

## **REQUEST FOR PROPOSAL**

Issued by  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215

**Evaluation of Duke Energy-Ohio's Preparedness for and Response to the  
September 2008 Windstorm**

RFP Number FY2010-01  
**Issued June 18, 2009**

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## PART ONE: EXECUTIVE SUMMARY

**Purpose.** This is a Request for Proposal (“RFP”) issued by the Office of the Ohio Consumers’ Counsel (“OCC”) to solicit proposals from Independent Contractors to provide assistance to the OCC in addressing the Public Utilities Commission of Ohio’s (“PUCO” or “Commission”) Docket which will evaluate the prudence and reasonableness of the costs Duke Energy Ohio, Inc. (“Duke”) incurred in relation to Duke’s restoration of power after the September 2008 windstorms resulting from Hurricane Ike for which Duke is requesting the recovery of approximately \$31 million as indicated in and deferred from Case No. 08-709-EL-AIR.

**Background.** The OCC plays an integral part in Ohio's government and economy by fulfilling its role as the advocate agency for residential utility consumers. Established in 1976, the OCC participates in major rate, fuel, rule-making and federal cases affecting the utility service of Ohio’s residential consumers.

The law governing the agency's activities is contained in Chapter 4911 of the Ohio Revised Code.

The Consumers' Counsel is appointed by and remains responsible to a nine-member Governing Board. The representative role of the Governing Board can be viewed as incorporating three broad functions: accountability to the Public, the General Assembly and the Attorney General; policy-making in directing the Consumers' Counsel; and oversight of the Consumers' Counsel Office.

The Consumers' Counsel appoints and administers a staff to carry out her legislative mandates. The office works to protect the interests of residential utility consumers, which is accomplished by formal case interventions, informal negotiation and dispute resolution, complaint and inquiry handling, educational efforts and analytical and legal assistance to legislators and others on public utility issues.

## PART TWO: GENERAL INSTRUCTIONS

**Calendar of Events.** The schedule for this RFP and the work is given below. The OCC reserves the right to change this schedule as needed.

### **Firm Dates**

RFP Issued: **June 18, 2009**  
Proposal Due Date/Time: **July 10, 2009 @ 5:00p.m.**

### **Estimated Dates**

Contract Award: **July 13, 2009**  
Work Begins: If Controlling Board approval needed **August 10, 2009**  
If Controlling Board approval is not needed **July 14, 2009**  
**Work Ends: June 30, 2010**

If the contractor awarded a contract under this RFP has total contracts or anticipated expenditures during the current state fiscal year totaling \$50,000 or more, the OCC will seek approval from the State of Ohio Controlling Board for the use of funds for the contract under this RFP. The timing of that approval is dependent on the dates for submission to the Board and the scheduled meeting of the Board. The "work begins" dates above reflect OCC's current estimate of the timing of that approval process.

**Contacts.** The following individual will represent the OCC as the primary contact for matters relating to the non-technical aspects of the RFP and during the contract negotiation/award process and subsequent invoicing.

### **Mary Seltzer**

Operations Administrative Assistant  
Office of the Ohio Consumers' Counsel  
10 W. Broad Street, Suite 1800  
Columbus, Ohio 43215  
614-728-5171  
E-mail: [seltzer@occ.state.oh.us](mailto:seltzer@occ.state.oh.us)

The following individuals will represent the OCC as the primary contact for matters relating to technical aspects of the RFP and throughout the performance of the work upon the awarding of the contract.

### **Ann Hotz**

Office of the Ohio Consumers' Counsel  
10 W. Broad Street, Suite 1800  
Columbus, Ohio 43215  
614-466-9573  
E-mail: [hotz@occ.state.oh.us](mailto:hotz@occ.state.oh.us)

**Proposal Submission.** Proposals are to be mailed or delivered to: Mary Seltzer, Office of the Ohio Consumers' Counsel, 10 W. Broad Street, Suite 1800, Columbus, Ohio 43215-3485. Proposals may also be faxed to (614) 728-7498 or submitted via e-mail to [seltzer@occ.state.oh.us](mailto:seltzer@occ.state.oh.us). The deadline to submit proposals for this RFP is **5:00 p.m. on June 30, 2009.**

The OCC may reject any proposals or unsolicited proposal amendments that are received after the deadline regardless of the cause for the delay. A prospective contractor that mails its proposal must allow for adequate mailing time to ensure its timely receipt.

Each prospective contractor must carefully review the requirements of this RFP and the contents of its proposal. All prospective contractors are on notice that the OCC will not be liable for any costs incurred by any prospective contractor in responding to this RFP, regardless of whether the OCC awards the contract through this process, decides not to go forward with the work, cancels this RFP for any reason, or contracts for the work through some other process or by issuing another RFP.

