



## **SOUTHERN CALIFORNIA EDISON COMPANY**

# Request for Offers (RFO)

2020-2024 Resource Adequacy (RA) Capacity,  
RA with Limited Energy Toll or CHP PPA,  
and Import Capability Transfers

## **RFO Instructions**

December 20, 2019

## **EMAIL INQUIRIES TO**

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## 1. Background

With this solicitation, Southern California Edison Company ("SCE") seeks to purchase Resource Adequacy ("RA") Capacity for delivery periods starting August 1, 2020 to December 31, 2024 from all eligible supply sources including (1) RA capacity only offers, (2) RA capacity with a limited tolling agreement, (3) RA capacity through a power purchase agreement (PPA) for firm plus as-available capacity from existing or repowered combined heat & power (CHP) facilities, and (4) import capability transfers (the "DEC2019 RA RFO, "RA-RFO", or "Solicitation")

SCE will also seek to sell RA Capacity for Delivery Period beginning April 1, 2020 and ending on June 30, 2020, where an executed enabling agreement exists, and the SCE pro forma confirmation is accepted.

The purpose of this document (the "RFO Instructions") is to provide "Respondents" with the schedule, the offers submittal, evaluation and selection process, and to set forth the terms and conditions of Respondents' participation in this RFO. This RA-RFO will access all offers on a competitive basis, and utilize an expeditious offer selection notification for clear and definitive offers, as well as a shortlisting process to enable a short window to clarify or refine certain more competitive product offerings. Contract execution will proceed sequentially after offer selections.

Capitalized terms not defined in these RFO Instructions have the meanings ascribed to them in the applicable Exhibits hereto or the current California Independent System Operator Corporation ("CAISO") tariff and protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," as amended or supplemented from time to time (the "CAISO Tariff").

SCE will utilize an independent evaluator, Merrimack Energy (the "IE"), in connection with this RFO.

*The confidentiality provisions of these RFO Instructions and the Non-Disclosure Agreement, as set forth in Exhibit A, which must be partially executed and submitted to SCE by Respondent no later than the Offer Submission Deadline, limit Respondents' ability to engage in communications with any other actual or potential participants in the RFO concerning this solicitation, price terms in Offers, and related matters.*

*In the event that a Respondent desires to (a) act as a marketing agent for a third party, (b) act as a credit sleeve for a third party, or (c) otherwise act as an agent or representative of a third party, in each case with respect to any Offer in the RFO, such Respondent and the*

*third party such Respondent is proposing to represent should contact SCE and seek a waiver or amendment of such confidentiality provisions, which SCE may or may not grant in its sole discretion.*

*Such a Respondent and the third party such Respondent proposes to represent should be prepared to provide SCE with a written description of the proposed relationship between such parties and the proposed structure of their Offers. SCE reserves the right, in its sole discretion, to disqualify those Respondents that have not complied with the provisions of this paragraph.*

## **2. Products Solicited**

The products solicited within this RFO include (1) RA Capacity Only, (2) RA with dispatchable capacity through a limited tolling agreement ("Toll"), (3) RA with firm (baseload) plus "as-available" capacity from existing or repowered CHP facilities ("CHP"), and (4) Import Capability Transfers (each of the products (1) through (4) listed above are referred to as a "Product" and collectively as the "Products"). The RA Capacity must be from specifically identified existing generating units that have a Net Qualifying Capacity ("NQC") assigned by the CAISO and must be able to count toward SCE's RA requirement, new generating units that have not completed construction and do not have an NQC are not eligible to participate in this Solicitation. Import Capability Transfer must be for specified CAISO interties which can deliver RA into the CAISO Balance Authority Area. RA from all Products must be eligible for inclusion in both or either the Year-Ahead and Month-Ahead compliance filings with the California Public Utilities Commission ("CPUC").

**All Respondents providing Offers for the sale to SCE of a Product must submit an RA Capacity Only Offer** (i.e., Product (1) listed above), except those Respondents providing Offers for the sale to SCE of Import Capability Transfers. Respondents are encouraged to submit multiple Offers with varying delivery periods and contract options. These varying Offers could include different volume options/product types with various delivery terms (i.e. monthly, Q3s 2020-2024, year-round, etc.). Such variations may enhance a Respondent's ability in receiving a final award within the RFO. Respondents are not permitted to increase their Offer price for any Product after the Offer Submission Deadline.

## 2.1. RA Capacity Only

The following table provides a summary and description for the RA Capacity only product solicited in this RFO

**Table 1: RA Capacity Only (Aug 2020 – Dec 2024)**

<b>Product(s)</b>	<b>RA Capacity Only</b>
Delivery Point	CAISO
Type	CAISO System or Local
Flexible Attribute	With or Without
Minimum Volume	1 MW
Pricing	Fixed Price (\$/kW-month)
<b>SCE Purchase – Contract Options</b>	
Delivery Period	Monthly / Q3 / Annual
Earliest Start Date	August 1, 2020
Latest End Date	December 31, 2024
<b>SCE Sale – Contract Options</b>	
Delivery Period	Monthly / Q2
Earliest Start Date	April 1, 2020
Latest End Date	June 30, 2020

### **SCE Purchase – RA Capacity Only**

Respondent may Offer to sell to SCE RA Capacity Only, which includes the right to include a specified quantity of qualifying and deliverable RA Capacity that is approved for inclusion in the respective Compliance Showings. RA Capacity Only Offers must be a unit specific Offer, for RA Capacity-only and does not include energy or ancillary services associated with the unit.

