

**REQUEST FOR PROPOSALS
FOR
General Counsel Legal Services**

RFP Issued: August 17, 2016

RFP Submission Deadline: October 31, 2016

Issued by

Westlands Water District
3130 North Fresno Street
Fresno, California 93703
Telephone: (559) 224-1523 Fax: (559) 241-6277

www.wwd.ca.gov

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SECTION 1 – INTRODUCTION

Westlands Water District (“Westlands” or “District”) invites interested law firms with a minimum of 10 years’ experience representing public agencies in general governmental procedures, compliance, contracts and transactions, and civil litigation to submit proposals to provide general counsel legal services for the District. These services will include managing and determining the need to engage special counsel services.

A firm selected as General Counsel will serve at the pleasure of the Board of Directors of the District. If Westlands determines to award a contract for general counsel legal services as a result of the FRP, it will enter into a three year contract establishing the terms and compensation for the subject services.

SECTION 2 - BACKGROUND INFORMATION

Westlands is a California water district formed in 1952 in accordance with California law. The District’s mission is to provide a timely, reliable and affordable water supply to its landowners and water users, and to provide drainage service to those lands that need it. To this end, Westlands is committed to the preservation of its federal contract, which includes water and drainage service, and to the acquisition of additional water necessary to meet the needs of its landowners. Westlands is governed by a nine member Board of Directors, the members of which are elected to four-year terms by the landowners in the District. The Board holds its meetings every third Tuesday of the month. Additional information about the District may be found on its website, www.wwd.ca.gov.

SECTION 3 - MINIMUM FIRM QUALIFICATIONS

1. All attorneys performing services for the District on behalf of the firm must be admitted to practice in the State of California and be members in good standing with the State Bar of California.
2. The firm member with primary responsibility for the services provided to the District (“Lead Counsel”), must have at least 10 years’ experience providing general counsel legal services for special districts, municipalities or other local public agencies.
3. Demonstrated legal expertise (including counseling and litigation) in the following practice areas as they relate to special districts and municipal governments in California:
 - a. Laws and regulations governing California special districts and municipalities and governance of public entities,, e.g. the Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest laws; general public entity and municipal law; the California Government Code; and operating procedures relative to the conduct of special districts and municipalities.
 - b. Water rights matters in state courts and before the State Water Resources Control Board.
 - c. Federal reclamation law, such as the Central Valley Project Improvement Act, and matters related to water supply contracts with the United States government.

- d. Environmental law, including: California Environmental Quality Act (CEQA); federal National Environmental Policy Act (NEPA); California and federal Endangered Species Acts; federal Clean Water Act and the California Porter-Cologne Water Quality Act.
 - e. Experience and expertise in permitting from or otherwise working through regulatory issues with state and federal agencies such as the United States Bureau of Reclamation; United State Fish & Wildlife Service; National Marine Fisheries Service; United States Environmental Protection Agency; United States Army Corps of Engineers; California Department of Water Resources; State Water Resources Control Board; California Department of Fish & Wildlife; and Central Valley Regional Water Quality Control Board.
 - f. Public employment labor laws, policies and litigation.
 - g. Preparation, review and adoption of legal opinions, contracts, memoranda of understanding (including risk transfer and avoidance provisions), resolutions, and policies.
 - h. Governance of special districts and municipalities, including amendments and bylaws.
 - i. California statutory provisions which may be applicable to the public works procurement, bidding, award and construction process, including the California Public Contract Code and Labor Code.
 - j. Real estate law, easements, rights-of-way, encroachment permits, and other related agreements and negotiations.
 - k. Legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation.
 - l. Other relevant areas pertaining to special district and municipal law, including liability claims, legal compliance, ethics, and risk avoidance.
 - m. Supervision of special counsel in litigation matters.
4. Lead Counsel shall typically attend all Board of Directors and Board Committee meetings, and the firm must be accessible to provide legal assistance to the District on an emergency basis.

SECTION 4 - PROPOSAL REQUIREMENTS

All Proposals must include and will be evaluated based on the following criteria:

1. A detailed scope of services that reflects the firm's understanding of the District's requirements.
2. Written responses to all the subject areas set forth in the "Minimum Firm Qualifications" section, demonstrating the firm's experience and expertise in: (a) counseling; (b) transactional; and (c) litigation matters for each subject area.
3. Personnel Qualifications: The Proposal shall identify the Lead Counsel who will be primarily responsible for providing legal services to the District, and other attorneys and staff to be assigned to the District legal matters. Please include the qualifications, training, and certifications of Lead Counsel, and all other attorneys and staff who will

perform the services outlined herein. Please include the name(s) of a backup attorney for the Lead Counsel (such backup attorney should also have prior, specific qualifying experience acting as general counsel for public agencies).