By submitting a proposal, the prospective contractor acknowledges that it has read this RFP, understands it, and agrees to be bound by its requirements. The prospective contractor also agrees that the contract will be the complete and exclusive statement of the agreement between the OCC and the contractor and will supersede all communications between the parties regarding the contract's subject matter.

The OCC may reject any proposal if the prospective contractor takes exception to the terms and conditions of this RFP, fails to comply with the procedure for participating in the RFP process, or the prospective contractor's proposal fails to meet any requirement of this RFP. The OCC may reject any proposal that is not in the best interest of the OCC to accept. Further, the OCC may decide not to do business with any of the prospective contractors responding to this RFP.

All proposals and other material submitted will become the property of the OCC and may be returned only at the option of the OCC. Proprietary information should not be included in a proposal or supporting materials because the OCC will have the right to use any materials or ideas submitted in any proposal without compensation to the prospective contractor.

The OCC will retain all proposals, or a copy of them, as part of the contract file for at least sixteen (16) years. After the retention period, the OCC may return, destroy, or otherwise dispose of the proposals or the copies.

**Waiver of Defects.** The OCC has the right to waive any defects in any proposal or in the submission process followed by a prospective contractor. However, the OCC will only do so if it is in the best interest of the OCC and will not cause any material unfairness to other prospective contractors.

**Amendments to Proposals.** Amendments or withdrawals of proposals will be allowed if the amendment or withdrawal is received before the proposal due date. No amendment or withdrawals will be permitted after the due date, except as expressly authorized by the OCC.

**Amendments to the RFP.** If the OCC decides to revise this RFP, amendments will be made available to all prospective contractors. When the OCC makes amendments to the RFP after proposals have been submitted, the OCC will permit prospective contractors to withdraw or modify their proposals.

**Contract.** If this RFP results in a contract award, the contract will include by reference this RFP, written amendments to this RFP, the prospective contractor's proposal, and written, authorized amendments to the Contractor's proposal. It will also include any purchase orders and change orders issued under the Contract.

**In addition, the prospective contractor will agree to abide by all laws, rules and directives of the State of Ohio, as they pertain to vendors doing business with the State of Ohio.**

### PART THREE: SCOPE OF WORK AND DELIVERABLES

This section describes the scope of work and what the selected contractor must deliver as part of the completed work (the “Deliverables”) to meet the terms and conditions of the subsequent contract.

**Scope of Work.** The Independent Contractor will be fully responsible for the review, analysis, and evaluation of all materials filed by all other parties in the proceedings relative to Duke’s cost recovery request in a future PUCO docket. The Independent Contractor will also be responsible for the presentation of their position on OCC’s behalf in this Docket and to defend that position through testimony or under cross-examination, if necessary.

The Independent Contractor will also be responsible for the analysis and evaluation of any background materials as may be provided by OCC, or identified by the Independent Contractor during the course of the review. The Independent Contractor will be expected to bring substantial experience in evaluating all issues related to emergency preparedness and response to widespread distribution and transmission outages of electric systems. This request requires expertise in addressing appropriate decision-making regarding the reservation and allocation of labor, equipment and other necessary resources to respond effectively and quickly to emergency outages in a way that would minimize loss to its customers.

**Work Requirements and Deliverables.** The Independent Contractor shall undertake the following work and activities, as requested and approved by OCC, for the identification, analysis and development of all issues and questions raised by the Commission’s Docket in which Duke will file an application for the recovery of approximately \$31 million as indicated in and deferred from Case No. 08-709-EL-AIR:

1. Review and critique the activities engaged in by the utility prior to and during the outage that affected Duke’s restoration efforts that are included in Duke’s application.
2. Draft discovery requests with assistance of OCC staff to identify Duke’s storm recovery activities and to determine the prudence and reasonableness of the activities in which Duke engaged before, during, and after the outage that affected Duke’s restoration of service to customers.
3. Draft discovery requests with the assistance of OCC staff to identify critical decisions made by Duke before, during, and after the outage that affected Duke’s restoration of service to customers.
4. Provide a critique of Duke’s activities and decision-making processes with regard to how they affected the efficiency of Duke’s restoration of service to customers.
5. Provide a critique of Duke’s activities and decision-making process with regard to whether they properly and adequately contributed to or mitigated financial losses to residential customers.
6. Draft testimony consistent with OCC’s position in this docket that presents critiques of Duke’s activities and decision-making process that describes how the activities and decisions affected the efficiency of Duke’s restoration efforts and affected the financial losses to residential customers.
7. Participate in litigation in the docket to defend OCC’s position in this docket: assist in cross examination of witnesses presented by Duke, the PUCO Staff, and other parties to the proceeding (i.e. intervenors) at deposition and hearing; respond to cross-examination on the prepared testimony at deposition and testify at the hearing; assist in negotiations as needed; and assist in the preparation of a technical conference and in preparation of briefs or other pleadings as needed.

