

REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P)**NO. CC-23-04****INDEPENDENT MONITOR****ISSUED NOVEMBER 2, 2023**

Pursuant to the provisions of the Motion M-23-506, approved November 2, 2023, the Council of the City of New Orleans is seeking to retain a professional(s) to serve as an independent monitor (IM) to review and evaluate solicitations related to the development of generation resources issued by Entergy New Orleans, LLC.

Purpose

The Council, in accordance with the New Orleans Home Rule Charter, acts as the regulator for electric and gas utility services in Orleans Parish, Louisiana.

The Utility, Cable, Telecommunications and Technology Committee (“UCTTC”) and Climate Change and Sustainability Committee (“CCSC”) are the committees that consider, review, and recommend programs, funding, legislation, and other necessary and appropriate actions relating to improving the modernization, growth, and sustainability of the city.

Scope of Service

The IM’s scope of responsibilities and activities will include oversight, review, monitoring, and reporting and cover several different phases of the RFP process, including:

- I. RFP Development
- II. Proposals Solicitation (RFP Issuance, Bidder Registration and Proposal Submission)
- III. Receipt of Proposals
- IV. Proposal Evaluation and Selection
- V. Due Diligence and Contract Negotiations
- VI. Reporting
- VII. FERC Proceedings and Litigation
- VIII. MISO Proceedings Including Representation in Affiliated Groups such as Organization of MISO States, Entergy Regulator States Commission, and NARUC
- IX. Utility Dockets Related to Climate Matters, Energy Efficiency, Demand-Side Management, Distributed Energy Resources, Generation Resources, Electric Vehicles, etc.
- X. Utility Dockets Related to Ratemaking, Cost Recovery, etc.
- XI. Investigations Related to Prudent Utility Practices.

Respondents selected to serve as an IM will be responsible for ensuring that any RFP process is conducted consistent with the Council’s “*Rules Applicable to Future Requests for Proposals*”

Issued by Entergy New Orleans, LLC for Generation Resources or Purchase Power Agreements” (“Council’s RFP Rules”) which were adopted through Council Resolution No. R-20-105. The IM will be responsible for periodic reporting to the Council consistent with the Council’s RFP Rules.

To assist the Respondent in developing its response to this RFQ, the Council provides the following typical responsibilities and activities of an IM that would likely be provided under the various phases of the RFP process.

I. RFP Development

1. Review and comment on the proposed product specifications and planning criteria.
2. Review, evaluate, and comment on the technical product descriptions, and the types of products solicited in the RFP.
3. Review and comment on the key technical RFP proposal evaluation criteria to ensure that the RFP products solicited have not been designed to provide undue preference to any potential bidder.
4. Review and comment on draft RFP documents to ensure that documents support a robust and fair solicitation process.
5. Review and comment on the structure of the RFP evaluation teams and the processes for protection of proposal information used by the evaluation teams.
6. Review and comment on the proposed RFP processes to ensure that they are designed to comply with all applicable Codes of Conduct, Standards of Conduct, Council’s RFP Rules, affiliate rules, and confidentiality agreements and restrictions.
7. Make recommendations, as needed and appropriate, to improve the RFP process.
8. Review and comment on evaluation methods, analytical tools and processes, data inputs and assumptions, and price and non-price evaluation criteria for the RFP proposals.
9. Review and comment on the description of the evaluation processes to be provided in the RFP documentation to ensure that such processes are accurately and appropriately described.

II. Proposal Solicitation (RFP Issuance, Bidder Registration and Proposal Submission)

1. Monitor implementation of the RFP to ensure that the RFP process is administered in a manner that is objective and impartial to all potential bidders and that no undue preference is given to any potential bidder or any resource.
2. Participate in any technical or bidders’ conference related to the RFP and monitor questions submitted by prospective bidders to ensure that timely, accurate responses to the questions submitted are provided.
3. Review bidder registration information received from prospective bidders and determine whether additional information is needed.
4. Oversee the receipt and handling of all RFP proposals timely submitted during the proposal submission period.

5. Respond directly to bidders, and communicate directly with bidders, with respect to questions, issues, or concerns during the RFP process.

III. Receipt of Proposals

1. Evaluate whether the submitted proposals meet the threshold requirements stated in the RFP and determine whether additional information is needed.
2. Review and monitor the distribution of data reports generated for each area of proposal evaluation.
3. Provide oversight in the process for determining whether a nonconforming proposal should be rejected and whether the bidder should be permitted to cure the proposal.

