

**REQUEST FOR QUALIFICATIONS AND PROPOSALS (“RFQ/P”)  
FOR  
RECRUITMENT FIRM CONSULTANT  
ISSUED FEBRUARY 2, 2022**

Pursuant to the provisions of the Motion M-22-58, dated January 20, 2022 and in accordance with Council Rule 42<sup>1</sup>, the Council of the City of New Orleans (“Council”), is seeking a qualified professional with substantial experience in performing recruiting services for consideration by the Council as part of its effort to secure a diverse, robust pool of candidates from which to select consultants to provide legal and technical utility regulation services.

**Background**

The Council, in accordance with the New Orleans Home Rule Charter and the Louisiana Constitution, acts as retail regulator for electric and gas utility services in Orleans Parish. As part of the execution of its regulatory powers, the Council utilizes legal and technical consultants to serve as Advisors on regulatory matters.

The Council issued a RFQ/P for legal and technical consultants in September 2021<sup>2</sup> and received only four (4) responses. The Council desires to employ best practices in a future solicitation for legal and technical utility consultants to increase the number of responses received, including the number of local and disadvantaged business enterprise candidates.

**Qualifications Statement Content**

- I. Responses to this RFQ/P should include a comprehensive description of how the respondent proposes to identify and solicit responses from qualified legal and technical firms, including local and disadvantaged business entities.
- II. Professional experience and resumes of partners, principals, and employees in the firm who will be responsible for, and actively involved in, the provision of professional services for the Council (“Key Personnel”).
- III. A brief description of three (3) assignments which best illustrate the respondent’s qualifications relevant to the areas requested in this RFQ, including applicable samples of work product.

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<sup>1</sup> <https://council.nola.gov/rules/#rule42>

<sup>2</sup> Attached hereto as Appendix “A”

- IV. Demonstrated ability to provide coverage for City Council matters related to this assignment when the principal consultant is unavailable because of other assignments, illness, vacation, or similar conflicting demands.
- V. A sworn affidavit listing all persons with an ownership interest in the respondent and attesting that no other person or entity holds an ownership interest in the respondent. 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.
- VI. A list of all persons, natural or juridical, who are retained by the respondent at the time of the application and who are expected to perform work as sub-contractors in connection with respondent’s work for the City Council. The Council may require information on employees, sub-contractors, or ownership interests in the subcontractor. This list is a public record.
- VII. A list of professional labor fees for all personnel whose services may be utilized to perform work related to this RFQ/P and a clear and concise statement that such professional labor fees throughout the contract term will be the most cost efficient, will not exceed the lowest professional labor fee for similarly situated clients of the firm, and will not exceed the contract price approved by the Council.
- VIII. The respondent’s best realistic estimate of the range of costs and a projected timeline associated with performing the proposed scope of work, including the attendance and participation at public meetings in New Orleans as deemed necessary by the Council.
- IX. Potential Conflict of Interest. All respondents providing a response to the RFQ shall provide a clear and unambiguous indication of any potential or real conflicts of interest it or any of its sub-contractors may have with respect to performing the work outlined in this RFQ on behalf of the Council, including but not limited to, work performed on behalf of the City of New Orleans or any of its consultants. 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 execution of the proposed scope of work. The Council shall be the sole arbiter as to any conflicts of interest and shall make the final determination as to whether any potential or real conflict of interest exists.

### **Limitation on Respondents Competing for this RFQ**

Any person or firm selected in response to this RFQ/P shall be prohibited from submitting a qualifications statement for selection to serve as the Council’s legal or technical utility consultant

and shall be prohibited from participating as subcontractors to the Council's legal or technical utility consultant(s).

### **Evaluation Criteria**

Upon receipt by the due date of responses to this RFQ by qualified firms, the Council's staff Selection Review Committee ("SRC") will evaluate all responses received based upon the criteria listed herein and in Council Rule 42. Particular emphasis will be placed on the following criteria:

- I. Training and experience of the Key Personnel and other professional personnel in the provision of services required by this RFQ.
- II. Clear understanding by the respondent of work to be performed, including quality of work samples submitted.
- III. Capability and experience in providing consistent, timely, and cost-effective services, as determined by information requested from references or the Council's actual experiences.
- IV. Estimated cost, based on hourly rates of consultants at various levels of expertise and experience.
- V. Involvement at the professional level of members of disadvantaged groups and of certified disadvantaged business enterprises, as defined in Section 70-456 of the New Orleans City Code and in accordance with Section 70-459.
- VI. Participation by persons living and/or working in New Orleans at a professional level.
- VII. Willingness to accept a "not to exceed cost" for the scope of work proposed by the respondent.

