

**Western Area Power Administration  
Rocky Mountain Customer Service Region  
Request for Proposals  
Regarding the Purchase of Renewable Energy Certificates**

1. **Background** – Western Area Power Administration (Western) is a power marketing administration within the U.S. Department of Energy. Western’s primary mission is to market electrical power and energy from certain Federal hydroelectric plants located throughout its regional service territories. Western also provides purchasing assistance for electrical power and energy and other electricity-related products to certain entities, primarily Western preference customers and other Federal agencies. Western’s Rocky Mountain Customer Service Region (Western RMR) markets power and energy from a series of hydroelectric plants located in Colorado, Wyoming, and Montana, and its marketing area encompasses Colorado and Wyoming east of the Continental Divide, western portions of Nebraska, and northern and western portions of Kansas. Western’s Sierra Nevada Customer Service Region (Western SNR) markets power and energy from a series of hydroelectric plants located in California and Nevada, and its marketing area encompasses northern and central portions of California and northern and western portions of Nevada.

The Environmental Protection Agency (EPA) has requested that Western RMR and Western SNR purchase renewable energy certificates (RECs) on the EPA’s behalf for certain of its facilities located in the two Western regional marketing areas. In the interest of enhanced customer service and reduced costs, Western SNR has in turn requested that Western RMR purchase RECs for the EPA facility located in Western SNR’s marketing area. Consequently, Western RMR is issuing this request for proposals (RFP) in order to purchase RECs for those facilities.

2. **Definitions** – The definitions of certain terms used in this RFP are as follows:

- 2.1 **Renewable Energy** – Energy produced by solar, wind, geothermal, and biomass generation resources, as set forth in section 710 of Federal Executive Order 13123, 64 Fed. Reg. 30851 (June 8, 1999) or <http://www.eere.energy.gov/femp/pdfs/eo13123.pdf>. For purposes of this RFP, in accordance with standards established by the EPA in previous RFPs of this nature, the term “renewable energy” shall exclude energy produced by waste tire, hydroelectric, natural gas, and nuclear generation resources.
- 2.2 **Renewable Energy Certificate (REC)** – The intangible environmental benefits, and any other such attributes, associated with generating one megawatt-hour (MWh) of electric energy by a renewable resource. RECs may also be known as green tags, green certificates, or tradable renewable certificates.
- 2.3 **New Renewable Requirement** – Only RECs associated with “new” renewable generation resources may be offered under this RFP. For purposes herein, an eligible “new” renewable generation resource must either be: (1) placed in operation (i.e., generating electricity) on or after October 1, 2001; (2) repowered on or after October 1, 2001, such that 80% of the fair market value of the project derives from new

generation equipment installed as part of the repowering; (3) a separable improvement to or enhancement of an existing operating facility that was first placed in operation prior to October 1, 2001, such that the proposed incremental generation is contractually available for sale and metered separately from the existing generation at the facility; or (4) a separately metered landfill gas resource that was not being used to generate electricity prior to October 1, 2001. Any enhancement of a fuel source that increases generation at an existing facility, without the construction of a new, repowered, or separately metered generating unit, is not eligible to participate, with the exception of new landfill gas resources identified in (4) above.

- 2.4 REC Contract – The separate agreement that shall be executed between Western RMR and the successful offeror(s) for transfer of RECs associated with this RFP. Prices, terms, and conditions under the REC Contract generally will include, but will not be limited to, those specified under or offered in accordance with sections 3, 4, and 6 of this RFP.
- 2.5 Certificate of Transfer – The document to be provided to Western RMR by the contractor at the time of invoicing that transfers title to the invoiced RECs, including all associated renewable attributes, to Western RMR at the time of payment. A template Certificate of Transfer shall be provided for use by the contractor in an exhibit to the REC Contract.
- 2.6 REC Provider Attestation Form (Attestation Form) – The document to be provided to Western RMR by the contractor at the time of invoicing that verifies the invoiced RECs meet certain renewable requirements, as set forth in the example form attached to this RFP. A template Attestation Form shall be provided for use by the contractor in an exhibit to the REC Contract.

