



REQUEST FOR OFFER

ENERGY RESILIENT MUNICIPAL CRITICAL FACILITIES

RESPONSE DUE

by

5:00 PM PT

on

STAGE 1: SEPTEMBER 12, 2022

STAGE 2: OCTOBER 21, 2022

Protocol Date: August 26, 2022

For complete information regarding this project, please see RFP posted at ebce.org. Thank you for your interest!

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1. OVERVIEW

A. PURPOSE

East Bay Community Energy (EBCE) is soliciting competitive proposals for power purchase agreements from qualified third party developers to install, own, operate and maintain solar photovoltaic and solar + battery energy storage systems consistent with the terms and provisions in this Request for Offers (RFO).

B. BACKGROUND

EBCE is a Joint Powers Authority formed on December 1, 2016, pursuant to California Government Code §§ 6500 et. seq. On August 10, 2017, EBCE filed its Community Choice Aggregator (CCA) Implementation Plan with the California Public Utilities Commission (CPUC). On September 7, 2017, the CPUC provided PG&E notice of the receipt of EBCE's Implementation Plan, and on November 8, 2017, the CPUC certified EBCE's Implementation Plan. EBCE began serving commercial, industrial, and municipal customers in June 2018, and began serving residential customers in November 2018. EBCE currently serves the County of Alameda, and each of the following cities incorporated therein: Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, San Leandro, and Union City. In April 2021, the cities of Newark, Pleasanton and Tracy joined EBCE's service territory. The city of Tracy is located in San Joaquin County. EBCE's audited financial statements are available upon request.

EBCE is tasked with the development and management of energy-related climate change programs that help local government JPA members achieve local and state goals faster. Through its Local Development Business Plan ("LDBP"), EBCE is strategically developing distributed energy resource solutions, including local Solar and Solar + Storage projects and programs, plug-in electric vehicle charging infrastructure, building electrification and energy efficiency programs that provide net benefits to customers, including EBCE's public partners.

Substantial work has been completed by EBCE prior to the issuing of this RFO. Starting in 2019, EBCE began working with its member cities to assemble a list of hundreds of critical facilities across its service territory, ranging from fire stations and emergency operation centers, to schools and community centers. An initial portfolio-level assessment examined each site's natural hazard exposure, service to the community, and solar and battery potential, providing a set of key sites with preliminary energy resilience system sizes. This preliminary assessment identified an aggregated capacity of approximately 10 MW of solar and 25 MWh of storage across the EBCE's member cities. After subsequent rounds of engagement with city leaders, facility managers, and other stakeholders, a refined list of critical sites was identified for the current procurement. The current procurement is for the first four cities with selected priority sites totaling up to 3.5 MW of aggregated solar and up to 6.4 MWh of aggregated battery storage.

EBCE contracted with Arup and EcoMotion through a competitive solicitation for independent engineering services to conduct site visits that evaluated electrical, structural, and roofing conditions (site reports are provided in **Attachment H**). The master power purchase agreement (PPA) currently being solicited through this RFO is the next step toward implementation.

Following award, the Selected Respondent will continue the effort through the installation and operation of the Solar and Solar + Storage systems including proper training of system operations to the facilities managers. Going forward, the Selected Respondent will continue to stay engaged

through operating and maintaining the systems for the duration of the PPA term. Respondent(s) must not contact the Cities, County, or attempt to visit the sites for any reason during the development of their proposal or they will be disqualified.

