



REQUEST FOR PROPOSAL

For

**East Bay Community Energy Authority
Revolving Credit Agreement Services**

RESPONSE DUE

by

17:00 PST

on

June 03, 2022

For complete information regarding this project, see RFP posted at ebce.org or contact the EBCE representative listed below. Thank you for your interest!

**Jason Bartlett | Finance Manager, EBCE
510.592.3098
creditfacilityRFP@ebce.org**

**EAST BAY COMMUNITY ENERGY
REQUEST FOR PROPOSAL
SPECIFICATIONS, TERMS & CONDITIONS
for
East Bay Community Energy Authority:
Revolving Credit Agreement Services**

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STATEMENT OF WORK

East Bay Community Energy Authority (EBCE) is seeking proposals from qualified lenders and/or financial institutions to provide financing services for the expansion of EBCE'S programmatic and longer-term credit needs. Specifically, EBCE is seeking a revolving credit facility agreement with line(s) of credit up to \$225 million of unsecured credit to support power procurement, issue letters of credit and meet cash collateral requirements, to enable local development and programmatic investments by EBCE, and other general working capital needs. EBCE intends to award contracts to the bidder(s) selected as the most optimal and responsive to this Request for Proposal (RFP).

1. BACKGROUND

The formation of Community Choice Aggregators (CCAs) was made possible in 2002 by the passage of California Assembly Bill 117, enabling communities to form their own electricity load serving entities and purchase power on behalf of their residents and businesses.

EBCE was formed as a CCA on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq. The authority for joint powers includes the County of Alameda and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all of the member jurisdictions. In 2019, the cities of Newark, Pleasanton, and Tracy were added into EBCE's Joint Powers Authority (JPA). EBCE began providing electricity to those customers in April 2021.

EBCE is governed by a board of directors consisting of elected representatives from each member jurisdiction. EBCE has the rights and powers to set rates for its services, incur indebtedness, and issue bonds or other obligations to meet its responsibilities for the acquisition of electric power for its service area.

On June 1, 2018, EBCE launched Phase I of its service implementation with commercial, industrial, and municipal accounts. Phase II for residential accounts was launched November 1, 2018. Phase III was launched in April of 2019 and enrolled all net energy meter (NEM) customers. NEM customers are a small fraction of total accounts and load. EBCE serves over 640,000 customer accounts representing a population of over 1.8 million people, 50,000 businesses, and approximately 6,700 GWh of annual load. EBCE is currently the third largest CCA in California and the largest in PG&E territory.

EBCE launched its operations with the support of start-up funding from Alameda County and the use of a \$50 million credit facility issued by Barclays Bank. The maximum debt outstanding reached approximately \$28 million in 2018. In February 2019, EBCE repaid Alameda County in full for the start-up loan costs of approximately \$4.8 million, and in August 2019 EBCE fully repaid the funds drawn on the Barclays credit facility, eliminating all outstanding debt. In December of 2019, EBCE expanded its credit facility with Barclays to \$80 million to be used for a combination of cash and letters of credit (LOC).

In December 2021, S&P Global Ratings assigned an 'A' issuer credit rating to EBCE and commented that “The outlook is stable.”

As of this RFP issuance, EBCE is holding \$11,025,000 of collateral from counterparties on long-term procurement agreements.

EBCE is issuing this RFP to accept offers for a new facility of up to \$225 million to be used for both cash and LOC purposes. EBCE expects to use the cash portion as necessary to support working capital for power procurement, local development programs, and other general-purpose needs. EBCE will use the LOC facility in lieu of cash collateral deposits for regulatory requirements, the CAISO, and other counter parties and service providers.

EBCE is committed to providing clean power at competitive rates while reinvesting in our local communities. For more information about East Bay Community Energy, visit <https://ebce.org/>

For more information about EBCE’s financial documentation, including S&P’s credit rating, please visit <https://ebce.org/key-documents/>

2. TERM OF AGREEMENT

The initial term of the Agreement(s) will be for 3-5 years.

3. STATEMENT OF REQUIREMENTS

East Bay Community Energy is seeking proposals from qualified lenders and/or financial institutions that can provide the minimum requested requirements for a hybrid credit facility which includes line of credit and letter of credit features.

