



**REQUEST FOR PROPOSALS  
FOR  
SAN DIEGO COMMUNITY POWER  
  
FOR**

**Professional Services from Qualified Firms for  
Procurement Counsel Legal Services**

**Date of Issuance: September 8, 2023**

**SUBMITTALS DUE:**

**5 P.M. (PST)  
October 6, 2023**

**SDCP No. 23-007**



## I. INTRODUCTION AND BACKGROUND

San Diego Community Power (SDCP) is seeking responses to this Request for Proposals (RFP) from qualified firms to provide professional services, filling the duties of a community choice aggregation (CCA) energy procurement counsel. SDCP will ultimately contract with selected firm(s) from this solicitation.

### About SDCP

SDCP is the default electricity provider for the Cities of Chula Vista, Encinitas, Imperial Beach, La Mesa, National City, and San Diego and the County of San Diego which serves the unincorporated area (collectively, “member agencies”). SDCP’s Joint Powers Agreement (JPA) is the first in California to explicitly state that it will reach 100 percent renewable energy availability and usage by no later than 2035 and beyond, in advance of current State targets. Five original member cities formed SDCP to achieve this and other goals collaboratively and with greater regional impact. SDCP began service in 2021 and completed enrolling customers from the five original cities in the middle of 2022 and will enroll unincorporated San Diego County and National City in 2023. Total enrollment will reach approximately 960,000 customer accounts. For more information, please visit SDCP’s website at [www.sdcommunitypower.org](http://www.sdcommunitypower.org). Firms shall review SDCP’s [Procurement Policy](#) and [Inclusive and Sustainable Workforce Policy](#) to ensure compliance when drafting proposals.

## II. PROPOSAL SCHEDULE

The estimated timetable for this RFP is as follows:

Description	Date
Release of RFP	September 8, 2023
Deadline for Written Questions	September 22, 2023 at 9:00 a.m. PT
Responses to Questions Provided	September 29, 2023
<b>Proposals Due</b>	October 6, 2023 at 5:00 p.m. PT
Interviews (If Requested by the CCAs)	October 16-20 2023
Execution of Contract	No later than November 30, 2023
Commencement of Work	January 1, 2024

The above scheduled dates are tentative and SDCP retains the sole discretion to adjust the above schedule. Nothing set forth herein shall be deemed to bind SDCP to award a contract for the above-described Services, and SDCP retains the sole discretion to cancel or modify any part of or all of this RFP at any time.



### III. QUESTIONS AND RESPONSES

Prospective Proposers may submit questions regarding this RFP via the question submission form available on SDCP's website specific to this Procurement Counsel Legal Services RFP. All must be received by 9:00 a.m. (Pacific Time) on September 22, 2023. When submitting questions, please specify which section of the RFP you are referencing and quote the language that prompted the question.

SDCP will post responses to questions by September 29, 2023. SDCP reserves the right to group similar questions when providing answers.

### IV. PROPOSAL SUBMISSION DEADLINE

The Proposer's proposal should be submitted electronically via the submission form by October 6, 2023 at 5:00 p.m. PT.

Note: only electronic submittals will be accepted; such submittals must be received by SDCP no later than 5:00 P.M. PST on October 6, 2023. All responses should be submitted via an online form available on SDCP's website specific to this Procurement Counsel Legal Services RFP (<https://www.sdcommunitypower.org/resources/solicitations>).

It is the sole responsibility of the submitting Proposer to ensure that its proposal is received before the submission deadline. Submitting Proposers shall bear all risks associated with delays in delivery. Any proposals received after the scheduled closing date and time for receipt of proposals may not be accepted.

### V. REQUEST FOR PROPOSALS

#### A. Scope of Services

The Services sought under this RFP are set forth in more detail in **Attachment A**, attached hereto and incorporated herein by reference. Notwithstanding the inclusion of such Services in **Attachment A**, the final scope of Services negotiated between SDCP and the successful Proposer shall be set forth in a Professional Service Agreement ("Agreement") executed by and between SDCP and the successful Proposer. SDCP is seeking primary procurement counsel, and potentially backup procurement counsel, for services beginning January 1, 2024. SDCP expects the minimum term of the services would be one year, with the option for longer engagements and/or extensions.

#### B. Content and Format of Proposal



Submittals should be concise, well-organized and demonstrate the qualifications, experience and approach necessary to provide the required scope of services. Submittals shall include the following items in the order listed as a PDF:

**General qualifications & key personnel** – Submit a general description of your firm’s qualifications to complete the Scope of Required Services, along with the qualifications and specific roles of any key personnel that will work with SDCP. Summary of qualifications should speak to relevant experience with the California CCA or energy regulatory landscape or utility experience. Include the names and qualifications of the key individuals who will be responsible for delivering these services, their respective roles, specific relevant experience and the organizational structure of the team. Technical support staff should be included if they will perform a significant role in the preparation of the work products. If the firm has multiple offices, the office of record for each team member shall be listed, as well as the primary office location where the work is to be performed.

**Experience** – Provide summaries of up to three engagements that are similar in scope to the type of services required by SDCP as well as references.