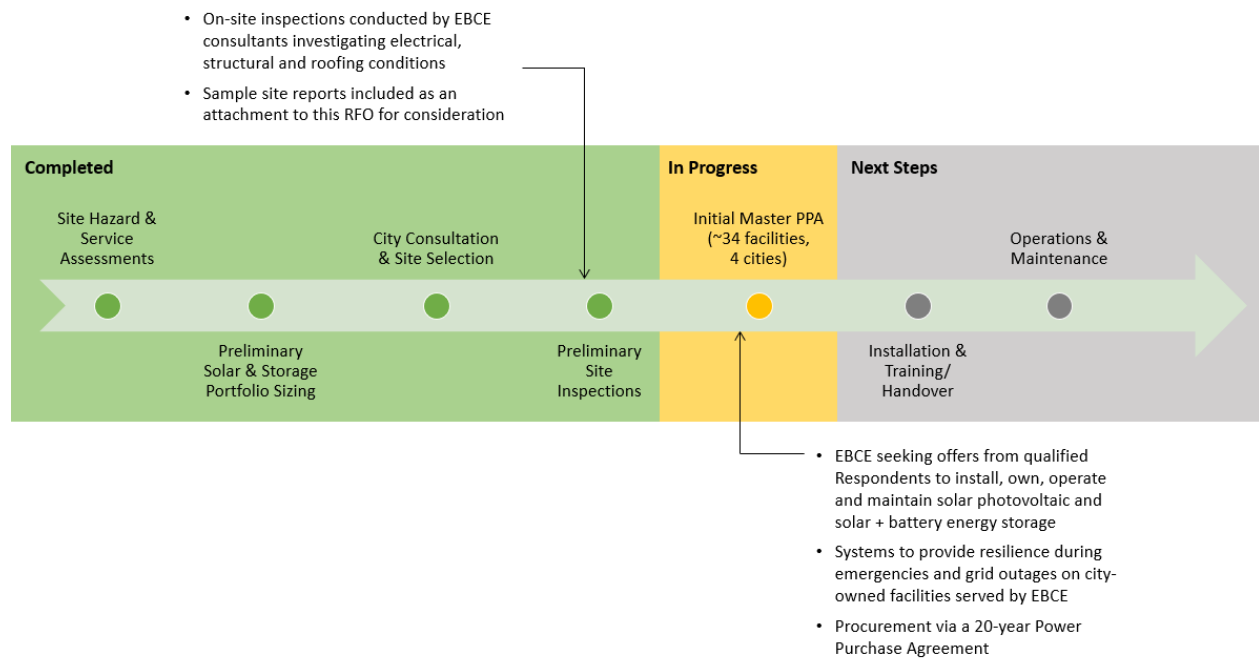


Figure 1: Portfolio Development Cycle and Status

C. OBJECTIVES

This program results from a desire by East Bay Community Energy to reduce barriers to solar and solar + storage deployments for local governments in our territory. Local governments often do not have the available staff time, financial resources, or technical expertise to advance these types of projects and may have relatively small facilities with commensurately small projects that cannot take advantage of bulk purchasing. Similarly, solar and storage contractors face high customer acquisition and initial project development costs, which are relatively higher for smaller facilities that cannot support larger solar deployments.

Recognizing these barriers, EBCE has undertaken this program with the following goals:

- To reduce the burden and associated costs for both local governments and Respondents for site identification, evaluation, and design work by EBCE conducting this initial work with the services of an established solar design and engineering firm
- To reduce equipment costs via aggregation of sites into a larger portfolio for higher volume purchasing
- To reduce Respondent contracting costs via EBCE serving as a single counterparty for all the customers and sites in the portfolio
- To comply with local government public contracting requirements through this RFP and uniform contractual terms such as prevailing wage

- To reduce project drop-out risk by obtaining formal city council resolutions from Cities, the portfolio customers, of their interest in the projects and commitment from Cities to execute contracts if EBCE can provide PPA pricing that results in net benefits.

This program will be an ongoing program with continual intake of new facilities for solar and solar + storage deployments.¹

EBCE is issuing this Energy Resilient Municipal Facilities RFO to procure Solar + Battery Energy Storage Systems (“Solar and Solar + Storage”) to provide resilience during emergencies and grid outages on city-owned facilities served by EBCE. The Selected Respondent will install, own, operate and maintain a portfolio of Solar and Solar + Storage systems through a PPA deployment model.

The core portfolio consists of four (4) city-specific portfolios (for JPA members San Leandro, Berkeley, Hayward, and Fremont) representing 22 facilities and approximately 2.3 MW of solar photovoltaics and 1.9MWh of battery storage. Up to an additional 0.8 MW of solar photovoltaics and 4.3 MWh of battery storage has been identified for these four cities as potential sites for procurement pending grant funding.

EBCE is reasonably certain that additional grant funding of \$2-\$4 million will be received from congressionally-directed spending that has been requested by California’s Congressional Representatives and Senators. The final amount of grant funding will be determined upon finalization of the federal budget. Funding will be used to support expanding the portfolio of sites to be procured via PPA.

Respondents are required to submit offers for the entire portfolio of sites for **for Cities 1, 2, and 3** (i.e. both core sites and additional capacity across all four cities based on the potential increased funding), **with response to City 4’s expanded portfolio not required. EBCE has reduced this requirement due to updates regarding amount of funding included in the federal budget.** The final amount of grant funding will inform the final portfolio to be procured from the Selected Respondent. EBCE expects to receive confirmation of funding prior to final negotiation with the Selected Respondent.

	Base Case	Additional Funding Case
# of Sites	22	30
MW PV	2.3 MW	3.1 MW
MWh Storage	1.9 MWh	6.2 MWh

Figure 2: Portfolio Sizes based on available funding

EBCE is procuring these services and will be the PPA counterparty to the Selected Respondent on behalf of the JPA member Cities.

The Solar and Solar + Storage systems are intended to be designed and operated with the following benefits in mind:

1. Provide resiliency back-up for critical loads in the event of grid outages for sites with

¹ Selection from this solicitation does not guarantee selection for future rounds of the program.

battery storage.

2. Reduce customer energy bills through Time-of-Use (TOU) energy and demand charge reductions.
3. Manage battery discharge during TOU periods to reduce both customer bills and EBCE wholesale energy procurement requirements (i.e., Resource Adequacy capacity requirements).
4. Reducing reliance on existing diesel-powered generators, minimizing CO₂ equivalent emissions.

Respondents should note that the primary objective of the RFO is to add resilience to municipal facilities, allowing them to operate emergency loads using Solar and Solar + Storage technologies during a potential grid outage. Battery systems were initially sized to cover 25% of peak demand. At a minimum, the facility must be able to island from the grid during a Public Safety Power Shutoff (PSPS) or other unplanned interruption in service and operate for multiple days while maintaining critical services. If a generator exists at the facility, the Solar and Solar + Storage system is to operate in parallel with the generators to either support full back-up power or partial back-up via the emergency panel(s) supporting critical loads. In instances where the facility load can be supported by the Solar and Solar + Storage systems alone, a microgrid controller shall be included in the response to allow for the optimization of the Solar and Solar + Storage generation, reducing overall CO₂ emissions as well as annual fuel cost savings.

D. SCHEDULE

The RFO schedule is subject to change at EBCE's discretion and EBCE will attempt to notify RFO Respondents of any schedule changes via email. Any changes will also be reflected on the RFO webpage (<https://ebce.org/2022-municipal-facility-RFO>). EBCE bears no liability or responsibility to any Respondent for any change in the schedule or for failing to provide notice of any change.

Figure 3 provides an overview of the procurement process with regard to data availability by RFO stage. This structure is intended to provide a limited set of anonymized data in Stage 1 for initial pricing, with additional data to refine initial pricing provided to shortlisted Respondents bound by a non-disclosure agreement (NDA).