Respondents submitting Offers to sell RA Capacity to SCE must either own or have a contractual right to the qualifying and deliverable RA Capacity for the delivery period as specified in the applicable Confirmation.

Offers to sell RA Capacity to SCE shall be transacted through the terms described in the RA Capacity Confirmation (the "SCE Pro Forma RA Confirmation"), attached hereto as Exhibit B1, which shall be a confirmation under an executed EEI Master Power Purchase & Sale Agreement, Cover Sheet, EEI Collateral Annex, and Paragraph 10 to the Collateral Annex, forms of which are attached as Exhibit E (an "EEI Agreement") between SCE and Respondent in accordance with the RFO

Schedule set forth in Section 6 of these RFO Instructions (the "RFO Schedule"). For purposes of these RFO Instructions, the EEI Agreement may be referred to as an "Enabling Agreement", and the Enabling Agreement preferences and requirements set forth in this paragraph are referred to as the "Enabling Agreement Requirements".

### **SCE Sale – RA Capacity Only**

Respondent may Offer to purchase from SCE specified quantity of CAISO System RA Capacity with second quarter (Q2) 2020 delivery period starting April 1, 2020 to June 30, 2020.

Offers to purchase from SCE RA Capacity shall be strictly transacted through the SCE Pro Forma RA Capacity Confirmation (Exhibit B1) without any deviation including those relating to credit requirements, which will necessitate an existing executed EEI Master Power Purchase & Sale Agreement, Cover Sheet, EEI Collateral Annex, and Paragraph 10 to the Collateral Annex.

## **2.2. Tolling Agreement**

SCE will consider Toll Offers from existing resources, that are dispatchable to the full contract capacity of the unit within 15 minutes, and that have Full Capacity Deliverability Status ("FCDS"). Delivery Periods offered can commence as early as August 1, 2020 and must end no later than December 31, 2024 (a maximum of 52 months). Toll Offers from once-through cooling (OTC) units are not eligible; provided, OTC units are eligible to submit an RA Capacity Only Offer to this Solicitation; provided further, such Confirmation is subject to approval by the California Public Utilities Commission (CPUC) and the State Water Resource Control Board (SWRCB).

**Table 2: RA Capacity with Tolling Agreement (Jul 2020 – Dec 2024)**

<b>Product</b>	<b>Dispatchable Toll</b> Dispatchable capacity, energy, ancillary services, and RA capacity attributes
Delivery Point	CAISO
Minimum Volume	5 MW
Eligible Sources	All resources with a Net Qualifying Capacity (NQC) except OTC unit(s)
Delivery Period	August 1, 2020 – December 31, 2020, and/or Any full calendar year(s) before December 31, 2024
Earliest Start Date	August 1, 2020
Latest End Date	December 31, 2024
Agreement(s)	Tolling Agreement as a working template
<b>Toll Offer Parameters</b>	
Capacity Pricing	Fixed Price (\$/kW-month) or (\$/kW-year)
Contracted Heat Rate	(BTU/kWh) @ reference conditions
Variable Charge	(\$/kWh)
GHG Compliance	Negotiable
Fuel Manager	Negotiable
Scheduling	Negotiable

For generating facilities located outside the SoCalGas service territory, Offerors should contact SCE for to determine if SCE has a UC Tolling Confirmation version applicable to the location of the Offeror’s generating facility.

Toll Offers shall be transacted through the terms described in the Tolling Agreement, attached hereto as Exhibit D. Newly proposed facilities will not be considered in this RFO, and terms specific to proposed new build will not apply. The Toll Product includes all Energy, Capacity, Capacity Attributes, Resource Adequacy Benefits, Ancillary Services, Ancillary Services Capacity, and any other benefits generated by, associated with or attributable to the resource throughout the Delivery Period.

## 2.3. CHP PPA

SCE will consider CHP Offers from existing or repowered CHP facilities, that have both a firm (baseload) and an “as-available” capacity component<sup>1</sup>, and with a nameplate capacity that is greater than 5 MW.

