

ILLINOIS POWER AGENCY

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Fee Assessment and Collection for Regular Procurement Events, Special Procurement Events and Other Services
- 2) Code Citation: 83 Ill. Adm. Code 1200
- 3) Section Number: 1200.220 Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 3855/1-55
- 5) A Complete Description of the Subjects and Issues Involved: To comply with Section 1-55 of the Illinois Power Agency Act [20 ILCS 3855/1-55], the Illinois Power Agency ("Agency") previously adopted "rules regarding charges and fees it is expressly authorized to collect in order to fund the operations of the Agency" through Title 83, Part 1200 of the Illinois Administrative Code.

The minor change proposed by the Agency through these amendments is intended to address the following issue: while bidder fees are collected with the submission of bids and supplier fees are recovered through a supplier fee agreement approved prior to the procurement, the Agency's actual total number of winning procurement blocks are not known until after procurement event concludes. As a result, the IPA cannot set these fees so as to recover its actual costs; it must instead set fees in a manner designed to recover its estimated or expected costs.

Through this rule change, the IPA is merely seeking to modify its administrative rules to reflect this timeline reality and adopt minor technical changes allowing it to recover estimated, and not actual, costs through its bidder and supplier fees.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* with:

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- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This amendment should have no impact on small businesses, small municipalities, or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: As the amendment merely clarifies internal procedures, it should require no new reporting, bookkeeping, or other procedures for compliance.
 - C) Types of professional skills necessary for compliance: No professional skills are anticipated to be required.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a prior Agency regulatory agenda, but will be summarized in the Agency's July 2015 regulatory agenda.

The full text of the Proposed Amendment begins on the next page:

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TITLE 83: PUBLIC UTILITIES
CHAPTER III: ILLINOIS POWER AGENCY
SUBCHAPTER A: CONTRACTS AND FEES

PART 1200

FEE ASSESSMENT AND COLLECTION FOR REGULAR PROCUREMENT EVENTS,
SPECIAL PROCUREMENT EVENTS AND OTHER SERVICES

SUBPART A: INTRODUCTION

Section:

- 1200.100 Scope
- 1200.110 Definitions
- 1200.120 Publication of Overhead
- 1200.130 Publication of Mediation Rates
- 1200.140 Statement of Policy

SUBPART B: REGULAR PROCUREMENTS

Section

- 1200.200 Scope
- 1200.210 Planning Cycle Fees Assessed to Participating Utilities
- 1200.220 Bidder and Supplier Fees
- 1200.230 Timing for Invoices to and Payment by Utilities
- 1200.240 Communications Regarding Fees and Fee Dispute Resolution

SUBPART C: SPECIAL PROCUREMENTS

Section

- 1200.300 Scope
- 1200.310 Fees Assessment and Payment Schedules for Participating Utilities in Special Procurements
- 1200.320 Bidder and Supplier Fees
- 1200.330 Timing for Invoices to and Payment by Utilities

SUBPART D: CONTRACT REVIEW, EVALUATION AND MEDIATION

Section

- 1200.400 Scope

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1200.410 Facility Cost Report or Development Plan Evaluation
1200.420 Mediation

AUTHORITY: Implementing and authorized by Sections 1-20(b)(23), 1-55, 1-58(d), 1-75(g) and (h), 1-77(d) and 1-78(i) of the Illinois Power Agency Act [20 ILCS 3855], and Section 9-220(h) and (h-1) of the Public Utilities Act [220 ILCS 5].

SOURCE: Adopted at 38 Ill. Reg. 9885, effective April 28, 2014; amended at 39 Ill. Reg. _____, effective _____.

SUBPART B: REGULAR PROCUREMENTS

Section 1200.220 Bidder And Supplier Fees

- a) The Agency shall recover the following costs from bidders and suppliers in all regular procurement events during a fiscal year:
 - 1) ~~Costs~~Actual costs incurred by the procurement administrator for the procurement event in which the bidder or supplier participates.
 - 2) The Agency's overhead to the extent not recovered pursuant to Section 1200.210 and Subpart D.
 - 3) If a procurement event was authorized by a procurement plan in a previous fiscal year, the Agency may collect fees from suppliers authorized in subsection (c) for the fiscal year in which the procurement event occurs.
- b) Each bidder shall be assessed a bid participation fee. This fee shall be \$500, or as set by the Agency after consultation with the procurement administrator. If the fee is other than \$500, the Agency shall provide notice of the fee as part of bid solicitation documents.
- c) The Agency shall, in consultation with the procurement administrator, approve a supplier fee estimated prior to the procurement event to be sufficient to recover the following costs:
 - 1) For each procurement event, the allocated costs of the procurement administrators based on principles of cost causation less the value of bid participation fees collected pursuant to subsection (b).

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- 2) The Agency, in consultation with the procurement administrator, shall allocate the procurement administrator's costs and overhead costs among products in a manner to ensure a likelihood of cost recovery and a reasonable fee in relation to the unit price of the product being procured.
 - 3) For each procurement event, each supplier shall pay a fee equal to the value in costs allocated to a particular product pursuant to subsection (c)(2), multiplied by the units of product successfully bid by the bidder in a procurement event, divided by the total number of units successfully bid by all bidders in the same procurement event.
 - 4) The value in subsection (c)(3) shall be expressed in terms of dollars per unit successfully bid.
- d) Notwithstanding any other provision of this Part, all fees assessed under this Section shall be due no later than 30 days after the date of the invoice from the Agency, or as specified in the supplier fee agreement.
 - e) If the Agency conducts a procurement using the Renewable Energy Resources Fund as described in Section 1-56 of the Act, the Agency may recover the costs of the procurement from the Renewable Energy Resources Fund instead of from bidder and supplier fees, to the extent authorized by law.

(Source: Amended at 39 Ill. Reg. _____, effective _____)