



Barbara J. Parker, City Attorney

CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

REQUEST FOR QUALIFICATIONS

FOR THE LEGAL SERVICES / Outside Counsel

PLEASE PROVIDE RESPONSES BY:

Open, Continuously Accepting Proposals

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TABLE OF CONTENTS

| | |
|--|---|
| INTRODUCTION | 3 |
| SCOPE OF SERVICE / SCOPE OF REPRESENTATION | 4 |
| REQUESTED INFORMATION (FIRM DATA & INFORMATION) | 5 |
| FEE STRUCTURE | 6 |
| REVIEW OF SUBMISSIONS | 6 |
| RESPONDENT'S PERSONNEL | 7 |
| CONFIDENTIALITY OF PROPOSAL / INFORMATION WAIVER | 7 |
| CITY'S RESERVATION OF RIGHTS | 7 |
| STATEMENT OF INTEREST & QUALIFICATIONS (SOQ) | 7 |
| OUTSIDE COUNSEL POLICY | 8 |

INTRODUCTION

The Office of the Oakland City Attorney is responsible for providing all legal services for the City of Oakland and Oakland Redevelopment Agency, as well as all City boards and commissions and certain joint powers authorities. The City Attorney retains outside counsel for three types of matters/cases: (1) cases that require specialized expertise that our Office does not have in-house; (2) cases that present conflict of interest issues; and, (3) cases that we cannot handle due to lack of capacity due to reductions to the City Attorney's budget. The City of Oakland engages outside counsel only through the Office of the City Attorney.

The City Attorney requests detailed information regarding the qualifications of attorneys or law firms interested in providing legal services to the City of Oakland to establish a list of qualified attorneys or law firms from which outside counsel may be selected.

The City Attorney has established and maintains a list of qualified firms and individuals in a variety of practice areas for work that we may need. We are interested in hiring a diverse group of firms/individuals that will provide high-quality services and that are dedicated to containing legal costs. We seek to build ongoing relationships with firms that share our commitment to quality and to cost containment, as well as expand and strengthen our relationships with Oakland-based firms, small firms and firms that are committed to diversity.

Selection of outside counsel for all matters -- large and small-- is based on the quality of their work, commitment to controlling costs, adherence to budgets and commitment to providing equal opportunities for minorities and women, persons with disabilities and regardless of sexual orientation. We encourage innovative approaches to billing, fixed rate per project, blended hourly rate per project, discounted rates, etc.

When we select a firm to represent the City of Oakland we decide which attorneys will be working on our matters, and we require advance approval of any changes in assignments.

All firms that we retain must enter into the Oakland's standard Professional Services Agreement (PSA), and complete and provide the following schedules and documentation.

- ◆ Combined Schedules: C-1: Declaration of Compliance with the American Disabilities Act, Schedule P: Nuclear Free Zone Disclosure, Schedule U: Compliance Commitment Agreement, Schedule V: Affidavit of Non-Disciplinary or Investigatory Action, Schedule;
- ◆ Schedule B-2: Arizona Resolution
- ◆ Schedule D: Ownership Ethnicity and Gender Questionnaire;
- ◆ Schedule E: Project Consultant Team;
- ◆ Schedule N: Declaration of Compliance for the City's Living Wage Ordinance;
- ◆ Schedule N-1: Equal Benefits Declaration of Nondiscrimination,;
- ◆ Schedule O: Contractor Acknowledgment of City of Oakland Campaign Contribution Limits;
- ◆ Proof of Insurance on the ACORD form showing the types and amounts of and insurance coverage required in Schedule Q, Insurance Requirements; and
- ◆ Current Oakland Business Tax certificate or application in progress.

In addition to the PSA, selected firms will be required to enter into a Scope of Service/Retention Agreement for each specific matter. Each Scope of Service / Retention Agreement includes a written work plan or case handling plan, a

capped “not to exceed” amount and the names of the individuals in the law firm assigned to work on the matter and their hourly rates. The Scope of Service / Retention Agreement becomes a part of the overall agreement and cannot be modified without the advance written approval of the City Attorney or one of the two Chief Assistant City Attorneys. The Office of the City Attorney will not approve bills/invoices that are in excess of budget, absent prior approval. All invoices must set forth the billing amount, the cap, and the amount remaining on the contract. The documents listed above are included as an attachment.

