



REQUEST FOR PROPOSAL

PROFESSIONAL SERVICES

FOR

LEGAL COUNSEL

March 2024

REQUEST FOR PROPOSAL TO PROVIDE LEGAL SERVICES TO SWEETWATER AUTHORITY

Introduction

The Sweetwater Authority Board of Directors is seeking to contract with a legal firm to serve as General Legal Counsel for the Authority. The Authority invites interested law firms with a minimum of ten (10) years of public law experience representing Special Districts, Water Agencies, Sanitation Agencies, or other local governments to submit a written proposal to provide general legal services.

As the Authority's General Legal Counsel (Legal Counsel), the selected law firm will be expected to provide a broad range of general legal services to Sweetwater Authority. The Authority's Legal Counsel is selected to work as an independent contractor working directly for the Board of Directors. Legal Counsel will also work closely with the General Manager and other staff, as required. The Legal Counsel's primary role is to provide expert legal advice to the Authority's Board of Directors and General Manager. The selected firm or firms will perform the tasks as specified within this request for proposal for a three-year term with two one-year options to extend upon mutual agreement.

Background

The Authority is a public agency providing water services. Formed as a Joint Powers Authority in 1977, the Authority currently serves a population of approximately 200,000 in the area of National City, Western Chula Vista, and Bonita.

The Authority's Board of Directors consists of seven members, five (5) Directors from South Bay Irrigation Authority and two (2) Directors appointed by the City of National City. The Board has working committees (Engineering and Operations, Finance and Administration, Water Quality, and Legal Affairs and Communications) that meet usually once per month.

The General Manager, who is appointed by the Board of Directors, is responsible for day-to-day operations and the implementation of policies approved by the Board. The Authority currently employs 138 full-time employees. Its FY2023-24 operating budget is approximately \$53 million. The Authority's fiscal year runs from July 1 of the current year through June 30 of the following year.

Staff has been directed by the Board to solicit proposals from legal firms with the interest and capability to provide a wide breadth and depth of legal resources to the Authority.

Services to be Provided Regularly

- Advice to the Board of Directors and Authority management staff on matters of law including the Brown Act, Government Code, Water Code, Revenue and Taxation Code, conflict of interest issues, the Political Reform Act, Public Records Act, and parliamentary procedures

for running meetings.

- Seek advice from regulatory agencies such as the Fair Political Practices Commission as requested by the Board or management staff.
- Attend all Board meetings unless excused by the Chair or the General Manager.
- Attend Closed Session meetings of the Board unless excused by the Chair or the General Manager.
- Attend other meetings, such as workshops, Committee meetings, etc., as requested by the Board of Directors, General Manager, or other designee.
- Provide regular legal updates on current general topics of interest.
- Advise to the Board of Directors and Authority management staff on commencement or defense of litigation to protect the Authority's interests and litigation of such issues as directed.
- Prepare and/or review ordinances, resolutions, and board packets, as well as contracts, joint powers agreements, other agreements, and contracts entered into by the Authority as requested by the General Manager.
- Provide written updates on new State and Federal legislation and judicial decisions impacting the Authority, evaluate the potential impacts to the Authority and suggest action or changes in operations or procedures to ensure compliance.
- Promptly return all calls and emails from the Board of Directors and the General Manager.

Services to be Provided on an As Needed Basis at the General Manager's Request

- Provide legal assistance and consultation to General Manager or designee as requested on matters of environmental compliance, including CEQA, NEPA, ESA, etc. as they pertain to actions being contemplated by the Authority.
- Provide legal assistance and consultation to the General Manager or designee as requested on matters of property rights and property management, including trespass, encroachment, lessee obligations, easements, and access.
- Provide legal guidance regarding the development and implementation of rate structures for water operations. Specific knowledge of and experience with Proposition 218 is essential.
- Review contracts, bid specifications, and purchasing documents for the purposes of legal and policy compliance, appropriate risk transfer, and risk analysis and avoidance.
- Consult with the General Manager on personnel matters, labor relations matters, litigation, and other matters concerning Authority business as requested (in matters that may not otherwise be covered by Authority agreements with other legal resources).
- Research and submit written legal opinions on special districts or other legal matters concerning Authority business and/or as requested by the Board of Directors or General Manager.
- Enforce Authority regulations through administrative and judicial actions as requested by the General Manager.
- Provide consultation and prepare legal notices at the direction of the General Manager.
- Prepare and review agreements and contracts with developers to ensure Authority's interests are protected.
- Review and comment on Water Supply Assessments and Verifications as needed related to

land development activities.

- Provide legal assistance and consultation to General Manager or designee as requested on matters of Authority long term planning (Master Plan) and Mitigation Fee act for adjustment of Capital Facility Fees.
- Provide information and advise on Federal, State, and Local Legislation that impact or potentially impact the Authority.
- Provide legal advice and guidance on the matter of water-rights, including but not limited, to interpretation of existing water-rights and support preparing/reviewing water-rights reports.

