the utility's cost of capital, and takes into account the returns available in investments of comparable risk, and the need to be able to cover the capital costs of the business, to attract capital on reasonable terms, and to maintain credit.
25	The Commission may modify these guidelines if such action is found to be consistent with the public interest.	X			The Commission always has the authority to modify its own guidelines.

COMPETITIVE BIDDING GUIDELINES

I. Implementation of Competitive Bidding

1. Competitive bidding for new generation should not be required unless it is structured in such a fashion that the potential benefits can be realized, and the potential disadvantages can be mitigated or eliminated.
2. Competitive bidding should not be required when the competitive bidding process would hinder the ability to add needed generation in a timely fashion (in order to help ensure that new, firm capacity generation can be added when it is needed), when the generation resource should be owned by the utility (for example, when reliability would be jeopardized by the utilization of a third-party resource), or when another procurement process would be more efficient.
3. Because of the length of time needed to develop and implement a well-designed competitive bidding process, and to permit and install new generation, utility capacity addition projects already under development should not be subject to the competitive bidding process.
4. Hawaii specific factors that should be taken into consideration in determining whether to proceed with competitive bidding for new generation resources include, but are not limited to (a) the very limited number of sites that are available to site new generation, and the difficult, time-consuming and uncertain process that must be followed to change land use designations in Hawaii in order to acquire new sites for generation, (b) the extended time that must be allotted to conduct the necessary environmental review for, and to permit and obtain the necessary approvals for, new generation, (c) the utility and island-specific constraints that limit the size of new generation that can be added to the systems, and (d) the limited fuel options that are economically available in Hawaii.
5. Under state energy policy, the competitive bidding process should facilitate the acquisition of

renewable energy generation, and the utility's ability to reliably integrate such generation into its system. A utility should be allowed to establish a separate competitive bidding or procurement process (such as a set aside in an integrated resource plan ("IRP Plan")) to acquire as-available and/or firm capacity renewable energy generation.

6. The expected timeline to (a) complete an integrated resource planning ("IRP") cycle, (b) bid, select, contract for and obtain approval for a new generating unit (whether an independent power producer ("IPP")-owned or utility-owned unit), and (c) then permit and install the new unit must be realistic, since it takes substantially longer in Hawaii to complete many of these steps than on the Mainland, and the time required for some of these steps has lengthened in recent years.

7. A well-designed competitive bidding process should provide competitive benefits for both utility customers (lower cost) and shareholders (lower regulatory risk).

II. Competitive Bidding Framework

1. The details of the competitive bidding process should be developed in a follow-up framework proceeding, like that used to develop the IRP Framework, based on the guidelines enunciated by the PUC in this proceeding. Utility-specific provisions (RFP documents, process manuals, etc.) for a particular bid process should be developed by the utility in a manner consistent with the framework provisions.

2. The development of a competitive bidding framework should identify and address potential shortcomings associated with the development of such a system, including the timing requirements necessary for developing the appropriate structure, the process for integrating the RFP with the IRP process, the role of the utility as a major stakeholder in the process, consistent treatment for all options which reflects the true cost of the power to the utility's customers, and a reflection of the

operational considerations and costs associated with each resource option. [Exhibit I, page 31, Section 4]

3. The competitive bidding framework should be developed prior to the solicitation of bids in order to minimize changes in the process, project requirements and schedule during the bidding process. [Exhibit I, page 39, third bullet]

4. The competitive bidding framework should enhance or at least be neutral toward resources, such as renewables, that may be favored from a public policy perspective. [Exhibit I, page 2, Section 4, second paragraph.]

5. The competitive bidding framework should allow the utility to more effectively integrate a new unit into its system by valuing such factors as location, transmission access/cost of system upgrades, operational flexibility, financial impact, in-service date flexibility, and fuel supply access into the RFP and evaluation process. [Exhibit I, page 3, Section 5]

6. The competitive bidding framework should be flexible enough to permit tailoring the process to the specific circumstances, yet specific enough to avoid after-the-fact determinations of fundamental process matters.

7. The value of flexibility should be built into the competitive bidding framework. [Exhibit I, page 24, Section 6 header] Flexibility options such as contract buy-out options, project in-service date deferral or acceleration provisions, or project acquisition options are valuable options for a utility to more effectively balance its needs with the cost of obtaining such options. [Exhibit I, page 24, Section 6, first paragraph]

8. The competitive bidding framework should include an expedited waiver provision, under which any of the provisions of the framework can be waived with the approval of the PUC.

III. Competitive Bidding Process

A. Application of Competitive Bidding Process

1. A competitive bidding system should be developed as a mechanism that can be used by Hawaii's electric utilities, under appropriate circumstances, to acquire or build new generation in Hawaii.
2. Generally, a determination would be made in the IRP process as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in the IRP Plan.
3. The first determination as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in an IRP Plan should be in conjunction with the next practical IRP process that commences following Commission approval of a competitive bidding framework.
4. Utility capacity addition projects already under development should not be subject to the competitive bidding process so as to allow for near-term firm capacity needs to be met in a timely manner. [Exhibit I, page 9, third paragraph, and page 25, Section 7.] (As stated in Exhibit A to HECO's SOP, competitive bidding was not and should not be considered for HECO's simple cycle peaking unit at Campbell Industrial Park, MECO's Maalaea Unit 18 and Waena Unit 1, and HELCO's Keahole Unit ST-7. See responses to CA-HECO-IR-13.b, PUC-IR-15.a. and PUC-IR-47. The status of these units is described in the response to PUC-IR-15.a. at 2-4. [Exhibit II, page 5, last paragraph])
5. It is not expected that competitive bidding will be appropriate in the case of (a) expansion or repowering of existing utility generating units, (b) renegotiation of existing power purchase

agreements or (c) acquisition of near-term needs for short-term power supplies, and power supplies that are needed to respond to an unanticipated emergency.

6. The preferred competitive procurement process for distributed generation (“DG”) may be different than the competitive procurement process for generation that provides power directly to the utility or sells power to the utility.

