



# **2020 Demand Response Auction Mechanism (DRAM) Request for Offers Solicitation Protocol**

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## I. Overview

### A. Overview

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Pacific Gas and Electric Company (“PG&E”) is issuing this 2020 Demand Response Auction Mechanism (“DRAM”) Request for Offers (“RFO”) (collectively, the “2020 DRAM RFO”) for the extension of the DRAM pilot, pursuant to the California Public Utility Commission (“CPUC”) Decision (“D.”) 19-07-009. This DRAM RFO is intended to solicit offers (“Offers”) from participants in the RFO (“Participants” or “Bidders”) to provide resource adequacy (“RA”) capacity (“Product”) to the three Investor Owned Utilities (“IOUs”) under a standard form, non-negotiable purchase agreement (“PA”). This document (the “Solicitation Protocol”) describes the process by which PG&E seeks, evaluates, and accepts Offers from successful Participants (“Sellers”) who will bid Proxy Demand Resources (“PDR”) into the California Independent System Operator (“CAISO”) wholesale market.

The 2020 DRAM RFO is governed by CPUC D. 19-07-009, as modified by D.19-09-041, which instructs the IOUs to procure 2020 capacity from conforming offers up to their authorized budget caps (\$5.70 million for PG&E). The IOUs are also not obligated to select offers that exceed the long-term avoided cost of generation or offers that have outliers for one or more of the monthly capacity prices.

All purchases will be made according to the terms and conditions set forth in the PA. This Solicitation Protocol sets forth the procedures a Bidder must follow in order to participate in this RFO. Capitalized terms used in this Solicitation Protocol, but not otherwise defined herein, have the meanings set forth in the PA.

### B. DRAM RFO Website and Communication

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PG&E has established the 2020 DRAM RFO website at [www.pge.com/dram](http://www.pge.com/dram), where Bidders are to register and where all the RFO documents, information, announcements and questions and answers are posted and available to Bidders.

To promote accuracy and consistency of the information provided to all Bidders, PG&E encourages Bidders to submit any inquiries via e-mail to [DRAMRFO@pge.com](mailto:DRAMRFO@pge.com) for matters related to DRAM procurement. With respect to matters of general interest raised by any Bidder, PG&E may, without reference to the specific Bidder raising such matter or initiating the inquiry, post the questions and responses on its website. PG&E may, in its sole discretion, decline to respond to any email or other inquiry.

Any exchange of material information regarding this RFO between Bidder and PG&E must be submitted to both PG&E and the Independent Evaluator (“IE”), Wayne Oliver of Merrimack Energy Group, at [waynejoliver26@gmail.com](mailto:waynejoliver26@gmail.com) and

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Keith Oliver of Merrimack Energy Group, [at kjoliver33@gmail.com](mailto:kjoliver33@gmail.com). The IE is an independent, third party evaluator who is required by D. 14-12-024 to ensure this RFO is conducted in a reasonable and neutral manner.

**C. Schedule**

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The RFO schedule is subject to change, if necessary, to conform with any CPUC requirements or at the discretion of PG&E. PG&E will post any schedule change on PG&E’s 2020 DRAM RFO website. Also, as further described below, Bidders can register at PG&E’s RFO website to receive notice of these and other RFO changes by electronic mail. PG&E will have no liability or responsibility to any Bidder for any change to the schedule or for failing to provide notice of any change.

The expected schedule for this RFO is (all times are in Pacific Prevailing Time [“PPT”]):

**Table 1: 2020 DRAM RFO Schedule of Events**

<b>Date/Time</b>	<b>Event</b>
Ongoing	Bidders may register online at PG&E’s DRAM RFO website to receive notices regarding the 2020 DRAM RFO.
October 11, 2019	PG&E issues the RFO.
October 18, 2019 10:00 A.M.	IOUs hold a joint Bidders’ Webinar regarding the RFO.
November 7, 2019 1:00 P.M.	Offers due. Offer(s) must be submitted to the online platform at Power Advocate.
November 11, 2019	PG&E notifies non-conforming Bidders with a request to “cure”.
November 18, 2019	Bidder cure period ends.
December 10, 2019	Notice to bidders of selection. Send final PA for execution.
December 17, 2019	Deadline to submit signed PAs to PG&E.
January 10, 2020	Advice Letter submittal to CPUC with executed PAs.

**D. Events in the RFO Schedule**

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- a. Registration. Bidders can register online to receive announcements and updates about this RFO at the following link.  
<https://www.surveymonkey.com/r/DRAMregistration>

All Bidders who plan to participate in this DRAM RFO must also register with the online platform, Power Advocate, prior to submitting bids. More information on Power Advocate is provided in Section V.A, Submission Overview, below.