IV. Proposal Evaluation and Selection

1. Oversee the RFP evaluation and selection process to ensure that the process is objective and impartial to all bidders and that no undue preference is given to any potential bidder or any proposal or resource.
2. Obtain and review, and comment on, all proposed written communications concerning or relating to the RFP between ENO and bidders in advance of ENO's issuance of such communications.
3. Monitor the economic evaluation of all proposals and review the quantitative and qualitative analyses performed in connection with such evaluation to ensure that the analyses appropriately address the economic elements of proposals and are conducted impartially and objectively.
4. Monitor the evaluation of the interconnection, deliverability, transmission, and other non-price aspects of proposals and review formal quantitative and qualitative analyses performed in connection with such evaluation, including any filings made to or studies provided by or for Midcontinent Independent System Operator, Inc. relating directly to such evaluation.
5. Monitor the credit evaluation of bidders and review formal quantitative and qualitative credit analyses, as necessary, to ensure an impartial and objective process.
6. Monitor the viability and accounting assessments performed in the RFP process to ensure that such assessments are reasonable and appropriate.
7. Review, and provide comments on any proposed changes to the evaluation process, if it is determined that it is necessary or appropriate to modify the evaluation process.
8. Review all written recommendations and materials to be presented to ENO management.
9. Review any preliminary or final proposal ranking, portfolio selection, or proposal selection or elimination in the RFP.

- V. Due Diligence and Negotiations
1. Regarding the establishment and implementation of the RFP's due diligence and negotiation processes, ensure that (i) such processes are objective and impartial to all bidders, (ii) such processes are conducted in a fair and impartial manner and subject to appropriate confidentiality requirements, and (iii) no undue preference is given to any potential bidder or any proposal or resource.
 2. Monitor negotiations with third-party bidders arising out of the RFP.
 3. Monitor the adequacy and thoroughness of due diligence performed by ENO in the RFP's due diligence and negotiation processes.
- VI. Reporting
1. Prepare periodic and final reporting.
 2. Testify regarding the report, and the RFP process, as necessary.

Qualifications Statement Content

All responses should include:

- I. Professional experience and resumes of partners, principals and employees in the firm and subcontractors who will be responsible for, and actively involved in, the provision of professional services for the Council (Key Personnel), including the appropriate evidence of accreditation, certification and licensing in their profession.
- II. A description of three or more assignments which best illustrate the respondent's current qualifications relevant to the areas requested in this RFQ/P, including samples of work product and /or testimony.
- III. Demonstrated ability to provide coverage for City Council matters when the principal consultant is unavailable.
- IV. A sworn affidavit listing all persons with an ownership interest in the respondent firm or company. An "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that hold an interest in a publicly traded corporation. The affidavit is a public record.
- V. A sworn affidavit that no other person holds an ownership interest in the respondent via a counter letter.
- VI. A list of professional labor fees for all personnel included in the respondent's response to this RFQ/P and any others who may be called upon to perform work related to this RFQ/P as well as a statement of whether or not the respondent is willing to accept a "not to exceed" provision or cost cap for annual charges and to the comply with the "Billing Guidelines for Consultants and Advisors" attached hereto.

Potential Conflict of Interest

Any respondent to this RFQ shall disclose the following:

- I. Work performed in ratemaking, utility accounting, cost allocation, transmission access, reserve sharing and energy pool dispatch, acquisition and merger proceedings, and/or litigation for a utility operating within the boundaries of MISO, the Southwest Power Pool (SPP), or PJM Interconnection LLC (PJM) in the past five years.
- II. Any work performed on utility matters for any industrial, commercial or residential ratepayer (or groups and associations thereof) in Orleans Parish or in the service area of any of Entergy's operating subsidiaries, currently and in the past five years.
- III. Any work performed for any other regulator of Entergy Corporation and/or any Entergy affiliate or operating company.
- IV. Any prior or existing services not listed above being provided to any utility-related government entities, including but not limited to public service commissions, RTOs, regional power pools, etc., operating within the boundaries of MISO, the Southwest Power Pool (SPP), or PJM Interconnection LLC (PJM) within the last five years.
- V. Any work performed (whether compensated or not) on behalf of any Councilmember, the Council or the City of New Orleans within the past five years.
- VI. Any work performed for independent power producers, or power marketers who have sold or offered to sell power, or power material suppliers, to any Entergy affiliate or operating company within the past five years.

For any such work performed, the respondent shall indicate the scope of the engagement, the time frame, the amount of compensation received and why the respondent deems such work to be or not be in conflict with the interests of advising or representing the Council or its committees in utility regulatory matters. The Council shall make the final decision as to whether any conflict exists.