SIZE OF FACILITY

EBCE will consider credit offers of all sizes within a lending institution’s maximum capitalization rate; however, EBCE is seeking a facility up to \$225 million.

TERM OF AGREEMENT

The initial term of the Agreement(s) will be for 3-5 years and EBCE is interested in also reserving an extension right for additional years.

FACILITY SECURITY REQUIREMENTS

As a Joint Power Authority, EBCE is financially independent and its member jurisdictions will not be responsible for credit support. EBCE will be the solely responsible counter party to the credit facility. All security requirements will be provided by EBCE’s operating revenues and net position. Reserve requirements will be considered.

EBCE has received an “A-Stable” rating from Standards & Poor’s Global Ratings.

ADDITIONAL DEBT

EBCE may consider additional forms of debt in the future and these may include a lease leaseback building financing and debt financings for local development programs, such as EV

charging infrastructure, residential solar plus storage, or others. EBCE is seeking a bank credit facility that would be pari passu with these other potential sources of debt.

PROPOSAL SUBMISSION REQUIREMENTS

All proposals must include at least the following information on the proposed facility to be considered

1. Type of facility - (ie. Cash and/or Letter of Credit)
2. Commitment size
 - a. Please address any upper limits and sub limits for cash or Letter of Credit
 - i. Please provide pricing for your credit facility sizes in \$50 million increments up \$150 million then for the maximum size of \$225 million, to the extent pricing is different.
 - ii. Please note ability to join a multi-bank facility
3. Term length: 3-, 4-, and 5-year terms
 - a. Please note rights to extent the facility for additional years
4. Rates
 - a. Please address how rates apply to different commitment sizes, if applicable
 - b. Please address how rates may be contingent upon reserve requirements, if applicable
 - c. Please clearly identify the different kinds of rates, including undrawn commitment fees, interest on borrowings, funding rates (e.g., SOFR, etc.), LOC rates and issuance fees, estimated legal expenses for closing costs, and other applicable fees
5. Any additional fees
6. EBCE related covenant and reporting requirements. Include specific contractual language.
7. Renewal and termination provisions
8. Term-out provisions
9. Other related necessary terms
10. Please specifically address how pricing and structure can relate to your institutions requirements for repayment in a debt waterfall.
11. Provide any restrictions to draws related to Material Adverse Conditions.

Bidders are encouraged, but not required, to provide multiple term sheets or details of different scenarios of terms and conditions they may be able to offer. Also, please detail your internal credit approval processes as it relates to the proposed facility.

In addition to the above details on the facility, please respond with additional information about Bidder details:

1. Key personnel providing long term facility service to EBCE
 - a. Their relations with the Bidder, including job title and years of service with Bidder
 - b. Role to serve in connection with the Bid
 - c. Relevant experience
 - d. Contact information
2. Overview of the Bidder

- a. Description of primary operations - globally, specific to CA, and specific to our service territory.
- b. Long and short-term credit ratings, if applicable
- c. Total capital and net assets for last three years
- d. Details about lending and investment practices specific to Environmental, Social, and Governance (ESG)
- 3. Qualifications
 - a. Description of Bidder experience in government lending
 - b. Experience in Alameda County or City of Tracy, if applicable
 - c. Direct experience with CCAs and CCE industry, or related utilities and entities
 - d. Other qualifications you believe are relevant to EBCE and the related scope
- 4. Include capabilities to provide additional forms of debt, for example building financing or programmatic needs
- 5. Bank Counsel
 - a. Identify at least two law firms that you may utilize to assist in drafting and negotiating the facility agreements
 - b. Please include any limits or caps on legal fees or other eligible expenses
- 6. References
 - a. Please submit three references with similar scope and specifications of the proposed facilities

1. PROPOSED CALENDAR OF EVENTS

Action	Date
1. Issuance of RFP	May 6, 2022
2. Deadline for questions/clarifications	May 20, 2022 5pm PST
3. Question Responses posted Online	May 27, 2022
4. Deadline to submit proposals	June 3, 2022 5pm PST by email to creditfacilityRFP@ebce.org
5. Finalist selection/interviews	Through June 2022
6. Contract Negotiation	June, onwards
7. Approval of Contract by Board of Directors	July 20, 2022, September 21, 2022, or October 19, 2022

2. PROCEDURES, TERMS, AND CONDITIONS

Incurring Cost

This RFP does not commit EBCE to award or pay any cost incurred in the submission of the proposal, or in making necessary studies or designs for the preparation thereof, nor procure or contract for services or supplies. Further, no reimbursable cost may be incurred in anticipation of a contract award.