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- b. Issuance. PG&E will issue the 2020 DRAM RFO and post the Solicitation Protocol, form of PA, and all other RFO materials on the DRAM RFO website.
- c. Bidders' Webinar. PG&E, SCE and SDG&E will hold a Bidders' Webinar to review key Solicitation Protocol and PA items related to this RFO. Information on how to attend the Webinar will be made available on the RFO website and to those who register on the RFO website shown above.
- d. Offers Due. Bidder's Offer must be submitted via Power Advocate and must include all of the documents described in Section V, Required Information. By submitting an Offer and responding to this RFO, the Bidder agrees to be bound by all of the terms, conditions and other provisions of this RFO and any changes or supplements to it that may be issued by PG&E.
- e. Cure Period. At PG&E's sole discretion, PG&E may allow Bidder to cure any deficiencies contained in its Offer submittal. A Bidder's cure shall be limited only to those areas or issues which PG&E designates as eligible to be cured. If such cure is allowed, the deficiency must be cured prior to the November 18, 2019 deadline.
- f. PG&E Selects Offers. Bidders whose Offers have been selected ("Selected Offers") will be notified via email. PG&E will select Offers according to the evaluation criteria described in Section IV, Evaluation Criteria. Offers beyond the Selected Offers may be placed on a waitlist to be selected in order of evaluation results and selection constraints, should any Selected Offers fail to complete the RFO process.
- g. Preparation of PA. PG&E will prepare a final version of the PA corresponding to each Selected Offer, completing information specific to the Selected Offer, and will then send the PA to Bidder of the Selected Offer for completion and signature in accordance with the directions found in Section V, Required Information.
- h. Signed PA Due. Unless instructed otherwise by PG&E, December 17, 2019 is the last day for selected Bidders to submit the signed PA to PG&E, or to notify PG&E if Bidder elects not to execute the PA. Bidders are encouraged to return the executed PAs to PG&E several days prior to this date, in case PG&E finds that corrections need to be made.
- i. Execution and Regulatory Approval. Once PG&E fully executes each of the PAs, if any, resulting from this RFO, PG&E will submit all such PAs to the CPUC for approval via a Tier 1 Advice Letter filing. Additional regulatory approval information is provided in Section VIII, Regulatory Approval.

**E. Disclaimers for Rejecting Offers and/or Terminating this RFO**

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This RFO does not constitute an offer to buy and creates no obligation to execute any PA or to enter into a transaction under a PA as a consequence of the RFO. PG&E shall retain the right at any time, at its sole discretion, to reject any Offer on the grounds that it does not conform to the terms and conditions of this RFO, including without limitation, the confidentiality requirements described in Section VI, Confidentiality, and reserves the right to request information at any time during the solicitation process.

PG&E retains the discretion, if necessary, subject to the approval of the CPUC, to: (a) reject any Offer for any reason, including but not limited to the basis that an Offer is the result of market manipulation or is not cost competitive or any other applicable reason; (b) modify this RFO and the form PA as it deems appropriate to implement the RFO and to comply with applicable law or other decisions or direction provided by the CPUC; and (c) terminate the RFO should the CPUC not authorize PG&E to purchase Products in the manner proposed in this RFO. In addition, PG&E reserves the right to either suspend or terminate this RFO at any time if such suspension is required by or with the approval of the CPUC. PG&E will not be liable in any way, by reason of such withdrawal, rejection, suspension, termination or any other action described in this Solicitation Protocol to any Bidder, whether submitting an Offer or not.

**II. RFO Goals**

PG&E is seeking to procure System and Flexible RA capacity in this RFO. At least 10% of the total MW procured will be attributed to New Market Entrants<sup>1</sup> to the extent possible given which offers are within both the CPUC approved budget and other constraints.

**III. Eligibility**

**A. Eligibility of Customers**

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1. Customers in Existing PG&E DR Programs

Participation in the DRAM or any CAISO market product is precluded if a customer within a Bidder's PDR is also enrolled in a PG&E DR program. To facilitate these customers participating in DRAM, SmartAC customers are

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<sup>1</sup> Per D.19-07-009, p. 44, a new market entrant is defined as a Provider who has not integrated any demand response resources into the CAISO market during the three years prior to a new Auction Mechanism solicitation involving any form of market-integrated demand response including but not limited to the Demand Response Auction Mechanism or other resource adequacy contracts.

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allowed to de-enroll from the SmartAC program prior to completing their 12 month participation agreement. Other customers enrolled in a PG&E DR program who would like to participate in DRAM must de-enroll in accordance with that program's current customer removal process. Customer removal processes for PG&E's tariffed DR programs are detailed in the "DRAM Set-Asides" document on the DRAM RFO website.

2. Customers with Back-up Generation or Other Prohibited Resources

In accordance with D.16-09-056, residential customers are prohibited from using Prohibited Resources<sup>2</sup> to reduce load during demand response events.