B. Competitive Bidding Objectives

1. Competitive bidding should be structured and implemented in a way that facilitates the utility’s acquisition of supply-side resources or types of resources identified in a utility’s IRP Plan in a cost-effective and systematic manner.

a. Competitive bidding should be structured and implemented so that utilities can solicit and evaluate a wide range of resource options in order to obtain the best deals (among a range of options) for electric utility customers. (FSOP Exhibit I, page 1)

b. All costs that would be incurred by the utility and its customers should be taken into account in the bid evaluation and selection process. (FSOP Exhibit I, page 20)

2. Competitive bidding should be structured and implemented in a way that facilitates the achievement of renewable portfolio standards, State energy policy, and IRP objectives.

3. Competitive bidding should be structured so that it can be implemented in a flexible and expeditious manner that facilitates the acquisition of firm capacity resources in a timely manner, allows the utility to adjust to changes in circumstances, and facilitates the maintenance and improvement of electric utility system reliability.

a. The implementation of competitive bidding cannot be allowed to negatively impact reliability of the electric utility system. (FSOP, page 3)

b. The generating units acquired under a competitive bidding process must meet the needs of the utility in terms of the reliability of the generating unit, the characteristics of the generating unit required by the utility, and the control the utility needs to exercise over the operation of the generating unit in order to integrate the unit into its system. (FSOP, page 2)

c. The competitive bidding process must recognize the unique nature of Hawaii's island electric utility systems. (FSOP Exhibit I, pages 11-14)

4. Competitive bidding should not be required when the competitive bidding process would hinder the ability to add needed generation in a timely fashion (in order to help ensure that new, firm capacity generation can be added when it is needed), when the generation resource should be owned by the utility (for example, when reliability would be jeopardized by the utilization of a third-party resource), or when another procurement process would be more efficient.

5. The competitive bidding process that is implemented should be fair and equitable to bidders, without being unduly burdensome on Hawaii electric utilities and public utility regulators. (FSOP Exhibit I, page 26)

a. The competitive bidding process should include an RFP process in which the utility identifies its requirements and criteria, and obtains consistent and accurate information on which to evaluate bids, a consistent and equitable evaluation process, documentation of decisions, and guidelines for undertaking the competitive bidding process.

b. When the utility is bidding in its own RFP, or is accepting bids submitted by affiliates, the utility should take reasonable steps to mitigate concerns over an unfair competitive advantage that may be perceived by other bidders.

C. Scope of Competitive Bidding Process

1. A wide range of supply-side options, including power purchase arrangements, utility self-build options and turnkey arrangements (i.e., build and transfer option), should be eligible to bid.

[Exhibit I, page 23, Section 5 header]

2. The competitive bidding process should apply to new central station generating units, subject to the exceptions listed below. [Exhibit I, page 23, Section 5 header]

3. Turnkey arrangements should be encouraged to be part of the competitive bidding process.

4. There should be no unreasonable restrictions on sizes and types of projects considered in the IRP process; however, the utilities should maintain the flexibility and right to determine the appropriate size and types of projects to be pursued through an RFP based on considerations including system needs and operating and reliability concerns. [Exhibit I, page 27, Section 3, first paragraph]

5. A utility should be allowed to establish a separate competitive bidding or procurement process (such as an IRP set aside) to acquire as-available and/or firm capacity renewable energy generation. (For example, in the October Act 95 workshops, the Companies suggested that (a) utilities can incorporate specific resources, or types of resources, in an IRP Plan (i.e., establish “set asides”), based on the attributes of those resources and the degree to which they help the utility achieve the goals and objectives specified for the IRP Plan, as long as the set asides do not arbitrarily exclude other resources that would provide the same attributes, (b) incentive regulation (“IR”) mechanisms (such as a renewable equity bonus) can be targeted to the specific resources to be acquired, and (c) the methods used to acquire the targeted resources also can be determined in the IRP process, which would include a determination of whether competitive bidding should be used.)

D. Utility's Role in Competitive Bidding

1. The roles of the host utility in the competitive bidding process should include: (a) designing its solicitation process, establishing evaluation criteria consistent with its overall IRP objectives, and specifying the timelines for the process, (b) designing the RFP documents, and sample form of power purchase agreement; (c) implementing and managing the RFP process, including communications with bidders; (d) evaluating the bids received; (e) selecting the bids based on the established criteria; (f) negotiating contracts with selected bidders; and (g) competing in the solicitation process with a self-build option, if feasible. [Exhibit I, page 3, Section 6, first paragraph; also page 18, Section 2, first paragraph]
2. The utility should be allowed to submit a bid in its own RFP, and to consider bids submitted by affiliates.

E. Fairness Provisions

1. Where the utility is bidding in its own RFP, or is accepting bids submitted by affiliates, there are a number of steps the utility should take reasonable steps to mitigate concerns regarding self-dealing or an unfair competitive advantage that may be perceived by other bidders.
2. If utility-built and owned, utility-owned turnkey facilities, or facilities owned by utility affiliates are included in an RFP process, the utility should retain an independent observer to monitor and report on the utility's conduct of its bidding process (including communications with bidders), bid evaluation and selection, and contract negotiations, to advise the utility if there are any fairness issues, and to report to the PUC at various steps of the process. [Exhibit I, page 3, Section 6, last paragraph; Exhibit I, page 40, first bullet]

F. Transparency

1. The competitive bidding process should be fair and equitable to all bidders, however, at no time shall the issue of fairness to bidders create an undue burden to ratepayers or utility shareholders.
2. All bidders should be treated the same in terms of access to information, time of receipt of information, and response to questions. [Exhibit I, page 26, Section 1]
3. The competitive bidding process should allow for the flexibility to make adjustments as necessary to ensure these criteria are met. [Exhibit I, page 26, Section 1]
4. A “closed bidding process”, rather than an “open bidding process”, generally should be used.

