

**San Diego County Employees Retirement Association  
("SDCERA")  
Request for Proposals to Provide  
General Litigation Representation Services**

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The San Diego County Employees Retirement Association ("SDCERA") invites proposals from experienced law firms in response to this Request for Proposals ("RFP") to provide general litigation representation to SDCERA. SDCERA intends to select several law firms as approved litigation providers, subject to the number and quality of the responses to this RFP and SDCERA's assessment of its needs for litigation counsel.

**SECTION I  
CALENDAR OF EVENTS  
AND GENERAL INFORMATION**

Issuance of RFP	Monday, May 3, 2010
Notice of Intent to Propose	Friday, May 28, 2010
<b>Proposal Due Date</b>	<b>Friday, June 4, 2010</b>
Proposed Board Action	Thursday, August 5, 2010

**Notice of Intent**

Interested parties should email a brief Notice of Intent to Propose to this RFP to [LegalServicesRFP@SDCERA.org](mailto:LegalServicesRFP@SDCERA.org), on or before 5:00 p.m. on **Friday, May 28, 2010**. The Notice must include the single point of contact at your firm responsible for the RFP response and must provide contact information for this individual.

**No Contact**

No contact with SDCERA Board members, SDCERA's CEO, SDCERA's Chief Legal Counsel, and other staff regarding the contents of the RFP proposals will be allowed during the pendency of this RFP.

**Due Date**

Seven printed copies of your proposal and one CD or thumb drive containing electronic copies of all submitted documents are due no later than **5:00 p.m. on Friday, June 4, 2010**, in a sealed package or packages. All proposals must be delivered to:

SDCERA  
2275 Rio Bonito Way, Suite 200  
San Diego, CA 92108-1685  
Attention: Von Jackson

## **No Reimbursement For RFP Expenses**

SDCERA will not provide reimbursement for any fees, expenses, or other costs incurred in connection with this RFP including the costs of preparing the response, providing any additional information and attending an interview or interviews. All material submitted in response to this RFP will become the sole property of SDCERA. SDCERA expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

## **Interviews**

Interviews may be conducted at SDCERA's discretion. All attorneys and firms selected for interview will be notified of the interview date(s) at least one week in advance.

## **Confidentiality**

All responses to this RFP become the property of SDCERA and will be kept confidential until such time as a recommendation for award of a retainer agreement has been announced. Thereafter, submittals are subject to public inspection and disclosure under the California Public Records Act. If a respondent believes that any portion of its submittal is exempt from public disclosure, such portion may be marked "confidential." SDCERA will use reasonable and legally permissible means to ensure that such confidential information is safeguarded to the extent that SDCERA, in its independent judgment, concludes that the information is in fact exempt from disclosure, but SDCERA will not be liable for inadvertent disclosure of such materials, data and information. Proposals marked "confidential" in their entirety will not be honored and SDCERA will not deny public disclosure of all or any portion of submittals so marked.

By submitting information with portions marked "confidential", the respondent represents it has a good faith belief that such material is exempt from disclosure under the California Public Records Act and agrees to reimburse SDCERA for, and to indemnify, defend and hold harmless SDCERA, its officers, fiduciaries, employees and agents from and against: (a) any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs and expenses including, without limitation, attorneys' fees, expenses and court costs of any nature whatsoever (collectively, "Claims") arising from or relating to SDCERA's non-disclosure of any such designated portions of a proposal if disclosure is deemed required by law or court order.

## **SECTION II CONTRACT PERIOD**

The term of the retainer agreement will be for a three year period. SDCERA may, in its sole discretion, terminate the contract at any time during that term. SDCERA may, in its sole discretion issue up to two one year extensions of the retainer. SDCERA makes no representation as to the amount of litigation work, if any, that may be given to any approved provider during the contract period.

### **SECTION III BACKGROUND**

SDCERA is a cost-sharing multiple-employer, defined benefit pension plan covering the employees of the County of San Diego and other participating agencies pursuant to the County Employees Retirement Law of 1937, California Government Code Section 31450, et seq. Participating agencies include the County of San Diego, San Diego County Superior Court, Local Agency Formation Commission, San Dieguito River Valley Joint Powers Authority and San Diego County Department of Education (closed to new members). The system was established on July 1, 1939, to provide retirement, disability, death and survivor benefits for covered employees.

SDCERA, with its own governing board, is an independent governmental entity separate and distinct from the County of San Diego. SDCERA is a related organization of the County of San Diego. The Board of Retirement includes nine members, four are appointed by the County's Board of Supervisors, four are elected by the members of SDCERA, and San Diego County's Treasurer/Tax Collector is an ex-officio member. SDCERA's current membership includes approximately 23,000 active and deferred members and approximately 13,500 retired members. Net current plan assets total approximately \$7.3 billion.

### **SECTION IV SCOPE OF SERVICES**

SDCERA intends to select several law firms as approved litigation providers. The firms selected will have demonstrable qualifications to handle the types of litigation described below.

Examples and descriptions of possible SDCERA litigation include but are not limited to: Challenges to Board decisions; challenges to benefit entitlements and benefit calculations; constitutional compliance (Prop 162 and California Constitution); 1937 Act compliance and interpretation; contract issues; fiduciary duty issues; writs of mandate; Brown Act; Political Reform Act; pension funding issues; and any appeals relating to these matters..

When SDCERA is served with or seeks to initiate new litigation, the approved provider with the most extensive experience relevant to the new litigation will be selected, in SDCERA's discretion. Approved providers will work with the Board of Retirement, SDCERA staff, and SDCERA's Chief Legal Counsel as deemed necessary by SDCERA.

## **SECTION V PROPOSAL REQUIREMENTS**

Following is a list of the information to be provided by the Proposer for the legal services sought. In setting forth its qualifications, each attorney and or law firm shall provide, in concise but adequate detail, the information sought below.