### **RFQ Process**

Except as provided herein below, no written, electronic, or oral communications from any actual or potential respondent to this RFQ/P or anyone acting as agent or representative for such person shall be made to any Councilmember, city employee, or Council staff person from the time this RFQ/P is posted until a final decision is made by the Council ("Blackout Period") except as provided herein. All communications during the Blackout Period to and from any actual or potential respondent must be submitted by email to Erin Spears, Council Utilities Regulatory Office Chief of Staff and Counsel, at [espears@nola.gov](mailto:espears@nola.gov). Any such communication and the response shall be available to the public.

RFQ submissions, including samples of work products, must be submitted electronically to Erin Spears by 5:00 PM CST on Friday, April 1, 2022. All responses submitted will be public records.

### **Length of Contract**

The contract will extend for a period not to exceed twelve (12) months. However, the Council may renew the contract for four additional twelve-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 response submitted, or other pre-contract activity are the responsibility of the person submitting the response.
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."

## **APPENDIX “A”**

### **REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P) ELECTRIC AND NATURAL GAS REGULATORY SERVICES ISSUED SEPTEMBER 24, 2021**

Pursuant to the provisions of the Council of the City of New Orleans’ Motion M-21-331, approved September 23, 2021, the City Council is seeking Statements of Qualifications from qualified legal and technical professionals to assist the Council in the performance of its regulatory responsibility under the Home Rule Charter.

#### **Purpose**

The Council for the City of New Orleans (Council), in accordance with the New Orleans Home Rule Charter, and the Louisiana Constitution, acts as the regulator for electric and gas utility services in Orleans Parish, Louisiana. The Council Utilities, Cable, Telecommunications, and Technology Committee (“UCTTC”) is the committee responsible for making recommendations to the full Council on electric and natural gas regulatory matters.

As a regulator, the Council has exclusive jurisdiction over the rates, reliability, and terms and conditions of service in Orleans Parish. In addition to its own administrative hearings and local regulatory proceedings, the Council is also an active participant in numerous Federal Energy Regulatory Commission (“FERC”) dockets. Additionally, the Council is an active participant in Midcontinent Independent Transmission System Operator (“MISO”) proceedings and is a party in litigation at the federal and local levels. Further, the Council participates in matters before Congress and other regulatory bodies to advocate for utility regulatory policies as needed.

#### **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, and
  - A. For legal consultants:
    1. Detail Key Personnel’s trial and regulatory experience before federal, local, and state authorities in electric and gas utility matters; and
    2. Experience advocating or consulting regarding legislative and regulatory policy before federal, state, and local authorities in electric and gas utility matters; and

- B. For technical consultants:
1. Detail Key Personnel's expertise and/or experience in regulatory areas such as: engineering and system planning for electric and gas utilities; transmission delivery and planning; transmission reliability criteria; engineering-economic analyses; economic/financial feasibility studies; utility financing; regulatory accounting; electric fuel and natural gas adjustment clauses; utility franchise matters; revenue requirements, functionalization, cost allocation, rate design and cost of service development for utility ratemaking; utility appraisals and acquisitions; and customer service regulations.
  2. A list of expert testimony and the matters testified thereto before federal and state courts, agencies, and regulatory bodies in electric and natural gas matters.
- 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 publicity 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.

### **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 an Investor Owned 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 City 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 by qualified 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" 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 Council Utilities Regulatory Office, Room 6E07, City Hall, 1300 Perdido Street, New Orleans, LA 70112 or [espears@nola.gov](mailto:espears@nola.gov).

An electronic version of the response should be submitted Erin Spears at [espears@nola.gov](mailto:espears@nola.gov) no later than Wednesday, December 1, 2021 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) 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 1/10<sup>th</sup> 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.