IV. The RFP Process

A. The RFP

1. The competitive bidding process should be a multistage process generally involving (1) development of the RFP, (2) issuance of the RFP and development of bids by bidders, (3) evaluation of the bids, (4) contract negotiations, if a third-party bid is selected, and (5) regulatory approval.
2. Each utility should design the RFP to meet its specific needs. The RFP should identify the unique system requirements and provide information regarding the requirements of the utility, the resource attributes of importance to the utility, the criteria used for the evaluation, and other important criteria.
3. The utility should have the discretion to modify the RFP and solicit additional bids from bidders after reviewing initial bid proposals.
4. The role of the PUC should be to review the RFP. [If PUC approval is required, PUC approval should be automatic after a limited amount of time has passed (see CA response to PUC-

IR-56).]

B. Scope of RFP

1. The utility should develop and specify the type and form of threshold criteria that will apply to the RFP.
2. The Request for Proposal document should describe the bidding guidelines, the bidding requirements to guide bidders in preparing and submitting their proposals, the bid evaluation and selection criteria, and the risk factors important to the utility. [Exhibit I, page 27, Section 4 header]

C. Form of PPA

1. Power purchase agreement (“PPA”) provisions that can be standardized would be included in the form PPAs attached to the RFP. [See response to PUC-IR-73.] For provisions that are resource specific, or where options may be proposed, bidders should be required to specify such provisions and options in their bids, so that the “value” of their proposals can be considered in the bid selection process.
2. Bidders would be required to identify all exceptions to the form of PPA. The utility should have the option of agreeing to these exceptions or rejecting them. [Exhibit I, page 37, Stage 4, second paragraph]

D. Use of Utility Sites

1. The utility should have the discretion to offer utility-controlled sites to developers in a competitive bidding process. [CA-IR-1; PUC-IR-53]
2. Whether utility-controlled sites should be made available to non-utility generators (“NUG”) should be assessed on a case-by-case basis.

E. Issuance of the RFP and Development of Bids by Bidders

1. All bids should be required to be submitted at the same time. [Exhibit I, page 1, Section 2]
However, the utility should submit its self-build option to the PUC one day in advance of receipt of other bids.

2. All bidders should be required to provide complete and consistent information. [Exhibit I, page 1, Section 2] Bids that do not provide all the information requested or fail to meet the established minimum requirements may be rejected. The host utility may submit clarification questions to bidders if the information presented is not complete or clear. [Exhibit I, page 36, third and fourth complete paragraphs]

V. Bid Evaluation and Selection Process

A. Evaluation/Selection Criteria

1. Evaluation criteria and the respective weight or consideration given to each in the bid selection process may vary in certain respects from one RFP to another depending on the RFP scope and unique needs of a utility system at that time.

2. All bids should be evaluated based on the same set of economic and fuel price assumptions. [Exhibit I, page 1, Section 2]

3. Price-related and non-price-related evaluation criteria should be considered in evaluating the bids. [Exhibit I, page 29, Section 4]

4. All relevant utility costs should be considered for each bid, in addition to the direct bid price. This includes the transmission costs and system impacts associated with each project, system operational impacts, and the impacts of purchased power on the utility's balance sheet. [Exhibit I, page 20, Section 3, first paragraph]

5. The amount of purchased power that a utility already has on its system, and the impacts that increasing the amount of purchased power may have, should be taken into account in the bid evaluation. (FSOP Exh. II at 31)

6. The impact of purchased power costs on the utilities' balance sheets and the potential for utility credit downgrades (and higher borrowing costs) as a result should be accounted for in the bid evaluation. [Exhibit I, page 21, first complete paragraph]

7. The type and form of non-price threshold criteria should be identified. [FSOP Exh. II at 31]

B. Evaluation of the Bids

1. For the bid evaluation, a multi-stage process can be used to reduce the bids down to a short list or "award group".

2. Utilities should develop thorough documentation of the evaluation and selection process for each bid, which can be reviewed with Commission staff at the end of the process.

3. A multi-stage evaluation system that includes threshold, price and non-price evaluation criteria may be used, and a price-driven process as the basis for selection of the preferred resources may be used in conjunction with such a system. [Exhibit I, page 32, Stage 1, second bullet]

4. The impact of each bid on system operations may be addressed through a system-wide evaluation. [Exhibit I, page 20, Section 3, third paragraph]

5. A detailed system evaluation process, which uses the same models and methodologies used for the IRP process, may be used to evaluate bids.

C. PPA Negotiations

1. There may be opportunities to further negotiate price and non-price terms to enhance the value of the contract for both parties.

D. Dispute Resolution Process

1. The PUC's role in dispute resolution is to serve as an arbiter of last resort only after the utility, independent observer, and bidders have attempted to resolve any dispute or pending issue.

E. Regulatory Waivers and Approvals

1. The Commission should reserve the discretion to waive any of the provisions of the framework.

2. If an IPP proposal is selected, the utility would seek Commission approval of the resulting power purchase contract. If the utility's self-build option or a turnkey arrangement is selected, the utility would seek Commission approval as appropriate. [Exhibit I, page 38, Stage 5, first paragraph]

VI. Integration of Competitive Bidding with Other Processes

A. IRP

1. IRP should continue to set the strategic direction of resource planning, and should continue to be developed using the current process followed by the HECO Companies. The role of the IRP Plan should be to identify the preliminary "preferred" resource plan to meet the capacity and energy requirements, the timing of need, any preferred technologies, and potentially any other preferred attributes. (FSOP, Exhibit II at 34) In order for competitive bidding to be effectively and efficiently integrated with IRP, specific timelines would have to be set and followed for the conduct of the IRP process, the scope of the IRP analyses and the IRP public and advisory group input processes would have to be streamlined, the process for PUC approval and/or modification of the preferred IRP Plan would have to be expedited, and the process for the utility to modify an approved plan due to changes in circumstances would have to be simplified.

