

REQUEST FOR PROPOSALS (RFP)
Specification No. BHA-19-02
FOR
AUTHORITY LEGAL COUNSEL

April 3, 2019

Dear Proposer:

The Berkeley Housing Authority is soliciting written proposals from highly qualified legal firms to serve as General Counsel for the public agency. As a Request for Proposals (RFP) this is not an invitation to bid and although price is very important, other factors will be taken into consideration.

The project scope, content of proposal, and vendor selection process are summarized in the RFP (attached). **Proposals must be received via email no later than 12:00 noon, Friday, April 19, 2019.**

Email responses to: Celinda Aguilar-Vasquez, Administrative Assistant, caguilar-vasquez@ci.berkeley.ca.us.

All responses must be emailed with subject line “**AUTHORITY LEGAL COUNSEL**”

Proposals will not be accepted after the date and time stated above. Incomplete proposals that do not conform to the requirements specified herein will not be considered. Issuance of the RFP does not obligate BHA to award a contract, nor is BHA liable for any costs incurred by the proposer in the preparation and submittal of proposals for the subject work. BHA retains the right to award all or parts of this contract to several bidders, to not select any bidders, and/or to re-solicit proposals. The act of submitting a proposal is a declaration that the proposer has read the RFP and understands all the requirements and conditions.

For questions concerning the anticipated work, or scope of the project, please **contact William Wilkins** via email at wwilkins@ci.berkeley.ca.us or at **(510) 981-5471** no later than April 11, 2019.

We look forward to receiving and reviewing your response.

Sincerely,

William Wilkins
Executive Director

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I. BACKGROUND /SUMMARY/or INTRODUCTION

The Berkeley Housing Authority (BHA) issuing this RFP was established as a legal entity separate from the City of Berkeley on July 1, 2007. BHA administers the Federal Housing Choice Voucher Program (approximately 1,995 units), the Project-based Section 8 Program, a 98 unit Single Room Occupancy Moderate Rehabilitation Program, as well as a smaller allotment of Mainstream and VASH Vouchers. During the term of the contract, the authority may explore (a) creating a non-profit affiliate, (b) significant reforms in the area of human resource management, (c) contracting for services as a source of revenue generation, and (d) joint ventures with developers of affordable housing units.

SCOPE OF SERVICES

BHA is seeking proposals from highly qualified and insured firms, to provide a variety of legal and advisory services. These services are a necessity to supplement and support the day-to-day administration of the Authority. The following list of services is intended to be a representative listing of typical needs under the contract. It is not intended to be an all-inclusive listing of the legal or advisory services that BHA may retain the successful proposer to provide.

The timeframe for the awarded contract will be two years (7/1/19 – 6/30/21) as well as three one-year renewal options thereafter (7/1/21 - 6/30/22, 7/1/22 - 6/30/23 and 7/1/23 - 6/30/24).

GENERAL COUNSEL

1. Legal advisor to the BHA Board of Commissioners, including, but not limited to:
 - a) Review Board meeting agendas, when requested, to ensure compliance with the California Open Meeting Law and Brown Act.
 - b) Attend regular and special board meetings, when requested, and be prepared to advise the Board regarding:
 - 1) The aforementioned California Open Meeting Law and Brown Act;
 - 2) Relevant regulatory requirements that govern Federal and State subsidized housing programs;
 - 3) Relevant contractual or interlocal agreement obligations that either are or may become binding upon the BHA;
 - 4) The legal impact and/or consequence of administrative policy decisions;
 - 5) BHA policies and procedures;
 - 6) BHA By-Laws;
 - 7) Relevant Code of Federal Regulations (CFRs); California Revised Statutes (CRS); and Sections 34200-34606 of the California Health and Safety Code;
 - 8) Public Employee Pension Reform Act;
 - 9) Responding to inquiries by Commissioners and the Public; and
 - 10) Responding to Public Records Act requests.
 - 11) Personnel matters

2. Legal Advisor to the Executive Director and/or his/her designee, including but not limited to:
 - a) Appropriate actions with respect to cases involving complicated issues of reasonable accommodation and/or alleged program violations, including fraud;
 - b) Tenant/Landlord issues, including evictions, lease preparation and interpretation and premise liability;
 - c) Fair housing issues, including claims involving violations of the Fair Housing Act, ADA and Section 504 or the Rehabilitation Act;
 - d) Compliance with the Business Terms and Regulatory Agreements associated with the proceeds from the public housing disposition;
 - e) Interpretation and application of various Federal and State laws and regulations regarding the Housing Choice Voucher Programs.

3. Human Resource Management Compliance, advising on issues including but not limited to:
 - a) Requirements for employee compensation, including salary and benefits;
 - b) Retirement plan requirements (CalPERS) and any adopted legislation;
 - c) Family medical leave/reasonable accommodation;
 - d) Lead negotiator for collective bargaining, including possible elimination or merger of two unions; and
 - e) Adverse personnel actions, including discrimination and wrongful termination, workers compensation and compliance with OSHA requirements.