Non-residential customers are prohibited from using Prohibited Resources to reduce load during demand response events unless the use of Prohibited Resources is required for operational, health, or safety reasons. In this latter case, the amount of Product that the customer can receive an incentive for will be reduced by the nameplate capacity of the Prohibited Resource (or, if the customer has multiple Prohibited Resources, by the sum of the nameplate capacity values from all Prohibited Resources on the site), regardless of whether the Prohibited Resource was actually used. DRPs must collect attestations from non-residential customers regarding such use of Prohibited Resources, store such attestations, and make them available upon request to the CPUC, the Verification Administrator, or PG&E.

DRPs must be able to demonstrate to PG&E how they are enforcing this Prohibited Resources prohibition in accordance with the DRAM PA. In addition, DRPs must comply with any Prohibited Resource audit verification plan that is developed in accordance with D.16-09-056 and approved by the Commission.<sup>3</sup> More information on Prohibited Resources requirements is provided in Section 7.2(b)(v) and Section 9.1(b)(v) of the 2020 DRAM PA.

**B. Electric Rule 24**

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[Electric Rule 24](#) ("Rule 24") governs how PG&E interacts with third party DRPs for provision of customer information and enrollment of customer service

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<sup>2</sup> "Prohibited Resource" is defined in the DRAM PA as a distributed generation technology using diesel, natural gas, gasoline, propane, or liquefied petroleum gas, in topping cycle Combined Heat and Power (CHP) or non-CHP configuration ("Prohibited Resources"). The following resources are exempt: pressure reduction turbines and waste-heat-to-power bottoming cycle CHP, resources using renewable fuels (i.e. renewable gas, renewable diesel, and biodiesel) that have received certification from the California Air Resources Board, as well as energy storage resources not coupled with fossil fueled resources.

<sup>3</sup> A CPUC resolution or decision adopting such an audit verification plan has not yet been issued as of the date of issuance for this RFO, and will not be expected to be finalized prior to when bids are due. Thus, PG&E will continue the exemption on the installation of additional interval metering for verification purposes, unless the Commission states otherwise in a forthcoming resolution or decision.



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agreements in the CAISO DR systems. The DRAM is subject to the provisions of Rule 24, and any limitations authorized by the CPUC relative to its implementation. The DRAM is a PG&E Demand Response (DR) procurement mechanism, but winning Sellers will need to use Rule 24 to obtain customer information for performance under their DRAM contracts.

PG&E has implemented projects to support 75,000 Rule 24 third party DRP locations.<sup>4</sup> PG&E recently received approval to accommodate a total of 200,000 Rule 24 third party DRP locations. PG&E will soon initiate work to enable this increased capacity, and PG&E's existing systems will be able to accommodate a moderate level of registration volumes exceeding the currently implemented 75,000 registration step. PG&E considers this 200,000 registration level sufficient to support the extension of DRAM through 2023, including this 2020 DRAM RFO.<sup>5</sup> These registration numbers are dynamic, and do not serve to limit bid evaluation and selection.

Some of the Rule 24 requirements that DRPs must satisfy before they can provide DR Services in PG&E's territory include:

- Complete a Customer Information Service Request for Demand Response Providers ("CISR-DRP") as defined in Rule 24. This includes Form 79-1152, available on the DRAM website, or through PG&E's electronic authorization "click-through" process.<sup>6</sup> Through the CISR-DRP, customers authorize the release of their personally identifiable PG&E account and electricity usage information to a third-party DRP (and up to one additional partnering DRP).
- Complete PG&E's Demand Response Provider Service Agreement – Form 79-1160 (required only if the DRP will be serving PG&E bundled customers).
- Register with the CPUC and maintain a valid DRP registration at the CPUC (required only if the DRP will be serving PG&E bundled customers).

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<sup>4</sup> Each customer location, referred to as a "Rule 24 registration," that participates in a third party DRP's aggregation and bid into the CAISO wholesale market must be registered at the CAISO. Once an IOU receives authorization from a customer to release its data to a DRP or partnering DRPs via the completed CISR-DRP form or the click-through process, IOUs are required to provide DRPs with customer usage data, which the DRPs and their scheduling coordinators use to develop settlement quality meter data (SQMD) in order to settle transactions with the CAISO. This authorization was in CPUC Resolution E-4837.

<sup>5</sup> In terms of meter reprogramming, PG&E's Advice 5446-E also requests Commission approval to continue to utilize existing cost recovery originally approved for residential meter reprogramming within the Intermediate Implementation step for this 200,000-registration capacity. PG&E believes that existing funding authorizations continue to be sufficient to support over-the-air meter reprogramming for the residential customers within the 200,000 level of registrations, where PG&E is the meter service provider (MSP) and meter data management agent (MDMA).