2. The role of competitive bidding for new generation and an RFP would include the solicitation and evaluation of resource options to meet the capacity and energy needs as well as any other preferred attributes identified in the preliminary preferred resource plan of an IRP. (PSOP, Exhibit A at 18; FSOP, Exhibit II at 34)
3. The RFP process should allow for a solicitation of bids for either a block of resources as defined in the IRP or for the next required resource identified in the IRP. (FSOP, Exhibit II at 34)
4. The RFP process should allow for the utility to submit proposals for resources that may differ from the preferred resource type included in the preliminary resource plan. (PSOP, Exhibit A at 18-19)
5. The RFP process should allow for bids received in response to the RFP to be evaluated relative to one another and/or to the avoided costs of the generic resource identified in the IRP Plan or to the utility self-build project. (PSOP, Exhibit A at 18; FSOP, Exhibit II at 34) An evaluation of bids submitted in a competitive bidding process may reveal that the most cost-effective unit is not necessarily a unit that is in the IRP preferred plan. The RFP process should allow for selection of resources that are not the same resources identified in the IRP preliminary preferred resource plan. (FSOP, Exhibit II at 34-35)
6. After the bids are evaluated, the preferred resource is selected, the utility negotiates a turnkey contract or power purchase agreement (PPA) with the winning bidder (if a turnkey or PPA option is selected) or elects to build the resource (if a self-build option is selected), and the PUC approves the resulting PPA, turnkey contract or self-build option, the IRP preliminary preferred resource plan should be revised based upon the final bid(s) selected and should become the final resource plan of the IRP. (PSOP, Exhibit A at 18, FSOP, Exhibit II at 35)

7. The first determination as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in an IRP Plan should be in conjunction with the next practical IRP process that commences following Commission approval of a competitive bidding framework.

B. PURPA Rules

1. In order to effectuate that competitive bidding would take precedence over the requirement that a utility offer to purchase capacity and energy at or below “avoided costs” (determined based on a utility’s base resource plan) from a QF under PURPA, the rules established by FERC under PURPA, and state rules implemented pursuant to the FERC rules, changes may have to be made to the state rules implemented pursuant to the FERC rules.

C. Risk Mitigation

1. In consideration of the isolated nature of the island utility systems, the utility may use a parallel planning option to mitigate the risk that an IPP option may fail. Under this option, the utility may continue to proceed with a self-build option until it is reasonably certain that the awarded IPP project will meet its commercial operation date. The costs for such parallel planning would be recovered by the utility, and would need to be considered as part of the overall cost to provide reliable power to customers. [Exhibit I, page 8, third paragraph; also page 14, second bullet]

2. The resource identified as the preferred resource in the IRP shall not necessarily serve as the utility’s contingency plan should the competitive bidding process be unsuccessful. [Exhibit I, page 44, middle]

3. The utility may require that bidders offer the utility the option to buy the awarded bidder’s project if the bidder defaults on the contract. [Exhibit I, page 8, fourth paragraph]

COMPETITIVE BIDDING FRAMEWORK
(Illustrative Outline)

I. Competitive Bidding Process

A. Application of Competitive Bidding Process

1. A competitive bidding system should be developed as a mechanism that can be used by Hawaii's electric utilities, under appropriate circumstances, to acquire or build new generation in Hawaii.
2. Generally, a determination would be made in the integrated resource planning ("IRP") process as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in the integrated resource plan ("IRP Plan").
3. The first determination as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in an IRP Plan should be in conjunction with the next practical IRP process that commences following Commission approval of a competitive bidding framework.
4. Utility capacity addition projects already under development should not be subject to the competitive bidding process so as to allow for near-term firm capacity needs to be met in a timely manner. [Exhibit I, page 9, third paragraph, and page 25, Section 7.] (As stated in Exhibit A to HECO's SOP, competitive bidding was not and should not be considered for HECO's simple cycle peaking unit at Campbell Industrial Park, MECO's Maalaea Unit 18 and Waena Unit 1, and HELCO's Keahole Unit ST-7. See responses to CA-HECO-IR-13.b, PUC-IR-15.a. and PUC-IR-47. The status of these units is described in the response to PUC-IR-15.a. at 2-4. [Exhibit II, page 5, last paragraph])

5. It is not expected that competitive bidding will be appropriate in the case of (a) expansion or repowering of existing utility generating units, (b) renegotiation of existing power purchase agreements or (c) acquisition of near-term needs for short-term power supplies, and power supplies that are needed to respond to an unanticipated emergency.

6. The preferred competitive procurement process for distributed generation (“DG”) may be different than the competitive procurement process for generation that provides power directly to the utility or sells power to the utility. (The competitive procurement procedure that the Companies propose to use for combined heat and power (“CHP”) systems that are installed at customer sites was detailed in the generic DG investigation, Docket No. 03-0371. (See HECO SOP, page 3.) [Exhibit II, page 9, middle])

B. Competitive Bidding Objectives

1. Competitive bidding should be structured and implemented in a way that facilitates the utility’s acquisition of supply-side resources or types of resources identified in a utility’s IRP Plan in a cost-effective and systematic manner.

a. Competitive bidding should be structured and implemented so that utilities can solicit and evaluate a wide range of resource options in order to obtain the best deals (among a range of options) for electric utility customers. (FSOP Exhibit I, page 1)

b. All costs that would be incurred by the utility and its customers should be taken into account in the bid evaluation and selection process. (FSOP Exhibit I, page 20)

2. Competitive bidding should be structured and implemented in a way that facilitates the achievement of renewable portfolio standards, State energy policy, and IRP objectives.

3. Competitive bidding should be structured so that it can be implemented in a flexible and

expeditious manner that facilitates the acquisition of firm capacity resources in a timely manner, allows the utility to adjust to changes in circumstances, and facilitates the maintenance and improvement of electric utility system reliability.