Evaluation Criteria

Upon receipt by the due date of responses to this RFQ/P by qualified contractors and firms, the Council's staff Selection Review Committee will evaluate all responses received based upon the criteria listed herein and in Council Rule 45, a copy of which is attached. Particular emphasis will be placed on the following criteria:

- I. Experience of the Key Personnel and other professional personnel in the utility regulatory field and demonstrated ability to provide cost effective services to the Council.
- II. Quality of work samples presented.
- III. Clear understanding by the applicant of work to be performed.
- IV. Capability and experience in providing consistent, timely services, as determined by information requested from references or the Council's actual experiences.
- V. Cost based on hourly rates of consultants at various levels of expertise and experience.
- VI. Whether respondent has met, or demonstrated good-faith efforts to meet, the 35-percent DBE utilization goal applicable to City Council professional service contracts, as more fully set forth in Section 70-461 of the New Orleans City Code.
- VII. Willingness to accept a "not to exceed cost" provision or cost cap for annual charges and to abide by the terms of the billing guidelines and protocols attached hereto.
- VIII. Willingness to work with other consultants selected by the Council.

RFQ/P Process

The Blackout Period is the period of time from the publication of this RFQ/P to an action by the Council either selecting a consultant or otherwise ending the selection process. During the Blackout Period, respondents may not communicate with any Councilmember or Council employee about matters related to this RFQ/P. In the event a respondent or potential respondent has specific questions about the RFQ/P evaluation process or aspects of this RFQ/P, such questions may be made in writing to the Erin Spears at espears@nola.gov.

An electronic version of the response should be submitted Erin Spears at espears@nola.gov no later than Friday, December 8, 2023, at 5:00 p.m. (CST).

A staff selection review committee will review and evaluate the submissions for responsiveness using the Evaluation Criteria.

The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee relating to the procurement of goods or services by the city, including meetings involving third party transactions. The notice required shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting. The Inspector General may attend all city meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio recorder or court stenographer may be utilized to record all selection or negotiation committee meetings attended by the Office of the Inspector General.

Length of Contract

All contracts are for a 12-month period. However, the Council may renew the contract for four additional 12-month periods, assuming continuing need for the services and mutual satisfaction.

Additional Information

1. The City of New Orleans is not liable for any costs incurred prior to entering into a formal written contract. Any costs incurred in the preparation of the statement, interview, or other pre-contract activity are responsibility of the person submitting the statement.
2. All submissions become the property of the City and as such are public information.
3. Section 2-1120 of the Code of the City of New Orleans, relative to the Office of the Inspector General provides in part as follows:

"It is agreed that the contractor or applicant will abide by all provisions of City Code § 2-1120, including, but not limited to, City Code § 2-1120(12), which requires the contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the contract. In signing this contract, the contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena."

City Code Sec. 2-1120. – Office of inspector general.

Billing Guidelines for Consultants and Advisors

PURPOSE

The purposes of the Billing Guidelines for Consultants and Advisors (“Billing Guidelines”), are (1) to ensure the services rendered are in compliance with the contractual terms of the services agreed upon by the Council and its consultants and advisors (“Advisors”); (2) to facilitate advanced budgeting for necessary services in effort to mitigate costs; and (3) to facilitate the administration of contracts, payment of invoices, and to protect the disclosure of privileged information and/or strategies.

DEFINITIONS

Council. “Council” refers to the New Orleans City Council, individual Councilmembers, and CURO acting on their behalf.

Permitted Work. Work performed in compliance with the Billing Guidelines, which includes the following:

- (1) Reasonable monitoring and information gathering with respect to issues related to the Council’s regulatory authority under Section 3-130 of the Home Rule Charter that are of interest to the Council ;
- (2) Strategic analysis, reports, and discussions;
- (3) Contacts with persons interested in issues that are related to the Council’s regulatory authority under Section 3-130 of the Home Rule Charter;
- (4) Consultation, coordination, and advocacy with others to ensure that the interests of the Council are served; and in connection therewith, personal appearances and the preparation and filing of documents;
- (5) (5) Intervention and participation in Administrative or Judicial proceedings; and in connection therewith, personal appearances and the preparation and filing of documents, pleadings, etc.;
- (6) Lobbying or monitoring activities with respect to legislation of material interest to the Council in performance of its regulatory authority under Section 3-130 of the Home Rule Charter; and in connection therewith, personal appearances and the preparation and filing of documents;
- (7) Preparation of draft legislation, resolutions, recommendations, and decisions;
- (8) Attending meetings and coordinating activities with other city agencies and other bodies;
- (9) Telephone conferences and attending meetings with, and preparing materials for, the Council.