## PART FOUR: PROPOSAL REQUIREMENTS

**Proposal Format.** Each proposal must include sufficient data to allow the OCC to verify the total cost for the work and all of the prospective contractor's claims of meeting the RFP's requirements. These instructions describe the required format for a responsive proposal. The prospective contractor may include any additional information it believes is relevant.

1. **Contractor Profile.** Each proposal must include a general profile of the prospective contractor's relevant experience working on projects similar to this work. In the **Contractor Profile**, or in **Personnel Profile Summaries** (see below), details on prior and current similar and/or relevant work projects should be provided, including the scope of such work, clients, utility names and case numbers. While detail is generally preferred on a contractor's most recent work, contractors are encouraged to provide detail on all relevant work in Ohio.

The profile must also include the prospective contractor's legal name, address, and telephone number; home office location; date established; ownership (such as public firm, partnership, or subsidiary); firm leadership (such as corporate officers or partners); total number of employees nationwide and in Ohio; the percentage of women employees nationwide and in Ohio; the percentage of minorities nationwide and in Ohio; number of employees to be engaged in tasks directly related to the work; and any other background information the prospective contractor believes would be useful during the proposal evaluation process. For any subcontractors included in your proposal, indicate whether they operate as an individual, partnership or corporation; if as a corporation, include the state in which they are incorporated. State whether they are licensed to operate in the State of Ohio. State the same employee information as noted above for the primary contractor.

2. **Work Plan.** The prospective contractor must fully describe its approach, methods, and specific work steps for doing the work and producing the **Work Requirements and Deliverables** set forth in Part Three of this RFP. The OCC encourages responses that demonstrate a thorough understanding of the nature of the work and what the Contractor must do to get the work done well. The prospective contractor must also provide a complete and detailed description of the way it will do the work that addresses the areas of concern identified below. The OCC seeks insightful responses that describe proven, state-of-the-art methods. Recommended solutions should demonstrate the prospective contractor's ability to quickly undertake and successfully complete the required tasks.

In describing its work plan the prospective contractor should provide detail sufficient to demonstrate its understanding of (1) Electric distribution system reliability, appropriate utility preparedness for emergencies and response to emergencies, and prudent restoration plans and decision-making, (2) issues pertinent to electric distribution system restoration requirements and the weighing of costs and benefits in prioritizing restoration activities, (3) industry standards in emergency preparedness and response (4) OCC's policies

The prospective contractor's work plan must clearly and specifically identify key personnel assignments and the number of hours by individual for each of the Work Requirements and Deliverables set forth in Part Three of this RFP.

3. **Personnel Profile Summaries.** Each prospective contractor must identify a project team that demonstrates a thorough understanding of the project and possesses the education and experience to support the successful completion of the project. Each proposal must include a profile and/or resume for each key member of the proposed work team to demonstrate the competency of the project team personnel and include the following information:

- **Team Member Names**
- **Experience and Qualifications.** For each team member identify experience and qualifications relevant to this project, including testimonies previously presented. Identify which team members are expected to prepare testimony in this case.
- **Dates of Employment.** The length of time the team member performed relevant work requiring the necessary technical expertise.
- **Project Experience.** The work of the team member on projects of similar or greater size and scope, including projects in Ohio and/or for the OCC.

4. **References.** The prospective contractor must include three references for which the prospective contractor has successfully provided services on projects that were similar in their nature, size, and scope of work. These references must relate to work that was completed within the past five (5) years.

Note: Each reference must be willing to discuss the prospective contractor's performance with an OCC representative.

5. **Cost Summary.** Each prospective contractor must provide a cost summary table showing: (1) project team members, (2) estimated hours, (3) hourly rates and (4) total estimated project costs for each of the Work Requirements and Deliverables set forth in Part Three of this RFP.

a) Executive order 209-07S, Implementing Additional Spending Control Strategies. Governor Ted Strickland's executive order states in part "...in this time when the state is struggling to maintain services critical to the health, safety and welfare of Ohio's citizens, the willingness of a vendor to negotiate a 15% or greater reduction in a contract's financial term, while maintaining substantial equivalency of other term, will be considered in the contract renewal decisions..."

A fifteen percent reduction in an Independent Contractor's cost proposal, from their normal rates, will be looked at favorably.

b) The OCC requires the inclusion of ALL expenses associated with this project within the hourly rates and hours used to determine the costs for the deliverables, thereby eliminating the need for expense billings. Items to be taken into consideration in determining the cost of each deliverable should include supplies and materials, transportation and per diems, copying and overnight mail charges, etc. The successful bidder will be responsible for direct payment to vendors for any requirements for overnight mail (including OCC to Contractor) and any "on-site" photocopying charges.

c) Contractor may invoice only for actual work performed and documented.

