



**MCE's Request for Offers to Provide  
Legal Services as Municipal, Energy, and  
Bond Counsel  
Issued June 2, 2020**

MCE, a California Joint Powers Authority, is seeking a qualified individual attorney and/or law firm[s] currently licensed to practice law in California to provide expert outside counsel and advising in the areas of municipal law, energy agreements (specifically power purchase agreements), and bond issuance (specifically agency-issued bonds). MCE currently utilizes and anticipates a continuing need for legal services and advice in the areas detailed below.

**I. About MCE**

With offices in San Rafael and Concord, MCE is a Community Choice Aggregation public agency that focuses on reducing energy-related greenhouse gas emissions by providing electricity customers with 50-100% renewable energy and groundbreaking energy efficiency, demand response, and energy storage programs. MCE determines the source and cost of the energy, and PG&E continues to manage the transmission and distribution of the energy. MCE is a public, not-for-profit joint powers authority. Members of the agency include the County of Marin and its towns and cities, the County of Napa and its towns and cities, the County of Contra Costa and its cities of Concord, Danville, El Cerrito, Lafayette, Martinez, Moraga, Oakley, Pinole, Pittsburg, Richmond, San Pablo, San Ramon and Walnut Creek, and the County of Solano including the city of Benicia.

**II. Scope of Work/Area of Law for Legal Services**

This Request for Offer (RFO) is to contract for legal services to be provided to MCE. The Offeror shall be readily available to perform the following legal services, as requested by the General Counsel, subject to revision.

1. In the area of municipal law, Offeror should discuss their experience in regard to:
  - Joint Powers Authorities generally;
  - Joint Powers Authority formation requirements;
  - The Joint Exercise of Powers Act;
  - Brown Act/open meetings law compliance;
  - Employment benefits for public employees;
  - California Public Records Act compliance;
  - Government ethics including the Conflict of Interest Code, the Fair Political Practices Commission, and Government Code 1090;
  - Public contracting and procurement;
  - Land use planning, zoning, and CEQA;
  - Records retention and destruction;
  - Public-private partnerships.
  
2. In the area of energy contracts, Offeror should discuss their experience in regard to:

- Representing municipal entities or public agencies in negotiating and drafting renewable, carbon-free, and conventional energy contracts;
  - Legislation and regulations currently faced by community choice aggregators in California, including without limitation the Renewable Portfolio Standard, the Emissions Performance Standard, and other legislation and regulation designed to reduce greenhouse gas emissions in the electric utility industry;
  - Varying electric utility transactions, renewable and alternative energy acquisition and power purchase structures, and innovative financing and pricing structures and mechanisms;
  - Developing, executing and overseeing a resource adequacy plan in connection with the procurement of generation and transmission of resources;
  - Milestones and penalty provisions with respect to power purchase agreements for planned energy projects;
  - Forming and maintaining scheduling coordination functions with CAISO and portfolio management agreements for energy, energy storage, resource adequacy, and related products;
  - Forming and maintaining agreements using various contract structures including Power Purchase Agreements (PPAs), Edison Electric Institute (EEI), and Western Systems Power Pool (WSPP);
  - Performance security and credit issues arising in connection with renewable, carbon-free, and conventional energy agreements and alternative contract mechanisms by which to address these matters;
  - Lender practices and requirements in the financing of renewable, carbon-free, and conventional generation projects;
  - Tax/equity or sale/leaseback structuring of renewable, carbon-free, and conventional energy generation projects, and which factors MCE ought to consider when a developer seeks consent to change the ownership structure of a project.
3. In the area of bond issuance, Offeror should discuss their experience in regard to:
- CCA financing generally, or financing of joint action agencies of similar size, type, and structure to MCE within the state of California;
  - Preparing the underlying bond documents including the initial Bond Resolution, Bond Purchase Contract and any other documents necessary for a successful bond offering;
  - Educating and updating boards of directors and ad hoc committees on bonding to secure the necessary board adoption and approvals;
  - Analyzing, advising and opining on the validity, enforceability, and tax status of bonds;
  - Public finance tax law;
  - Reviewing offering and disclosure documents;
  - Assisting with all required filings including those required by California Government Code Section 8855;
  - Assistance with creation of a Debt Policy;
  - Interacting with rating agencies to the extent necessary to discuss legal issues;
  - Assisting in document negotiations with a liquidity facility or credit facility provider;
  - Reviewing the document terms of an interest rate swap agreement;
  - Developing post-issuance compliance procedures;
  - MCE's JPA and state law JPA compliance requirements;
  - Aiding an issuer in continuing disclosure obligations;

- Representing the issuer of bonds.

If selected, Offeror shall be prepared to submit detailed billing statements for all services rendered, billed at an hourly rate, and broken down into time increments of .10-hour. If applicable, the selected Offeror shall also include summaries of work performed and time spent on services performed under an agreed-upon flat monthly fee or flat fee per deliverable, as discussed below.