Firms are hereby invited to submit a proposal based upon the requirements and conditions set forth in the RFP.

Mailing Instructions

Sweetwater Authority
Attn: Board Secretary
505 Garrett Avenue
Chula Vista, California 91910

Inquiries (clarifications only)

Carlos Quintero, General Manager, Sweetwater Authority, cquintero@sweetwater.org

Submittal Date

Five copies of the proposal are due to Ligia Hoffman, Board Secretary, by Friday, April 26, 2024.

Proposals should provide a straightforward and concise presentation adequate to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of contents. The Authority reserves the right, without qualification, to:

- Select any proposal based on written or oral communication with any or all of the firms when such action is considered to be in the best interest of the Authority.
- Reject all proposals.
- Exercise discretion and apply its judgment with respect to any proposals submitted.

All proposals will be deemed confidential to the extent allowed by open meeting and public records laws and will be retained by the Authority.

Proposal Content and Requested Information

The Authority requires the applicant to submit a concise proposal, clearly addressing all the requirements outlined in this RFP in the following sections A-D. To be considered responsive, the proposal must provide specific answers to all questions and requests for information. The proposal narrative with exhibits and attachments, not including resumes/curriculum vitae, shall not exceed twenty pages in length. Information provided beyond the twenty-page limit will not be evaluated.

A. Experience and Qualifications

1. Describe the nature of your law firm's practice and your qualifications for providing general legal services for the Authority.
2. Provide the areas of expertise contained within your firm. Describe how legal services will be provided for those areas of the law outside your firm's expertise.
3. Provide written references from at least three California public agencies, preferably water agencies, which have utilized your services, including addresses and phone numbers of elected officials or key public agency staff who are familiar with your performance during the number of years served.
4. The individual designated as primary legal counsel shall have a minimum of 10 years of direct practice as public agency Legal Counsel with experience primarily in water. For the person whom you propose to designate as primary legal counsel, and for each person you propose to designate as backup attorney and/or supporting counsel for ongoing or special legal services to the Authority, please provide the following:
 - a. Professional chronology via a current resume or curriculum vitae.
 - b. Legal training and years of practice (including date of admission to the California Bar).
 - c. Years of municipal (general law or charter city) or other local public sector law practice as a full-time local government attorney and/or in a private law office specializing in the representation of special district's or general law cities.
 - d. Knowledge of, and experience with, California special districts, Water Law, or other public sector experience.
 - e. Types of clientele represented and years representing each.
 - f. Litigation experience and demonstration of a good court track record. Cite examples of public agency litigation experience.
 - g. Length of employment with the proposing firm.
 - h. Other notable qualifications that would enable your primary and his/her supporting counsel to fulfill this role.
5. Demonstrated legal expertise in the following areas as it relates to special districts or municipal governments:
 - a. Laws and regulations governing California special districts and operating procedures relative to the conduct of special district business.
 - b. Experience and knowledge of Public Contracting Code, Labor Code, and other California statutes governing the bidding, awarding, contracting, and construction of public works and improvements.
 - c. Environmental law, including the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).
 - d. Contracts, joint powers authorities, memorandums of understanding, including risk

- transfer provisions.
- e. Local issues of concern for water authority – County Water Authority, Rates, interagency agreements, etc.
 - f. Water-rights
 - g. Regulatory compliance for water, recycled water, wastewater, etc.
 - h. Bond initiatives
 - i. Preparation and review of ordinances and resolutions as requested.
 - j. Real estate law, easements, rights-of-way, and other related agreements and negotiations.
 - k. California Public Records Act, the Ralph M. Brown Act, Fair Political Practices Commission regulations and public official conflict statutes, and the California Elections Code.
 - l. Formation of assessment and improvement districts.
 - m. Laws pertaining to fees and taxes, including but not limited to Propositions 218 and 26 and the Mitigation Fee Act.
 - n. Other relevant areas pertaining to special districts/water agency or municipal law.
6. Intended office location and accessibility to the Authority.
 7. Scholastic honors and professional affiliations.
 8. If the firm/individual, or any of the attorneys employed by the firm, have ever been sued by special districts, local governments, or other clients for malpractice and/or been the subject of complaints filed with the State Bar or had discipline imposed by the State Bar, please provide information on the nature of the incident, the date(s) when the matter began and concluded, and the results of the situation.
 9. Other “value-added” qualifications or services, if any, which have not been listed in this RFP that you feel the Authority should consider when making its selection. Such services would include those which could be made available to the Authority’s Board of Directors or General Manager at no cost or at a significantly reduced cost (e.g., a library of existing opinion letters that might apply to the needs of the Authority; a firm-sponsored, client-only research webpage; and/or the opportunity to attend firm-sponsored or firm-provided training on topics such as sexual harassment prevention).