- a. The implementation of competitive bidding cannot be allowed to negatively impact reliability of the electric utility system. (FSOP, page 3)
 - b. The generating units acquired under a competitive bidding process must meet the needs of the utility in terms of the reliability of the generating unit, the characteristics of the generating unit required by the utility, and the control the utility needs to exercise over the operation and maintenance of the generating unit in order to integrate the unit into its system. (FSOP, page 2)
 - c. The competitive bidding process must recognize the unique nature of Hawaii's island electric utility systems. (FSOP Exhibit I, pages 11-14)
4. Competitive bidding should not be required when the competitive bidding process would hinder the ability to add needed generation in a timely fashion (in order to help ensure that new, firm capacity generation can be added when it is needed), when the generation resource should be owned by the utility (for example, when reliability would be jeopardized by the utilization of a third-party resource), or when another procurement process would be more efficient.
 5. The competitive bidding process that is implemented should be fair and equitable to bidders, without being unduly burdensome on Hawaii electric utilities and public utility regulators. (FSOP Exhibit I, page 26)
 - a. The competitive bidding process should include an RFP process in which the utility identifies its requirements and criteria, and obtains consistent and accurate information on

which to evaluate bids, a consistent and equitable evaluation process, documentation of decisions, and guidelines for undertaking the competitive bidding process.

b. When the utility is bidding in its own RFP, or is accepting bids submitted by affiliates, the utility should take reasonable steps to mitigate concerns over an unfair competitive advantage that may be perceived by other bidders.

C. Scope of Competitive Bidding Process

1. A wide range of supply-side options, including power purchase arrangements, utility self-build options and turnkey arrangements (i.e., build and transfer option), should be eligible to bid.

[Exhibit I, page 23, Section 5 header]

2. Turnkey arrangements should be encouraged to be part of the competitive bidding process.

3. There should be no unreasonable restrictions on sizes and types of projects considered in the IRP process; however, the utility should maintain the flexibility and right to determine the appropriate size and types of projects to be pursued through an RFP based on considerations including system needs and operating and reliability concerns. [Exhibit I, page 27, Section 3, first paragraph]

4. A utility should be allowed to establish a separate competitive bidding or procurement process (such as an IRP set aside) to acquire as-available and/or firm capacity renewable energy generation. (For example, in the October Act 95 workshops, the Companies suggested that (a) utilities can incorporate specific resources, or types of resources, in an IRP Plan (i.e., establish “set asides”), based on the attributes of those resources and the degree to which they help the utility achieve the goals and objectives specified for the IRP Plan, as long as the set asides do not

arbitrarily exclude other resources that would provide the same attributes, (b) incentive regulation (“IR”) mechanisms (such as a renewable equity bonus) can be targeted to the specific resources to be acquired, and (c) the methods used to acquire the targeted resources also can be determined in the IRP process, which would include a determination of whether competitive bidding should be used.)

D. Utility’s Role in Competitive Bidding

1. The roles of the host utility in the competitive bidding process should include: (a) designing its solicitation process, establishing evaluation criteria consistent with its overall IRP objectives, and specifying the timelines for the process, (b) designing the RFP documents, and sample form of power purchase agreement; (c) implementing and managing the RFP process, including communications with bidders; (d) evaluating the bids received; (e) selecting the bids based on the established criteria; (f) negotiating contracts with selected bidders; and (g) competing in the solicitation process with a self-build option, if feasible. [Exhibit I, page 3, Section 6, first paragraph; also page 18, Section 2, first paragraph]

2. The utility should be allowed to submit a bid in its own RFP, and to consider bids submitted by affiliates.

E. Fairness Provisions

1. Where the utility is bidding in its own RFP, or is accepting bids submitted by affiliates, there are a number of steps the utility can take to avoid self-dealing or concern over an unfair competitive advantage that may be perceived by other bidders. These include:

- a. The utility should submit its self-build option to the Public Utility Commission one day in advance of receipt of other bids, and provide substantially the same information as other bidders.

- b. The utility should establish a website devoted to disseminating information to all bidders at the same time, including the utility self-build option.
 - c. The utility should use an independent observer to review the solicitation process including communications with bidders, bid evaluation and selection, and contract negotiations.
 - d. The utility could, but would not be required to, establish a separate project team to undertake the evaluation, with no team member having any involvement in the utility self-build option.
 - e. The utility should develop and follow a Code of Conduct and implement appropriate confidentiality agreements prior to issuance of the RFP to guide the roles and responsibilities of company personnel where the utility is proposing a self-build option.
 - f. The utility should develop and follow a Procedures Manual, which describes the protocols for communicating with bidders, the self-build team, and others, describes the evaluation process in detail and the methodologies for undertaking the evaluation process, contains documentation forms including logs for any communications with bidders, and other information consistent with the requirements of the solicitation process.
 - g. The utility should develop all the evaluation criteria, bid evaluation and selection guidelines, quantitative evaluation models and other information necessary for evaluation of bids prior to receipt of bids. If a separate evaluation team is used, the utility, through the independent observer, should “blind” the bids before transferring the bids to the bid evaluation team.
2. If utility-built and owned, utility-owned turnkey facilities, or facilities owned by utility affiliates are included in an RFP process, the utility should retain an independent observer to monitor and report on the utility’s conduct of its bidding process (including communications with bidders), bid evaluation and selection, and contract negotiations, to advise the utility if there are any fairness issues, and to report to the PUC at various steps of the process. [Exhibit I, page 3, Section 6, last paragraph; Exhibit I, page 40, first bullet]
3. Independent Observers should (a) be knowledgeable about the unique characteristics and needs of small, non-interconnected island electric grids, and be aware of the unique challenges

and operational requirements of such systems, (b) have the necessary experience and familiarity with utility modeling capability, transmission system planning, operational characteristics, and other factors that affect project selection, (c) have a working knowledge of common IPP contract terms and conditions, and the PPA negotiation process, (d) have the capability of working effectively with the utility during the bid process, and (e) have a track record of impartiality.

4. The utility should have the option of identifying potential candidate consulting firms to serve as the Independent Observer and of accepting candidates provided by the PUC as well.

The utility may seek PUC approval of the final list of candidates. [Exhibit I, page 40, middle]

5. In the event the Independent Observer makes any representations to the PUC, with which the utility does not agree, processes shall be put in place to allow the utility and Independent Observer to present their differing positions before the PUC for review and resolution.

F. Transparency

1. The competitive bidding process should be fair and equitable to all bidders, however, at no time shall the issue of fairness to bidders create an undue burden to ratepayers or utility shareholders.

