

**Responses to Questions Received Regarding
Water Rate Board's Request for Proposals
To Serve as Public Advocate (Op # 21150914145606)**

1. Part I, Section D of the RFP states that the Rate Board is seeking a Public Advocate to represent the Small User during the Rate Proceedings and that the selected contractor would participate in the technical hearings. This type of language seems to indicate the selected contractor needs to be a utility rate and finance expert. However, in Part II, Section C, the description of services seems to be more legal in nature with language such as "conduct discovery", "interrogation", "coordinate testimony", "redirect examination of all witnesses", "cross-examine witnesses", "prepare briefs", etc. For the role of Public Advocate, is the City looking for a utility rate expert or an attorney with utility rate and regulatory experience?

This is the first rate proceeding to be conducted before the Rate Board. Historically, the role of Public Advocate has been filled by attorneys in proceedings before the Water Commissioner, and some attorneys will be qualified to fill the role. Indeed, the Rate Board is likely to prefer proposals from attorneys, all else being equal, who have utility rate expertise either within the law firm or available via subcontract. (See also response to Question 5.) However, the Rate Board believes the new legislation mandates a process that is both shorter and less litigious, and that it might be possible for a nonlawyer to serve as Public Advocate. Accordingly, the Board also would consider proposals from utility rate and finance experts who demonstrate similar or superior ability to handle all required tasks in the necessary proceedings.

Utility rate and finance experts also may wish to consider applying for the role of Technical Expert to the Rate Board (see Opportunity # 21150914112154). No expert may serve both as an expert retained (as a subcontractor) by the Public Advocate and as a Technical Expert retained by the Rate Board in the same rate proceeding.

2. Part II, Section H of the RFP is asking for a cost proposal based on the number of hours and hourly rates for completing the necessary tasks. However, the descriptions for many of the required tasks are somewhat open-ended and not specifically defined. This makes it very difficult to provide a cost proposal. Would it be acceptable to provide a schedule of hourly rates in the proposal, but include a statement that the project cost will be negotiated in accordance with the final agreed upon scope of services?

Yes, a proposal that provides fixed hourly rates and a range of estimated costs for various project tasks could be acceptable. These costs and the total contract amount may be subject to negotiation, though the contract must include a not-to-exceed amount.

3. Are all "Small Users" (as defined in the RFP) expected to have 5/8" residential meters, and pay the same service charges under current and proposed rates? If not, will the City provide an estimate the number of customers within the "Small Users" class who are served by larger meters and/or using Residential Fire Sprinkler System Meters?

Not all "small users" will have 5/8" meters, however the vast majority of both the residential customers and the small business customers for whom the Public Advocate is engaged will have 5/8" meters. For example there are only roughly 1400 customers in the Residential Fire Sprinkler System class, and the City's best estimate is that less than one percent (1%) of residential customers have a meter size great than 5/8". Accordingly, the Public Advocate's primary focus should be on the 5/8" rate.

4. Please explain what the City means by "customer group" and "subgroup" in Section I.3 ("Conflict of Interest").

"Customer group" means the class of small users that the Public Advocate is charged with representing. Some subgroups within that group may have some interests that are adverse to certain interests of other subgroups, as for example tenants and landlords. If a potential Public Advocate routinely represents the members or interests of any particular subgroup, it should explain why it can effectively represent the interests of the entire customer group – including subgroups it does not normally represent – in proceedings before the Rate Board.

5. How does the Board envision experts will provide testimony for the Public Advocate as anticipated under the scope of work given that subcontracting is not permitted pursuant to Section III.A.8? (Traditionally, the Public Advocate's experts have served pursuant to subcontracts.)

The prohibition on subcontracting should have been written more narrowly to clarify that it does not prohibit the engagement of expert witnesses. The prohibition is only against subcontracting the other services to be provided by the Public Advocate. Section 3.5 of the General Provisions will govern any permissible subcontracting.