Claims Against EBCE

Neither your organization nor any of your representatives will have any claims whatsoever against EBCE or any of its respective officials, agents, or employees arising out of or relating to this RFP or these RFP procedures, except as set forth in the terms of a definitive agreement between EBCE and your organization.

Guarantee of Proposal

Responses to this RFP, including proposal prices, will be considered firm and irrevocable for forty-five (45) days after the due date for receipt of proposals.

Basis for Proposal

Only information supplied by EBCE in writing by the Contact in connection with this RFP should be used as the basis for the preparation of Consultant(s)'s proposal.

Form of Proposals

Proposals must be submitted electronically to creditfacilityRFP@ebce.org

Amended Proposals

Bidders may submit amended proposals before the Deadline to Submit Proposals. Such amended proposals must be complete replacements for previously submitted proposals and must be clearly identified in a written format. The Contact will not merge, collate, or assemble proposal materials.

Withdrawal of Proposal

Bidders may withdraw their proposals at any time prior to the Deadline to Submit Proposals. The Consultant(s) must submit a written withdrawal request signed by the Consultant(s)'s duly authorized representative addressed to and submitted to the Contact.

Late Responses

To be considered, proposals must be received electronically by email and (optional) in person or via courier/mail or to the place specified by 5pm PST on June 10, 2022. No late responses will be considered.

California Public Records Act (CPRA)

All proposals become the property of EBCE, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Consultant(s) proprietary information is contained in documents submitted to EBCE, and Consultant(s) claims that such information falls within one or more CPRA exemptions, Consultant(s) must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, EBCE will make best efforts to provide notice to Consultant(s) prior to such disclosure. If Consultant(s) contends that any documents are exempt from the California

Public Records Act (CPRA) and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Alameda County, before EBCE's deadline for responding to the CPRA request. If Consultant(s) fails to obtain such remedy within EBCE's deadline for responding to the CPRA request, EBCE may disclose the requested information.

Consultant(s) further agrees that it shall defend, indemnify, and hold EBCE or its agents, harmless against any claim, action, or litigation (including, but not limited to, all judgments, costs, fees, and attorney's fees) that may result from EBCE's assertion of an exemption or privilege as a basis for withholding any information marked confidential by the Consultant(s).

DO NOT MARK YOUR ENTIRE BID CONFIDENTIAL. ONLY MARK THOSE PAGES THAT YOU BELIEVE CONTAIN PROPRIETARY INFORMATION.

Confidentiality

All data and information obtained from or on behalf of EBCE by the Consultant(s) and its agents in this RFP process, including reports, recommendations, specifications, and data, shall be treated by the Consultant(s) and its agents as confidential. The Consultant(s) and its agents shall not disclose or communicate this information to a third party or use it in advertising, publicity, propaganda, or in another job or jobs, unless written consent is obtained from EBCE.

Generally, each proposal and all documentation, including financial information, submitted by a Consultant(s) to EBCE is confidential until a contract is awarded, when such documents become public record under State and local law, unless exempted under CPRA.

Electronic Mail Address

Most of the communication regarding this procurement will be conducted by electronic mail (e-mail). Potential Bidders agree to provide the Contact with a valid e-mail address to receive this communication.

EBCE Rights

EBCE and its Contact reserve the right to do any of the following at any time:

- a. Reject any or all proposal(s), without indicating any reason for such rejection;
- b. Waive or correct any minor or inadvertent defect, irregularity, or technical error in a proposal or the RFP process, or as part of any subsequent contract negotiation;
- c. Request that Bidders supplement or modify all or certain aspects of their proposals or other documents or materials submitted;
- d. Terminate the RFP, and at its option, issue a new RFP;
- e. Procure any equipment or services specified in this RFP by other means;

- f. Modify the selection process, the specifications or requirements for materials or services, or the contents or format of the proposals;
- g. Extend a deadline specified in this RFP, including deadlines for accepting proposals;
- h. Negotiate with any or none of the Bidders;
- i. Modify in the final agreement any terms and/or conditions described in this RFP;
- j. Terminate failed negotiations with any Consultant(s) without liability, and negotiate with other Consultant(s)(s);
- k. Disqualify any Consultant(s) on the basis of a real or apparent conflict of interest, or evidence of collusion that is disclosed by the proposal or other data available to EBCE;
- l. Eliminate, reject, or disqualify a proposal of any Consultant(s) who is not a responsible Consultant(s) or fails to submit a responsive offer as determined solely by EBCE or its representative; or
- m. Accept all or a portion of a Consultant(s)'s proposal.