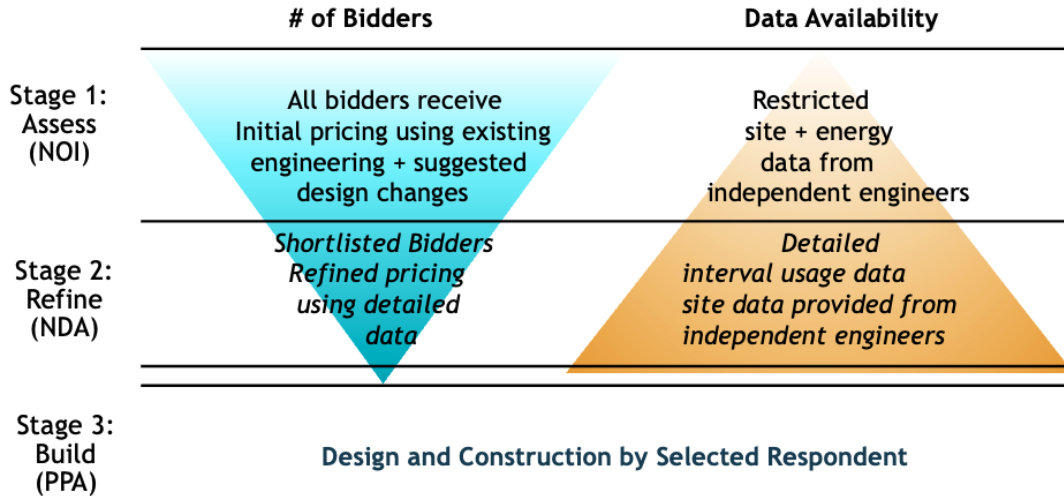


Figure 3: Procurement Process and Data Provision

The expected schedule for this RFO is as follows; all times listed in Pacific Prevailing Time (PPT) based on the clock at EBCE’s office:

Date/Time	Event
Ongoing	Respondents may register online to receive notices regarding the RFO.
July 27, 2022	EBCE issue RFO.
August 4, 2022 3pm	Respondent Webinar for RFO.
August 8, 2022 no later than 2pm	Final deadline to submit questions.
August 12, 2022	EBCE posts Q&A document, inclusive of all questions received by August 8th.
August 15, 2022 no later than 2pm	Final deadline to submit Notice of Intent to Offer (NOI).
August 19, 2022	Stage 1 data released to Respondents.
September 12, 2022 no later than 5pm	Stage 1 Offers due. Offers must be submitted via Dropbox, including all required files and related information.
Week of September 12, 2022	EBCE identifies shortlisted Respondents.
September 21, 2022 no later than 5pm	Customer Data Sharing NDA signed by Respondent.
September 23, 2022	Additional site-specific information released to Respondents.
October 21, 2022 no later than 3pm	Stage 2 Offer documentation updates due.

Week of November 7, 2022	Shortlisted Respondent interviews.
Week of November 14 and 21, 2022	Selected Respondent selection notification.
November – December 2022	Contract approvals by EBCE Board of Directors.

Figure 4: RFO Schedule

E. RFO PROCESS

By responding to this RFO, Respondents agree to be bound by all terms and conditions of the RFO including any changes or supplements that may be issued by EBCE.

Webinar: EBCE will hold a Respondent Webinar on the date listed in d. Schedule to review key information in this protocol related to the solicitation and form agreement terms. Questions will be answered if time allows. All interested parties may register for the webinar with this link: <https://us02web.zoom.us/j/81212032076?pwd=bkdIQ2QwVEJPZ2dTVFBzL2tUaW1Qdz09>. The information to register for the webinar will also be available on the RFO webpage. Attendance is not mandatory but encouraged.

Notice of Intent to Offer: All Respondents who wish to submit Offers must complete and submit a Notice of Intent to Offer (NOI) via e-mail to 2022-municipal-facility-RFO@ebce.org in order to receive a unique submission folder link on Dropbox. EBCE will provide a submission folder link within two business days of NOI being returned. NOI must be submitted no later than the date listed in d. Schedule. NOI form and instructions can be found in **Attachment A**.

Offers Due: Offers must be submitted via the Respondent-specific Dropbox folder that will be designated and shared upon return of a completed NOI. Stage 1 Offers are due no later than the date listed in d. Schedule. Shortlisted Respondents will receive additional site-specific data (i.e., interval data, full site reports, available as-builts) that will inform Stage 2 Offers. Stage 2 Offers are due no later than the date listed in d. Schedule. Offers must include all documents described in **Section 9: Required Information**.

Offer Selection: EBCE will evaluate Offers in accordance with the terms described in **Section 7: Evaluation Criteria** and be based upon reasonableness and desirability of commercial terms reached by both parties through the negotiations process.

Following shortlisting, EBCE will engage in limited negotiations with counterparties as relevant to the Offer(s). The final selection of Offer(s) for execution will be evaluated for reasonableness and desirability of commercial terms reached by both parties through the negotiations process.

Presentation to Board/Council: EBCE will present contracts for the transaction(s) it hopes to execute to its Board of Directors in advance of execution. Some market sensitive terms could be redacted for public review given engagement with EBCE and/or Cities.

Execution of Contract: EBCE will seek to execute the contract following Board or Council, as relevant, approval of the proposed transaction. It should be noted that the Solar + Storage Developer Agreement (**Attachment F**) is based on a PPA form that has been approved by the

City Attorneys for all Phase 1 Cities. In the event that there are substantive amendments of the Agreement or if the Board/Council(s) require additional information related to projects in the portfolio or other inquiries, the approval of the contract and execution will be delayed. EBCE maintains the right to execute the Agreement along an earlier or later timeline if commercial terms are agreed to faster or slower than described in the RFO schedule.

F. 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, Respondents that execute a PPA 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 in an Offer will not impact the selection process or good standing of executed PPAs.

