# Questions and Answers for RFP-24-301

Please note the Announcement posted on the Energy Commission’s RFP-24-301 webpage, indicating that the second Pre-Bid conference and second written questions are limited to changes to the solicitation in Addendums 1 and 2, or topics not previously addressed in the first Pre-Bid or August 30 Questions and Answers.

“9/6/24 Announcement: Please see below for information on the 2nd Pre-Bid Conference scheduled on September 9, 2024.

As previously announced, the second Pre-Bid Conference for RFP-24-301 is scheduled for September 9th. This Pre-Bid will only cover the changes to the solicitation in Addendums 1 and 2. Questions will be limited to questions related to Addendum 1 and 2.

There are two ways Bidders may ask additional questions:

--Pre-Bid questions will be limited to topics or changes related to Addendums 1 and 2.

--Bidders may also submit written questions to the Commission Agreement Officer outside of Addendum 1 and 2 if the topic/issues were not previously addressed in either the first Pre-Bid Conference or the Questions and Answers document posted on August 30th.”

<https://www.energy.ca.gov/solicitations/2024-07/rfp-24-301-compliance-monitoring-and-reporting-support-federal-funding.>

1. **Question**: In past CEC RFPs we have seen CEC effectively evaluate bidders cost based on weighted average bill rate. The current cost evaluation criteria in the RFP seems to not factor in any weighting of level of effort by each labor category. Would CEC consider asking for each bidder’s proposed distribution of hours (expressed as a percent of total hours by level) in their cost bids to help aide cost evaluation? If so, would CEC revise *Att 7a Loaded Rate Calculations* accordingly? We present below a hypothetical example of two bidders’ rates in which the method of arriving at an “average” rate leads to different conclusions on which bidder is lowest cost. Under the RFP’s current evaluation approach Bidder B has the lowest cost bid and will be awarded more points, however in execution Bidder B will be more expensive and provide less staff hours than Bidder A. We believe the weighted average bill rate calculation approach will provide a fairer assessment of bidder’s costs and better value for CEC as the current approach could be exploited.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Bidder A** |  |  |  | **Bidder B** |  |  |
| **Title** | **Loaded Hourly Rate** | **Percent of total Hours** |  | **Title** | **Loaded Hourly Rate** | **Percent of total Hours** |
| Level 1 | $350 | 5% |  | Level 1 | $400 | 5% |
| Level 2 | $300 | 10% |  | Level 2 | $350 | 10% |
| Level 3 | $250 | 15% |  | Level 3 | $300 | 15% |
| Level 4 | $200 | 20% |  | Level 4 | $250 | 20% |
| Level 5 | $150 | 25% |  | Level 5 | $200 | 25% |
| Level 6 | $100 | 25% |  | Level 6 | $150 | 23% |
| **Total** | **N/A** | **100%** |  | Level 7 | $55 | 1% |
|  |  |  |  | Level 8 | $50 | 1% |
|  |  |  |  | **Total** | **N/A** | **100%** |
|  | **Bidder A** | **Bidder B** |  |  |  |  |
| **Average Bill Rate** | $225.00 | $219.38 |  |  |  |  |
|  |  |  |  |  |  |  |
|  | **Bidder A** | **Bidder B** |  |  |  |  |
| **Weighted Average Bill Rate** | $187.50 | $235.55 |  |  |  |  |
| **Total Hours for a $20M budget** | 106,667 | 84,908 |  |  |  |  |

**Answer:** The Energy Commission is still in the process negotiating awards from the Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA) opportunities and applying to additional opportunities; therefore, cannot provide Bidders with the information necessary to estimate the amount of the time their team will need to complete tasks in future work authorizations under this contract.Therefore a weighted strategy is not being used for this RFP. However, the Energy Commission has lowered the amount of points allotted for Cost Criterion 1 from 15 points to 10 in Addendum 3. Please see Section IV. Evaluation Process and Criteria of the Manual.

1. **Question:** Will questions from this zoom chat we be documented and posted in the written Q&A?