Selected firms are required to be current on the payment of Oakland business taxes. This tax is based on income from work the firm performs in Oakland. Selected firms must have or obtain an Oakland Business Tax Certificate regardless of where the firm is located.

See attached Outside Counsel Policy Guide for more information.

SCOPE OF SERVICE / SCOPE OF REPRESENTATION

Placement on a list of qualified firms does not guarantee that the firm or attorney will be retained to provide services. Outside legal services will be used on an as-needed, case-by-case, or matter-by-matter basis. Specific assignments may include investigating, advising, negotiating, reviewing and/or drafting documents (transactional and litigation), and representation in court, administrative hearings and alternative dispute resolution proceedings involving one or more of the following areas:

- Administrative Law
- Appellate Proceedings
- Affordable Housing Development and Workforce Development in connection with public and private development projects
- Banking law - Expertise on stored value and credit cards and customer protection in connection with Municipal Identification Card Program; Fair lending practices
- Bankruptcy
- Citizen’s Police Review Board Advice and Conflict Counsel
- Civil Rights, §1983
- Conflict Counsel in the following areas – Ethics, Conflict of Interest, Ballot Measures, Elections, Police
- Constitutional Law
- Criminal and Civil Subpoenas in state and federal courts including Pitchess motions, traffic enforcement and vehicle tows;
- Eminent Domain and Inverse Condemnation
- Employment Issues and Litigation - Labor and Employment, Pension and Benefits Programs
- Engineering, Design Professional and Construction Contracting Issues and Litigation
- Environmental Issues and Litigation, Federal and State Regulatory Issues, Endangered Species, Clear Air and Clean Water Acts
- Finance Services - Bond and Debt Management, Bond Counsel, Bond Disclosure Counsel, Infrastructure Financing (Community Facility Districts, Assessment Districts, etc.)
- Gang Injunctions
- General Civil Litigation
- Insurance Coverage Issues in Litigation
- Intellectual Property (Contracts for Purchase of Computerized Systems, Software and Equipment)

- Land Use Issues and Litigation, including California Environmental Quality Act and litigation and wireless communications land use regulatory issues, including federal preemption and telecom siting
- Maritime Law, Tidelands Trust, Wetlands,
- Medical cannabis advice on grow operations and Attorney General guidelines and federal law
- Municipal Fire Litigation, Firefighters' Procedural Bill of Rights
- Municipal Police Litigation and Federal Consent Decrees; Public Safety Officers' Procedural Bill of Rights; Fourth Amendment Search and Seizure Issues; Animal Control Administrative Appeal Hearings
- Municipal Procurement and Contracting
- Planning related enforcement/revocation proceedings; Representing/Advising City Staff or Decision-makers in Administrative, Planning Commission and City Council Hearings
- Professional Sports Stadium
- Public nuisance actions and Property/Building/Housing/Fire Code Enforcement
- Real Property
- Redevelopment Agency Law
- Rent Control and Evictions
- Taxation
- Tort and Personal Injury Defense;

REQUESTED INFORMATION (FIRM DATA & INFORMATION)

Respondents should provide general background information about the law firm and attorneys, with special focus on the area(s) of activity in which representation is sought, and as to the size and experience of the firm in these specific areas.

Please provide 2 of copies of the response. A firm brochure should also be provided. In addition, the Respondents should include the following information:

1. Number of attorneys in the firm with relevant experience, including the diversity of the firm in terms of women, minorities, persons with disabilities, sexual orientation (LGBT), etc.;
2. The name of each attorney along with the number of years of relevant experience in the specified areas of practice;
3. A statement of the percentage of practice of each qualified attorney devoted to the practice of the issues listed above;
4. Completion of Schedule D, "Ownership, Ethnicity and Gender Questionnaire (attached)
5. The partner/senior shareholder in charge of the areas(s) for which representation is sought;
6. The names of the responsible individuals who will be assigned to each area as senior attorneys;
7. The names of other government clients for whom each qualified attorney has been retained to provide legal services in the relevant substantive area(s);
8. A description of the nature and scope of specific projects handled by each qualified attorney, or significant matters that may be relevant to representation of the City of Oakland in such disputes;
9. An agreement not to engage in litigation against the City of Oakland or represent clients that have interests that are directly adverse to the City of Oakland without first informing the Office of the City Attorney and obtaining written permission from City to do so.
10. Identify each of the practice areas listed in the Scope of Service / Scope of Representation section that the firm desires to be considered for in this RFQ process.