EBCE encourages all eligible parties to get certified with the CPUC as a woman, 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/>).

G. DISCLAIMERS FOR REJECTING OFFERS AND/OR TERMINATING THIS RFO

This RFO does not constitute an offer to buy and creates no obligation to execute any PPA or enter into any transaction as a result of the RFO. EBCE retains the right, at its sole discretion, to reject any Offers on the grounds that it does not conform with the terms and conditions of the RFO and reserve the right to request additional information at any time during the solicitation process.

EBCE retains the right to: (1) modify this RFO and/or Solar and Solar + Storage Developer Agreement and/or form PPAs as they deem appropriate to implement the RFO, comply with applicable laws, or best meet the organizations' evolving understanding of their procurement needs; or (2) reject any Offer on the basis that it is not competitive or is the result of market manipulation.

EBCE will not be liable in any way by reason of such withdrawal, rejection, suspension, delay, or termination to any Respondent, whether submitting an Offer or not.

Respondents are required to disclose any past, ongoing, or potential conflicts of interest which the Respondent may have which could affect performing the work for this project and service.

2. PROJECT INFORMATION PROVIDED

All project sites have been pre-assessed. An anonymized Project Site Report for each facility will be provided to Respondents that submit a Notice of Intent (NOI). Project Site Reports are contained in **Attachment H**, which will be provided to Respondents by EBCE upon receipt of a Respondent's NOI. The Project Site Reports detail the recommended equipment locations for the

Solar and/or Solar + Storage at each facility. The information provided in the Stage 1 Project Site Report is intended to assist the Respondent in compiling an initial offering under Stage 1, but it is not intended to direct the Respondent to a certain equipment vendor or specification. If the Respondent is shortlisted for Stage 2, the information in the Project Site Reports must be verified through additional due diligence that will be carried out by the Respondent. Once the Respondent executes the customer data-sharing NDA with EBCE required for Stage 2 shortlisted Respondents, they will receive full site reports, hourly interval data, and available as-built drawings.

Critical loads are described at the end of the electrical section of the site reports. Whether the entire facility is being backed-up, possesses an existing emergency panel, or if a new emergency panel needs to be created, the site reports are written to guide the developer to design the most feasible and cost effective solar and battery solutions based on the existing electrical infrastructure.

A. ELECTRICAL AND STRUCTURAL ASSESSMENTS

The Site Reports contain preliminary electrical and structural engineering assessments. After awarding the contract, it is the Respondent's sole responsibility to verify the existing electrical and structural infrastructure(s) to provide a safe and functional Solar and Solar + Storage system(s).

3. PROJECT SITE WALKS & PERMITTING DOCUMENTATION

EBCE will coordinate site walks at each of the proposed facilities once the contract is awarded. The site walks will facilitate the development of permit sets. The Respondent must provide a detailed schedule and planned activities explaining the best approach for each site which will ultimately include:

1. Issuing stamped permit sets for EBCE to review prior to submitting to each City.
2. Issuing a construction plan for EBCE to review and facilitate coordination with City staff prior to construction.
3. Issuing commissioning plan for EBCE to review prior to commissioning and recommending a 3rd Party commissioner (TBD).
4. Issuing stamped as-built sets to EBCE, and continuing to operate and maintain the Solar and Solar + Storage systems per the Solar and Solar + Storage Developer Agreement.

4. REMOVAL

The Respondent will be responsible for removing or commencing substantial efforts to remove the Solar and Solar + Storage Facilities no later than 90 days after expiration of the contract term.

5. PPA STRUCTURE

EBCE has been working with four Cities (Berkeley, Fremont, Hayward and San Leandro) to pre-approve a PPA for the Solar+Storage via the respective City Attorneys. In addition, the City Councils of each City have independently passed Council Resolutions committing to sign the pre-approved PPAs as long as the solar + storage assets do not raise energy costs to each City over the term of the PPA. EBCE may procure a partial portfolio of sites to comply with this requirement, informed by funding and cost effectiveness threshold described in “Objectives” above.

EBCE intends to enter into a PPA with the Selected Respondent to procure solar and storage at the facilities proposed in this RFO. EBCE also intends to enter into PPAs with each of the four Cities listed above to provide solar and storage at the facilities proposed in this RFO, serving as the counterparty to the Cities for the duration of the PPA. EBCE’s goal for engaging the Cities and Selected Respondent in this “sleeve” contract structure is to streamline and centralize activities where possible, yielding lower transaction costs and times for Respondents, and decreased administrative burden on Cities. Upon final Respondent selection, the Cities will undertake city-specific activities to approve the EBCE / City PPA, which represent the culmination of city-specific Council Resolutions that have already been passed to participate in this procurement. EBCE will finalize and execute the EBCE / Developer PPA (e.g., the finalized Solar and Solar + Storage Developer Agreement) once the Cities have approved the EBCE / City PPA.

The Selected Respondent will be expected to bill EBCE per the EBCE / Developer PPA. EBCE expects to receive meter data from facilities installed under the PPA, invoices from the Selected Respondent for facilities installed under the PPA, and to audit meter data against invoices. EBCE will be responsible for invoicing Cities based on the information provided by the Selected Respondents invoices.