### **Management and Qualifications**

State the name and the California Bar number of the attorney who would lead the SDCERA litigation team. Describe the qualifications and experience of this attorney in all of the areas listed in Section IV above. Provide three governmental and or public agency client references for this attorney for engagements similar to the ones described in this RFP.

State the names and the California Bar numbers of the attorneys who would be assigned to support the lead litigation attorney. Describe the qualifications and experience of these attorneys in all of the areas listed in Section IV above. Provide three governmental and or public agency client references for each of the support attorneys for engagements similar to the ones described in this RFP.

Describe your firm's experience related to the services to be provided, including a brief summary of any notable cases, transactions, issues and/or matters handled by your firm which you feel demonstrate the nature and extent of your firm's expertise. Preference is given to case work by the lead attorney.

Identify the nature of any actual or potential conflict of interest your firm might have in providing litigation services to SDCERA. If your firm believes that a conflict might arise, please describe how such conflict would be resolved. Specifically state whether your firm has ever represented the County of San Diego, the Board of Supervisors for the County of San Diego and/or any employee groups or employee associations within SDCERA. If so, state the name of each such client, the nature of your representation and the time frame of your representation.

Identify any past, pending or threatened criminal investigations or proceedings or civil litigation, sanctions proceedings, and administrative or state bar or ethics board or similar body proceedings to which the firm or any of the attorneys included in your proposal are or have been a party.

## Rates, Costing and Billing Information

Proposals shall contain the following:

1. State the rates at which the services of partners, associates, and non-attorney law clerks, paralegals, or other para-professionals would be provided to SDCERA for the next **three years**. Note that billing rates are fixed for the initial three year term of the contract. Include:
  - a. For each attorney whose resume is provided list the normal hourly rate for this provider and the hourly rate you propose to charge SDCERA.
  - b. For each applicable category of billable, non-attorney personnel including, paralegal, or other para-professionals, list the normal hourly rate for this provider and the hourly rate you propose to charge SDCERA.
  - c. A schedule of all out-of-pocket disbursements which you anticipate will result in a charge to SDCERA and the rate for each. Note that SDCERA expects that disbursements will be charged at the firm's actual out-of-pocket costs, without mark-up.
  - d. Please also note that SDCERA expects **not** to pay for travel time unless substantive work takes place during the travel time. Please address if and how travel time will be billed by all providers.
2. In addition, each firm may propose any alternative fee structure as a supplement to the fees requested above.
3. State any special considerations with respect to billing or payment of fees and expenses that your firm offers and that you believe would differentiate it from other Proposers and make your firm's services more cost effective to SDCERA.
4. SDCERA expects to receive the lowest rate charged by your firm for its governmental and/or non-profit clients. If for any reason your firm is not prepared to do so, please indicate your reasons.

## **SECTION VI EVALUATION AND SELECTION**

### **Evaluation Criteria**

Staff will evaluate the proposals and make a recommendation to the full SDCERA Board for approval. The Selectors will consider the following factors:

1. Experience as counsel in the areas described in Section IV above.
2. Quality and depth of the law firm's expertise and its prior capability in handling similar matters.
3. Anticipated cost of legal services and disbursements, including such factors as hourly rates, discounts, creative alternate fee arrangements and cost-effectiveness<sup>1</sup>.
4. Information provided by client references.
5. Overall organization, completeness, and quality of proposal, including cohesiveness, conciseness, and clarity of response.
6. Preference will be given to law firms that have a litigation department located in Southern California.
7. Interviews, if conducted.

### **Selection Process**

Staff will initially review all proposals to determine responsiveness. Any proposal that does not address all requested requirements or is incomplete will be rejected.

Staff will evaluate all responsive proposals based on the criteria stated above. Reviewers may afford firms the opportunity to clarify proposals for the purpose of assuring a full understanding of their responsiveness to the RFP.

SDCERA may conduct interviews of Proposers found to be most qualified to perform the services required, based upon the criteria listed in this RFP. If so, Proposers will be notified in advance of the proposed interview date.

All Proposers will be notified in writing once one or more firms have been selected.

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<sup>1</sup> Although proposed fees will be given significant weight in the selection process, SDCERA reserves the right to negotiate with any firm selected for lower fees or a different fee structure than proposed.

**SECTION VII  
PROPOSAL INSTRUCTIONS AND CONDITIONS**

1. This RFP does not commit SDCERA to award a contract, pay any costs incurred in the preparation of a response, or procure or contract for services of any kind whatsoever. SDCERA reserves the right, in its sole discretion, to negotiate with any or all firms considered, or to cancel this RFP in whole or in part.
2. Proposers may be requested to clarify the contents of their proposal.
3. A proposing firm may be required to participate in negotiations and to submit hourly fee, price, costing, technical or other revisions to its proposal which may result from such negotiations.
4. All material submitted in response to this RFP will become the sole property of SDCERA.

**Proposal Submission**

Proposals **must** include a cover letter indicating the mailing address of the office from which the proposal is submitted, the name of the individual who will represent the firm as the primary contact person for the proposal, and the telephone, fax and e-mail information of the primary contact person.

**Administrative Specifications**

1. All proposals must be irrevocable for 180 days and signed by an authorized officer of the firm.
2. The successful Proposer must agree to provide SDCERA with audit access on request during the term of the contract and for 7 years thereafter.
3. SDCERA at any time, in its sole discretion, may terminate its contract with the selected firm(s), or postpone or delay all or any part of the contract, upon written notice to the selected firm(s).

**SECTION VIII  
CONTRACT APPROVAL**

SDCERA's selection of one or more successful Proposer(s) shall not be binding until it has been approved by SDCERA's Board of Trustees.