6. **Subcontractors.** Acceptance by the Consumers' Counsel of a primary bidder's proposal does not necessarily require the Consumers' Counsel to accept the subcontractor(s) proposal proposed by the bidder. The Consumers' Counsel reserves the right to evaluate the qualifications of all sub-contractors proposed by the primary bidder.
7. All firms submitting proposals on projects with 15 or more employees, who have less than 15% minorities in their employ, will be asked to subcontract with a Minority Business Enterprise/Encouraging Diversity Growth & Equity ("MBE/EDGE") provider for not less than 20% of the contract award. Refer to the following website for information on the MBE/EDGE program [www.das.ohio.gov/Eod/Edge/Index.htm](http://www.das.ohio.gov/Eod/Edge/Index.htm).
8. The OCC will not be liable for any costs the prospective contractor does not identify in its proposal.
9. Submit a list of all Ohio public utilities for which you or your staff performed work in a professional capacity during the past three years.
10. Submit an original W9 form along with your response to this RFP so that, if a contract is awarded, the OCC can process any invoices submitted by your company. The Internet link to the form is: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. The form must be signed and dated.
11. Submit a statement to Mary Seltzer, along with your response to this RFP, affirming that you or members of your staff do not currently owe any money to the state of Ohio or have an unresolved finding for recovery from the Auditor of State.
12. **Declaration of Material Assistance/Non-Assistance**  
If you will receive or have received in the aggregate an amount greater than \$100,000 from the state of Ohio, you must complete a certification. You can complete the pre-certification process electronically by going to <http://www.obg.ohio.gov>.
13. **Campaign Contribution**  
House Bill 694 requires that every contract for goods or services of more than \$500 must contain a certification signed by the contract recipient certifying that the recipient is in compliance with Ohio Revised Code 3517.13. If awarded a contract, contractor will certify the following:

"Contractor hereby certifies that all applicable parties listed in Division (I) (3) or (J) (3) of Ohio Revised Code Section 3517.13 are in full compliance with Divisions (I) (1) and (J) (1) of Ohio Revised Code Section 3517.13."

For more information please refer to <http://www.obm.ohio.gov>.

## PART FIVE: EVALUATION OF PROPOSALS

**Evaluation of Proposals.** Generally, the evaluation process may consist of up to four distinct phases:

1. The Initial Review of all proposals for defects
2. The Evaluation of the proposals by the Evaluation Committee
3. Request for More Information (Interviews, Presentations, and Demonstrations)
4. Negotiations

It is within the purview of the OCC Evaluation Committee ("Committee") to decide whether phases three and four are necessary.

**Rejection of Proposals.** The OCC may reject any proposal that is not in the required format, does not address all the requirements of this RFP, or that the OCC believes is excessive in price or otherwise not in the best interest of the OCC to consider or to accept. In addition, the OCC may cancel this RFP, reject all the proposals, and seek to do the work through a new RFP or other means.

**Clarifications:** During the evaluation process, clarifications may be requested from any prospective contractor under active consideration and the clarification may give any prospective contractor the opportunity to correct defects in its proposal. This may be done in cases where doing so would not result in an unfair advantage for the prospective contractor and the clarification is in the best interest of the OCC.

1. **Initial Review:** The proposals will be reviewed for their timeliness, format, and completeness. Any incomplete or incorrectly formatted proposals may be rejected. Likewise, any defects may be waived or a prospective contractor may be allowed to submit a correction.

If a late proposal is received, it will not be opened unless the prospective contractor received prior OCC approval to submit a late proposal for good cause shown.

All timely, complete, and properly formatted proposals will be forwarded to the Evaluation Committee.

2. **Committee Evaluation of the Proposals:** The Committee will evaluate each proposal forwarded to it. The Committee may also have the proposals or portions of them reviewed and evaluated by independent third parties or other OCC personnel with technical or professional experience that relates to the work or to the criteria used in the evaluation process. The Committee may adopt or reject any recommendations it receives from such reviews and evaluations. At any time during this phase, the Committee may ask a prospective contractor to correct, revise, or clarify any portions of its proposal.

**Contract Award.** The OCC plans to tentatively award the Contract for the work on **July 13, 2009**. The OCC reserves the right to change the contract award date if it becomes necessary. The contract will be awarded to the contractor that demonstrates a clear understanding of OCC's expectations; can complete the scope of work and deliverables within the designated timeframe, and at the lowest or competitive cost.