FEE STRUCTURE

Respondents should provide the following information:

Hourly rates:

Senior Partner / Shareholder / Senior Associate

Junior Associate

Paralegal

Other

The hourly rate quoted should include all salary and compensation, and all overhead expenses, profits and other employee costs, including but not limited to clerical and word processing expenses. Respondents should list all expenses they propose to bill in addition to legal fees and the basis for such expenses.

The contract will provide for usual and customary reimbursement of third party costs based on the actual expense. The City does not reimburse for additional overhead on third party costs.

If rates are to be adjusted during the course of representation, the method for such adjustment should be described.

Respondents should include alternatives to hourly billing, including fixed price representation.

The City Attorney will establish with selected firms legal fees and expense budgets for each assigned matter.

See attached Outside Counsel Policy Guide for more information.

REVIEW OF SUBMISSIONS

The City Attorney's Office will develop a list of firms based upon the responses to this Request for Qualifications. Responses will be evaluated by the City Attorney's Office. Price will not be the controlling factor in selecting firms for the list, but price will be a factor in making work assignments. A firm is not entitled to be placed on the list or entitled to work solely on the basis of submission of a low price quotation. The City Attorney will evaluate the responses in the areas of Scope of Service / Scope of Representation, Firm Data and Information and Fee Structure.

Once the list is established, specific firms and individual attorneys may be selected from the list for execution of the PSA, required schedules and Scope of Service / Retention Agreement as the need for legal services occurs or in anticipation of the need for such services. Execution of the PSA and related documents will not guarantee that any case or matter or the number of cases or matters will be assigned to outside counsel. The decision to retain outside counsel will be that of the City Attorney on a case-by-case or matter-by-matter basis. Contracts will remain in effect for a period of not less than one year from the date of execution thereof unless they are terminated before expiration by providing written notice, or unless they are renewed or extended. Fee structures should take this time period into account.

RESPONDENT'S PERSONNEL

The City Attorney intends to reserve the right to designate a specific attorney(s) in a contracting law firm to work on a specific case or matter as lead counsel or as associate lead counsel for the services rendered pursuant to any contract, and further intends to reserve the right to terminate the contract if the lead counsel leaves employment of the firm.

CONFIDENTIALITY OF PROPOSAL INFORMATION WAIVER

Respondents specifically and categorically agree that, as a condition for the opening and review of their responsive submittals, the information relating to fees and fee structure submitted by every other respondent is confidential and proprietary information insofar as such Respondent is concerned.

Respondents are further advised that all the terms and conditions, including fees and fee structures, forming part of any agreement entered into shall, upon such agreement being executed, become a public record of the City and subject to full disclosure, and each Respondent waives any right to object to any such disclosure.

CITY'S RESERVATION OF RIGHTS

This Request for Qualifications does not constitute a commitment by the Office of the City Attorney or by the City Attorney to enter into any agreement or contract, or to pay any costs associated with the preparation of responses, submittals or other documents or any related-work by any Respondent. The City Attorney reserves the right to enter into agreements for legal services with persons or firms who do not respond. The City Attorney further reserves the right to waive responses to any part of this request if, in its sole judgment, it determines that it is in the best interests of the City to do so. The City Attorney may require any Respondent to participate in negotiations and to submit such other information or documentation as it may deem necessary as conditions of awarding a contract. The City Attorney reserves the right to vary or waive requirements for different Respondents as shall fit the City's needs.

