



## Award Contracts for Legal Services

Action

**Prepared by:** Erik Johnson

**Attachments:** No

**Approved by:** James Corless

**Referring Committee:** Policy & Innovation

### **1. Issue:**

Award contracts for legal services: general counsel, contracts counsel, labor and employment counsel, environmental counsel, and litigation counsel.

### **2. Recommendation:**

The Policy and Innovation Committee recommends that the board award contracts to three firms for legal services and authorize the executive director to execute agreements.

### **3. Background/Analysis:**

SACOG contracts for all of its legal services, including general counsel. While the amount of time spent varies year-to-year based on SACOG's work program, the primary 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).

At its June 16, meeting, the Board of Directors authorized the release of a request for proposals (RFP) for all of SACOG's legal services. Firms were able to bid on one or more categories of services: general counsel, contracts counsel, labor and employment counsel, environmental counsel, and litigation counsel. This gives SACOG the flexibility 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.

On July 15, the RFP was posted, and it closed on August 12. Nine firms submitted proposals across the five distinct categories, with most firms submitting under more than one category. Every category received at least three proposals. For each category, the RFP established the following criteria: Qualifications of Firm and Personnel (60 percent), Conflicts (5 percent), Cost (30 percent), Disadvantaged Business Enterprise (5 percent). Reviewers scored each proposal independently, and the scores were averaged in each round of review.

In the first round of review, SACOG's deputy executive directors and finance director scored all proposals. The executive director also scored on the general counsel category. Based on these scores, the top two firms in each category, and all three firms that submitted for general counsel were invited to interview.

In the second round of review, the review teams listed above, as well as the chair and a vice chair of the Policy and Innovation Committee (Directors Kozlowski and Middleton) interviewed the selected firms for all categories except general counsel. Based on the average of the individual scores, there was a clear choice for all categories except general counsel. Due to the importance of the general counsel role, the panel recommended including additional board members in the final round of interviews for general counsel.

A third evaluation panel of SACOG's executive director and deputy executive directors, the vice chair of the Board of Directors and two other board directors (Directors Kennedy, Bradford and Clark-Crets) reviewed the proposals for the remaining top-two firms for general counsel and interviewed both firms on September 16. Additionally, reference checks were also performed between the first and second interviews for both firms.

#### **4. Discussion/Analysis:**

The recommendation for general counsel is Best, Best and Krieger, with Michael Maurer serving as the lead of the general counsel team. Best, Best and Krieger is also recommended for the categories of Labor & Employment Counsel and Litigation Counsel. While separate categories in the RFP, they will be structured under one agreement.

For Contracts Counsel, the evaluation panel recommends Sloan Sakai Yeung and Wong, which currently provides Contracts Counsel and Labor & Employment Counsel, and previously provided General Counsel.

For Environmental Counsel, the evaluation panel recommends Thomas Law Group. SACOG has not had an on-call contract for Environmental Counsel in the past, but Thomas Law Group has been awarded contracts to provide environmental counsel on the last two environmental documents for the Metropolitan Transportation Plan/Sustainable Communities Strategy. After the evaluation panel made their recommendation, Thomas Law Group informed SACOG that it plans to merge with the firm of Downey Brand effective January 1, 2023. The same attorneys will be available to SACOG at the same rates as originally proposed. The contract would be awarded with this future assignment of the contract understood.

The desired start date for new contracts is November 1. The recommended contract term for each contract will be three years, with the authority for the executive director to extend for up to two years beyond the original term. 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.

#### **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:**