

REQUEST FOR QUALIFICATIONS (RFQ)

No. CC-22-08 (R)

INVESTIGATIVE SERVICES

RE-ISSUED JUNE 21, 2022

Pursuant to the provisions of Motion M-22-215, the Council of the City of New Orleans (“Council”) is seeking the services of a qualified individual or firm with the requisite experience and ability to investigate procurement practices involving the Mayor’s Office of Utilities.

BACKGROUND

The Council, in accordance with Home Rule Charter Section 3-124, has the authority to investigate any office, department, or board administering the affairs of the City and any entity that receives funds from the City. On April 21, 2022 the Council adopted Resolution R-22-201 initiating an investigation into the procurement practices and activities involving the Mayor’s Office of Utilities including, but not limited to, the selection of Smart+Connected NOLA for smart cities and public Wi-Fi deployment (the “Investigation”). As part of the Investigation, the Council subpoenaed Jonathan Rhodes to appear at a special Council meeting and to submit relevant documents and communications. After hearing Mr. Rhodes’ testimony and reviewing documents submitted in response to the subpoena, the Council determined it is necessary to retain the services of an investigator to continue the Investigation and adopted Motion M-22-215 authorizing the issuance of this RFQ.

SCOPE OF SERVICES

The key responsibilities of the Investigator are to ensure that to review all materials, conduct interviews, inspections, and fact gathering as needed to determine the facts related to the Investigation. The Investigator will be empowered to exercise the Council’s authority to subpoena documents and witnesses, take statements under oath and exercise the Council’s other investigatory authority in connection with the Investigation.

A. General Responsibilities of Investigator

1. The Investigator shall receive and review all documents and materials ordered produced by the Council; determine if all such documents and materials have been properly produced; determine if other documents and materials should also be ordered produced and prepare and serve such additional demand(s).
2. Identify any problems encountered in the Investigation and promptly report such problems, irregularities, or concerns with the investigation immediately to the Council’s Executive Counsel and Utilities Regulatory Officer (“Administrators”).
3. Submit a final detailed report on the Investigation with detailed findings of fact. The report may also make recommendations regarding procedures to avoid any future occurrences of inappropriate conduct found by the report to have occurred. The Investigator will also be required to attach to the report a copy of every document reviewed, a transcript of every sworn statement taken, a list identifying every witness interviewed, a copy of every contract reviewed, and all other materials used during the Investigation.

4. In carrying out the Scope of Services, the Investigator will be empowered by the Council to administer oaths and subpoena witnesses and records to the same extent as the Council.

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 in the last five years on behalf of (i) the Council, (ii) the City of New Orleans, (iii) IGNITE Cities, (iv) Qualcomm, (v) ConnectNOLA, (vi) JLC Infrastructure, (v) Jacob's Engineering, and/or (iv) any entity with an interest or potential interest in the outcome of the RFP 1193 issued by the City. 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.

EVALUATION CRITERIA

Upon receipt by the due date of responses to this RFQ by qualified individuals or firms, the Council's Selection Review Committee will evaluate all responses received based upon the criteria listed hereinbelow and in Council Rule 42. As a result, all responses should address the following criteria.

1. Qualified respondents should possess demonstrated experience as a prosecutor, investigator, auditor, judge or utility regulator at the local, state or federal level. Responses should include resumes of personnel who will be responsible for, and actively involved in, the provision of professional services for the Council.
2. Requisite capability, experience, ability and availability of professional personnel sufficient to perform the services required by the Scope of Services in the RFQ. Responses should include a brief description of three (3) assignments which best illustrate the respondent's qualifications relevant to this RFQ and samples of work product.
3. Demonstrated capability of providing competent, consistent, and timely services, as determined by actual experience in performing such services for the City Council or similar entities. Responses should include at least three (3) professional references.
4. Involvement at the professional level of New Orleans domiciliaries and/or involvement of certified disadvantaged business enterprises, as evidenced by government issued certification thereof.
5. Cost based on hourly rates of consultants at various levels of expertise and experience.

6. Whether the respondent has met, or demonstrated good-faith efforts to meet, the 35 percent DBE utilization goal applicable to City Council professional services contracts as more fully set forth in Section 70-467 of the City Code.
7. Willingness to accept a “not to exceed cost” for annual charges and to abide by the billing guidelines and protocols attached hereto.
8. Whether the respondent has conflicts of interest. In addition to the statement described in the previous section, all responses should include a list of all persons with an ownership interest in the respondent firm or company. An “ownership interest” does not include ownership of stock in a publicly traded corporation or ownership in a mutual fund or trust that holds an interest in a publicly traded corporation.

All responses are public records.

RFQ/P Process

Except as provided herein below, no written, electronic, or oral communications from any actual or potential respondent to this RFQ 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 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 the Administrators: Adam Swensek at adam.swensek@nola.gov and Erin Spears at 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 Adam Swensek and Erin Spears by 5:00 PM CST on Friday, July 8, 2022. All responses submitted will be public records.

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.

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 1/10th 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.