Supplier Diversity

Pursuant to California Senate Bill 255, Community Choice Aggregators (CCAs) are required to report to the California Public Utilities Commission on their diverse suppliers, as defined by CPUC General Order 156. Consistent with the California Public Utilities Code and California Public Utilities Commission policy objectives, Bidders that execute a contract with EBCE will be required to complete a Supplier Diversity Questionnaire. EBCE will not consider race, sex, color, ethnicity, or national origin in procurement decisions; providing such information will not impact the selection process or good standing of executed contracts.

EBCE encourages all eligible parties to get certified with the CPUC as a women, minority, disabled veteran and/or LGBT owned business enterprise (WMDVLGBTBE).

For overview information on the CPUC Supplier Diversity Program, please visit the program homepage (<https://www.cpuc.ca.gov/supplierdiversity/>). For information on the certification process and requirements, please visit the Certifications page (<https://www.cpuc.ca.gov/Certifications/>).

3. EVALUATION CRITERIA

Evaluations will be based upon the information provided in the proposals and such other information requested by Contact or EBCE, or as deemed appropriate by EBCE. Proposals must provide clear, concise information and sufficient detail to enable reviewers/evaluators to evaluate the responsiveness and quality of the proposals to all RFP requirements. Evaluators will also review the proposals for format to ensure conformance with the RFP requirements. Proposals that fail to meet RFP requirements could be rejected. The Contact or EBCE may waive minor irregularities in proposals if doing so would be in the best interest of EBCE.

Evaluators may recommend discontinuing evaluation of any proposal that is considered not in compliance with the RFP requirements.

The review/evaluation team will select the proposal that offers the greatest value to EBCE based on an analysis of the following criteria with provided examples:

	Technical Evaluation Criteria	Points
1.	Over-all Price for Rates: <ul style="list-style-type: none"> ● Undrawn Commitment Rate ● Borrowing Rate ● Letter of Credit Rates ● Additional fees 	40%
2.	Competitiveness of Terms: <ul style="list-style-type: none"> ● Commitment size and term length ● Covenants and reporting requirements ● Renewal and termination provisions ● Other related terms, provisions, and restrictions 	25%
3.	Organization: <ul style="list-style-type: none"> ● Experience with CCA's and credit facilities ● Environment, Social, and Justice metrics 	15%
4.	Additional Debt Considerations	7.5%
5.	EBCE Special Procurement Preferences <ul style="list-style-type: none"> ● Bidder Location - EBCE Service Area ● Bidder Location - Disadvantaged Community ● Union Labor ● Disabled-Veteran Owned Business 	5% 2.5% 2.5% 2.5%
	TOTAL	100%

In addition to these technical evaluation criteria, EBCE will also consider a set of Special Procurement Preferences, outlined in our Administrative Procurement Policy.

As reflected in the Evaluation Criteria, contract award will not be based solely on cost, but on a combination of factors as determined to be in the best interest of EBCE. EBCE will not be bound to award the contract(s) based solely on the lowest bid submitted.

After evaluating the proposals and discussing them further with the Finalists or the tentatively selected Consultant(s), EBCE reserves the right to further negotiate the proposed work and/or method and amount of compensation.

INSTRUCTIONS TO BIDDERS

1. EBCE CONTACT

The evaluation phase of the competitive process will begin upon receipt of bids until a contract has been awarded. Bidders must not have any contact with EBCE personnel nor should they lobby evaluators or any member of the staff or Board of Directors during the evaluation process. Any communications outside of the procedures set forth in this RFP may result in disqualification of bidder.

