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3 AAC 105.300 is amended to read:

### **3 AAC 105.300 Operation of Power Projects**

(a) The provisions of this section and 3 AAC 105.310 apply only to those projects acquired **or constructed under AS 44.83.080(18), or that were acquired or constructed** by the authority before August 11, 1993 and **that were** authorized as part of the energy program for this state under former AS 44.83.380. The authority will operate the projects using

**(1) a qualified contractor,** [EMPLOYEES OF THE AUTHORITY] or

**(2)** under a contract or lease with the authority, BY a qualified utility.

(b) An electric utility **or a qualified contractor** may apply to operate a power project under (a) of this section by submitting a written proposal. The proposal must contain the following information:

(1) **to be considered a qualified utility within the means given in AS 44.83.425,** proof that the utility or utilities established as an electric operating entity are holders of a certificate of public convenience and necessity issued by the Regulatory Commission of Alaska to serve all or part of the area that is, or is intended to be, served by the power project;

(2) the legal name of the utility or electric operating entity and the legal authority under which it was created and other information that will demonstrate that the applicant is eligible to do business in this state;

(3) a record of the official action taken by the applicant's governing body authorizing the proposal;

(4) the name, title, and address of the applicant's official correspondent or representative for purposes of the proposal;

(5) the names and titles of the applicant's principal officers, including the chief executive officer and the general manager;

(6) the names and addresses of the engineers, legal counsel, financial advisers, or consultants that the applicant may have;

(7) a general description of the operations of the electric utility or electric operating entity, including a recent history of the costs of operating, maintaining, and replacing equipment on those operations; and

(8) an estimate of the annual costs to operate, maintain, and replace equipment on the power project.

(c) If the power project serves only one electric utility, the authority **may WILL, IN ITS DISCRETION**, accept a proposal from that electric utility for the operation and maintenance of the power project. If the authority, after reviewing the proposal from the electric utility, finds that the electric utility is a qualified utility, the authority will enter into a contract or lease with that qualified utility for the operation and maintenance of the power project.

(d) If the power project serves more than one electric utility, the authority **may WILL, IN ITS DISCRETION**, operate the power project **using a qualified contractor** [ITSELF] or enter into a contract or lease with a qualified utility to operate the power project. The authority **may WILL, IN ITS DISCRETION**, accept proposals from each **proposed contractor**, electric utility, or electric operating entity and will [EITHER

(1) REJECT ALL PROPOSALS AND OPERATE THE PROJECT ITSELF; OR

(2) select that **qualified contractor**, electric utility, or electric operating entity that is a qualified utility and that the authority determines is the most capable of operating the project based upon the following criteria:

(1)(A) the financial history and stability of the **qualified contractor**, electric utility, or electric operating entity;

(2)(B) the ability of the **qualified contractor**, electric utility, or electric operating entity to attract qualified power project managers and operators;

(3)(C) the location of the project in relation to the service area of the electric utility or electric operating entity;

(4)(D) the likelihood of assisting in the lowering of rates to all classes of consumers over the longest period of time;

(5)(E) the ability of the **qualified contractor**, electric utility, or electric operating entity to satisfy the legislative goals of the energy program for the state.

(e) Before entering into a lease or contract with an **qualified contractor**, electric utility, or electric operating entity to operate and maintain a power project, the authority **may WILL, IN ITS DISCRETION**,

(1) request additional information from the applicant considered appropriate;

(2) conduct its own investigation;

(3) receive any written comments from interested persons and organizations;

and

(4) consider any information received at one or more public meetings.

(f) The authority's decision to enter into a **contract with a qualified contractor or a contract or lease with a qualified utility** will be in writing.

(g) In accordance with sec. 37, ch. 18, SLA 1993, the authority will, to the maximum extent feasible, enter into contracts with public utilities under this section.

3 AAC 105.300 is amended by adding a new section to read:

(h) in this section, a “qualified contractor” means a contractor with demonstrated management capability, technical ability, and experience with projects of similar type, size, license status, complexity, and technology, to effectively operate and maintain the power project. (Eff. 2/16/96, Register 137; am. 11/5/2017 Register 224)

**Authority:** Sec. 37, ch. 18, SLA 1993 AS 44.83.080 AS 44.83.396