4. Legal representative of the BHA, including, representation in the following matters:
 - a) Judicial proceedings involving landlord-tenant issues;
 - b) Defending or initiating breach of contract actions that will not require or involve complex litigation;
 - c) Referring legal matters to the BHA's insurance carrier for resolution and/or defense;
 - d) Appearance for and representation of BHA at administrative tribunals on the Federal, state and local levels. These tribunals may include the Berkeley City Council or the Alameda County Board of Supervisors, and meetings with HUD or State officials, as well as other quasi-judicial forums;
 - e) Annual review of BHA's programmatic and human resource management policies and procedures to determine compliance with applicable Federal, state and local law; and
 - f) Preparation, review and/or modification of legal documents utilized by BHA in the course of business to ensure and/or determine compliance with applicable Federal, state and local law. These documents may include the Annual Plan/Admin Plan updates; Board resolutions and meeting minutes; employment applications/forms; and, housing program forms and notices.
 - g) Attendance and participation at meetings about and/or with entities having legal business with the BHA, such as office space landlords, and legal advocacy agencies.
 - h) Risk and liability exposure issues.
 - i) Conflicts of interest.
 - j) Provision of legal opinions on various subjects as needed.

5. Other Issues as Directed

BHA realizes that certain firms may not possess all in-house expertise that may be needed. It is not the intent of BHA to have Counsel review complex legal documents, or advise on complex issues, for which Board Counsel has no or limited expertise. BHA requires some assurance that the qualified respondent has general in-house capacity to provide the services required, can access other firms that have the required experience and expertise required to supplement in-house capability, and is amenable to working collaboratively with another firm that may be hired by the Authority.

Respondents should address its ability to provide or outsource the following, if requested:

- a) Review any proposed agreements, including Memorandum of Agreements with the U.S. Department of Housing and Urban Development (HUD) or Fair Housing and Equal Opportunity (FHEO) or with local governments and other local housing authorities/consortia
- b) Assist in selection of attorneys needed in specialized fields of practice such as bond counsel, tax counsel, environmental law, development and commercial and residential real estate law, bankruptcy law, and civil rights and construction law.

II. QUALIFICATIONS

The following are the minimum qualifications required for an attorney/law firm to be considered as a potential provider of services to the Berkeley Housing Authority.

1. The attorney/law firm providing legal services to the Authority must be licensed to practice law in the State of California;
2. The attorney/law firm must certify that there are no conflicts of interest which would prevent it from representing the Authority.
3. The attorney/law firm must have more than one attorney with the experience and knowledge to provide the legal services to BHA under the contract.

Additional qualification for General Counsel:

4. The attorney/law firm must have substantial knowledge and experience in the interpretation of federal and California state laws as it applies to public agencies, employment law, and contracts.
5. The attorney/law firm must have a minimum of three years experience in providing legal services to a public housing authority.
6. The attorney/law firm must have a minimum of three years experience in handling employment actions for a public agency in California, including collective bargaining.

III. INFORMATION REQUIRED

Your proposal must include the following:

- a. Overall qualification of your firm.
- b. Information concerning your firm, including the name and resumes of the contact partner and staff persons who will be assigned to perform the work.
- c. A minimum of three current references from clients for whom the firm has provided similar work within the last three years.
- d. Brief description of your working relationship with the East Bay Community Law Center and/or Bay Area Legal Aide.

- e. Explanation of how you intend to provide the required services in a timely manner.
- f. Hourly billing rate for each individual involved for the first two years; hourly rate or percentage adjustment for the option period.
- g. Discounted rate(s) or cap rate for special functions.

IV. ACCEPTANCE OF PROPOSALS

The Housing Authority reserves the right to accept or reject any or all proposals, to take exception to these RFP requirements or to waive any informality and to exclude any proposals for further consideration for failure to fully comply with the requirements of this RFP.

V. PREPARATION COSTS

All costs incurred in the preparation and presentation of a Proposal shall be completely absorbed by the respondent. All supporting documentation submitted with Proposals will become the property of the Housing Authority. Any material submitted that is to be considered confidential should be clearly marked as such.

VI. SELECTION CRITERIA FOR EACH TYPE OF LEGAL SERVICE

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| 1. Experience of the firm and those persons who will perform the work | 25% |
| 2. Performance of the firm for services of the same or similar nature | 20% |
| 3. A proposal that indicates: | 15% |
| a. Knowledge and understanding of the scope of work to be performed | |
| b. Adequate staffing and an ability to perform the work in a timely manner | |
| 4. Proximity of firm office to the Authority | 10% |
| 5. Cost | 30% |

VII. ASSIGNED PERSONNEL

The Berkeley Housing Authority reserves the right to request a change in the firm representative responsible for performing work if at the Housing Authority’s discretion, the assigned representative is not adequately meeting the needs of the Housing Authority.

VIII. CONTRACT TERM

The Authority seeks to contract for an initial two year period, with three (3) one (1) year renewal options.

IX. CONTRACT TERMINATION

The Berkeley Housing Authority reserves the right to terminate the contract for services if in the judgment of the Authority, the firm is not performing services satisfactorily under the terms agreed upon.

X. METHOD OF AWARD

Award will be made to the best Proposer based on the quality of the services offered, previous experience, and the quality of references.