2. During bidding process, all bidders should be treated the same in terms of access to information, time of receipt of information, and response to questions. [Exhibit I, page 26, Section 1]

3. The competitive bidding process should allow for the flexibility to make adjustments as necessary to ensure these criteria are met. [Exhibit I, page 26, Section 1]

4. A “closed bidding process”, rather than an “open bidding process”, generally should be used. Under a closed bidding system, bidders are informed in the RFP of the process used to

evaluate and select bids, the evaluation criteria of importance to the utility, and the contract provisions of importance. (For example the utility can provide a reasonable amount of information about the evaluation process and the methodologies to be used to evaluate bids, the criteria of importance to the utility, in some cases, the indices allowable to bidders for incorporation into their pricing formulae, and the basis for selecting a short-list and final award group.) The RFP requests information from bidders that is used in the evaluation, but the bidder does not have access to the utility's bid evaluation models or the detailed non-price criteria used to evaluate individual bids.

II. The RFP Process

A. The RFP

1. The competitive bidding process should be a multistage process generally involving (1) development of the RFP, (2) issuance of the RFP and development of bids by bidders, (3) evaluation of the bids, (4) contract negotiations, if a third-party bid is selected, and (5) regulatory approval.
2. The RFP should identify the unique system requirements and provide information regarding the requirements of the utility, the resource attributes of importance to the utility, the criteria used for the evaluation, and other important criteria. For example, if the utility values dispatchability or other operating flexibility associated with a proposed unit, it could request that a bidder offer such an option and/or evaluate the impacts of dispatchability or operational flexibility in the bid evaluation process. [Exhibit I, page 3, Section 5; see also page 29, Section 7]
3. Each utility should design the RFP to meet its specific needs. If a targeted RFP is

warranted, it should be developed (see CA's response to PUC-IR-57).

4. The process leading to the distribution of the RFP could include all or some of the following steps: (a) the utility develops the RFP and files a draft with the PUC and interested parties, (b) the utility holds a technical conference to review the RFP, (c) interested parties submit comments on the RFP and the utility elects whether to incorporate the comments or not, (d) the utility sends the final RFP along with the comments of the parties to the PUC, and (e) if the PUC does not comment within 30 days the utility has the right to issue the RFP.

5. The timeframe associated with the process from issuance of the draft RFP to issuance of the final RFP should take approximately 75-90 days.

6. The role of the PUC is to review the RFP. PUC approval of the RFP should not be required. [Exhibit I, page 45] [If PUC approval is required, PUC approval should be automatic after a limited amount of time has passed (see CA response to PUC-IR-56).]

7. A pre-qualification process may be appropriate to some bidding processes, depending on the circumstances of the utility and its specific need (see response to PUC-IR-59).

8. The utility should have the discretion to modify the RFP and solicit additional bids from bidders after reviewing initial bid proposals.

B. Scope of RFP

1. The utility should develop and specify the type and form of threshold criteria that will apply to the RFP. Examples of threshold criteria include requirements that bidders have site control, bidders maintain a certain credit rating, bidders demonstrate the technology used is mature, and bidders identify all environmental permits. [Exhibit I, page 27, Section 3, second paragraph]

2. The Request for Proposal document (i.e., the RFP, Response Package, and forms of power purchase agreements (“PPAs”) and turnkey project agreements) should describe the bidding guidelines, the bidding requirements to guide bidders in preparing and submitting their proposals, the bid evaluation and selection criteria, and the risk factors important to the utility.

[Exhibit I, page 27, Section 4 header]

3. Procedures should be developed by the utility prior to initiation of the bidding process to define the roles of the members of the various project teams, outline the communication process with bidders, and to address confidentiality of the information provided by bidders. [Exhibit I, page 33, fourth bullet]

4. The RFP should establish credit requirements and security provisions. [Exhibit I, page 33, last bullet]

C. Form of PPA

1. PPA provisions that can be standardized would be included in the form PPAs attached to the RFP. [See response to PUC-IR-73.] For provisions that are resource specific, or where options may be proposed, bidders should be required to specify such provisions and options in their bids, so that the “value” of their proposals can be considered in the bid selection process.

2. While a number of PPA provisions can be finalized prior to the bidding process, a number of the provisions cannot be finalized as such provisions will be based on the characteristics of the winning bidder’s proposal (e.g., technology, location). For example, firm PPAs must have many more specific performance and enforcement provisions than as-available energy PPAs.

3. Contract provisions may include, among other terms, (a) reasonable credit assurance and

security requirements designed to reflect the nature of the island system and compensate utility customers if the project sponsor fails to perform; (b) contract buyout and project acquisition provisions; (c) in-service date delay and acceleration provisions; (d) liquidated damage provisions that reflect risk to customers; and (e) contractual terms to allow for turnkey options.

4. The form of PPA may allow the utility the option to request conversion of the plant to an alternate fuel if conditions warrant, with appropriate modifications to the PPA to account for the bidder/seller's conversion costs and to pass on the benefit of the lower fuel costs. [Exhibit I, page 24, Section 6, second paragraph]

5. Bidders would be required to identify all exceptions to the form of PPA. The utility should have the option of agreeing to these exceptions or rejecting them. [Exhibit I, page 37, Stage 4, second paragraph]

D. Use of Utility Sites

1. The utility should have the discretion to offer utility-controlled sites to developers in a competitive bidding process. [CA-IR-1; PUC-IR-53]

2. Whether utility-controlled sites should be made available to non-utility generators ("NUG") should be assessed on a case-by-case basis to examine factors such as:

a. The specific non-technical terms of the NUG proposal. An example of a factor that would need to be examined is whether the NUG proposal was for a "turnkey" project such that the utility will eventually own and operate the project. [PUC-IR-53]

b. The feasibility of the installation. Examples of the factors that would need to be examined in order to evaluate the feasibility of the installation include, but are not limited to:

i. Specific physical and technical parameters of the NUG installation, such

as the technology to be installed, space and land area requirements, topographic slope and geotechnical constraints or recommended limitations, fuel logistics, water requirements, number of site personnel, access requirements, waste and emissions from operations, noise profile, electrical interconnection requirements, and physical profile.

ii. How the operation, maintenance and construction of each installation would affect factors such as: (1) security of the site; (2) land ownership; (3) land use and permit considerations (e.g., compatibility of the proposed development on present and planned land uses); (4) existing and new environmental permits and licenses; (5) impact on operations and maintenance of existing and future facilities; (6) impact to the surrounding community; (7) change in zoning permit conditions; and (8) safety of utility personnel.