**3. Statement of Work and Specifications**

- 3.1 Proposals Requested – Western RMR is requesting firm fixed “per MWh” unit price offers for the transfer of RECs on behalf of the following EPA facilities:

<u>EPA Facility</u>	<u>Location</u>	<u>Annual Amount of RECs</u>
Denver Regional Office	Denver, CO	4,700 MWh
Golden Laboratory	Golden, CO	2,100 MWh
Kansas City Science and Technology Center	Kansas City, KS	3,850 MWh
Kansas City Regional Office	Kansas City, KS	4,450 MWh
San Francisco Regional Office	San Francisco, CA	2,275 MWh

The EPA’s Denver Regional Office and Golden Laboratory reside within the service territory of Public Service Company of Colorado (Xcel Energy). The EPA’s Kansas City Science and Technology Center and Kansas City Regional Office reside within the service territory of the Kansas City Board of Public Utilities. The EPA’s San

Francisco Regional Office resides within the service territory of Pacific Gas and Electric Company. The specific addresses for each facility will be designated in the REC Contract.

3.2 Partial Proposals – Western RMR will consider proposals for the transfer of RECs to one or more of the EPA facilities specified above, and will also consider proposals for transfer of RECs in amounts less than those specified. Western RMR may choose to combine such proposals as necessary to optimize unit pricing or to fulfill other evaluation criteria.

3.3 Location of Resources – Through the purchase of RECs under this RFP, the EPA desires to attain a beneficial environmental impact in the organizational region where each of its facilities is located. Accordingly, the offered RECs must be generated by renewable resources located in the following geographic areas:

<u>EPA Facility</u>	<u>Location of Resource(s)</u>
Denver Regional Office and Golden Laboratory	Utah, Colorado, Wyoming, Montana, South Dakota, and/or North Dakota
Kansas City Science and Technology Center and Kansas City Regional Office	Kansas, Nebraska, Missouri, and/or Iowa
San Francisco Regional Office	California, Nevada, and/or Arizona

3.4 Generation Resource Requirements – In order to meet the EPA’s desire to encourage the use of zero emission generation resources, the offered RECs must be generated in accordance with the following generation resource requirements:

<u>EPA Facility</u>	<u>REC Generation Resource Requirements</u>
Denver Regional Office	Minimum of 25% zero emission generation
Golden Laboratory	100% zero emission generation
Kansas City Science and Technology Center and Kansas City Regional Office	100% zero emission generation
San Francisco Regional Office	Minimum of 25% zero emission generation

3.5 Start Date – The expected start date for transfer of the RECs shall be as soon as practicable after contract award, although it is anticipated that the start date shall be no later than November 1, 2004.

3.6 Term of the REC Contract – The initial term of the REC Contract shall be for one year. If and when the EPA requests, a provision in the REC Contract will be exercised by Western RMR that allows for the unilateral extension of the REC Contract’s term by one year intervals for up to two additional years, with the REC unit pricing for each additional year to be equal to that of the initial term pricing.

Offerors are expected to take the possibility of an extension of REC Contract term into account when submitting their REC unit price offers.

- 3.7 Transfer of REC Title – Western RMR will take title to the offered RECs, and shall pay for those RECs, on behalf of the EPA. Title of the RECs shall pass to Western RMR at the time of payment, as set forth in the Certificate of Transfer. Western RMR will then transfer title to those RECs to the EPA on a pass-through cost basis under separate terms and conditions agreed upon by the two agencies.
- 3.8 Invoice and Payment – All invoicing shall be based on the total amount of RECs purchased by Western RMR on a quarterly basis, with the first quarter to begin on the actual start date of the REC contract. The amount of RECs invoiced for a quarterly period must generally equal one-quarter (1/4) of the total amount of offered RECs; however, in no case may the amount of RECs invoiced for a quarterly period be less than one-sixth (1/6) or greater than one-third (1/3) of the total amount of offered RECs. Further, in no case may the total amount of RECs invoiced during any annual REC Contract term be less than or greater than the total amount of offered RECs. The contractor may only invoice for charges allowed under the terms and conditions of the REC Contract, with the invoicing address to be specified therein. All invoices must be accompanied by a Certificate of Transfer and an Attestation Form.
- 3.9 Additional Facilities or REC Amounts – The EPA and/or Western SNR may request Western RMR to contract for (1) the transfer of RECs for additional EPA facilities located in Western SNR's and Western RMR's service territories or (2) the transfer of additional REC amounts for the EPA facilities described in this RFP. If the request is considered within the original scope of the REC Contract, Western RMR shall provide the contractor with the desired REC amounts, and the two parties shall mutually agree as to whether to extend the full terms and conditions of the REC Contract, including any extensions of term, to the proposed additional facilities or REC amounts. Adding facilities or REC amounts shall be accomplished by the bilateral execution of an amendment to the REC Contract.
- 3.10 Favorable Consideration for RECs Associated with Native American Tribes – For each EPA facility, in the event that comparable best value offers are made by two or more offerors, favorable consideration will be given to RECs generated by renewable resources owned by Native American tribes and/or renewable resources located on Native American tribal property. Such consideration assumes that the Tribally-owned RECs meet all of the requirements and criteria specified in this RFP.
- 3.11 Third Party Verification – Documentation indicating third party verification of the supplied RECs must be submitted by the contractor to Western on an annual basis. Examples of allowable types of third party verification are: Green-e; TerraChoice; an independent auditor's report; or a third party verification methodology approved by either a government entity of the State in which the renewable resource is located (e.g., the State public utilities commission) or a regional transmission entity or power pool applicable to the State in which the renewable resource is located (e.g., Southwest Power Pool). If verification is performed by Green-e, TerraChoice, or a similar third party organization, the contractor shall provide Western with a copy of