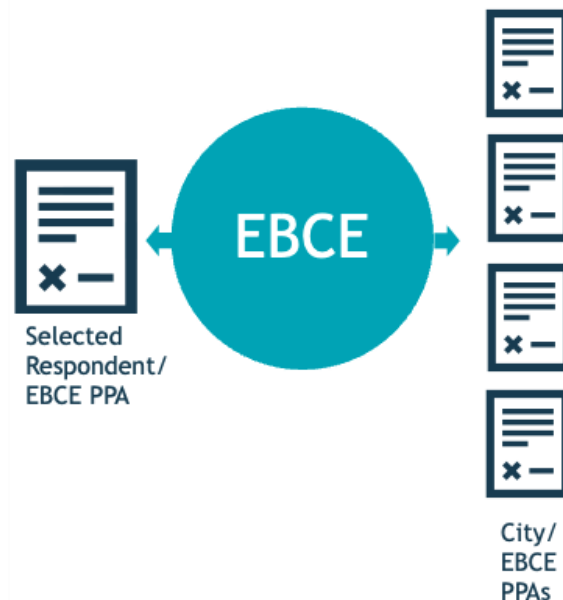


Figure 5: PPA Sleeve Structure

6. ELIGIBILITY

A. PROJECT VIABILITY REQUIREMENTS

All Offers must meet the requirements detailed in each of the following sections and should be addressed in the Preliminary Engineering Package (**Attachment E**).

Respondents attest that all eligibility requirements are met and acknowledge that EBCE retains the right to request documentation at any time to verify project details or status.

i. Equipment Performance Requirements

The site-specific solar and battery sizes provided in the Preliminary Project Site Reports are intended to be used as minimum sizes to achieve desired resiliency.

1. It is expected that the Respondent will propose alternate sizing based on proprietary technologies and optimization considerations. At a minimum, the system must be able to support critical loads during a multi-day outage while the facilities managers/operators will need to manage those loads to extend the battery usage accordingly.
2. High fidelity state-of-charge for resilience (SOCr) values should be calculated every 15 minutes, based on load and solar forecasts. Selected vendor(s) will have interval data beginning in Stage 2.
3. Suggested critical load circuits are to be verified by the shortlisted Respondents during Stage 2.

ii. Equipment Specification

All Solar and Solar + Storage equipment must comply with the following:

1. Solar modules must be UL 1703 listed with a minimum efficiency of 20% and wattage greater than 400W-DC. Modules must be on the latest version of the [CEC-approved solar equipment list](#) (e.g., BIPV is not allowed).
2. Solar inverters must be UL 1741 listed. For rooftop systems, inverters must have rapid shutdown capabilities. Micro-inverters, optimizers and full rapid shutdown inverter systems are approved. Inverters must be on the CEC-approved list.
3. Batteries shall be UL 1973 listed. Lithium-Ion and Lithium Ferro Phosphate (LFP) are both approved. (Lead-acid batteries are not allowed.)
4. Solar rooftop, carport structures and ground mounts structures must be stamped by a professional licensed structural engineer and comply with UL 2703 integrated grounding.
5. Microgrid controllers and all associated Energy Management System (EMS) devices must be UL listed. Third-party commissioning of the complete Solar and Solar + Storage system at each facility is required.
6. Equipment standardization of solar modules, solar inverters, battery storage systems, switchgear, panel boards, automatic transfer switches, remote controlled circuit breakers and EMS/Microgrid control systems across all the sites is highly encouraged for O&M

purposes and to keep cost to a minimum.

7. All meters including sub metering must be revenue grade and have an accuracy of at least 0.2% with serial or ethernet communication.

iii. Communications Portal

All data communications and alarms from the Solar and Storage will be shared and maintained by the Respondent via a web portal of their choice. EBCE and the Cities will have access to the portal but will not actively monitor system status. It is therefore expected that the Respondent will provide monitoring and maintenance support as detailed in **Attachment E**. The Respondent will provide EBCE with a demonstration of the selected monitoring platform during the vendor discussions.

iv. Microgrid Modes of Operation

The installed Solar and Solar + Storage systems require automation that allows for two primary microgrid modes: 1) normal grid-connected operations (i.e., Blue Sky) and 2) emergency and non-emergency (planned outages) island operations. During normal operations, the microgrid will maintain a minimum reserved state-of-charge (SOC) of twenty-five percent (25%) for resilience (SOCr). The remaining contracted capacity will be cycled daily to provide economic optimization.

The islanded mode of operation is required to provide the following functionality:

1. Disconnects seamlessly from the grid upon grid outages and reconnects seamlessly upon grid restoration.
2. Capable of black start and operating as 'Grid Forming' while islanding off-grid.
3. Capable of operating with existing generators on sites where emergency panels and full back-up systems already exist at the facility.
4. Always maintains defined critical loads which are defined as loads that are not to be shed for any reason via an Energy Management System (EMS) where site controllers dispatch pre-loaded smart algorithms to meet site specific applications.
5. At minimum the applications must support: demand charge management, TOU (Time Of Use) shifting, self-consumption, non-export, backup power/microgrid - ATS, PV integration, frequency regulation and control of existing generators.
6. 24/7 monitoring and alarm notifications must be sent from EMS to key personnel.

v. Commencement of Commercial Operation Date

The Solar and Solar + Storage must be able to begin commercial operation no later than December 31, 2023.

B. PROPOSAL STATEMENT OF QUALIFICATIONS

The Respondent must include information in the Offer Requirements (**Attachment D**) that demonstrates that they can satisfy all of the following minimum qualifications:

1. Within the last five (5) years the Respondent or its subcontractor(s) have achieved COD

for at least three (3), multi-site solar PV projects which include systems up to 500 kW DC.

2. Within the last five (5) years the Respondent has financed or secured financing of at least two (2) Power Purchase Agreement (PPA) projects of at least 500 kW DC each.
3. BESS provider has installed and received permission to operate, or is actively engaged on project construction for portfolios of solar + storage systems for resilience.
4. Microgrid provider has installed and received permission to operate, or is actively engaged on project construction, for at least one microgrid project.