<sup>6</sup> Click-through is an authorized electronic authorization process that the customer starts on a third-party DRP's website, then directs to PG&E's website to authorize the release of their personal energy-related information, and returns the customer back to the third-party DRP's website to continue the DRP's enrollment flow. PG&E implemented the click-through online electronic customer authorization process in February 2018, in accordance with CPUC Resolution E-4868. Subsequently, PG&E submitted Application (A.) 18-11-015 to request Commission approval for enhancements to this process, as ordered in CPUC Resolution E-4868.

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- Provide the CPUC a performance bond under the name of the CPUC as a security deposit or financial guarantee bond in the amount indicated in Rule 24, for PG&E’s residential and small commercial customers that the DRPs register.
- Execute necessary service agreements for registering resources with the CAISO.
- Meet all CAISO requirements for the DRP and maintain their registration as a qualified DRP.

For a full list of Rule 24 requirements, refer to the Electric Rule 24 tariff that is hyperlinked above, as well as [PG&E’s Rule 24 website for third-party DRPs/Aggregators](#). The total number of Rule 24 registrations used and available for third-party DRPs/Aggregators will be posted regularly on this website.

**C. Eligible Product Types**

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PG&E will accept System and Flexible Capacity Products in the 2020 DRAM RFO.

System Capacity Product shall be bid as PDR.

Flexible Capacity Product may be Category 1 (base ramping), Category 2 (peak ramping), or Category 3 (super-peak ramping), and must meet the qualifications set forth in the CAISO’s most recent tariff. As of the date of these protocols, see [CAISO’s Fifth Replacement Tariff \(CAISO Tariff\)](#) section 40.10.3 to determine its respective category. Flexible Capacity Product must be bid as a PDR.

All Capacity Products must meet the must-offer-obligations set forth in the CAISO Tariff section 40.6 based on their respective resource classification (e.g., PDR). The availability of all Capacity Products will be assessed by CAISO as set forth in CAISO Tariff section 40.9. Additionally, the “Availability Assessment Hours” as defined in CAISO Tariff section 40.9.3 are determined on an annual basis and, as a result, could change based on the needs of the system.

Products that may be bid into the 2020 DRAM RFO are listed in Table 3, below.

**Table 3: Eligible Products for the 2020 DRAM RFO**

	<b>Product</b>
<input type="checkbox"/>	Product A: System Capacity
<input type="checkbox"/>	Product C1-0: Flexible Capacity (Flexible Category 1) with System Capacity
<input type="checkbox"/>	Product C2-0: Flexible Capacity (Flexible Category 2) with System Capacity
<input type="checkbox"/>	Product C3-0: Flexible Capacity (Flexible Category 3) with System Capacity

**D. Offer Requirements and Acceptance Limitations**

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1. In order to participate in the CAISO market, each CAISO resource must be: (1) at least 100 kW per PDR; (2) composed of retail customers within PG&E's service territory; and (3) within the same CAISO Sub Load Aggregation Point (SubLap), as that term is defined in the CAISO Tariff.
2. At a minimum, each Bidder's Offer must include Product for August 2020.
3. A single Offer may consist of multiple PDRs.
4. Each Bidder's Offer may contain a portfolio of Product types. For example, one Bidder's Offer may comprise 5 MW of System Capacity as well as 2 MW of Flexible Capacity (Flexible Category 3) with System Capacity, using a unique customer set for each of these Products.
5. A maximum of 20 Offers may be accepted per Bidder. All Offers should be provided on a single, Offer form spreadsheet (see Attachment A).
6. The monthly Offer maximum is 10 MW per Offer.
7. If PG&E selects multiple Offers from a Bidder, PG&E may stipulate the order in which the offers must be accepted by Bidder, based on PG&E's offer ranking methodology. For example, if a Bidder's offer #1 has greater Net Market Value (described in Section IV, Evaluation Criteria, below) to PG&E than the Bidder's offer #2, PG&E may stipulate that the Bidder cannot contract for offer #2 unless it also contracts for offer #1.
8. PG&E will presume all Bidders' Offers are independent of each other. If this is not the case, it must be explained in the Offer Form.
9. Offers may be for Residential Customer or Non-residential Customer Products, and must be identified as such in the Offer Form. A Residential Product is that which is defined in the CPUC Resolution E-4728 as: "a minimum of 90% of customers on residential tariffs and no more than 10 percent of customers on small commercial tariffs."
10. Bidders must self-identify qualification as a New Market Entrant in the Offer Form utilizing the CPUC-approved definition: a new market entrant is defined as a Provider who has not integrated any demand response resources into the CAISO market during the three years prior to a new Auction Mechanism solicitation involving any form of market-integrated demand response including, but not limited to, the Demand Response Auction Mechanism or other resource adequacy contracts. PG&E may request additional information for verification purposes.

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11. PG&E's acceptance of Offers will be subject to the CPUC's budget limitation.
12. PG&E's acceptance of Offers is subject to the CPUC requirement that at least 10% of all MW procured come from New Market Entrant bids, unless this is impossible due to bids received, the CPUC-approved budget, or other price constraints approved in D.19-07-009.