[CA-IR-1]

c. The utility's future use of the site. It may be beneficial for the utility to maintain site control to ensure power generation resources can be constructed to meet system reliability requirements. Offering use of utility-controlled sites to NUGs may reduce the flexibility of the utility to perform crucial parallel planning for a utility-owned option to backup the unfulfilled commitments of third-party developers of generation.

E. Issuance of the RFP and Development of Bids by Bidders

1. Bidders may be required to complete and submit a Notice of Intent to Bid form to the host utility. [Exhibit I, page 35, Stage 2, third paragraph]

2. The host utility should develop and implement a process to respond to bidders' questions. [Exhibit I, page 35, Stage 2, fourth paragraph]

3. The host utility may conduct a Bidders Conference. The Bidders Conference generally

allows bidders the opportunity to attend a presentation by the utility conducting the RFP and ask questions about the RFP and the bidding process. This provides bidders the opportunity to seek and receive information about the process in preparation for their bid. [Exhibit I, page 35, Stage 2, second paragraph]

4. The utility may provide bidders with access to information through a website where it can post documents and information for bidders to access. [Exhibit I, page 26, Section 1]

5. All bids should be required to be submitted at the same time. [Exhibit I, page 1, Section 2] However, the utility should submit its self-build option to the PUC one day in advance of receipt of other bids.

6. Bids received shall be date-stamped and organized and coded by number or letter. The proposals shall be maintained in a secure area to limit access to the bids to only those authorized members of the project team. [Exhibit I, page 36, first complete paragraph]

7. All bidders should be required to provide complete and consistent information. [Exhibit I, page 1, Section 2]

8. Bids that do not provide all the information requested or fail to meet the established minimum requirements may be rejected. The host utility may submit clarification questions to bidders if the information presented is not complete or clear. [Exhibit I, page 36, third and fourth complete paragraphs]

III. Bid Evaluation and Selection Process

A. Evaluation/Selection Criteria

1. Evaluation criteria and the respective weight or consideration given to each in the bid selection process may vary in certain respects from one RFP to another depending on the RFP

scope and unique needs of a utility system at that time.

2. Criteria deemed to be important for bid evaluation include provisions such as (a) contractual terms and conditions that are important to ensure generating unit and electric system reliability; (b) risk allocation in contracts; (c) counter-party creditworthiness; and (d) bidder qualifications.
3. All bids should be evaluated based on the same set of economic and fuel price assumptions. [Exhibit I, page 1, Section 2]
4. Price-related and non-price-related evaluation criteria should be considered in evaluating the bids. [Exhibit I, page 29, Section 4]
5. All relevant utility costs should be considered for each bid, in addition to the direct bid price. This includes the transmission costs and system impacts associated with each project, system operational impacts, and the impacts of purchased power on the utility's balance sheet. [Exhibit I, page 20, Section 3, first paragraph]
6. The amount of purchased power that a utility already has on its system, and the impacts that increasing the amount of purchased power may have, should be taken into account in the bid evaluation. (FSOP Exh. II at 31)
7. The impact of purchased power costs on the utilities' balance sheets and the potential for utility credit downgrades (and higher borrowing costs) as a result should be accounted for in the bid evaluation. [Exhibit I, page 21, first complete paragraph] Where the utility would have to restructure its balance sheet and increase the percentage of more costly equity financing in order to offset the impacts of purchasing power on its balance sheet, this rebalancing cost also should be taken into account in evaluating the total cost of a proposal for a new generating unit if IPP

owned, and it should be a requirement that bidders provide all information necessary to complete these evaluations.

8. The type and form of non-price threshold criteria should be identified, such as (a) project development feasibility (e.g., siting status, ability to finance, environmental permitting status, commercial operation date certainty, engineering design, fuel supply status, bidder experience, and reliability of the technology), (b) project operational viability (e.g., operation and maintenance plan, financial strength, environmental compliance, and environmental impact), (c) operating profile (dispatching/scheduling, coordination of maintenance, operating profile such as ramp rates, quick start capability, etc.), and (d) flexibility (e.g., in-service date flexibility, expansion capability, contract term, contract buy-out options, fuel flexibility, and stability of the price proposal). [FSOP Exh. II at 31]

9. The weights for each non-price criterion generally cannot be specified in advance, as they are usually established based on an iterative process involving members of the utility's bid evaluation team and taking into account the relative importance of each criterion given system needs and circumstances in the context of a particular RFP.

B. Evaluation of the Bids

1. For the bid evaluation, a multi-stage process can be used to reduce the bids down to a short list or "award group". The multi-stage evaluation process generally includes: (1) receipt of the proposals; (2) completeness check; (3) threshold or minimum requirements evaluation; (4) initial evaluation including price screen/non-price assessment; (5) selection of the short list; (6) detailed evaluation or portfolio development; (7) select award group for contract negotiation; and (8) management (and sometimes board) approval of the contract(s).

2. Utilities should develop thorough documentation of the evaluation and selection process for each bid, which can be reviewed with Commission staff at the end of the process.
3. A multi-stage evaluation system that includes threshold, price and non-price evaluation criteria may be used, and a price-driven process as the basis for selection of the preferred resources may be used in conjunction with such a system. [Exhibit I, page 32, Stage 1, second bullet]
4. The impact of each bid on system operations may be addressed through a system-wide evaluation which considers the impact of each bid based on the operating flexibility included in the proposal. The economic evaluation should be based on the system-wide net present value revenue requirements for each resource plan or portfolio with the bids included in each plan. [Exhibit I, page 20, Section 3, third paragraph]
5. A detailed system evaluation process, which uses the same models and methodologies used for the IRP process, may be used to evaluate bids. In such bid processes, the RFP should specify the data required of bidders in their proposals for undertaking the analysis.
6. The timeframe for the evaluation of the bids should reflect the expected lives of generating units to ensure that all options are compared on the same consistent basis. [Exhibit I, page 22, Section 4 header; Exhibit I, page 33, second bullet]

C. PPA Negotiations

1. There may be opportunities to further negotiate price and non-price terms to enhance the value of the contract for both parties. Examples of such provisions that may be open for negotiation include fuel supply arrangements and project operating characteristics.