4. List of Clients: A list of major public agency clients represented by the firm during the last five (5) years, with contact information (i.e., name of the clients, addresses, phone numbers, and contact person). The District reserves the right to contact any of the references.

5. Additional Firm Information: The Proposal shall include the following: (a) Its scope of practice (national, regional, statewide, or local), and founding date; (b) Number of firm partners, "of counsel," associates, paralegals and other employees; (c) Location of primary office; (d) Number of firm clients.

6. Questions: Please respond in the Proposal to the following questions:

(a) If the Firm were selected to represent Westlands, do you anticipate that it would have to obtain conflict waivers from any currently existing firm client?

(b) Are you aware of any other ethical conflicts or other related issues which would preclude the firm from providing legal services to Westlands?

(c) Do your designated litigation attorneys try cases by themselves or is responsibility shared with transactional attorneys who specialize in the practice area at issue, e.g. water and environmental?

(d) Briefly describe your firm's experience and expertise in advising public agencies on questions of law involving: (a) the Brown Act; and (b) conflict of interest laws.

(e) A description of legal services performed for public agencies located in the San Joaquin Valley.

(f) How many partners and associates have left your firm in the last three (3) years?

(g) What is the firm's approach to supervising and training associates?

(h) What type of tasks does your firm assign to paralegals or law clerks?

(i) Within the last five (5) years, has the firm been subject to any civil litigation for malpractice arising out of its performance of legal services for any firm client? If so, please provide the: (a) name and court case identification number for each case; (b) the jurisdiction in which it was filed; and (c) the outcome of the litigation, i.e. whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

7. Fee Schedule: Please answer the following:

(a) Please state the hourly rate(s), together with costs reimbursement(s), you propose for rendering legal services to the District, including rates for Lead Counsel, all other attorneys and staff (including law clerks and paralegals).

(b) Does the firm offer discounted rates to public agencies such as Westlands? Do you discount your rates for any other reasons? If so, do the quoted hourly rates reflect those discounts?

8. Sample Contract: Provide a sample contract that the Firm proposes to use for this engagement with the insurance requirements listed herein.

SECTION 5 - TERMS AND CONDITIONS

1. Acknowledgement of Westlands' Contract Provisions.

Interested firms should review and acknowledge in the Proposal that the following provisions will be included in the proposed contract:

The Firm shall procure and maintain the insurance required, for the duration of the contract, to insure against claims for injuries to persons or damages to property arising from or in connection with the performance of legal services performed.

2. Insurance Requirements:

a. Commercial General Liability: Coverage should include \$1,000,000 per occurrence, \$2,000,000 aggregate, as applicable. Prior to the start of work, the selected firm shall provide to the District evidence of insurance from an insurer(s) certifying the coverage. The District and its Directors, officers, employees, agents and volunteers are added as insureds. Additional insured endorsements shall be provided on Commercial General Liability form ISO 20 10 11 85 (or form ISO 20 10 10 01 accompanied by form ISO 20 37 10 01).

b. Business Automobile Liability: Business Automobile Liability insurance insuring all owned, non-owned and hired automobiles - coverage code 1 "any auto" (Insurance Service Office policy form CA 0001 or insurer's equivalent) in the amount of \$1,000,000 combined single limit per accident for bodily injury and property damage.

c. Workers' Compensation and Employer's Liability Insurance: Shall be furnished in accordance with statutory requirements of the State of California.

d. Professional Liability Insurance: For the full term of the contract, the firm shall procure and maintain errors and omissions liability insurance appropriate to the legal profession. Such coverage shall have minimum limits of no less than one million dollars (\$1,000,000.00) per claim.

e. Commercial General Liability and Workers' Compensation and Employer's Liability Insurance: Policies shall contain a waiver of transfer of rights of recovery ("waiver of subrogation") against the District, its Directors, officers, employees, agents and volunteers for any claims arising out of the work of the firm.

f. Additional Insured Requirements: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the District, its Directors, officers, employees, agents and volunteers as additional insureds.