**E. Purchase Agreement (PA) Terms**

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1. The Delivery Period(s) this RFO's Products will be no earlier than June 1, 2020 and no later than December 31, 2020.
2. Each Bidder must submit its Offer, via the Attachment A, Offer Form, providing a Monthly Quantity (Capacity kW) and Contract Price (\$/kW) for each applicable Showing Month (June 2020 – December 2020). If the Bidder does not wish to offer Product during a particular month, excluding August 2020, it should include a zero for that month in their Offer Form.
3. If a Seller does not have a credit rating by S&P or Moody's, or its credit rating is below BBB- from S&P and Baa3 from Moody's if rated by both S&P and Moody's, Seller shall provide and maintain collateral with PG&E per the terms of the PA.
4. The PA is a non-negotiable form agreement.

**IV. Evaluation Criteria**

PG&E will evaluate and rank conforming Offers using the quantitative and qualitative criteria outlined below.

**A. Quantitative Evaluation**

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PG&E will perform a quantitative evaluation of each conforming Offer and rank those Offers based on each Offer's Net Market Value (NMV) per unit—from highest to lowest—in dollars per kilowatt-contract term (\$/kW-contract term). The NMV in \$/kW-contract term is calculated using total NMV in dollars for the numerator, and total offered monthly volume in kilowatts for the denominator to get volume weighted average NMV in \$/kW-contract term, which is then multiplied by 7. The result of the quantitative analysis is a merit-order ranking of all complete and conforming Offers. Illustrative formulas are provided below.

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Net Market Value<sup>7</sup> = Benefits – Costs

Benefits = Sum of (Offered Volume<sub>P</sub> x Product Value<sub>P</sub>) where *P* is each Product

Costs = Sum of (Offered Volume<sub>P</sub> x Offered Pricing<sub>P</sub>), where *P* is each Product

Net Market Value per Unit in \$/kW-contract term = Net Market Value in dollars divided by Total Offered Monthly Volume in kilowatts and multiplied by 7

PG&E will calculate an Offer's benefits using its forecast capacity market value of each type of Product in the Offer, e.g., System Capacity and/or Flexible Capacity.

An Offer's cost will be determined by multiplying (a) the Offer's volume per Product per month by (b) the Offer's price per Product per month, then adding all of these monthly values together.

An individual Offer can contain multiple types of Products on multiple rows in the Offer Form.

**B. Qualitative Evaluation**

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For the 2020 DRAM RFO, PG&E will apply to each Offer's cost, as appropriate, an adjustment based on the joint IOU DRAM qualitative assessment scoring matrix (Table 4, Qualitative Evaluation Scoring Matrix). An Offer's cost in the Net Market Value will be adjusted with the following formula.

Adjusted Cost<sub>O</sub> = Cost<sub>O</sub> multiplied by Qualitative Factor Adjustment<sub>O</sub>

where:

Qualitative Factor Adjustment<sub>O</sub> = 1 + sum of (score<sub>F,O</sub> multiplied by weight<sub>F,O</sub>)

and

*F* is each Qualitative Factor.

*O* is each Offer.

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<sup>7</sup> Monthly discounting is applied to benefits and costs using PG&E's after-tax weighted average cost of capital.

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**Table 4: Qualitative Evaluation Scoring Matrix**

	Answer	Score		Weight	Weighted Score
		Yes	No	PG&E	(Score x Weight)
<b>Small Business</b>					
Are you a certified Small Business?*	Yes/No	1	0	-1%	
<b>Prior Experience</b>					
Have you willfully terminated or defaulted on your most recent DRAM PA? <i>or</i> Have you submitted offers that demonstrated bidding behavior providing clear evidence of market manipulation or collusion? <sup>8</sup>	Yes/No	1	0	15% cost if any or multiple of these conditions are met	
Have you not signed a DRAM PA when extended a shortlist offer on your most recent submitted offer? <i>Or</i> If you currently have or previously had a 2019, 2018-2019, or 2017 DRAM contract, have you delivered Supply Plans to the IOUs for DRAM totaling, in aggregate, less than 50% of the contracted capacity for all months in your most recent DRAM contract term, at the time of offer submittal? <sup>9</sup>	Yes/No	1	0	5% cost if any or multiple of these conditions are met	

\*For information about Small Business standards, please refer to one of the following sites:

- (1) [California Department of General Services](#)
- (2) [Small Business Administration](#)

**C. Selection Criteria**

DRAM Offers will be selected according to the following method:

- i. Offers shall be ranked by NMV, adjusted for the qualitative criteria.
- ii. PG&E shall select Offers up to the authorized budget, net administrative costs.
- iii. PG&E may elect to not select an Offer if:
  - a. The Offer’s price is above the long-term avoided cost of generation\*
  - b. One or more of the monthly capacity prices of the Offer are outliers\*

\*The IOUs shall make such exceptions in consultation with its Procurement Review Group and with approval of the Energy Division.