7. EVALUATION CRITERIA

When Respondents have met the eligibility requirements described above, EBCE will employ the evaluation criteria described in this section to select Offers for shortlisting and final selection, using qualitative evaluation criteria in its review of the proposals. Qualitative evaluation criteria include:

1. The qualifications of the Respondent and its agents, employees, and sub-consultants in completing projects of a similar type, size, and complexity. EBCE may consider Respondent’s timely and accurate completion of similar projects within budget.
2. The feasibility of the proposal based upon the methodology of the proposed Scope of Services, the reasonableness of the Pricing Proposal, and the proposed terms of agreement.
3. Respondent’s understanding of the work to be completed based upon the clarity of the proposal and responsiveness to this RFO.

EBCE will score proposals using the following evaluation rubric:

Criterion	Measurement Approach	Weight (%)
Pricing	Reasonableness of pricing proposal as bid in the offer sheet inclusive of term, escalation rate and associated metrics that meet the cost effectiveness objectives	40%
Technology	Ability to meet resilience needs and goals, such as black-start and load management capabilities.	20%
Experience and Qualifications	Strength of proposed project team and history of projects with similar technologies and/or goals as well as similar type, size, and complexity completed and excellent references from prior customers.	15%
Schedule	Demonstration of ability to execute a multi-site portfolio coordinating with multiple parties by the expected commercial operation date, including effective change management.	15%
Contract Terms	Ability to accept pre-approved PPA with minimal level of proposed changes.	10%
	TOTAL	100%

Figure 6: Proposal Evaluation Criteria Matrix

The Respondent must also be able to provide:

1. Class B License & any other relevant Licenses (i.e., C-10 or C-46 licenses)
2. Evidence of Bonding Ability
3. Evidence that Insurance Requirements can be met

A. SUPPLY CHAIN RESPONSIBILITY

EBCE contracts with small and local businesses to the maximum extent possible. EBCE may consider status as a small business enterprise (SBE) – i.e. registered as a small business with a state or federal agency – in the Offer review and evaluation process.

For more information on SBE status, please visit the Governor’s Office of Business and Economic Development (www.business.ca.gov), Employment Development Department (www.edd.ca.gov), or U.S. Small Business Administration (www.sba.gov).

8. GUIDELINES FOR OFFER DEVELOPMENT

A. PRICE

Respondents must submit Stage 1 Offers with their best price using the respective tabs in the Stage 1 Preliminary Offer Form (**Attachment C**). The price must be stated using the provided format. The proposed pricing should reflect the anticipated work to be performed and payment provisions that would be set forth in a subsequent agreement, if awarded. The proposed pricing will include all services to be performed by the Respondent.

The projects will include delivery of Renewable Energy Certificates (RECs) for EBCE. The price submitted for an Offer must include (1) all awards, subsidies, tax credits applicable to the Project; (2) any costs incurred by the Respondent including any interconnection costs; (3) the acceptance of the non-price terms and conditions of the Solar and Solar + Storage Developer Agreement, except to the extent that Respondent specifically rejects a non-price term or condition; and (4) all other benefits the Respondent expects to apply.

B. SOLAR AND SOLAR + STORAGE DEVELOPER AGREEMENT

The Respondent will review the Solar and Solar + Storage Developer Agreement (**Attachment F**) and identify, by redline, any portions the Respondent desires to amend either by addition, deletion, or modification. Respondents are required to disclose any past, ongoing, or potential conflicts of interest which the respondent may have which could affect performing the work for this project and service. It should be noted that the Solar + Storage Developer Agreement (**Attachment F**) is based on a PPA that has been subject to extensive previous review by the four participating City Attorneys for all Stage 1 Cities. Redlines may require additional negotiation with City counter-parties.

C. COMPLIANT SUBMISSION SPECIFICATIONS

All Offers must meet the following specifications in order to be considered for selection. Please ensure that Offers conform to the appropriate specifications for the project submitted. Any deviations from the following list will be treated as non-compliant and excluded from consideration.

Products	Solar and Solar + Storage
Location	Cities of San Leandro, Berkeley, Hayward and Fremont
Term	20 years
Price	Attachment C: Stage 1 Preliminary Offer Form
Installed Capacity (MW)	<ol style="list-style-type: none"> 1. Base Case (i.e., core portfolio): 2.3MW of solar photovoltaics and 1.9MWh of battery storage (nameplate capacity) 2. Additional Funding Case: Additional nameplate capacity up to 1.2 MW of solar photovoltaics and 4.5 MWh of battery storage²
Expected Commercial Operation Date (COD)	On or prior to December 31, 2023.

Figure 7: Submission Specifications

Stage 1 Offers should be submitted for both the Base Case installed capacity as well as the Additional Funding Case (see Figure 2) installed capacity. Respondents may optionally include a memorandum with the Stage 1 Offer package including potential concepts that may provide additional value to EBCE and this portfolio based on the recent passage of the Inflation Reduction Act. Note EBCE does not seek to own these assets, and understands this memorandum is likely to be high level given the recency of the Act’s passage. Selected Respondents will be able to update their Offers with more site-specific information in Stage 2. It is expected that the status of the grant funding availability will also be known at that time.

9. REQUIRED INFORMATION

A. SUBMISSION OVERVIEW

All information submittals related to this RFO must be made via the Respondent’s unique Dropbox submission folder; in order to receive a Dropbox folder, Respondents must submit an NOI (Attachment A).

B. REQUIRED DOCUMENTS FOR OFFERS

The following documents must be completed and submitted to constitute a complete Offer to this solicitation. The Stages have unique form submittal requirements; please refer to the matrix below to determine which documents are required to be submitted with each Offer. The relevant documents are included as Attachments to this solicitation and noted below.

