



TRANSBAY JOINT POWERS AUTHORITY

REQUEST FOR PROPOSALS No. 17-11 INFORMATION SECURITY/CYBERSECURITY SERVICES

The following question was no. 14 in the second Q&A set:

Q: In Section 6.2 of the RFP, the TJPA requires offerors to provide cost details relating to direct labor rates and indirect rate information in the form of overhead and proposed fee/profit levels. For most firms, information of this nature is considered highly proprietary and confidential where release into the public domain would cause foreseeable competitive harm to the offeror and their proposed team. Accordingly, we respectfully request that TJPA confirm that cost and pricing data related to the proposal and subsequent invoicing will be protected from public disclosure. If the TJPA cannot ensure protection of the forgoing cost and pricing data from public disclosure, it is requested that the requirements and instructions set forth in RFP Section 6.2 be removed and replaced with instruction that allows offerors to propose pricing consistent with their standard commercial pricing practices.

A: See RFP General Conditions Item I, Public Disclosure. Proposals, contracts, and invoices are all public information subject to disclosure upon TJPA's receipt of a request.

TJPA has received further communication from a potential respondent regarding confidentiality of pricing information and thus provides this information to all potential respondents:

Please note that a proposal submitted without pricing information will be considered unresponsive to the RFP.

If TJPA receives a public records request for portions of proposals marked as confidential and received in response to the RFP, TJPA will first reach out to the respective proposer. Proposers have an opportunity at that time to timely provide an explanation as to why they believe all or a portion of their proposal meets an exception under the California Public Records Act (CPRA). Here is a link to the [PRA](#)¹.

Please be aware that TJPA does not believe that case law and legislative history support a broad exemption of all corporate financial records from disclosure. Assembly Bill 1158 (1995) passed and was codified as Govt Code 6254.15. The legislature explained that the purpose of 6254.15 was to "add an exception for certain records relating to the retention, location, relocation, or

¹ If the link does not work, search for California Government Code, Title 1, Division 7, Chapter 3.5.

expansion of a company within California”. The history explains that 6254.15 was specifically intended to resolve a concern of the California Trade and Commerce Agency whose purpose was to assist companies wishing to locate in the state. That agency was concerned that if it had to release sensitive information provided by companies looking to locate in California, it would have a devastating impact on the retention/expansion efforts of that agency. Nonetheless, we remain open to hearing any proposer’s analysis of why this or any other provision of the CPRA protects the particular documents at issue from disclosure.

And even if TJPA does not believe that an exemption from the CPRA is merited, TJPA will withhold the marked record and provide only a redacted version of the proposal **if** the proposer is willing to defend and indemnify the TJPA for any claims that arise out of TJPA withholding the record(s).

Thank you for your continued interest. We look forward to receiving your proposals by Thursday, 1/11, no later than 5:00 p.m. Pacific. As a reminder, late proposals will not be accepted.