the contractor's annual report within thirty (30) days of its submittal to the applicable organization. Other verification methods will be subject to review and approval by Western prior to REC Contract award.

**4. Submission Requirements** – Offerors must fully address each of the following submission requirements to be considered for this solicitation:

- 4.1 Facilities and REC Amounts – Offerors must specify the EPA facility(ies) they propose to serve with RECs, as well as the annual amount of RECs offered for each facility.
- 4.2 Cost – Offerors must specify a firm fixed “per MWh” unit price for the offered RECs.
- 4.3 Location of Resources – Documentation must be submitted showing that the offered RECs will be generated by renewable resources located in the geographic areas listed under section 3.3 of this RFP (“Location of Resources”), including detail regarding the specific location of each renewable resource from which the offered RECs will be generated.
- 4.4 New Renewable Verification – Documentation must be submitted verifying that the offered RECs meet the new renewable generation resource requirement set forth in section 2.3 above.
- 4.5 Renewable Requirements Verification – A signed affidavit must be submitted indicating that, as of the date of REC Contract commencement, the offered RECs will meet the requirements set forth in the Attestation Form and, if applicable, the minimum generation resource requirements discussed in the section 3.4 above (“Generation Resource Requirement”).
- 4.6 Ownership of Resources – If applicable, offeror should specify what portion of the offered RECs will be generated by renewable resources owned by Native American tribes and/or renewable resources located on Native American tribal property. Such specification must include a description of the relevant renewable resources as well as detail regarding any Native American ownership and/or the tribal property location(s) of those resources.
- 4.7 Past Performance – Documentation must be submitted describing any relevant past experience and performance regarding the transfer of RECs, including non-Federal customer references. Instances of past performance that are not relevant, are more than five years old, or are of significantly dissimilar size and scope will not be considered. In submitting such documentation, the offeror agrees to permit Western's representatives to contact the listed references and inquire about the past performance of the offeror. Offerors are directed to submit accessible references. References that cannot be contacted and/or verified will not be considered. Western's representatives, at their discretion, may also access other sources (e.g., industry-related performance databases) for purposes of evaluating an offeror's past performance.

- 4.8 Commitment Letter – Within fifteen (15) days of REC Contract execution, a commitment letter, on company letterhead, from the applicable renewable generator or its authorized representative, must be submitted stating that the renewable generator/authorized representative has committed to supply the offered RECs to the contractor. Failure to provide the commitment letter will result in Western unilaterally terminating the REC Contract.

## **5. Evaluation Criteria**

- 5.1 The purpose of this RFP is to have Western, a power marketing administration within the U.S. Department of Energy, purchase an intangible component of electric utility service on behalf of another Federal agency. Consistent with exceptions set forth in Federal Acquisition Regulations (FAR) Part 41, Western considers this acquisition exempt from competition requirements set forth in FAR Parts 6, 7, and the remainder of Part 41.
- 5.2 Utilizing the flexibility allowed under Western’s power marketing authority, Western RMR intends to award one or more REC Contracts to any offer(s) that Western RMR considers as providing the best value and that otherwise meet the terms of this RFP.
- 5.3 Offers will be considered for evaluation only if they fully comply with the submission requirements set forth under section 4 above. Resource location is a requirement that must be met in accordance with section 4.3 ("Location of Resources") to be eligible for award. Native American resource ownership shall only be considered if two or more comparable best value offers are received. REC unit price and offeror past performance (if any) shall be considered in evaluating which qualified offers provide the best overall value, with REC unit price weighted more heavily than past performance. Offerors with no past performance will receive a neutral, rather than negative, past performance assessment.
- 5.4 Favorable consideration will be given to eligible offered RECs generated by renewable resources owned by Native American tribes and/or renewable resources located on Native American tribal property. However, the award of any REC Contracts based on such RECs is ultimately subject to Western RMR’s best value determination as discussed in the preceding section.