B. Performance

1. Describe your view of the role of a special district’s general legal counsel.
2. Describe how you would establish, develop, and maintain an effective working relationship with the Board of Directors, General Manager, department heads, and other agencies.
3. How would you describe your style of participation in Board meetings and workshops?
4. Describe how you will keep the Authority informed about the status of litigation and other legal matters.

5. How do you evaluate the costs/benefits of litigating or settling cases?
6. How would you evaluate whether to use an attorney within your law firm or an attorney from another firm to handle a case, provide expert advice, or provide other needed services?
7. The Authority is a member of the Association of California Water Agencies Joint Powers Insurance Authority (ACWA/JPIA), which provides risk-sharing pools for property, liability, worker's compensation, and employee benefits coverage. The JPIA handles covered claims and would provide legal representation for the Authority on matters related to the coverage programs. Explain what role you envision your firm taking in legal issues involving ACWA/JPIA participation.
8. Describe your view of the role of a special district's legal counsel with the public and the media.
9. Define the standard time frames for response by the primary legal counsel to direction and/or inquiry from the Board of Directors or General Manager and Authority staff.
10. Describe how you would review the legal background and issues currently facing the Authority.
11. Describe the staffing of your office and include any staffing changes you would propose for your firm should you be awarded the contract to provide legal services for the Authority.
12. Describe the computer resources currently utilized within your office. The Authority presently utilizes the Microsoft Office suite of software; therefore, compatibility with Microsoft Word and Excel is required. The Authority will also require the firm to maintain internet services such that mail and files can be transmitted between staff and the legal counsel electronically.)
13. Describe the systems or mechanisms that would be established for monthly reporting of the status of projects, requests, and litigation.
14. Describe how you track and manage legal costs so that the Authority's legal costs are held to a minimum.

C. Current Clients/Conflict of Interest

1. List all current or former clients (including pro bono) with real property ownership, residence, or principal place of business within the boundaries of the Authority within the past three years.
2. List all public clients for which you or your firm currently provide services under a fee for services basis or on a retainer basis.
3. Identify any foreseeable or potential conflicts of interest which would result from such representation and the manner in which you would propose to resolve such conflicts.

D. Compensation, Reimbursement, Risk Transfer

1. Describe how your firm proposes to be compensated for its services, i.e., based on a retainer and/or time and expenses schedule.

2. If a retainer-based compensation schedule is preferred by the Authority's Board of Directors, please provide the retainer fee your firm would charge, and the list of services included therein. Please use the list on page 3 to describe those services that would be included within the retainer.
3. If a time and expense compensation schedule is proposed by your firm, please indicate the hourly rate the Authority would be billed by attorney and/or type of service.
4. If the Authority's Board of Directors wishes to consider a combination of a retainer and time and expense-based compensation, please provide as detailed an explanation as possible of your proposed retainer fee, time and expense billing methodology, and the services included under each compensation type, using the list on page 3 as a reference.
5. Provide the hourly billing cost that would be charged to the Authority for special projects/contracted work requested by the General Manager per question #4 above.
6. Describe how your firm would bill for legal services provided by another legal firm under your direction/supervision. Explain if your firm would include a surcharge/markup on the charges from the outside firm.
7. Provide the limits of your professional liability insurance coverage. The Authority will require risk transfer provisions in its contract with the selected firm.

Evaluation and Selection Process

All proposals must be received by the Authority's Board Secretary by Friday, April 26, 2024.

Proposals will be screened by an internal review committee that may include up to three Board members. Qualifications for top candidates will be verified and candidates will be checked by the General Manager or his designee. The top candidates will be submitted to the full Board and interviews will be scheduled. Both the proposal and the interview will be considered towards the final ranking of negotiation preference. The Authority will enter into negotiations with first negotiation preference. If no agreement can be reached, the Authority will enter into negotiations with the second negotiation preference and so on. It is possible that the Authority signs a contract with more than one firm.

In reviewing the proposals, the Authority will carefully weigh:

- a. Depth and breadth of experience and expertise in the practice of law, most specifically in those areas most often encountered in special district/water agency operations;
- b. Capability to perform legal services promptly and in a manner that permits the Authority and staff to meet established deadlines and to operate in an effective and efficient manner;
- c. Degree of availability for quick response to inquiries that arise out of day-to-day operating questions or problems;
- d. Degree to which firm and individual attorneys stay current through continued professional development and active communication with practitioners in special districts/water agency law;

- e. Communication skills;
- f. Cost of services; and
- g. Other qualifications/criteria as deemed appropriate by the Authority's staff and Board of Directors.

The Authority's General Manager will negotiate a final contract. As a final step, the Board of Directors will formally approve the contract and appoint the next legal counsel for the Sweetwater Authority at a Board meeting anticipated to occur in late-May 2024. Work is anticipated to begin on or after July 1, 2024. These last two dates are the Authority's best schedule estimates and are subject to change.