Non-Billable Work. Work performed that cannot be billed or invoiced, which includes the following: (1) Research or review of industry literature or trade publications; (2) Attendance at professional conferences, educational seminars, or continuing legal education activities; (3) Research and review of basic substantive law at issue in the matter for which the firm was retained; (4) Administrative tasks, secretarial duties, or clerical services; (5) Invoicing tasks; (6) Staffing, educational, or new employee training; and (7) Travel time.

Sensitive/Protected Work. Work involving strategy pertaining to a current or potential administrative court proceeding, where the specific nature of the discussions, analysis, or meeting, as well as other persons involved, could jeopardize or injure the interest of the Council.

Block Billing. The non-permitted combination of a number of activities or tasks under a single time entry with little or no description of individual tasks performed or time accounted for.

PROCESS FOR INVOICE PAYMENT

- (1) Advisors, Consultants, or Council Appointed Officer(s) (“Payee”) must submit all invoices to the CURO on a monthly basis by the last day of the following month in which the services were charged. For example, if the work was performed or billed in January, the invoices are due by the last day of February.
- (2) Once submitted, CURO will review the invoice(s) to ensure compliance with the Billing Guidelines as outlined below, and within 30 days, submit the invoice(s) to the Chair with recommendations for payment.
- (3) If CURO has questions or plans to recommend rejecting an invoiced item, CURO will contact the Advisor prior to submitting the invoice to the Chair. The Advisor may elect to submit a revised invoice. If CURO has questions or concerns regarding an invoice, the review period described above will toll from the time CURO contacts the Advisor until CURO’s receives a response sufficient for CURO to make a recommendation to the Chair.
- (4) Upon receipt, the Chair will review the invoice and recommendations from CURO and issue a memorandum either (a) authorizing original payment authorization; or (b) authorizing a revised invoice payment.
- (5) Once CURO receives authorization from the Chair, CURO will submit payment to ENO for payment within 3 calendar days.

BILLING REQUIREMENTS

Advanced Budgeting

In order to provide the Council with an understanding of anticipated budget encumbrances, within 30 days from the date the motion authorizing a contract with an Advisor, the Advisor shall submit a budget plan identifying known prospective work, team members assigned to each project, and a potential range of the percentage of the approved budget associated therewith, with a copy to CURO (“Advanced Budget”). Known prospective work includes work associated with docketed and undocketed projects such as routine regulatory matters, committee meetings, active utility dockets, litigation, MISO and the ERSC.

With new projects anticipated or approved by the Council, Advisors should submit to the Chair and CURO a proposed scope of work along with estimated charges/expenses along with the team members needed to complete the work.

Billing Code Descriptions

In order to ensure that the Council can effectively track all permitted work being performed, the Advisors shall use the billing formats and codes for regulatory matters and tasks performed. Each Advisor should provide a description of each task performed. At the beginning of the description, the Advisor should include the docket number(s) or other appropriate identifier associated with the work performed.

Recording Work Time. All services rendered shall be entered using the billing code description in increments of 1/10th of an hour (e.g., “7” or “1.6”) and include a brief description of the work performed. No block billing permitted.

Privileged/Sensitive Work. If a Payee determines that specific work performed is subject to privileged/sensitive protection or could potentially jeopardize or injure the interest of the Council, the Payee should immediately notify CURO.

REIMBURSABLE EXPENSES

Eligible reimbursements are reasonable expenses that have been documented, itemized, and incurred in conjunction with services described in billing code descriptions, at the lowest possible charge reasonably available, which include but not limited to, the following:

- (1) Court reporters and transcripts billed at actual cost;
- (2) Photocopying Services less than \$.10 per page;
- (3) Pre-approved third-party services;
- (4) Pre-approved necessary and ordinary travel expenses not exceeding in costs permitted pursuant to the City of New Orleans’ most current employee travel policies and guidelines.

All requests for reimbursements shall include the travel dates, destination of travel, name of the traveler, and receipts, including receipt details where applicable. In the event the production of a receipt is not feasible, approved alternative records supporting the expenses may be accepted.

NON-REIMBURSABLE EXPENSES

A non-reimbursable expense is a charge that is considered either a routine administrative task, a standard office overhead expense, or an unreasonable, excessive, undocumented, and/or vague charge, which includes, but not limited to, the following:

- (1) Research Services,
- (2) Express mail or courier charges unless necessary with reasonable explanation,
- (3) Customary office overhead expenses. For example, office supplies, routine postage, facsimile charges, printing, scanning, timekeeper charges, long-distance or other telephone charges for phone calls,
- (4) Photocopying charges exceeding \$.10 per page,
- (5) Undocumented beverage and food charges, and
- (6) Alcoholic beverages.