**Table 3: Combined Heat & Power (CHP) PPA (Aug 2020- Dec 2024)**

<b>Products</b>	<b>CHP PPA - Firm (baseload) plus As-Available capacity, energy, ancillary services, and RA capacity attributes</b>
Delivery Point	CAISO
Minimum Volume	5 MW Baseload or As Available
Capacity Pricing	Fixed Price (\$/kW-month) or (\$/kW-year)
Delivery Period	August 1, 2020 – December 31, 2020, and/or Any full calendar year(s) before December 31, 2024
Earliest Start Date	August 1, 2020
Latest End Date	December 31, 2024
Agreement(s)	CHP PPA or Tolling Agreement as a working template
<b>CHP Offer Parameters</b>	
Contracted Heat Rate	(BTU/kWh) @ reference conditions
Variable O&M Charge	(\$/kWh)
Startup Charge	Startup time, fuel requirement, auxiliary load
Restrictions	Capacity & ancillary services
GHG Compliance	SCE, Respondent, or Joint Options
Fuel Manager	Negotiable
Scheduling	SCE

Respondent submitting an Offer in this category must provide a firm plus any as-available capacity price whereby Respondent assumes all GHG Compliance Costs. SCE may consider other pricing options whereby Respondent and SCE allocate GHG Compliance Costs between them. SCE may select, in its sole discretion, which of these pricing options, if any, SCE chooses as part of this RFO.

CHP Offers shall be transacted through the terms described in the CHP Agreement, attached as (Exhibit C) or the tolling agreement (Exhibit D) as starting and working templates. Terms that are specific to new facilities or relating to CHP attributes will not apply. The CHP Product includes RA Attributes, Net Contract Capacity, all

<sup>1</sup> For reference, CHP facilities are those that meet the definition of cogeneration under California Public Utilities Code §216.6 and the Emissions Performance Standard established by Public Utilities Code §8341.

electric energy produced by the Generating Facility, net of all Station Use and any and all other Site Host Load throughout the Delivery Period.

## 2.4. Import Capability Transfer Purchase

Respondent may submit an Offer to sell to SCE the right to deliver RA from specific CAISO interties into the CAISO Balance Authority Area. These rights are CAISO intertie specific and do not include any RA capacity, energy, or ancillary services.

**Table 4: Import Capability Transfer Product**

<b>Products</b>	<b>Import Capability Transfer</b>
Delivery Points	MALIN500 (COB) / NOB_ITC (NOB) PALOVRDE_ITC (PV) / MEAD_ITC (MEAD)
Minimum Volume	1 MW
Pricing	Fixed Price (\$/kW-month)
SCE Purchase – Contract Delivery Period	
Monthly	August 2020 - October

Respondents submitting an Offer to sell this Product to SCE must either own or have the contractual right to the Product for the Delivery Period specified in Table 4 above – Import Capability Transfer Product.

Offers to sell to SCE the Import Capability Transfer Product shall be transacted through the terms described in the “SCE Import Capability Transfer Confirmation,” attached hereto as Exhibit C, and executed in accordance with the Enabling Agreement Requirements.

## 2.5. Other Product or Offer Considerations & Limitations

- All Respondents providing Offers for SCE to purchase a product (e.g. through a Toll or CHP agreement) must in addition submit a RA Capacity Only Offer.
- Respondents are allowed and encouraged to submit Offers for more than one Product and multiple Offers for the same Product.
- Respondent must state all volumetric limitations in the applicable Volume Limits tab of the Offer Workbooks. Except for setting volumetric limitations,

Offers containing any contingencies may be considered nonconforming and ineligible for consideration.

- Local and Flexible attributes associated with RA Capacity will become part of any transaction resulting from this RFO.
- All Product categories may be proposed in partial MW increments that are equal to or greater than the minimum volumes specified in each table with no more than two decimal places. For example, an Offer for 1.23 MW would be acceptable, whereas an Offer for 1.234 MW would not be acceptable.
- No contracts awarded in this Solicitation shall be greater than 52-months in duration.
- Respondents are not permitted to increase their final Offer price for any Product after the Offer Submission Deadline.
- New facilities are not eligible to participate in this Solicitation.
- Once-Through Cooling ("OTC") Units, as described in the California State Water Resources Control Board ("SWRCB") policies, can be submitted as an RA Capacity Only offer, at Respondent's discretion, delivery periods that end prior to such OTC Unit's OTC compliance date (the "OTC Compliance Date")<sup>2</sup> and/or delivery periods that end past the OTC Unit's OTC Compliance Date. Any awarded contracts that are past such OTC Unit's OTC Compliance Date must be submitted to the CPUC for approval via a Tier 3 Advice Letter and contingent upon SWRCB granting an extension to the OTC Compliance Date.

### 3. Eligibility Requirements

Respondents to this RFO must comply with the requirements in these RFO Instructions. Respondents that fail to comply with the requirements in these RFO Instructions may be deemed ineligible and their Offers may not be considered.

SCE, in its sole discretion, may change the terms, requirements, and schedule of this RFO.

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<sup>2</sup> OTC Unit's OTC Compliance Dates can be found on the SWRCB website at:  
[http://www.waterboards.ca.gov/publications\\_forms/publications/factsheets/docs/once-through-cooling.pdf](http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/once-through-cooling.pdf)

By participating in this RFO the Respondent specifically acknowledges the following:

1. If Respondent is deemed eligible to submit an Offer, any Offer submitted by Respondent is considered a final Offer and cannot be modified by Respondent. SCE however reserves the right to clarify and further refine all offers at its sole discretion, including but not limited to Product type, parameters, price and quantity.
2. Respondents may enter into limited negotiations to execute an agreement with SCE. Respondents are **strongly discouraged** from making any substantive changes to the form of Enabling Agreements or Confirmations attached as Exhibits to these RFO Instructions (collectively, the "Agreements"). Extensive modifications to these Agreements will not be accepted. SCE, in its sole discretion, will determine whether any proposed modification or alteration to these Agreements are material and reserves the right to decline to execute any agreement with a selected Respondent for any reason.