## **6. Potential Legal and Regulatory Issues**

- 6.1 Department of Energy Environmental Policy Act Compliance – If Western RMR were to contract for RECs associated with renewable resources that have yet to be constructed, it would first be required to consider the potential environmental impacts of constructing and operating the resource as required by the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, et seq.) and the Department of Energy NEPA Implementing Procedures (40 CFR 1021). In the event that the EPA’s NEPA requirements are more stringent than those necessitated by DOE, the EPA’s requirements shall apply to Western’s environmental impact consideration.

- 6.2 Contingent Upon Appropriations – Where activities provided for in the REC Contract extend beyond the current fiscal year, continued expenditures by Western and the EPA are contingent upon Congress making the necessary appropriations required for the continued performance of Western’s obligations under the REC Contract. In case any such appropriations are not made, the contractor must agree to release Western from its contractual obligations and from all liability due to the failure of Congress to make such appropriations.
- 6.3 Contract Work Hours and Safety Standards – The REC Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C.A. 329 (1986), will be subject to the provisions of the Act, 40 U.S.C.A. 327-333 (1986), and to regulations promulgated by the Secretary of Labor pursuant to the Act.
- 6.4 Equal Opportunity Employment Practices – Section 202 of Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the offeror will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, will be incorporated by reference into the REC Contract.
- 6.5 Use of Convict Labor – The offeror agrees to not employ any person undergoing sentence of imprisonment in performing the REC Contract except as provided by 18 U.S.C. 4082 (c)(2) and Executive Order 11755, December 29, 1973.

**7. Process and Timing**

- 7.1 Timing – Offers to this RFP must be received by Western RMR on or before September 9, 2004, at 4:30 p.m. MST to be considered for evaluation. Late offers will not be considered.
- 7.2 Submission of Responses – Western RMR will accept offers that are submitted by mail via the U.S. Postal Service or an equivalent private mail carrier (e.g., United Parcel Service or Federal Express). The address for submission of responses via the U.S. Postal Service is:

Western Area Power Administration  
Rocky Mountain Customer Service Region  
ATTN: EPA REC Project Manager (J6000)  
P.O. Box 3700  
Loveland, CO 80539-3003

The address for submissions of responses via private mail carrier is:

Western Area Power Administration  
Rocky Mountain Customer Service Region  
ATTN: EPA REC Project Manager (J6000)  
5555 East Crossroads Blvd.  
Loveland, CO 80538-8986

Offers may also be faxed to Western RMR at (970) 461-7204, ATTN: EPA REC Project Manager (J6000). Offers submitted via hand or electronic delivery methods will not be considered.

- 7.3 Questions – Questions regarding this RFP will be accepted only via mail or facsimile as discussed in the preceding section.
- 7.4 Notification of Receipt – An acknowledgement of receipt of offers will not be provided. Offerors therefore are strongly encouraged to ensure that adequate tracking measures are taken with respect to their mailed or faxed offer.
- 7.5 Evaluation of Offers – Western RMR will evaluate all offers received on or before the date and time set forth in section 7.1 of this RFP. Western RMR may seek additional information for or clarification of individual offers as needed. Western RMR reserves the right to request best and final offers from one or more offerors, and to award or not award any REC Contract(s) as Western RMR ultimately deems appropriate. REC Contract award decisions will be made by Western RMR’s Power Marketing Manager after consultation with the Western and EPA representatives involved in the evaluation process.
- 7.6 Notification of Award and Subsequent Contracting – Western RMR will notify successful offeror(s) regarding the award of REC Contract(s), and will seek to negotiate and execute those REC Contract(s) as soon as practicable. A direct notification to unsuccessful offerors will not be provided; however, Western RMR will post a general notification on its web site (<http://www.wapa.gov/rm/rm.htm>) within one week after award of the REC Contract(s).
8. **Use of Information in Offers** – Western RMR will share submitted offer documentation with other Western staff and with the EPA and its designated representatives. In the interest of encouraging additional Federal purchases of RECs, Western and the EPA may share nonspecific offer information (e.g., range of offer prices and any winning offer prices for each EPA facility) with other Federal agencies. Neither Western nor the EPA will divulge proprietary offer information to anyone outside of their respective agencies unless required to do so by law, or at the direction of a court or government regulatory body of competent jurisdiction.
9. **Confidentiality** – Offerors wishing to have part or their entire offer not made available to the public should so indicate by marking the applicable portions “Confidential”.