SECTION 6 - REQUESTS FOR CLARIFICATION

A firm requesting clarification pertaining to this RFP shall submit all requests through written correspondence by 5:00 pm on October 14, 2016 to:

Westlands Water District
Attention: Dan Pope
Chief Operating Officer
P.O. Box 6056
3130 N. Fresno Street
Fresno, California 93703
Telephone: (559) 224-1523
dpope@westlandswater.org

SECTION 7 – SUBMISSION OF PROPOSALS

To be considered, an original and nine (9) copies of the Proposal must be received by Westlands, no later than 5:00 p.m. on October 31, 2016. Facsimile and email submissions will not be accepted.

The following information shall be included within the Proposal:

1. Title Page and Table of Contents.
2. Letter of Introduction signed by a partner of the firm and a summary highlighting the key points of the Proposal.
3. Detailed Proposal.
4. Signed Acknowledgement Form - refer to Exhibit "A" attached hereto.
5. Signed Conflict of Interest Form - refer to Exhibit "B" attached hereto.

Please submit your Proposal to:

Westlands Water District
Attention: Dan Pope
Chief Operating Officer
P.O. Box 6056
3130 N. Fresno Street
Fresno, California 93703

SECTION 8 – SELECTION PROCESS AND EVALUATION CRITERIA

Proposals will be examined for compliance with all of the requirements in this RFP. Westlands, in its discretion, may waive any omission which it deems to be non-essential or inconsequential.

Westlands Directors and staff will evaluate each proposal submitted for completeness, including all of the information requested in this RFP. Proposing firms should note that its fee proposal and pricing, while important, will not be the only deciding factor in final selection, but rather the ability of the firm to provide and perform the required duties on behalf of the District as outlined herein.

Oral presentations and written questions for further clarifications may be required of some or all firms. Final selection will be based on evaluation of the Proposal and interview. The Proposals

will be initially screened by the District and an invitation to interview with the District's Legal Affairs Committee will be extended to selected firms. The Legal Affairs Committee intends to interview several firms, and recommend one or more firms to the Board of Directors for further review and interview(s).

Westlands reserves the right to modify the process.

Firms shall bear the cost of any interviews or meetings with the Legal Affairs Committee and Board of Directors.

It is anticipated that the Westlands Board of Directors will select a qualified firm at its December 20, 2016 Board of Directors meeting.

SECTION 9 - PUBLIC RECORDS ACT

All Proposals submitted in response to this RFP will become the property of the District upon submission and a matter of public record pursuant to applicable law. The District reserves the right to make copies of all Proposals available for inspection and copying by interested members of the public as records of the District and District shall be under no obligation to the firm to withhold such records.

The District is subject to the Public Records Act under California Government Code section 6250 et. seq. As such, all required submitted information is subject to disclosure to the general public. Firms 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 District and subject to full disclosure, and each firm submitting a Proposal waives any right to object to any such disclosure.

SECTION 10 - PROPOSAL ACCURACY

A Proposal which is incomplete, irregular, or conditional may be rejected. By submitting a Proposal, the submitting firm agrees that any significant inaccuracy in information given by the firm to the District will constitute good and sufficient cause for rejection of the Proposal.

SECTION 11 - DISCLAIMER

Westlands reserves the right:

1. To enter into agreements for legal services at any time (for general counsel or special counsel legal services) with persons or firms who do not respond to this RFP;
2. To waive any irregularities, and to accept or reject any or all Proposals regardless of qualifications either in whole or part with or without cause;
3. To withdraw this solicitation at any time without prior notice;
4. To award its total requirements to one respondent or to apportion those requirements among two or more respondents as Westlands may deem to be in its best interests;
5. To negotiate a final contract with any respondents as necessary to serve the best interest of Westlands; and
6. To amend this RFP.

Westlands does not make any representations that any contract will be awarded to any firm responding to this RFP, and Westlands may, in its discretion, hire an employee to serve as General Counsel.

SECTION 12 - CONFLICTS OF INTEREST

Westlands is subject to the Political Reform Act and to conflicts of interest provisions under California Government Code section 1090, et seq. To protect the District, all potential contracting parties with the District shall be required to complete a Conflict of Interest Questionnaire prior to the award, if any, of a contract. Refer to Exhibit "B" attached hereto.