Mutually inclusive Offers across generating units of the **same** RA local attribute are allowed (e.g., Offer A for generating Unit 1 (Big Creek-Ventura) and Offer B for generating Unit 2 (Big Creek-Ventura)). If making a mutually inclusive Offer across generating units, Respondent must also submit discrete Offers for those generating units. SCE will have the option to either select the mutually inclusive Offer or the discrete Offers separately.

#### **4. Credit Requirements**

SCE requires that Respondents post collateral (either cash or a letter of credit) for SCE's exposure above an unsecured credit line, if any. Only investment grade-rated Respondents are eligible for an unsecured credit line. Alternatively, a Respondent may be eligible for an unsecured credit line by providing a guaranty from an investment grade-rated corporate parent in substantially the form of the Guaranty Agreement attached hereto as Exhibit F (the "Guaranty"). SCE will not accept a Guaranty from third parties that are not affiliated with the Respondent. Respondents that are not rated or are rated below investment grade shall be required to post collateral for all of SCE's exposure in addition to an independent amount.

SCE is a California load-serving utility with investment grade credit ratings and substantial tangible net worth. Any Offer that requires SCE to post collateral will be rejected by SCE.

SCE reserves the right to disqualify Respondents that are unwilling or unable to meet these credit requirements.

Use of a funds transfer agent and a Funds Transfer Agent Agreement ("FTAA") in order to fulfill payment obligations may not fulfill SCE's collateral requirements. Respondents in such case will have to arrange for additional collateral.

## **5. Evaluation Criteria**

This RFO will utilize a single pricing value process to assess of all offers based on SCE's most recent market forecast. All Offers will initially be assessed for conformance with the requirements set forth in these RFO Instructions. Respondents are responsible for the accuracy of all figures, calculations, and representations. In addition to the foregoing, there will be both quantitative and qualitative considerations involved with evaluating Offers in accordance with the SCE Bundled Procurement Plan (BPP). Any Offer within this RFO will be considered a final Offer which cannot be modified by Respondent, and which shall be subject to SCE's acceptance, execution and delivery, as determined by SCE in its sole discretion.

### **5.1. Quantitative Evaluation**

The valuation of each Offer considers cash flow components for both cost and revenue. These components are then netted and discounted to yield a Net Present Value ("NPV") for each Offer. The NPV is compared to other Offers or potential combinations of Offers to find the "Least Cost" selection set which meets SCE's minimum procurement obligation. For this RFO, SCE will be assessing the costs and benefits associated with each Offer; which include capacity payments, natural gas toll, forecasted market implied heat rate, debt equivalence, potential credit and collateral adders, and SCE's ascribed RA and Energy benefits. SCE will then select a set of Offers with the goal of minimizing the cost to SCE's customers, while meeting the defined needs, subject to a set of constraints such as counterparty volume limits.

### **5.2. Qualitative Evaluation**

In addition to the quantitative factors described above, there are other factors which may impact the selection of an Offer. These may include, among other factors, project viability, location within a Disadvantaged Community ("DAC"), adherence to the parameters for this RFO, offers for flexible capacity, Offers for

local capacity, changes to the RFO Documents, counterparty concentration and creditworthiness, and OTC compliance considerations.

## 6. Solicitation Schedule

It is envisioned that the process to evaluate the RA Capacity Only and Import Capability products will be quicker than the Toll and CHP Products. While a deadline is set below, SCE intends to make selection notifications sooner when feasible. The following are key dates associated with this RFO.

TIMELINE	EVENT
<b>December 20, 2019</b>	<b>RFO launch</b>
<b>January 7, 2020 12:00 p.m. Noon PST</b>	<p><b>“Offer Submission Deadline”</b> Respondents must submit their Offers in a completed Offer Workbook and <u>if not previously executed</u> with SCE, Respondents must submit a partially executed Non-Disclosure Agreement, redlined Enabling Agreements (if any for SCE Purchases only), redlined Confirmation (if any for SCE Purchases only), collectively (“Transaction Documents”).</p> <p><b>Limited dialogs on the Transaction Documents may commence.</b></p>
<b>January 24, 2020 – February 7, 2020</b>	<p><b>“Selection or Shortlisting Notification Period”</b> Time window by which Respondents will have received communications regarding Respondent’s Offer. <u>Selection notice</u> will be provided for accepted offers with exact product, pricing, quantity and parameters on a specific resource. <u>Shortlist notice</u> will be provided on offers with potential opportunities to meet final SCE selection criteria. A limited time window is provided to meet this objective.</p> <p><b>SCE’s selection or shortlisting of an Offer is subject to final SCE management review and approval, consultation with SCE’s Procurement Review Group (“PRG”), successful completion and execution the Transaction Documents.</b></p>
<b>February 13, 2020</b>	<p><b>Execution Deadline for <u>SCE RA Sales Only</u></b> This will enable month ahead compliance filing for the earliest Showing Month of April 2020.</p>
<b>No Later than February 28, 2020</b>	<p><b>“Execution Deadline &amp; Close of DEC2019 RA RFO”</b> Deadline for Respondent and SCE, as applicable, to Execute Final Confirmation(s) and Enabling Agreement(s) (if applicable).</p>

Unless stated otherwise in the above table, deadlines will be set at close of business (5:00 p.m. PPT). SCE reserves the right to revise this schedule at any time and in SCE's sole discretion.