**Approach** – Describe your firm’s proposed approach to the scope of service and collaborative approach with SDCP. Identify the methods to be used in the completion of and/or carrying out the Scope of Required Services. Proposers can include other services deemed relevant to the successful accomplishment of the Scope of Required Services.

**Fee schedule** – Include the firm’s billing rate fee schedule for all personnel likely to be engaged in completing the tasks described in the Scope of Required Services.

### **C. Submittal Requirements**

1. **General**: It is strongly recommended that the Proposer submit proposals in the format identified in Section V(B) to allow SDCP to fully evaluate and compare the proposals. All requirements and questions in the RFP should be addressed and all requested information should be supplied. SDCP reserves the right to request additional information which, in SDCP’s opinion, is necessary to assure that the Proposer’s competence, qualifications, number of qualified employees, business organization and financial resources are adequate to perform the Services according to the terms of the Agreement.

2. **Authorization**: The proposal shall be signed by an individual, partner, officer or officers authorized to execute legal documents on behalf of the Proposer.

### **D. Miscellaneous**

1. **Exceptions Certification to this RFP**: In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the



Agreement. If any exceptions are taken, such exceptions must be clearly noted in the proposal and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the attached Agreement and, in particular, the insurance and indemnification provisions therein.

2. Price Validity: Prices provided by Proposers in response to this RFP are valid for 90 days from the proposal due date. SDCP intends to award the contract within this time but may request an extension from the Proposers to hold pricing, until negotiations are complete and the contract is awarded.

3. Right to Negotiate and/or Reject Proposals: SDCP reserves the right to negotiate any price or provision, task order or service, accept any part or all of any proposals, waive any irregularities, and to reject any and all, or parts of any and all proposals, whenever, in the sole opinion of SDCP, such action shall serve its best interests and those of SDCP's ratepayers. The Proposers are encouraged to submit their best prices in their proposals, and SDCP intends to negotiate only with the Proposer(s) whose proposal most closely meets SDCP's requirements at the lowest estimated cost. The contract award, if any is awarded, will go to the Proposer whose proposal best meets SDCP's requirements.

4. Prevailing Wages: Proposers shall take cognizance of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public work" and "maintenance" projects. To the extent applicable, the Proposer must agree to fully comply with and to require its subcontractors/subconsultants to fully comply with such Prevailing Wage Laws.

#### **E. Proposal Evaluations & Criteria**

Submittals will be reviewed and ranked by a selection committee composed of staff of SDCP. During the evaluation process, SDCP reserves the right to request additional information or clarification from firms responding to this RFP. All submittals deemed responsive will be evaluated using the following criteria (listed in no particular order of importance or value of rating):

- Best value
- Relevant experience and qualifications of the firm (including experience working on CAISO projects, Import projects, and CCA projects)
- Proposed services and methodology
- Overall response to the RFP

Following the initial evaluation, SDCP may select one particular Proposer or select a number of Proposers (with or without interviews); or conduct interviews with a "short list" of Proposers, consisting of those Proposers reasonably likely, in the opinion of SDCP, to be awarded the



contract. Any interview may include discussions about services offered, conflicts of interests with other clients, or fees/compensation amount or structure. Interviews may take place through written correspondence, telephone or video conference, and/or face-to-face interviews, at SDCP's sole discretion. SDCP reserves the right to not convene interviews or discussions, and to make an award on the basis of initial proposals received. References may be contacted at any point in the evaluation process.

Staff will begin negotiations with the top firm(s) as to the final scope of work, schedule and price. The final contract(s) will be presented to SDCP's Board of Directors for final contract award. If a satisfactory contract cannot be negotiated, SDCP may, at their sole discretion, begin contract negotiations with the next qualified Proposer who submitted a proposal, as determined by SDCP. Proposers are further notified that SDCP may disqualify any Proposer with whom SDCP cannot satisfactorily negotiate a contract.

This RFP does not commit SDCP to award a contract for any costs incurred in the preparation of the submittal. SDCP reserves the right to accept or reject any or all submittals, or any part of a submittal received as a result of this request, to waive minor defects or technicalities, to award multiple contracts, or to solicit new submittals for the same scope of work or a modified scope of work, or to extend, expand, or cancel in part, or its entirety, this RFP if it is in the best interest of SDCP to do so. SDCP will not reimburse any of the proposers for their costs to prepare and submit a proposal.

## **VI. RESERVATION OF RIGHTS**

This RFP is a solicitation for proposals only and is not intended as an offer to enter into a contract or as a promise to engage in any formal competitive bidding or negotiations. SDCP may, at its sole discretion, accept or reject any or all proposals submitted in response to this RFP. In addition, SDCP may, at its sole discretion, only elect to proceed with contract negotiations for some of the services included in the proposal. SDCP further reserves the right to cancel this RFP at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other marketing costs associated with this RFP. SDCP also reserves the right to waive minor errors and omissions or inconsequential disparities in proposals, request additional information or revisions to offers, and to negotiate with any or all Proposers.