**Answer:** Yes, the Questions and Answers document is posted to the CEC website and located here: <https://www.energy.ca.gov/solicitations/2024-07/rfp-24-301-compliance-monitoring-and-reporting-support-federal-funding>

1. **Question:** In response to Q&A #66, we reviewed Public Contract Code section 10371(c) and State Contract Manual sections 3.02 and 5.35. Based on our analysis, we believe that the requirement to provide detailed proprietary categories of the hourly rates is not explicitly mandated by these sections.
 Public Contract Code section 10371(c) and State Contract Manual section 3.02 both require a "detailed analysis of the costs," but do not specify the need for detailed categories as required by the RFP. State Contract Manual section 5.35, while advising that RFPs should include a detailed breakdown of costs, uses the term "may include" when listing potential cost elements. This suggests that the inclusion of specific items such as the requested categories are optional rather than mandatory. The focus is on ensuring that the total cost of the project is transparent and well-justified, which can be accomplished through other detailed costs. Given these points, we request clarification on why the request to break the hourly rates into the detailed categories is a requirement for this RFP. We believe that providing the loaded hourly rates meets the intent of the guidelines without including the requested proprietary details.
**Answer:** The question regarding loaded rates was asked in the first set of Questions and Answers, and the Energy Commission has answered it. Please see answers in the August 30 Question and Answer document, #66, 67 and 68 provided below:

***66. Question:*** *We submitted a question earlier regarding the requirement to provide hourly rates broken into specific categories (direct labor, fringe, profit). We asked whether the CEC would allow fully loaded hourly rates rather than broken into specific categories. Can you answer this now? We would ask that this be answered asap in order for us to determine whether to respond.*

***Answer:*** *The Energy Commission is required to evaluate costs in Bidders’ Proposals, using unloaded labor rates (the budget form in Attachment 7 includes direct labor, fringe, indirect and profit). We cannot accept proposals with loaded rates. This contract is considered a “consulting services contract” under the Public Contract Code. State law requires that state agencies include a detailed budget in the RFP and contract agreement. See Public Contract Code section 10371(c) and State Contract Manual sections 3.02 and 5.35.*

***67. Question:*** *Just to confirm, fully loaded hourly rates are not allowed?*

***Answer:*** *Correct, unloaded rates are required. Please see answer for question 66.*

***68. Question:*** *F. Budget Forms - We understand that profit % is part of the evaluation for this opportunity. Would CEC accept loaded hourly rates with profit % disclosed separately?*

***Answer:*** *The Energy Commission is required to evaluate costs in Bidders’ Proposals, using unloaded labor rates (the budget form in Attachment 7 includes direct labor, fringe, indirect and profit). We cannot accept proposals with loaded rates. This contract is considered a “consulting services contract” under the Public Contract Code. State law requires that state agencies include a detailed budget in the RFP and contract agreement. See Public Contract Code section 10371(c) and State Contract Manual sections 3.02 and 5.35.*

Federal law (2 CFR 200.317) requires a State to follow the same policies and procedures it uses for procurements from its non-Federal funds. This means that the Energy Commission follows the California Public Contract Code section 10371(c) and State Contract Manual sections 3.02 and 5.35. The Energy Commission includes unloaded rates in “consulting services” contract budgets.

1. **Question:** Under the Federal Acquisition Regulation (FAR), detailed cost breakdowns are generally not required when adequate price competition exists. Specifically: FAR 15.403-1(c)(1) states that cost or pricing data are not required if prices are based on adequate competition. The competitive bidding process ensures that prices submitted by firms are fair and reasonable, eliminating the need for detailed cost breakdowns. FAR 15.404-1(b)(2)(i) explains that price analysis based on comparison of competitive bids is often sufficient to establish the reasonableness of prices. Since multiple firms are likely bidding on this project (36 different entities attended the pre-bidders conference, with both potential prime contractors and subcontractors well represented), the CEC can rely on this price comparison technique to ensure cost transparency and fairness. Additionally, since proposals are being scored, in part, using the cumulative average loaded hourly rate and not the unloaded rates, why is it necessary to break down the loaded hourly rate into its components? Since the evaluation focuses on loaded rates, requiring a further breakdown of these components seems redundant and unlikely to provide additional value in the evaluation process.
Can the CEC reconsider allowing the submission of fully loaded rates in light of the FAR, adequate competition, and the focus on loaded rates in the evaluation process?
**Answer:** No. Attachment 7 requires unloaded rates. See answer to question 3.
2. **Question:** Please confirm that billing will be consistent with the same approach used for bidding (using the maximum rate for each labor category).
**Answer**: The Contractor will bill actuals up to the max rate. Attachment 7 explains, “*The rates in these forms are rate caps, or the maximum amount allowed to be billed for the approved term of the agreement. The Energy Commission will only reimburse for* actual direct labor expenses incurred, not to exceed the rates specified in these forms. Rates must include dollars and cents (two decimal places only).”
3. **Question**: Given CEC’s response to Questions #61-62 (of the Questions and Answers document), would each individual consolidated under a single labor category be allowed to be billed at the max rate?