## 7. Offer Submittal Instructions

Respondent must submit each of the applicable RFO Documents by the deadlines described in the RFO Instructions and in all cases in accordance with the terms of these RFO Instructions. **Respondents must submit RFO Documents via email to SCE at [RFO@sce.com](mailto:RFO@sce.com) and copy the IE at [kjoliver33@gmail.com](mailto:kjoliver33@gmail.com) and [waynejoliver26@gmail.com](mailto:waynejoliver26@gmail.com).**

Hard copies of documents are not necessary. All documents will be made available through the initial RFO launch communication. All forms submitted for consideration must be in their original format, i.e., not converted to a Portable Document Format (PDF). Failure to provide the listed information may result in the Offer being deemed non-responsive and may disqualify the Offer from further consideration. All emails to SCE must be less than 10 megabytes (MB) (inclusive of all attachments). SCE will not be required to consider documents received after the applicable due dates and times due to unsuccessful delivery of such documents.

### 7.1. Submission of Offers

In order to have a complete and conforming Offer submittal package, a Respondent must provide the following documents as electronic attachments to the emailed Offer by the Offer Submittal Deadline:

1. A fully completed Offer Workbook or Workbooks;
2. A partially executed Non-Disclosure Agreement (NDA), unless Respondent already has in place an evergreen NDA with SCE (please note this on offer submittal);
3. For all RA Capacity Only Offers (SCE purchases and sales) - A completed pro forma RA Confirmation (Exhibit B1) with all the relevant data fields filled in. Modification to SCE Sale confirmations will not be considered. Limited modification to SCE Purchase confirmations may be considered however, given the timeline associated with this solicitation, modifications to SCE's pro forma are not preferred;

4. For SCE purchases only – A partially executed or minimally modified Enabling Agreement, unless Respondent has already executed an Enabling Agreement with SCE;
5. All Respondents providing Offers for SCE to purchase a CHP or Toll Product must in addition submit a RA Capacity Only Offer; and
6. If Respondent is a government entity, an unexecuted draft Certificate of Authority including all applicable exhibits.

SCE will not accept Offers received after the Offer Submittal Deadline. SCE will only consider submissions that, as of the submittal deadline, constitute complete and conforming Offers. By responding to this RFO, each Respondent agrees to be bound by all terms, conditions and other provisions of this RFO (including these RFO Instructions) and any changes or supplements to it that may be issued by SCE.

## **7.2. Binding Award Notification**

By the Selection or Shortlisting Notification Period, SCE will notify Respondents if their Offers have been contingently selected or shortlisted. Upon such contingent selection, such Offer become binding on Respondent and Respondent may not modify, alter, withdraw or otherwise revise such Offer. SCE selection is contingent upon consultation with SCE's Procurement Review Group ("PRG"), final SCE management review and approval, successful negotiation of the Transaction Documents, and SCE's execution and delivery of the applicable transaction Documents.

The Shortlisting process is intended to provide additional time for clarification and refinement relating to, but not limited to Toll and CHP Offers, if necessary. SCE reserves the right during this period to review all aspects of the Offers that could potentially lead to better NPV. The price, quantity and parameter during this period shall not exceed the Respondent's initial offer on or before the Offer Submittal Deadline. Once the Offers are clarified or negotiated, subsequent contingent selection notification will be similarly provided.

## **7.3. Execution of Confirmations, Enabling Agreement, and Certificate of Authority**

By submitting an Offer in SCE's RA RFO, Respondent agrees to execute a Confirmation, Enabling Agreement (if applicable), and Certificate of Authority (if

applicable) consistent with the terms of the Offer(s) submitted by the Respondent and contingently selected by SCE, and containing such terms and conditions as may be mutually acceptable to SCE and the Respondent on or before the Execution Deadline. The Certificate of Authority must be executed by the Respondent on the same date as the RA Confirmation and Enabling Agreement are partially executed by the Respondent. The Confirmation and Enabling Agreement will only be considered executed once authorized officers of both SCE and the Respondent have executed and delivered the Confirmation and/or Enabling Agreement.