² See **Section 1.C** on potential grant funding opportunity to increase the installed capacity across the four portfolio cities

- i. RFO Participation Agreement (**Attachment B**)
 - Respondent must have a duly authorized officer of the Respondent entity execute the agreement. **Only one Participation Agreement is required per Respondent.**
 - Note: The Participation Agreement covers all requested information, including Respondent attestation to the truthfulness of project details. Submitting a falsified Participation Agreement will result in elimination from the RFO.
 - File Format: PDF
 - File Name: RFO Participation Agreement_RespondentCompanyName
- ii. Completed Stage 1 Preliminary Offer Form (**Attachment C**)
 - Please provide all applicable information requested in the Offer Form tabs.
 - File Format: Microsoft Excel
 - File Name: Preliminary Offer Form_RespondentCompanyName
- iii. Offer Requirements (**Attachment D**)
 - File Format: PDF
 - File Name: Offer Supplement_RespondentCompanyName
- iv. Preliminary Engineering Package (**Attachment E**)
 - File Format: PDF
 - File Name: Preliminary Engineering Package_ RespondentCompanyName
- v. Redlined Solar and Solar + Storage Developer Agreement (**Attachment F**)
 - Please include a redline of the Developer Agreement relevant to your Offer in “tracked changes” format.
 - Redlines should reflect all necessary changes that Respondent requires in connection with the pricing set forth in the Offer. Requested changes must be identified with sufficient detail. Comments such as “to be discussed” or “for discussion” or similar are not sufficiently detailed and will not be considered a necessary change for the Respondent. EBCE and will prioritize negotiations with Respondents that adapt their Offer to existing contract terms and conditions and limit requested changes to CCA pro forma contracts.
 - File Format: Word
 - File Name: DeveloperAgreementName_RespondentCompanyName_Redlines

Required Documents	
Stage Documents 1	<input type="checkbox"/> RFO Participation Agreement (Attachment B) <input type="checkbox"/> Phase 1 Preliminary Offer Form (Attachment C) <input type="checkbox"/> Offer Requirements (Attachment D) <input type="checkbox"/> Preliminary Engineering Package (Attachment E) <input type="checkbox"/> Redlined Term Solar and Solar + Storage Developer Agreement (Attachment F)
Stage Documents 2 (Shortlisted Respondents)	<input type="checkbox"/> Executed EBCE Customer Data Sharing NDA (Attachment G) <input type="checkbox"/> Updated Stage 1 Offer Form <input type="checkbox"/> Updated Engineering Package

Figure 8: Required Submission Documents per Stage

C. REQUIRED DOCUMENTS AT SHORTLISTING

The following items will be required within 10 business days of the Stage 2 shortlist announcement:

i. Credit Rating and Financial Documents

Based on availability, counterparties must submit a financial statement for the most recent financial quarter, as well as audited financial statements for the most recent two fiscal years, or the period of existence of the counterparty, if shorter. If audited financial statements are not available, financial statements, as described below, should be submitted, signed and attested to by an officer of the counterparty as a fair representation of the financial condition in accordance with generally accepted accounting principles. The information should include, but is not limited to, the following:

If publicly traded:

- Annual and quarterly reports on Form 10-K and Form 10-Q, respectively
- Form 6-K and 8-K, if filed during the last period

If privately held or governmentally owned:

- Management’s Discussion & Analysis (if available)
- Report of Independent Accountants (if available)
- Financial Statements, including:
 - Balance Sheet
 - Income Statement of Cash Flows
 - Statement of Stockholder’s Equity (privately held only)
- Notes to Financial Statements

10. COMMUNICATIONS

EBCE has developed a solicitation website where Respondents may register for notifications, register for the Respondent Webinar, and where all RFO documents, information, announcements, and Q&A will be posted and made available to the market.

To promote efficiency and accuracy in communications, all Respondents must submit any inquiries via email to 2022-municipal-facility-RFO@ebce.org. EBCE will not respond to any material questions submitted after the final question deadline of August 8th, 2022. All answers will be compiled into a document and posted to the RFO website by August 12th, 2022. EBCE reserves the right to combine, rephrase, or not respond to some questions.

11. RESPONDENT REPRESENTATIONS

By submitting an Offer, Respondent agrees to be bound by the conditions of the RFO Protocol, and makes the following representations, warranties, and covenants to EBCE, which representations, warranties, and covenants will be deemed to be incorporated in their entirety into each of Respondent's submittals and are deemed to be material to EBCE's consideration of the proposals:

1. Respondent agrees that EBCE is not liable to any Respondent or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals and that Respondent has no legal recourse against EBCE, its Members, directors, officers, employees, and agents for rejection of their submittal(s).
2. Respondent acknowledges that it has had the opportunity to seek independent legal and financial advice of its own choosing with respect to this RFO and agrees to be bound by the terms and specifications of this RFO and any addenda subsequently issued prior to the due date of the submittal.
3. Respondent has obtained all necessary authorizations, approvals, and waivers, if any, required by Respondent to submit its offer pursuant to the terms of this RFO.
4. Respondent acknowledges that EBCE reserves the right to suspend this RFO or issue a new RFO that would supersede and replace this RFO.
5. Respondent warrants that it has no employees in its employ who in any capacity have a position at EBCE that enable them to influence the selection of a Respondent or any competing RFO, nor does Respondent have in its employ any EBCE Director, including any Regular or Alternating Directors (collectively "CCA Director") or EBCE employee who is the spouse or economic dependent of such an EBCE employee. A list of current EBCE Directors can be found on the EBCE's website (<https://ebce.org/who-we-are/>). This list may be updated from time to time.
6. Respondent's submission complies with all applicable laws.
7. Respondent warrants that all information submitted by Respondent in connection with this RFO is true and accurate as of the date of the Respondent's submission. Respondent also covenants that it will properly update any submitted information immediately upon any material change thereto.
8. Respondent acknowledges and accepts that EBCE does not intend to provide collateral or performance security in connection with any PPA.