**Answer:** The Contractor can only bill actuals up to the max rate as describe in Attachment 7. See answer to question 5. Questions 61-62 are provided below as reference.

***61. Question:*** *How would CEC determine the maximum cap for a labor category given that multiple individuals with varying costs may be proposed in the same labor category? Would the cap per labor category be the highest cost individual proposed in each labor category?*

***Answer:*** *If the bidder is using the same classification for multiple individuals, they may choose to put them all under one classification and max rate or separate them out per person. Whichever choice the bidder uses to input the labor information, the information provided will used to score the proposal. These rates will then be used for the agreement. Bidders should consider potential increases in direct labor for every two years and indicate these projected increases in the budget workbook.*

***62. Question:*** *Follow up to the question on Labor category pricing cap. Based on the response, I am hearing that we are allowed to propose one rate for a labor category vs actual cost for each individual as the RFP originally requested?*

***Answer:*** *If the bidder’s organization has pay ranges for their classifications, they may choose to include maximum for each classification’s range or they may choose to provide the maximum wage for each individual person. Bidders should consider potential increases in rates during the agreement term. Bidders will be evaluated on the rates provided in their proposal and then used for the resulting agreement.*

1. **Question:** In the Budget Form, can one single row be used for various employees that are all aligned to the same labor rate category? If yes, please confirm that the maximum rate of that group of employees is sufficient to complete all remaining budget details for that row in the Budget Form. For example, for Direct Labor for Years 1&2, the dollar amount would represent the maximum direct labor of the group of employees aligned to that labor category.
**Answer:** Classifications and rates should correspond with billing, for example if the Contractor has three staff working under the contract with the same classification, they may be under a single row. However different classifications under the same rate should be entered under a different row.The Energy Commission will only reimburse for actual direct labor expenses incurred, not to exceed the rates specified in these forms.
2. **Question:** On Page 32 of the RFP it states “The Contractor shall only be reimbursed for their actual rates up to these rate caps” what level of support for actual rates is the state expecting to accompany the invoice. Can the Contractor bill at provisional rates provided they are below the rate cap?

**Answer:** Invoicing requirements are outlined in Exhibit B under INVOICING PROCEDURES in Attachment 8. In part it states that an invoice shall consist of... “The Contractor’s actual unloaded hourly labor rates by individual and number of hours worked during the reporting period. Identify actual, agreement, and billed amounts.”

Additionally, this portion of the exhibit also indicates invoices shall consist of non-labor rates and other direct operating expenses.

Bidders are encouraged to review all Exhibits prior to bidding for this solicitation.

1. **Question:** Can you please clarify the SAM.gov requirement for bidder and subcontractors - does everyone need to be registered on SAM.gov, or do they just need to not be on the “excluded list” on SAM.gov?
**Answer**: Bidders, all subcontractors, and their principals and affiliates cannot be on the government-wide exclusions in the System for Award Management (SAM), including Debarment and Suspension, found here: <https://sam.gov/content/home>. Bidder, subcontractors, and their principals and affiliates **do not** need to register on the SAM website. Bidder must check the SAM Exclusion list, to search for the names of Bidder, subcontractors, and their principals and affiliates, to ensure that none of these appear on the SAM exclusion list. After Bidder confirms that none are on the SAM exclusion list, Bidder will indicate “Yes” for question #7 on Attachment 1, Contractor Status Form:7. Exclusion/Debarment/Suspension Bidder confirms that none of the following are on the government-wide exclusions in the System for Award Management (SAM). “Principal” is defined in 2 CFR 180.995. “Affiliate” is defined in 2 CFR 180.905. “YES” means that none of these are on the SAM exclusion list.
	* Bidder
	* All subcontractors
	* Bidder’s principals and affiliates
	* Subcontractor’s principals and affiliates

YES NO

1. **Question:** Please confirm that responses in Q&A will supersede the solicitation if there are conflicts.
**Answer:** The Energy Commission does not believe there is any conflicting information in the RFP Manual/Attachments, versus the August 30 Question and Answer document. However, if a Bidder believes there is an error or inconsistency in the RFP Manual, Bidder shall bring this to the attention of the Commission Agreement Office. Please see Section VI: “Errors. If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Modifications or clarifications will be given by written notice of all parties who requested the RFP, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.”
2. **Question:** Will CEC allow subcontractors to provide Attachment 7 with all the full cost details directly to CEC?