## 8. Communication & Independent Evaluator

**IMPORTANT** - The primary method for exchange of information or documents concerning this RA RFO, including any such exchange concerning the preparation or submission of Offers to SCE, will be via PowerAdvocate® ("Power Advocate") website at:

<https://www.poweradvocate.com/pR.do?okey=100125&pubEvent=true>

(the "Website"). All participants interested in submitting Offers into the RFO will need to pre-register with Power Advocate. Participants who do not yet have an existing Power Advocate account must first register to create a username and password with Power Advocate to receive access to the RFO materials (event code 97348). Users with an existing Power Advocate account may request access using the Website.

For additional information on registering on Power Advocate, please visit:

[https://www.poweradvocate.com/WebHelp\\_Sourcing\\_Intel\\_Supplier/Content/Resources/Sourcing\\_Intel\\_Supplier\\_Guide.pdf](https://www.poweradvocate.com/WebHelp_Sourcing_Intel_Supplier/Content/Resources/Sourcing_Intel_Supplier_Guide.pdf)

Power Advocate functions in most browsers; however, it may not work as well in browsers older than Internet Explorer version 8.

SCE strongly encourages participants to register with Power Advocate well before Offers are due. Power Advocate registrants should be listed under the parent company of the entity submitting the Offer, not its contractors, subcontractors, consultants, or agents.

For any registration or access issues, please contact [support@poweradvocate.com](mailto:support@poweradvocate.com)

Each Offer should be uploaded as a "Commercial and Administrative" document type in Power Advocate. Please make sure that file names for your submittals do not contain

any special characters, such as \*&#, and utilize the following naming convention: OfferorName\_ProjectName\_FileName. For example:

"ABCCompany\_ProjectRA\_Generation\_Profile.xlsb."

SCE may, in its sole discretion, decline to respond to any email or other inquiry about the RFO without liability or responsibility.

### **8.1. Independent Evaluator**

Questions regarding the integrity of the evaluation process or the role of the IE may be referred to Wayne Oliver or Keith Oliver of Merrimack Energy at the following e-mail address: [waynejoliver26@gmail.com](mailto:waynejoliver26@gmail.com) and [kjoliver33@gmail.com](mailto:kjoliver33@gmail.com).

Electronic copies of all applicable RFO Documents must be sent to the IE at: [waynejoliver26@gmail.com](mailto:waynejoliver26@gmail.com) and [kjoliver33@gmail.com](mailto:kjoliver33@gmail.com).

## **9. Confidentiality**

With respect to SCE and the IE, information provided by Respondent to SCE and the IE for purposes of this RFO will be subject to (i) a fully executed Confidentiality Agreement and (ii) all applicable CPUC disclosure requirements including, CPUC D.06-06-066.

## **10. General Information & Reservation of Rights**

- a) Any transaction resulting from this RFO will be documented in an executed applicable Confirmation under an executed Enabling Agreement between SCE and Respondent, as applicable.
- b) SCE may, in its sole discretion, enter into transactions with one or more Respondents submitting Offers.
- c) SCE may, in its sole discretion, request a Respondent to modify their price, Contract Quantity, and/or RA attributes Offered, or otherwise issue a counteroffer during the negotiation phase in this RFO.
- d) SCE may execute RA Confirmations with selected Respondents at any time during the negotiation phase or may choose to execute none at all.

- e) SCE retains the discretion, in its sole discretion, to: (a) reject any Offer in the event the Offer does not provide adequate benefit to SCE's customers; (b) formulate and implement appropriate criteria for the evaluation and selection of Offers; and (c) negotiate with any Respondent in order to maximize the value for SCE's customers.
- f) In addition to the limitations on Offers set forth in these RFO Instructions, SCE reserves the right, in its sole discretion, to limit the number of Offers that can be submitted by any Respondent.
- g) Respondents are required to meet all the terms and conditions of the RFO to be eligible to compete in the solicitation process. Respondents are required to submit all requested information and follow all instructions contained in these RFO Instructions, including, but not limited to, submitting conforming Offers and RFO Documents in compliance with the RFO Schedule.
- h) By participating in this RFO, including, without limitation, by submitting an Offer, Respondent agrees to all terms, conditions, representations, warranties, and covenants in these RFO Instructions. Other than the representations, warranties and covenants made by Respondent in these RFO Instructions and the executed Confidentiality Agreement between SCE and Respondent, submittal of any document pertaining to this RFO, including, without limitation, one or more Offers, or receipt of any contingent selection, is not intended to, and does not, constitute a binding agreement of, or establish any obligation of SCE.
- i) SCE reserves the right, at any time and during this RFO in its sole discretion, to abandon this RFO, to change any dates specified in this RFO, to change the basis for the evaluation of Offers, to terminate further participation in this process by any party, to accept any Offer, to enter into any agreement, to evaluate the qualifications of any Respondent or the terms and conditions of any Offer, to reject any or all Offers, to prohibit or limit mutually exclusive and mutually inclusive Offers, to change any form or document used in this RFO, waive any irregularities, and otherwise modify the RFO in any way, without notice and without assigning any reasons and without liability of Edison International, SCE, or any of their respective subsidiaries, affiliates, employees, officers, directors, other agents, and representatives.