SDCP shall not be liable for any costs incurred by the Proposer in connection with the preparation and submission of any proposal. SDCP has the right to amend the RFP, in whole or in part, by written addendum, at any time. SDCP is responsible only for that which is expressly stated in the solicitation document. SDCP is not responsible for and shall not be bound by any representations otherwise made by any individual acting or purporting to act on its behalf prior to an award of contract by SDCP. SDCP has the right to reissue the RFP at a future date.

## **VII. CONFIDENTIALITY AND PUBLIC RECORDS**



Proposals submitted in response to this RFP shall become the property of SDCP. SDCP is subject to the California Public Records Act (“CPRA”). The proposal will become a matter of public record when contract negotiations are complete and when an agreement is executed by SDCP. Exceptions to disclosure may be available to those parts or portions of proposals that are justifiably and reasonably exempted under the CPRA, such as trade secrets. If a Proposer desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Proposer must prominently mark it “confidential” and state the specific provision in the California Public Records Act that provides the exemption as well as the factual basis for claiming the exemption. A blanket statement of confidentiality or the marking of each page of the proposal as confidential shall not be deemed sufficient notice of a CPRA exemption. A Proposer who indiscriminately and without justification identifies most or all of its proposal as exempt from disclosure or submits a redacted copy may be deemed non-responsive.

Although the CPRA recognizes that certain confidential information or other exempt records may be protected from disclosure, SDCP is not in a position to establish that the information that a Proposer submits is exempt. If a request is made for information marked “Confidential,” SDCP will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

SDCP shall not, in any way, be liable or responsible for any resulting disclosure of any such record or any parts thereof pursuant to the CPRA or otherwise by law.

#### **VIII. CONFLICTS OF INTEREST**

The CCAs are governed by the Political Reform Act, Government Code Section 1090, Government Code Section 84308, and other requirements governing conflicts of interest, campaign contributions, and gifts. Proposers are required to review all applicable conflict of interest laws. In addition, SDCP has adopted policies governing procurement. Proposers are advised to review all policies, including the Procurement Policy, available at: <https://sdcommunitypower.org/resources/key-documents/>.

The Proposer may not contact or receive information outside of this RFP process. If it is discovered that the Proposer contacted and received information from anyone other than mediums used to share information about this solicitation specified above and under the process specified herein regarding this solicitation, SDCP may, in their sole discretion, disqualify the proposal from further consideration.

#### **IX. REPORTING OF SUPPLIER DIVERSITY INFORMATION**

Public Utilities Code Section 366.2(m) requires CCAs to annually submit to the California Public Utility Commission (“CPUC”): (1) a detailed and verifiable plan for increasing procurement from small, local, and diverse business enterprises; and (2) a report regarding its procurement



from women, minority, disabled veteran, persons with disabilities, and LGBT business enterprises.

General Order (GO) 156, adopted by the CPUC, requires certain California public utilities to engage in outreach activities and meet specific procurement goals from women, minority, disabled veteran, persons with disabilities, and LGBT business enterprises. Qualified businesses become GO 156 certified through the CPUC and are then added to the GO 156 Supplier Clearinghouse database ([www.thesupplierclearinghouse.com](http://www.thesupplierclearinghouse.com)).

To assist SDCP with their reporting obligations under Public Utilities Code Section 366.2(m) and with evaluating its supplier outreach and other activities, Proposers that are awarded the contract will be asked to voluntarily disclose their certification status with the CPUC Clearinghouse, as well as their efforts to work with diverse business enterprises, including women business enterprises (WBEs), minority business enterprises (MBEs), disabled veteran business enterprises (DVBES), and lesbian gay bisexual transgender business enterprises (LGBTBES).

Except as otherwise expressly provided under this Policy and/or required by applicable state or federal law or funding requirements (including, without limitation, any grant or loan conditions), SDCP shall not use any demographic information received from potential vendors in any way as part of its decision-making or selection process. Rather, SDCP will use such information solely for compliance with reporting obligations to the CPUC and evaluation of outreach and other activities consistent with applicable law. Pursuant to Article I, Section 31 of the California Constitution, SDCP shall not discriminate against or give preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin except as otherwise allowed therein.

## **X. NON-DISCRIMINATION**

SDCP will not discriminate and will require its contractors to not discriminate on the basis of race, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of contractors, subcontractors, vendors, or suppliers. The successful firm shall provide equal opportunity for subcontractors to participate in subcontracting opportunities.

## **XI. ATTACHMENTS**

**Attachment A – Scope of Services**





## **ATTACHMENT A SCOPE OF SERVICES**

The scope of services will be to provide specialized legal counsel and representation of SDCP with respect to the procurement of wholesale electricity supply, energy storage, resource adequacy, renewable energy credits, and transmission rights to serve SDCP customers. Specific task areas include, but are not limited to:

- Contract drafting (EEI, WSPP, PPA, ESSA, Confirms, Etc.),
- Contract negotiation,
- Contract dispute resolution,
- Risk assessments of SDCP contracts,
- Providing form templates and pro-forma documents to SDCP staff,
- Consulting with SDCP staff, SDCP board member, and/or SDCP executive team about contract impacts and contract interpretation, and
- Keep standard contracting forms up to date (EEI, WSPP, PPA, ESSA, Confirms, Etc.)