### III. Required Content of Offers

Offers shall, at a minimum, include the following components in sufficient detail to allow MCE to evaluate the offer (using the criteria in Section IV):

- a. *Introduction/Cover Sheet*: Briefly introduce the firm, the size of the firm, and summarize its most relevant experience in any of the areas of expertise listed above in Section II.
- b. *Legal Experience*: Offers should describe the Offeror's legal experience, including the names, addresses, contact persons, and telephone numbers of at least three business references, preferably clients similar to MCE, that can attest to the firm's work history and the general quality of work performed.
  - i. Detailed information about the Offeror's experience according to any of the areas listed in Section II should also be included. Offeror's response may include all or some areas of Section II.
  - ii. The Offeror should describe the qualifications of attorneys to be assigned to the representation. Descriptions should include:
    - i. Professional and educational background of each attorney;
    - ii. Overall supervision to be exercised;
    - iii. Prior experience of the individual attorneys with respect to the preferred areas of law listed above. Only include resumes of attorneys likely to be assigned to the representation. Education, position in firm, years and types of experience, and continuing professional education will be considered.
- c. *Price*: Offers should include pricing structure information, such as the firm's hourly rate for public entities or flat rate per deliverable. If hourly rate is utilized, offers should include information on the hourly billing rates of each attorney or other legal staff who is expected to work on the representation, and charges for expenses, if any, such as legal research, copies, and faxes. If applicable, also include a monthly flat fee that would be charged to advise on routine matters that would be handled over the telephone or otherwise without extensive research or other legal work. MCE reserves the right to negotiate with the Offeror on the structure of the billing and/or retainer fee.
- d. *Organization, Size, Structure, and Areas of Practice*: If the Offeror is a firm, Offer should describe its organization, size, structure, areas of practice, and office location(s). Indicate, if appropriate, if the firm is a small or mid-sized firm.

- e. *Optional/Encouraged:* Review MCE’s Standard Form Agreement (Attachment A) and provide any proposed edits or comments to the document, if applicable, with your final response.

#### IV. Evaluation Criteria

Although it is preferable for an attorney or firm to submit an offer covering as many areas of law listed in Section II as practicable, MCE will consider offers for one, many, or all of the subsets of the above scopes of work in Section II, including offers capturing multiple areas of law. MCE will evaluate offers using the following criteria:

Area of Expertise	55%
Price	35%
Response from References	10%

#### V. Key Deadlines and Submission Requirements

- a. *Notice of Interest:* A notice of interest in submitting an offer is not required, however, it is useful for the evaluation process. No later than the deadline for submitting questions, all parties interested in responding to this RFO are encouraged, but not required, to notify MCE via email of the intent to submit an offer. This notice creates no obligation to submit an offer, but will ensure that interested parties are copied on MCE’s responses to questions submitted by potential respondents. Notices must be sent to [contracts@mcecleanenergy.org](mailto:contracts@mcecleanenergy.org) and should include the firm or attorney’s name and email contact information, referencing “**MCE Legal Services RFO – Notice of Interest**” in the subject line.
- b. *Deadline for Questions.* Any questions related to the content of this RFO must be submitted to the Contracts Manager no later than **June 10, 2020**.
- c. *Deadline for Responses.* MCE Responses to all questions received will be sent to all vendors on the distribution list via email by **June 15, 2020**.
- d. *Submission Deadline.* To be eligible for consideration, all offers must be submitted via email, in either pdf or .docx (Word) file format, no later than 4:00pm on **July 1, 2020**, to:

MCE Contracts Manager  
[contracts@mcecleanenergy.org](mailto:contracts@mcecleanenergy.org)

- e. *Selection of Contractor.* Subject to the General Terms and Conditions below, MCE anticipates that the contractor selection process will be completed by **August 1, 2020**.

#### VI. General Terms and Conditions

- a. *MCE’s Reserved Rights:* MCE may, at its sole discretion: withdraw this Informal Solicitation at any time, and/or reject any or all materials submitted.
- b. *Public Records:* All documents submitted in response to this RFO will become the property of MCE upon submittal and will be subject to the provisions of the California Public Records Act and any other applicable disclosure laws.

- c. No Guarantee of Contract: MCE makes no guarantee that a contractor and/or firm submitting documents under this solicitation will result in a contract. The successful Offeror, if any, will enter into an agreement for services based on MCE's Standard Form Agreement, attached hereto as Attachment A for information purposes only. The terms included in the attached standard form are subject to change based on the scope of work agreed to by MCE and the selected Offeror.
- d. Conditions of Offer: All costs or expenses incurred in connection with the preparation and submittal of the materials of an offer responding to this RFO will be the responsibility of the Offeror and will not be reimbursed by MCE.
- e. Insurance: Selected Vendors shall provide proof of insurance coverage meeting or exceeding the following minimum requirements prior to contracting with MCE: Commercial General Liability (\$2,000,000 per occurrence, \$4,000,000 aggregate for bodily injury and property damage), Motor Vehicle Liability Insurance (\$1,000,000), and Professional Liability Insurance (\$1,000,000), as applicable.

## VII. Questions

To promote accuracy and consistency of information provided to all participants, questions will only be accepted via email submitted to the MCE Contracts Manager at [contracts@mcecleanenergy.org](mailto:contracts@mcecleanenergy.org) and the subject line of the email must read "MCE Legal Services RFO Question". The deadline for submitting questions is **June 10, 2020**.

MCE will provide a written response to the questions submitted via email by **June 15, 2020** at 4:00pm PST to all respondents who submitted questions and/or provided a complete Notice of Interest. MCE reserves the right to combine similar questions, rephrase questions, or decline to answer questions, at its sole discretion.

All questions must be submitted through the above process. No questions will be answered over the telephone or in person. Respondents may not have any contact regarding this procurement with any MCE official or staff from the time of issuance of this RFO until the award of contract, other than through the process for submitting questions. Any contact in violation of these provisions will be grounds for disqualification.

**Thank you for your interest!**