SCE shall have no obligation to consider any Offer submitted by a Respondent. SCE will not reimburse any Respondent for any of its expenses

related to this RFO under any circumstances, regardless of whether the RFO proceeds to execution of any transactions or is abandoned, and regardless of whether or not SCE enters into a transaction with the Respondent. With respect to Respondents who have applicable Enabling Agreements executed and effective prior to the time when such Respondent submits an Offer, SCE shall not be deemed to have accepted any such Offer, and shall not be bound by any term thereof, unless and until an authorized representative of SCE (executes a Confirmation with respect to such Offer. With respect to Respondents who do not have applicable Enabling Agreements executed and effective prior to the time such Respondent submits an Offer, SCE shall not be deemed to have accepted any such Offer, and shall not be bound by any term thereof, unless and until an authorized representative of SCE executes a Confirmation and an Enabling Agreement with the Respondent. The establishment, update, or modification of any regulatory requirement which potentially impacts SCE's decision regarding selection of Offers may result in SCE revising any portion of any document related to this RFO, including, without limitation, the elimination of one or more products sought hereunder and/or revising the schedule set forth herein.

- j) SCE encourages Women-Owned, Minority-Owned, and Disabled Veteran-Owned Business Enterprises and Lesbian, Gay, Bisexual and/or Transgender Business Enterprises ("Diverse Business Enterprise(s)") to participate in the RFO. To be considered as a Diverse Business Enterprise, Respondent must provide a copy of a valid certificate that verifies Respondent's Diverse Business Enterprise status. Information on SCE's diversity supplier program can be found at: <https://www.sce.com/wps/portal/home/partners/buying-selling/supplier-diversity/>.

Diverse Business Enterprises are welcome to submit Offers into this RFO and FTAA's may be considered. However, depending on the term, quantity, and the resulting exposure related to any Offers, an FTAA may not fulfill SCE's collateral requirement in which case additional collateral will have to be arranged.

Further, as provided in Section 6.3 of CPUC General Order 156, SCE's Supplier Diversity efforts include encouraging its Respondent's to develop plans to utilize Diverse Business Enterprises subcontractors. SCE can help Respondent's with identifying Diverse Business Enterprises for subcontracting opportunities.

## 11. Respondent's Waiver of Claims & Limitation of Remedies

By participating in this RFO, including, without limitation, by submitting an Offer:

- a) Respondent acknowledges and agrees that it is knowingly, voluntarily, and completely waiving any rights under statute, regulation, state or federal constitution, or common law to assert any claim, complaint, or other challenge in any regulatory, judicial, or other forum, including, without limitation, the CPUC (except as expressly provided below), the Federal Energy Regulatory Commission ("FERC"), the Superior Court of the State of California ("State Court") or any U.S. District Court ("Federal Court") concerning or related in any way to this RFO or any unexecuted documents related to this RFO, including, without limitation, all exhibits, attachments, and appendices thereto ("Waived Claims").
- b) Respondent acknowledges and agrees that if it asserts any Waived Claim at the CPUC, FERC, State Court, or Federal Court, or otherwise in any forum, to the extent that Respondent's Offer has not already been disqualified, SCE is entitled to automatically disqualify such Offer from further consideration in the RFO or otherwise, and further, SCE may elect to terminate the RFO.
- c) Respondent acknowledges and agrees that the sole forum in which Respondent may assert any challenge with respect to the conduct or results of the RFO is at the CPUC and that: (1) the sole means of challenging the conduct or results of the RFO is a complaint filed under Article 4, Complaints and Investigations, of Division 2, Chapter 2 of Title 20, Public Utilities and Energy, of the California Code of Regulations, (2) the sole basis for any such complaint shall be that SCE allegedly failed in a material respect to conduct the solicitation generally consistent with these RFO Instructions; and (3) the exclusive remedy available to Respondent in the case of such a complaint shall be an order of the CPUC that SCE engaged in conduct that the CPUC determines was not generally consistent with these RFO Instructions or any documents related to this RFO (including exhibits, attachments, and appendices).
- d) Respondent expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs and/or attorneys' fees. Unless SCE elects to do otherwise in its sole discretion, during the pendency of such a complaint, the RFO and any related regulatory proceedings related to the RFO will continue as if the

complaint had not been filed, unless the CPUC issues an order suspending the RFO or SCE has elected to terminate or suspend the RFO or any portion thereof.

- e) Respondent acknowledges and agrees that if Respondent asserts any Waived Claim, SCE shall be entitled to seek immediate dismissal of Respondent's claim, complaint, or other challenge, with prejudice, by filing a motion to dismiss (or similar procedural device) supported by the language in these RFO Instructions and that Respondent will not challenge or oppose such a motion to dismiss (or similar procedural device).
- f) Respondent acknowledges and agrees that if it asserts any Waived Claim, and if SCE successfully has that claim dismissed or transferred to the CPUC, Respondent shall pay SCE's full costs and expenses incurred in seeking such dismissal or transfer, including, without limitation, reasonable attorneys' fees and expenses.
- g) Respondent agrees to indemnify and hold SCE harmless from any and all claims by any other party asserted in response to the assertion of any Waived Claim by Respondent and for reasonable costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by SCE or as a result of a Respondent's complaint filing at the CPUC resulting from the RFO.
- h) Except as expressly provided in the documents related to this RFO, nothing herein, including, without limitation, Respondent's waiver of any Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of SCE.
- i) In the event Respondent is deemed eligible by SCE to submit an Offer, Respondent submits an Offer, SCE notifies Respondent that SCE accepts such Offer and there is a dispute related to the terms of any such Offer, such dispute shall be resolved in accordance with the terms of the dispute resolution provisions set forth in the RFO Documents which were part of such Offer.