All questions regarding these specifications, terms and conditions are to be submitted in writing, via e-mail, no later than 5:00 p.m. PST on Friday, May 20, 2022 to:

E-Mail: creditfacilityRFP@ebce.org

The EBCE website will be the official notification posting place of all Requests for Interest, Proposals, Quotes and Addenda. Go to <http://www.ebce.org/solicitations> to view current opportunities.

2. SUBMITTAL OF PROPOSALS

All bids must be received at East Bay Community Energy by 5:00 p.m. PST June 03, 2022. Bids will be received only at the addresses shown below any bid received after that time and date or at a place other than the stated address will not be considered and will be returned to the bidder unopened. **Electronic bids must be submitted in a non-alterable format such as a .pdf.**

1. Bidders **must** submit an electronic copy of their proposal via email to the following:
 - a. Jason Bartlett, Finance Manager - EBCE:
creditfacilityRFP@ebce.org
2. Bidders are responsible for all of their costs required for the preparation and submission of a bid.
3. Only one bid response will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response. For purposes of this requirement, “partnership” means, and is limited to, a legal partnership formed under one or more of the provisions of the California or other state’s Corporations Code or an equivalent statute.
4. All other information regarding the bid responses will be held as confidential until the Review Committee has completed its evaluation, a

recommended award has been made by the EBCE Board of Directors, and the contract has been fully negotiated.

5. California Government Code Section 4552: In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.
6. Bidder expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms “claim” and “knowingly” are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), EBCE will be entitled to civil remedies set forth in the California False Claim Act. It may also be considered fraud and the Consultant(s) may be subject to criminal prosecution.
7. The undersigned Bidder certifies that it is, at the time of bidding, and throughout the period of the contract, licensed by the State of California to do the type of work required under the terms of the Contract Documents. Bidder further certifies that it is regularly engaged in the general class and type of work called for in the Bid Documents.
8. It is understood that EBCE reserves the right to reject this bid and that the bid shall remain open to acceptance and is irrevocable for a period of one-hundred and eighty (180) days, unless otherwise specified in the Bid Documents.

3. RESPONSE FORMAT

1. Bid responses are to be straightforward, clear, concise and specific to the information requested.
- 2.

4. REQUIRED DOCUMENTATION AND SUBMITTALS

All of the specific documentation listed below is required to be submitted in order for a bid to be deemed complete. Bidders shall submit all documentation, in the order listed below and clearly label each section with the appropriate title (i.e. Table of Contents, Letter of Transmittal, Key Personnel, etc.).

- 1. **Table of Contents:** Bid responses shall include a table of contents listing the individual sections of the proposal/quotation and their corresponding page numbers. Tabs should separate each of the individual sections.
- 2. **Letter of Transmittal:** Bid responses shall include a description of Bidder's capabilities and approach in providing its services to the EBCE and provide a brief synopsis of the highlights of the Proposal and overall benefits of the Proposal to the EBCE. This synopsis should not exceed three pages in length and should be easily understood.
- 3. **Overview of the Organization**
 - a) Provide a brief description of your organization.
- 4. **Costs:** Bidder shall include bid costs
- 5. **Terms:** A detailed description of key terms and conditions of the proposed facility. Providing a detailed term sheet is encouraged.
- 6. **Key Personnel:** Bid responses shall identify the lead contact and include a complete list of all key personnel associated with the RFP. This list must include all key personnel, and a description of their qualifications, who will provide services/training to EBCE staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
 - (a) The person's relationship with Bidder, including job title and years of employment with Bidder;
 - (b) The role that the person will play in connection with the RFP;
 - (c) Address, telephone, fax numbers, and e-mail address;
 - (d) Person's educational background; and
 - (e) Person's relevant experience, certifications, and/or merits.

- 7. **References:**
Bidders are to provide a list of current clients. References must be satisfactory as deemed solely by responsible EBCE staff. References should have similar scope, volume and requirements to those outlined in these specifications, terms and conditions.

References must include: company name, contact person (name and email), address, telephone number, date of services, and description of services provided. Bidders must verify the contact information for all references provided is current and valid.

Bidders are encouraged to notify all references that responsible EBCE staff may be contacting them to obtain a reference.

EBCE staff may contact some or all of the references provided in order to determine Bidder's performance record on work similar to that described in this request. EBCE staff reserves the right to contact references other than those provided in the Response and to use the information gained from them in the evaluation process.