**Answer:** Subcontractors are required to work with the Bidder and submit all attachments via the GSS system. The Energy Commission will not accept solicitation Attachments outside this process.

1. **Question:** As a follow up to the Attachment 7 question. Subcontractors don't need to submit anything directly to CEC. All the requirements will be submitted by the Prime Vendor, is that correct?
**Answer:** The Bidder is responsible for submitting all required documentation for the proposal. The Energy Commission will not accept solicitation documentation outside the GSS system.
2. **Question:** I want to clarify previous work product requirements - are all subcontractors required to submit at least one previous work product, or is it just recommended?

**Answer:** Yes. As described in Section III. Proposal Format, Required Documents, and Delivery. Each Bidder and its subcontractors if providing technical support shall provide at least one example work product that demonstrates experience in potential work assignments.

1. **Question:** Can previous work products be redacted (and still qualify as not confidential)?
**Answer**: Please see answer to the August 30 Question and Answer document,

***“#25: Question:*** *May offerors redact or mark confidential work products and reports as the information is proprietary and owned by our clients?****Answer:*** *The Energy Commission will not accept information that the bidder considers confidential. Per the solicitation manual section IV. Evaluation Process and Criteria, Screening Criteria, and Section VI, Administration: “The Commission will not accept or retain any Proposals that have any portion marked confidential.” Submission of a proposal that has any portion marked confidential will result in the proposal failing the screening stage. Please ensure that any work products provided meet these expectations. Bidders may redact information as long as the product provides sufficient evidence of past experience.”*

1. **Question:** Will there be an Addendum 3? If so, will there be further extensions?
**Answer:** The Energy Commission does anticipate an Addendum 3. This addendum doesn’t impact solicitation requirements and therefore will not impact the current solicitation schedule. Bidders can find all updates to the solicitation here: [RFP-24-301 - Compliance, Monitoring, and Reporting Support for Federal Funding (ca.gov)](https://www.energy.ca.gov/solicitations/2024-07/rfp-24-301-compliance-monitoring-and-reporting-support-federal-funding)
2. **Question:** "Electronic files must be in Microsoft Word and Excel Office Suite formats unless originally provided in the solicitation in another format. Attachments requiring signatures may be scanned and submitted in PDF format. Can we submit the Technical and Cost Volume as a PDF instead of a Word document (excluding the Budget forms)? It will be difficult to include resumes, previous work products, etc. in a Word document. Please advise!

**Answer:** In addition to Attachments requiring signatures, Bidders may also submit resumes, previous work products in PDFformat.

1. **Question:** How would the CEC prefer the documents to be split within the Technical and Cost Proposal folder? Can references and work products be separate from the narrative response?

**Answer:** Yes, thereferences and work products may be separate from the narrative response. The responses to the Technical and Cost Proposal may be separate and should be in the native document format unless a signature is required. All responses should be clearly identifiable via the file name.

1. **Question:** Is this looking for a software solution to manage this or for hiring consultants to do this?
**Answer:** The Energy Commission is seeking an experienced Bidders as outlined in the Manual. Bidders and their subcontractors may identify software platforms that assist them in completing required tasks in the Budget Forms (Attachment 7).
2. **Question:** Can the CEC confirm whether Task 8 (Audit Support) is removed entirely or will there still be a need for subrecipient monitoring?

**Answers:** Only activities related to audits of subrecipients have been removed from Task 8, however the Contractor will still assist the Energy Commission if and when it is audited by federal government or other entity related to IRA and IIJA funding received. Note that Task 7, Oversight Requirements, has not changed, and does require the Contractor to monitor compliance with federal obligations of Subrecipient projects and performance, but this is not an audit of the Subrecipient.