SECTION 13 – DISCRIMINATION

The firm and all subcontractors must not discriminate, nor permit discrimination, against any person on the grounds of race, national origin, sex, handicap, sexual orientation, veteran status, or any other protected class in their employment practices, in any of their contractual arrangements, in all services and accommodations they offer the public or in their business operations.

EXHIBIT "A" ACKNOWLEDGMENT FORM

Request For Proposals for General Counsel Legal Services

PART A

The proposing firm warrants the following:

1. That it will not delegate or subcontract its responsibilities under contract without the express, prior written permission from Westlands Water District.
2. That all information provided in connection with this Proposal is true and correct.
3. That it will acknowledge and agree with all terms and conditions stated in this Request for Proposal.

Firm Name (Respondent to RFP): _____

Address: _____ City: _____ State: _____ Zip: _____

Contact Name: _____ Title: _____

Telephone No: _____ Email: _____

Signature _____

PART B

The above listed firm is responding to a Request for Proposals for a qualified and experienced firm to provide general legal counsel services.

THIS COMPLETED FORM MUST BE INCLUDED WITHIN THE PROPOSAL SUBMITTED TO THE WESTLANDS WATER DISTRICT BY THE RESPONDING FIRM.

SUBMIT PRIOR TO 5:00 P.M. October 31, 2016

Westlands Water District
Attention: Dan Pope
Chief Operating Officer
P.O. Box 6056
3130 N. Fresno Street
Fresno, California 93703

EXHIBIT "B" CONFLICT OF INTEREST FORM

Request For Proposals For General Counsel Legal Services

Westlands Water District and California state law prohibit its Directors and staff from making decision in which they may have certain financial or personal relationships with a contracting party. The questions that follow are intended to alert Westlands to potential code of conduct conflicts. If conflicts of only a remote interest exist, a contract may nonetheless be awarded as disclosure allows Westlands to choose processes for negotiation, award, and administration of contracts to avoid such conflicts. However, Westlands reserves the right to review and make a final determination regarding whether any actual or potential conflicts would violate Westlands' policies or California law and thus preclude a contracting party's participation in this award. All contracting parties and proposed sub-consultants must respond to each of the following questions. For responses answered "yes," Westlands may require additional information to evaluate potential conflicts prior to award. Failure to fully disclose conflicts will result in rejection of the proposal or immediate termination of any contract awarded therefrom.

1. To the best of your knowledge, do any current Westlands Directors or employees have any of the following financial relationships with your Firm or with proposed sub-consultants?

- | | |
|------------------------|------------|
| Owner | [Yes] [No] |
| Member | [Yes] [No] |
| Partner | [Yes] [No] |
| Officer | [Yes] [No] |
| Employee | [Yes] [No] |
| Contractor; Consultant | [Yes] [No] |
| Broker | [Yes] [No] |
| Major Stockholder | [Yes] [No] |

(Major stockholder means ownership of 3% or more of firm stock.)

If "Yes" to any of the above, did this Board member or employee participate in formulating your submittal?

[Yes] [No]

2. Are you or, to the best of your knowledge, are any officers or key employees of your firm or proposed sub-consultants an immediate family member of any current Westlands Director or employee?

[Yes] [No]

3. To the best of your knowledge, is a Westlands Director or employee seeking or being considered for employment by your firm or by proposed sub-consultants?

[Yes] [No]

4. To the best of your knowledge, have you or any officers or key employees of your firm or any proposed sub-consultants provided contributions directly or indirectly to a Westlands Director while this potential new contract is pending before Westlands?

[Yes] [No]

5. To the best of your knowledge, have you or any officers or key employees of your firm or any proposed sub-consultants ever served on Westlands' Board?

[Yes] [No]

6. Have any of your current employees been employed by Westlands in the past five (5) years?

[Yes] [No]

7. On a separate sheet, identify and disclose any business relationship(s), direct or indirect, past, present, or pending, with any associated entity in the Westlands' service area, or any such entity which has engaged in past or present litigation against Westlands.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Name (type or print)

Signature

Title

Date

Firm Name

THIS COMPLETED FORM MUST INCLUDED WITHIN THE PROPOSAL SUBMITTED TO WESTLANDS WATER DISTRICT BY THE RESPONDING FIRM

SUBMIT PRIOR TO 5:00 P.M. October 31, 2016

Westlands Water District
Attention: Dan Pope
Chief Operating Officer
P.O. Box 6056
3130 N. Fresno Street
Fresno, California 93703