<sup>8</sup> This criteria must be applied in agreement with the Energy Division and the Independent Evaluator (IE) for DRAM.

<sup>9</sup> For example, if you have a 2019 DRAM contract and also had a 2017 DRAM contract, then the 2019 DRAM contract would be applicable for the assessment of this qualitative criteria.

## D. Qualifying Capacity Assessment

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In order to comply with D.19-07-009, bidders are required to submit estimates of qualifying capacity (QC) for each offer submitted into the DRAM solicitation. These estimates shall be based on historical information, where available, and otherwise, publicly available performance data that best represents the anticipated performance of the resource. A bidder's failure to provide this information would not comply with D.19-07-009, which would disqualify the bidder's offer. Firewalled staff at PG&E is required to review the bidder's QC estimates, and may not share such information with PG&E staff that manage PG&E's demand response programs.

## V. Required Information

### A. Submission Overview

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All Offer submittal information pertaining to this RFO will be hosted on the Power Advocate site. Telephonic, hardcopy or facsimile transmission of an Offer is not acceptable. In order to participate in this RFO, Bidders must register and be accepted through Power Advocate at the Public Registration Link:

<https://www.poweradvocate.com/pR.do?okey=97324&pubEvent=true>

Event Name:

97324 : 2020 DRAM RFO

PG&E strongly encourages Bidders to register with Power Advocate well before Offers are due. Detailed instructions for submitting Offer(s) and using Power Advocate are on PG&E's DRAM website.

**Electronic Documents:** The electronic documents for the attachments must be in a Microsoft Word, Microsoft Excel file or Adobe Acrobat PDF file, as applicable. For each document, please include the Bidder's company name in each file name.

### Required Forms

#### 1. Offer Package

The following documents, which are on the DRAM RFO website, must be completed and included with each Offer:

- a. Offer Form (Attachment A) - Bidder must provide all applicable information requested in the form, except for the information requested in the "Optional Additional Information" tab which is voluntary. All inputs must match the respective information provided in other required documentation.

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- b. Corporate Structure information (Attachment B).
- c. Financial reports – Bidder shall provide PG&E with its audited financial reports for the most recent three fiscal years, if available. If the Bidder does not provide this information and its financial reports are not publicly available electronically on the Securities and Exchange Commission’s website, then the Bidder will be considered as having no financials.
- d. Qualifying Capacity (QC) Assessment (Attachment D) – Bidder must provide all applicable information requested in the form per Offer, in accordance with D.19-07-009, as modified by D.19-09-041.<sup>10</sup> The information contained within this attachment will be firewalled from certain DR staff in accordance with D.19-07-009. Failure to provide this information would not comply with D.19-07-009, which would disqualify the bidder.

**2. Post-Shortlist Documents (if applicable)**

If the Bidder is notified via an emailed letter that they are eligible for PG&E’s Shortlist (“Shortlist Letter”), then they must complete the following documents:

- a. Signed Shortlist Letter – Bidder must return a signed Shortlist Letter to PG&E, accepting the terms set forth in the Letter and agreeing to continued participation of their shortlisted Offers in the 2020 DRAM RFO.
- b. Complete and signed Purchase Agreement – PG&E will send the PA to the Bidder for the Selected Offers as an electronic Word file. The Bidder shall fill in the contact information, and ensure that the Bidder’s name, Product amounts, types, and prices correctly reflect the Selected Offer(s). The PA shall be saved as a Word document. Bidder shall then sign the PA with at least two original signatures, and send the electronic Word file corresponding to the executed PA to PG&E along with two hard copies containing Seller’s two original signature pages. PG&E will then verify the Word document, and when acceptable, countersign the PA, and return one fully executed original to Bidder by mail.

In lieu of an original signature, PG&E will also accept a signature using Docusign, Adobe eSign, or other similar electronic signature mechanism. If an electronic signature page is used, then Bidder shall

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<sup>10</sup> For instance, all System Capacity - Residential Customer Product Offers may be combined for the purposes of the QC Assessment, but may not be combined with all System Capacity - Non-residential Customer Product Offers. Bidders may elect to provide their QC Assessments per Offer on a voluntary basis.



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provide both a .pdf file with the electronic signature AND the Word file corresponding to PG&E.

If the Bidder is submitting original signatures to the PA, then the executed PAs must be sent to PG&E by overnight delivery to the address shown below.

Pacific Gas and Electric Company  
DRAM RFO  
Attn: Maricar Turner  
245 Market St, 3rd Floor  
Mail Code N3F  
San Francisco, CA 94105

## VI. Confidentiality

After contract execution, PG&E is required to submit executed PAs to the CPUC for approval via a Tier 1 Advice Letter. This advice letter will publicly state the name of the counterparties awarded contracts, as well as the associated product type (i.e., system capacity, flexible capacity (Category 1), flexible capacity (Category 2), or flexible capacity (Category 3)), customer class (i.e., residential or non-residential), contracted capacity (in August MW), and the contract term (i.e., June through December, June through October, etc.). The remaining Seller-specific contract information will be submitted confidentially, pursuant to CPUC decisions and other applicable rules.