STATEMENT OF INTEREST AND QUALIFICATIONS (SOQ) GENERAL INFORMATION

Submit Proposal to:
City of Oakland, Office of the City Attorney
One Frank H Ogawa Plaza, 6th Floor
Oakland, CA 94612

2 copies of the SOQ must be enclosed in a sealed package and marked as follows:
Confidential Documents / Attn: Mark Forte

For questions concerning this SOQ contact mforte@oaklandcityattorney.org

CITY OF OAKLAND OUTSIDE COUNSEL POLICY

The Office of the Oakland City Attorney (OCA) is responsible for providing all legal services for the City of Oakland and Oakland Redevelopment Agency, as well as all City boards and commissions and certain joint powers authorities. The City Attorney retains outside counsel for three types of matters / cases: (1) cases that require specialized expertise that our office does not have in-house; (2) cases that present conflict of interest issues; and, (3) cases that we cannot handle due to lack of capacity due to reductions to the City Attorney's Office budget. The City of Oakland engages Outside Counsel only through the Office of the City Attorney.

SELECTION OF COUNSEL

The goal is to establish a list of qualified firms and individuals in a variety of practice areas for work that we may need during a fiscal year. We are interested in hiring a diverse group of firms / individuals that will provide high-quality services and that are dedicated to containing legal costs. We seek to build ongoing relationships with firms that share our commitment to quality and cost containment, as well as expand and strengthen our relationships with Oakland-based firms, small firms and firms that are committed to diversity.

Selection of outside counsel for all matters-- large and small-- is based on the quality of their work, commitment to controlling costs, adherence to budgets and commitment to providing opportunities for minorities, women, persons with disabilities and regardless of sexual orientation. We encourage innovative approaches to billing, fixed rate per project, blended hourly rate per project, discounted rates, etc.

When we select a firm to represent the City we decide which attorneys will be working on our matters, and we require advance approval of any changes in assignments.

GENERAL EXPECTATIONS

It is the policy of OCA that the City Attorney has the ultimate responsibility for managing every legal matter affecting the City of Oakland. All strategic and tactical decisions must be approved in advance by the responsible in-house attorney.

It is expected that firms hired as outside counsel observe the highest ethical standards when representing the City and that potential conflicts be discussed with OCA as soon as they are recognized.

Outside counsel must fully understand the objectives to be achieved and their role in achieving them. This includes participation in establishing a strategy and a budget.

Outside counsel is to keep OCA advised of significant developments as they occur, and obtain the approval of the City Attorney or Assistant City Attorneys prior to performing services that would cause the contractual budget to be exceeded.

Further, outside counsel must avoid overstaffing, rotating the attorneys assigned to the City's matters, and multiple representation at meetings, depositions, hearings and court appearances. We discourage changes in the individual attorneys who are working on our matters and we must be consulted in advance of any proposed changes.

Drafts of all briefs and submissions to courts and agencies should be provided to the responsible in-house attorney. It is important that drafts be received in adequate time for review and comment. OCA also expects to receive the final version of briefs, filings and legal memos.

CONFLICT OF INTEREST

It is expected that OCA will be notified immediately if outside counsel becomes aware of an actual or potential conflict. OCA recognizes that on occasion outside counsel will be asked to represent clients whose interests are inconsistent with the City's, and that outside counsel may even be asked to represent parties whose interest are in direct conflict with the City. OCA will generally waive conflicts where no issues of significant City policy are involved and where there is no connection between matters in which outside counsel has represented the City and matters in which outside counsel has been retained by other clients. Whenever OCA waives a conflict the waiver will be conditioned on written agreement from the other client that it will not object to outside counsel representing the City in any pending or future matter.

OCA generally will **not** waive a conflict if the matter is related to a matter, in which outside counsel has represented the City, or if your firm has access to relevant confidential information of the City, or if your representation of the other client involves issues of important City of Oakland policy.

ASSIGNMENT OF ATTORNEY

Before OCA contracts with outside counsel, OCA expects a commitment with respect to the attorneys who will be representing the City. If it later becomes necessary to substitute an attorney or add additional attorneys, outside counsel must receive prior approval before doing so. Significant roles should not be given to other attorneys without OCA's prior concurrence.

While OCA expects senior attorneys to perform those tasks that require substantial experience, OCA expects that outside counsel will attempt to minimize legal expenses by relying on junior attorneys and paralegals for less demanding tasks.