## **12. Respondent's Representations, Warranties & Covenants**

By participating in this RFO, including, without limitation, by submitting an Offer, Respondent (A) agrees to be bound by the conditions of the RFO, including the terms of these RFO Instructions; and (B) makes the following representations, warranties, and

covenants to SCE, which representations, warranties, and covenants shall be deemed to be incorporated in their entireties into each of Respondent's Offers:

- a) Respondent has read, understands and agrees to be bound by all terms, conditions and other provisions of the RFO Documents.
- b) Respondent has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the RFO, the RFO Documents, and these RFO Instructions, including any exhibits, attachments, and appendices to such documents.
- c) Respondent has obtained all necessary authorizations, approvals and waivers, if any, required by Respondent to submit its Offer and, (a) required to enter into and execute, if necessary, any necessary Enabling Agreements in the form of the applicable Enabling Agreements negotiated with SCE and (b) required to enter into a Transaction with SCE under the applicable executed Enabling Agreement (if required) for the respective products, in the form of the Confirmation, as applicable, negotiated with SCE.
- d) Respondent's Offer complies with all applicable laws and regulations.
- e) Respondent (a) has not engaged, and covenants that it will not engage, in any communications with any other actual or potential participant in the RFO concerning this solicitation, price terms in Respondent's Offer, or related matters, without disclosure to SCE and a waiver by SCE of any applicable confidentiality provisions, including, but not limited to those set forth in the Confidentiality Agreement and these RFO Instructions, and (b) has not engaged in collusion or other unlawful or unfair business practices in connection with this RFO.
- f) Each Offer submitted by Respondent (a) is a Offer subject only to SCE's contingent selection, in SCE's sole discretion, and (b) in the event there is any dispute related to the terms of any such Offer, such dispute shall be resolved in accordance with the terms of the dispute resolution provisions set forth in the RFO Documents which were part of such Offer.
- g) The information and documents submitted by Respondent to SCE in connection with this RFO are true and accurate as of the date of Respondent's Offer submittal. Respondent covenants that it will promptly update such information upon any material change thereto.

### **13. Respondent's Offer & Acknowledgement**

By participating in this RFO, including, without limitation, by submitting an Offer, Respondent acknowledges and agrees that:

- a) SCE may rely upon all of Respondent's representations, warranties, and covenants in this RFO (including, without limitation, in these RFO Instructions, in the RFO Documents and in any Offer submitted by Respondent);
- b) SCE may disclose information as set forth in the Confidentiality Agreement and as described in these RFO Instructions; and
- c) In SCE's evaluation of Offers pursuant to this RFO, SCE has the right to disqualify a Respondent that is unwilling or unable to meet SCE's credit requirements, or any other requirements of this RFO, as determined by SCE in its sole discretion.

BY PARTICIPATING IN THIS RFO, INCLUDING, WITHOUT LIMITATION, BY SUBMITTING AN OFFER, RESPONDENT ACKNOWLEDGES AND AGREES THAT ANY BREACH BY RESPONDENT OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE RFO INSTRUCTIONS AND ALL OTHER RFO DOCUMENTS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH RESPONDENT, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO SCE UNDER APPLICABLE LAW, AND DEPENDING ON THE NATURE OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE RFO IN ITS ENTIRETY, OR FOR PROHIBITING RESPONDENT FROM PARTICIPATING IN FUTURE SOLICITATIONS OR PLACING ADDITIONAL REQUIREMENTS ON RESPONDENT IN FUTURE SOLICITATIONS.

## 14. Exhibits

Exhibit A – SCE Non-Disclosure Agreement

Exhibit B1 – SCE Pro Forma RA Confirmation

Exhibit B2 – SCE Pro Forma Import Capability Transfer Confirmation

Exhibit C – SCE CHP Agreement

Exhibit D – SCE Tolling Agreement

Exhibit E – **Enabling Agreements**

E1 – EEI Master Power Purchase & Sale Agreement Cover

E2 – Sheet EEI Paragraph 10 to the Collateral Annex

E3 – EEI FTAA Special Provision

Exhibit F – Certificate of Authority

Exhibit G – Offers Workbooks

G1 – Offers Workbook for RA Capacity and/or IAR

G2 – Offers Workbook for Gas-Fired Generation (GFG) Units

G3 – Offers Workbook for CHP Units

G4 – Offers Workbook for Distributed Generation (DG) Units

G5 – Offers Workbook for Energy Storage (ES) Projects

G6 – Offers Workbook for Distributed Generation with Energy Storage