**No Bidder shall collaborate on or discuss with any other Bidder or potential Bidder Offer strategies, the substance of any Offer(s), including, without limitation, the price or any other terms or conditions of any Offer(s), or whether PG&E has Selected Offers or not.**

All information and documents in Bidder's Offer that have been clearly identified and marked by Bidder as "Proprietary and Confidential" on each page on which confidential information appears shall be considered confidential information. PG&E shall not disclose such confidential information and documents to any third parties except for PG&E's employees, agents, counsel, accountants, advisors, or contractors who have a need to know such information and have agreed to keep such information confidential and except as provided otherwise in this section. In addition, the Bidder's Offer will be disclosed to the IE.

Notwithstanding the foregoing, it is expressly contemplated that the information and documents submitted by Bidder in connection with this RFO, including Bidder's confidential information, may be provided to the CPUC, its staff, and the Procurement Review Group ("PRG"), established pursuant to D. 02-08-071. PG&E retains the right to disclose any information or documents provided by Bidder to the CPUC, the PRG, the California Energy Commission ("CEC") and to any other entity

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in connection with PG&E's Tier 1 Advice Letter filing or in order to comply with any applicable law, regulation, or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over PG&E at any time even in the absence of a protective order, confidentiality agreement, or nondisclosure agreement, as the case may be, without notification to Bidder and without liability or any responsibility of PG&E to Bidder. PG&E cannot ensure that the CPUC will afford confidential treatment to Bidder's confidential information, or that confidentiality agreement or orders will be obtained from and/or honored by the PRG, the CEC, or the CPUC. By submitting an Offer, Bidder agrees to adhere and be bound by the confidentiality provisions described in this section.

The treatment of confidential information described above shall continue to apply to information related to Selected Offers which are formalized through execution of a PA.

## **VII. Procurement Review Group Review**

Following completion of the evaluation and rankings of Offers, PG&E will submit the results of the evaluation and its recommendations to its PRG members. PG&E will consider any alternative recommendations proposed by the PRG. PG&E, in its sole discretion, shall determine whether any alternatives proposed by the PRG should be adopted. PG&E has no obligation to obtain the concurrence of the PRG with respect to any Offer.

PG&E assumes no responsibility for the actions of the PRG, including actions that may delay or otherwise affect the schedule for this Solicitation, including the timing of the selection of Offers and the obtaining of Regulatory Approval.

## **VIII. Regulatory Approval**

The effectiveness of any executed PA is expressly conditioned on PG&E's receipt of final and non-appealable CPUC approval of such PA ("Regulatory Approval").

## **IX. Dispute Resolution**

Except as expressly set forth in this Solicitation Protocol, by submitting an Offer, Bidder knowingly and voluntarily waives all remedies or damages at law or equity concerning or related in any way to the RFO, the Solicitation Protocol and/or any attachments to the Solicitation Protocol ("Waived Claims"). The assertion of any Waived Claims by Bidder may, to the extent that Bidder's Offer has not already been disqualified, automatically disqualify such Offer from further consideration in the RFO or otherwise.

By submitting an Offer, Bidder agrees that the only forums in which Bidder may

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assert any challenge with respect to the conduct or results of the RFO is through the Alternative Dispute Resolution (“ADR”) services provided by the CPUC pursuant to Resolution ALJ-185, August 25, 2005. The ADR process is voluntary in nature, and does not include processes, such as binding arbitration, that impose a solution on the disputing parties. However, PG&E will consider the use of ADR under the appropriate circumstances. Additional information about this program is available on the CPUC’s website at the following link:

[https://www.cpuc.ca.gov/alternative\\_dispute\\_resolution/](https://www.cpuc.ca.gov/alternative_dispute_resolution/)

Participant further agrees that other than through the ADR process, the only means of challenging the conduct or results of the RFO is a protest to an Advice Letter Filing seeking approval of one or more Agreements entered into as a result of the RFO, that the sole basis for any such protest shall be that PG&E allegedly failed in a material respect to conduct the RFO in accordance with this Solicitation Protocol, and the exclusive remedy available to Bidder in the case of such a protest shall be an order of the CPUC that PG&E again conduct any portion of the RFO that the CPUC determines was not previously conducted in accordance with the Solicitation Protocol. Bidder expressly waives any and all other remedies, including, without limitation, compensatory and/or exemplary damages, restitution, injunctive relief, interest, costs, and/or attorney’s fees. Unless PG&E elects to do otherwise in its sole discretion during the pendency of such a protest or ADR process, the RFO and any related regulatory proceedings related to the RFO, will continue as if the protest had not been filed, unless the CPUC has issued an order suspending the RFO or PG&E has elected to terminate the RFO.