STRATEGY AND BUDGET

For every new matter outside counsel and the responsible in-house attorney are required to prepare a strategy and a budget. The budget should estimate total fees and expenses to see the matter to its conclusion. If outside counsel anticipates a change in the budget after the agreement is executed, outside counsel must discuss it with the City Attorney or one of the Assistant City Attorneys before the work is done or the expense is incurred. OCA will not approve bills/invoices that are in excess of budget, absent prior approval.

Litigation strategy should identify alternate methods of disposing of the case, including ADR (Alternative Dispute Resolution) and settlement. An outline should be made of the proposed course of litigation, including dispositive pretrial motions, the scope of discovery and the trial strategy. If it appears that a case will go to trial, an estimate of costs should be sent to the responsible in-house attorney no later than the close of discovery, if possible. The detail of all plans (litigation and otherwise) will be dictated by the significance of the matter.

LITIGATION

Advance approval from the City Attorney or Assistant City Attorneys is required before:

Preparing pretrial motions;

Preparing a cross-complaint which adds new parties to the action;

Selecting and retaining expert witnesses;

Preparing motions during trial, post-trial motions or appeals;

Undertaking any unusual activity, such as a major research memorandum;

Agreeing to alternative dispute resolution processes;

Agreeing to settlement.

Outside counsel must consult with the in-house attorney concerning the strategy for taking depositions and other discovery. The deposition plan should include a brief explanation of the proposed deponent's location, his or her involvement in the matter, and the purpose of the deposition.

Outside counsel must exercise restraint in discovery and legal research conducted in routine small matters. We will not return to a firm that allows costs to approach - much less exceed- the City's exposure or potential recovery.

Litigation counsel must evaluate ADR as substitute for full-scale litigation. OCA expects that ADR techniques will be given active consideration from the commencement of litigation. OCA does not view ADR as an alternative to be considered only when trial is imminent and after months or years of costly discovery and pretrial battles.

RATE STRUCTURE

Billing rates will be established at the outset of each matter. In establishing the billing rates it is expected that outside counsel will consider the competitive climate in the practice of law and the fact that OCA assures prompt payment.

Changes in billing rates must obtain our advance consent and the existing agreement will need to be amended. OCA assumes that the rates agreed upon are as low as those offered to any other government/public agency client; if any other clients enjoy more favorable billing rates, OCA expects to be told how to qualify for similar billing treatment.

If the billing method is hourly rates, the rates should contain all overhead and internal charges associated with outside counsel's practice, such as administration, secretarial, docket, word processing, accounting, library and other clerical time. If outside counsel customarily makes separate charges for any of these functions; the billing arrangement must be specifically approved in advance by the responsible in-house attorney and the amount must be factored into the overall budget. OCA expects that the hourly rates of outside counsel that bill separately for secretarial or other services will be less than those of competitive firms that include all overhead in their billing rates.

BILLING/INVOICING

Separate bills/invoices are required for each specific matter. Absent an express agreement to the contrary, bills/invoices must be submitted monthly, unless another arrangement is agreed to in advance, or unless the matter is inactive.

All bills/invoices should include hours spent (to nearest fraction), brief description of the services rendered and the individual who provided the services. A summary of the total hours by individual with his/her billing rate should also be included.

All bills/invoices for services and disbursements must conform to the format of the budget per the Scope of Service Agreement, i.e., the bill/invoice must be in a form that will enable the Office of the City Attorney to compare the items that made up the budget with the items that appear on the bill/invoice.

All bills/invoices must include an accounting showing the original budget amount per the Scope of Service Agreement. the billed/invoiced amounts to date and the amount remaining on the original budget. Bills not including this accounting will be returned unpaid.

OCA will not approve bills/invoices that are in excess of budget. absent prior approval.

If travel time is devoted to working for one or more clients in addition to the City, OCA should not be billed for the time devoted to other clients. Billing for time spent in transit should not include time that would be spent in normal commute to your office. Unless agreed to in advance, OCA should not be billed for time away from home or the office, which is not in transit or spent performing legal services.

Any travel that requires an overnight stay or transportation by an airline must be approved in advance. If an overnight stay is necessary, OCA has the right to approve the accommodations. Reimbursement for meals will be made at the City's per diem rate (Breakfast \$11.00, Lunch \$16.00 and Dinner \$29.00 or \$56.00 per day). If airline travel is necessary, the OCA will reimburse at the coach rate.