12. TERMINATION OF RFO-RELATED MATTERS

EBCE reserves the right at any time, in their sole discretion, to terminate the RFO without prior notification to Respondents and without liability of any kind. Grounds for termination may include, without limitation, that no Offers are deemed cost competitive or as a result of an inability to reach final commercial agreement between parties.

In the event of termination of the RFO for any reason, EBCE will not reimburse Respondents for any expenses incurred in relation to the RFO.

13. ATTACHMENTS

The following Attachments are hosted on the RFO webpage and hereby made part of this RFO:

1. EBCE Energy Resilient Municipal Facilities RFO Protocol
2. **Attachment A:** Notice of Intent to Offer
3. **Attachment B:** RFO Participation Agreement
4. **Attachment C:** Stage 1 Preliminary Offer Form
5. **Attachment D:** Offer Requirements
6. **Attachment E:** Preliminary Engineering Package
7. **Attachment F:** Solar and Solar + Storage Developer Agreement
8. **Attachment G:** Customer Data Sharing NDA Template
9. **Attachment H:** Stage 1 Project Site Reports

14. PROTEST

If an unsuccessful Respondent wants to dispute an award or award recommendation, a protest must be submitted in writing to COO, Howard Chang, no later than ten (10) calendar days after notice that the proposer was unsuccessful, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that a material provision in this RFO is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The addresses for submitting protests is:

Attention: Howard Chang, COO
East Bay Community Energy
1999 Harrison St, Suite 800
Oakland, CA 94612

Please submit electronic versions of any protest to Howard Chang at hchang@ebce.org.

15. INTERPRETATION

The EBCE shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by EBCE or its representatives.

Should there be a need to clarify this RFO or any of its attachments, including but not limited to the Solar and Solar + Storage Developer Agreement, requests for clarification may be sent via e-mail at 2022-municipal-facility-RFO@ebce.org. Requests for clarification received after the deadline provided in **Section 1.D: Schedule** will not be considered.

If there are any discrepancies between the RFO and the Solar and Solar + Storage Developer Agreement (**Attachments F**), the Developer Agreement would apply.

16. CODE ADHERENCE AND POLICIES

Respondent shall agree to abide by all laws, rules and regulations of the United States, State of California, San Joaquin County, Alameda County, unincorporated Alameda County, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, Tracy, and Union City.

17. TERMS AND CONDITIONS OF AGREEMENT

Respondents shall enter into a contract with East Bay Community Energy in substantial conformity with the selected proposal, as mutually modified during negotiations with EBCE. The Solar and Solar + Storage Developer Agreement (**Attachments F**), outlines the EBCE's standard terms and conditions as part of the agreement between EBCE and the successful Respondent. EBCE reserves the right to negotiate project deliverables and associated costs.

All agreements will require the Respondent to adhere to the terms of their proposal and to act in accordance with all applicable laws and regulations. An agreement shall not be binding or valid unless and until it is approved by the East Bay Community Energy Board of Directors and executed by an authorized representative of East Bay Community Energy.

18. INSURANCE REQUIREMENTS

The Selected Respondent, at Respondent's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain insurance as required by EBCE.

All policies, endorsements, certificates, and/or binders shall be subject to approval by EBCE as to form and content. Insurance requirements are subject to amendment or waiver if so approved

in writing by EBCE. The Selected Respondent agrees to provide EBCE with a copy of said policies, certificates, and/or endorsements.

19. PUBLIC NATURE OF PROPOSAL MATERIAL

All correspondence with EBCE including responses to this solicitation will become the exclusive property of EBCE and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to EBCE will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

EBCE acknowledges that another party may submit information that the other party considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255) (Confidential Information).

Therefore, any proposal which contains language purporting to render all or significant portions of their proposal “Confidential”, “Trade Secret” or “Proprietary”, or fails to provide the exemption information required as described below will be considered a public record in its entirety subject to the procedures described below. Do not mark your entire proposal as “confidential”.

EBCE will not disclose any part of any proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFO will be subject to public disclosure.

In order to designate information as confidential, the Respondent must clearly stamp and identify the specific portion of the material designated with the word “Confidential” and provide a citation to the California Public Records Act that supports keeping the information confidential. Respondents should not over-designate material as confidential. Over-designation would include stamping entire pages or series of pages as confidential that clearly contain information that is not confidential. Upon request or demand of any third person or entity not a party to this Agreement (“Requestor”) for production, inspection and/or copying of information designated by Respondent as confidential information (such designated information, the “Confidential Information”), EBCE will notify the Respondent as soon as practical that such request has been made. The Respondent shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by EBCE. If the Respondent takes no such action after receiving the foregoing notice from EBCE, EBCE shall be permitted to comply with the Requestor’s demand and is not required to defend against it.

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over EBCE, including the California Public Records Act, EBCE may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. In the event EBCE is required to release Confidential Information, they shall notify the Respondent of the required disclosure, such that the Respondent may attempt (if it so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain.

20. DISCLAIMER

EBCE reserves the sole and discretionary right to (i) reject any offers received in response to this RFO for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, EBCE reserves the right, at their sole discretion, to not enter into any transaction at the conclusion of this RFO. EBCE shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by submission of the proposal. EBCE reserves the right to modify the terms and conditions of this RFO at any time based on changing needs and market feedback. EBCE also reserves the right to rescind this RFO at any time prior to the execution of a binding agreement. Notwithstanding anything to the contrary, no proposal, bid, offer, or proposed transaction (however described) shall be binding upon EBCE except pursuant to a written agreement signed by the authorized representative of EBCE and the Respondent. EBCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this RFO.