

**REQUEST FOR QUALIFICATIONS (RFQ)**  
No. CC-22-10  
**ELECTRIC AND NATURAL GAS REGULATORY SERVICES**  
ISSUED OCTOBER 12, 2022

Pursuant to the provisions of the Council Motion M-22-436, approved October 6, 2022, the City Council is seeking statements of qualifications from qualified legal 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. 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.

**Scope of Service**

Respondents may respond for consideration to provide legal consultation services for one or more of the following areas:

- I. FERC proceedings and litigation
- II. MISO proceedings including representation in affiliated groups such as Organization of MISO States, Entergy Regulator States Commission, and NARUC
- III. Utility dockets related to climate matters, energy efficiency, demand-side management, distributed energy resources, generation resources, electric vehicles, etc.
- IV. Utility dockets related to ratemaking, cost recovery, etc.
- V. Investigations related to prudent utility practices

**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
  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
- II. A description of three or more assignments which best illustrate the respondent's current qualifications relevant to the areas requested in this RFQ, 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. An affidavit listing all persons with an ownership interest in the respondent firm or company, including a statement that no other person holds an ownership interest in the respondent firm. 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 list of professional labor fees for all personnel included in the respondent's response to this RFQ and any others who may be called upon to perform work related to this RFQ.

**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, or PJM Interconnection LLC 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, regional transmission organization, regional power pools, etc., operating within the boundaries of MISO, the Southwest Power Pool, or PJM Interconnection LLC 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. Capability and experience in providing consistent, timely services, as determined by three (3) work samples provided, resumes submitted, information requested from references or the Council's actual experiences, and/or other pertinent information.
- III. Cost based on hourly rates of consultants at various levels of expertise and experience.
- IV. 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.
- V. 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.
- VI. Willingness to work with other consultants selected by the Council.

### **RFQ Process**

Respondents to the Utility Regulatory Services RFQ/P issued September 24, 2021, who were deemed responsive by the staff selection review committee and without a conflict of interest and/or were retained by the Council to provide legal services on utility matters, do not need to submit responses to this RFQ. Further, those respondents remain responsive and may submit their intention to be considered or to continue in service via letter to Erin Spears at [espears@nola.gov](mailto:espears@nola.gov).

The Blackout Period is the period of time from the publication of this RFQ to an action by the Council either selecting a consultant or otherwise ending the selection process. During the Blackout Period, respondents and potential respondents may not communicate with any Councilmember or Council employee about matters related to this RFQ except as provided herein. A respondent or potential respondent may submit specific questions about this RFQ to Erin Spears at [espears@nola.gov](mailto:espears@nola.gov). Questions and responses will be available to the public.

Responses should be submitted electronically to Erin Spears at [espears@nola.gov](mailto:espears@nola.gov) no later than Friday, November 18, 2022 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 1/10<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.