Attachment

**QUARTERLY RENEWABLE ATTESTATION FROM REC PROVIDER**

I, (print name and title) \_\_\_\_\_, declare under penalty of perjury, on behalf of (name of REC provider) \_\_\_\_\_, that

- 1) all the RECs associated with this invoice were generated by eligible renewable energy generators as defined in RFP# \_\_\_\_\_;
- 2) all the renewable attributes, including any emissions reduction credits or emissions allowances, represented by the REC sales reported in Renewable Energy Certificate of Transfer were transferred to Western Area Power Administration; and
- 3) the renewable attributes represented by the REC sales reported in Renewable Energy Certificate of Transfer were not and will not be sold, marketed or otherwise claimed by a third party.

**REC Product**

Generating Facility	MWh Generation	From (date)	To (date)	Fuel Type
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I further declare that the RECs claimed for the REC products LISTED ABOVE and reported in the Renewable Energy Certificate of Transfer were sold once and only once, and that the electrical energy that was generated with the RECs reported in the Renewable Energy Certificate of Transfer was not and will not be sold, marketed or otherwise represented as renewable energy and was not and will not be used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate. As an authorized agent of the aforementioned Company, I have authority to submit this report on the company's behalf.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Place of Execution

This form is used to verify the accuracy of claims made by retail marketers.

## QUARTERLY RENEWABLE GENERATOR ATTESTATION FORM

**Facility Information**

Name of Facility: \_\_\_\_\_

Address of Facility: \_\_\_\_\_

Facility ID Number<sup>1</sup>: \_\_\_\_\_ EIA or QF? (circle one)

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Fuel Type	Capacity (MW)	MWh/RECs Sold to Provider	Date Facility First Operational	NOx Emissions (Lbs/MWh)	Period of Delivery (Q#/yy or mm/yy)**
Biomass _____ <i>(indicate fuel type)</i>					
Geothermal					
Landfill Gas/ Digester Gas					
Wind					
Solar electric					

\* For facilities which have added new renewable capacity, please indicate the amount and operational date of the new capacity and the existing capacity.

\*\* List as separate line items MWh for each month or quarter.

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<sup>1</sup> Please enter Energy Information Administration (EIA) identification number for the generating facility. If the facility does not have an EIA number, please enter the utility-assigned Qualifying Facility (QF) identification number.

**QUARTERLY RENEWABLE GENERATOR ATTESTATION FORM (CONT'D)**

**Declaration:**

I, (print name and title) \_\_\_\_\_,  
declare under the penalty of perjury, that the information provided on this form is true and correct to the best  
of my knowledge.

Further, I declare that the (indicate) \_\_\_\_\_ renewable megawatt hours/ \_\_\_\_\_ renewable attributes listed  
above were sold exclusively to (name of REC provider) \_\_\_\_\_.  
Further, I declare that 1) all the renewable attributes, including any emissions reduction credits or emissions  
allowances, represented by the renewable electricity generation listed below were transferred to the REC  
provider above, 2) to the best of my knowledge, the renewable attributes were not and will not be sold,  
marketed or otherwise claimed by a third party; 3) the renewable attributes were and will be sold once and  
only once; 4) the electrical energy that was generated with the attributes was not used on-site for generation;  
and 5) the electrical energy that was generated with the attributes was not and will not be separately sold,  
marketed or otherwise represented as renewable energy and was not and will not be used to meet any  
federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio  
standard, or other renewable energy mandate.

_____	_____	_____	_____	_____
Generating Facility	MWh of Generation	From (date)	To (date)	Fuel Type

Further, I declare that the facilities that generated all of the (indicate) \_\_\_ renewable kilowatt hours/ \_\_\_  
renewable attributes sold to (name of REC provider) are listed above by fuel type.

As an authorized agent of (generating company name) \_\_\_\_\_,

I attest that the above statements are true and correct.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Place of Execution: \_\_\_\_\_

Address of Generating Company: \_\_\_\_\_

Phone Number: \_\_\_\_\_

This Form is used to verify the accuracy of claims made by retail marketers.