Bidder agrees to indemnify and hold PG&E harmless from any and all claims by any other Bidder asserted in response to the assertion of a Waived Claim by Bidder or as a result of a Bidder’s protest to an advice letter filing with the CPUC resulting from the RFO.

Except as expressly provided in this Solicitation Protocol, nothing herein including Bidder’s waiver of the Waived Claims as set forth above, shall in any way limit or otherwise affect the rights and remedies of PG&E. Nothing in this Solicitation Protocol is intended to prevent any Bidder from informally communicating with the CPUC or its staff regarding this RFO or any other matter.

## **X. Termination of the RFO-Related Matters**

PG&E reserves the right at any time, in its sole discretion, to terminate the RFO for any reason whatsoever without prior notification to Bidders and without liability of any kind to, or responsibility of, PG&E or anyone acting on PG&E’s behalf. Without limitation, grounds for termination of the Solicitation may include the assertion of any Waived Claims by a Bidder or a determination by PG&E that, following evaluation of the Offers, there are no Offers that meet the requirements of this RFO.

PG&E reserves the right to terminate further participation in this process by any Bidder, to accept any Offer or to enter into any Agreement, and to reject any or all

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Offers, all without notice and without assigning any reasons and without liability to PG&E or anyone acting on PG&E's behalf. PG&E shall have no obligation to consider any Offer.

In the event of termination of the RFO for any reason, PG&E will not reimburse Bidder for any expenses incurred in connection with the Solicitation. PG&E shall have no obligation to reimburse any Bidder's expenses regardless of whether such Bidder's Offer is selected, not selected, rejected or disqualified. Unless earlier terminated, the RFO will terminate automatically upon the execution of one or more PAs by selected Bidders as described herein. In the event that no PAs are executed, then the RFO will terminate automatically on January 31, 2020.

## **XI. Bidder's Representations and Warranties**

1. By submitting an Offer and clicking "Yes" to the "Acknowledgment of Protocol" section of the Offer Form, Bidder agrees to be bound by the conditions of the RFO, and makes the following representations, warranties, and covenants to PG&E, which representations, warranties, and covenants shall be deemed to be incorporated in their entireties into each of Bidder's Offers. Bidder agrees that an electronic signature of a duly authorized representative of Bidder shall be the same as delivery of an executed original document for purposes of the Offer Form.
  - Bidder has read, understands and agrees to be bound by all terms, conditions and other provisions of this Solicitation Protocol;
  - Bidder has had the opportunity to seek independent legal and financial advice of its own choosing with respect to the RFO and this Solicitation Protocol, including the submittal forms and documents listed in this Solicitation Protocol which are posted on the RFO website;
  - Bidder warrants herein that the Product Contract Price includes all Bidder's costs of adhering to the provisions of the PA;
  - Bidder has obtained all necessary authorizations, approvals and waivers, if any, required by Bidder to submit its Offer pursuant to the terms of this Solicitation Protocol and to enter into a PA with PG&E;
  - Bidder's Offer complies with all applicable laws;
  - Bidder has not engaged, and covenants that it will not engage, in any communications with any other actual or potential Bidder in the RFO concerning this solicitation, price terms in Bidder's Offer, or related matters and has not engaged in collusion or other unlawful or unfair business practices in connection with the RFO;

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- Any Offer submitted by Bidder is subject only to PG&E's acceptance, in PG&E's sole discretion; and
  - The information submitted by Bidder to PG&E in connection with the RFO and all information submitted as part of any Offer is true and accurate as of the date of Bidder's submission. Bidder also covenants that it will promptly update such information upon any material change thereto.
2. By submitting an Offer, Bidder acknowledges and agrees:
- That PG&E may rely on any or all of Bidder's representations, warranties, and covenants in the RFO (including any Offer submitted by Bidder);
  - That in PG&E's evaluation of Offers pursuant to the RFO, PG&E has the right to disqualify a Bidder that is unwilling or unable to meet any other requirement of the RFO, as determined by PG&E in its sole discretion.
3. BY SUBMITTING AN OFFER, BIDDER HEREBY ACKNOWLEDGES AND AGREES THAT ANY BREACH BY BIDDER OF ANY OF THE REPRESENTATIONS, WARRANTIES AND COVENANTS IN THESE RFO INSTRUCTIONS SHALL CONSTITUTE GROUNDS FOR IMMEDIATE DISQUALIFICATION OF SUCH BIDDER, IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE AVAILABLE TO PG&E UNDER APPLICABLE LAW, AND DEPENDING ON THE NATURE OF THE BREACH, MAY ALSO BE GROUNDS FOR TERMINATING THE RFO IN ITS ENTIRETY.