D. Dispute Resolution Process

1. The PUC's role in dispute resolution is to serve as an arbiter of last resort only after the utility, independent observer, and bidders have attempted to resolve any dispute or pending issue. The utility should conduct informational meetings with the PUC and the Consumer Advocate during the process to keep them apprised of issues that arise among the parties.

E. Regulatory Waivers and Approvals

1. The Commission should reserve the discretion to waive any of the provisions of the framework.
2. If an IPP proposal is selected, the utility would seek Commission approval of the resulting power purchase contract. If the utility's self-build option or a turnkey arrangement is selected, the utility would seek Commission approval as appropriate. [Exhibit I, page 38, Stage 5, first paragraph]

IV. Integration of Competitive Bidding with Other Processes

A. IRP

1. Integrated Resource Planning ("IRP") should continue to set the strategic direction of resource planning, and should continue to be developed using the current process followed by the HECO Companies. The role of the IRP Plan should be to identify the preliminary "preferred" resource plan to meet the capacity and energy requirements, the timing of need, any preferred technologies, and potentially any other preferred attributes. (FSOP, Exhibit II at 34) In order for competitive bidding to be effectively and efficiently integrated with IRP, specific timelines would have to be set and followed for the conduct of the IRP process, the scope of the IRP analyses and the IRP public and advisory group input processes would have to be

streamlined, the process for PUC approval and/or modification of the preferred IRP Plan would have to be expedited, and the process for the utility to modify an approved plan due to changes in circumstances would have to be simplified.

2. The role of the advisory groups will still be applicable for the IRP process and is not expected to change from previous IRPs. Information provided by bidders in their proposals and in contract negotiations is confidential and competitively sensitive.

3. The role of competitive bidding for new generation and an RFP would include the solicitation and evaluation of resource options to meet the capacity and energy needs as well as any other preferred attributes identified in the preliminary preferred resource plan of an IRP.

(PSOP, Exhibit A at 18; FSOP, Exhibit II at 34)

4. The RFP process should allow for a solicitation of bids for either a block of resources as defined in the IRP or for the next required resource identified in the IRP. (FSOP, Exhibit II at 34)

5. The RFP process should allow for the utility to submit proposals for resources that may differ from the preferred resource type included in the preliminary resource plan recognizing that the planned generating additions can be altered as the utility pursues other options, including renewable technologies and additional cost-effective DSM programs. This planning strategy (rather than a fixed course of action) allows the development of alternate options to address alternate futures. (PSOP, Exhibit A at 18-19)

6. The RFP process should allow for bids received in response to the RFP to be evaluated relative to one another and/or to the avoided costs of the generic resource identified in the IRP or to the utility self-build project. (PSOP, Exhibit A at 18; FSOP, Exhibit II at 34)

7. An evaluation of bids submitted in a competitive bidding process may reveal that the most cost-effective unit is not necessarily a unit that is in the IRP preferred plan. Weight must be given to the factors that led to a particular resource being included in the preferred plan.

Thus, the RFP process should allow for selection of resources that are not the same resources identified in the IRP preliminary preferred resource plan. (FSOP, Exhibit II at 34-35)

8. After the bids are evaluated, the preferred resource is selected, the utility negotiates a turnkey contract or power purchase agreement (PPA) with the winning bidder (if a turnkey or PPA option is selected) or elects to build the resource (if a self-build option is selected), and the PUC approves the resulting PPA, turnkey contract or self-build option, the IRP preliminary preferred resource plan should be revised based upon the final bid(s) selected and should become the final resource plan of the IRP. (PSOP, Exhibit A at 18, FSOP, Exhibit II at 35)

9. The first determination as to whether a competitive bidding process should be used to acquire a generation resource or block of supply-side resources that is included in an IRP Plan should be in conjunction with the next practical IRP process that commences following Commission approval of a competitive bidding framework.

B. PURPA Rules

1. If competitive bidding is conducted by a utility on a periodic basis, the competitive bidding process generally should supercede the process of negotiating PPAs under the PUC's "Standards for Small Power Production and Cogeneration", which were adopted pursuant to the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"), and the rules promulgated by the Federal Regulatory Energy Commission ("FERC") under PURPA, and state law. [HECO FSOP, page 12 (14)]

2. In order to effectuate that competitive bidding would take precedence over the requirement that a utility offer to purchase capacity and energy at or below “avoided costs” (determined based on a utility’s base resource plan) from a QF under PURPA, the rules established by FERC under PURPA, and state rules implemented pursuant to the FERC rules, changes may have to be made to the state rules implemented pursuant to the FERC rules.

C. Risk Mitigation

1. In consideration of the isolated nature of the island utility systems, the utility may use a parallel planning option to mitigate the risk that an IPP option may fail. Under this option, the utility may continue to proceed with a self-build option until it is reasonably certain that the awarded IPP project will meet its commercial operation date. The costs for such parallel planning would be recovered by the utility, and would need to be considered as part of the overall cost to provide reliable power to customers. [Exhibit I, page 8, third paragraph; also page 14, second bullet]

2. The resource identified as the preferred resource in the IRP will not necessarily serve as the utility’s contingency plan should the competitive bidding process be unsuccessful. Also, the utility’s preferred contingency plan may be different depending on the timing of IPP project failure. If an IPP project fails close to the time it is scheduled to go into service, the utility’s only reasonable option may be to install emergency generators rather than its own project. [Exhibit I, page 44, middle]

3. The utility may require that bidders offer the utility the option to buy the awarded bidder’s project if the bidder defaults on the contract. [Exhibit I, page 8, fourth paragraph]