As noted above, bills/invoices for disbursements must be detailed and must reflect only the amounts that were paid.

If outside counsel charges separately for fax services, duplicating, computer-assisted research, for a special word-processing project that was approved in advance, the bill/invoice must show the way in which the charge was developed (for example, in the case of fax and duplicating charges, the bill/invoice must show the number of pages and the per-page charge; in the case of Westlaw or Lexis research the bill/invoice must show the amount that was charged to outside counsel).

All disbursement charges must be accompanied by a copy of the invoice or statement to verify the charges. OCA will not pay charges that exceed the market rate for any service such as messenger, depositions, expert witness, etc.

COMMUNICATION

Outside counsel must contact the responsible in-house attorney if any issue arises that is not covered by this policy, or if outside counsel wishes to deviate from any of the stated policies.



DEPARTMENT OF CONTRACTING AND
PURCHASING
Social Equity Division
Phone: 510-238-3970 Fax: 510-238-3363

SCHEDULE D OWNERSHIP, ETHNICITY and GENDER QUESTIONNAIRE

Part I: OWNERSHIP & ETHNICITY of PRIME:

Firm or Individual Name _____ Phone (____) _____

Street Address _____ City _____ State _____ Zip _____ Federal ID # _____

City of Oakland Business License Number _____ Completed by: _____ Phone if different from above _____.

(Please check one and explain below)

Self Employed, Name of Owner _____ Corporation, State of Incorporation _____

Partnership, General or Limited _____ Names of Partners _____

Joint Venture, Names of Participants _____

Ownership Interests

All owners must be listed
in this information

| Ethnicity | African American | American Indian/ Alaskan Native | Asian or Pacific Islander | Caucasian | Filipino | Hispanic | Other |
|-------------------------|------------------|------------------------------------|------------------------------|-----------|----------|----------|-------|
| Number of Owners | | | | | | | |
| % Of Total Ownership | | | | | | | |
| Women | | | | | | | |
| Joint Venture Ownership | | | | | | | |

Part II: CERTIFICATIONS

Please attach a copy of the
certification letter or provide the
certification number and expiration
date.

- Minority-owned Business Enterprise (MBE)? Cert # _____ Expiration Date _____
- Woman-Owned Business Enterprise (WBE) Cert # _____ Expiration Date _____
- Disadvantaged Business Enterprise (DBE) Cert # _____ Expiration Date _____
- Oakland Certified Local Business Enterprise Cert # _____ Expiration Date _____
- Other _____ Cert # _____ Expiration Date _____

Part III: Ethnicity and Gender of Employees

| Employment Category | Total Employees | Oakland Residents | Male | | | | | Female | | | | | |
|---------------------|-----------------|-------------------|------------------|--------------------------------|-------------------------|-----------|----------|--------|------------------|--------------------------------|-------------------------|-----------|----------|
| | | | African American | American Indian/Alaskan Native | Asian/ Pacific Islander | Caucasian | Hispanic | Other | African American | American Indian/Alaskan Native | Asian/ Pacific Islander | Caucasian | Hispanic |
| Project Management | | | | | | | | | | | | | |
| Professional | | | | | | | | | | | | | |
| Technical | | | | | | | | | | | | | |
| Clerical | | | | | | | | | | | | | |
| Trades | | | | | | | | | | | | | |

AFFIRMATIVE ACTION INFORMATION I certify that I/we shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, sexual orientation, national origin, age, disability, Acquired Immune Deficiency Syndrome (AIDS) AIDS related complex, or any other arbitrary basis and shall insure compliance with all provisions of Executive Order No. 11246 (as amended by Executive Order No. 11375). I certify that I/we shall not discriminate against any employee or applicant for employment because they are disabled veteran of the Viet Nam era and shall insure compliance with all provisions of 41CFR60-250.4 where applicable.

I declare under penalty of perjury that the foregoing is true and correct. Signature _____

Print Name _____ Title _____ Date _____

Please be advised that the ethnicity and gender information contained in this Schedule D will be used for reporting and tracking purposes ONLY.