



Authorize Release of a Request for Proposals for Legal Services

Consent

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Attachments: No

Approved by: James Corless

Referring Committee: Policy & Innovation

1. Issue:

Authorize release of a request for proposals (RFP) for legal services.

2. Recommendation:

The Policy and Innovation Committee unanimously recommends that the board authorize the release of a request for proposals for legal services.

3. Background/Analysis:

In 2005, SACOG released an RFP for its legal services and ultimately awarded a contract to the law firm of Miller, Owen and Trost. During that time, Kirk Trost served as outside general counsel to SACOG. From 2011-2020, Kirk Trost provided in-house general counsel services and served in other leadership capacities, including as chief operating officer. Throughout this period, SACOG maintained an on-call contract for special counsel legal services. Most recently, in January 2018, the board authorized a contract with Sloan Sakai Yeung and Wong, LLP (Sloan Sakai) for a three-year term, with two one-year extensions. The board has exercised both of the one-year extensions and the contract term ends in January 2023.

In 2020, Mr. Trost retired from SACOG and joined Sloan Sakai to work part-time as general counsel to SACOG and take on other clients in the public sector. Earlier this year, Mr. Trost decided to leave Sloan Sakai to reduce his schedule and focus on existing clients. As part of that decision, Sloan Sakai agreed to assign this contract to the Law Offices of Kirk E. Trost. Mr. Trost continues to subcontract with Sloan Sakai to continue the services of other attorneys who perform work for SACOG.

While SACOG operates in a complex legal and regulatory environment, staff continues to believe that a full-time in-house general counsel is not needed. While serving as in-house general counsel, Mr. Trost performed a variety of other executive, program/project, and policy roles in the organization. Since his departure, SACOG's complex legal needs have been well served by Mr. Trost and the attorneys at Sloan Sakai, and occasionally other specialized attorneys.

Mr. Trost has informed the executive director that as part of continuing to practice law part-time, he does not wish to continue to serve as general counsel to SACOG once his current contract ends. He is willing to provide specialized counsel based on his long tenure both inside and outside of SACOG. As a result, Mr. Trost will be able to help advise SACOG on this RFP.

As a public agency, SACOG commits to competition for all state funded services contracts over \$5,000 and

goes out to bid at least every five years for all contracts procured by RFP or RFQ. Given the unique circumstances of SACOG changing the individual serving as general counsel for the first time since 2005, staff is recommending a deliberative approach to ensure that all qualified firms can propose how they would best meet SACOG's needs.

4. Discussion/Analysis:

Staff is recommending release of an RFP for legal services that would allow firms to propose on one or more areas of law, permitting SACOG to select a firm or firms to meet its needs. This may be set up as a bench of firms that SACOG could utilize as-needed, particularly in specialized areas that are only used intermittently, such as environmental law required for preparation of the Environmental Impact Report for the 2024 Blueprint.

Each resulting contract is recommended to have an initial term of three years, with one two-year extension. Consistent with all prior agreements, time would be billed on an hourly basis, and subject to approval by project managers or the executive director or their designee.

A panel of SACOG's executive director and deputy executive directors, finance director, and Mr. Trost would interview firms who are being considered for a contract award.

While the amount of time spent varies year-to-year based on SACOG's work program, the main areas of legal work for SACOG are general counsel (including California public agency law and federal transportation law), contracts counsel (including federal contracts regulations, U.S. Department of Transportation regulations, and Caltrans regulations), public sector employment law, and environmental law (including litigation). The RFP would provide more detail about the scope of each line of work that could be bid on.

Depending on the timing of the request for proposals, a new contract could be awarded sometime between September-December of this year.

5. Fiscal Impact/Grant Information:

SACOG's legal services are billed based on requests from the executive director or their designee. The 2022-2023 budget includes approximately \$350,000 for legal costs across all projects/programs. Rather than having a contract ceiling, staff recommends that the executive director retain the authority to incur legal costs within the parameters of the adopted budget.

6. This staff report aligns with the following SACOG Work Plan Objectives: